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House of Lords

Wednesday, 26 January 2011.

3 pm

Prayers—read by the Lord Bishop of Hereford.

Introduction: Lord Kestenbaum

3.09 pm

Jonathan Andrew Kestenbaum, Esquire, having been created Baron Kestenbaum, of Foxcote in the County of Somerset, was introduced and took the oath, supported by Lord Sainsbury of Turville and Lord Puttnam, and signed an undertaking to abide by the Code of Conduct.

Introduction: Baroness Morgan of Ely

3.15 pm

Mair Eluned Morgan, having been created Baroness Morgan of Ely, of Ely in the City of Cardiff, was introduced and took the oath, in English and in Welsh, supported by Baroness Royall of Blaisdon and Baroness Kinnock of Holyhead, and signed an undertaking to abide by the Code of Conduct.

European Arrest Warrant and Investigation Order

Question

3.20 pm

Asked By ***Lord Vinson***

To ask Her Majesty's Government to what extent the European Arrest Warrant and European Investigation Order conform with the principle of habeas corpus.

The Minister of State, Home Office (Baroness Neville-Jones): The UK's transposition of the European arrest warrant complies fully with the concept of habeas corpus. UK implementation of the European investigation order will also be fully compliant. However, I understand that the noble Lord's principal concern is the separate issue of European arrest warrants being issued for trivial offences. The Government share this concern and are talking to other EU countries, bilaterally and through the European Union, to stop this happening.

Lord Vinson: I thank the Minister for her considered reply, but I am not as optimistic. The fact remains that hundreds of UK citizens are being compelled to appear before any EU court without the merit of the often frivolous charges being first assessed. They can be locked up without pre-trial. Is she not concerned that this totally overrides the ancient liberties of the British citizen enshrined in Magna Carta and habeas corpus? Will she assure the House that this will be resolved? Three member states of the EU have already declared the European arrest warrant unconstitutional. We should do the same. It really is time that we started to say no to damaging EU legislation.

Baroness Neville-Jones: My Lords, the Government are concerned, as I have just said, with the disproportionate use of the European arrest warrant for trivial purposes. That is one of the reasons why we have asked Sir Scott Baker, with the panel that he is heading on extradition, to look specifically at the operation of the European arrest warrant. He is able to take submissions from Members of this House and others and I hope that the noble Lord will take advantage of that.

Lord Dubs: My Lords, of course one must share the Minister's concern about the civil liberties principles at stake, which sometimes are being breached, as the noble Lord said. On the other hand, will the Minister confirm that some serious criminals charged with terrorism or other equally serious offences have been brought back to Britain to face trial through the use of the European arrest warrant?

Baroness Neville-Jones: Indeed, my Lords, and I suspect that that is why our predecessors signed up to this measure when they were in office. It is the case that it has facilitated the return of prisoners to jurisdiction, so the noble Lord makes a perfectly valid point.

Lord Campbell of Alloway: What exactly do the Government propose to do about this? The situation as it stands is obviously unjust and unsatisfactory. What will the Government do?

Baroness Neville-Jones: My Lords, I hope that I have just indicated what we are doing. We think that we need some expert advice, so we have asked Sir Scott Baker to look at the operation of the European arrest warrant. He is due to report in September of this year and the Government will take action in the light of his report.

Lord Thomas of Gresford: Does not the Minister agree that habeas corpus is a process and not a principle? It is designed to make sure that a person who is in custody is there legally. If a European arrest warrant has been issued improperly, a writ of habeas corpus will succeed and, if not, it will fail. It is a simple issue and there is no conflict between the principles.

Baroness Neville-Jones: My Lords, in this House of legal eagles I hesitate, as a non-lawyer, to get on to the grounds, but I understand that the principle of habeas corpus is indeed a legal remedy against unlawful detention. It is therefore right to say that the European arrest warrant in principle is compliant. I accept entirely, however, that there is dissatisfaction with the warrant's operation, which is what the Government have asked Sir Scott Baker to look into.

Lord Morris of Aberavon: Can the Minister give some indication of how many people have been extradited from this country and to this country in recent years?

Baroness Neville-Jones: I think that I will have to write to the noble and learned Lord about that. There are figures but I do not entirely have them to hand. The numbers are not huge, but they are sufficiently significant, and we wish to know how well this remedy is operating.

Lord Stoddart of Swindon: My Lords, I am sure that the noble Baroness will agree that one of the prime duties of government is to protect the interests of the citizen, particularly when abroad. She will be aware that members of the British public have been extradited to other countries without the production of any prima facie evidence at all. Moreover, they often go to countries that do not have the same respect for law and individual interests as we do in this country. The Government were warned about this when the Bill was discussed in Grand Committee. It is a serious matter and I hope that the Government will understand the level of concern about it throughout the country.

Baroness Neville-Jones: My Lords, the point that the noble Lord makes about the Government having been warned at the time of the passage of the legislation is perhaps to be directed at the other Benches. We are concerned about the operation of the European arrest warrant, which is precisely why we believe that it needs to be looked into. I would add one point about the European supervision directive—I may not have the title quite right. There is a framework agreement on an arrangement that will come into operation whereby individuals who have been summoned for jurisdiction can nevertheless return to their country of origin during the period of bail and, if sentence is passed on them, can also serve that sentence there. Extra remedies are coming into operation to protect people's rights.

Lord Tebbit: My Lords, could my noble friend not take some advantage of the provision of European arrest warrants? We also have the problem of control orders. Perhaps she could get some friendly European country to take those who are currently subject to control orders and bang them up in a jail somewhere, without the need ever to bring them to trial. That would seem to be a most convenient solution.

Baroness Neville-Jones: My Lords, we will be discussing this topic shortly. All I would say is that, of course, control orders arise when there is insufficient admissible evidence to bring a successful prosecution.

Lord Harris of Haringey: My Lords, the Question refers to the European investigation order. Can the Minister tell us whether the Government are satisfied with the operation of that order and whether the demands placed on UK police forces as a result of such orders are proportionate?

Baroness Neville-Jones: My Lords, the European investigation order is, of course, not yet in operation; it is still being discussed. Its objective is to facilitate mutual legal assistance between sovereign legal systems. We are endeavouring in the negotiations on this to ensure that its operation, when it comes into effect, will be satisfactory from the point of view of the traditions and the standards of this country.

Elections: Second Home Owners

Question

3.29 pm

Asked By ***Lord Teverson***

To ask Her Majesty's Government what plans they have to regulate the ability of second home owners to register as voters in more than one constituency.

Lord Taylor of Holbeach: My Lords, the Government have no current plans to restrict the right of second home owners who meet the residence requirement to register in two places, but we will keep the issue under review. An individual may be registered at more than one address if it appears to the electoral registration officer for the local authority area in which each address is located that the individual is resident in that area. However, it is an offence for a person to vote twice in a general election or European Parliament election.

Lord Teverson: My Lords, I thank my noble friend the Minister for that reply. Is it not a principle, just as we have for one person one vote, that for a national election an individual should be able to cast their vote where they really are a resident and a stakeholder in the community? Will the Minister make sure that that is clarified for returning officers, and will the Government take steps to ensure that people are able to vote in national elections only where their main residence is located?

Lord Taylor of Holbeach: I thank my noble friend for that question. The electoral registration officer is responsible for defining this particular issue. I also thank him for suggesting nominating a main residence, and I can confirm that the Government are considering this further. Noble Lords will recognise the difficulties that can arise from such definitions.

Baroness Trumpington: My Lords, does the Minister think it is fair that students have two votes in local elections, one in the place where they are studying on a temporary basis for three years, and the other in the home where they are presumably resident?

Lord Taylor of Holbeach: This matter has been a long-standing feature of our electoral system. The whole business of permanent and temporary residence has been defined by case law, and two English cases that set out the principles state that a person may have two residences that qualify them for an interest in the outcome of the elections in two local authority elections.

Lord Tyler: My Lords, returning to second homes, I wonder whether, since the Government have so rightly emphasised the importance of getting equity between the value of votes, they should address this issue of giving some people two votes, while everyone else, including those of us who are allowed to vote in whichever elections, have only one.

Lord Taylor of Holbeach: This is a matter which, as I said in my original Answer, the Government are reviewing. It is a long-standing tradition that people can register in two different addresses where they have an interest. I should emphasise that it is against the law to vote twice in the same election to the same body.

Lord Brooke of Alverthorpe: Does the noble Lord not agree that the real problem that real democrats are concerned with at the moment is that 3.5 million people are not registered and are therefore not entitled to vote? Could he update the House on what the Government are doing to try to reduce that number?

Lord Taylor of Holbeach: The Government are trying to make sure that all databases and the electoral register, which is in effect a database, are made as comprehensive as possible. I answered a Question not so very long ago, as the noble Lord will remember, on the census, as I did on election registration. There is currently a review to produce a national address gazetteer, which will assist both electoral registration officers and the census process in providing information, so that a more positive approach can be taken to address the issue that the noble Lord has raised.

Lord Renton of Mount Harry: I do not think, with respect, that the Minister has precisely answered the question put by my noble friend Lady Trumpington. She asked whether it was right that a student should have two votes—one at home and one at the university—when he or she is likely to be at the university for only two or three years and is therefore electing someone who might well be in office for many years after they have left the university.

Lord Taylor of Holbeach: The opportunity for people with two residential qualifications to register is long-standing; it is part of the law of the land and would require amendment for it to be changed. It is not for me to pass comment on whether it is fair.

Lord Campbell-Savours: Does not the Government's decision to set their boundaries on the basis of the December 2010 register, which includes this flawed material on second homes and the registration of voters, further confirm how the data that are being used for boundary setting are just unacceptable and should not be used?

Lord Taylor of Holbeach: I wondered when that that question would be posed, because it ties in with the debates that we are currently having on the Parliamentary Voting System and Constituencies Bill. The distortions that all databases have—the census is no exception, because it, too, has to be assessed in various areas because of low returns—are distortions to the electorate numbers and would affect electorates in university towns and coastal recreational areas in particular. I should emphasise, however, that residences that are used primarily for recreational purposes are not, in general terms, considered to be second residences and should not be registered.

Baroness McIntosh of Hudnall: My Lords, the noble Lord has properly reminded the House that it is illegal to vote twice in the same general election. Will he say, under the present arrangements, how it is possible to police that law; and how many people does he think, or does he know, have actually been prosecuted for doing that?

Lord Taylor of Holbeach: I can answer the second question by saying that we are not aware of any prosecutions. As with so many British institutions, it depends on trust.

Design

Question

3.36 pm

Asked By ***Baroness Whitaker***

To ask Her Majesty's Government how they intend to promote the role of design in social and economic renewal.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): My Lords, the Government believe that design is an important tool for innovation and economic growth. The strategic use of design can be transformative for companies, for the commercialisation of science and for the delivery of public services. The Government will promote design through their continued support and funding for the Design Council and the delivery of its mission to place design at the heart of social and economic renewal in the UK.

Baroness Whitaker: My Lords, I thank the noble Baroness for that positive answer. Does she agree that there have been seminal reports from Sir James Dyson and Martin Temple explaining the importance of design to economic success, contributing, as it does, about £15 billion to GDP directly, quite apart from its wider impact? If she does agree, will she be a little more specific as to what the Government will do to ensure that the widest national expertise is brought to bear on giving design its proper place in strategies on innovation and growth?

Baroness Wilcox: My Lords, the Government have welcomed the reports of both Sir James Dyson and Martin Temple, to which the noble Baroness referred, and the insight that they have given on the role of design in social and economic renewal. The Government are committed to continued funding and support for a restructured Design Council and we are working together to implement the recommendations of the Temple review. One of the recommendations was that the council should restructure to incorporate a broader cross-section of industry and society, with representation at both national and local level. This will ensure that the widest national design expertise can be utilised to contribute to our strategies for innovation and growth and to help to return the United Kingdom economy to strong, sustainable growth.

Baroness Gardner of Parkes: The Minister will know that the Design Council has done good work and produced good results in the National Health Service in controlling infection and other improvements. Will she do her best to ensure that the council is not overlooked and that it will make a contribution to our reorganisation of the NHS?

Baroness Wilcox: I am delighted to answer that question from my noble friend. The Design Council has done some excellent work with the National Health Service and the Department of Health. The Design Bugs Out project demonstrated how the design of equipment can reduce hospital infections. These are wonderful ways of extending the use of the great talent that we have in this country for innovation in these areas. I am sure that other government departments will start to look at the sort of help that the Design Council could give them in saving money and promoting better practice.

Lord Bichard: As chairman of the Design Council, perhaps I should declare an interest. Does the Minister agree with me, as I think she might, that design is a powerful driver for economic recovery and for creating better public services at less cost? Will she ensure that her department takes the lead in developing a strategy across government for design? The lack of that at the moment suggests that design is not fully understood and is not given the priority that it deserves in all departments.

Baroness Wilcox: My Lords, I am aware that, as chairman of the Design Council, the noble Lord has a particular interest in this subject; if I remember correctly, he made it the centre-point of his maiden speech in your Lordships' House. The Government recognise the excellent work of the Design Council in promoting the use of design to create more efficient and effective public services. For example, Lewisham Council's homelessness service now costs £1.2 million less than in 2008 as a result of mentoring through the Design Council's Public Services by Design programme. There are other excellent public sector examples, such as in the NHS, as we have heard, and the Department of Health's collaboration with the Design Council. These programmes have helped to raise awareness of the value of design across government. I know that this is an absolute personal crusade for the noble Lord, Lord Bichard, and no doubt he will continue to ask me questions in this area until we have fulfilled his every want.

Lord Young of Norwood Green: My Lords, the UK's internationally recognised strength in design was built on 150 years of investment in design education in some of the world's best colleges. The Government's HE funding system takes no account of the economic value of any subjects, apart from science, technology, engineering and maths. If design is mission-critical to UK plc, as the Minister suggests, will she say how much will be invested in English design education in the 2011-12 academic year and what policy guidance the Government will provide?

Baroness Wilcox: Future funding for all university courses will increasingly flow from graduate contributions. Our universities will be able to secure an equivalent flow of income and, if their course provision remains attractive to students, some may be able to attract more income. Universities must consider, therefore, how to structure and design their courses in ways that make them as attractive as possible to students. The students will be making the choices, so the more attractive the courses, the more students they will attract.

Baroness Wilkins: My Lords, the design of accessible housing for our ageing society is vital. Will the Minister say how the Government plan to ensure that it will be provided?

Baroness Wilcox: I think that the noble Baroness is referring to the work of the Commission for Architecture and the Built Environment. We recognise that good design of living environments can greatly enhance the quality of life for inhabitants. Following the decision by DCMS to withdraw funding from CABE, we are actively considering future arrangements for delivering its functions. An announcement is imminent.

Lord Broers: Does the Minister agree that, in many areas, design and engineering are inseparable? It seems strange to me that they have been separated in terms of university funding. Will she ensure that design plays an integral part in the new technology innovation centres?

Baroness Wilcox: Yes, I agree that design plays an integral part in pretty well all aspects of our lives. That is as far as I can go in answering the noble Lord's question at this time.

Lord Razzall: Perhaps I can slightly broaden the Question asked by the noble Baroness, Lady Whitaker. Does the Minister accept that the creative industries, of which design is a significant aspect, will have to play a key part in the growth of the British economy? In the light of the GDP figures yesterday, does she not think that this is the moment for the Government to set out their plans to ensure that the creative industries provide a spur for growth in our economy?

Baroness Wilcox: Work on the creative industries is going on all the time, as my noble friend knows. He is right that the UK design sector has a worldwide reputation for creativity and innovation. Research indicates that £15 billion was spent on UK designs in 2009, so there is every reason for us to encourage every aspect of this that we can. I thank my noble friend for his question.

Unemployment

Question

3.44 pm

Asked By ***Lord Young of Norwood Green***

To ask Her Majesty's Government what action they are taking to deal with the increase in the number of unemployed people aged between 16 and 24.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): The Government recognise the need to help young people into work and the adverse effect of long-term unemployment. Personalised support for young people through Jobcentre Plus, coupled with the new work programme will enable young people over 18 make the transition into work. We will help young people to make an effective transition from learning to work,

and increase participation to reduce the numbers of young people who are not in education, employment or training.

Lord Young of Norwood Green: My Lords, given that these are the highest numbers of 16 to 24 year-olds recorded as unemployed since records began in 1992, does the noble Lord think that it is time for the Government to reconsider their decision to abolish the Future Jobs Fund, the guarantees on youth employment and the education maintenance allowance, as there is now a real danger of another lost generation? That concern is reinforced by the latest lack-of-growth forecasts, as I like to call them.

Lord Freud: My Lords, the figures for unemployment among young people aged 16 to 24 have risen with the recession and have been broadly flat from around the middle of 2009. They are still too high at 951,000 but they have been broadly flat in that period. However, I am worried about the number of NEETS in this country, which rose over the period of the previous Government by 250,000 to 1.4 million. That is a serious, long-term structural issue, and we have long-term structural plans to sort it out.

Lord Forsyth of Drumlean: My Lords, will the Minister confirm that despite the huge sums of money that were spent by the previous Government, he has inherited the worst legacy of youth unemployment that any Government have inherited in our recent history?

Lord Freud: My Lords, I confirm that I am very worried about the situation in respect of NEETs, which is underlying and structural, as I said. We have now transformed the programmes to do something about it. We are introducing the work programme in the middle of this year, and we are also transforming the nature of provision in Jobcentre Plus, making it far more flexible and designed to look after people as individuals rather than in broad groups based on their benefit, as has been the case.

Baroness Howe of Idlicote: My Lords, given the Minister's concentration on NEETs, which many of us would agree entirely right, is there more that companies could do to encourage young people to come in part time but be trained at the same time? Can he say more about that?

Lord Freud: Yes, an effective strategy has to be built around employers, and we are doing quite a few things. The most important one was the introduction earlier this month of work experience. The idea is to give eight weeks' work experience to young people aged between 18 and 21 who are not in university, while they continue to collect benefit. We are also looking to introduce later this year the academy programme, which combines work experience with elements of training to introduce people to work.

Lord Knight of Weymouth: My Lords, as a Minister, I introduced something very similar to those new work experience programmes. We should note that between 1997 and the beginning of the recession claimant youth unemployment fell by 40 per cent. We have heard from the noble Lord, Lord Young, that unemployment for 18 to 24 year-olds increased from 17.7 per cent to 18.1 per cent in the last quarter. Is this because of the cuts to the Future Jobs Fund, the ending of the young person's guarantee, the cuts to the education maintenance allowance and the raising of the cost of going to university; or is it because of bad weather?

Lord Freud: My Lords, I think that it is important that we do not get cheap on the movements: this is, as always, a very complicated set of movements. During the last month, for instance, the claimant count went down a little for the youngsters. It went up by 30,000 or so, but has been broadly flat since 2009. There will be reasons for the figure being up a bit, but I do not think that is the point. The point is that we have a serious underlying structural problem. We have about 600,000 youngsters who have not managed to get sustained employment after education. Within that figure, I do not have the exact number about whom we should be seriously worried. Of the 16 to 17 year-olds, it is about 50,000. These are youngsters who may never make the transition into proper economic activity. It is vital that we have structures to help them make that transition.

Baroness Turner of Camden: My Lords—

Lord Martin of Springburn: My Lords—

Lord German: My Lords—

Noble Lords: This side!

Lord German: My Lords, in the year 2009-10, there was a 99 per cent increase in the number of people who were taking the job seekers allowance for more than 24 months. Among that group, who are the hardest to get into work, there must be a significant number of young people without qualifications. What actions are the Minister and the Government taking to deal with many of these people who were parked by training providers because they were too difficult to deal with?

Lord Freud: My Lords, I thank my noble friend for that question. Essentially, we are going to rely on the work programme and differential pricing to help the hardest to help.

Baroness Turner of Camden: My Lords—

Noble Lords: Time!

Counterterrorism Review

Statement

3.52 pm

The Minister of State, Home Office (Baroness Neville-Jones): My Lords, with the leave of the House, I should like to repeat a Statement made earlier today in another place by my right honourable friend the Secretary of State for the Home Department.

"With permission, Mr Speaker, I should like to make a Statement on the outcome of the review of counterterrorism and security powers.

[Baroness Neville-Jones]

The review has taken place in the context of a threat from terrorism which is as serious as we have faced at any time. In dealing with that threat, it has been the consistent aim of this Government not only to protect the security of our citizens but also the freedoms of us all. We reviewed counterterrorism legislation because too much of it was excessive and unnecessary. At times it gave the impression of criminalising entire communities. Some measures, such as the extraordinary attempt to increase the period of pre-charge detention for terrorist suspects to 90 days, were rightly defeated in Parliament. Others, such as the most draconian aspects of control orders, were defeated in the courts. These measures undermined public confidence. So I am delighted that the Leader of the Opposition has made it clear that he will support me in preventing the excessive use of state power.

I make no apology for the time that this review has taken. It has rightly been deliberate and thorough to ensure that we safeguard both security and our freedoms. The review has taken account of all sides of the argument. It has received evidence from academic experts and civil society groups, from communities across the country and from the law enforcement and security agencies. I have, of course, consulted regularly with my right honourable friend the Secretary of State for Northern Ireland. The noble Lord, Lord Macdonald of River Glaven, has provided independent oversight of the process. He has had access to all relevant papers and has played an invaluable role in ensuring that all the evidence was given proper consideration. I should like to thank him for his contribution in ensuring that the recommendations of this review are not only fair but seen to be fair. I am laying the review, a summary of the public consultation, the equality impact assessment of these measures and Lord Macdonald's report in the House.

On pre-charge detention, the Government announced to the House last week that we would not renew the current legislation on extended pre-charge detention. This means that the sunset clause inserted by the previous Government has now brought the maximum period of pre-charge detention down to 14 days. The review sets out the detailed considerations leading to this conclusion.

The police, prosecutors and the Government are clear that the normal maximum period of pre-charge detention should be 14 days. However, we recognise that in exceptional circumstances this might need to be temporarily increased to 28 days. We will therefore draw up draft primary legislation to be introduced for parliamentary consideration only in such circumstances. We will therefore publish a draft Bill and propose that this be subject to pre-legislative scrutiny. I should make clear to the House that until it is repealed by the Freedom Bill, Section 25 of the Terrorism Act 2006 will remain on the statute book allowing the Government to increase the maximum period to 28 days in an emergency, subject to Parliament's agreement. There has therefore been no gap in our ability to seek Parliament's consent to increase the period of pre-charge detention should the need arise.

On the use of Section 44 stop-and-search powers, I have concluded that the current provisions, which were found unlawful by the European Court of Human Rights, represented an unacceptable intrusion on an individual's human rights and must be repealed. But the evidence, particularly in Northern Ireland, has demonstrated that where there is a credible threat of an imminent terrorist attack, the absence of such powers might create a gap in the ability of the police to protect the public.

We therefore propose to repeal Section 44 and to replace it with a tightly-defined power which would allow a senior police officer to make an authorisation of much more limited scope and duration for no-suspicion stop-and-search powers to prevent a terrorist attack where there is a specific threat. This targeted measure will also prevent the misuse of these powers against photographers, which I know was a significant concern with the previous regime.

On the regulation of investigatory powers, we will implement our commitment to prevent the use of these powers by local authorities unless for the purpose of preventing serious crime and unless authorised by a magistrate. In this context, surveillance—the most controversial power—will be authorised for offences which carry a custodial sentence of at least six months.

On the wider question of communications data—the who, when and where of a communication, but not the content—the Government intend to ensure that, as far as possible, it is only accessed through the revised Regulation of Investigatory Powers Act. We will bring forward specific legislation to this effect in a future communications data Bill.

This Government are committed to tackling the promotion of division, hatred and violence in our society. We must expose and confront the bigoted ideology of the extremists and prosecute and punish those who step outside the law. The review considered whether counterterrorism legislation should be amended to tackle groups which are not currently caught by the law but which still aim to spread their divisive and abhorrent messages. After careful consideration, we have concluded that it would be disproportionate to widen counterterrorism legislation to deal with these groups, however distasteful we find their views. To do so would have serious consequences for the basic principles of freedom of expression. We therefore propose to use existing legislation, as well as tackling them through our wider work to counter extremism and promote integration and participation in society.

On the deportation of foreign nationals suspected or known to have been involved in terrorist activity, the review found no evidence that this policy was inconsistent with the UK's human rights obligations and found that it was legitimate and necessary to seek to extend the arrangements to more countries which would include independent verification. As the noble Lord, Lord Macdonald, says, the Government's engagement with other countries on these issues is likely to have a positive effect on their human rights records.

Finally, on control orders the Government have concluded that, for the foreseeable future, there is likely to be a small number of people who pose a real threat to our security, but who cannot currently be successfully prosecuted or deported. I want to be clear that prosecution, conviction and imprisonment will always be our priority—the right place for a terrorist

is in a prison cell. But where successful prosecution or deportation is not immediately possible, no responsible Government could allow these individuals to go freely about their terrorist activities.

We are also clear that the current control order regime is imperfect and has not been as effective as it should be. We therefore propose to repeal control orders. Instead, we will introduce a new package of measures which is better focused and has more targeted restrictions, supported by significantly increased resources for surveillance and other investigative tools. Restrictions that have an impact on an individual's ability to lead a normal life should be the minimum necessary, should be proportionate and should be clearly justified. The legislation we will bring forward will make clearer what restrictions can and cannot be imposed. These will be similar to some of the existing powers used in the civil justice system; for example, to prevent sexual offences and domestic violence.

These terrorism prevention and investigation measures will have a two-year maximum time limit, which will clearly demonstrate that these are targeted, temporary measures and not to be used simply as a means of parking difficult cases indefinitely. The measures will have to meet the evidential test of reasonable belief that a person is, or has been, engaged in terrorism. This is higher than the test of reasonable suspicion under the current regime.

Curfews will be replaced by an overnight residence requirement. Forcible relocation will be ended and replaced with the power to order more tightly defined exclusions from particular areas, such as particular buildings or streets, but not entire boroughs. Individuals will have greater access to communications, including to a mobile phone and to a home computer with internet access, subject to certain conditions, such as providing passwords. They will have greater freedom to associate. They will be free to work and study, subject again to restrictions necessary to protect the public. We will add the crucial power to prevent foreign travel.

These measures will be imposed by the Home Secretary with prior permission from the High Court required except in the most urgent cases. The police will be under a strengthened legal duty to ensure that the person's conduct is kept under continual review with a view to bringing a prosecution and they will be required to inform the Home Secretary about the ongoing prospects for prosecution.

I have asked the incoming independent reviewer of terrorism legislation, David Anderson QC, to pay particular attention to these issues in his first report on the new regime and to make recommendations that he considers appropriate to ensure the new regime is working as intended. I am also today laying a Written Ministerial Statement outlining the next steps in the work to find a practical way to allow the use of intercept as evidence in court. We will repeal the current provisions which permit control orders with restrictions so severe that they would require the United Kingdom to derogate from the European Convention on Human Rights. I cannot imagine circumstances in which the Government would seek to introduce such draconian measures. So the review I am announcing today will create a more focused and flexible regime. However, in exceptional circumstances, faced with a very serious terrorist threat which we cannot manage by any other means, additional measures may be necessary. We want to prepare for this possibility while ensuring that such powers are used only when absolutely necessary. So we will publish, but not introduce, legislation allowing more stringent measures, including curfews and further restrictions on communications, association and movement. These measures will require an even higher standard of proof to be met and would be introduced if in exceptional circumstances they were required to protect the public from the threat of terrorism. We will invite the Opposition to discuss this draft legislation with us on Privy Council terms. These powers would be enacted only with the agreement of both Houses of Parliament.

All of these measures will be accompanied by a significant increase in resources for the police and security and intelligence agencies to improve their surveillance and investigative capabilities. This will underpin the effectiveness of the regime and support the gathering of evidence admissible in court which could lead to a successful prosecution.

We will bring forward legislation to introduce the new regime in the coming weeks. We want to give Parliament the opportunity properly to scrutinise our proposals. I am sure the whole House would agree that in the past too many laws in this area were rushed through without the opportunity for adequate debate and consideration. So while Parliament considers that legislation, we will renew the current regime to the end of the year. Many of the other measures I have outlined will be brought forward in the forthcoming Protection of Freedom Bill.

I should like to finish by thanking the police and the security services for the tremendous work they do to keep our country safe. The measures I have outlined today will help them to continue to ensure our safety and security at the same time as we restore our civil liberties. They are in keeping with British values and our commitment to freedom, fairness and the rule of law. They will restore public confidence in counterterrorism legislation and it is my hope that they will form the basis of an enduring political consensus. I commend this Statement to the House".

My Lords, that concludes the Statement.

4.07 pm

Lord Rosser: My Lords, I thank the Minister for repeating the Home Secretary's Statement made in the other place earlier today.

Recent events in Moscow have reminded us, if we needed reminding, of the devastating impact of terrorist attacks, and of the vital importance of the work that our police and security services undertake to protect us and the dangers they face in carrying out that work. We owe them an enormous debt of gratitude.

Although we want to support the Government on matters of national security wherever we can, as Her Majesty's loyal Opposition we also have a responsibility to scrutinise in detail the Government's proposals and the evidence on which they are based. We support many of the measures that the Government have announced

[LORD ROSSER]

in the Statement repeated by the Minister. We support the Government's approach to deportations, with assurances, to countries with which we can reach agreement, which continues the work we did when in government.

The Government have decided to continue with the existing regime for proscribing groups that are engaged in terrorism, which seems appropriate. The Minister confirmed to the House the other day that decisions for proscribing groups would continue to be made on the basis of the facts and hard evidence available. Does this mean that the Prime Minister's commitment to ban Hizb ut-Tahrir, made prior to the election, presumably without knowing the facts, will be abandoned or is his decision now supported by the evidence?

While we will scrutinise the detail to ensure that councils can continue to take action on issues such as tackling underage sales of tobacco or alcohol, we agree that the use by local authorities of powers under the Regulation of Investigatory Powers Act should be restricted, as some of the uses to which those powers have been put have gone far beyond the intention of the original legislation.

We also support sensible changes to stop-and-search powers in order to prevent their misuse, and it would appear that the legislative changes proposed largely reflect the practical changes already introduced. However, in respect of Northern Ireland, stop-and-search powers have played an important role in preventing terrorist attacks. Are the Government completely confident that the police will still have all the powers they need in Northern Ireland under the new arrangements?

Turning to pre-charge detention, in the past three years no case has invoked pre-charge detention for more than 14 days, and if police and security evidence shows that we can reduce the maximum period for pre-charge detention from 28 days with sufficient safeguards then we should do so. However, the Government's review concludes:

"There could be circumstances in the future in which detention for longer than 14 days will be required. There may be rare cases where a longer period of detention may be required and those cases may have significant repercussions for national security".

It recommends an emergency option to return to 28 days if necessary. Where, then, is the emergency legislation to do this? The old powers lapsed on Monday and the emergency legislation is not, it seems ready. Why did the Government not wait until the emergency legislation was ready before letting the old powers lapse?

Last Monday, the Government said that they could extend detention through an order under Section 25 of the Terrorism Act, yet the Government's review appears to conclude that it would be very difficult to extend detention to 28 days in that way in response to, or during, a specific investigation, since time would be needed to get the necessary measures through Parliament. Again, recent events in Moscow have reminded us that this is an area where we cannot predict what may happen. What are the police and the Crown Prosecution Service meant to do if a difficult and dangerous case suddenly emerges now in the absence of the emergency provisions being in place? It appears as though the Government are relying on being able to rush emergency legislation through in respect of an individual and difficult case. Is that a sensible way to proceed? What would be the position if an urgent issue arose during a recess, or even during the weekend break?

On control orders, the Government's review concludes that there is,

"a continuing need to control the activities of terrorists who can neither be successfully prosecuted nor deported".

The proposals that the Government have set out today are not an alternative to control orders, but simply amendments to control orders. This is the view that appears to be held by Liberty, which has expressed its disappointment that control orders will continue in all but name. Many of the elements remain, including restrictions on movement, restrictions on communications, an overnight residence requirement in place of a curfew—it will look remarkably similar in practice—at the instigation of the Home Secretary and reviewed by the court. I shall say a little more about that later. The Deputy Prime Minister told the BBC that he had abolished control orders. The truth is that he has simply abolished the name.

First, the Government are introducing a two-year limit with a requirement for new evidence before a control order can be renewed. The last annual review of the noble Lord, Lord Carlile, on control orders said that:

"There is significant and credible intelligence that",

three of the controlees, I think it was,

"continue to present actual or potential and significant danger to national security and public safety. I agree with the assessment that the control order on each has substantially reduced the present danger that exceptionally they still present despite their having been subject to a control order for a significant period of time".

Those three individuals have been on control orders for more than two years, one of them for over four years. In the light of the proposed two-year limit, will they have their orders revoked? What measures will be put in place to keep the public safe from the threat that the noble Lord, Lord Carlile, and the police clearly believe those individuals pose?

Secondly, will the Minister tell us whether these changes will mean a reduction in the restrictions that the Government are currently imposing on the rest of the eight people on control orders at the moment, and what measures will be in place to protect public safety?

Thirdly, the Minister has made clear that she intends to rely more heavily on surveillance and less on measures under control orders. We support greater use of surveillance if it increases the chance of prosecution, but why do the Government believe that exchanging court scrutiny for that of the security services improves transparency and enhances civil liberties? I also note in the Minister's Statement in relation to these new measures on control orders that:

"These measures will be imposed by the Home Secretary with prior permission from the High Court required except in the most urgent cases".

I am not clear exactly what that means. Have there been any discussions with the judiciary to see if they will take on what appears to be an extra burden, since they will have to give the Home Secretary prior permission?

Or is that not what the Minister's Statement means? Normally, the courts review decisions made by, for example, a Home Secretary, but that sentence in the Statement appears to mean that the Home Secretary can act only with prior permission from the High Court—in other words, the other way around.

I mentioned the Statement's reference to greater surveillance, but there are issues about the extent of the resourcing of these increased surveillance operations. The Minister announced a significant increase in resources for the police and security services to cover this surveillance. The *Daily Telegraph* appears to know rather more, since today it said that MI5 would be given £20 million. Surveillance is extremely resource-intensive and expensive. Can the Minister confirm that this money, whether it be a significant increase in resources or the *Daily Telegraph*'s £20 million, follows a £150 million cut in the counterterrorism budget and billions in cuts for the police? Can she assure the House that this will be extra money and will not be taken from the resources already needed elsewhere to fight existing threats to our security? Is she confident that the police and security services will have the resources that they need to keep Britain safe from terror?

This has been a delayed and confused review, riven by leaks, as today's further story in the *Daily Telegraph* only emphasises, and influenced by the need to resolve differences between the coalition parties. It is the security of our nation that should be paramount and it is against that test that we will judge the detail of the Government's proposals.

4.17 pm

Baroness Neville-Jones: My Lords, I will take the noble Lord's last point—that this is somehow delayed and confused—first. As I said the other day when we were talking about pre-charge detention, the review has undoubtedly taken us longer than we originally thought it would. That is because we have taken great care over it. We do not intend to present Parliament with a series of differing proposals, such as was presented to us by the Opposition when they were looking at the question of pre-charge detention, eventually falling back on something that they had certainly not proposed in the first instance. We have tried to do a thorough job so we are confident of the rightness of the proposals. It is right that a Government should consult inside in doing that. We know the consequences when Governments inside fail to consult each other. I make no apology for the time it has taken, or the care with which this review has been conducted.

The noble Lord raised a number of detailed points and I will try to answer them. I was asked whether we are confident of the powers remaining in relation to Northern Ireland. One of our main concerns was to ensure that this was not a GB policy, but a UK policy. On stop-and-search powers, we felt it particularly appropriate to take due account of the situation in Northern Ireland. The new power has been fashioned to enable us to maintain a high level of security throughout the United Kingdom, including Northern Ireland.

The question of legislation for pre-charge detention was raised. Noble Lords will not find us dilatory in bringing forward the legislation. There is a problem of being at fault whether you do or do not. We want to try to consult heavily on this legislation so that it has general acceptance. One of the things that we are most concerned to do with this review is to lay a stable and accepted basis for the legislation and the provisions that we have in law governing our approach to terrorism. We want to involve the House as much as possible. Noble Lords will find that we will not be slow in bringing forward the necessary measures. In the mean time, Section 25 is not a perfect way of doing things, but it is certainly there, it remains and it is the power that we will resort to if we need to. We will certainly get on with the legislation.

The question of the House being able to legislate applies also to the question of whether we might have to introduce control orders in extreme circumstances. It is notable that if there is a consensus Parliament can act extremely fast and both Houses can enact the necessary legislation within one day; that is why we want to try to establish one. I do not think that we will be faced with a situation where we are not able to take action if we need to in an extreme situation, which I imagine that all sides of the House would recognise as being so. Parliament will act to protect the people of this country.

On the three individuals who are still under control orders, I remind the House that the legislation does not cease to have effect until new legislation is passed. Clearly, for the rest of this year, broadly speaking, because we will renew for the end of the year until such time as the freedom Bill goes through, we will have the existing regime and review cases under that. As the House knows, each control order has to be reviewed on an annual basis.

On surveillance, the emphasis on the ability and the duty of the police to increase the likelihood of bringing a successful prosecution is an important feature of these new measures. We do not believe that they are merely a new brand of control order. If noble Lords take them in their total substance, they constitute a different regime with a different emphasis. Undoubtedly we need to continue to have legislation on the statute book that enables us to take measures to protect the public, but there is an important emphasis on two things. We need to balance that protection with the rights of those individuals, because it has been demonstrated through the courts that we need to respect those rights; and we must increase the chances of a successful prosecution. That was not the effect of the previous control order regime, which we intend to reform. These are not like regimes. I was asked whether there would be new money for the extra surveillance. I can confirm that there will be new money available during the CSR period.

I hope that I have dealt with the various points that were raised. No doubt other noble Lords will have points that they wish to make.

4.23 pm

Lord Lloyd of Berwick: My Lords, I have two questions for the noble Baroness: one on control orders and one on 28 days, and that is all. I congratulate the coalition Government on getting rid of control orders at long last, if that is what they have done. We shall see

[Lord Lloyd of Berwick]
how this works out. No one can say how much damage control orders have done to community relations over the past six years. Only one thing is clear; control orders have done great damage to our reputation as a country that values freedom and the rule of law.

Does the noble Baroness agree—I think she does from what she has said—that if credit is due to anyone in this whole unhappy affair, it is due not to us in Parliament, I am sorry to say, but to the judiciary. In particular, it is due to the judges sitting in the administrative court in keeping control orders within reasonable limits so far as they could and forcing the Government on so many occasions to think again.

On the 28 days, I opposed the increase from seven days to 14 days as long ago as 2003 when ACPO was asking for 14 days and got it. I opposed any increase in 2005 when ACPO asked for 28 days and got it. I opposed any increase in 2006 when it asked for, but happily did not get, 90 days. Has ACPO now accepted that it never needed 90 days or anything like it, despite the advice that it gave the Government at the time? Does ACPO accept that it was never, as it put it in 2007, "up against the buffers" with only 28 days? If so, how much faith can we put in the advice of ACPO in these affairs?

Baroness Neville-Jones: My Lords, one reason why the Government were determined to deal with control orders before they even came into office was precisely because of our perception that they were damaging to community relations. In the evidence and the responses to questionnaires and surveys, stop and search comes up quite as often as a source of grievance, if not more so, than control orders, but the Government accept that they were harmful. The Government respect the role of the judiciary, which is one reason why we are bringing this regime into line with what we believe is legally acceptable.

On the question of the number of days needed to bring a successful prosecution, I have not asked ACPO the specific question posed by the noble and learned Lord. However, like the rest of us, ACPO has learnt from experience about the time needed in practice to bring successful charges, and made it absolutely clear to the Home Secretary—as indeed have the intelligence and security services—that it is content with the proposals.

Earl Attlee: My Lords, I remind the House of the benefit of short questions so that my noble friend can answer as many noble Lords as she can.

Baroness Hamwee: My Lords, I am happy to give a general welcome to the Statement. In confirming that this is not a mere rebranding of control orders, will the noble Baroness point to requiring the permission of the High Court, which seems to take us into a completely different legal structure? I suspect that many of us will wish to explore the evidential test that she mentioned and whether we can move towards a criminal test beyond reasonable doubt. Will she and her officials continue to work actively on that? Secondly, does she agree that arrangements that enable a person subject to the measure to work or study are very significant indeed? That control was extremely offensive.

Baroness Neville-Jones: I am sure that the last point would be very widely accepted. It does not particularly facilitate observance of the law or good behaviour on the part of someone who is under a measure of this kind if they cannot occupy their time usefully. One of our objectives has been to bring the daily life of people who are under such restrictions as near to normality as it can be, while being compatible with the security of the rest of the community.

On the question of whether we are rebranding, I hope I made it quite clear to your Lordships that this is not a rebranding exercise. There are significant differences in the measures that we are putting into place. They have a purpose that includes the need to continue at all times to open up the maximum opportunity for actual prosecution. One of the chief complaints about the previous regime, in our view, was how it made that extraordinarily difficult.

As the noble Baroness will be aware, we have raised the test to reasonable belief. We want to work in co-operation with the High Court. One thing that has clearly been learnt through experience is that to get into a situation in which any measures that we put in place are subsequently demonstrated in the High Court or in a court to be unacceptable does not add to their credibility. We want to get into a situation in which there is a clear understanding. We believe that it is necessary for the Home Secretary to be able to act in emergencies without seeking prior agreement with the High Court because, as I am sure noble Lords can imagine, in practical circumstances there may be a great need to do something extremely fast.

Lord Harris of Haringey: My Lords—

Lord Maginnis of Drumglass: My Lords—

Lord West of Spithead: My Lords—

Earl Attlee: My Lords, I think we should hear from the opposition Back Benches.

4.30 pm

Lord West of Spithead: That is me. Thank you very much indeed. I congratulate the noble Baroness and the coalition on actually having a review, because that is needed. Indeed, we need to have one constantly. No one was ever happy with control orders; they needed to be looked at. I am also delighted that it has seen that they were necessary for the very small number of people who were a threat to this nation. To try and pretend that they are not now control orders is pushing things a little. I would be interested to know what these new restrictions will be called. My advice would be not to call them anything, or else they will become another shy that people will throw things at.

I am also very concerned about resource. A very limited resource is available, both in manpower and in money. We know that there are real problems with money across all areas of government and I am concerned about the full amount of resource that will be required. Also, if we go for these slightly lesser periods of people being in their homes and so on, we will go back to the period before I became a Minister when people actually absconded. Will the Minister reassure us that she is absolutely certain that that will not become a

feature again, because clearly that is a real risk with this very tiny number of people?

I say to the noble and learned Lord, Lord Lloyd, that there is no doubt whatever that many other countries use other mechanisms to stop very dangerous people from being on their streets, some of which would be quite abhorrent in this country, so I do not think that we need to feel ashamed. I also thank the coalition for reassuring me; I began to feel that I might have been authoritarian and trying to have a police state. The people who were formerly Lib Dems certainly made me feel that. Now, I am delighted that the coalition clearly understands how important these security issues are and, as I say, I congratulate it on keeping measures in place for that tiny number of people who wish to do us harm.

Baroness Neville-Jones: I thank the noble Lord for the generosity of those sentiments. As I say, they are not going to be orders. I cannot emphasise too much that the total package really is different from the control order regime. These measures will be called terrorist prevention and investigation measures—note the insertion of "investigation"; it is part of their purpose.

The noble Lord is quite right to stress that resources need to be taken seriously. We do so, and, clearly, while control orders are still in place, it will be important that resources are made available such that one can increase the capacity and capability of those involved. I hope that the House will forgive me if I do not go into more detail, but we are mindful of the need to make a reality of the extra mitigations that we are putting in place.

Lord Blair of Boughton: My Lords—

Lord Harris of Haringey: My Lords—

Lord Howard of Lympne: My Lords—

Lord Maginnis of Drumglass: My Lords, can I thank—

Earl Attlee: My Lords, we have not yet had a Conservative Back-Bench question.

Lord Howard of Lympne: My Lords, I, too, congratulate my noble friend and, through her, the Home Secretary on striking the right balance in this very difficult area between the need to protect the public and the need to safeguard personal and individual liberty. May I ask about the emergency legislation to extend the period of pre-charge detention? Given what my noble friend has said about the Government's ability to put that in place very quickly, do they intend this emergency power to be available not simply in a general period or emergency but for an individual suspect under detention, in respect of whom the police, and perhaps a magistrate or a judge, are convinced that a longer period of detention is necessary?

Baroness Neville-Jones: I thank my noble friend for his kind remarks, which I will pass on to the Home Secretary. On the question of emergency legislation, the intention is really to cover an emergency. I suppose that I can imagine—this is hypothetical territory—two broad categories, for instance, where the general threat level had risen even further. Those will be very dire circumstances in which we might be in a real emergency. There is also the possibility that one or a number of complex conspiracies come together and it is clear that a different approach is needed to the amount of time for, say, pre-charge detention. However, we stress that we believe that these kinds of measures, which at the moment are the norm, should be reserved for really exceptional circumstances.

Lord Blair of Boughton: My Lords—

Lord Harris of Haringey: My Lords—

Lord Maginnis of Drumglass: My Lords, can I thank the Minister—

Earl Attlee: My Lords, if we are quick we can get one more round in. I suggest Cross Bench, Liberal Democrat, Labour.

Lord Blair of Boughton: My Lords—

Lord Maginnis of Drumglass: My Lords, I suggest to the Minister—

Earl Attlee: My Lords, I suggest that we hear from the former Commissioner of the Metropolitan Police.

Lord Blair of Boughton: Thank you, my Lords. I need to declare an interest in that I was a former member of ACPO and of the police service in the metropolis. I thank the noble Baroness for the Statement. I merely carry on from the question raised by the noble Lord, Lord Howard, which is: how can Parliament legislate on the back of a police and Security Service operation? One reason why ACPO brought up the question of the length of detention in a period when we had no atrocity immediately before us was so that Parliament could debate it in an open atmosphere. I do not suggest that it cannot be done, but an enormous amount of thought has to be given to how both Houses of Parliament could decide that the situation had reached the point at which emergency legislation had to be brought in, particularly if it was not after an atrocity but merely because of a series of desperately significant operations going on. I do not understand how this House or the other place could debate that in the open.

Baroness Neville-Jones: The noble Lord raises a perfectly fair question. The choices that we have made are not easy. In fact, I suggest to the House that there is no ideal solution here. Why have we gone for this method? I remind the noble Lord that we are not just going to place something in the Library or, indeed, suddenly bring the matter to the House without having gone through an important part of the process—pre-legislative scrutiny with the House—so that some of the conditions that would be needed to build consensus so that we could act rapidly and in agreement in an emergency were actually understood between us and in place. That process will be important in building the underlying consensus on which legislation can be passed in an emergency of that kind.

Lord Macdonald of River Glaven: My Lords, I declare an interest as the independent overseer of the counterterrorism and security powers review. Would the Minister agree that the review has made good progress in meeting its objectives of recommendations that, if implemented, would roll back state power consistent with public safety, and that on stop and search, surveillance powers, pre-charge detention, the removal of relocation and curfews, and house arrest powers, important reforms are signalled?

Would she also acknowledge that more work needs to be done on the precise circumstances in which restrictions may be placed on those who are not charged, prosecuted or convicted of crime, and that some quite tough decisions will have to be made before legislation is brought before this House?

Finally, will she indicate whether the Government will consider the proposal in my report that any regime of restrictions should be much more closely linked to a continuing criminal investigation so that the primacy of prosecution is protected and that prosecution is the prime aim of public policy in this area?

Baroness Neville-Jones: I take this opportunity to reiterate my thanks to the noble Lord for his contribution, which is very significant to the work of the review. He makes some important points and has outlined more eloquently than I have the effect of reducing the measures in relation to individuals that constitute a new balance between public protection and the rights of the individual. We believe, however, as the noble Lord acknowledges himself, that it remains necessary that measures of this kind are available in the interest of public protection. He is right that there is more work to be done on some of the detail, and as we work through the legislation and subsequently its implementation, I am sure that more detail will come into effect.

On the question of the regime of restrictions and the need for a closer link to criminal investigation, the Government share the view that it is important to increase the possibility within this regime of bringing successful prosecution. We are mindful of that being the proper goal. As the Home Secretary said in her Statement, terrorists should be behind bars in a prison cell. At the same time we draw back from the notion that one would not be able to introduce a measure of this kind in the absence of a close link to and a realistic prospect of being able to introduce a prosecution. We do not wish, therefore, to claim that we can do that, given that it might not be an honest claim. What I can say on the part of the Government is that we will try very hard to ensure that the maximum possibility for bringing prosecution in any given instance is a clear objective.

Lord Dubs: My Lords, the Minister has twice referred to pre-legislative scrutiny. Will she confirm that all the measures she has mentioned today will be subject to full pre-legislative scrutiny?

Secondly, she mentioned intercept evidence. The previous Government were looking at it and her Government have been looking at it. When are some positive proposals likely to come forward, because if we can accept the use of intercept evidence, some of the other measures will not be necessary?

Baroness Neville-Jones: On the noble Lord's first point, that is certainly the case with the legislation relating to the possibility of having to revert to a longer period than 14 days. We are not going to introduce the legislation relating to control orders. We are, however, going to discuss it with the Opposition on Privy Council terms.

On the question of intercept as evidence, I am a proponent of being able to introduce intercept as evidence. Serious work is still going on on it. The issue is not entirely without complexity, but we take it seriously and we share the previous Government's view that it will be highly desirable to be able to introduce intercept as evidence in such cases.

Parliamentary Voting System and Constituencies Bill

Committee (14th Day)

4.44 pm

Clause 11 : Number and distribution of seats

Amendment 89BA

Moved by ***Lord Touhig***

89BA: Clause 11, page 11, line 26, at end insert—

"(5) If the number of constituencies allocated to Wales under sub-paragraph (3) is fewer than 35, an additional allocation shall be made to Wales to ensure that it has 35 constituencies.

(6) Where an additional allocation is made under sub-paragraph (5) above, sub-paragraph (7) shall apply in place of rule 2.

(7) The electorate of any constituency in Wales shall be—

(a) no less than 95% of the Welsh electoral quota; and

(b) no more than 105% of that quota;

the "Wales electoral quota" meaning W/P, where W is the electorate of Wales and P is the number of constituencies allocated to Wales."

Lord Touhig: My Lords, I am pleased to be opening this debate on Wales so that we can air some issues that concern many of us. But at the same time I am saddened because none of these amendments was debated in the other place because of the use of a guillotine, which shows the importance of the scrutiny that your Lordships' House is able to afford at this time.

Wales, more than any other part of the United Kingdom, will be adversely affected as a result of this Bill. Wales has just 5 per cent of the United Kingdom's population but in this Bill Wales will lose 10 parliamentary constituencies. That equates to 20 per cent of the total reduction in the number of constituencies the Government are seeking across the whole United Kingdom. The Bill will see the number of MPs Wales sends to the Parliament of the United Kingdom reduced by one in four. That is 25 per cent compared with around 7 per cent for the rest of the country. That means fewer MPs than after the great reforms of 1832 when the population of Wales could be counted in thousands.

We are a small nation within a large country but our contribution to our democratic parliamentary life has been far greater than many would think possible for a country of around 3 million people. Sons of

Wales at one time or another have dominated the British political scene. David Lloyd George and Aneurin Bevan are but two. Our adopted sons James Callaghan and Michael Foot rose to great offices of state and came to lead their party. From the Conservative Benches the noble Lord, Lord Howe of Aberavon, changed the course of British politics when he resigned from Mrs Thatcher's Government. The noble Lord, Lord Howard of Lympne, became leader of his party. The noble Lord, Lord Roberts of Conwy, the longest-serving Welsh Office Minister who was in office for half the time the Welsh Office actually existed, was responsible for steering through the Welsh Language Act which gave Welsh equal status with English for the first time. And I am very pleased that the noble Lord, Lord Crickhowell, who served as a distinguished Secretary of State, is also with us this afternoon.

More than 700 years ago, with a population that counted in thousands, 24 Welsh MPs were summoned to Parliament. In those seven centuries, as the population has grown to 3 million, that number has increased to just 40. Parliament in its wisdom passed the Parliamentary Constituencies Act 1986 and in Schedule 2 it states:

"The number of constituencies in Wales shall not be less than 35".

That, I would argue, gives a valid and sound basis for the amendment we have before us. It was based on the unanimous conclusions of the 1944 Speaker's Conference and that 1986 Act went through Parliament without a Division. In fact, it was supported by all parties. If anything could be said to have support on all sides of the political spectrum it was that Act. Contrast that with the present Bill which was not the subject of a Green Paper, a White Paper or any pre-legislative scrutiny and certainly cannot be said to have widespread parliamentary support. I further believe that, by guaranteeing that Wales should have a minimum of 35 Members of Parliament, recognition was given to the need to make special provision for the small nations in our United Kingdom. With only 5 per cent of the UK population, Wales needs this sort of provision if we are to play our full role in the multinational British state.

Many people fear that reducing Welsh representation in the other place by 25 per cent when many aspects of Welsh life, including the ability of the Welsh Assembly to do its job, depend on the Government and Parliament in Westminster, would fuel a further interest in separatism. I raised the matter at Second Reading when I warned that this could be a threat to our union. When the people of Wales voted by a very small margin in 1997 for devolution and the creation of a Welsh Assembly, it was on the clear understanding that this would have no effect on Welsh representation in the British Parliament. I can, albeit reluctantly, accept that that now could be interpreted in terms of the minimum 35 seats in the UK Parliament, which this amendment seeks to achieve. Based on the many comments that I have received from noble Lords on all sides, I cannot accept that the protection afforded to Wales of a minimum of 35 seats should be removed.

Even after the establishment of a Welsh Assembly, huge areas of Welsh life continue to be determined by decisions of the Government and Parliament in Westminster: everything from pensions, benefits, criminal justice and policing, taxation, levels of public expenditure, macroeconomic policy, and defence and foreign policy, will remain the responsibility of the Government and Parliament in Westminster. This will continue to be the case even if the people of Wales vote in the referendum in March to devolve further powers to the Welsh Assembly.

The situation in the United Kingdom, with devolved Administrations in the various nations, is not uncommon around the world. It is common for countries which have a mixture of central and devolved government to exercise positive discrimination in their constitutions to safeguard the smaller, devolved areas. In that way, the strength of the union is made secure. In the United States, California, with 37 million people, sends two senators to Washington—as does Wyoming, with a population of 544,000. Again, it is important for their union. The smallest state in Germany, Bremen, with a population of 220,000, sends three members to the German Bundesrat, while the largest state, North Rhine-Westphalia, with a population of 3 million, sends six. Again, it is important for their union that the smaller regions and nations are protected. Nor should we forget who helped the Germans to devise their constitution after the last war. Representation in the Spanish senate is weighted towards the smaller regions. That also happens in Australia. This is all done because of the need for a strong, central, good union.

Noble Lords on the Conservative Benches should wake up to the threat to our union posed by a 25 per cent reduction in the number of Members of Parliament that Wales sends here. The Conservative Party rightly and for a long time prided itself on being called the Conservative and Unionist Party. Regardless of our political differences—they will always remain, which is good and healthy for our democracy—we should make common cause to defend our union. Noble Lords on the Liberal Democrat Benches, the heirs to Lloyd George, know in their hearts that it is not right to remove 25 per cent of Welsh Members from the House of Commons, with Wales bearing 20 per cent of the total reduction in the number of MPs for the whole United Kingdom. A week ago last Monday was the anniversary of the birth of Lloyd George. He loved Wales, her people and her language, and he would never have done anything to diminish her role in the United Kingdom.

The Government have made a case for special treatment for two parliamentary seats in Scotland, which will not be required to meet their ambition for seats of equal size. Your Lordships' House has done the same for the Isle of Wight. Why, therefore, will the Government not consider that there is a case for special consideration for Wales? The Bill proposes that Wales should lose the largest number of MPs in percentage terms of any part of the United Kingdom: 20 per cent of the reduction for the entire country will come from Wales. In the interests of fairness, that cannot be right.

There is another important aspect of Wales that merits special consideration: the Welsh language. In five parliamentary constituencies—Ynys Môn, Arfon, Dwyfor Meirionnydd, Ceredigion and Carmarthen East and Dinefwr—Welsh is the first language of a majority of voters. Mr Lewis Baston, a senior research

[LORD TOUHIG]
fellow with Democratic Audit, has been much quoted in the debates that we have had in the House in recent days. In evidence to the Welsh Affairs Committee in the other place, he criticised the impact that a reduction of 10 seats would have on Welsh-speaking areas. He said:

"The Bill risks severely depleting the representation of Welsh-speaking areas in the UK Parliament".

Wales is the only part of the United Kingdom where some 20 per cent of the population speak two languages, Welsh and English. Surely that merits special consideration. If special consideration can be given to preserving two parliamentary constituencies in Scotland because of geographical, historical and community factors, surely Wales can be given special consideration. The same historical and community factors exist in Wales, on top of which there is the unique factor of the Welsh language, which is the first language for a majority of people in five parliamentary constituencies. Have the Government given any consideration to the fact that Wales is the only part of the United Kingdom where a second language is spoken by 20 per cent of the population? What thought has been given to ensuring that the sparsely populated areas of Wales are properly represented in Parliament?

We had a very good debate the other evening about Brecon and Radnor. As many noble Lords will know, this constituency in eastern Wales runs along the border with England. The northernmost tip of that constituency is closer to the north Wales coast than it is to the southernmost tip of the constituency, and the southernmost tip of the constituency is closer to the south Wales coast than it is to the northernmost tip of the constituency. It is a huge area. It is conceivable, if the Bill is not altered, that there could be just two Members of Parliament representing an area from the Welsh/English border in the east to Cardigan Bay in the west: two Members from the Heads of the Valley Road in the south to the borders of Wrexham and the A55 in the north. At a stroke, the long-established community links between MPs and constituents would be lost. Rural MPs in Wales would have to travel great distances to see their constituents, and they would have to travel great distances to see them.

I remind the House of a point made by the noble Lord, Lord Elystan-Morgan, in our debate the other evening. He said:

"This piece of legislation says that you should look at representation from the viewpoint of the Member of Parliament and the number of constituents that he has. No, my Lords: you should look at it from the other end of the telescope—from the end of the ordinary constituent, who asks himself, 'How accessible is my Member of Parliament to me?'. If you ask that question, you are likely to get a more reasonable and just result".—[*Official Report*, 24/1/11; col. 800.]

I endorse what the noble Lord said.

I will take a step further the argument for the need to preserve community-based representation in Parliament. Has any consideration been given to sustaining the distinctive community-based representation of the south Wales valleys? The noble Lords, Lord Fowler and Lord Forsyth of Drumlean, made powerful arguments the other evening in favour of sustaining the close link between an MP and his constituents when they admirably put the case for the Isle of Wight. The noble Lord, Lord Forsyth, said:

"This is not just a numbers game. If we end up making it a numbers game, we may very well find that respect, support and influence that Parliament is able to bring to bear through its Members in their constituencies are greatly diminished at a time when we need to strengthen Parliament".—[*Official Report*, 19/1/11; col. 413.]

We face the loss of community-based representation across the Welsh valleys. I mentioned this at Second Reading and again in the debate the other evening.

5 pm

The Electoral Reform Society carried out an exercise redrawing the electoral map of Wales and reducing it to 30 parliamentary constituencies. In the case of my former constituency of Islwyn, it would put the community of Abercarn in the new constituency of Caerphilly. They are separated by two mountain chains and three rivers. It would put to the community of Cefn Fforest in the new constituency of Merthyr Tydfil, when it is not even in the same county. I give the same illustration that I gave the other night. Think of the South Wales Valleys as being like a hand. The valleys are the fingers, the palms are the cities of Newport, Cardiff and Swansea. There is movement from valleys to city for jobs, shopping and entertainment. The transport links, rail and road, are from valleys to city. There is very little cross-valley movement. I hope that the Government will bear that in mind when the Minister comes to reply.

The amendment in my name and that of my noble and learned friend Lord Morris of Aberavon, my noble friend Lord Howarth of Newport, and the noble Lord, Lord Rowe-Beddoe, and supported by many others—the noble Baroness, Lady Kingsmill, and my noble friend Lord Anderson of Swansea cannot be here today—would ensure that Wales had a minimum of 35 seats in Parliament.

On the day of Second Reading, the noble Lord, Lord McNally—like many others, I wish him well and look forward to seeing him back at that Dispatch Box and giving us all a bit of a ticking off and amusement as soon as possible—spoke on radio about fairness in relation to this debate. I fear that, throughout this debate, the Government and their supporters believe that fairness in representation in Parliament can be achieved only by constituencies of equal size. Why is that the only definition of fairness that they are prepared to admit to? I said on Second Reading that the Union of the four nations of these islands, which has united us as one country for centuries, recognises that fairness means allowing the smaller nations to have a greater representation in Parliament than their population might justify. That sense of fairness and understanding is the glue that has held our Union together for these past centuries. The amendment ensuring that Wales has 35 seats in the Commons will go a long way to protecting that Union.

Amendment 89BC would ensure that no English region, Scotland, Wales or Northern Ireland would suffer a reduction in the number of seats of more than 10 per cent at any one review. None of us knows what will be the effect of individual registration. Many would argue that the heavily populated inner cities,

where there is a greater population turnover, will be severely underrepresented if we are not careful. The amendment provides that there should be a reduction of no more than 10 per cent in the number of MPs at any one time.

The final amendment, Amendment 102AA, would ensure that there could be no change to Welsh parliamentary constituencies unless the referendum results in March say yes to additional powers for the Assembly and those powers are actually passed to the Assembly.

I hope that I have been able to convey to your Lordships the very real anxiety that many of us have about the impact of the Bill in Wales. I am sure that other noble Lords will now have their say, and I look forward to hearing them with interest. I especially look forward with interest to the reply of the Minister. I hope that he will at least agree that a fair case has been made to cause the Government to reflect and reconsider these issues concerning Wales. Based on his reply, I must consider whether or not I should seek leave to divide your Lordships' House. Let me say now that I hope that when he replies, the Minister will give me every reason not to do so.

Lord Williamson of Horton: My Lords, it is many years since I represented North Wales at cricket, but I assure the noble Lord, Lord Touhig, that I shall follow these discussions with considerable interest. I hope that he will allow me to make one brief intervention, which relates to Clause 11 as a whole. Thereafter, of course, the tour of Wales will continue. I have today tabled an amendment, to which we shall come eventually, but not immediately, which would defer the coming into force of Clause 11 until the end of the work of the Boundary Commission on the constituencies—that is, until the reports are laid before Parliament, the Secretary of State proposes to appoint a date and there are affirmative resolutions of both Houses.

I intervene briefly now to avoid any misunderstanding. If the coming into force of Clause 11 is deferred, we do not need to amend the clause now. I have tabled my amendment in the hope that it may contribute to an agreement that the Bill should pass, with a view to the referendum on the alternative vote on 5 May. In my view, it remains very important that we should try to get the Bill right. Obviously, there are the key questions of 5 per cent and the excluded constituencies. Before long, we shall come to the question of public inquiries. Today we have the question of the Welsh constituencies. I emphasise that I believe that all these amendments should be properly considered. If we can reach agreement, that is good. That is not inconsistent with my amendment, which would defer the coming into force of Clause 11 if the Bill is passed.

Lord Howarth of Newport: I thank my noble friend Lord Touhig for laying out the case on behalf of Wales so impressively. These three amendments, to which I have added my name, together form a coherent whole. There is the amendment that states that the number of parliamentary constituencies in Wales should not be reduced below 35; there is the amendment that states that there should be no reduction of more than 10 per cent in the number of Welsh parliamentary seats at one boundary review; and there is the amendment that proposes that the measures in the Bill should not come into force unless and until powers have been transferred to the Welsh Assembly in consequence of a vote of the people of Wales in the referendum that is to be held this spring.

This is an important debate. It is a debate that we have to have, not least because in another place, there was no debate specifically on the measures in the Bill which would have such an enormous impact on Wales. In Committee in the other place, when amendments dealing with the situation in Wales would have been reached, I understand that some 30 Members of Parliament stood to catch the eye of the Chair, but the guillotine came down and that debate did not take place. That timetable Motion was not a proper way to treat the House of Commons, least of all when dealing with major constitutional legislation. As a consequence of that, aside from other considerations, it is our responsibility in this House to scrutinise the measure as it would affect Wales and discuss our amendments.

The Government are proposing an extreme and rapid reduction in parliamentary representation for Wales. Wales, which has only 5 per cent of the population of the United Kingdom, would, under the Government's proposals, suffer 20 per cent of the reduction in the number of parliamentary seats for the country as a whole. Wales would lose 25 per cent of its existing seats. By comparison, Northern Ireland would lose 17 per cent of its seats; Scotland 9 per cent; and England only 5.5 per cent. Of course, it is in England that Conservative electoral strength is most concentrated. Whether or not it is the Government's intention to rig the parliamentary system in support of the Conservative Party, I must tell them that there is a real perception in Wales that that is what it is about.

The noble and learned Lord the Minister may contend that, as things are, Wales is overrepresented in the House of Commons. I recognise that, by reference to the principle of numerical equality between constituencies, that is indeed the case. But, as we have frequently contended in the debates on this legislation, there are other factors that it is proper to take into account. Wales is a nation. It was joined with England in 1536, but over the centuries it has had its own history and, as my noble friend emphasised, its own language. Until now, the Parliament of the United Kingdom has recognised that and has accepted that proportionally Wales should have more seats in the House of Commons than the numbers in its population alone would imply.

There are very good reasons for that. Aside from the reality of Welsh nationhood, there is also the geography of Wales which, as the House is aware, is singularly intractable when it comes to trying to achieve numerical equality between constituencies. There are very large rural areas that are very thinly populated. We have spoken about the constituency of Brecon and Radnorshire in our debates. It is 80 miles from north to south and 40 miles from east to west. It is a huge constituency geographically. If the Government's proposals were to be implemented in their undiluted form, we would have a constituency that might stretch from Crickhowell in the south to Wrexham in the north. It would be an impossible constituency for a Member of Parliament to represent satisfactorily.

[Lord Howarth of Newport]

RS Thomas wrote some lines about a Welsh farmer penning his sheep in a gap of cloud on the bald Welsh hills. It is that kind of constituency. It is very difficult to traverse the length and breadth of it, and I wonder how the Member of Parliament, even so excellent a Member of Parliament as Mr Roger Williams, would be able to do justice to the work that needs to be done in the constituency on behalf of his constituents and also to his responsibilities here at Westminster. In the south, there are the valleys, the deep valleys, each of which contains its own very distinct community. Let me again say to the House that the Reform Act 1832, which the Deputy Prime Minister cites as his inspiration, introduced into our system of parliamentary representation the principle that Members of Parliament should represent communities and interests. That way, the people of this country would know that they were represented in the House of Commons and Members of the House of Commons would know what the responsibilities of their colleagues were in terms of representing their communities. It is not wise to ask Members of Parliament to attempt to represent at one and the same time very different communities separated by geographical realities that you cannot simply or sensibly ignore.

It may also be argued by the Government that this wholesale reduction in Welsh representation in the House of Commons is the more justified because Wales has its own Assembly which exercises devolved powers of government. I must remind the House that the powers the Assembly exercises at present are powers of secondary legislation and, as my noble friend Lord Touhig explained to the House, great swathes of the policy that determines how life in Wales is to be led emanate from central government. In macroeconomic policy, Wales receives a block grant that is transferred from London to Cardiff. It is an essential responsibility of Members of Parliament representing Welsh constituencies to consider that block grant and make representations on behalf of their constituents as to its implications. Benefits policy, pensions policy, police, immigration, criminal justice, broadcasting, defence and foreign policy are not devolved responsibilities. The people of Wales accept the policy made on their behalf by the Parliament of the United Kingdom and, correspondingly, they need to have representation that enables their interests to be articulated and allows them to make their contribution to our debates. The Welsh nation has a right to see its interests protected through adequate representation in the House of Commons.

5.15 pm

It is the practice across the world where you have decentralised government or devolved government for small states or small nations to be allowed a somewhat disproportionate representation in the central government. That occurs in the United States of America, Spain and Germany. In the case of Wales, where there is so much dependence on the public sector for employment, it is particularly important that the representation of the people of Wales in the House of Commons should not be abruptly and drastically reduced. We are entering exceedingly difficult times. We saw figures yesterday that showed the gross domestic product of the United Kingdom actually contracting. Wales is a part of the country that is peculiarly vulnerable to that contraction and to the policies that the Government have judged appropriate to try to extricate our nation and our economy from this situation. They have thought it appropriate to cut public spending on a large scale and at a rapid pace. They need to recognise that the impact of this in Wales is going to be felt with peculiar force, and I put it to them that it is not a sensitive thing to do to drain Wales's parliamentary representation at the same time as they are draining its economic life blood. The people of Wales feel strongly about that.

My noble friend spoke of the contribution that great Welsh parliamentarians have made to our Parliament of the United Kingdom. He spoke of Lloyd George, Aneurin Bevan, James Callaghan and Michael Foot, and I would add the name of my noble friend Lord Kinnock. I also respect very much the contribution that distinguished Conservative Ministers, such as the noble Lords, Lord Crickhowell and Lord Roberts of Conwy, have made, and they take their place in that pantheon. I do not think it is in the interests of the Parliament of the United Kingdom that the contribution of Welsh parliamentarians should be so reduced.

It is not wise, probably in any circumstances and certainly not when you are trying to reform the constitution, to impose a one-size-fits-all solution. I put it to noble Lords opposite and appeal to them not to apply the full rigour of the numerical formula to Wales. Government by formula, almost by definition, must be insensitive and is liable to produce inappropriate and unhappy consequences. Whatever reduction in parliamentary representation for Wales the Government intend, they should proceed more gradually than they have proposed. In their response to the fourth report of the Welsh Affairs Select Committee in another place, the Government said that,

"there is a need to get on with the job of constitutional reform as soon as we can".

Why this rush to constitutional reform? Surely the appropriate approach to constitutional reform is through sustained debate, gradual advance, the negotiation of compromise and the construction of consensus. That is the spirit of these amendments.

I say to noble Lords opposite, please do not break faith with the people of Wales. When they were offered devolution in 1997 and voted for it, it was on the understanding that there would be a continuation of the same representation in Parliament. I am prepared to accept that it is reasonable to review the representation of Wales in Parliament as and when the devolution settlement is significantly altered. That may occur this year. There will be a vote of the Welsh people in a referendum which will ask them whether they wish to see primary legislative powers transferred to Cardiff in those areas that are already devolved. The scope of devolution would not otherwise be widened. If the people of Wales, knowing that the implication of a yes vote in the referendum would be that their representation in the Westminster Parliament would be reduced none the less decide that that is what they want, then, and at that point only, it would be reasonable for a change to be made in the number of Welsh seats.

The manuscript amendment tabled today by the noble Lord, Lord Williamson, is significant, and I am grateful to him for drawing it to our attention early in this debate. I agree with him absolutely that it is more important to get the Bill right than to rush these proceedings and the implementation of any measures. If in 2015 the dates of a general election and elections to the Welsh Assembly coincide, it is possible that there will simultaneously be two sets of elections on two sets of boundaries with two different voting systems and, in many parts of Wales, two languages. This is a recipe for confusion if not chaos.

When the Government replied to the House of Commons Welsh Affairs Committee, which raised many of the same objections of principle to this legislation as we have in your Lordships' House, the Government, in reference to the Parliamentary Voting System and Constituencies Bill and the Fixed-term Parliaments Bill, said:

"The Government believes that these two pieces of legislation will be the foundation on which we can rebuild public confidence in our political system … This demonstrates the practical benefits of the Government's *Respect* agenda".

Rebuild confidence in the political system? Respect? This Bill as we have it shows disregard for Wales as a nation; it shows contempt for the people of Wales as citizens of our democracy; and it shows a reckless willingness to alienate the people of Wales from the union.

Lord Morris of Aberavon: My Lords, save for a short intervention of about one minute, I have not so far taken part in debates on this Bill. My short intervention was on the speech of the noble Lord, Lord McNally—whom I wish well—when, in a fragile mood in the early hours of the morning, he reminded the Committee that the other place had lost its freedom of unlimited debate at the time of the Fenians in the 19th century. Whether the purpose of his remarks was a gentle hint, a threat—which was denied—or just a Freudian slip, I know not, but I was not surprised when, in a very short time, government supporters trooped into the Lobbies, in a very illiberal step, to force a closure not once but twice on the debate. Was that a sheer coincidence of comment and action, or was it something else?

I shall be very brief and I shall not go into the detail of the admirable speech of my noble friend Lord Touhig, who has broadened the canvas and dealt with most of the points. However, I shall return to his main issue: our proposal that the number of parliamentary seats should be 35, rather than the 25 per cent reduction from 40 to 30 as proposed by the Government.

The figure of 35 has a long, almost entrenched history. In 1918, the number of seats in Wales was 36; in 1954, it was not less than 35. The figure remained at 36 through each review until it reached 39 in 1986, as recommended by the Boundary Commission in order to take account of geographical considerations in the county of Gwynedd. The fifth periodical review, operating under the same rules, determined that the number of seats should not be less than 35 and, in fact, it allocated 40.

I have been in politics more than 50 years, I have to confess—I have been in Parliament for more than that period. I had it always in mind that the figure of 35 is, somehow or other, entrenched so far as political representation for Wales is concerned. The reason for that goes back to the basic point made by the noble Lord, Lord Touhig: that Wales is a nation within a larger country. We need go no further than that. It is because we desire and need good representation as we are a small part of the United Kingdom. That is the basis on which our distinctive voice should be heard, in the way that it has been heard over the centuries.

We need within that very small number of 35 Members of Parliament of all political persuasions from north Wales, mid-Wales and south Wales to articulate the needs of Wales. Its distinctiveness as a nation is exemplified in one way—it may be a small way, but it is important—by the fact that no one in his senses would dream of chopping off bits of either Wales or England and adding it to the other. Why? Because England is a nation and Wales is a nation, and you would not go over the boundary of either country to make a brand new seat which straddled the two countries. Our basic case is that our need as a nation for strong representation at Westminster has in the past been recognised. If there is concern about the Tamar, the Tyne and the Isle of Wight—I have heard the debates about them—how much more concern there is when a nation is concerned. We are dealing not with counties in England but with the nation of Wales, hence our need for our traditional representation.

I understand the case for arithmetic equality across the whole country, but it is a fact that, in the past, Boundary Commissions have been allowed—indeed encouraged—by Parliament to take into account of a whole host of other factors. Arithmetic equality is not the beginning and the end and it has never been thus. If it were, we could draw straight lines and squares across the whole of the United Kingdom. Allowing for the coast, we could parcel England and Wales into neat little squares. That is what relying solely on arithmetic equality would result in. Indeed, we would be behaving like our colonialist forefathers in Africa, drawing straight lines and creating new countries regardless of tribes one way or the other. It was my privilege as a young Minister as long ago as the early 1960s to help draw up plans for sharing the wealth of the North Sea. Well, that was very easy to do by drawing squares, because it was only water that stopped you from extending the square one way or the other, but you cannot do it when countries are involved and without having regard to strong community ties.

In the past, valleys and large areas such as Brecon and Radnor and Gwynedd have had to be taken into account by Boundary Commissions. People in the valleys do not often cross from one valley to another—I can count almost on the fingers of one hand how much I went over from my valley, the Afan valley, into other adjacent valleys. Some people did—there was some community of interest—but, generally, people went up and down, and the community of interest was north and south. The imagination boggles at the thought of trying to create maps in the north of Glamorgan and the north of Gwent to meet the needs of those different communities and of the poor, eventual, long suffering Member of Parliament having to attend to those needs time and again.

5.30 pm

I have seen this happening. I have appeared professionally before Boundary Commissions, and generally they do their work well. It is the assistant commissioner, usually a Queen's Counsel, who sits. Arguments are heard. They are very short—three or four days at the outside, in most cases. Communities can express their interests, and political parties can appear and put their interests. Everyone feels at the end of the day that they have had their day in court. Anything that constrains, limits or diminishes the discretion of a Boundary Commission is bad news.

My worst experience was appearing professionally for the city and county of Cardiff, when there were four seats to be distributed. An inquiry was necessary, although the two main parties—the Conservatives and Labour—had agreed. Unfortunately there was a split in the Conservative Party and therefore there had to be a public inquiry. The local Member of Parliament was a witness; he happened to be Mr Callaghan. It was my big moment to call this star witness and I had the proof of his evidence before me. Unfortunately, I relied on that proof too much. I asked, "Is your full name James Callaghan?", and he said, "No, Mr Morris. It is Leonard James Callaghan". It was the worst moment for me of that inquiry. I should have known better, having seen those magic initials, LJC, on so many documents.

The question for the House is how to achieve fairness with the least turmoil. Do we want candidates to be constantly reselected because of redistribution? A constituency that has had a Member of Parliament of either party knows whom to look to. It is a strain on that relationship if they have to change time after time, not for political reasons but because of the arithmetic which the legislation has determined. Such regularity of changes is not good, and I speak as a former Member of Parliament of more than 40 years' standing. It was that internal relationship which I valued very much. I saw young, rebellious men and women growing up to be mature leaders in their communities and to see their children doing the same. It would be a tragic loss if there were this unnecessary change because we were acting far too quickly.

If there is to be a change and if there has to be more arithmetical fairness, let it be as limited and as infrequent as possible in order to retain that sense of community which constituencies, local authorities, local political associations and political representatives have, whether there is a change in that representation or not. They have acquired this long relationship with their communities over the years.

I will close with one very real illustration. For 23 years, I represented the constituency of Aberavon, but because of the change in the county boundaries, it became necessary to detach three of my eastern wards and give me instead a couple of wards from the neighbouring constituency of Neath. There has always been long and intense rivalry on the rugby field between Aberavon and Neath. There I was, in my new ward, canvassing in what I regarded as a 90 per cent safe area, when someone came up to me and said, "I can't vote for you, Mr Morris". "Why?" I asked. "Well, I've got my little boy here, and when he grows up I don't want him to play for Aberavon, I want him to play for Neath". It was an uphill task for me to try to persuade that man that boundary redistribution had nothing whatever to do with rugby rivalry or loyalty.

With these few words, I hope there will be pause to consider the needs of Wales.

Lord Harries of Pentregarth: My Lords, the noble and learned Lord has made some very helpful points about Wales as a whole and about the valleys, the language and a certain number of counties. In view of his familiarity with west Wales, in particular Ceredigion, perhaps he could help the House by saying something about the special needs for representation in those areas.

Lord Morris of Aberavon: I do not want to detain the House. I have made the point that there is a long association between a Member of Parliament and a constituency and if anyone knows anything about west Wales, and I venture to suggest that I do, other Members of this House also do; I see the noble Lord, Lord Crickhowell, nodding.

Lord Elystan-Morgan: My Lords, we have had an excellent debate already, and nearly all the salient points in favour of these amendments have been made with great force and eloquence by earlier speakers. I endorse, adopt and applaud everything that has been said. I am deeply flattered by the noble Lord, Lord Touhig, quoting from an intervention of mine. Was it some days or weeks ago? I am not sure; time now seems to have lost its significance. I believe it goes to the very heart of truth. The most important contributions that have been made have centred on the nationhood of Wales. I do not believe that there is anyone in this House who does not accept the fact of Welsh nationality and respect that as an historical and incontrovertible fact. TS Eliot, I think, says that a,

"Rose is a rose is a rose".

It says everything. We could say, "A nation is a nation is a nation", which means that surrounding that concept of nationhood there is respect for, and indeed an acceptance of, that entity, and that is the basis on which we should approach this question tonight, as I am sure we will.

Wales is one of the oldest nations in Europe. Noble Lords will remember that Milton, who was not only a great poet but the principal private secretary to Oliver Cromwell for many years—in many respects the spin merchant of the Government of that day—spoke of Wales as an ancient "nation, proud in arms". That was three and a half centuries ago. David Lloyd George, as I am sure his distinguished grandson will recollect, said once in the House of Commons that we in Wales were a land of poets and kings when the Anglo-Saxons were on the shores of the Baltic subsisting on piracy and periwinkles. I do not necessarily adopt that historical theory as the basis of my case, but one thing is certain and it has been said so clearly and eloquently; what is proposed here is not just a marginal change but a savage amputation of Welsh representation in the House of Commons. That is no exaggeration. It means that Wales, with 5.3 per cent of the population of the United Kingdom, has to bear 20 per cent of this surgery.

To put this another way, in the whole of the United Kingdom there is a diminution of seats to the tune, I calculate, of about 7.6 per cent. In Wales it is 25 per cent. We can bandy figures around, but the fact is that Wales is disproportionately dealt with to a very cruel degree as far as this part of the legislation is concerned. Do we deserve that? Is that right? Is that just? Is that inevitable? Those are the questions which I think that the House would wish to exercise in relation to this matter.

I believe there to be real sincerity in the attitude of many Members on the Conservative and Liberal Democrat Benches, who believe that they can achieve fairness by a slavish adherence to arithmetical consistency. I respectfully suggest that they are wrong. Of course, some idea of a norm that would apply generally, all other things being equal, to constituencies as a whole would be utterly admirable. I have no doubt, and I accept, that in every consideration arithmetical consistency has some part to play. However, my first submission is that it is entirely chimerical. It does not achieve fairness because of so many other factors, with which we have dealt earlier. For example, the accessibility of a Member of Parliament to each and every constituent is far more important.

Secondly, mathematical correctitude cannot be achieved. Let us think of it in these terms. The register will be inaccurate, so far as the population and the possible electorate of a constituency are concerned, to the tune of about 3.5 million. As for Wales, my calculation on the basis of 5.3 per cent is roughly 185,000. That is a considerable totality of votes, which can of course completely affect this philosophy. It is as if the Government are saying, "We are aiming at a target through telescopic sights, and once we have that target in the crosshairs, we will be satisfied that we have done everything", but they forget that the barrel is bent. That bullet will never reach the spot at which the crosshairs are aiming. It will be a long way away. What possible validity can there be, therefore, for the theory that arithmetical correctitude governs all? There can never be.

I know that the noble and learned Lord who will reply to the debate will inevitably turn to devolution. In many public statements, he has already done so in relation to Wales and Scotland, but in Wales in particular devolution is linked with this considerable diminution in the number of seats. With great respect, I challenge that completely. Just before the Summer Recess, I asked the noble Lord, Lord McNally—I join everyone in wishing him a speedy return to this House—whether the culling of seats in Wales and Scotland would be affected by devolution. His answer was clear and to the point. He said, "No".

I know that the noble and learned Lord, who is a man of high intelligence and total integrity, will consider this argument very carefully. It can be tested in this way. Let us pretend for a moment that there had never been devolution in Wales and that no Wales Office had been created in 1964. Let us assume that no Welsh Assembly had come into being in 1998 and that there had been no Government of Wales Act 2006. Wales would still be losing 10 out of 40 of its constituencies. Therefore, the noble Lord, Lord McNally, must have been right; this problem has nothing to do with devolution.

Further corroborative evidence, were it necessary, comes from the report of the Select Committee on the Constitution. The Deputy Prime Minister gave evidence before it and was asked why the diminution should be so great in Wales? All he said was, "Either you apply the same rules to Wales in order to bring about a commonality of electors or you do not". Not a word was mentioned about devolution. I am sure that the noble and learned Lord would accept that, but from the way in which I have looked at that, whatever can be said about devolution I see that it has nothing to do with the reduction of seats from 40 to 30.

The case is simple. For a long time, Wales has enjoyed generous overrepresentation. There is no doubt about that. I think it was in 1377—I am sure the noble Lord, Lord Touhig, will correct me—that the figure of 24 was decided upon. Some centuries later it went up to 28. In 1832, it was 32. We know—indeed, we have had the benefit of the researches by the noble and learned Lord, Lord Morris of Aberavon, into the latter period—that there is considerable overrepresentation.

5.45 pm

People might say, "What are you whinging about? The thing to do is to say not that you should continue the overrepresentation but that it is wholly just that you should bring it to an end". That argument would be overwhelming, were it not for the central dominating feature of this issue: the nationhood of Wales. In 1992, when many Members here would have been Members of the other place, a Bill passed through the House of Commons that dealt with boundaries and the Boundary Commission. The right honourable Kenneth Clarke was Home Secretary at the time. He was exhorted by many Members to bring about a massive review of boundaries in Wales and Scotland with a review to diminution. He said, "No. There are national, cultural, historic, geographical and many other weighty factors that would make it impossible for me to do that". The situation is exactly the same now as it was then.

Finally, many speakers have referred to the federality —if that is the correct term—of the United States and many other countries when small communities have been given, at a certain level, the same or virtually the same representation as other larger units. One might say that a federal system is not possible in England, Wales and Scotland because of the massive size and power of England compared with the other two countries. However, it seems to me that some concession to the principle of federality has been made over the years by allowing that very overrepresentation. That has a great deal to do with the ethos of a United Kingdom. Destroy that by savage surgery and the future of the United Kingdom might well be fundamentally affected.

Lord Crickhowell: My Lords, I had rather expected that I might follow the noble Lord, Lord Rowe-Beddoe, whose name is on the amendment, but probably it is right that we should split the Cross-Bench speakers at this time—the noble Lord will have the opportunity to demolish any arguments that I may make.

I hope that it is not out of order for me to start with two personal remarks. The first is that it is a great pleasure to see the noble Lord, Lord Wigley, in the House. He and I often did not agree with each other,

[LORD CRICKHOWELL]
but I always respected his views and the way in which he put them forward. My second personal observation is that the amendment was introduced with the extraordinary courtesy that is always shown by the noble Lord, Lord Touhig. It is in the spirit with which he spoke that I wish to take part in this debate. He said that we should all think about this issue. I have been thinking about it and I shall continue to think about it, but I would like to discuss a few thoughts that I have had along the way.

The noble Lord spoke about going too quickly. Others have also raised that subject. I greatly welcome the amendment tabled by the noble Lord, Lord Williamson, because it gives the possibility of some further consideration along the road. I contrast that with the third amendment in this group, Amendment 102AA, which seems to me to kick the whole thing out so far into the future that it would effectively kill this legislation. I find it difficult to have any but negative thoughts about the third amendment, but I, too, understand the need for thought.

The noble Lord, Lord Touhig, referred to the 1944 Speaker's Conference. My first thought is that there have been considerable changes since then. At that time, we did not have a Secretary of State for Wales in the British Cabinet. We did not have a Welsh Office or, as it is now, a Wales Office. We had not taken the first steps down the road to devolution and the creation of a Welsh Assembly, whether it has the existing powers or the powers that it may have after the referendum. Even the world of the valleys, about which the noble and learned Lord, Lord Morris, spoke with feeling and great knowledge, has changed a good deal. Communities in those days were probably even more tight-knit than they are today. People walked straight out of their homes and into the pit or the mine and the road links between the valleys had not been improved. The first moves in 1944 were made at a time when the horrors of the recession were in many people's minds and it was felt that Wales needed special consideration. But things have changed.

My second thought is about the effect of having more Welsh Members of Parliament. In part, the answer was given by the noble Lord, Lord Touhig, when he started listing the names of distinguished Welshmen. In my experience, what has influenced the decisions of Governments has not been the number of Welsh Members of Parliament but the quality of the arguments that they advanced. I spent a number of years leading on Welsh affairs from the opposition Benches and then for eight years I was Secretary of State for Wales. I cannot think of a single occasion when an important decision was taken—or, indeed, when any decision was taken—with the thought in Ministers' minds, "My goodness, there are 35 Welsh Members of Parliament, not 30". The number was, I think, 35 in those days. I was influenced by the quality of the argument that was put to me.

I will cite one example, which will be all too familiar to Welsh people in this House. In the dramatic early days, when the noble Lord, Lord Roberts of Conwy, and I had only just become Ministers, we found ourselves in passionate debate about the future of Welsh language broadcasting. The crucial moment in that consideration was not, as has sometimes been said, the actions of Mr Gwynfor Evans. In fact, it was a visit paid to Lord Whitelaw and me by three very distinguished Welshmen: one much loved former Member of this House, Lord Cledwyn of Penrhos, the then Archbishop of Wales and Sir Goronwy Daniel. After the meeting, Lord Whitelaw asked me what I thought we should do. I said, "If we cannot carry sensible, wise, moderate, middle-of the-road opinion on this issue, we should change our policy, because we cannot deal with the extremists if we cannot have the support of people like that". The point that I am making is that it was the weight of the argument that was put to me that influenced the Government; it was never the thought of there being 35 Welsh Members of Parliament rather than 30. Therefore, I start with a certain scepticism about that argument.

Then it was argued—I think that the implication was made in this debate today, but it was certainly argued in another place at the time—that somehow the case for the Welsh language would be weakened if there were fewer representatives from north Wales, probably one fewer, incidentally. I think that I am probably right in saying that today there are more Welsh-speaking Welshmen living in Glamorgan, Cardiff and the industrial belt in the south than there are in north-west Wales. Furthermore, many of them represent the professional classes. They are in government, local government and the media. A number of them are very distinguished Members of this House. It is their voices—not just the voices, however strong, of the Members of Parliament for the north Wales constituencies—that support and sustain the Welsh language. Perhaps I might dare to add that it is not only the Welsh-speaking Welshmen. Regrettably, my grandfather was the last Welsh-speaking member of my family—I greatly regret that I do not speak the language—but I do not think that any Government of any political party have done more to support the Welsh language than the Government of which I and my English-speaking successors in the Welsh Office were members, supported and sustained all through, of course, by my Welsh-speaking noble friend Lord Roberts of Conwy. The Welsh language has its defenders without the need for that special representation.

Then there is the argument that I thought that I must consider most carefully and which I do consider most carefully. I think that the noble Lord, Lord Rowe-Beddoe, will advance this argument, too. It is about the pace of change.

Lord Elystan-Morgan: I have listened carefully to the noble Lord's most eloquent submissions in favour of the argument that numbers do not really count; it is quality that counts and the ability to put a case. Would he with equal equanimity view the prospect of the number of English Members of Parliament being reduced by 25 per cent, confident that the remaining 75 per cent would put all the necessary arguments?

6 pm

Lord Crickhowell: I do not really wish to add to the strength of the argument that I have already put. I am talking about the quality not just of the Members of Parliament but of all the other advocates who speak for Wales. They are not all in the House of Commons; indeed, some of the most effective ones are outside it.

I was going on to the question of the pace of change. I might be rather tempted on that, but I do not see how you seriously undertake the process gradually if you are to set about change. It is difficult. I cannot think of anything much worse than having a series of reductions taking place in successive elections. The noble and learned Lord, Lord Morris of Aberavon, said that the relationship that the individual Member of Parliament has with his constituency should as far as possible be stable and long-lasting. I therefore doubt whether a step-by-step change is feasible.

The other argument to which I have given thought was raised by the noble Lord, Lord Touhig, in moving his amendment. Indeed, he brought me up short and made me think again. He suggested that somehow this would increase the threat of separatism and would threaten the union. I am doubtful about that proposition. It may be right, and I will listen to the argument, but I suspect that those who are so deeply moved by the question of whether there should be 35 or 30 Members of Parliament that it affects their view of the union are mostly politicians—Members of Parliament and perhaps Assembly Members—rather than members of the great Welsh public. I may be wrong, but I do not think that Owain Glyndwr is rising from his unknown grave and about to lead the people of Wales into a great campaign because our nation is threatened by this terrible change. I am a bit doubtful about that argument.

Then there is the proposition about small nations needing special representation. While pondering these issues over the past few days, I said to myself that it was rather demeaning for the Welsh nation to believe that it has to have a few more Members of Parliament in order to stand up as a nation. Surely that cannot be right. I know that there are examples elsewhere in the world—normally because of the structures of government in other nations, such as federal systems—where more Members are given, but I believe that the Welsh nation can take pride and have confidence in itself because it is the Welsh nation and not because it has 35 rather than 30 Members of Parliament. I do not find that argument wholly convincing.

We come to the final issue of community-based representation, which gives me some concern. I have some sympathy with the argument advanced by my noble friend Lord Strathclyde last night that most people are much more interested in the county or the area in which they live than in the political constituency. Indeed, I confess that I still have some difficulty remembering the new names for the two constituencies that now make up my former constituency. I have a feeling that, if any of my former constituents were asked where they live, almost without exception they would say "Pembrokeshire". Very few, if any of them, would ever refer to a particular constituency. Yet, of course, community-based representation is extremely important and it is because I believe that it is important that I have consistently supported the proposal that there should be a 20 per cent spread from top to bottom rather than a 10 per cent spread. Indeed, I supported Members on the opposition Front Bench when they put forward that proposal, which deals with many of the community problems that have been identified in the debate today.

I do not see how we can go gradually down this road, although I was glad to have the proposition of the noble Lord, Lord Williamson. I will continue to think about it. I hope also that my colleagues on the Front Bench will continue to think about the genuine issues that have been raised today. In that spirit of consideration, although I would find it rather hard to support a vote if the amendment was pressed by the noble Lord, Lord Touhig, I shall certainly continue to consider very carefully the arguments that have been advanced.

Lord Rowe-Beddoe: My Lords, I have listened carefully to the words of the noble Lord, Lord Crickhowell, for whom I have great respect. Yesterday he was courteous enough to mention that he was going to attack certain aspects of the three amendments with which I am proud to be associated. I am sure that your Lordships have had quite enough of special pleading. During the past few days, special pleading has really been the game around in the many hours of debate that I have sat through—although certainly not as many as other noble Lords. Yes, this is special pleading, but with a great difference. Wales is not a region but, as the noble Lord, Lord Touhig, and the noble and learned Lord, Lord Morris, have both mentioned, we are a nation of the United Kingdom.

At the weekend I looked again at my set of *Encyclopaedia Britannica* from the late 19th century which stands on a shelf in my library. I just wanted to remind myself and perhaps get a little worked up for this moment. There it was: under "Wales" it says, "See England". We have come, admittedly, a long way since then. Rather perversely I could turn that on its head and say that if we were part of England, we would have a reduction of only 5 per cent. Coming from one section of the encyclopaedia to the "W" section and getting a full explanation of what our nation does appears to have cost us 25 per cent of our parliamentary seats.

So much has been said most eloquently by previous speakers, but I have three problems that I want to address: process, perception and fairness. I shall take process first. Last night, the noble Baroness, Lady Farrington, drew our attention in a different context to the report of your Lordships' Select Committee on the Constitution. I shall read just two brief excerpts from it. The first relates to a report produced last October by the Welsh Affairs Select Committee of another place which was highly critical of process in the Bill. Paragraph 50 of the Lords committee states:

> "We also note their view that 'the unique position of Wales in terms of its geography, culture and history has long been recognised in its Westminster constituencies' and their recommendation that the Government amend the Bill 'to permit the Boundary Commission to give greater weight to these factors when drawing up new constituencies'".

That is the considered opinion of your Lordships' Constitution Committee. The report goes on to say in paragraph 51:

> "We reiterate that pre-legislative scrutiny and public consultation would have provided an opportunity for these concerns to be properly addressed".

That, to my mind, puts a question mark against process. When things are done, they have to be seen to be done in an equitable fashion. Equity is quite a distorted word, so let us just call it doing things in a fair way.

[Lord Rowe-Beddoe]

I can understand, though I disagree with, what the noble Lord, Lord Crickhowell, said about whether we needed so many MPs. I overhead a noble Lord saying, "We could halve the number of MPs to 15 on that basis and we would still be a very proud nation". The question is not whether Wales is overrepresented; it has been acknowledged for a long time that Wales was overrepresented, but it is overrepresented for a reason. I do not want to rehearse the reasons that have already been mentioned.

My attention was drawn to an exchange of correspondence between the then Prime Minister of the United Kingdom and Speaker Clifton Brown on 24 May 1944. I am not going to quote it to you, though it would actually do us all well to hear the words of one of the more eloquent gentlemen of the last hundred years. In the letter that the Prime Minister wrote to the Speaker, he requested that the Speaker set up a Speaker's Conference to report within a certain period on—of course—redistribution of seats, reform of the franchise and methods of election. It does not seem to go away, does it? There are two points to make. One is about the process. The Speaker had assembled 22 or 24 Members of both Houses and some outsiders. They came back to the Prime Minister within four months with some very good recommendations which were sent to the Boundary Commission. That was the process: there it was; one could see how the whole thing started. It was a committee of all political parties which wanted to address what was concerning the Prime Minister at the time—that he wanted to take a look at the redistribution of seats in the United Kingdom.

We have heard that the last time there was an Act in which it was clearly stated that Wales should have "no less than 35 seats" was back in 1986. What we are missing in this is some reason why the Government have decided on numbers and then went on to fit parts of the United Kingdom into those numbers. I cannot be convinced. If I feel that way, I am sure that other equally ignorant people in the world will feel it also. The process is really faulty—it is faulty to my satisfaction, and will be faulty to the people of Wales when it is presented to them.

Let me draw the attention of noble Lords to my second point, about fairness and perception. In respect of fairness, I have talked about the reduction of seats—25 per cent, 40 to 30 and so on. I said in a slightly jocular way that if we were still part of England—"For Wales, see England"—or even Monmouthshire, we would only have got a 5 per cent chop. Where is the fairness in that? It just escapes me. Yes, I put my name to 35 MPs—the 1986 Act of Parliament has never been repealed. There are other parts of the Act that have been repealed. Why should it now just be thrown out because somewhere some group of individuals have put themselves together and said, "Wales is overrepresented; take it down by 25 per cent"? Really, the more I think about it, the more I think it is just extraordinary and savage—that was the word used by my noble friend Lord Elystan-Morgan.

I am a great supporter of these amendments. I believe that we really have to ensure that the Government think carefully about their treatment of Wales. I am a unionist, but I am talking about perception. What will the people of Wales think? I can tell you that the 10 MPs who lose their seats are going to make a great noise about it throughout Wales, and only one side of the story will be heard, and the perception will be there. I think it is dangerous.

Before I conclude, I would like to correct something that the noble Lord, Lord Crickhowell, said. He said that the third amendment, Amendment 102AA, was to kick the issue into the long grass. It was no more kicking it into the long grass than the amendment recently tabled by the noble Lord, Lord Williamson. He was actually saying, "Look, hold on a second. If you are going to do something, just wait, because, if in March the people of Wales say, 'We want to give more powers to our Assembly—to give them some power to make primary legislation', then there could be a reason to look at representation". But certainly in my opinion, it should be no less than the 35 seats that sits on the statute book today.

6.15 pm

Lord Morgan: I lend my support to this amendment, which has been so admirably moved; there have been a number of excellent speeches. I see that I do so in the presence of the noble Lord, Lord Wigley, who, among other things, represents the powerful traditions of David Lloyd George, whose spirit hovers over this debate. I think that the proposals to reduce Welsh representation in this way are deeply unfair to Wales as a nation and deeply damaging to its interests, to the House of Commons and to the United Kingdom.

Parliamentary representation is central to what has happened in the modern history of Wales. We heard the famous quotation from the *Encyclopaedia Britannica*. It was a Welsh Bishop—not the Welsh Bishop who is the distinguished ancestor of the noble Lord, Lord Crickhowell, but another, the Bishop of St David's—who said that there was no such place as Wales. He said that it was geographical expression, as Metternich had described Italy.

Since then, Wales has advanced rapidly. It has acquired increasing recognition of its nationhood and its identity. It has, in important ways—if the Minister will allow this thought—achieved equality with Scotland, and with other areas on the rugby field, more than equality, I think. This has been acquired through parliamentary persuasion. It has been in large measure political, but it has had social and cultural aspects as well. The interesting feature to me, and a feature of the history of modern Wales, is that this recognition of nationhood has gone along with ties with the Union of the United Kingdom remaining extremely strong, even after devolution. Therefore, the history of Wales in the United Kingdom, and the history of Ireland in the United Kingdom have been manifestly different.

The motor of change has been democracy; that means the use of the parliamentary persuasive method. I note the very sound point made by the noble Lord, Lord Crickhowell, that the quality of the people involved is important. If Wales were represented by 40 idiots or people of mediocre talent, perhaps it might not matter how many you had. If you had a genius, Wales could be represented by one person. But I also think—to quote a famous advert—size matters, and a significant number to make a collective point at all levels of the legislature of the United Kingdom is extremely important.

If we look back, as I am prone to do, we find that the achievements of Wales have relied very heavily on the parliamentary pressure that Welsh MPs have been able to bring. A great landmark was the beginnings of legislation for Wales alone. That legislation was the ill-starred Sunday Closing Act 1881, which is commonly thought of in a moral or religious context, but it was very important because it stated for the first time that you could have a statute that applied to Wales—a distinct legislative principle that did not apply to England. Obviously, that depended heavily on Welsh parliamentary pressure and representation. It was followed by the famous Act that set up the county schools in Wales and eventually, as it was seen then, the great triumph of the disestablishment of the Church in 1920. There have been many cultural aspects associated with this, such as the National Library, the National Museum of Wales and the University of Wales, for which I had the honour to be vice-chancellor for some years. All of that depended on effective political pressure through Parliament. That was the way the Welsh chose—the method of persuasion. It is significant that throughout this period not only did Welsh parliamentary representation increase in quality but the numbers of Welsh Members of Parliament went on increasing, from 34 to 36.

In the period after the First World War, parliamentary achievement stalled. I think that that was because the United Kingdom was involved in social and economic problems of a great kind. Trade unions were strongly unionist in sympathy. The Labour Party changed quite remarkably in the interwar years from support for local devolution shown by people, such as Keir Hardie, to a strong commitment to centralisation. There was no advance between the wars but no retreat either. What we have heard about the Speaker's Conference of 1944, including the very sensitive approach adopted by Winston Churchill, the Prime Minister at that period, shows how the point about Welsh nationhood and identity had been absorbed.

From the 1960s, as everybody knows, there was a period of very dramatic change. We had the Welsh Office, devolution and associated major changes in the cultural life of Wales, including aspects of a culture in the visual arts, for example, not traditionally associated with Wales. The movement for Welsh recognition has gone on but, as we have heard, the connection between Wales and Westminster and Whitehall has remained extremely powerful. We have heard of many areas such as social services, justice, and so on, indicating the enormous importance for Wales in having strong representation and pressure to sustain its interests. Throughout that period, representation went up until it reached a total of 40 in the Act of 1986.

One important point that strikes me from this historical background is that all the parties have contributed. It has been profoundly to the advantage of Wales that all the main parties have adopted a non-adversarial and constructive approach. The Liberal Party played a glorious and distinguished role before 1914. It is interesting to see how the Liberal Party changed its approach to Welsh matters. Gladstone, that great man who was concerned with home rule for Ireland, came to realise that Ireland and Wales were different. If you had, for example, disestablishment of the Church in Ireland, that was taking you along the road of separatism. In Wales, that disestablishment of the Church was an alternative to separatism and was committing you the more strongly to being in the United Kingdom.

The Conservative Party has been increasingly sympathetic, if the Bishops' Bench will allow me to say so, since the disestablishment of the Church. That was the great incubus for the Conservative Party in Wales. It was thought of as an English party and the party of the Church of England in Wales. Since the disestablishment of the Church, the Conservative Party has been able to be hugely more constructive. Winston Churchill set up a Ministry of Welsh Affairs. We heard the recollections of the noble Lord, Lord Crickhowell, on setting up the Welsh television channel which I was fascinated to hear. We have had a series of remarkably sympathetic Administrations under the Conservatives in the Welsh Office. I recall the noble Lord, Lord Crickhowell, and when I was in Aberystwyth, Lord Walker. The noble Lord, Lord Hunt, is remembered with great affection; Mr Redwood, I do not recall with quite the same warmth and affection. However, we had the talisman of the noble Lord, Lord Roberts of Conwy, who was enormously valuable and deeply sympathetic. I used to argue that the Conservative Party would benefit enormously from devolution in Wales and that it would have a much more positive and central role in Welsh life. So it has proved.

The Labour Party has oscillated. It began with a very devolutionist view, then became a very centralist party, perhaps in the 1920s to the 1960s or 1970s, and has suffered from that electorally. The Welsh Office and devolution were the work of a Labour Government and the Government of Wales Act took the process of devolution considerably further. We will have the referendum on further powers for the Welsh Assembly in March and I hope very much that it will be successful. All that will create a more diversified but more durable United Kingdom and sets Wales firmly in its place.

I worry that this Bill is quite different. It gets away from this all-party constructive approach to Welsh politics. It inflicts greater damage on the Welsh political system than any legislation we have had since the mid-19th century. The ties of Parliament with Wales will be weakened at a time when the powers of the Welsh Assembly call for a strong Welsh presence in Parliament and when, as the noble Lord, Lord Howard, said, the economic recession will make the need for a strong protective mechanism for Wales in Parliament more necessary than ever, given the greater importance of the public sector in Wales. This is a very damaging change of stance by the present Government and I find it deeply ironic that the party of the Union is proposing a step that will weaken the ties between Wales and Westminster.

As the noble Lord, Lord Rowe-Beddoe, observed, the perception is deeply important, and perception can lead to other things. It has been done in a thoughtless and casual way. We look forward to what the Minister will say, but so far there has been no compromise, no consideration or alternative views. We had the rejection of an idea of a Speaker's Conference. There is no suggestion that we might have the kind of Boundary

[Lord Morgan]
Commission that would take local views into account and reflect on a range of issues. As my noble friend Lord Touhig observed, a mishmash of new constituencies will be created, based on the crudest mathematical formula without concern for geography, history or community—the idea for which philosophers whom the Conservative Party reveres, such as Edmund Burke, have called across the centuries. The crudity of the process ignores the subtle variations within Wales, which as we have heard has very large constituencies, where the connection between electors and the Member of Parliament can be very difficult to sustain. It is particularly harmful to the Welsh-speaking areas of Wales. Again, slightly demurring from the stance of the noble Lord, Lord Crickhowell, I believe that what is important is preserving Welsh communities. It is quite true that most Welsh people live in south Wales—the Cardiff et cetera bourgeoisie—working in the public service. The huge concentration of governmental machinery in south-east Wales is a major reason for that. We want to take account of communities in sparsely populated rural areas. As I mentioned the other day, I have a Meirionnydd mother and a Cardiganshire father divided by the River Dovey. There are subtle variations that the mathematical formula pays no heed to at all.

I dread the thought of some of these new constituencies coming into play. We have already had aberrations in the reorganisation of Welsh local government. I well recall when I was at Aberystwyth dealing with a monstrous aberration called Dyfed, and confronting the councillors in Llanelli and Burry Port, trying on occasion perhaps to play the Labour party card and totally failing because they did not really regard that area of the frozen north, as they saw it, as a part of Dyfed at all.

We must have a formula for the size of constituencies that is flexible. I find the irrational process in which this change has been conducted deeply distasteful. It is a result, as with so many of the policies we currently have, of secret backstairs private discussions within the coalition. But we have not had them within Parliament so far. The House of Lords is doing, as it so often does, what the House of Commons was not enabled to do. There was no debate on these dramatic changes in Wales that occurred because of the use of the guillotine. I regard these proposals as a throwback to the cultural imperialism of the 19th century, with a coalition claiming, in effect, that there is no such place as Wales; that they really do not care about it and they are not prepared to listen. That is, unless their policy changes, very deeply to their discredit.

6.30 pm

Lord Roberts of Conwy: I welcome the noble Lord, Lord Wigley, who is a fellow north Walian. I look forward to hearing his maiden speech, but perhaps not this evening. We have gone on long enough I think.

As we are all aware, under the Bill as it stands, the total of Welsh parliamentary seats will be reduced from 40 to 30, which is an unprecedented figure. Even in 1832 Wales had 32 seats and, of course, the number has grown since then to 35 under the Representation of the People Act 1918, 36 under the Representation of the People Act 1948, to 38 in 1982-83, and 40 in 1995, under various statutory instruments passed by Conservative Governments. So the noble Lord, Lord Morgan, is perfectly correct in saying that both major parties have contributed over the years to this increase in Welsh representation. It is interesting to note that in 1948, while the Labour Government reduced the overall number of Members of the House of Commons from 640 to 625, they increased the number of Welsh seats by one.

How have the present proposals come about? The Government made their views very clear in the evidence that they supplied to the Welsh Affairs Committee, which conducted an inquiry into the implications for Wales of the Government's proposals. It is clear from that evidence that it is the equal value of votes cast at parliamentary elections across the UK that is the overriding principle. Currently they do not have equal value. The Government go on to say in that evidence:

> "The electoral quota for Wales's forty constituencies averages around 56,500, the lowest of the four nations in the United Kingdom. Welsh constituencies now have on average some 20% fewer electors than constituencies in England; almost 14% fewer than constituencies in Scotland; and some 13% fewer than constituencies in Northern Ireland".

Those are the facts. The Government go on in that evidence to point out the inequality in vote value among constituencies in Wales. They say:

> "For example, the vote of an elector in Arfon, with an electorate of around 41,000, is worth almost twice that of an elector in Cardiff South and Penarth, with an electorate of over 73,000. The votes of electors in Aberconwy, Dwyfor Meirionydd and Montgomeryshire, all with electorates below 50,000, are worth considerably more than those in the Vale of Glamorgan, with an electorate of over 70,000 … The Government believes that, again, there is strong justification for ending this manifest inequality".

I cannot say that that is felt at all acutely in Wales. Nevertheless, those are the facts that we must consider.

Some would think that the Government's proposals are among the consequentials of devolution and the establishment of the National Assembly for Wales with its 60 representatives. They would recall that Scottish representation was reduced in 2005 from 72 to 59. The Government's evidence appears to deny that in the case of Wales. The noble Lord, Lord Elystan-Morgan, was absolutely right on that. In their evidence the Government deal with the view,

> "that given the establishment of the National Assembly for Wales and the extent of devolution to the National Assembly and the Welsh Assembly Government, Wales's representation at Westminster should be proportionally less than that of England, not the same. The Government disagrees with this view. Since devolution, Parliament continues to legislate for the whole of the United Kingdom on matters that are non-devolved, including social security, tax, immigration and defence. It is surely right in principle that the people of Wales should have the same level of representation in respect to these matters as the people of England, Scotland and Northern Ireland".

There we have the Government's reasoned justification for their proposals. We are all aware of the factors that the Boundary Commission may take into account in deciding boundaries. We would all probably agree that a 10 per cent variation on either side of the quota would probably make life easier without mortally injuring the basic equality principle that lies at the heart of this Bill. As has already been said, Mr Lewis Baston of

Democratic Audit has drafted a list of a possible 30 constituencies approximating the required size. The list is to be found in the Welsh Affairs Committee evidence. It merits close study. Of course it would be controversial, as any proposals for boundary changes are bound to be.

Devolution and the election of 60 National Assembly Members should have reduced the constituency workload of MPs, especially in the areas of devolved government—health, education, housing, and so on. But some MPs tell me that constituents still come to see them rather than their Assembly Members. If so, that is a problem that they should sort out among themselves at ground level. Wales has many problems. Indeed someone asked where Wales would be without its problems. More MPs than average is not the answer in my view. I agree that it is a matter of quality. Better quality MPs might help, but not more.

My noble friend Lord Crickhowell has expressed my views very well about the very eloquent arguments that we have heard in the course of this debate. Like him, I shall continue to ponder, but your Lordships may rest assured that there is no doubt that the issue of parliamentary representation of Wales is crucial. As the noble Lord, Lord Morgan, has said, Parliament has played a very important part in our history. I hesitate to say it but surely the 16th century Act that was passed requiring the translation of the Bible into Welsh was a unique piece of Welsh legislation. If my memory, which is faulty, nevertheless serves me correct, it was 1563 and it was a fellow countryman from the Conwy valley, where I reside, Richard Davies, who actually pressed that statute in this very House.

Baroness Finlay of Llandaff: My Lords, I wish to speak very briefly. The noble Lord, Lord Touhig, introduced this debate with eloquence and discipline and summarised the points beautifully. I wish to address two aspects only: devolution and Wales's contribution to the UK today.

In the devolution settlement for Scotland, the powers were much clearer. Even if Wales has greater devolution —the Liberal Democrats had always said that they wanted to cut the number of MPs when the Assembly was stronger—and we go down to 35 MPs, we in Wales will still have lost a greater percentage than Scotland will have done. Fairness in devolution needs to be looked at.

What about Wales in the UK today? I refer noble Lords simply to the Armed Forces. We should remember that the population of Wales is just over 5 per cent of that of the UK. There are 37 regular battalions in the British Army, three of which are Welsh and six Scottish. Eleven per cent of recruits come from Wales and more than 7 per cent of casualties in Afghanistan are from Wales. At the height of Operation Panther's Claw in summer 2010, the proportion of Welsh soldiers was between 20 and 25 per cent, as Welsh regiments such as the Welsh Guards were on the front line. An MoD spokesman, Paul Barnard, said in an interview last year:

"It's certainly true … that Wales punches above its weight in the armed forces … And for that Welsh people should be proud, and the rest of the UK should be grateful".

Indeed, the rest of the UK should be grateful, as Wales does contribute. We have a devolved Assembly, but the role of the MPs in the other place is important. We contribute to the UK. That is why this is such a serious debate and why the amendment as proposed by the noble Lord, Lord Touhig, is well crafted and should be supported.

6.45 pm

Lord Rowlands: My Lords, I had the privilege of representing for 30 years one of the most remarkable constituencies in the country. It cannot be denied that Merthyr Tydfil has played an enormous role in the political, social and cultural developments in Wales, particularly in south Wales. It also has a remarkable sense of continuity. There has been mention of the Reform Act 1832. That Act created Merthyr Tydfil as a constituency, although not until the very last minute. In the last moments of the debates in the Commons and the last stages of the third Reform Bill, the Government eventually gave in to pressure to create the constituency of Merthyr Tydfil. In three successive Bills it was proposed that Merthyr should be a contributory borough of Cardiff. Neither Merthyr nor Cardiff thought that that was a good idea. Cardiff believed that it would be swamped by the Merthyr hordes and Merthyr considered that it was—as it was at that time—a more populous and more economically thriving community than the decaying county town of Cardiff. At the very last minute, the boundary change was made, and the concession was made.

When I reread the proceedings of the 1832 Reform Bills, two things struck me. One was that the Government of the day, and Lords Grey, Althorp and Russell, made considerable concessions to gain parliamentary assent. They seem to have accepted that the only way they could get that major Reform Bill through was by building parliamentary assent. They made concessions that some people thought they never should have made, but they were made. You do not create great parliamentary reform of this kind through ministerial macho approaches. It is important to build parliamentary assent. One of the saddest things about our lengthy debates is that no such attempt to build parliamentary assent has been made—not so far, anyway. I hope that at this late stage that process can and should start.

As I say, Merthyr Tydfil was created by the Reform Act 1832. During the 19th century it grew in population and electorate and became a two-Member seat. In 1900, it produced a remarkable dual membership: the first Labour Member of Parliament, Keir Hardie, who served the constituency alongside one of the richest men in Britain, the mighty coal owner DA Thomas, later Viscount Rhondda. In 1918, it reverted to a single-Member seat. Since 1918 to this very day, the core of the Merthyr constituency is the Merthyr county borough. However, given its remit, I have no guarantee or assurance that the Boundary Commission will respect that core. It may do what a former Boundary Commission once recommended and fracture the core of that constituency—the community-based constituency that I had the privilege of serving. I am fortunate that, in 34 years in the other place, I went through only one parliamentary Boundary Commission.

Listening to these debates has brought back many memories of that experience. One of the first proposals of the Boundary Commission convened before the 1983 election was that Aberfan and the Merthyr Vale

[LORD ROWLANDS]
ward in the heart of the Merthyr Valley should be transferred to a new constituency in the Cynon Valley. There were two problems with that. First, there happened to be a rather large mountain between the two and there was no direct route between them, which meant that local people thought that the Boundary Commission was working off a flat map with no contours of any kind.

Secondly, can one imagine the total insensitivity of supposing that Aberfan and Merthyr Vale be removed from the Merthyr constituency at a time when, some years after the Aberfan tragedy, we were still dealing with its long-term consequences at both parliamentary and borough level? That is the kind of insensitivity that I fear will arise time and again if the Boundary Commission's remit stays as it is. It will not respect the community feeling that is such a passionate part of our political and community life. I felt that most forcefully when in 1983 the then Boundary Commission eventually amended the constituency by attaching the Rhymney Valley to Merthyr. This was not thought well of in the Rhymney Valley. There are deep attachments not necessarily to counties but to constituencies. The people of Rhymney Valley were passionately attached to their constituency of Ebbw Vale. It was little wonder that that was the case as they had been represented for more than 30 years by Aneurin Bevan and were represented at that time by Michael Foot. It took a huge effort to try to rebuild and connect communities to make the new constituency of Merthyr Tydfil and Rhymney feel as one, and these were communities with identical political and social values.

While Boundary Commissions are impartial, they are certainly not infallible. The great value of local inquiries is that they allow communities to educate the commissioners in what communities are all about. However, communities will be denied that under this Bill if the Boundary Commission makes the absurd proposals that have been made in the past, which happily were quickly rejected because of the outrage that they caused locally. That experience could be repeated over and over again, as they cut across normal communities and move wards around, as is feared will be the consequence of the Bill.

I also want to touch upon the second point about the relationship between the number of Members of Parliament at Westminster and the union. I heard and reread the first attempt by the noble and learned Lord, Lord Wallace, to defend this argument a week last Monday. He said:

> "The important point to remember is that the reform means that a vote in Cardiff will have an equal value to a vote in Belfast, Glasgow, Edinburgh or London. To me, that does not undermine the union; giving an equal value to a vote in Cardiff, Edinburgh, Belfast and London will, we hope, bring the union closer together".—[*Official Report*, 10/01/2011; col. 1227.]

The notion that by cutting 10 constituencies in Wales and reducing representation to the Commons by 25 per cent will somehow create a closer sense of union is an absurd suggestion by the noble and learned Lord, who has made a very good fist of a very poor case throughout most of these debates. I do not think that the kind of cut that is envisaged will create a closer union; I think it will sow seeds of disunion.

I cannot follow the argument of the noble Lord, Lord Crickhowell, that numbers do not matter. Besides equality, they matter every now and then in the Lobbies. Among other things, therefore, a proper representation—certainly not 30—is essential for the good maintenance of the union, alongside devolution itself. I might be a bit of an endangered species in this case. My noble friend Professor Lord Morgan was, I think, thinking of me; I am an old-fashioned Labour unionist at heart and in the Bevanite tradition that meant that you had to be where power is. Power is and will remain, very substantially, in Whitehall and Westminster to influence the affairs of Wales. We cannot afford to reduce that representation, or to be perceived to have done so. Never mind being perceived; it will have happened if we cut the numbers by the amount suggested.

I do not know whether the noble Lord, Lord McNally, and the noble and learned Lord, Lord Wallace, feel any affinity to the great Whig/Liberal tradition that created the Reform Act 1832, with Lords Grey, Althorp and Russell. At least during the course of that Bill they made very strategic concessions to create parliamentary assent. Thankfully, as a result of that pressure, they created the constituency of Merthyr Tydfil. I suggest to the noble Lord, Lord McNally, and the noble and learned Lord, Lord Wallace, that they start making strategic concessions tonight by accepting these amendments.

Viscount Tenby: My Lords, I rise because my name has been mentioned on a number of occasions during this debate and I ought at least to thank noble Lords for the plug. I promise that my contribution really will be brief because all the songs have already been sung so expertly—probably the correct analogy to use in relation to Wales. There is a great deal of pleading for special causes in the Bill and there is, of course, ample justification for Wales to be included. Even if it were argued, as it has been today, that Wales might have been slightly overrepresented in recent years—no one is arguing about that; there is no dispute about it—it does not deserve to lose 10 constituencies at the stroke of a legislator's pen. These amendments, so powerfully moved by the noble Lord, Lord Touhig, would address this unfairness.

A number of distinguished former Welsh MPs from all sides of the House have contributed to this debate, and in terms of such practical experience I am indeed a piping voice without substance. However, I can at least claim this; I had a grandfather, father, aunt and uncle, all of whom represented rural Welsh constituencies—for all the parties represented in this House, I have to say. I can testify to the additional burdens that physically large constituencies can impose on their representatives. This is compounded by a road network that has hardly improved over the years—I am sorry, but that is the case—and a rail system that many would argue has actually deteriorated. The personal ties which an MP can establish with constituents fairly easily in a well defined and concentrated urban area must be far harder to achieve over a large and disparate geographical mass. In the case of Wales, any attempt to extend the size of already large constituencies to encompass the 76,000-elector figure could result in the entirely inappropriate solutions referred to so tellingly by the noble Lord, Lord Lipsey, in what I will call the Brecon-Radnor debate earlier in the week.

All these matters should surely be looked at carefully without a ticking clock in the background, which is why I hope that Amendment 102AB, in the name of my noble friend Lord Williamson, will be received favourably by all sides of the House.

Baroness Gale: My Lords, it is a great pleasure to be taking part for the first time in this debate tonight. The Welsh Affairs Committee report has been quoted several times tonight. I will quote from it again:

"The Parliamentary Voting and Constituencies Bill will have a greater impact on Wales than any other nation of the UK. Wales is projected to lose ten of its forty parliamentary seats, a reduction of 25%. We agree with the principle that all votes should have equal weighting. However, equalisation between constituencies is only one of a number of factors to be taken into account when deciding constituency boundaries. The unique geography, history and communities of Wales must not be ignored when the Boundary Commission undertakes its review".

The former Secretary of State for Wales, my right honourable friend Paul Murphy MP, said in evidence to the committee that the reduction in the number of MPs is unprecedented:

"Wales has had a dedicated number of MPs in Parliament since the middle of the Sixteenth Century. This is to safeguard the rights of a small nation in a United Kingdom".

The report goes on to say:

"In a democracy, it is an important consideration that every effort is made to ensure that votes have equal weight. However, no electoral system genuinely delivers a wholly 'fair' outcome in these terms. Notwithstanding this principle, other factors legitimately weigh in the consideration of where the balance of fairness lies. It is also important that the interests of each region of the United Kingdom are properly heard at Westminster. The Government's proposals would reduce, at a stroke, the number of MPs representing Wales by 25%. By any yardstick, this would be a profound change to the way that Wales is represented".

Tonight, we have heard a lot about having equal weight in voting, but does saying that something is equal mean fairness? Does it mean democracy? One aspect of this is that Welsh Assembly boundaries will be different from Westminster boundaries, and I think that that will cause problems. I know that this has happened in Scotland, but Scotland is not Wales. Scotland has already reduced its numbers because it has much greater devolved powers than we have in Wales. I think that it will cause problems if we have 30 Westminster seats and 40 Assembly seats, especially if we have elections on the same day in May 2015.

We do not know what the result of the referendum on 3 March will be. Most of us will be hoping for a yes vote, but even with that yes vote no greater powers will be devolved to Wales. It will mean that Wales can make primary legislation without coming to Westminster on matters that have already been devolved to Wales.

7 pm

I am not sure whether the position of women has been mentioned in the 14 days of Committee debate, but with equality and fairness, surely democracy must be mentioned. There are not many women MPs in Wales. We have never had many women MPs. There have been only 13 since 1918. At the moment there are seven. The largest number that we ever had at one time was in 2005 and we are now down to seven. It could be that, throughout the country, with a reduction of 50 and the new boundaries, women will lose out. There will be fewer women MPs at Westminster in 2015 than we have now, and that is something that all parties should consider deeply. The main parties want to see bigger representation and this must be taken into consideration.

The south Wales valleys have been mentioned several times. My noble friend Lord Rowlands mentioned Merthyr Valley in his former constituency. I have lived for most of my life in the Rhondda Valley, which has an electorate of just over 50,000. We are surrounded by the Cynon Valley, Pontypridd and Ogmore, which would be possible areas where you could expand. Lewis Baston, who has been mentioned several times, suggests that in order to fit in the numbers to get to the magical 75,000, Rhondda and Ogmore could become one constituency. My noble friend Lord Kinnock is smiling because he knows the area, and many noble Lords will as well as I do. We know that Rhondda and Ogmore have no natural links whatever. How on earth can you have a Rhondda and Ogmore constituency when you have a great big mountain between us? You can go over the mountain road, but that is closed the minute there is any fog, ice or snow. It would be extremely difficult and the Rhondda and Ogmore people are totally different communities. The Rhondda Valley is unique, as are all the valleys. There is no other place in the United Kingdom like the south Wales valleys.

It is worrying. Where will you get these extra votes? Wales is taking such a big hit because 22 of the smallest constituencies are in Wales. Was it taken into account when the figures of 50 and 75,000 were decided that Wales would be the hardest hit? I doubt it. I suppose it was done on a piece of paper and someone thought that it was a good formula, but as a result Wales has taken a big hit.

In the Rhondda Valley, the community spirit is still very strong. We people in the Rhondda practised the big society before it was ever heard of. People have a strong community spirit. The miners of the Rhondda built their own hospitals and we had our own libraries, all contributed from the miners' pay packets every week. We had our own doctors before the NHS ever came into being.

I would like to say a little about how strong the Rhondda spirit is and how strongly people feel in the valleys. John Redwood, then Secretary of State for Wales, decided that there would be local government reorganisation and we would have unitary authorities instead of districts and counties. There would be 22 constituencies. One of them would be made up of Rhondda, Cynon Valley and Pontypridd and it would be called the Glamorgan Valleys, which meant that Rhondda would no longer be in the title of our local government. Two wonderful Rhondda women, Betty Bowen and the late Carys Pugh, who noble Lords will remember, decided that this was not on and that Rhondda would not disappear from local government.

They fought a campaign—just the two of them—and this was before the internet and mobile phones, Facebook or Twitter. They had support from all over the world from ex-Rhondda people who said that Rhondda must not disappear. They secured a meeting with John Redwood and he had the good sense to meet these two

[Baroness Gale]
wonderful and formidable women. As a result, the Secretary of State eventually bowed to their wishes and the council was called Rhondda Cynon Taff Council. After all that effort, the council is generally now known in the Rhondda by its initials RCT. That is just one example of how strongly people in the Rhondda feel about it.

The Welsh language has been mentioned, which is very important to all of us in Wales. I do not speak Welsh myself, but my children, grandchildren and great-grandchildren speak Welsh. The Office for National Statistics states that the increase of people speaking Welsh in Wales in the 2001 census was largely as a result of children being taught the language in schools. This goes way back to the 1950s, when the old Glamorgan County Council, in a non-Welsh speaking area, made sure that Welsh medium schools were started, and they have been a great success. The report said that because of the Welsh medium schools, we now have many more children speaking Welsh. The report states that in all age groups, women are more likely to have Welsh language skills than men, and the,

"difference was most notable in the 10 to 15 and 16 to 19 year old age groups—in both cases the proportion of girls able to speak, read and write Welsh was seven percentage points higher than boys".

I make that point because much was said about Welshmen speaking Welsh.

I support the amendment of my noble friend Lord Touhig because we would lose 25 per cent of our MPs, but not gain any more powers. I can see that there might be a case if we had more powers, similar to Scotland, but it is wrong. Stifling the voice and the strength of the Welsh people is wrong. I ask the Minister to think again before allowing this to happen and to take into consideration all that has been said today because Welsh people will be listening to this debate. They did not have a chance to listen to what went on in the House of Commons because of the guillotine, but they will listen closely to what this coalition Government have to say about Wales. I am sure that they would want a really good response and that they will take note when the elections come on 5 May.

Lord Jones: I am glad to follow my noble friend Lady Gale because she has huge insight into Wales and its workings. My noble friend Lord Howarth of Newport quoted the poet RS Thomas. I wondered then how he would have responded had this Bill come before him. I think that the Nobel-nominated genius would have responded with a grimace and a frown and with sharp, thunderous angry enunciations. That leads to what the genius of the south, RS Thomas's cousin Dylan, might have done. Had he encountered this measure, he would, after a glass or two, have presented a laughter-filled satire of English arrogance.

The noble Lords, Lord Crickhowell and Lord Roberts, both shrewdly emphasised the qualities of shrewdness in terms of representation here in Westminster as opposed to numbers. I heard the noble Lord, Lord Crickhowell, instance his argument by reference to James Callaghan, a man of great quality. I studied Leonard James Callaghan in his use of power for many years, and I thought that it was seated not simply in his great quality but in his absolute certainty that he would always be followed by many Welsh Members of Parliament. That was part of his capacity. I have studied these debates for, perhaps, over two weeks and I have noticed the numbers and the power of Scottish Peers. I concluded—shrewdly, I think—that the Scots people, that great nation, negotiated themselves into our union and that that great brute, Henry VIII, the founder of the English state, annexed Wales without any public consultation whatsoever.

The coalition is off course. It puts more and more Peers into your Lordships' House yet it legislates to take many Members of Parliament out of the Commons, which does not seem logical. Instead of two Bills, we have one which is disparate and disjointed. It is not good enough. I believe that it is wrong for the coalition to debit 25 per cent of MPs in Wales. That cannot be right; it is unjust. We are talking of something approaching a parliamentary birthright. That is how the Welsh people see their representation here in Westminster. They always have and they would not be pleased if this Bill progresses. I believe Wales to be a very mature democracy. Wales likes its parliamentary politics. It is proud of its political heritage and it gives so much to the body politic here in Britain.

I am not the only noble Lord to say that Britain has gained so much from the Welsh constituencies; our great Mr David Lloyd George, who founded our welfare state; the mighty Mr Bevan—we all know what he contributed to Britain and to Wales; Mr Ness Edwards, who was very much a representative of the Welsh mining constituencies; Mr James Griffiths, a passionate man from the west who gave us national insurance Acts. Here are risks for the future, yet the coalition seems blind to them. Wales deserves better than this. It is a careless measure with more than a hint of a Heath Robinson disjoint.

Welsh people rate their Members of Parliament. They use them and their services with gusto. Now is not the time to denude the Principality of its favoured defenders. The MPs in Wales do a magnificent job of responding to their constituents' concerns. They deploy their staff most effectively. I would say that is the case with all Members of Parliament, whatever their party, in Wales. The service that they give now is instant, devoted and very effective. The measures in the Bill are not a reform; a reform is an advance. These measures are a negative, not a positive—deleterious, in effect. I am not the first to pose the questions, but where was the pre-legislative scrutiny? Where is public consultation? Where is the consideration of our geography and its peculiarities or of our economic and social history?

What is proposed is unjust and we now know that, in the immediate years ahead, there will be economic and social changes of the greatest seriousness. There is the imminent impact of major cuts in local government services. There has been too much legislation, by all Governments—ill considered and careless legislation. The history of our modern Parliaments is littered with examples of hurried, ill judged legislation and for these reasons, I support the amendment.

7.15 pm

Lord Campbell-Savours: My Lords, I strongly support my noble friend Lord Touhig on his amendment. I do not want to repeat much of the discussion that has taken place in the Chamber during this debate. I have studiously avoided, during my repeated interventions on this Bill, accusing the Government of gerrymandering, because I do not believe that that is the motivation behind this legislation. However, in Wales the accusation of gerrymandering will stick because removing 25 per cent of Wales's Members of Parliament will create—indeed, it is at this moment creating—great suspicion in the minds of the Welsh people.

I claim a right to speak in this debate by way of my birthright in Swansea. My family is almost entirely Welsh. Due to the somewhat rare nature of the Savours name, which is easily traceable to 1602—a task carried out by a great relative of mine at the beginning of the previous century, before the age of the internet—we have quite a lot of information about my family's activities over several hundred years. In preparing for this debate, I particularly researched the role that my family may have played in setting boundaries in Wales. I had been informed —incorrectly, as it turned out—that sheriffs and high sheriffs had historically had the responsibility of setting boundaries. There are two high sheriffs in my family: Edward Savours in 1747 and Robert Savours in 1845. Both were in south Wales, so I obviously had an interest. It seems that the only influence that they may have had was on parish or county boundaries. Since 1832, sheriffs probably had very little influence, as boundaries appear to have been set by a boundary commission after that.

However, during the research, I turned up some interesting background material on the boundaries in Wales. It seems that in 1944, as has already been alluded to, a Speaker's Conference was established. From a pamphlet written in 1995 by Mr Iain McLean, a notable academic in this area, entitled *Are Scotland and Wales Over-represented in the House of Commons?*, we learn the lessons of history on the use of mathematical formulae and seat reductions in Wales—and how interesting these lessons are. Mr McLean explains what actually happened during the 1944 Speaker's Conference, which was established to resolve arguments over representation. The conference, he says,

"was appointed and run on very similar lines to its predecessor of 1916-17 … Like its predecessor, the conference published only its conclusions".

However, the minutes of the Speaker's Conference committee are very illuminating. They say:

"It was pointed out that a strict application of the quota for the whole of Great Britain would result in a considerable decrease in the existing number of Scottish and Welsh seats, but that in practice, in view of the proposal that the Boundary Commissioners should be permitted to pay special consideration to geographical considerations … it was … unlikely that there would be any substantial reduction. It was strongly urged that … it would be very desirable, on political grounds, to state from the outset quite clearly that the number of Scottish and Welsh seats should not be diminished. The absence of any such assurance might give rise to a good deal of political feeling and would lend support to the separatist movement in both countries".

The noble Lord, Lord Rowe-Beddoe, referred obliquely to that matter. I think that he was suggesting that that was a likelihood arising out of this legislation as it stands. Mr McLean goes on:

"Accordingly, the conference resolved not to cut the number of seats in … Wales and to establish a separate boundary commission … The 1944 recommendations have provided a template for all subsequent legislation … There should be no reduction in seat numbers for Scotland, or for Wales … There should be a Great Britain-wide quota, or target electorate, for each seat … The maximum deviation of any seat from this target should be 25 per cent … Boundary Commissions might 'depart from the strict application of these rules' if necessitated by 'special geographical considerations, including the area, shape, and accessibility of a constituency'".

Those are exactly the same arguments as we are having today. He continues:

"The Redistribution Act 1944 implemented these rules … During 1946 and 1947 the Labour Government announced that the 25 per cent rule was too restrictive and was leading the commissioners to break up historic communities. This conservative argument was accepted by the Conservatives; an Act of 1947 removed the explicit 25 per cent rule, and placed equal constituency size below respect for local boundaries in the Commissions' rules".

In other words, no cuts in the number of seats and respect for local boundaries put above a 25 per cent deviation from targets—a lot more than the 5 per cent that is being proposed in this legislation.

As far as I am concerned, this legislation's effect on Wales is utterly absurd. It is unjust. It treats Members of Parliament miserably. It will interfere in family life for many Members of Parliament because the Bill is not even staged—and I heard the comments of the noble Lord, Lord Crickhowell, on the question of staging. It also provides for a great level of disruption in the public service careers of Members of Parliament. Many Members go into Parliament because they believe in public service and the need to contribute to their communities. It is quite unreasonable suddenly to remove 25 per cent of them in the way that is being suggested.

Wales is being punished on the back of a populist response by the coalition Government. The expenses scandal has provoked a backlash against Members of Parliament. The Government's response has been to cut expenses, promise September sittings and cut the number of MPs. It is a kneejerk response and Wales is being appallingly treated. It is absurd that this Parliament should treat the Welsh people and the Welsh nation in this way.

Lord Bach: We have had an extraordinary debate with many outstanding speeches from all sides of the Committee. I say more in sorrow than in anger that I am disappointed that no one from the Liberal Democrat Benches has spoken, particularly with their great tradition as a party in Wales. I cannot believe that they had nothing to say on this issue.

The Parliamentary Voting System and Constituencies Bill will have a greater impact on Wales than on any other nation of the United Kingdom. Wales is projected to lose 10 seats of the 40 that it currently has. This represents, as we have heard, a 25 per cent reduction in its Westminster parliamentary representation. It is clearly a very significant proposal. What is so astonishing is that there was no debate in the other place on this matter. The guillotine came down. Does the Minister agree that it is outrageous and hard to understand how the elected House of Parliament could not debate this matter?

[LORD BACH]

But it is worse than that. Many noble Lords who have spoken come from Wales and know how Wales is represented in another place. They will know that the Welsh Grand Committee, comprising all Members of Parliament from Wales, provides a forum for debate relating to Wales. The Grand Committee can meet only when the House directs it to do so. In effect, the Government decide when there is a need for such a meeting. A request was made from a distinguished ex-Secretary of State on 15 September 2010 to the current Secretary of State, the right honourable Mrs Gillan, to convene the Welsh Grand Committee. Unusually, the request was refused. In its report, the Welsh Affairs Select Committee made this comment about that refusal:

"We consider the Secretary of State for Wales' decision not to convene a meeting of the Welsh Grand Committee in this instance to be very disappointing".

Perhaps the Minister will tell us whether he thinks that that decision can be justified.

As many noble Lords have said, the prospect of this drastic reduction in the number of Members of Parliament has caused great concern in Wales and among those who are interested in Welsh matters. The all-party Welsh Affairs Select Committee of another place, made up of six government supporters and six opposition supporters, produced a report shortly after the Bill began its legislative stages in another place which was highly critical of the proposed changes. It said:

"A decision to cut the representation in Parliament of one of the nations of the UK, Wales, by a quarter at a stroke should be one that can be shown to have been subject to the most careful and measured consideration, and should be taken in the light of proper examination of alternative approaches, including a slower pace of change".

The Select Committee concluded, as we have been arguing during our discussion on the Bill:

"There is no need to rush into reorganising the electoral system without careful and measured consideration of the differential effects on the different parts of the UK".

As the debate in the Committee today has shown, this drastic reduction in the number of MPs has provoked more than considerable concern. For a start, it is a complete departure from the current legal minimum of 35 seats for Wales, enshrined, as we have heard, in the Parliamentary Constituencies Act 1986, which was passed by a Conservative Government, who should take great credit for that piece of legislation. It is also a significant reduction from the level of Welsh constituencies that was in place at the time when the Welsh people voted for the devolution settlement in 1998. That settlement, as the former Welsh Secretary, my right honourable friend Paul Murphy, noted in debates in the other place, was a package. It was, he explained,

"not simply the establishment of the Assembly, but the continuance of Members of Parliament, at that level, here in the House of Commons to protect the interests of the people of Wales and their nation. If we have a referendum, and there are greater powers, that might change, but at least people would have voted on it. However, in 1998, they voted for the opposite—the retention of Members of Parliament".—[*Official Report*, Commons, 6/9/10; col. 72.]

Importantly, that point was echoed by Mr Simon Hart, the Conservative Member for Carmarthen West and South Pembrokeshire, who warned the Government that a reduction of 25 per cent in the number of Welsh constituencies ahead of the referendum on new powers for the Welsh Assembly was being decided,

"without any reference to the Welsh nation".—[*Official Report*, Commons, 6/9/10; col. 119.]

Will the Minister please explain why the forthcoming referendum on powers has no bearing in the Bill on the level of Welsh parliamentary representation?

Leaving aside the issue of the referendum, a number of factors suggest that this sudden and deep reduction in Welsh representation goes too far, too fast. The imposition of a UK-wide electoral quota of the kind imposed by the Bill is bound to create one or two enormous Welsh constituencies that will be overwhelmingly rural in nature and will cover wide and in places inaccessible territories. It will force the construction of new constituencies in the Welsh valleys, which will be impractical and injurious to local community ties, as many noble Lords have said.

Previously, these were the sort of concerns that could have been soothed to a degree through the application of common sense and through the forum of public inquiries, which the Bill proposes to abolish. Will the noble and learned Lord clarify whether there will still be a right to hold public inquiries in boundary reviews concerning the constituencies of the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly, but not of the mother of Parliaments in Westminster?

7.30 pm

I return to the issue of whether a uniform approach is right for the whole of the United Kingdom. In fairness, the Bill contains one rule to override the electoral parity rule, which acknowledges the fact that the United Kingdom is a union of four parts. That rule prohibits Boundary Commissions from creating any constituencies across national borders and recognises that the different parts of the union have their own special characteristics, traditions and administrative structures. My right honourable friend the shadow Welsh Secretary and ex-Secretary of State, Peter Hain, said:

"Wales, because of its own special characteristics, has always had special consideration by this Parliament and by the Boundary Commission for Wales, with cross-party support over the generations. For that reason, Parliament first decided in 1947 that there should be no fewer than 35 Welsh seats. Since then, rises in and shifts between the population over the past 60 years have led the Boundary Commission to increase the number of seats by a further five to 40. As a note from the Commons Library of 28 July 2010 confirms … during the passage of the Boundary Commissions Bill in 1992, the then Home Secretary, the right hon. and learned Member for Rushcliffe (Mr Clarke) rejected the argument that over-representation of Wales should be tackled, referring to it as a long-standing constitutional arrangement".—[*Official Report*, Commons, 6/9/10; col. 123.]

That was mentioned in the debate. I ask the Minister whether he thinks that his right honourable colleague was wrong in that judgment.

We are not arguing that Wales should be protected from any reduction in parliamentary representation. The Committee is made up of political realists and we understand that the Government have some legitimate basic objectives, including the creation of more equal-sized

seats. The question that has run through all our debates is whether those objectives need to be pursued in so rigid a fashion. Two noble Lords today used the word "savage" to describe the way in which this has been dealt with and questioned whether it must be pursued in a way that excludes all other factors.

We are beginning to see, in debates and votes on amendments that would inject a little more flexibility into the rigid rules set out in the Bill, a growing acceptance around the Committee that the Government should pay more attention to other considerations. Wales is an obvious area where some sensitivity at least should be given to special geographical characteristics, as well as to its status as a nation—this point was made by many noble Lords—within a larger union in which clearly England is the dominant force in wealth, population and political representation. The Welsh Affairs Committee stated that its concern was,

"about how the Government's proposals will affect Wales in ways distinct from the overall picture for the UK".

We know that, if the Bill passes, Wales will lose 25 per cent of its MPs, Northern Ireland will lose 17 per cent, Scotland 16 per cent and England 5 per cent. If the Government profess to be interested in fairness, it is important that the interests of each region are properly heard at Westminster.

The Government's proposals would reduce at a stroke the number of MPs representing Wales by 25 per cent. The Select Committee said that by any yardstick this would be a profound change to the way in which Wales is represented in Parliament. Paragraph 51 of the committee's report states:

"No persuasive argument has been presented to justify the haste with which this legislation is being pursued. There is no need for the legislation paving the way to the AV referendum to be linked to that fixing the size and number of parliamentary constituencies. Indeed, there are strong grounds for separating consideration of the two issues in time, both for Parliament and for the electorate … a decision to cut the representation in Parliament of one of the nations of the UK, Wales, by a quarter at a stroke should be one that can be shown to have been subject to the most careful and measured consideration, and should be taken in the light of proper examination of alternative approaches, including a slower pace of change".

The vast majority of noble Lords who have spoken in this debate have agreed with that conclusion. We on the opposition Front Bench agree with it. If my noble friend seeks to test the opinion of the House, which is a matter entirely for him, we will encourage Labour Peers to support him.

The Advocate-General for Scotland (Lord Wallace of Tankerness): My Lords, I start by thanking the noble Lord, Lord Touhig, for moving this amendment almost three hours ago, and for the measured and considered way in which he advanced his arguments. He encouraged Members of the Committee to be thoughtful, and triggered a considerable number of thoughtful and thought-provoking contributions to the debate. They ranged widely over parliamentary, cultural and family history, and over the contribution that distinguished Members representing Welsh constituencies have made to the parliamentary democracy of our United Kingdom. I will also refer at the outset to the point made by the noble Lord, Lord Elystan-Morgan, about Wales being a nation. My noble friend Lord Morgan and the noble Lord, Lord Rowe-Beddoe, echoed that point. Certainly I accept that Wales is one of the constituent nations of our United Kingdom. I, too, would bristle if I looked up "Wales" in an encyclopaedia and found, "See under England". Even though I am not Welsh, I would find that offensive.

The amendment seeks to guarantee a minimum of 35 constituencies in Wales. In response to the point made by the noble Lord, Lord Bach, it is my understanding that when there was a debate on Report in the other place on the provisions of the Bill to equalise the size of constituencies, there were contributions from 16 Welsh MPs. Although the Government did give consideration to a Welsh Grand Committee, the Secretary of State for Wales and my honourable friend Mr Mark Harper, the Minister who is responsible for this Bill in the other place, held a meeting to which all Welsh MPs were invited. There was extensive discussion and Mr Harper offered individual follow-up meetings to all Welsh Members. That was the spirit in which the meeting took place.

Lord Kinnock: My Lords, will the noble and learned Lord give way as a parliamentarian?

Lord Wallace of Tankerness: No; I wish to answer some of the points that have been made in the debate.

The amendment stipulates the figure of 35, which—as was said by one or two contributors, not least by the noble Lord, Lord Touhig, in moving his amendment—reflects the figure set out in the 1986 Act, which stated that there should be no fewer than 35 Members from Wales. I observe that the same Act stated that there would be no fewer than 71 Members for Scotland. That provision was repealed by the Labour Government. I do not complain about that; indeed, I encouraged them to do so. The number of Members of Parliament from Scotland under the Labour Government fell from 72 to 59, and is set to fall again under the Bill to 52, which is about a 26 per cent reduction. That will be relevant when we come to consider issues about devolution raised by the noble Baroness, Lady Finlay of Llandaff, and the noble Lord, Lord Elystan-Morgan.

My noble friend Lord Roberts of Conwy gave a clear expression of the Government's position as admitted in evidence. One of the underlying purposes of the Bill is to try to secure fairness—equal vote, equal value—throughout the United Kingdom. The amendment which has been moved and those which have been spoken to would go against that fairness of one vote, one value throughout the United Kingdom. We believe that every elector's vote in elections to the other place should have the same value, regardless of where that vote is cast in the United Kingdom. It is important to emphasise that we are not in any way proposing less representation for Wales than other parts of the United Kingdom. Indeed, the value of a vote in Wales will be the same as the value of a vote in England, the same as the value of a vote in Scotland, the same as the value of a vote in Northern Ireland.

We have allowed for a 10 per cent range of tolerance between the largest and smallest constituency to take account of local and other factors. The noble and learned Lord, Lord Morris of Aberavon, gave the impression—a caricature—that it was simply a matter

[Lord Wallace of Tankerness]
of drawing square boxes on maps. That is not the case and does great disservice to the Boundary Commission, which will look at the issues and take account, to the extent that it thinks fit, of important matters such as special geographical considerations—the size, shape and accessibility of a constituency. The noble and learned Lord put it very well when he gave the illustration that a parliamentary boundary does not define which rugby team you will play for. As my noble friend Lord Crickhowell, said, when people are asked where they belong, they tend to answer in terms of old counties or smaller towns and communities. They tend not to identify where they belong in terms of parliamentary constituencies.

I am not sure whether my noble friend Lord Steel is present—I saw him at one point—but he will recall that when he represented the seat of Roxburgh, Selkirk and Peebles, having the rugby teams of Hawick and Gala in the same constituency set up some interesting issues of rivalry between different communities. As I said in response to a debate yesterday evening, Members of Parliament by their nature represent a number of different communities within their constituency. The noble Viscount, Lord Tenby, and the noble Lord, Lord Bach, made the point about size and accessibility. Brecon and Radnorshire, which is the largest constituency in Wales, is often given as an example. To give a sense of perspective, it is worth stating that at 1,160 square miles, the current Brecon and Radnorshire constituency is considerably smaller than the constituency represented by honourable friend Lord Thurso in Caithness, Sutherland and Easter Ross, which is just under three times larger than Brecon and Radnorshire. Then there is the constituency represented by my right honourable friend Mr Charles Kennedy, of 4,909 square miles. Of course, there are geographical limitations which the Government have submitted in the rules.

Lord Thomas of Gresford: My Lords, does my noble and learned friend recall that the late Lord Livsey, who for many years was the Member of Parliament for the then Brecon and Radnor constituency, was one of the most loved Members of Parliament, hard-working and known throughout the whole of that constituency?

Lord Wallace of Tankerness: I think that that would be accepted and acknowledged on all sides of the Committee. It is not just me standing here saying that it is feasible to represent a constituency of such a size, but the electors of Caithness, Sutherland and Easter Ross, and of Ross, Skye and Lochaber have returned their respective Members of Parliament on several occasions, which suggests that they have been able to address the genuine needs of a constituency covering many communities.

Lord Kinnock: As we are explicitly discussing Wales, and the issue of Brecon and Radnorshire has been brought up, how does the noble and learned Lord suggest that that most rural constituency in Wales and England, with an electorate of 58,000, can be brought into consistency with the Government's formula of a tolerance of 5 per cent either way and about 75,000 or 76,000 without making the size of the constituency now formed by Brecon and Radnorshire absolutely absurd and communication in that constituency almost beyond reach? I recognise the experience in Scotland. To create a constituency in mid-Wales that has about 70,000 to 80,000 constituents, there would have to be an effective destruction of neighbouring constituencies—to the north, in Montgomeryshire; or to the west, in Ceredigion; or to the south, in the former mining valleys. A suggestion about how a cogent constituency of between 70,000 and 80,000 can be formed would be helpful to the debate.

7.45 pm

Lord Wallace of Tankerness: The first thing to note, because it happened very late at night, is that the Government accepted an amendment from my noble friend Lord Tyler with regard to existing constituencies being a factor to which the Boundary Commission may, if it sees fit, have regard. Perhaps that was not widely appreciated because there were not many of us around.

Lord Kinnock: I was.

Lord Wallace of Tankerness: I think that the noble Lord congratulated us on that at the time.

The point I am trying to make is that the two Scottish highland constituencies to which I referred are substantially greater than Brecon and Radnorshire—in the case of Caithness, Sutherland and Easter Ross, almost three times as big; in the case of Ross, Skye and Lochaber, more than four times as big. We would have to go a very long way before we got anywhere near constituencies of that size, which have equally challenging geographical issues. Nevertheless, Members of Parliament have successfully represented those constituencies, as can be seen by the fact that they have been returned regularly in elections.

I take on the genuine issue, which several noble Lords have mentioned, of the effect of the interaction with the Union. I express myself as a passionate advocate of the benefits of the United Kingdom, while at the same time as someone who has vociferously argued for devolution. I recognise the sincerity with which the noble Lord, Lord Touhig, raised his concern about the Union.

My point, on which the noble Lord, Lord Rowlands, picked me up, is not unreasonable. I think that there is an issue of fairness, and I have not yet heard the argument why it is in some way unfair that a vote in Cardiff should have the same value as a vote in Belfast, London and Edinburgh. Indeed, those who argue the contrary must tell us what explanation we give to a voter in Edinburgh that a vote in Cardiff should be worth more. I have not heard yet that explanation. Neither do I believe that in some way that difference in value will cement Wales's place in the Union. In fact, I think there is some merit in saying that if all parts of the Union are treated equally, that is positive. I would have hesitated to say it, because I am not Welsh, but my noble friend Lord Crickhowell made the point that the Welsh nation can have true confidence in itself. It does not need overrepresentation in order to have confidence in itself. That is worth bearing in mind.

I come on to the point raised by the noble Lord, Lord Elystan-Morgan, when he asked about various points I had made in the past about devolution. Points have been raised about the Speaker's Conference. As my noble friend Lord Crickhowell said, much has happened since the 1944 Speaker's Conference, and much has happened since the remarks attributed to my right honourable friend Kenneth Clarke in 1992. We cannot hypothetically say, "What would happen to this Bill if we had the Wales Office and had never had devolution?". That is not the situation today. It is the case that on the back of devolution, Scotland reduced its representation from 72 to 59, but devolution is not relevant to the proposals that the Government are putting forward because we are not seeking to make a distinction between Scotland, which has a different form of devolution from Wales, Wales, which may have more powers following the referendum on 3 March, Northern Ireland, which has a different system of devolution again, and England, which has no devolved government.

Noble Lords made the point that the United Kingdom Parliament deals with macroeconomic policies, defence—the noble Baroness, Lady Finlay, spoke of the contribution that the constituent parts of the United Kingdom make to the Armed Forces—social security matters and pensions matters. The Government are saying that representation should be fair in all parts of the United Kingdom. There may be some who would argue that because Scotland has its Parliament dealing with a range of domestic issues, there could even be an argument for underrepresentation, but that is not the position of the Government. The Government believe that there should be equal representation in all parts of the United Kingdom, and that is what underlies this. We do not find it particularly acceptable that, for example, the constituency of Arfon, which was mentioned by my noble friend Lord Roberts of Conwy, has an electorate of just over 40,000 whereas Falkirk has an electorate of 80,000. Indeed, it was pointed out that even within Wales, there are substantial divergences in the number of electors.

I shall pick up the point on the Welsh language. I cannot see why the reduction in the number of Members from Wales would have an impact on the Welsh language. As my noble friend Lord Crickhowell said, some of the great steps forward for the Welsh language were taken by people who were not Welsh-speaking in response to those who made very good, cogent arguments for the Welsh language over many years. It is the case that many Members of Parliament in our inner cities are dealing with constituencies in which a variety of languages are used by people from minority ethnic communities.

The noble Lord, Lord Williamson, made an important and valuable contribution when he referred to his manuscript amendment and there will be an opportunity to debate it more fully when—when—we come to Clause 18. The amendment would, as I understand it, mean that the first boundary review would take place as though the new rules were in force; the existing legislation would remain in force in the mean time; the new boundary provisions would be commenced only once the Boundary Commissions had reported; and votes in both Houses on the commencement order would be at that point. The House would effectively have the choice of commencing the new rules or retaining the 1986 Act rules. I recognise the intention behind this amendment, which was briefly spoken to by the noble Lord, and I salute the helpful spirit in which it was proposed. We will clearly want to give thought to the issues that it raises, but I will put down a caveat in that it invites Parliament to do what it does not usually do. Parliament usually sets the rules for the Boundary Commission and does not give people who have more than a vested interest in them the opportunity to decide whether they should introduce new boundaries that have a direct effect on them. Having said that, it is an innovative suggestion that I would be very happy to discuss with the noble Lord. I hope we will be able to have that discussion soon before we debate his amendment in due course.

In conclusion, I repeat that the provisions in this Bill will mean a reduction in the number of Welsh constituencies, just as in the rest of the United Kingdom. In opening this debate, the noble Lord, Lord Touhig, pointed out that Wales has 5 per cent of the population of the United Kingdom. On the 2009 figures, the overall proportion of Welsh seats in Westminster would go from 6 per cent to 5 per cent. I do not believe that that poses a threat to the Union. If anything, I believe that greater fairness and equality can help strengthen our union, and I beg the noble Lord to withdraw his amendment.

Lord Touhig: My Lords, we have had a first-class debate. Seventeen of your Lordships have taken part. We have had a debate in the unelected House of our Parliament that the Government denied the elected House. In responding, the Minister took an intervention from the noble Lord, Lord Thomas, who mentioned the late Lord Livsey. I, too, knew, admired and respected Richard Livsey, and if he were here tonight, I have no doubt about which side of the argument he would be on. I hope the House will forgive me if I do not follow the normal courtesy and respond to all the contributions that were made because I do not think that I could match the eloquence and power of the argument. We have spent just over three hours on this debate, and I am not here unnecessarily to take up your Lordships' time.

Those who have spoken in this debate and I have sought to improve this Bill in the interests of the people of Wales. I am disappointed by the Minister's response. We have clearly failed to impress upon the Government our concerns about the adverse impact this Bill will have on Wales. I believe that we have approached the debate in the best traditions of your Lordships' House. We have expressed our view and our concerns about the implications of this Bill on Wales. We have not been prescriptive and said, "Here's a problem; here's an answer; you must take it". Noble Lords who have signed the amendments in this group have put their names to not one but three possible alternatives which the Government might have considered and reflected upon and come back at a later stage with some proposal that might have assuaged our fears. I believe it is in the best traditions of your Lordships' House to give the democratically elected Government time to reflect on the arguments that have been put. We offered an olive branch, but I fear that that olive

[LORD TOUHIG]

branch has been tossed away. I worry because those of us who feel passionately about Wales and about the Union of the United Kingdom intend to continue to make this argument and this debate. The other place did not have an opportunity to debate these amendments or to express a view. It is with a heavy heart that I feel it is necessary to divide your Lordships' House so that we may express an opinion on Amendment 89BA.

7.57 pm

Division on Amendment 89BA

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8.09 pm

Amendment 89BC not moved.

House resumed. Committee to begin again not before 9.09 pm.

BBC World Service

Statement

8.10 pm

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): My Lords, with permission I shall now repeat as a Statement the Urgent Question that was answered by my right honourable friend the Foreign Secretary in another place:

"The House will agree that the BBC World Service performs an invaluable role, reflecting British democratic values overseas and supporting British influence in the world, and that the services it provides are a beacon to many in some of the poorest and most insecure countries in the world. We announced in October that, from 2014, responsibility for the BBC World Service will be transferred to the BBC itself and funded from the licence fee, a move that has been welcomed by the World Service and the BBC Trust as providing new opportunities for the World Service to develop in the future. In the mean time, the World Service—like any other taxpayer-funded body—must ensure that it is working on the right priorities and as efficiently as possible. I announced in October that its expenditure limits would be reduced by 16 per cent in real terms over the next three years.

As I set out in a Written Statement earlier today, we are providing £13 million per annum to help with the deficit in BBC pension funds and £10 million per annum for new services in markets that we and the World Service have identified as priorities. Those include TV programming in Urdu, in sub-Saharan Africa and in Hindi to be provided to local partners. We have also guaranteed the capital for the move of the World Service to its new offices in W1. That is proper provision for the future of the World Service and will make up for inherited deficits.

The other services provided by the World Service cannot stand still, and those that have become less well used because of the rise of local broadcasters or falling short-wave audiences sometimes have to close. It is the World Service's responsibility to be as efficient as possible while maintaining as many services as possible, something the previous Government recognised when in 2006 they closed 10 separate language services of the World Service. The World Service initially suggested to the Foreign Office the closure of up to 13 language services, but I refused to give permission for that. I have agreed to the closure of five language services, accounting for 3.5 million listeners out of the total audience of 180 million. Withdrawal from short-wave and other services will have a bigger effect, but will rightly allow for concentration on online and mobile services for the future.

The BBC World Service has a viable and promising future, but it is not immune from public spending constraints or the reassessment of its priorities. While any closures might be regretted, they would not be necessary at all were it not for the inherited BBC pension deficit and the vast public deficit inherited from the previous Government".

That completes the Statement.

8.13 pm

Baroness Symons of Vernham Dean: My Lords, I thank the noble Lord for repeating the Statement. This is a very sad day for all supporters of the BBC World Service—a service that has unrivalled reach across the globe and has a reputation for independence and fair mindedness. The BBC World Service is loved by many people who listen to it every day and is envied by many Governments, who wish they had it. It is known for its authoritative news reporting and relied upon for such reporting by many people. Will the Minister tell us why this uniquely valuable service is being cut so much more savagely than the rest of the FCO?

[Baroness Symons of Vernham Dean]

There were of course cuts and changes under Labour. They were criticised at the time, but these cuts today go much further than a mere realignment of resources. This is not just a realignment of priorities; it is a real and huge cut of 650 jobs out of a workforce of 2,400. The BBC director-general has said that these cuts will,

"inevitably have a significant impact on the audiences who use and rely upon the relevant services".

He also exhorted supporters of the international role of the BBC "not to despair". What a far cry that is—do not despair—from the Foreign Secretary's exhortations on 1 July last year that the Government's new approach to foreign policy would include "cherishing" and "growing" the networks around the world through our language. He said:

"The English language gives us the ability to share ideas with millions—perhaps billions—of people in the biggest emerging economies and … to build networks across the world".

Those were high sounding ideals, which of course Mr Hague explicitly said were underlined by the essential importance of the BBC World Service. He said that together with the British Council, the World Service,

"gives Britain an unrivalled platform for the projection of the appeal of our culture and the sharing of our values".

He was right. The World Service is the envy of the Americans—of Voice of America. The Americans have nothing that has the reach; nor do the French or any of our international competitors in this field.

Radio programmes in seven languages will cease altogether and one of those languages is Turkish. Does the Minister recall that only two weeks ago he agreed that Turkey has a growing and huge importance around the world? He said:

"We have already taken decisive steps to inject a new dynamic into UK-Turkey relations".—[*Official Report,* 13/1/11; col. 1576.]

I am sure that at the time the Minister had no idea that the BBC World Service would cease to broadcast in Turkish shortly. After all, it was only on 1 July 2010 that the Foreign Secretary boasted of a new relationship with Turkey, Europe's biggest emerging economy. Does the Minister recall his right honourable friend saying that there would be a,

"particular diplomatic effort with Turkey"?

This is a very odd way to implement that diplomatic effort.

The Minister is well known for his steadfast and passionate commitment to the Commonwealth. Again, he is at one with the Foreign Secretary, who castigated the Labour Government as being "oblivious" to the value of the Commonwealth. He said that the Commonwealth was not mentioned in the FCO's strategic plan in 2009. He was right. It was not and it should have been. But in Mr Hague's approach, which has been set out today, many people will see the cut of English for the Caribbean regional service as a bit more of a blow for everyday life in the Caribbean than the lack of a mention in a document in 2009 of which none of them has probably ever heard.

In July, Mr Hague claimed that he was introducing a "distinctive foreign policy". Today, the results are seen in the cuts in FCO funding, which are becoming clearer and clearer. They are very destructive. The director-general, in making the cuts announcements, said today that he wanted to make it clear that these are the direct result of last autumn's spending cuts. Will the Minister tell us why the BBC World Service is taking such an extraordinarily heavy cut? He mentioned 16 per cent. I believe that the figure is anything between 16 per cent and 20 per cent in real terms, as opposed to 10 per cent elsewhere in the Foreign Office.

The National Security Forum gave advice to the Labour Government of the crucial importance of the BBC World Service in nation-building and in making the world a safer place. It did that and it does that. What has changed? We have the ready-made vehicle to help us in nation-building, to foster understanding and to make the world a safer place, as the Foreign Secretary exhorted that he wanted to do.

The Government know that, as was shown in November 2010 when the FCO's business plan was published. It said that the coalition priorities were, among other things, the use of,

"'soft power' to promote British values, advance development and prevent conflict".

To do this, the Foreign Secretary claimed that he would:

"Devise a strategy to enhance … the impact of the … World Service".

That was his promise and his commitment. Will the Minister tell us how today's announcement fulfils that promise, that commitment? Will he give us concrete examples of how these cuts will enhance the role of the World Service? The Foreign Secretary said:

"Britain will be safer if our values are strongly upheld and widely respected in the world".

The BBC World Service has an audience of more than 180 million people a week, which is far higher than other international broadcasters.

Finally, does the Minister recall, in July 2010, being asked:

"Is not the World Service an unrivalled way of demonstrating the values of this country?"

Does he recall his answer, which was:

"I heartily endorse everything that my noble friend",

has said. Indeed, the noble Lord, Lord Fowler, posed the question. The Minister continued:

"The World Service is an immensely powerful network for soft power and for underpinning and promoting the values for which we all stand. Everything that he says is right".—[*Official Report*, 13/7/10; col. 600.]

On 13 July 2010, the Minister was 100 per cent right. Today, sadly, in the Statement which he has had to repeat to us, he is not.

Lord Howell of Guildford: My Lords, I say straight away that I heartily endorse many of the sentiments expressed by the noble Baroness about the BBC World Service. This is indeed a precious asset and, as the Statement of my right honourable friend says, we wish it to be an articulate and highly effective voice for Britain in the world. There is no disagreement about that.

The noble Baroness first asked about the size of the cut of 16 per cent in real terms over three years and asked why it is, or appears to be, larger than the overall real-terms cut in the Foreign and Commonwealth Office as a whole during the period of the spending review. It is not the biggest cut—the British Council has been asked to take a 25 per cent cut in real

terms—but it is larger than the 10 per cent because we have to start from the position we inherited. The noble Baroness will recall that the Foreign Office took a fearful blow when the mess over the exchange rate had to be negotiated, which involved a large cut in its overall budget. At that time, the cut imposed on other ancillary bodies, including the BBC World Service, was somewhat less. If one looks at the arithmetic, all that is happening is that having to suffer 16 per cent now, which no one welcomes but is the reality that we have to face, merely brings the BBC World Service back to the same proportion of expenditure of a total FCO budget as was the position in 2008. We are back where we are.

Of course, it would be nice to be much further ahead and to have more resources, but we do not have more resources. The outgoing Minister—I forget his name—left a letter behind saying, "There is no more money". We have had to impose on ourselves and in many parts of government inevitable cuts. Not this evening are we going to go into an argument about why those cuts were imposed or why the situation in budget terms was so utterly disastrous, which I know is a huge debate going on in this country. But disastrous it was and repaired it has to be.

As to specific services that were mentioned, five language services have been stopped, which my right honourable friend has outlined. On top of those, there are the effects of the changes in a number of other areas. The noble Baroness mentioned Turkey, for which there will be a stopping of radio programming and a concentration on online, mobile and TV distribution in a number of languages, and a phased reduction in medium and short-wave radio distribution.

That tells us something very important, which I am not sure that the noble Baroness or some other critics fully appreciate. We are dealing with a rapidly changing technology. The short-wave arrangements are not reaching the audiences. Short-wave is being cut out by the development of the technology, and by resistance in some parts of the world. In addition, millions of people are moving to online reception of news and views. They are using mobiles and television as well. This is changing the whole pattern of radio broadcasting across the planet.

Quite aside from these substantial economies, which cannot be denied, there has to be an evolution of the technology and the changes in the BBC World Service. If that is not understood, I am afraid that very little is understood about the world into which we are moving. Of course these are not the sort of things one wants to welcome—there are difficulties, there are challenges and this is the greatest matter for regret, redundancies. However, one has to also accept that we have to move on in the evolution of the World Service. In three years' time it is going to be in a much better position, completely independent of my department or the Foreign and Commonwealth Office and therefore reasserting its wonderful independence in the world in its voice and its opinions. This is something for the future which I think deserves some optimism rather than the concentration on what the noble Baroness calls "huge and savage cuts". I believe these are overused as adjectives.

8.25 pm

Lord Fowler: I shall ask my noble friend a few short questions. Is there any comparable international broadcasting service which has a higher reputation than the BBC World Service? Is that influence not of immense benefit to this country? Will he therefore understand that there will be serious concern about this announcement on all sides of the House? May I ask him something else which may not have such general support? If we are intent on saving money, why are we cutting only journalists and services yet preserving the costly bureaucracy of the BBC Trust? Even now it is in the process of recruiting a new chairman when even the previous Labour Government wanted to see it go. In that way we could save millions of pounds for broadcasting.

Lord Howell of Guildford: I shall start on my noble friend's second point. We have to leave the design and pattern of the cuts to the administration of the BBC World Service within the confines, of course, of the requirement that my right honourable friend the Foreign Secretary has to approve any cuts in language services. He has approved three. I think he was asked to cut 13 in the first place. I have no quibble with my noble friend regarding the value of the service in the promotion of our cultural diplomacy and soft power in the world. It is immensely valuable and its budget remains substantial. None of us welcomes this application of austerity but it is necessary because that is the position we inherited and we have to work within. Within those parameters the BBC World Service remains, in our minds, an immensely valuable instrument. It is a central part of the promotion of our values and I do not for one moment dispute a single word of what my noble friend said.

Baroness Coussins: Can the Minister explain how the disappearance of various foreign language services from the World Service, and of radio broadcasts in Russian, Mandarin and Turkish, can be reconciled with the Foreign Secretary's recent remarks about the importance of languages in a United Kingdom which needs to engage more energetically with the wider world outside familiar European Union boundaries? Why is there this inconsistency in foreign policy? In view of the strategic importance of these services, at home as well as abroad, should their funding not be ring-fenced and protected?

Lord Howell of Guildford: With respect to the noble Baroness, I think there is a missing point in her concerns. Of course we want to see services, communication, influence and the independent voice of Britain promoted. However, as I said in answer to an earlier question, the English short-wave broadcasts to Russia, the former Soviet Union and China were simply not getting through. What was the point in going on spending money on services that were not getting through? We are moving into a new era of technology in which the way to get our values and the message of the BBC World Service through to the millions in Russia and China for a start is not necessarily best done through trying to push our way through short-wave systems which are being closed down. These people are turning to online information. They are

[Lord Howell of Guildford]
using their mobiles. They are increasingly turning to television. These nations are developing rapidly and the radio plays a part but not the part that was played before. So while not denying for a moment that there are cuts—of course there are and it is absurd to pretend otherwise—the reconciliation is that we are looking at a new pattern of technology and the communications required have got to be different. That is the way our aspirations match what is now being proposed.

Lord Triesman: I declare an interest as the Minister who for several years was responsible, among other things, for the World Service. This is one of the most depressing Statements I think I have heard in the House. One of the answers to my noble friend Lady Symons demonstrated that a major public speech made at the beginning of July by the Foreign Secretary meant absolutely nothing when it came to the practical implementation and the cuts. As the Government knew on 1 July what the extent of the possible cuts would be, the speech should never have been made.

In 2006—and this does lead to the question—I agreed to the cutting of some language services in eastern Europe, mostly in nations which were then part of NATO and had fully independent media of their own, in order to move the money into the Arabic and Farsi language services which were due to make a very fundamental difference to our overseas action. I believe that was the right move. Of course it is right to move away from short-wave where it cannot be received, but we were moving away even in those cases to FM, which could be received. Everybody said, especially the noble Lord, Lord Carter of Coles, that the switch to new platforms would not be an adequate replacement. Is it not the case that, from the report produced by the noble Lord, Lord Carter, onwards, it was understood that the projection of soft power was a good deal more economical than many of the alternatives, brought huge bonuses to this country, and that in fact these savings will turn out to be a fiction?

Lord Howell of Guildford: I really cannot comment on the noble Lord's last point because the administrators of the BBC World Service are serious about operating their budget in a new and more effective way within the limits that have been imposed upon them. However, I should like to lift the noble Lord out of his depression because I believe that he is reading too much into the gloom and pessimism around this. I know that he understands the position because he knows all about these things, but I am not sure that he is accepting enough of the new possibilities and the new patterns. I mentioned that this Statement, among other things within the constrained budget, includes some new services, including TV programming in Urdu, in sub-Saharan Africa and in Hindi to be provided by local partners. No doubt other ideas and innovations are also in the pipeline which we will learn about in due course. I have also mentioned that funds are being found to assist the BBC World Service in its immediate pension deficit, which again is an inherited matter although I do not ascribe it to or in any way blame it on the previous Administration.

That said, I think that his words are exaggerated. The very substantial budget over the next three years of the spending round is still a big part of our intentions and expenditure in the Foreign and Commonwealth Office. When this joins up with the full BBC in 2014 the programmes will continue in a highly vigorous, effective and modern way. So I just do not accept the reasons for the noble Lord's pessimism and depression at this time.

Baroness Falkner of Margravine: My Lords, I sympathise with my noble friend on the difficult decisions that his department is having to take. At the time I was growing up in a developing country, the only access to free and impartial reporting was through the BBC World Service. It gives me absolutely no pleasure to extend sympathy in this regard other than to say that we are living in difficult times. My questions will be brief because many noble Lords want to come in.

Has the Foreign Secretary considered the proposal put forward in the briefing provided to noble Lords today by Mr Peter Horrocks which suggests that part of the DfID budget might be extended to cover some of the shortfall. DfID has very adequate resources, so it seems to make sense that some of its resources, particularly those dedicated to stability and conflict, should be used for the Urdu language programming and so on.

There is some confusion in the briefing provided by Mr Horrocks apropos the Statement. Can my noble friend confirm that BBC audiences have been falling in any event due to technological changes and the other factors he mentioned? Is it accurate to say that last year the audience was 180 million, which was down 9 million on the previous year, 2009? If he can confirm that, some noble Lords might understand that when audiences are falling because of new technologies, it is inevitable that some of the decisions that are taken will reflect that.

Finally, the Foreign Secretary's Statement says that £10 million per annum will be dedicated to priority areas such as TV programming in Urdu whereas the BBC briefing suggests that that will not be the case and that new money will have to be found for programming in Urdu.

Lord Howell of Guildford: I find it difficult to comment on my noble friend's last point. If that is what she has read in the BBC briefing, which I have not seen, it would appear not to coincide with the position which is as I have stated it. It is not argumentation or opinion, it is fact. I shall have to look into this because there seems to be some misinterpretation here.

My noble friend is absolutely right about falling audiences. This is so because we are moving into a different international landscape in which people's listening habits are changing. The position of radio in all societies across the world is changing, and certainly in my lifetime it has changed in our society absolutely fundamentally. The noble Lord, Lord Triesman, and I both mentioned the fact that short-wave systems are just not operating in the way they did in the past, and the world is turning to online systems. Every morning some 2 billion people open the world wide web. That is almost a third of the entire population of the world. We have to adjust to these new realities.

My noble friend's first point was very interesting. A certain amount of the expenditure on the World Service is classified as "ODAable"—I think that is the jargon. In other words, it is part of our overseas development budget. I do not want to encourage her that there is more flexibility in that area to be exploited at the moment, but obviously we keep in close touch with DfID on this matter and we will continue to do so. If resources can be mobilised to adapt to a new pattern of soft power projection, of which this is an important part, we will certainly look for them and I hope we will find them.

Baroness Howe of Idlicote: My Lords, I join with everyone in saying that it will be a sad day indeed if the BBC World Service ceases to be a beacon for many of the world's poorest and most insecure countries because, above all, they will lose the impartiality and independence of the World Service that we have all come to rely on. I am concerned, as is the noble Baroness, Lady Symons, that the World Service will lose something like 650 out of 2,400 jobs, which is a very large proportion. These are skilled people who would have been available as resources for other services. When these services are transferred back to the BBC, which we all hope will happen in a rather better way, will the BBC be strongly encouraged to see that these specialists are re-employed and made available? No one else is going to provide this sort of independent expertise.

Lord Howell of Guildford: On the last point, I think that that is absolutely right. There ought to be—although this is of course a management decision for both the World Service and the BBC—very adequate provision, as I hope personally that there will be, for the encouragement, redirection and reabsorbing of the redundant people into the media world in various forms. Redundancies are always a personally sad business, although sometimes they open new opportunities as well. The noble Baroness is quite right about that.

As for independence, I emphasise the point that has been put to me many times in recent weeks. The move of the BBC World Service over to the BBC, with the ending of the Foreign and Commonwealth Office being the paymaster of the BBC World Service, is very positive. It emphasises and re-emphasises the independence of a body that has always been regarded as being of great value by most people. However, one did hear, in the past, the occasional query as to how it was so independent if was paid for by the Foreign Office. That will not be the case in three years' time, so on that score I ask for all who follow these matters closely and value the BBC World Service to feel a glimmer of optimism, despite the pessimism that we have heard in every intervention so far.

Lord Dubs: My Lords—

Lord Howe of Aberavon: My Lords—

Earl Attlee: My Lords, we have plenty of time. Let us hear from the Labour Benches and then from my noble and learned friend.

Lord Dubs: My Lords, does the Minister agree that, in many parts of the world, there is a serious struggle going on for the hearts and minds of people in order to persuade them to see our democratic values and the freedom that we cherish? Is he so certain that the technological changes that make him suggest that the radio is no longer important have spread into those countries where this battle for hearts and minds is going on most seriously? Turkey is only one of the many examples. Is there not a danger that the technological argument that some of the more affluent people in these countries can get television and the internet ignores the fact that there are many people who cannot and who rely on the radio? Might that not mean that we are losing the battle for their hearts and minds?

Lord Howell of Guildford: These are sensible considerations to analyse in seeing how our communications systems on the planet should change. I can only say to the noble Lord, who follows these things closely, that when I was on a visit to China the other day I was told that 330 million people in that country were now online and were looking at a bombardment of media services, not just from the BBC but from a dozen other sources throughout the planet, all of which they were absorbing before turning to the older-fashioned pattern of listening to the radio. I do not deny for a moment that the noble Lord may be right and that there may be areas where the end of these language services will be a real loss. That may be so, but I suspect that there are many more areas where the loss will not be so great because of the alternatives that are developing. Television services that did not exist 10 or 20 years ago are now filling the media in these areas, particularly those that we are concerned with, with a huge new supply of information.

Of course we want to make sure that our message gets through as clearly as it possibly can and we have to use all the methods that we can. However, it would not be a good message to the world if, at the same time as we were putting out our principles by communication, the word was coming over that this country was unable to tackle its debts, that it was losing its international credit status and that its economic recovery was being delayed by the near-bankruptcy, as some experts have said, into which our public finances unfortunately fell. That is where we start from and why we have to take these tough decisions.

Lord Howe of Aberavon: My Lords, my noble friend is entirely right to identify the changes that are necessary as a result of the old-fashioned quality of short-wave radio. It makes me grieve that I can no longer get the BBC World Service while carrying around my little short-wave radio set. The other important point, which is common ground, is the extent to which the BBC World Service plays, as the Foreign Secretary himself has said, a crucial role in our soft power. That becomes all the more so for the reasons just stated by the noble Lord. For example, the Chinese ambassador estimates that in five years' time one-third of the population of China will be learning English. We need to be benefiting from that by maintaining the service, whose quality is agreed on by everyone.

Without being egocentric, I think that during my 10 years of masochism, first as Chancellor of the Exchequer and then as Foreign Secretary, we were able to maintain the real value of the World Service even though we were going through substantial periods of

[Lord Howe of Aberavon]
hardship and were cutting expenditure elsewhere. We did that by maintaining the percentage of our GDP going to overseas aid and development, not to the 0.7 per cent desired by the United Nations but to 0.36 per cent, which may be regarded as mean. However, one can regard the huge expansion of the ODA budget under the present Government as being so large that it cannot be impossible to find the modest sums of money necessary to respond to the anxieties expressed today. If my figures are correct, the budget for overseas development assistance in 2010 was £8.4 billion, due to rise to £12.6 billion. To put that alongside the trivial reduction in the resources available to the World Service could lead one to the conclusion that we must redeploy to the extent of maintaining, cherishing and expanding the service to which we have all paid so much tribute this evening.

Lord Howell of Guildford: My noble and learned friend has been at the centre of these matters for many years. Even before he held his high offices as Chancellor and Foreign Secretary, some of us in another place were promoting for the first time the concept of cultural diplomacy and the central role that it needed to play in the survival, prosperity and reputation of this country. I do not disagree with anything that he said, but I say simply that, although he talks about English becoming the language of China—indeed, the language of the planet or the lingua franca, if I may distort the phrase—it is the language of cyberspace; the computerised communication revolution of this planet is in English. That is how it has to be and those are the technologies that we have to use. I do not deny for a moment that the radio systems and other ancillary services of the BBC World Service are an immensely important part of that, but they are only a part. We have to be realistic about that.

As for whether a little more could be found, if I may say so to one of the most distinguished Chancellors—in my book anyway—of the post-war period, he knows that if we followed the argument, "We should exempt this, because surely there is enough from the bigger budget", we would end up with the budget not being cut at all. These things have to be done. They are not pleasant. No one likes even having to defend them; I am not particularly enjoying this session now. However, it is a reality that we have to face and we must proceed in an optimistic spirit to make the best of the situation that we have inherited. In the case of the BBC World Service, I hope that we can do so.

8.48 pm

Sitting suspended.

Parliamentary Voting System and Constituencies Bill

Committee (14th Day) (Continued)

9.09 pm

Amendments 89C to 90ZA not moved.

Amendment 90A had been withdrawn from the Marshalled List.

Amendments 90AA to 90AC not moved.

Amendment 90B had been retabled as Amendment 90ZA.

Amendment 90C

Moved by ***Baroness McDonagh***

90C: Clause 11, page 12, line 42, at end insert—

"( ) When the average number of eligible voters per constituency exceeds 74,000, the Secretary of State shall introduce legislation to amend the electorate per constituency provisions of the 1986 Act."

Baroness McDonagh: This amendment seeks to provide that when the average size of constituency reaches 74,000 voters, the Secretary of State will bring forward legislation to increase the number of constituencies. This is a probing amendment, as I want to hear the Minister's views on this issue. I am not sure that the Government fully appreciate the enormity of what they are doing and the impact that this Bill will have on our democratic system.

I shall address a few of the arguments briefly. We have a representative, democratic electoral system in the United Kingdom. It is not proportional, nor is it meant to be. In 1979, for example, the Conservative Party gained 42 per cent of the popular vote and 61 per cent of the seats. Fast forward to 1997 and the position was reversed, with Labour gaining 43 per cent of the vote and 63 per cent of the seats. The first election in which I was active was that of 1979, when 58 per cent of the vote was cast for parties other than the Conservatives. Therefore, it was surely not intended that the Conservatives should win. However, it was very clear to me at the time that the electorate wanted the Labour Government out and the Conservative Party in power. By creating such large electoral constituencies with a ceiling of 600, when we know that the population will increase to 70 million over the next 20 years, and by doing away with community links at the same time, the Government will create PR through the back door. We should have a referendum on that in its own right.

In a previous debate on this issue I talked about differential turnout, and the Minister was good enough to say that I had a point, for which I thank him. I do not know whether it will show itself in any change to the legislation, but I mention one statistic to explain this point again, and that is the turnout in Labour and Conservative seats in the 2005 election. The average turnout in Labour seats was 57.5 per cent. In Conservative seats, it was 65.3 per cent. That situation will not change under the current legislation, but it represents tens of thousands of people as we go across the United Kingdom.

One issue that I did not mention causes a problem under the first past the post electoral system. I did not mention it for political reasons; I felt that the Conservative Party might feel that I was doing more than explain: that I was making a political point. I therefore start by using Labour as an example of what psephologists refer to as an inefficient distribution of votes. In my language it means that the first past the post system needs political parties, particularly the main parties, to be broad churches that are largely representative of the public. When parties become narrow in their views, extreme or unappealing, the electorate punishes us through our electoral system. That is what psephologists call an inefficient distribution of votes. If I give the example of 1983, I think the House will understand the point I am making.

In 1983 it took 33,000 votes, on average, to elect a Conservative MP, and 41,000 votes, on average, to elect a Labour one. I am sure the House would not expect me to say that Labour lost the 1983 election because of an unfair electoral system. Indeed, if I did, anyone who was medically qualified on my own Benches would escort me with a firm hand from the Chamber. We lost the 1983 election because we deserved to lose. We were unrepresentative of the population at large and, it pains me to say, of my own party.

Moving on to the Conservative example, the right honourable Theresa May, when she was chairperson of the Conservative Party, referred to the Conservatives, at the annual conference, as "the nasty party". She did not put that view into the voters' minds; it was how they felt at the time. To the public, the Conservative Party had become very narrow and, because of that, built up votes in small areas of the country and no longer had representation in Scotland, Wales or many northern towns. It could no longer command support across the United Kingdom and, because of that, deserved to lose.

Let me give one more recent statistic to show how that shows itself. In the 2005 election, in the south-east region, which is only 12 or 13 per cent of the population of the United Kingdom—just a small proportion of nine English regions and the nations of Scotland and Wales—the Conservative Party had 36 per cent of its vote: over a third. It is impossible to win enough constituencies to form a Government by piling up votes in your hinterland, and that is a product of your politics, not the electoral system.

Let us look at the average sizes of our current seats. To the nearest 500, in England and Scotland, Labour and the Lib Dems have an average of 70,000 voters for every seat. The Conservative Party has 73,000, so that is well within any quota. Obviously at either end there are some larger constituencies that are outwith the quota, and there are some smaller constituencies. We need to change that. I am happy with having a boundary redistribution before the next general election. I agree with the principle, as far as is practical within a reasonable quota, that we should have constituencies of the same size. Indeed, if the same sensitivity were granted in a bipartisan way to my colleagues from Wales as was granted to the two constituencies that we already have in the Bill, I am sure they would also be happy with those arrangements.

The constituencies are not largely different. Where they are very large, the largest is the Isle of Wight, of which we are making an exception—we certainly passed an amendment on it. I believe that the second largest is East Ham, which is a London constituency. In the top 10 largest constituencies, roughly half are Labour. We will find more or less the same at the other end. Indeed, in the 1980s, there was a larger disparity between Labour and Conservative. Labour had much smaller seats, yet for that whole decade the Conservatives remained in power.

I moved this amendment because I want to understand the Government's thinking on the matter. I do not want to see such large constituencies in which, in a small number of years, we will have seats in excess of 100,000 voters. They would hold no community of interest and MPs would not be able to have a relationship with the areas that they represented. We might as well have introduced PR.

This is also a much bigger problem than we making of it at the moment. The manner in which the Government have introduced this, and their reasons for doing so, are associated with the sort of democracy that we do not want to be associated with. If a country such as Zimbabwe were doing this, we would deplore it.

In a previous debate, one of my noble friends said that we had to be very careful because we do not have a written constitution. The noble Lord, Lord Rennard, asked what difference that would make. I have a huge regard for the noble Lord and all the work that he has done over the years, but having a written constitution would make a huge and significant difference. I have a few examples of how you would have to do this if you had a written constitution.

If you have a written constitution and the method by which you arrive at seats is within that constitution, you generally change it by referendum or you need two-thirds of your Parliament's agreement. In some cases, you cannot change the constitution at all. When we look around at countries, and I have picked a few different ones, I have not yet come across any that could introduce this legislation in the way in which our Government are introducing it—with no debate, no pre-legislative scrutiny and a limited debate in the other place.

I shall go through a few examples. Holland's Parliament cannot interfere with how seats are determined as that is set out in its constitution. To amend that constitution takes a two-thirds majority on First Reading. You then have to have a general election and at Second Reading there has to be a further two-thirds majority. The constitution of Ireland, one of our closest neighbours, sets out that if the Dáil were to change the size, there would have to be a referendum of the Irish people. Latvia's seats are set out in its constitution and for its Parliament to change that it needs three sittings of a two-thirds vote. In addition, many constitutional amendments require a further referendum of the Latvian people.

Slovakia needs a referendum to reduce the size of its Parliament and a majority of the country's vote. It had a referendum on that, and it was lost. Spain has two Chambers that are not allowed to change their own numbers of seats. Again, to amend Sweden's constitution two identical decisions are needed, with a general election in between. Denmark also requires a constitutional amendment. The Cook Islands need non-binding referenda to alter the number of seats; then there has to be a two-thirds majority in Parliament. In Australia, the process is set out in the constitution and Parliament cannot change the principle. It is also not allowed to reject or vary a boundary commission report.

In this last part of my contribution, I really want the Committee to consider the enormity of what we are doing. It is not just that we are creating enormous constituencies that will have no community link. We are also denigrating the esteem in which our democracy is held all around the world. We are also showing as parliamentarians that we can no longer be trusted

[Baroness McDonagh]
with an unwritten constitution, something which I personally support. I believe that if we pass this through in the way that we are doing, we will look back and see this as the starting point of when we lost the argument and when a written constitution became inevitable. The worst part of all is that if this all happens, it will not address the problem which the Government seek to address, which is that the Conservative Party believes that the reason for its electoral loss is to do with the differing size of constituencies. It has nothing to do with it. I beg to move.

Lord Bach: My Lords, the Committee should be grateful to my noble friend for having raised, with her great experience, this important matter. She seeks a response from the Leader of the House to the points that she has made. From the Front Bench, we have pointed out a considerable number of dangers in the scheme that the Government propose, and we look forward to what the Leader of the House has to say in response to my noble friend.

9.30 pm

The Chancellor of the Duchy of Lancaster (Lord Strathclyde): My Lords, I, too, am delighted that the noble Baroness, Lady McDonagh, spoke to her amendment because my officials were confused as to the intention behind it. Now we are much clearer that it was so as to have a good discussion about the purposes underlying the Bill, the case for a written constitution, more referendums, and so on and so forth, and to say in particular that this part of the Bill is somehow to do with this aching desire by the Conservative Party to fix the electoral system so as to make life more difficult for the Labour Party. The noble Baroness will not believe it but I can assure her it has nothing to do with that whatever.

The proposition under this part of the Bill is the simplest one could possibly imagine. First, it is to reduce the number of Members of Parliament from 650 to 600—nothing hugely exceptional in that. It is a drop of 7 per cent which is, I believe, popular with people and should be done. Secondly, it is to make constituencies across the country more or less of equal size. One day noble Lords opposite are going to argue why they should be of unequal size in terms of numbers of voters and perhaps even bring forward legislation to that effect if they ever get back into Government. I look forward to that.

Lord Campbell-Savours: If you have a cap at 600 and the electorate rises in the way that my noble friend is saying, does that mean that the national quota for each constituency will then have to be changed and will also rise every five years? Is that really the Government's position?

Lord Strathclyde: There is a remorseless logic to that fact. To return to the noble Baroness's speech, I did not follow this thing about the written constitution. We have a constitution and we are not operating unconstitutionally. If we wrote down our constitution and it did not have a provision for this, it would not make any difference. It would only make a difference if it had the provision that you cannot change the number of seats unless you have a referendum. I could not work out whether the noble Baroness, with all her experience, was saying that there should be a written constitution and that if there were a written constitution, it would be unconstitutional to change the number of seats in the House of Commons without a referendum, but I think that is what she was saying. I am sorry the noble Lord, Lord Bach, sat down so quickly because he might have told us if that was official Labour Party policy, which would be most interesting and intriguing.

I would not rely on Irish referendums, much as I have the highest possible respect for the people of Ireland. Whenever they have a referendum and they get the wrong answer, they are told to do it again. So I am not a great fan of that. Incidentally, the fact that the Labour Party, which now thinks we should have referendums on changing the constitution, promised one on Lisbon and then did not provide it must be forever a reminder. So if that is what it is all about, I am not very keen on it. There was a nice anecdote about the 1980s. The historians will argue about 1983 and all that. What must also be true is that the Labour Party split. My noble friend sitting next to me, part of our coalition partnership, laid out all these figures about Labour and Conservative. How many MPs did it take to vote for a Liberal Democrat, or whatever they were then? I cannot remember. They were not Liberal Democrats then but SDP and Liberals. So that is a factor and I think it laid the seeds for the coalition today.

So we are not minded to accept the amendment. It is all very interesting but our minds are set on the provisions in the Bill. I therefore I hope the noble Baroness will withdraw her amendment.

Baroness McDonagh: I hope the point that I made about what happens between this stage and the next will bring some changes to the legislation. In the mean time, I beg leave to withdraw the amendment.

Amendment 90C withdrawn.

Debate on whether Clause 11, as amended, should stand part of the Bill.

Lord Falconer of Thoroton: My Lords, I have two questions. First, in Clause 11, rule 7(1)(b) states that if the Boundary Commission,

"consider that having to apply rule 2"—

which I understand is the electoral quota—

"would unreasonably impair … their ability to take into account the factors set out in rule 5(1)",

which are,

"special geographical considerations … local government boundaries … any local ties that would be broken by changes in constituencies",

and,

"the inconveniences attendant on such changes",

it is entitled to apply those factors, and in effect downgrade rule 2. What is the thinking behind the Government treating Northern Ireland differently, particularly having regard to the principle, stated and restated, of the need for equality in constituencies? We have not referred to that either at Second Reading or

in any other debate. I ask of course because I am interested in Northern Ireland, but also to probe the principle underlying the Bill.

The second question relates to the review date. During the debates about electors who are missing from the electoral register, it was said that the date on which the register would be taken was December 2010. I assume that this comes from rule 9(2), which states:

"For this purpose the relevant version of a register is the version that is required by virtue of subsection (1) of section 13 of the Representation of the People Act 1983 to be published no later than the review date".

Rule 9(5) on page 12 states:

"The 'review date', in relation to a report under section 3(1) of this Act that a Boundary Commission is required … to submit before a particular date, is two years and ten months before that date".

Is it because the Government assume that the Boundary Commission will submit a report in October 2013 that the relevant register is that of December 2010? If the commission submits a report before October 2013, will the relevant register be a month earlier; and, equally, if it is submits it after October 2013, will it be a month later? The significance of this is that I understood from answers given by the noble and learned Lord, Lord Wallace of Tankerness, that the relevant date of December 2010 was rigidly fixed, whereas I understand that the way that the Act will work is that the register of two years and 10 months before the date of the report will be taken. If I am right in that surmise, how will the Boundary Commission know when it submits its report what the relevant register is? Those are my only questions on Clause 11 stand part.

Lord Strathclyde: My Lords, I thank the noble and learned Lord for raising his questions in the debate on Clause 11 stand part. It is worth reiterating that the clause reforms the arrangements for drawing constituency boundaries for the House of Commons. It provides that in future the Commons will be reduced to 600 seats, and that the rules for the distribution of seats will be recast so that seats will be more equal in size and allocated to each part of the UK in proportion to the electorate.

As the clause points out, two constituencies are specifically excepted from the parity rules. We know what they are and have discussed them at length.

The noble and learned Lord asked about the role of Northern Ireland. As he pointed out, the rules make special provision for additional flexibility to allow for constituencies outside of the parity range in Northern Ireland in the event that simple rounding effects make it difficult for the Boundary Commission in that part of the UK to recommend seats within the quota. That could arise if Northern Ireland only just missed out on being allocated an extra seat. I hope that that explains the thinking behind that.

It has also been suggested that the provision is flawed and that the Bill should provide for national electoral quotas. However, that approach would give rise to more variation between constituencies. A single UK electoral quota has the advantage of simplicity and clarity, and that provision will be triggered only in the event that rounding causes difficulty. It has also been suggested that the provision ignores a similar issue that may arise in Wales. However, as Wales has about twice the electorate and will therefore have about twice the number of seats, the problem is half of that in Northern Ireland. As such, there is no need to make similar provision.

As the noble and learned Lord pointed out, the boundary review will be based on the electoral register in force at the time of the review, and the first review will be based on the register in force on 1 December 2010. Previous boundary reviews have used the electoral register. The Bill's provision is no different. As we have discussed, the registration rate in the UK is between 91 and 92 per cent. Work is under way to ensure that the electoral register is as complete and accurate as possible—for example, freeing local authorities to identify people not on the register using existing public sector databases. The date of the register to be used is fixed because it is calculated by reference to the date on which the commissions are required to report, not the date on which they actually report, hence the difference.

In summary, these proposals make a modest reduction in the size of the Commons and will ensure that the principle of equality is given its proper weight in the commission's considerations, while ensuring that local factors can still be taken into account.

Clause 11, as amended, agreed.

Amendment 91

Moved by ***Lord Falconer of Thoroton***

91: After Clause 11, insert the following new Clause—

"Variation in limit of number of holders of ministerial offices

(1) The House of Commons Disqualification Act 1975 is amended as follows.

(2) For section 2(1) substitute—

"(1) The number of holders of offices specified in Schedule 2 to this Act (in this section referred to as Ministerial offices) entitled to sit and vote in the House of Commons at any one time, whether paid or unpaid, must not exceed 95 if the number of constituencies in the United Kingdom is 650."

(3) After section 2(1) insert—

"(1A) If the number of constituencies in the United Kingdom decreases below 650, the limit on the number of holders of Ministerial offices entitled to sit and vote in the House of Commons referred to in section 2(1) must be decreased by at least a proportionate amount."

(4) In subsection (2), after "subsection (1)", insert "or subsection (1A)"."

Lord Falconer of Thoroton: The amendment would reduce the number of paid ministerial officeholders in proportion to the reduction in the size of the other place. The text of the amendment is identical to an amendment moved in another place by Mr Charles Walker, the Conservative Member for Broxbourne. Before I come to the substance of the amendment, perhaps I may set out the relevant background.

Prior to the general election, the leaders of the Conservative and Liberal Democrat parties, now the Prime Minister and his deputy, made much of their determination to empower Parliament and enhance scrutiny and accountability of the Executive. In a lecture which many noble Lords will recall, delivered to the Institute for Government on 26 January 2010, Mr Nicholas Clegg declared:

"The Liberal Democrats believe this election is an opportunity to turn the page on decades of relentless centralisation within government. … I want to be clear: I am talking about a major

[LORD FALCONER OF THOROTON]

reorganisation of Whitehall … As a result of our restructure the number of Ministers and government whips would be reduced from 119 to 73".

Less than a fortnight later, on 8 February 2010, Mr David Cameron gave a lecture entitled "Rebuilding Trust in Politics" in which he said:

"We'd want to reduce the power of the executive and increase the power of Parliament even if politics hadn't fallen into disrepute … We've got to give Parliament its teeth back so that people can have pride in it again—so they can look at it and say 'yes: those MPs we elect—they're holding the government to account on my behalf'".

I do not want to pretend that Amendment 91 would necessarily deliver our full aim. It is arguable that it is too timid to bring about the radical rebalancing that Mr Cameron and Mr Clegg had previously advocated. It does not reduce the size of the Executive; it merely stabilises the number of paid Ministers in proportion to the size of the House of Commons, from which the bulk of ministerial officeholders are drawn. It would do so by amending the House of Commons Disqualification Act 1975, which currently sets the maximum number of paid Ministers allowed to sit and vote in the other place at 95. If the House of Commons were to remain at its present size of 650 seats, the limit of 95 Ministers would remain. However, if the Government persist in their objective of reducing the number of MPs to 600, the amendment would ensure a pro-rata reduction in the number of paid Ministers to 87.

9.45 pm

As everybody knows, in our system the Executive are drawn from within the legislature, predominantly the House of Commons. That House therefore has an important dual function. On the one hand, it exists to sustain an Executive and supply the bulk of Ministers who hold office, and on the other, it exists to hold the Government and those Ministers to account. There is an inherent tension in that dual role, and frequent and increasing criticism is made that the system performs the former role—the drawing of the Executive—much more effectively than the latter. Indeed, the Speaker of the other place gave a lecture last week in which he said:

"The House of Commons needs to be an instrument of scrutiny by examination. It must be the informed critic and not the man or woman in the crowd. We have made progress in that regard, particularly in the past 18 months, but there is more that can still be done".

Cutting the number of MPs without also enacting a proportionate cut in the number of statutory Ministers entitled would not shift power from government to the Commons. It would not enhance scrutiny and examination of the Executive. It would do the opposite, despite the proclaimed aims of Mr Clegg and Mr Cameron. Our Amendment 91 would at least prevent the scales of power tilting yet further in the Executive's favour. Indeed, some would argue that the Executive would not feel the impact sufficiently and that a much lower limit on the size of the Executive ought to be imposed, perhaps along the lines that Mr Nicholas Clegg himself proposed in his speech. The noble Lord, Lord Norton of Louth, who I am glad to see in his place, has tabled an amendment to that effect. I have no doubt that he will highlight the report of the Public Administration Select Committee, which last year held an inquiry into the size of the Executive. It heard many distinguished figures argue for a substantial reduction in the number of Ministers. Your Lordships will have an opportunity to debate that proposition, and we will see whether that significant reduction finds favour.

As I have said, our amendment is a more moderate proposal. It ensures that a reduction in the number of Members of Parliament does not lead to a proportionate increase in the size of the paid Executive by reference to the size of the House as a whole. Given the force of Mr Cameron and Mr Clegg's previous commitments to new politics, it is surprising that a clause along these lines was not included in the Bill in the first place. It was astonishing that the coalition Government still refused to act once the omission had been pointed out. It is not as if the Government have not now had the time or the opportunity to reflect on this. As far back as last year's debate on the Queen's Speech, Mr Nicholas Clegg was asked whether he accepted that there should be a pro-rata reduction in the number of paid Ministers and aides in line with the reduction in the number of MPs. He refused to give any commitment.

Since then, the point has been raised in your Lordships' House and in the Commons at every stage of the Bill. On each occasion, the Government have issued the same basic response. It was repeated on 10 January by the noble and learned Lord, Lord Wallace of Tankerness, who told your Lordships:

"The Government indicated in the other place that we agree that that is indeed an issue to be considered, but we do not believe that it is one that needs to be resolved in the context of the Bill. Reduction in the size of the House will not take effect until 2015, and we should therefore consider that issue in the light of decisions on, among other things, the size and composition of a reformed second Chamber".—[*Official Report*, 10/1/11; col. 1224.]

I can do no better than respond to that line. Let me emphasise that this is a political line, not a real position, by quoting from the report of the Political and Constitutional Reform Select Committee which was wrestling with exactly the same obfustication from the Government last October. In its third report, the committee stated:

"It is self-evident that a reduction in the number of Members of Parliament will increase the dominance of the Executive over Parliament if the number of Ministers sitting and voting in the House is not correspondingly reduced. This is a matter of constitutional importance that goes to the heart of the relationship between the Executive and the House. That the Government claims that no progress can be made on this issue because no conclusion has yet been reached on the overall size and nature of government is ironic at best and hypocritical at worst, given the Government's readiness to reduce at haste the number of Members in one House without consideration of the number of Members there should be in the other".

The constitutional committee was too kind to point out that 114 extra Members of House of Lords have already been introduced.

This is an obvious opportunity to make good the promise made by Mr Clegg and Mr Cameron, or at least to give a direction of travel as to their commitment to increase the ability of the House of Commons to hold the Government to account. Instead, they are doing precisely the reverse. Why is that? I beg to move.

Amendment 91A (to Amendment 91)

Moved by ***Lord Norton of Louth***

91A: After Clause 11, line 12, leave out from "650," to end of line 14 and insert "the number of holders of Ministerial offices entitled to sit and vote in the House of Commons referred to in section 2(1) must not exceed 80"

Lord Norton of Louth: My Lords, the amendment of the noble and learned Lord, Lord Falconer of Thoroton, as he just outlined, is premised on the belief that reducing the number of MPs creates a problem in that the proportion of Ministers in the other place then becomes greater than at present. My starting point is different. My contention is that there are already too many Ministers. Reducing the number of Ministers exacerbates rather than creates a problem.

The size of the so-called payroll vote in the House of Commons, including Parliamentary Private Secretaries, has grown over the years. In 1950, it constituted 15 per cent of the House. It now constitutes 21 per cent. Expressed as a proportion of the number of MPs in the coalition parties, it is 38 per cent.

I accept the case for Ministers sitting in Parliament. However, Ministers are members of a body that is expected to subject the Government to critical scrutiny and to hold them to account. The capacity to fulfil that task, both in voice and vote, is limited if the votes at the disposal of the Whips increase. A consequence of the Bill is that the proportion of the House not able to call the Government to account becomes even larger.

I appreciate that there is an argument that the number of ministerial posts has increased in order to meet growing demands of government. However, as I said in evidence to the Public Administration Committee in the other place, I have seen no study to support that contention. There is an alternative explanation: that the growth has been for political reasons, providing a greater pool of patronage appointments available to the Prime Minister. In my evidence to the Public Administration Committee, I quoted Jonathan Powell, Tony Blair's former chief of staff, in his book, *The New Machiavelli*, where he wrote:

"If prime ministers had their way they would appoint all the MPs on their benches to ministerial office. The payroll vote is an essential parliamentary tool and the bigger it is, the better".

The patronage explanation has found support from a range of sources. The claim that there are too many Ministers has been supported by, among others, former Prime Minister Sir John Major and my noble friend Lord Hurd of Westwell. My noble friend in his evidence in 2000 to the Conservative Party's Commission to Strengthen Parliament, which I chaired, argued that the number of Ministers could be reduced without undermining the essential tasks of government. He said that,

"a decision by an incoming prime minister to abolish twenty ministerial posts at different levels would not only be popular but would be followed immediately by an adjustment of workload. The whips and those who enjoy exercising or receiving patronage would be dismayed, but the benefits would be great."

A former Cabinet Secretary, the noble Lord, Lord Turnbull, told the Public Administration Committee that some tasks could be carried out by officials. There is also the argument that some tasks are not necessary anyway. Ministerial work tends to expand to fill the time available—a point well made by a former Minister, Chris Mullin.

What is required is a greater emphasis on quality, rather than quantity. The emphasis has been on quantity for the sake of patronage, rather than on quality for the sake of good government. The growth of the payroll vote has strengthened the position of Government at the expense of the House of Commons. I contend that there is no need for so many Ministers. Ministers are largely amateurs in their roles as Ministers. Providing better training for them, and redistributing some tasks to Whips, as happens in this House, would ensure there was no reduction in efficiency. If anything I would contend the reverse.

The Commission to Strengthen Parliament agreed with my noble friend Lord Hurd and concluded:

"The case for reducing the number of ministers is compelling on its merits. It also has a number of beneficial consequences. Limiting the number of ministers increases the number of MPs who are not committed to government by the doctrine of collective responsibility. Narrowing the route to ministerial office may serve to make attractive the alternative careers in the House of Commons. We believe that these benefits should not be negated by extending patronage through other routes".

We recommended that the number of Ministers in Cabinet should be kept at 20 and the number of other Ministers capped at 50. That is a little more than the number suggested by my noble friend Lord Hurd. Back in 1940-41, the Herbert Committee recommended an even lower figure, believing that government could be carried on by 60 Ministers. My right honourable friend Iain Duncan Smith introduced a Private Member's Bill in the 1999-2000 Session to place an absolute limit on the number of Ministers at 82. In 2006, my honourable friend Jeremy Browne introduced a Bill to reduce the number of ministerial salaries payable from 83 to 60.

My amendment is a relatively modest one. It seeks to reduce the cap on the number of Ministers who can sit—paid or unpaid—in the House of Commons from 95 to 80. It is modest but essential.

I conclude by emphasising the constitutional significance of this amendment. When I raised the issue on Second Reading, my noble friend Lord McNally treated it somewhat dismissively, as an issue that could be discussed later, after the passage of the Bill. The constitutional import of the amendment is on a par with that of reducing the number of MPs. If the number of MPs is reduced, then the proportion of the other place that forms the Government increases, to the advantage of government and to the detriment of the House of Commons in being able to call to account that part of it which forms the Government.

My starting point is that there are already too many Ministers and reducing the number of MPs will exacerbate the problem. There has been, as I have indicated, a steady increase in the size of the payroll vote in the other place, and now is the time to reverse the process and to strengthen the House of Commons in its capacity to call the Government to account. I beg to move.

10 pm

Lord Goldsmith: My Lords, it is an enormous privilege to speak immediately after the noble Lord, Lord Norton of Louth, who, with scholarship, erudition and experience has made an extraordinarily powerful case for a reduction in the number of Ministers. But there are two matters before your Lordships' House on these two amendments. The first is whether to maintain, as the amendment in the name of my noble and learned friend Lord Falconer of Thoroton would do, the number of Ministers at least proportionate to the number of MPs. The noble Lord, Lord Norton of Louth, would go further.

I support the amendment in the name of my noble and learned friend to the extent that that amendment at least ought to be accepted. The Government have come with great and, in many ways, worthy protestations of a desire to reform politics, in particular to reduce the power of the Executive—I look particularly at those on the Liberal Democrat part of the Government Benches. I do not understand how they can be content when that is not what will happen under this Bill. Indeed, it will be quite the opposite, as my noble and learned friend has said.

Lest there be any misunderstanding outside this Chamber as to the significance of the payroll vote, let me try to spell it out. First, if you are on the payroll vote, which means those who are paid or unpaid for these purposes, including Parliamentary Private Secretaries as well as full Ministers, you cannot vote against the Government without resigning. It is as simple as that. If a piece of legislation is put forward that a number of Ministers do not like, they cannot stay as Ministers and vote against it. That automatically means that the Government have a greater number of Members of Parliament able and willing to support what they want.

Secondly, as noble Lords have said, the Government cannot be held to account. When I was a Minister I could not ask questions of the Government through the mechanisms which exist in this House, let alone those in the other place. One can do what one can behind the scenes, but one cannot in an open way hold the Government to account.

On 17 January, I drew attention to the statement made by the Deputy Prime Minister, Mr Clegg, that the unambiguous judgment on the part of the Government was,

"that reducing the power of the executive, seeking to boost the power of the legislature, making the legislatures more accountable to people ... collectively introduces the mechanisms by which people can exercise greater control over politicians".

I will listen intently to what the Minister—if it be the Leader of the House—says as to how that statement can be reconciled with a position which does not accept that at the very least the number of Ministers must be reduced proportionately to the number of Back-Benchers. Otherwise, the power of the Executive will not be reduced. The power of the legislature will not be boosted. Quite the opposite will take place.

Lord Tyler: I wonder whether noble and learned Lord will take his argument a step further. There is a powerful case here for looking at this issue. With his great experience as a very senior member of the previous Administration, but as a Member of this House, he will immediately acknowledge that this is also related to the issue of how many Ministers should sit in this House.

In the past, I have heard a powerful argument that, if and when this House is reformed, it may well be that there should be a proper separation of powers and that there should not be any Members of the Executive who are voting Members of this House. Will he acknowledge therefore that there is a good case for this issue to be addressed in the context of the future role of this House, which, as we know, this House and the other place will consider in a matter of weeks? Therefore, it may be premature for this issue to be addressed in this Bill when the relationship of the two Houses and, in particular, the relationship of this House to the Executive will be in front of this House in weeks.

Lord Goldsmith: I am grateful to the noble Lord for his intervention and for his kind remarks, because he makes my point. The problem is that the Government have chosen to introduce in this Bill not only the referendum, which they need as a matter of urgency because of their political deal, and with which I have no difficulty, as I have said before, but also the reduction in the number of MPs.

A part of this change is in this Bill. My concern is that this Bill does not deal with the whole of it. I do not find it acceptable for the Government, with respect to the noble Lord who will answer this point, to say, "Well, don't worry, something will be looked at later". I am going to ask the Minister three questions now and he can think about them. What are the Government going to do about this? I have already drawn attention to the fact that on the Constitution Committee, when we asked Mr Clegg and Mr Mark Harper, the Minister, about the risk of increasing the power of the Executive, Mr Clegg said:

"There is a strong argument that says that you must look at this and adapt the number of people who are on the government payroll so that you do not get a lopsided imbalance between those on the payroll and those holding them to account".

If there is a strong argument—and I agree with him that there is—what is going to be done to deal with it?

Secondly, when is it going to be done? Vague statements about the boundary changes not coming into effect for some time and having been able to look at this by then are all very well—but when is this going to happen? Thirdly, will the Minister tonight in his reply commit to some method by which the reduction in the number of Members, if this House or Parliament adopts the proposals in the end, does not come into effect until there has been a satisfactory reduction in the number of Ministers, either as suggested in the amendment of the noble and learned Lord, Lord Falconer of Thoroton, or by that of the noble Lord, Lord Norton of Louth? I would prefer to see that being dealt with in this Bill. I do not think it should be put off, which is why I support the amendment. At the very least, the Government should ask themselves what they are going to do, if the new politics are to have any credibility, in their proposals for increasing the power of the legislature, reducing the power of the Executive and giving more power to the people. So long as they do not give a clear, unconditional commitment on this question, that statement will appear just a mirage and a charade.

Having got into power, they are happy, as many Governments have been in the past, simply to retain the reins of power and the patronage and ability to get their legislation through by having as many of their people as possible on the government Benches. For those reasons, I support the amendment of the noble and learned Lord, Lord Falconer.

Lord Howarth of Newport: My Lords, the manifesto on which the Conservative Party fought the last election stated on page 63 said that,

"we plan to change Britain with a sweeping redistribution of power … from the government to Parliament".

The power and size of the Executive vis-à-vis the House of Commons has grown over the years. The noble Lord, Lord Norton of Louth, suggested that there might be some justification for that in terms of the growing demands of modern government. On the other hand, one might say that with the appropriation—if I can put it that way—of significant powers of government over this country by the European Union and the devolution of significant responsibilities for government to Scotland, Wales and Northern Ireland, there is an argument that there is a need for fewer Ministers rather than more. The reality is, however, that numbers have grown and grown. One reason in recent times why the numbers of ministerial appointments and members of the payroll vote have grown yet again is because it has been found expedient in the formation of the coalition to provide more jobs for more of the boys and girls.

Mr Christopher Chope, an admirably robust and courageous Member of Parliament and someone who has never had any time for the excuses and the self-justification that big government makes for itself, said:

"This Government have a record number of Ministers—more than at any time since the 1975 legislation was passed. When I was first elected in 1983"—

that is the year in which I was also first elected to the other place—

"there were about 83 House of Commons Ministers in Margaret Thatcher's Government. We now have 95, five more than we had at the height of the last Labour Government".—[*Official Report*, Commons, 6/9/10; col. 103.]

He went on to observe that the number of government Whips is now at an all-time high.

The payroll has grown and grown, and as my noble and learned friend has just said, it is not paid ministerial positions alone that have grown; the number of parliamentary private secretaries has soared. I understand that in the 1950s only a very small number of extremely senior Cabinet Ministers had a PPS. Nowadays, every member of the Cabinet has at least one PPS, and some have two, while every Minister of State has a PPS. In this way, the House of Commons has been progressively debilitated. Not for nothing is the Chief Whip known as the "patronage secretary". If this Bill is unamended, the patronage exercised by the government Chief Whip in the other place will become more significant still.

Professor Philip Cowley of the University of Nottingham has noted that, contrary to the folklore, in recent years there have been increasing numbers of rebellions as more and more Back-Bench Members of the other place have found themselves rebelling from time to time. The Executive's response has been to create more jobs and, through this Bill, to reduce the number of Back-Benchers in proportion to the size of the House of Commons. Not only the Government do this. The Opposition and other parties have to do it as well, or at least they persuade themselves that they, too, must stock their Front Benches with increasingly numerous appointments. We have reached the point where approaching half the membership of the House of Commons is on one Front Bench or another. What proportion of independent Back-Benchers does that leave? By the time you discount the ambitious who are not truly independent and the disappointed whose votes are not as independent as they might suppose, how many Back-Benchers enjoy in every sense of the term the freedom of the Back Benches? Not very many.

The Executive, via the legitimate day-to-day operations of the Whips—who have a proper job to do, and it is entirely appropriate for them to appeal to their party members for loyalty and support in the Division Lobbies—via the growth of patronage, via the exploitation of the ambitions of an increasingly professional political class, via pressures that can be exerted on Back-Bench Members through their local parties and via the fear, possibly, of deselection, one way or another continue to increase their dominance of the House of Commons.

I shall quote again from the Conservative Party manifesto for the last election, this time from page 67:

"Because we are serious about redistributing power, we will restore the balance between the government and Parliament by … allowing MPs the time to scrutinise law effectively".

Rarely in the history of manifesto betrayals can there have been such a quick retreat from the position taken in the manifesto to the practice adopted by the Government in their handling of the Parliamentary Voting System and Constituencies Bill in the House of Commons. The coalition, in the metaphorical smoke-filled room—metaphorical because I do not suppose for a second that there was any real smoke in it—devised a scheme, which we see expressed in this Bill, to seize yet more power for the Executive over the House of Commons. Bogus justifications were produced. It was noted that Members of Parliament were unpopular as a consequence of the expenses scandal; it was noted that there was a deficit that needed to be corrected; so the justification was contrived for reducing the number of Members of the House of Commons.

One of the justifications offered was on the grounds of saving public expenditure. We are told that if you reduce the size of the House of Commons by 50 Members of Parliament, you will save £12 million. On that basis, if you reduce the size of the House of Commons by 100 Members of Parliament, you will save £24 million. A reduction of 200 Members will save £48 million. But what price an effective House of Commons, and what price a representative democracy that enables the people of this country, through their representatives, to hold their Government to account? I think that that is worth more than £12 million.

The result of this legislation, if we fail to amend it with one or other of these amendments or something on Report, will be an even smaller proportion of Back-Benchers who are even less capable, in an already enfeebled House of Commons, of holding the Executive to account. One of the consequences of the enfeeblement of the House of Commons is that Members of your

[Lord Howarth of Newport]
Lordships' House feel that they have an increased responsibility to step in where the House of Commons has emasculated itself and denied itself the capacity to do the job that those who elected it expected it to do.

10.15 pm

However, if we start to scrutinise more vigorously the actions and legislative proposals of the Executive, we begin to be threatened with the introduction of a guillotine in your Lordships' House. Indeed, the extreme threat is that your Lordships' House will be abolished and replaced by an elected House in which the Whips will have far greater power than is exercised by our genial, moderate, pragmatic and sensible Whips at the moment. It is all an illusion anyway, because if we were to have an elected second Chamber, the Government of the day would almost certainly find that it would be far more recalcitrant and cause far more trouble than even we do in our own modest way.

It is bad for the House of Commons that the proportion of Back-Bench Members has been reduced and might yet be reduced further because the House of Commons needs to be able to populate its committees —its select committees, its legislative committees, the Speaker's Panel and all the other committees and organisations in that House that enable it to do the job it has to do.

The powers of a British Prime Minister are already enormous within our political system. They are far greater than the powers of the President of the United States within the American political system. Thomas Jefferson noted the dangers of an "elective despotism". The argument was developed and accepted in the convention by the founding fathers of the American constitution that there must be checks and balances and a separation of powers. When Lord Hailsham used the phrase "elective dictatorship", borrowing, I assume—subconsciously, no doubt—from Thomas Jefferson's wording a long time earlier, he rang a bell very loudly in the political consciousness of this country. That phrase seemed extraordinarily apt, and ever since he uttered it 20 or 30 years ago—I forget when it was; it was sometime in the 1970s, I believe—it has become part of the common currency of our political discussion. This Bill threatens to make the elective dictatorship yet worse, and makes what is already a disreputable feature of our House of Commons an even greater stain.

Ministers acknowledge the issue; they recognise that there is a problem that will be exacerbated by this legislation as it is. However, they are vague about the remedy, and I do not think we can rely on the weak assurances that we have so far been given. There is legislation to limit the number of paid Ministers; there also needs to be legislation to limit the number of unpaid members of the payroll vote. I support the amendment in the name of my noble and learned friend Lord Falconer, and I am also tempted to support the amendment in the name of the noble Lord, Lord Norton of Louth. The House is always happy to sit at the feet of the noble Lord, Lord Norton, and be instructed by him. In fact, we have gone into seminar mode since we had dinner, with the very significant and interesting amendment spoken to by my noble friend Lady McDonagh. It would be useful from time to time if we were to suspend our Committee proceedings and enjoy a seminar taught by my noble friend Lady McDonagh and the noble Lord, Lord Rennard—because they both really understand what happens in elections and in Parliament—and by the noble Lord, Lord Norton. I hope very much that one or the other of these amendments will find favour with the House.

Lord Soley: I rise not only to support my noble friend with or without the amendment of the noble Lord, Lord Norton—I think there is an interesting debate to be had there—but to say above all that I regard this as a very important proposed new clause, which I hope and expect the Government to indicate some degree of willingness to move on. The reality is that, like the figure of 600, this discussion takes us back quite a few years. That discussion, as I have said in previous debates, has been around at least since 2004, when Andrew Tyrie MP wrote about it in his pamphlet, but it goes further back than that. Some noble Lords may have heard the noble Lord, Lord Baker, on the Conservative side, and me saying that we had discussed the reduction in the size of the House of Commons in the 1980s or possibly the early 1990s. We always said—this was said on both sides of the House by people who took this view—that if you reduced the size of the House of Commons, two things had to be at the forefront of our minds. First, it should be by all-party agreement; and, secondly, there must be a reduction in the number of Ministers in the House of Commons.

There were two reasons for that predominantly. One has been well spelled out. I shall not dwell on it in great detail, but it is glaringly obvious that if you keep the same number of Ministers and the payroll vote is exactly the same, you reduce the number of MPs, give greater power and influence to the Executive, and reduce the power and influence of the legislature. That is why this is so important.

I had not thought of the other reason until I heard Professor King of Essex University explain it. He is right that if you reduce what he calls the gene pool from which Ministers are pulled—the Back-Benchers—the gene pool that is available for new Ministers will be reduced. That is important, too. The noble Lord, Lord Norton, talked about the importance of the quality of Ministers. If you do not reduce the number of Ministers but simply reduce the number of Back-Benchers, that will inevitably affect the quality as well as the quantity available to a Prime Minister from which to draw.

As I say, the argument goes back many years. I am frustrated and angry about our current position because we have been crying out for these reforms for some years, but they can be done only in a consensual and thoughtful manner. The Bill leaves bits out, rushes things and tries to do it without all-party agreement, which makes it difficult. Many on the Conservative Front Bench, when in opposition or in government, have said that they recognise the importance of dealing with the number of Ministers. The noble Lord, Lord Tyler, and others have said, "We must wait for House of Lords reform", but that is a very dangerous philosophy. Reform of the House of Lords will not be easy, not least because of strong feelings on the government Benches. Even if they think it will be easier than I do,

the chances of getting this through at the same time will not necessarily be good. There will be that sort of battle all the time. This is so important that it ought to be linked in a Bill with the reduction in the size of the House of Commons. I do not know anyone either in the House of Commons in the past 20 years or in this House who has not recognised that if you reduce the size of the House of Commons, you ought to reduce the number of Ministers. I do not see how you can argue against that. If you are going to do it you should do it together, and in the same Bill.

Lord Goldsmith: I wonder whether my noble friend with his great experience in the other place can help the House. I have been puzzling about the intervention of the noble Lord, Lord Tyler, since he made it. I do not understand how changes in this House will increase the ability of Back-Benchers in the other place to hold the Government to account. Can my noble friend tell us whether it has anything at all to do with holding the Government to account in the democratically elected House of Commons?

Lord Soley: My noble and learned friend anticipates me to some extent. He is exactly right. I recognise the political reality that the two parties—the Liberal Democrats and the Conservatives—have formed a coalition and have to agree to somehow stitch the Bill together. Of course, things get left out or it is difficult to change it. However, even the Liberal Democrats were arguing—and arguing strongly as I understand it—for a reduction in the number of Ministers, which makes it very hard to understand why it is not in this Bill now. It is not impossible. Instead, it is somehow being left to a change in the House of Lords; you get the feeling that one party or the other in the coalition is hoping that this will not happen or that will not happen and that then maybe they can get another part of the deal, and so on. If the coalition is that unstable, it is not going to last. My advice would be to try and get this in the Bill now or get a very strong commitment from the Government that it will be brought forward in another form before the House of Commons is reduced.

I want to go back to something that has already been said which is also very important. We tend to look at this simply in terms of the number of people on the government Front Bench. My noble friend Lord Howarth made the very important point that you have Front Benches in the other parties. All the other parties have Front-Bench speakers. All of them are thinking to their future to some extent. Inevitably, again, this reduces the power of the legislature to hold the Executive to account.

It will probably alarm some of my friends, but I considered at one stage that there was quite a strong case for having Ministers drawn from outside the House who could be brought into the House and cross-examined and questioned. That would really put the cat among the pigeons—an almost presidential system. You can make a number of interesting innovations with our constitution, although I certainly would not go too far down this road right now. I want to say and emphasise as strongly as I can that to reduce the size of the House of Commons without simultaneously reducing the size of the Government is an invitation to the Government to increase their power at the expense of the legislature. Whatever the noble Lord, Lord Tyler, thinks, there is no guarantee that he will get what he spoke about at a later stage when the House of Lords is changed, as my noble and learned friend Lord Goldsmith indicated in his intervention.

We have to bite on this bullet. I know that the noble Lord, Lord Strathclyde, recognises the importance of this argument because, when I was talking about where the figure of 600 came from in the previous debates about this, he indicated that we would come to this under this proposed new clause. I am waiting with anticipation for him to say, "Yes, you're all right, I'll accept it". There is no reason why ideally he could not accept the proposed new clause or redraft it in some way, maybe coming back to the House with some variation which we would all look at, and there is absolutely no reason why he should not stand up and say, "I guarantee that we will bring in a reduction in the number of Ministers in the House of Commons before the figure of 600 is imposed on the House of Commons". That is what this House is waiting to hear. It is what, as other people have said, has been promised all along about reducing the power of the Executive and so on, and it will not be delivered without a very strong commitment that the number of Ministers will be reduced before the figure of 600 is brought into the House of Commons.

I have been saying for some time that the two reasons given by a number of people from the Conservative Party over the years for the reduction to 600 has been, first, saving money and, secondly, the belief that the Labour Party gets too many seats in Parliament and the Conservative Party would get more. This is in a number of speeches, press statements and booklets written by Conservative Members which I quoted the other week. Andrew Tyrie wrote a good document back in 2004 for the Conservative Party—although, as I say, I did not agree with his statistics—saying that the figure should be reduced to either 600 or 550 over a period of five to 10 years. He had the good grace—as did most of the Conservative commentators—to say that this should be done in co-operation with the Labour Party, although the phrase I would prefer to see used is "after all-party agreement", probably in a Speaker's Conference. However, Andrew Tyrie also made the point, as have other Members on the Conservative side as well as the Labour side, that any reduction in the size of the House of Commons had to be matched by a reduction in the size of the payroll vote. In our new-found spirit of co-operation, I hope that the Minister—we have not quite got round to the negotiations yet, but I know that he is thinking about it—will indicate very strongly that everybody wants this measure really. To put it off until some hopeful date when the House of Lords is reformed is, frankly, at best the triumph of hope over experience and at worst disruptive and will not achieve the aim that most of us want.

10.30 pm

Lord Myners: My Lords, I support the amendment proposed by my noble and learned friend Lord Falconer and the direction of the proposal made by the noble Lord, Lord Norton of Louth. I look forward with

[LORD MYNERS]
great interest to the response of the noble Lord, Lord Strathclyde. I wish to make four observations based on my own experience as a Minister in this House and in a career largely followed in business.

First, I have no doubt that the briefing note of the noble Lord, Lord Strathclyde, says "Resist"; there is an automatic response produced by officials which says "Resist". From my own experience as a Minister, I am absolutely sure that that is what the noble Lord, Lord Strathclyde, will be advised to do. However, we know that he is a man of great wisdom and experience and I hope that he will not necessarily follow the advice, if I am correct in my supposition.

Secondly, in my 18-month experience as a Minister in the Treasury, I was surprised by the number of Ministers that we had. Indeed, the Permanent Secretary always had great difficulty remembering the name of one of the Ministers. He used to wave his hands and say, "The one down at the end of the corridor". I thought that was a pretty telling admission that even officials in the Civil Service thought that we had too many Ministers. Therefore, in the context of what was said in the pre-election period by the Conservative Party and the Liberal Democrats, I am very disappointed that there are the same number of Ministers in the Treasury now as there were when I was a Minister.

The consequence of there being too many Ministers is that they get in the way and take decisions which are, frankly, too small. I say this from the perspective of chairing Marks & Spencer and other large companies. Ministers take minute decisions compared with the decisions taken by the leaders of our major corporations. I could not believe some of the small matters that came to me as a Minister to authorise, and the time that one had to take reading the material through fear that the noble Baroness, Lady Noakes, would spot a lacuna and put down a Written or Oral Question which would catch me out. I found it quite extraordinary that the average junior Minister—at least this was the case when I was an average junior Minister—spent the first 45 minutes of a day topping and tailing letters. I used to top and tail 200 to 300 letters. Those letters were originally sent to the Prime Minister, or to even more powerful people such as the noble Lord, Lord Mandelson. They were passed on to the Prime Minister, who passed them on to the Chancellor of the Exchequer, who passed them on to Mr Liam Byrne and Ms Yvette Cooper and various other people until they came to me. I looked desperately for somebody else to whom I could pass the letters but there was nobody so I had to sign them. This was the starting point of my ministerial day. I lived in constant fear that one evening I would appear in front of Paxman and he would say, "I ask you again, Lord Myners, is this your signature on the letter?".

I now have the temerity to admit to the House that I did not always read those letters in great detail.

Noble Lords: Oh!

Lord Myners: I said "in great detail". I knew how to spot the tricky words. I tended to skip over the salutations at the beginning and the end but I read the meaty bit in the middle. However, to be more serious, the decisions that one took as a Minister were of a very modest order compared with the decisions that we would expect the leader of a large corporation to take. That seems to me to support the view that, regardless of this amendment or the Bill, we simply have too many Ministers and they create work; they get in the way.

My final observation relates to the role of this House. When I was first appointed, I was terrified—I really was—and I made a complete fool of myself at my first debate when I was given a speech by my officials which I should, in all honesty, have reviewed more carefully. It was clearly a cut-and-paste job from the other place; it had numerous references to "the honourable Member" and "the Speaker" and so it did not take long before the noble Lord, Lord Forsyth, rose to his feet from the Benches to my left. I had no idea what I was meant to do; nobody had briefed me, but I had watched it on television so I thought I ought to sit down. I think I was intervened on about eight times in five minutes before the Chief Whip came to my protection.

In my preparation for the ordeal of the House, whenever there was a Statement, I tried to go to the other place in order to see how it was handled there and then scuttle back here. What I observed from that experience was that the challenge for Ministers in the other place was simply of a much lower order than in this place. I think that that is an observable and unchallengeable truth. The questions that I was asked by the noble Baroness, Lady Noakes, and by the noble Lord, Lord Newby, who is not in his place, but who was an excellent spokesman on Treasury matters for the Liberal Democrat Party and, I believe, continues to perform that role, were of a different order. I look across now and I see the noble Lord, Lord Higgins. There are very few people in the other place who can ask a penetrating, focused, accurate and informed question with the degree of precision and understanding that the noble Lord, Lord Higgins, can. There is a question of accountability. We have too many Ministers and they do not seem to be sufficiently accountable.

Finally—I said that I would cover four points and I believe that this is the fourth—I think that this is evident in the work of some Select Committees. The Treasury Select Committee, to which I had to report on numerous occasions, was mixed in its understanding of the issues. There were a number of good members—Mr Andrew Tyrie has already been mentioned; let me mention him again, an excellent chairman of that committee with a very good understanding of the issues—but I cannot say that about every member of the committee, nor can I say that they always showed evidence that they had thoroughly studied and understood the issues. Again, accountability is at the heart of this—it is an issue that stands apart from the Bill and needs to be addressed. There are too many Ministers making too much work, doing too many modest things and not subject to appropriate scrutiny, particularly by the other place.

I see the noble Lord, Lord Tyler, about to spring to his feet. I seem to produce a Pavlovian reaction in the noble Lord, who is, no doubt, about to tell me that some ancestor of his, several generations ago, had

some involvement which shows that he knows more about this than I ever will. That seems to be his normal response to me. I now give him the opportunity to see whether he can approach me in a courteous and constructive way. We have too many Ministers and, to my mind, they are not sufficiently accountable. I look forward, therefore, to the noble Lord, Lord Strathclyde, telling us how the Tory-led coalition will deliver on the promises made before the election to reduce the number of Ministers, regardless of where we end up on the Bill.

Lord Tyler: I am extremely grateful to my fellow Cornishman. I was going to say that the past few minutes have given us a fascinating insight into the workings of government and have actually proved the point that we should have more Ministers in this House and fewer in the other.

Lord Rea: It may interest your Lordships that, while I was listening to this extremely interesting exchange, I have done a little calculation on the back of the amendment list. The amendment of my noble and learned friend Lord Falconer of Thoroton would reduce the number of Ministers from 95 in the same proportions as the reduction of Members from 650 to 600. If that were to happen we would get 87, which is a lot more generous than what was proposed by the noble Lord, Lord Norton of Louth, whose arguments were impeccable. I do not think there will be a choice of voting for one against the other but I would favour the amendment of the noble Lord, Lord Norton.

Lord Strathclyde: My Lords, I am delighted to have been encouraged to leap to my feet. I was so enjoying the noble Lord, Lord Myners, who was in danger of slipping into his anecdotage, but it was great fun and he made some good, serious points as well, which I enjoyed. Some of what he said about his time in Government should be taken up as a specialist seminar in itself, which some noble Lords wanted to encourage. The noble Lord demonstrated his experience and knowledge of Government because of course my brief says "resist". But noble Lords should not be too disappointed by that because I hope to demonstrate that although it says "resist" what it means is "resist but", and I shall get to the "but" in a moment.

This issue was substantially debated in another place, but the noble and learned Lord who introduced the amendment here has given us an opportunity to have another fine debate in this House. Therein lies the point, because as some noble Lords have spotted, the Government have never objected to the spirit behind the amendment. As the noble and learned Lord said and others such as the noble Lord, Lord Howarth of Newport, spotted, this Government are committed to passing power from the Executive to Parliament. That much was witnessed by the swift moves to implement the Wright committee's recommendations for the other place to establish the Back-Bench Business Committee passing control of much more parliamentary time to Back-Bench Members of Parliament and the power to elect the chairs and members of Select Committees. That is not letting any grass grow under the feet of the Government—fast action straight away.

My right honourable friend the Prime Minister has also become the first Prime Minister in history to give up the power to call a general election at the time of his choosing, so noble Lords will know that this Government are not looking to extend their own influence. This Government believe on principle that power should be dispersed.

In this particular instance, we do not see the need to rush to legislate. There are four and a half years until the provisions of the Bill will take effect. If we want to have new boundaries based on smaller number of seats at the next general election, we have to legislate now to give the boundary commissions the time to carry out their reviews and the parties time to prepare for the election. If we want to have fewer Ministers after the next election, we do not have to legislate now. In fact, we do not necessarily have to legislate at all. In any case, the heart of the matter appears to be not the number of Ministers in the House of Commons but the size of the Government's payroll vote in the House of Commons. That includes Parliamentary Private Secretaries who are not covered by the current legislation and would not be covered by the amendment that we are discussing. As my honourable friend the Deputy Leader of the House of Commons has said, it is only by "self-denying ordinance" that the number of PPSs is limited.

Clearly, the Government have been capable of self-restraint. That self-restraint will still be necessary should the amendment be adopted. So if the intention of the amendment is to try to limit that influence and bind future Governments, it would fail on that count alone. In addition, as the noble Lord, Lord Soley, realised, the legislation would not cover the number of opposition Front-Benchers. Although they are of a different type of influence and a different type of patronage, it is also relevant if the concern is that there are too few independent voices from the Back-Benches. The Government's position is that it is not—

Lord Goldsmith: I am very interested in the noble Lord's observation about the defect in my noble and learned friend Lord Falconer's amendment. Can we look forward to a government amendment on Report which will correct that by making sure that it controls the number of PPSs as well as that of Ministers in the same proportionate manner?

10.45 pm

Lord Strathclyde: I am going to come to that but the noble and learned Lord should not hold his breath for me making a commitment to return on Report, because we need to look at the ramifications of doing all of this. The Government's position is that it is not desirable that the payroll vote should be expanded as a proportion of the House's membership. We have said that we will look at how to address this, and we will do so. I wonder whether that was the ringing and unconditional commitment that the noble and learned Lord was looking for. I think that it probably was not—I think that he wanted a bit more than that—but it was pretty good.

Lord Goldsmith: The noble Lord has spotted that quite correctly.

Lord Strathclyde: I am glad to have got that right.

What about the ramifications of all of this? For example, it might seem an odd consequence if we were to reduce the number of Ministers in one House by increasing the number in the other, which is this House. That is the point that my noble friend Lord Tyler made and was right to make. He put it extremely well. In fact, there was an echo of what the noble Lord, Lord Myners, said about his experience in Government. Currently, of course, there are far fewer Ministers in the House of Lords than in the Commons but we ought to think carefully about how the distribution of Ministers might be affected by any changes to the size of the second Chamber or by the introduction of elected Members. That is something which the Government, in conjunction with the Opposition, are putting their mind to at the moment. There is also an argument about the separation of powers but I shall not make a case for that now.

It is possible that arguments might then be made for a smaller ministerial presence in the second Chamber, to allow for more Back-Bench voices. Equally, it is possible that arguments might be made for a greater ministerial presence to help the House to hold the Executive to account. Both arguments can be made—or neither—and we should wait for another opportunity before coming to a firm view on all of this. Ultimately, we want to be governed by the principle that the number of Ministers must be a function of need.

Lord Soley: The Minister has set the alarm bells ringing in my mind with his earlier phrase that we might not need to legislate at all. He then started talking about other options. He must know, from all his long experience, that the longer a Government are in power, the more the Prime Minister and that Government rely on the payroll vote because there are more disaffected people on the Back Benches. If he leaves this, it will not happen; we all know that. We need either to legislate on this or to give a very firm commitment that it is going to happen before the 600 figure is reached.

Lord Strathclyde: My Lords, I would not necessarily compare all Governments with the standard of the previous one. My noble friend has made the case for a reduction in Ministers from the current number. It is most interesting but not one that we find entirely convincing. However, we do find it convincing to reduce the size of the Executive when we get to 600.

We should not forget the purpose of a ministerial presence in Parliament. We need sufficient Ministers to support the essential business of both Houses, to make Statements and answer Questions in both Houses, to introduce Bills and to contribute to debates. In fact, my noble friend Lord Norton made an interesting point when he said that no study has been made of whether there has been an increased workload for Ministers. In fact, the noble Lord, Lord Myners, spoke rather well about how unnecessary many of the things that Ministers do actually are. Perhaps there should be a study. I look to my noble friend Lord Norton for that. He will know the kind of people who ought to be able to make that study. I am sure the noble and learned Lord would not wish to rush to legislate until we had at least seen a little evidence from such a report.

There are some entertaining examples in all of this and it is amusing to look at the role of Ministers in each House. But there is a very serious underlying point and that is the fear that the proportion of the Executive will increase as the number of Members of Parliament falls. I understand that there is an impatience in this Committee to know how the Government will address that fact. I am trying to be as helpful as I can but there is a limit to the helpfulness. We have said that we will address this issue and we will, but there is plenty of time to legislate before 2015 if we need to. The Minister for Political and Constitutional Reform told the Constitution Committee, of which my noble friend and the noble and learned Lord are members, that we will bring forward proposals during this Parliament. That is in good time as the reduction in the size of the other place will not yet have taken effect. I hope that is a sufficient reassurance, repeated here, and that it will satisfy the noble and learned Lord enough to feel able to withdraw the amendment.

Baroness Farrington of Ribbleton: My Lords, if the Leader of the House is prepared to study the behaviour of different Ministers during the past 10 years, can I commend to him the experience I had as a government Whip with my noble friend Lord Rooker who, on occasion, took his own decision rather than the decision on the paper before him that was prepared by the civil servants?

Lord Strathclyde: He was very brave, the noble Lord, Lord Rooker.

Baroness Farrington of Ribbleton: And he survived.

Lord Norton of Louth: My Lords, I was tempted by the noble Lord, Lord Howarth, who suggested that we were in seminar mode. In that case I might feel the need to start allocating marks, and one or two people might not come out of it too well. I was initially encouraged by my noble friend's "but", although it was not as big a "but" as I would have liked. I hope between now and Report that he will go away and reflect on it so that if there are to be proposals, he can put a bit more flesh on the bone so that we know what they are going to be. I regard this to be as important as reducing the number of MPs. There is an extraordinarily important constitutional point about the relationship between the House of Commons and the part of it that forms the Government.

My noble friend made the legitimate point that the amendment cannot take into account the number of PPSs in the Commons. I understand that it cannot really be dealt with by statute. However, I hope that we might address it separately because there is an issue about PPSs, not just in quantity but in their role. Over time their latitude to vote against the Government has been constricted, and I am concerned now by how they are dealt with in the *Ministerial Code*, in which they are essentially members of the Government for the purpose of voting but Back-Benchers for the purpose of sitting on Select Committees. That is an issue to be pursued. The obvious point in the context of what my noble friend was saying is that if you reduce the number of Ministers, you reduce the number of people

who require PPSs, so to some extent that addresses part of the problem but there is quite a long way still to go.

This is an extraordinarily important issue, so I hope my noble friend will reflect on what he has heard. I am grateful for the support that I have received from all parts of the Chamber, not least from the noble Lord opposite. The only point that I will make is that my amendment has an advantage over that of the noble and learned Lord, Lord Falconer of Thoroton, in that it comes up with a whole number. If one reduces the number proportionately, one ends up with a reduction of something like seven and a half Ministers. An incredibly important issue is at stake here, and I hope that my noble friend will reflect very seriously on it. For the moment, I beg leave to withdraw my amendment.

Amendment 91A (to Amendment 91) withdrawn.

Lord Falconer of Thoroton: My Lords, I am grateful for all the support around the House for Amendment 91. It was an amusing and vintage speech from the noble Lord, Lord Strathclyde. However, it is worth analysing two parts of it. First, he accepted the importance of the issue that the Bill proportionately increases the size of the Executive and decreases the number of those able to hold them to account. He said that we should not rush. No one is asking the Government to rush, because the reduction would occur precisely when the reduction in the number of MPs would occur.

Secondly, the noble Lord said that we could get round this by the PPS route. In the light of what the Government, and in particular Mr Clegg and Mr Cameron, have said, I would have thought that they would not do this because they are committed to the measure. He said that there was a "but", and we thought that there would be something bankable. My noble and learned friend Lord Goldsmith asked what the Government were going to do about it. In this House, as in the other place, something is being looked for that would bring the thing forward. I have written down, "We will look at it", and, "We will address the issue and do something". It is very difficult to regard those assurances as having any reality.

As my noble friend Lord Rea said, our amendment would reduce the number of Ministers by eight. That is not many. It is hard to believe that it would affect the conduct of government—and my goodness, it would send a signal consistent with what has been said by Mr Clegg and Mr Cameron. It would be a very good thing for trust in politics if that could be done. I think that both the noble Lord, Lord Norton, and I will return to this on Report. I beg leave to withdraw the amendment.

Amendment 91 withdrawn.

Amendment 91AA

Moved by ***Lord Kennedy of Southwark***

91AA: Clause 12, page 13, line 14, at end insert—

"( ) of all written representations made to the Boundary Commission by publishing them online within 24 hours of receipt"

Lord Kennedy of Southwark: My Lords, I will not detain the House long. My amendment inserts a new paragraph into new Section 5(1) that requires the Boundary Commission to make public and in a timely manner all the representations that it has received.

I very much hope that the Government will accept the amendment. It is sensible, clear and concise, and it places an unambiguous duty on the commission to make public the representations that it has received in respect of its proposals.

The amendment states that the representations should be published online. This is modern and green. It saves trees, it is good for the environment and it quickly gets into the public domain for all to see what has been received.

All noble Lords who have been involved in boundary inquiries will be aware that representations are made available at the inquiries. The Government propose to take away those inquiries, so the amendment places a duty on the Boundary Commission to put what has been received into the public domain.

One of the most regrettable things about the Bill is the way in which it restricts—some would say strangles—public engagement on a crucial aspect of how they are represented. My amendment tries in a small way to offset that. If the amendment is not agreed, representations that are received could be kept secret. That cannot be right.

I feel strongly that this is another example of a bad Bill that has been handled in a very poor way by the Government. As I said before, there was no Green Paper, no White Paper and no draft Bill. It was railroaded through the Commons, leaving it to your Lordships' House to provide scrutiny, to make it better and to stand up for citizens and their rights, as it has done on so many occasions before.

I bring my remarks to a close by saying that I look forward to the debate and I hope for a very positive response from the Minister. I hope that he will not let me down.

11 pm

Lord Lipsey: I can be even briefer. My amendment, Amendment 91B, reflects a suggestion made in the British Academy study to which the Minister has referred with great favour on a number of occasions, which is that the Boundary Commission should be bound to publish not just representations but comments. It is a small point, but the leading experts in the academic world regard it as an improvement. I therefore hope that the Minister will accept it.

The Advocate-General for Scotland (Lord Wallace of Tankerness): Amendments 91AA and 91B would change the process of consultation as set out in the Bill. The Government believe that it is important that there should be a good flow of information between the Boundary Commissions and the public so that people can be informed about the review and have their say. That is why we have extended the period for representations to 12 weeks from the four weeks currently provided for.

Amendment 91B, tabled by the noble Lord, Lord Lipsey, would, as he said, require the commissions to take into consideration any comments that they receive

[Lord Wallace of Tankerness]
on representations made on their recommendations—that is, the ability of the public to make counter-representations to those of other individuals, if that is not too convoluted. He referred to the British Academy study, which made that recommendation.

I reassure the noble Lord that our thoughts are very similar to those during yesterday's debate on the issue of wards—yesterday or the day before; anyway, earlier this week—and their use in making recommendations for constituency boundaries. That is that we are open to considering improvements to the process of public consultation on recommendations for boundary changes that do not compromise the key principles of the Bill. Adding an opportunity for counter-representations would not compromise the key principles, particularly that of dealing with boundaries that are as up to date as possible. We will consider the details of how the process set out in the amendment might function and come forward with our amendments at Report.

The amendment moved by the noble Lord, Lord Kennedy, would require the Boundary Commissions to publish all written representations received as part of the consultation process online, in a very environmentally friendly way, within 24 hours of receipt. That is a helpful and useful suggestion which we will certainly want to consider carefully before Report. We question one element. The commissions made extensive use of the internet in the course of the previous general review and, although it is for them to decide, I am confident that they would do likewise this time.

The practical problem with the noble Lord's amendment is the requirement to publish those representations within 24 hours of receipt. Our experience of consultations is that many people submit their representations very shortly before the deadline. If the commissions have received thousands of representations just before the end of the period, they might find themselves overwhelmed if they are then required to publish them online within 24 hours, especially if a number of representations were received in paper form that had to be turned into a version that was electronically presentable. The secretaries to the respective Boundary Commissions told the Political and Constitutional Reform Committee that they have sufficient resources. I do not doubt that the commissions will act to publish the representations in good time following the end of the consultation period, but I fear that there may be occasions when it would be impractical to do so within 24 hours.

I thank the noble Lords, Lord Lipsey and Lord Kennedy, for highlighting these issues by way of their amendments and reassure them that we will bring our proposals to the House at the next stage of the passage of the Bill through your Lordships' House. On that basis, I invite the noble Lord to withdraw his amendment.

Lord Kennedy of Southwark: I thank the noble and learned Lord for his response and look forward to what comes back at Report. If it would be helpful, I am happy to move amendments for a period of 48 hours or 72 hours.

Amendment 91AA withdrawn.

Amendments 91B and 92 not moved.

Amendment 93

Moved by ***Lord Falconer of Thoroton***

93: Clause 12, page 13, leave out lines 17 to 23 and insert—

"(2) A Boundary Commission may cause a local inquiry to be held for the purposes of a report under this Act where, on publication of a recommendation of a Boundary Commission for the alteration of any constituency, the Commission receive any representation objecting to the proposed recommendation from an interested authority or from a body of electors numbering one hundred or more.

(3) However, a Boundary Commission shall not be obliged to hold an inquiry if they believe that any objection received under the terms of subsection (2)—

(a) raises no substantive issues that might benefit from further comment or representation from other interested parties or individuals;

(b) makes counter proposals which are prima facie out with the stipulations of the Rules for the distribution of seats contained in Schedule 2 to the 1986 Act.

(4) A local inquiry held under subsection (2) must be completed within six months of the close of the consultation period referred to in subsection (1) above.

(5) Where a local inquiry had been held under subsection (2), a Boundary Commission may, after considering the matters discussed at a local inquiry, the nature of the representations received under subsection (1) and any other relevant circumstances, decide that a further local inquiry is not justified.

(6) If a further local inquiry is held, it must be completed within nine months of the close of the original consultation period referred to in subsection (1) above.

(7) In subsection (2) above, "interested authority" and "elector" respectively mean, in relation to any recommendation, a local authority whose area is wholly or partly comprised in the constituencies affected by the recommendation, and a parliamentary elector for any of those constituencies.""

Lord Falconer of Thoroton: My Lords, this is an important amendment about public inquiries. It is well known throughout this House and the other place what the Act does: it does not simply abolish the entitlement to a public inquiry; it prohibits a public inquiry, even though the Boundary Commission might consider that the most appropriate way in which to deal with issues that arise in relation to a proposed new setting of a boundary. Clause 12(1) inserts a new Section 5(2) into the 1986 Act which states that:

"A Boundary Commission may not cause a public inquiry to be held for the purposes of a report under this Act",

and Clause 12(2) states that:

"Section 6 of the 1986 Act (local inquiries) is repealed".

The old system of local inquiries is repealed, and a prohibition is imposed on the Boundary Commission concluding that it should have one.

We submit that this is damaging to the process and reduces its legitimacy in setting constituency boundaries. In our original amendment, we proposed to delete the subsection prohibiting public inquiries and to insert the wording relating to inquiries contained in the existing legislation. That would have put the Government at one end of the spectrum with their proposal to prohibit public inquiries and us at the other with a proposal to preserve completely the status quo. However, I believe your Lordships' House has expressed a very clear desire in recent days for both sides to work constructively for compromise on this Bill where there are differences of view. In that spirit of compromise

and in an attempt to find common ground on this most important of issues, we withdrew our previous amendment and have tabled a revised version of our original amendment, which we believe addresses successfully the Government's central concerns in relation to public inquiries. I am anxious to make it very clear at this point that we have genuinely sought to understand the Government's reasons for abolishing and prohibiting inquiries, for it is only by seeking to understand their motivation that we can hope to come forward with a proposition capable of garnering broad support and encouraging the Government to accept public inquiries.

Mr David Heath, the Deputy Leader of the House of Commons, outlined the Government's position during Committee stage in the other place last November. He stated:

"The Bill abolishes them for three major reasons. First, we simply must speed up reviews … The second reason why we are abolishing the public inquiries is that they do not achieve their purpose. They do not provide the boundary commissions with a good indication of local opinion to aid them in the process of drawing up constituencies ... The third reason for abolishing inquiries is that they rarely lead to significant changes in recommendations … The changes are frequently minor. For example, at the time of the fifth general review in England, only 2% of wards in counties where inquiries were held were moved between constituencies as a result".—[*Official Report*, Commons, 1/11/10; cols. 729-30.]

I shall deal with the three points in reverse order. I submit that the weakest argument in favour of abolishing public inquiries at this time is that they rarely lead to significant changes. If we look at the last review in England, it is true that alterations were made in only just over a quarter of all parliamentary constituencies, but the context is all important. In every case where the Boundary Commission was proposing an increase or a decrease in the number of constituencies, its initial proposals were amended following a public inquiry. In many cases, such as Derbyshire, Sheffield, Greater Manchester, Merseyside and north-west London, substantial changes were made, and many times the Boundary Commission commented in the report that the recommendations of the assistant commissioner—the judicial officer who presided over the public inquiry—were improvements on their own.

The same is true in Scotland. A review of Scottish Parliament—not national Parliament—constituencies in 2007 based on very similar rules to those being proposed in this Bill led to the Boundary Commission recommending substantial changes to the electoral map. Your Lordships will recall the quote that I gave on the previous occasion from Sheriff Principal Kerr, who referred to the 10 substantial public inquiries that had had a significant effect on the drawing of the map of the Scottish Parliament constituencies. Thousands of objections and a rash of local inquiries resulted in major alterations being made to the original recommendations. As your Lordships have already heard, if the next UK boundary review takes place on the basis of the proposed new rules, alongside a reduction of 50 constituencies there will inevitably be widespread disruption to the electoral map of the UK. That prospect prompted Robin Gray, who was the former chair of the Boundary Commission for England, to say to the Political and Constitutional Reform Select Committee:

"Particularly with this first round I can see there is a real need for public inquiries particularly to enable those who are interested, political parties and others, to actually argue this through because these are going to be big changes".

Those remarks were echoed by Professor Ron Johnston, who is generally sceptical about the value of public inquiries but who told the committee that the scale of the proposed changes,

"is an argument for having public inquiries this time because you are drawing a totally new map with new constituencies and nearly everything will be different … local people are going to be concerned because suddenly the pattern of representation is going to be very different from what they have been used to for a long time".

Likewise, Mr Lewis Baston of Democratic Audit has commented: "The banning"—he was right to use that word—

"of public inquiries is a severe and deplorable downgrading of public participation and transparency in the boundary process".

There is then a powerful, principled argument for retaining public inquiries, especially in the context of a proposal fundamentally to alter the composition of the constituencies that make up the other place.

None the less, it is plain that we should recognise that there is an argument for controlling properly the extent to which public inquiries are used. We have therefore revised our previous amendment and now propose that the Boundary Commission should not be obliged to hold a public inquiry even where the threshold for triggering an inquiry has been met and that threshold is either a representation from an interested authority—essentially, a local authority—objecting to the proposed recommendation or electors numbering 100 or more. Even if the Boundary Commission received those objections which satisfied the condition for holding a public inquiry, if it judged that the issues raised were not substantive or constituted counter proposals which would infringe the general rules on the distribution of seats—that is, if it was plain that there was no real issue or if there was a strict rule that prevented any change—it could conclude that there should not be a public inquiry. The Boundary Commission would therefore have the power to say that it would grant an inquiry only when the representation was of real value and the condition was satisfied. That would go a long way towards dealing with the concern that inquiries would be used unnecessarily.

I shall address the second of Mr Heath's criticisms, the charge that inquiries do not provide a good indication of local public opinion. The allegation here is that they engage only political parties. That charge loses a great deal of its weight in the context of the next review, which, as has been repeatedly mentioned, is so significant. We have already witnessed huge—I use "huge" advisedly—numbers of representations made; for example, in relation to Cornwall and the Isle of Wight. Strong public interest was aroused in both those areas, in part because it was already known that the new rules would have a particular effect either on the Isle of Wight—the island would be split into two and joined in part to the mainland—or on Cornwall, where there is very strong feeling about crossing a boundary.

Once the provisional recommendations for boundary changes are published, we are likely to see very considerable objection to them. I remind your Lordships

[LORD FALCONER OF THOROTON]
what the four secretaries of the Boundary Commissions have warned that the,

"the application of the electoral parity target is likely to result in many communities feeling that they are being divided between constituencies".

11.15 pm

We do not deny that political parties have tended very often to be the major participants in inquiries into Boundary Commission decisions. It would be surprising if they were not, but the engagement of political parties is a positive thing, provided that they are not somehow abusing the process. Inquiries are chaired by an independent assistant commissioner, and there has never been any allegation that they are anything other than independent, unbiased and effective. They are regarded as vital to imbuing the process with legitimacy, both in the eyes of the public, and also in the eyes of the parties. The importance of that should not be underestimated. Political parties are not a malign force; they are vital to our system of representative parliamentary democracy and they need to be both involved and assured that the process for drawing the electoral map is open, inclusive and above board. Their acceptance of those facts is important to the legitimacy of our democracy. If that assurance is lacking, then the result—according to innumerable experts who gave evidence to the Political and Constitutional Reform Select Committee, including those who I have already quoted—will be an increase in the use of judicial review, which is not something any of us would welcome. Were this to be the case, it is difficult to see how the timetable for completing the boundary review could be achieved.

This brings me to the first of the Government's reasons for abolishing inquiries— and it may be the primary reason. The Government are worried that public inquiries would delay the process to such an extent as to prevent a boundary review being completed before the next general election, which is currently stated by the Government to be in 2015. Your Lordships are aware that we on this side of the House have grave concerns about a timetable for the review which will result in excluding many millions of eligible voters from the calculations. We recognise, however, the political reality that the Government will not agree to permit public inquiries to operate if they believe their operation would prevent a boundary review being completed before the next election, or in time for the next election. The relevant date set in the Bill in order for it to be okay for the next election is 31 October 2013.

We are entirely open to a compromise that retains public inquiries, chaired by an independent assistant commissioner, with the possibility of oral hearing and the ability to see and comment on other oral and written representations, but with a time limit on their duration. It should not be beyond the wit of man to identify what the appropriate time limit should be. It ought to be possible to achieve this without recourse to legislation, but I wait to hear what the Minister has to say about this.

For example, one of the reasons why the last review took so long was not due to public inquiries, but because the Boundary Commission had to wait for a national review of local ward boundaries to be completed. That will not be a problem this time, if the Boundary Commissions are able to plan ahead and schedule inquiries for immediately after the publication of provisional proposals, which we assume will be later this year, then completed by the end of the summer of 2012. However, the Government may want the extra assurance of a time limit on public inquiries set into the statute. We are prepared to compromise on that and wait to hear what the Minister says on that.

Our amendment therefore stipulates that any public inquiry must be completed within six months of the close of the initial period of written consultation. Furthermore, it also stipulates that if a second local inquiry is deemed necessary, it must be completed within nine months—that is, an additional three months only—of the close of the initial period of written consultation. Nine months would be the maximum period of delay that a public inquiry could cause. With extra resources and planning, that should pose no danger to the Government's specified timetable of completing the review by the end of 2013.

I conclude by returning to the important democratic principle which I highlighted at the beginning of this debate—legitimacy. In its report on this Bill, the Political and Constitutional Reform Select Committee in another place observed:

"The legitimacy of the next boundary review in the eyes of the public is likely to be strongly influenced by their ability to participate effectively".

The abolition of public inquiries, come what may, will undermine the ability of the public to participate and in so doing will undermine the quality of the conclusions and the legitimacy of the boundary review process.

Our amendment is, I hope, regarded as a genuine attempt—that is what it is—to reach a proposal that the Government will find satisfactory. It does not undermine any of the principles of the Bill. At the same time, it guards against the unnecessary use of such inquiries and ensures that the Government are able to review constituency boundaries in time for the next election. I urge the Government to accept this amendment. I beg to move.

Lord Woolf: My Lords, I support this amendment on the grounds already put before the House by the noble and learned Lord, Lord Falconer, in opening this debate. My main concern is the effects on the courts of the removal of inquiries and the consequences that that could have for the proper workings of the Boundary Commission. I should acknowledge that that point was drawn to my attention by the right honourable Mr Straw in the other place who, of course, has been recently the Lord Chancellor and Secretary of State for Justice. As I understand it, he shares the same concerns as I will advance.

Before I do that, I feel that I should advise the House, on the basis of my general experience and my responsibility at one stage of my career at the Bar, of when I appeared quite regularly for the Government in inquiries which were going wrong. The problem was that the public felt that those inquiries, although they were local inquiries, did not give them the opportunity to express the strength of feeling that they had on a governmental proposal. In considering this amendment,

the Government would be wise to take that possible unforeseen consequence into account. I am pleased that the proposed amendment deals with some of the problems that could arise in regard to the ability for local inquiries to take place.

The first matter was delay. I hope that the suggestion made by the noble and learned Lord, Lord Falconer, for dealing with that will be considered to be satisfactory. Certainly, it seemed to me to be a constructive proposal. However, the most important reason for preserving this power for the Boundary Commission to hold a local inquiry in the form that will exist in law if this amendment is accepted is the fact that the Boundary Commission is given the key to the door as to whether there should be a local inquiry. It would have a discretion and, although there are thresholds, those thresholds do not bite on the discretion. The only situation when there would be an inquiry is where the Boundary Commission thinks that it is necessary, which, surely, is an important point that is made in this amendment.

If there is no provision for an inquiry I anticipate that there will inevitably be an increase in applications for judicial review. Applications for judicial review are a plague so far as the Government of the day are concerned. They are also a problem for the courts, albeit that the courts take great pride in the way, over the past decade and more, they have developed the ability of the public to seek the aid of the courts where they think their rights are being infringed. If this amendment is not accepted, the issues that will be sought to be raised on applications for judicial reviews are ones which the courts will find peculiar difficulty in dealing with. It is a very important part of our constitution—unwritten though it be—that there should be a relationship between the courts and Parliament which avoids Parliament trespassing on the proper province of the courts and avoids the courts trespassing on the proper province of Parliament. Matters dealing with constituency boundaries, it seems to me, are the very sorts of matters which the courts should not be required to deal with if there is a way of avoiding it. The best way of giving the public the ability to express their views is by public inquiries being held whenever the Boundary Commission considers it is appropriate.

On the basis of those two points, I urgently encourage the Government to look with sympathy on this amendment, which has so carefully been drafted to meet possible objections but achieve a very valuable safeguard for the public. It is in accord with the Government's policy, as I understand it, of allowing the public to have a say on matters of such importance.

Lord Brooke of Alverthorpe: My Lords, I support the amendment of my noble and learned friend Lord Falconer. As the noble and learned Lord, Lord Woolf, said, we trust that the Government will be prepared to look on it with some sympathy.

I was very surprised indeed when I saw that, particularly from our Liberal Democratic friends, there was support for a change of this nature. I will say a few words about what I would class as being one of the most democratic exercises in which I have ever participated. I was on the Select Committee dealing with the hybrid Bill on Crossrail. We spent six months meeting four days a week with hundreds of businesses, taxpayers, ratepayers and individuals who had the opportunity of using the public process of petitioning against the way that the plans had been laid down for developing Crossrail. We listened to them all very carefully indeed and the noble and learned Lord the Minister will have considerably more experience than I do of petitions, with his experience in Scotland. To me it proved to be the most democratic public participative process that I have ever been involved with since I came into the House back in 1997. At the end of the day people went away. They did not necessarily get their way. In fact, the number of concessions granted was relatively small but the important point about the exercise to me was that people had had the chance to have their say, they felt they had been listened to carefully and we understood that many of them, even though they did not win their point, felt that democracy had not only been seen but had been seen to be at work and that they had had their chance.

I was surprised when we saw that, effectively, this major part of the process of our democracy is scheduled to be quite unilaterally guillotined. There has been no public consultation whatever, no Green Paper and no scrutiny across the two Houses, but we have a major change before us. My noble and learned friend Lord Falconer has bent over backwards in crafting the amendment to try to meet all the problems that were enumerated when this was debated in the other place. It is a pity that we do not have many people present in the Chamber, given that we have told that we are filibustering and that we are not dealing sensibly and reasonably with the issues before us. If the Chamber had been full, I am sure that no one could have raised any criticisms about the way that this side of the House has endeavoured to try to meet the needs that have been expressed by the coalition Government. I hope that a very careful ear will be given to the arguments that have been advanced, and more particularly that, for the first time, there will be an indication of some movement in negotiations, which would go some way towards what we are looking for.

The other side of the coin is that if this is forced through so that public inquiries are abolished and prohibited, as the noble and learned Lord, Lord Woolf, indicated, there is the distinct possibility that a very substantial number of calls for judicial review will be made in due course to try to counter the fact that people have not been given an opportunity to input their views into the way that the legislation has been developed. I should also like to hear, particularly from the Minister, a response to the point about judicial reviews: whether it is anticipated that they will arise if the Government go ahead, the scale of what may take place and how that in turn might interfere with the programme that has been set out. But I hope that the Minister will not have to address those points because he will, very sensibly indeed I trust, give a much more positive response to the amendment.

11.30 pm

Lord Goldsmith: My Lords, I was going to support this amendment even before hearing the noble and learned Lord, Lord Woolf, but his point, which I had not considered before, is one that the Minister really ought to consider. Speaking from experience of having to deal with inquiries and judicial review against

[LORD GOLDSMITH]
government, the fact is that if you do not provide any form of outlet for local opinion and for people who are unhappy about decisions that are being taken, they will look for other ways. The legal profession is sufficiently innovative and able, as the noble and learned Lord knows, to find ways of doing it if we do not provide it. That is an enormously important point.

I would have supported the amendment in any event on the basis of the effect on the population and on localism. He and I have heard much about that in our debates, and rightly so. I look across to the noble Lord, Lord Rennard. We come from the same city of Liverpool, where localism for his party might have been born. Certainly I saw it in operation there. It is therefore surprising to see that a critical part of that—the ability of local people to say what they think about this issue—is being removed entirely. Is it not plain, as my noble and learned friend Lord Falconer said, that the real reason the Government are doing this is not because they think it will give more power to the people, which is what their programme is about, but because they are worried about delay? However, my noble and learned friend's amendment deals with that. If the Government think that they can tighten it a little more but accept the principle, no doubt they can say so.

The really important point is this, and I support the noble and learned Lord in saying it: do not remove all opportunity to have a form of local inquiry that enables people not only to say what they think, but often to provide information and advice that, when it is heard by those who are making the final decision about boundaries, makes a difference. Therefore, I very much hope that the noble and learned Lord will be positive about this amendment. If he tinkers with it and brings back slightly different time limits, those on the Front Bench on this side will no doubt consider those carefully. However, the principle is important.

Lord Henley: Oh, come on.

Lord Goldsmith: I really must object to that comment from the noble Lord, Lord Henley, who, as far as I can see, has been in the Chamber for only the past five minutes. I have been speaking for less than that. That really was an unhelpful comment. He should know better than that.

Lord Wallace of Tankerness: My Lords, I thank the noble and learned Lord, Lord Falconer of Thoroton, for introducing this amendment and for the very helpful and constructive spirit in which he proposed it. I also thank the other noble Lords who made important contributions to this relatively short but important debate.

The amendment seeks to introduce a public inquiry stage into the boundary review process, allowing the Boundary Commissions to hold a public inquiry where representations are received from any interested local authority or from 100 or more interested electors.

As we made clear in our response to the amendment of the noble Lord, Lord Lipsey, in the previous debate, and in our responses on local government ward boundaries and existing parliamentary constituencies, the Government's position has been that we are open to considering reasonable improvements to the process, provided that they do not compromise the fundamental principles of the Bill, and that still remains our position.

It is not a fundamental principle of the Bill that there should be no oral inquiries. The decision to end the process of oral inquiries, which appears in this Bill, was in fact taken on the basis of the evidence before us, when we came to consider the most effective consultation process for boundary reviews, which is what we are all trying to achieve.

Among the many contributions that we have heard not just this evening but over a number of Committee sittings, the case has been made tonight that local inquiries are an important safety valve because they allow everyone, as we might put it, to have their day in court. The noble Lord, Lord Brooke of Alverthorpe, made that very point. It allows people to have their say. My view is that this is perhaps the only objective of local inquiries: that any credible argument can be mounted in their favour. Evidence and academic opinion indicate that local inquiries are perhaps far more effective in principle than in practice.

Local inquiries do not as a rule consist of the general public having their say on boundary proposals. Professor Ron Johnston—whose namechecks in these debates are now getting quite considerable; the noble and learned Lord, Lord Falconer quoted him—and his colleagues have concluded that the public inquiry process is "dominated by political parties", describing the process as,

"very largely an exercise in allowing the political parties to seek influence over the Commission's recommendations—in which their sole goal is to promote their own electoral interests".

Of course, he is perfectly right; political parties play a vital role in our democracy, and there is nothing wrong with parties contributing fully to the boundary review process. It is inevitable that they are going to do that, but if we are considering what would be gained by the noble and learned Lord's amendment, which would restore oral inquiries in some form, we should not imagine that we would necessarily be giving the public a better chance to have their say. We would be looking to restore a potentially long process to which parties will send Queen's Counsel in their attempts to secure the most favourable outcome for their electoral prospects, certainly if history is anything to go by. It may be that the quasi-judicial nature of the local inquiry process could act as a disincentive to public participation by ordinary people who hope to have their say.

Our intention is that a written consultation process, with the existing period for representations extended from one month to three, will actually amount to a much more effective way to allow a level playing field for the general public who wish to have their say. Whatever the merits of the cases that are made for exceptions in this Bill—for example, for the Isle of Wight—I do not think that anyone could doubt that the people involved were very successful in making their voices heard through petitions, campaigns and websites.

There is little evidence, too, that local inquiries bring to light evidence that would not otherwise be considered. In an earlier debate in Committee, the

noble Lord, Lord Snape, gave us an example of when a public inquiry had changed the boundary of the West Bromwich East constituency to reflect local geography, using a dual carriageway in place of a defunct railway line as a point of orientation. I am sure that that was a sensible change, and I wholeheartedly agree with the noble Lord that local knowledge is immensely important in these matters, but I do not see why that could not have been raised as part of an extended consultation period, as proposed by this Bill.

That is why changes that are made following local inquiries are often minor. At the fifth general review in England, for example, only 2 per cent of wards in English counties where inquiries were held were moved between constituencies as a result. Robin Gray, a former boundary commissioner already quoted by the noble and learned Lord, Lord Falconer, told the Political and Constitutional Reform Committee that Professor Ron Johnston was,

"absolutely right about the impact that public inquiries had on the Commission's initial recommendations. In a lot of cases there was no change".

The evidence given by the Boundary Commission for Wales to the Welsh Affairs Committee is also instructive on this point. In evidence to the Welsh Affairs Committee, the secretary of the Welsh commission said that,

"during the fifth general review, there were four issues that the Commission changed its mind on as a result of the consultation process. Perhaps I should say that, while these issues were raised in the local inquiries they were also raised beforehand in the written representations. In one sense, the Commission, before the local inquiries, had in its mind that modifications were required in the draft proposals".

That brings me to the evidence of Ron Johnston before the Political and Constitutional Reform Committee, which was quoted by the noble and learned Lord, Lord Falconer. Professor Johnston, as we have acknowledged has been much quoted in these debates. I think that anyone reading his evidence and his previous work will reach the same conclusion that the committee reached in its report that the result of Professor Johnston's extensive research into the topic, and oral inquiries in particular, led him to,

"generally welcome the abolition of public inquiries".

I stress that, not because somehow Professor Johnston's view is the only one that counts, but because it dispels the theory that only we on the government Benches somehow hold the view that oral inquiries are not necessarily the best way to achieve the objectives that we all want, which is a robust consultation process at which everyone, including those who are not able to appoint legal counsel on their behalf, can have their say on a commission's proposals.

However, in the same session, Robin Gray stated that he believed public inquiries added value because they provided assurance that the,

"issues have been looked at and debated"—

perhaps an echo of the point made by the noble Lord, Lord Brooke.

One charge that cannot be laid against oral inquiries in the past is that they were anything less than thorough in this regard. This lengthy process, however, goes to the heart of one of the key principles in the Bill, which was identified by the noble and learned Lord when he moved his amendment. If no action is taken the boundaries in force at the next general election will be 15 years out of date, if we do not proceed to get a boundary review and report by October 2013, as set out in the Bill. We believe that it is simply not fair to electors—most notably all those who have come on to the register in the past 15 years. I believe that noble Lords opposite share our concern about this. Indeed, the noble and learned Lord, Lord Falconer of Thoroton, made that very point. I readily acknowledge that the amendment attempts to address it by limiting the triggers for inquiries and placing a limit on their duration, and I very much welcome how that has been presented by the noble and learned Lord.

It is also important that we listen carefully and reflect on what was said by the noble and learned Lords, Lord Woolf and Lord Goldsmith, not least on the question of judicial review—judicial review if you do not have oral inquiries and judicial review if you do have oral inquiries. There is an argument that the proposal in the amendment to give the Boundary Commission the decision on whether to hold an inquiry in each constituency where the requirements in the amendment are met would also lead to a risk of judicial reviews of the Boundary Commission's decisions on that point.

Important issues have been raised. I have indicated not just in this debate but in others that the principle should be that reviews must be conducted more quickly so that the pattern of representation in the other place represents the reality of where electors live now, not of history. That goes to the heart of fairer and more equally weighted votes throughout the United Kingdom, which is a core objective of the Bill. We will obviously want to consider the noble and learned Lord's concerns on the issue of judicial reviews—as I have said, if you have them or if you do not have them. Subject to meeting the key principle, which I have indicated, I am content to take the noble and learned Lord's amendment and consider the thinking behind it to see whether it offers a way in which the advantage that I acknowledge an inquiry can provide—a sense of "a day in court"—can be retained. On that basis, I urge the noble and learned Lord to withdraw his amendment.

Lord Falconer of Thoroton: I am very grateful for a very positive response. I shall deal with a few points so that people can read them in *Hansard*.

First, the noble and learned Lord is right to say that Professor Johnston, who is an expert in this field, has expressed scepticism from time to time about the public inquiries in some contexts, but he has said that the scale of the proposed changes in the first boundary review is an argument for having public inquiries this time because you are drawing a totally new map. Without being unfair, or selecting out of context, Professor Johnston is in favour in this context. He also referred to Robin Gray, the former chairman of a Boundary Commission, who has a rounded view of public inquiries and recognises problems with them. Robin Gray says:

"Particularly with this first round I can see there is a real need for public inquiries".

Therefore, the two witnesses that the noble and learned Lord cites both unequivocally favour public inquiries in this context.

[Lord Falconer of Thoroton]

Secondly, the way that this amendment is put is not as an alternative to written submissions, because it accepts that in the appropriate case written submissions would be sufficient. I draw attention to subsection (3) in the amendment, which says that the Boundary Commission can say no to a public inquiry if it raises no substantive issue that might benefit from further comment or representation from other interested parties or individuals. So the Boundary Commission would have to decide that there is some specific benefit in an inquiry. In relation to the timing, we have dealt with that already.

It is, with respect to the noble and learned Lord, difficult to see—and I am not going to press this too hard—why an inquiry should not be in the armoury in the appropriate case. He mentioned the fact that it is often about political parties vying in their own political interest. I am sure that is true. One of the things that we have often discovered in our system is that hearing two competing parties often produces the right result more easily through oral representations than through any other process. It is the process—without in any way saying that this should be exactly the same as a court process—that many of our courts have found the most effective way to come to the right answer.

I very much hope that when the noble and learned Lord considers it, he will come back and either suggest how it might be improved or accept the amendment. On the basis of the helpful and constructive commitment to consider the amendment, I beg leave to withdraw it.

Amendment 93 withdrawn.

House resumed.

House adjourned at 11.48 pm.

Grand Committee

Wednesday, 26 January 2011.

Energy Bill [HL]

Committee (4th Day)

3.45 pm

The Deputy Chairman of Committees (Lord Skelmersdale): My Lords, if there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Amendments 21ZA, 21ZB, 21ZC not moved.

Clause 40 : Power to make tenants' energy efficiency improvements regulations: England and Wales

The Deputy Chairman of Committees: I have to inform the Committee that in Clause 40 if Amendment 21A is agreed, I cannot call Amendment 21B by virtue of pre-emption.

Amendment 21A

Moved by ***Baroness Maddock***

21A: Clause 40, page 26, line 4, leave out subsection (1)

Baroness Maddock: Members of the Committee will recognise that this is a similar amendment to one I moved on an earlier clause but this clause refers to tenants. However, the arguments that I used then apply to the position on this clause.

To refresh the memories of Members of the Committee but without going into huge detail, I am proposing that making regulations in this area should not be dependent on the outcome of the review in Clause 36. We had quite a discussion about how, particularly in the private rented sector and at the bottom of the market, we want to get this moving and do not want it to be held up by anything unnecessarily. That is all I need to say. I beg to move.

Baroness Noakes: I have put my name to Amendment 21B in this group and I will not repeat the speech that I made linked to a similar amendment moved by the noble Baroness, Lady Maddock. I wholly oppose the noble Baroness's amendment, in particular because she assumes that regulation is the right way forward. We had a good discussion about that and I hope that the Minister will reaffirm that the Government do not see regulation as an inevitability but something that should be used as a last resort. My amendment has been tabled more to discuss how much debate we should have before we start introducing regulations. It asks for Parliament to approve the review that will be undertaken. That was by way of emphasising that regulation should not be undertaken lightly and should not be seen as a default position in this Bill.

Lord Whitty: My Lords, I support this amendment. As suggested by the noble Baroness, Lady Noakes, this subsection may be deleted because the second subsection still leaves it to the judgment of the Secretary of State as to whether regulations are necessary. Clause (1)(b)(i) would be part of those regulations in any circumstances; the Secretary of State would need to be convinced the regulations would increase the energy efficiency of the buildings in question. Any Secretary of State who failed to do that would be perverse.

The remainder of subsection (1), which the amendment is designed to delete, makes it time-specific; it requires the review to have been completed and it requires the Secretary of State to consider how the supply of privately rented accommodation would suffer as a result of the regulations, whether the effect would be neutral or whether the quality would increase, therefore having an effect on the rental market as well.

The Secretary of State needs these powers, irrespective of the report and the timing. Subsection (1) permits the Secretary of State to use them if he or she decides to do so. We are not jumping immediately to regulation as a sledgehammer to crack a rather large nut; however, the constraints on so doing in subsection (1) are unnecessary and I therefore support the amendment.

Lord O'Neill of Clackmannan: My Lords, I support this amendment. In the past I may have conveyed the impression that all landlords were bad. That is not true and it was not my intention to do so. There are, however, too many landlords who are not very good and some of them go up the Richter scale to very awful. We know that some of them will not be moved by the spirit of this Bill, either to get people's homes well insulated or to save the planet. We recognise that it is preferable not to be unduly prescriptive when legislation is being introduced, but if we find there are abuses which we could more speedily remedy through regulation, we need not necessarily have that within the agenda of the review committee, worthy though its endeavours may turn out to be.

We know that there are landlords who do not enter into the spirit of even the existing legislation and if they are shown to be as recalcitrant following the new legislation as they have been in the past with the old, then we should move with all reasonable speed. That does not necessarily require us to make their activities the subject of a review procedure, some aspects of which may not be relevant to the problem and may require a more leisurely and rigorous approach to dealing with it.

If there are abuses and there are remedies available to deal with these abuses, it should be incumbent on the Government of the day to move with all desirable speed to address these challenges. Even with the best of endeavours, we are not going to produce an ideal piece of legislation which will inspire the desire to follow on with the good work or inspire fear in the part of the more recalcitrant landlords whom I consider, for the benefit of the noble Earl, Lord Cathcart, a minority. Sadly, the nature of their abuses makes them a significant minority in a number of instances when we realise the pain they impose on, very often, vulnerable and disadvantaged families.

Lord Davies of Oldham: My Lords, I do not underestimate the challenge presented by this legislation in terms of making it effective. We recognise that good people and true subscribe to the broad objectives, but that is somewhat different from action, which they may not always define as being entirely within their interests. As my noble friend Lord O'Neill has identified, there may be some necessity for a degree of regulation. We hope that the thoughts of the noble Baroness, Lady Noakes, are translated into action so that regulation can be kept to a minimum; we hope that we get a fair wind behind these concepts and that they work well. However, the Secretary of State should certainly have the power to make a regulation and not have to wait unduly for a review report that would cover many dimensions, not just the ones we are particularly concerned about here. Therefore, we are very much in favour of the first amendment but do not see the merits of the second.

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Lord Marland): My Lords, welcome back; it is very nice to see such a full contribution from noble Lords. I thank all noble Lords for their contributions as we move into day four. They have been incredibly valuable. I assure everybody that we are drawing up a list of comments and suggestions, which we take very seriously. We will look at them and if any noble Lords seek clarification, there will be some opportunity for that between Committee and Report. We will make sure that there is an opportunity for discussion. It would be quite nice if we could get through the Green Deal today; this will be our fourth day on it. It looks as though we are moving on quite nicely. It would also be very nice to get through the AV Bill today.

Lord Teverson: Can we take a vote on that, Lord Chairman?

Lord Davies of Oldham: I have noticed that the AV part of the Bill has long since been discussed. It is the other parts that are more difficult.

Lord Marland: I am obviously delaying our finishing the Green Deal Bill by adding some levity to the occasion. I will get on with it.

There are just a couple of points that need clarification after Monday's debate. I will run through them so that they are on the record. As I said earlier, if people want clarification, let us have it now because I do not want to reopen a debate that we have already had. The definition of "private rented sector" in the Bill covers accommodation provided under an assured agricultural tenancy occupation, which was one of the points raised, or a protected occupancy for the purposes of the Rent (Agriculture) Act 1976. If they are let under an assured or regulated tenancy, this will not cover all cases. I have already agreed to consider whether the definition of "private rented sector" should be extended in the light of these amendments. That is for the subject of agriculture, which was discussed some amendments ago.

On payment holidays—another subject that my noble friend Lady Northover had to tussle with womanfully—Clause 30 enables us to allow the bill payer, who might be the landlord or the tenant, to suspend payments. However, suspension is likely to be available only in very limited circumstances. An example might be tenancy void periods. However, we do not expect tenants to be able to suspend payments, other than in the usual cases. The bill payer may also be able to enter into an arrangement with their energy supplier to reschedule their Green Deal payments.

Finally, on the purpose of the review of the private rented sector, our intention is that a key aim would be to safeguard against unnecessary and burdensome regulation. I hope this deals with the point of the noble Baroness, Lady Noakes. The Government are not set on regulation but on encouraging enterprise and activity. If we have to resort to regulation, it is, as the noble Lord, Lord Deben, said, probably a failure of government.

I hope that that clarifies the matter. We have debated this subject and I am grateful to my noble friend Lady Maddock for saying that we have discussed it already. We have given it a very good airing and I am sure we will have an opportunity to air it yet again. We are always open to discussion.

Lord Teverson: I thank my noble friend for that. I welcome his statement that the suspension of payments will occur in only a very restricted area, although I think that the Minister's colleague may have taken the question the other way. However, in order for energy company providers to have faith in the scheme, they must know that they are going to be repaid. I understand that, but I like the fact that, in completely exceptional circumstances, there may be an alternative method. However, I welcome the fact that it will be a tight regime.

4 pm

Lord Marland: The noble Baroness said that she had been put on the spot by a fellow Liberal Democrat Peer, which I do not think has happened too often, so I am very grateful that she should now have clarified these matters. It is very good for the Liberal Democrat Party that its members are now singing from the same hymn sheet. They were only not doing so temporarily—it was a momentary thing. I hope that, on that basis and the fact that we have debated this issue for quite some time, the noble Baronesses, Lady Noakes and Lady Maddock, will withdraw their amendments.

Baroness Noakes: My Lords, as I have not moved my amendment, I cannot possibly withdraw it. I believe that the Minister set out the issues that emerged from our debates on a previous Committee day that he intended to take forward in this chapter of the Bill. However, he omitted to say that we had tried to tease out how the structure of the provisions for the private rented sector fitted with the requirement for tenants to be involved in decisions on whether or not green deals could be used. As this chapter is predicated on finance being used by Green Deal or energy company obligations, we discussed whether obligations could be imposed on the landlord beyond that, given the powers that were potentially being enabled via regulations. The Minister did not mention that as a topic to be taken away, but I

certainly had a feeling in Monday's Committee that it was not well articulated and that there seemed to be gaps. If there were gaps, we might want to come back on Report with amendments to make it clear what the extent of those powers were.

Lord Marland: The noble Baroness is right: I think that that debate showed that there are gaps. That is why I prefaced my opening remarks by saying that we have to take away a number of issues—that is the whole point of Committee—and we shall be looking at whether we can improve those gaps, as we are committed to doing. From my point of view, it was an extremely useful and valuable debate, and I assure the Committee that we will be taking those issues away.

Baroness Maddock: I thank the Minister for his comments. I am very grateful to the noble Lords, Lord Whitty and Lord O'Neill, and I am also grateful to the noble Lord, Lord Deben, for putting his name to my amendment. Between us, over the years we have had quite a lot of experience of the issue that we are dealing with here—that is, the private rented sector. I am not in total disagreement with my noble friend Lady Noakes, in that I am not in favour of unnecessary regulation. However, for those who have been dealing with the bottom end of the rented market for a number of years, there comes a point when you have to try to do something about this problem. That is particularly important when we sometimes pay out a huge amount of housing benefit on these houses. We have to remember that; I really do not see why taxpayers should pay housing benefit for substandard properties.

We are getting to the stage where we need to get to grips with this matter, and I am really pleased that this Government have grasped the nettle on the private rented sector. Therefore, I agree with my noble friend that we do not want unnecessary regulation but I am sure that we all want people to live in decent homes. With that proviso, and thanking my noble friend for the point that he made about agricultural tenancies, I beg leave to withdraw the amendment.

Amendment 21A withdrawn.

Amendments 21B and 21C not moved.

Clause 40 agreed.

Clause 41 agreed.

Clause 42 : Sanctions for the purposes of tenants' energy efficiency improvements regulations: England and Wales

Amendment 21D

Moved by ***Lord Grantchester***

21D: Clause 42, page 27, line 24, after "tenant" insert "or third party"

Lord Grantchester: In moving the amendment, I shall speak also to Amendment 21E. Amendment 21D is a simple amendment for the Minister to consider. By inserting the words "or third party" we recognise that tenants may act together. The "third party" could include an agent acting for a group of tenants. We wish to clarify that that would be covered in the Bill.

In Amendment 21E, we are similarly considering appeals against sanctions. In an earlier instance relating to tenants, we on this side intimated strongly that the overuse of regulations should preclude regulations regarding appeals against sanctions. Just as we feel strongly that tenants should understand exactly what they may or may not do as a result of the Bill, we would wish landlords to understand exactly what they may or may not do if sanctions were to be levied against them. I beg to move.

Baroness Northover: My Lords, I am grateful to noble Lords for the amendments proposed to Clause 42. Amendment 21D is not necessary, because I can clarify that a third party—a local residents' association or similar body, for example—would be able to support tenants and take actions on their behalf, if the tenant so wished. However, I thank the noble Lord for raising this issue; we will consider it in more detail and, if necessary, return to it in secondary legislation.

Amendment 21E would remove the power which enables any new energy efficiency regulations to set out clearly the judicial procedures to be followed when a tenant applies to a court or tribunal for a ruling against a landlord. We believe that this existing requirement is essential to provide clarity in these circumstances, and we can assure the noble Lord that this is normal practice.

Given those explanations and assurances, I hope the noble Lord will be content to withdraw his amendment.

Lord Grantchester: I thank the noble Baroness for her clarification and I beg leave to withdraw the amendment.

Amendment 21D withdrawn.

Amendment 21E

Tabled by ***Lord Grantchester***

21E: Clause 42, page 27, line 26, leave out subsection (3)

Lord Grantchester: In response to the noble Baroness, I will not move the amendment, but I nevertheless tell her that we are greatly concerned that the legislation does not specify whether it is a court or a tribunal. Although I note her words, these are the sort of instances where—

The Deputy Chairman of Committees: I am afraid that I must interrupt. If the noble Lord wishes a further response, he must move the amendment. If not, I am afraid that he must be silent.

Lord Grantchester: I beg the Committee's forgiveness in getting the procedure wrong. I think that I have made the case several times and will pick the issue up later.

Amendment 21E not moved.

Amendments 22 and 23 not moved.

Clauses 42 agreed.

Clauses 43 and 44 agreed.

Clause 45 : Sanctions for the purposes of non-domestic energy efficiency regulations: England and Wales

Amendment 24 not moved.

Clause 45 agreed.

Clauses 46 and 47 agreed.

Clause 48 : Meaning of "domestic PR property" and "non-domestic PR property": Scotland

Debate on whether Clause 48 should stand part of the Bill.

Lord O'Neill of Clackmannan: I have a question for the Minister on the Scottish section of the Bill. It was put by the Association for the Conservation of Energy that its people in Scotland had been looking at the Climate Change (Scotland) Act 2009, which was passed by the Scottish Parliament, and their feeling was that most of the provisions of this section relating to Scotland were covered by that legislation, perhaps in a more rigorous fashion. Has there been extensive consultation between officials, the Scottish Government and DECC on this issue, and are the Scottish officials are on all fours with this? I am not making any point about one institution against another, but the impression conveyed to me was that it seemed that the prevailing Scottish legislation more than covered the area, and perhaps did it in a slightly better way than is suggested in the Bill. I would be interested to hear what the position is.

Baroness Northover: My Lords—

Baroness Smith of Basildon: I appreciate the clear willingness of the noble Baroness to answer quickly. I wish to raise a very similar point, about how this legislation fits in with the existing climate change legislation in Scotland. The Scottish Parliament has preceded us on some provisions. Can the noble Baroness give us some information on discussions with Scottish Ministers, and tell us what their response has been? Many of the issues that we have raised in relation to the Green Deal and other issues would apply to these provisions as well. Obviously we would not want to have the same discussions again; but if the noble Baroness can give some outline of the discussions she has had with Scottish Ministers, it would be very helpful.

Lord Whitty: My Lords, I was not expecting to be provoked to speak on this amendment or this clause, but I speak in my capacity as former chair of Consumer Focus. It was always a little uncertain where the boundaries between reserved legislation and responsibilities applied in this area. Fuel poverty is a devolved matter, as are most aspects of energy efficiency; but, of course, Ofgem regulation is a reserved matter. I feel that quite a number of the clauses that we are about to consider stray across both areas. I am not necessarily saying that we should hold up proceedings and delay consideration today but, before this Committee finalises its activities, it would be helpful for us—and, I think, for my colleagues in the Scottish Parliament—to have a clearer delineation of which jurisdiction applies to each area of intervention. It has caused some confusion in the past under the previous Government, and we are compounding it here if we leave these clauses precisely as they are at the end of our deliberations.

Baroness Northover: My Lords, I thank noble Lords for raising this matter, which gives me an opportunity to clarify things. Noble Lords can be reassured that there has been a great deal of discussion about this Bill prior to this stage, and after—as one hopes—the Bill goes through, there will continue to be discussions.

Chapter 3 deals with a policy matter which is indeed devolved to Scotland. It makes provision for Scotland which is equivalent to that made in Chapter 2 on the private rented sector for England and Wales. Similar to Clause 35, Clause 48 lays the foundations for the provisions in the private rented sector by clearly defining what we mean by "domestic" and "non-domestic" private rented properties in Scotland for the purposes of this Bill. The only substantial difference is the use of Scottish legislation to define what we mean by the domestic private rented sector in Scotland.

The domestic private rented sector in Scotland is defined as properties let under a tenancy covered by the landlord's repairing duty in Chapter 4 of Part 1 of the Housing (Scotland) Act 2006. The intention is the same as the provisions for England and Wales. We wish to capture the widest range of private rental properties.

The definition of a non-domestic private rented property is one which is let under a tenancy and is not a dwelling. A dwelling is already defined under the Energy Performance of Buildings Regulations (Scotland) 2008, so it is logical to use this existing definition for the purposes of this chapter. I thank the noble Duke, the Duke of Montrose, for raising the point on Monday of whether the amendments on Chapter 2 should be extended to Scotland.

As the noble Lord, Lord Whitty, notes, as this is largely a devolved matter, it is for Scottish Ministers to consider the amendments and decide whether they would like similar amendments to be made to those provisions which extend to Scotland. Naturally, we will make Scottish Ministers aware of the amendments which this House has been considering, so that they can consider the issues raised and decide whether they wish similar amendments to be applied to the equivalent Scottish provisions in Chapter 3. It does not override existing Scottish legislation, but it gives Scottish Ministers the option to use these powers if they so wish.

4.15 pm

Baroness Smith of Basildon: I am grateful for the noble Baroness's response, but perhaps I may ask for clarification on one point. She said that Scottish Ministers

would be consulted about the amendments. I was trying to probe whether Scottish Ministers should be consulted pre-amendment. Have there been discussions about these clauses with Scottish Ministers?

Baroness Northover: Yes, indeed. I had hoped that I had made that clear. There are ongoing discussions and there have been a lot of discussions about the Bill, the amendments, and everything in relation to this issue. The noble Baroness can be reassured that that dialogue is very much ongoing, and we regard it as extremely important.

Clause 48 agreed.

Clauses 49 to 51 agreed.

Clause 52 : Sanctions for the purposes of domestic energy efficiency regulations: Scotland

Amendment 25 not moved.

Clause 52 agreed.

Clauses 53 and 54 agreed.

Clause 55 : Sanctions for the purposes of tenants' energy efficiency improvements regulations: Scotland

Amendments 26 and 27 not moved.

Clause 55 agreed.

Clauses 56 and 57 agreed.

Clause 58 : Sanctions for the purposes of non-domestic energy efficiency regulations: Scotland

Amendment 28 not moved.

Clause 58 agreed.

Clauses 59 and 60 agreed.

Amendment 28A

Moved by ***Baroness Smith of Basildon***

28A: After Clause 60, insert the following new Clause–

"Chapter 3A

Social rented housing

"Review of energy efficiency in the socially rented housing sector: England and Wales

(1) For the purposes of this Chapter, a property is a "socially rented property" if—

(a) it is a low-cost rental accommodation within the meaning of section 69 of the Housing and Regeneration Act 2008 and the landlord is a private registered provider of social housing; or

(b) the landlord is a body registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996.

(2) A socially rented property is referred to in this chapter as an "SR property".

(3) The Secretary of State must conduct a review of the energy efficiency of socially rented properties.

(4) The review mentioned in subsection (3) must, in particular, include—

(a) a comparison of the energy efficiency of SR properties with non-SR properties in England and Wales;

(b) a consideration of the extent to which financial assistance is available to landlords of SR properties, for the purposes of taking measures to improve the energy efficiency of their properties;

(c) a consideration of the need for action to be taken for the purposes of improving the energy efficiency of SR properties; and

(d) a consideration of the possible effects of any action recommended to be taken as a result of the findings from paragraph (c)."

Baroness Smith of Basildon: My Lords, I shall speak also to Amendment 28B. It is welcome that the Green Deal is available to owner-occupiers. We also welcome the review for private tenants. Our dispute on this issue is that ongoing work to improve the condition and energy efficiency of privately rented homes should not be dependent on the review. In Committee on Monday, we spoke of why it was important to urgently address fuel poverty and energy inefficiency in those homes. My amendments may partly clarify some confusion.

It seemed that on Monday some noble Lords were of the view that social housing was already included, and there was reference to the role of council houses in our discussions. However, 4 per cent of social rented properties suffer from excess cold. Tenants often have little control over their heating bills and have had no insulation or energy-efficient measures. They are often people on low incomes and they risk poor health by underheating their homes, because the cost of adequately heating them is too high. We may be talking about a relatively small number of people, but they are some of the most vulnerable in the country.

There are two reasons why these amendments are important. First, there is the social impact of energy efficiency, which impacts equally on social housing and private rented housing. If we really want to have an impact on our carbon targets—and we will later consider local carbon targets—we need to address the impact of energy-efficiency measures in the social rented sector. That is why we have tabled these amendments. I would be grateful if the Minister could address some areas of concern. Does he have any assessment or rating of the current condition of the social rented sector? If it is to be excluded, I should imagine that there is a reason.

The previous Government introduced the Decent Homes Standard scheme and there was improvement in areas such as replacement boilers but we are aware that there is a lot of work to be done, so we have put forward these two amendments. Amendment 28A would ensure that the socially rented housing sector in England and Wales should also be included under these measures.

Lord Whitty: My Lords, in some social housing there is a district heating scheme. I am strongly in favour of decentralised energy but one of the reasons why it has got a bad name in some areas is because of the lack of consumer protection. With district heating

[LORD WHITTY]
it is often difficult for the tenant or, whatever the form of tenure, for the individual flat to control the use of energy. It is therefore important that consumer protection dimensions apply to those kinds of social housing.

There are examples where the schemes have led to a substantial increase in the fuel costs over which the tenants and leaseholders have no control. Among the tenants in particular, and in some cases among the leaseholders because they will be pensioners who bought under the right to buy scheme and have not got a great income, there will effectively be fuel poverty by the normal definition as a result of something over which they have no control—in other words, the level of use of energy within their own premises.

That is an additional dimension to why we need to be clear on social housing and how far social housing is covered by the provisions of this Bill.

Lord Marland: My Lords, I am grateful to the noble Baroness for this valuable contribution which should be considered carefully. The idea of a new chapter in this Bill for energy efficiency in the social rented sector is a good one but I suggest that it should be inserted elsewhere in the Bill as a new chapter. However, that is by the by.

The intention of Chapters 2 and 3 of the Bill is to provide powers to improve the energy efficiency of private rented properties, should they be required. It is not the intention to intervene in the same way in the social housing market which we believe has made some of the biggest energy efficiency gains in recent years due to the priority that has been given to the investment in social housing stock. For example, the social housing stock is 10 points higher than the private sector, which answers the point of the noble Baroness, so it is already ahead of the curve.

To pick up on some of the concerns of my noble friend Lady Noakes that we should not regulate unnecessarily, if the social housing sector is leading the market, which it is, we should not start imposing regulation on it now but we should review it at a later stage to see whether it is still ahead of the game.

I am grateful to the noble Lord, Lord Whitty, who as always makes a valuable and learned contribution in this area. Decentralisation is a big issue and is a subject for local authorities as well as the housing authorities but I do not think it is a matter for this Green Deal. We should take it into consideration in the overall scheme of things for some interdepartmental progress and I take on board what he said. I invite the noble Baroness to withdraw her amendment.

Lord O'Neill of Clackmannan: I am disappointed by the Minister's response. Would he be prepared to assist in the drafting of something that would go in after Clause 2A, as he suggested this is the shortcoming of this amendment? The fact that local authorities and social housing organisations have been in the van of improving their housing stock does not mean that they should be left to take care of themselves. Funding arrangements of an easier kind may well become available. One would have thought that, if we are to continue to encourage them in their good endeavours, it would be desirable to include them in this, and for us to know—if not exactly, then a little better than we do already—the state of the stock and the work that is still to be done. Therefore, a review of energy efficiency would be very helpful. In other parts of the UK, including Scotland for many years, there have been regular housing reviews, which have been extremely helpful in determining the policy of the former Scottish Office and now the devolved Scottish Government. We are able to track over time the changes in the character of the housing stock and the shift in housing standards. Therefore, it would be unfortunate for people in the social rented sector, who tend to have longer-term tenancies than many privately renting tenants. People in the socially rented sector are usually long-term tenants; very often, they have in the past done work for themselves. As they get older they have fewer resources and, in some respects, greater need for energy efficiency and to keep their houses windproof, waterproof and well insulated.

The Government are missing a trick here by rejecting—out of hand, it would appear—the possibility of a review. If they are not rejecting it out of hand, perhaps they would be prepared to table an amendment on Report so that it could be inserted at an appropriate part of the Bill. It would appear that this is not the best part. I imagine that would be one of the arguments that my noble friend will make when she seeks leave to withdraw the amendment. It would be wrong to set aside a sector of the housing market that has been very successful so far in meeting many of the objectives that this legislation seeks to include.

Lord Marland: I will explain the Government's thinking behind this to the noble Lord. This is a market-driven opportunity. The Government are not trying to be prescriptive. If two people were running a race, which one was winning easily by quite some margin, as the social rented sector is doing, you would train the runner who was not quick enough and encourage him to compete in the race. Here we have the social rented sector, which is by some margin ahead of the scale. It would be wrong to bring in legislation at this point that said, "Sorry, you're not far enough ahead, despite beating the others. We intend to make sure that you get even further ahead". The main aim of the Bill is to let the market drive the situation. At some point—the noble Lord is quite right—we will review the progress that the market has made and use any powers that are necessary.

The social rented sector should be congratulated. The noble Lord, Lord O'Neill of Clackmannan, said as much and I totally agree with him. That sector has led by example; we should encourage, not discourage, it. It is not my intention at this point to redraft part of the Bill to be prescriptive about this sector. I take on board that it is a critical area, which continues to make progress. Through this Bill, we will ensure that it does.

Baroness Smith of Basildon: I am grateful to the noble Lord for his explanation and to my noble friend Lord O'Neill. However, I struggle with his analogy of two runners. One is ahead, so we do not help that one. However, we do not have two runners here; we do not

have two sectors in competition. To stretch his analogy, we have two teams. In the team that is doing well, there are some who are lagging a long way behind. A trainer would give support to them.

We should congratulate the social housing sector. With a lot of support from the previous Government, it has done extremely well in moving ahead on energy efficiency. However, that is not to say that every single home in the social rented sector is as energy efficient as possible. I recently spoke to a couple who have not had a new boiler for more than 20 years and whose electricity bill for heating last winter was £400. That is shocking. The point is that it is not the kind of house that someone lives in—whether it is privately rented, owner-occupied or socially rented—but the need to have energy-efficiency measures. Housing stock that is 10 points higher in the social rented sector or the private rented sector is quite good but the private rented sector starts from a very low base. Therefore, although it is better, it is not good enough.

Last week the Minister said that he wanted to skip out of the Committee, and he almost had the same effect on me when I heard him say that this was a very good idea. At one point I thought I heard him say that he would look at the issue, although he seems to have moved away from that. If he thinks that there is another way within the Bill—

4.30 pm

Lord Marland: Perhaps I may clarify that for the noble Baroness. We intend to look at this matter as part of the review. The whole point is that we have to keep reviewing the whole procedure to see whether it operates properly. I hope that that gives her enough encouragement, particularly as we will be reviewing the progress that this sector, the private rented sector and the non-domestic and domestic sectors make with the Green Deal. If progress is not made, we will of course provide the necessary encouragement. The noble Baroness made a comment about teams and so on. This group is ahead of the curve. We must congratulate it and let it carry on about its business. It has taken the initiative and we do not want to frustrate that by being prescriptive. That is not how this Government will operate amid market-driven forces. The noble Baroness was absolutely right to bring to our attention how important it is that this sector makes progress, and the Government will carry out a review to make sure that it does.

Baroness Smith of Basildon: There are a number of points to pursue on that. The most important point that the Minister made was that he was going to carry out a review. I am not sure which review he is referring to but he said that there would be a review of the private rented sector, this sector and the owner-occupied sector. Therefore, on the basis of there being reviews to look into the matter, I am more than happy to withdraw the amendment.

Amendment 28A withdrawn.

Amendment 28B not moved.

Amendment 29

Moved by ***Lord Teverson***

29: Before Clause 61, insert the following new Clause—

"Carbon neutral buildings and developments

(1) The Secretary of State shall make building regulations that require newly built domestic housing to be designed and constructed in such a way as to be carbon neutral.

(2) These regulations will apply either to individual dwellings or to new developments as a whole.

(3) These regulations shall come into force during 2016.

(4) Within one year of the passing of this Act, the Secretary of State shall, by order made by statutory instrument, prescribe the date on which building regulations will come into force that require commercial buildings or commercial developments as a whole to be carbon neutral.

(5) The definition of the term carbon neutral shall be determined by the Secretary of State following consultation with the construction industry, the Climate Change Committee, environmental groups, energy companies and other experts and interested parties."

Lord Teverson: I was glad to note in that last exchange that the Minister had moved far more towards the Opposition than the Liberal Democrats, as happened earlier in Committee.

We now move on to Chapter 4, which is headed "Reducing Carbon Emissions and Home-Heating Costs". It seems to me that we have moved on psychologically from the paramount area—as the Government have recognised—of trying to retrofit and bring up to a reasonable standard of energy efficiency the existing building stock. Having moved on through the Bill from that stage, we now have an opportunity to look to the future, and I hope that this amendment will be particularly useful and helpful to the Government.

We have to make sure that in 25 years' time we do not have to go through another Green Deal process with all the houses that we are currently building which will not be up to the standard that we require in the future. Instead, it would be much better to build these houses now to the right standards of energy efficiency and carbon emission levels. The Minister has perhaps recognised that in the area of energy and climate change there is a great deal of agreement among reasonable people and political parties. One area on which I certainly congratulated the previous Government was that they put a marker in the ground saying that by 2016 building regulations should effectively lead to carbon-neutral domestic dwellings. I do not think they said anything further regarding industrial buildings but that was what they said in respect of domestic dwellings. I tried to find out about it before the Committee, but my understanding is that Ministers in the present Government have endorsed that and have said that that will be the case.

We know that one important thing for industry and for people who have to build these Houses and ensure that regulations have been met is to have a degree of certainty in the market. We have heard how red tape and bureaucracy can be negative in legislation, but politicians and legislation should be able to give certainty to industry and the people who have to deliver policies, in a positive way. One of the best and most effective ways of doing that—the way in which we show true

[LORD TEVERSON]
intent—is to put something in the Bill. Once we do that, that certainty of provision—the certainty that the Government mean that to happen—increases so that actions can take place, the target is met and the effect is achieved. In this case, it is not just for 2016 but for all the years ahead, when we are trying within this economy to reduce our carbon emissions and fuel poverty, so that they are history as well.

I tabled the amendment because it gives the Government an opportunity to confirm that target and to ensure that business, industry and the other various actors in producing these homes can make full plans for these measures so they can be delivered. The domestic sector is not the only sector. In fact, something that we truly welcome from the Government in terms of the Green Deal is that it includes a commercial aspect, which we have not discussed or debated much to date. The industrial sector is more difficult, so I have given the Government discretion to set a date, but it is important that the Secretary of State should set a date at some time.

Another area that I have emphasised or been careful about in my amendment is to avoid being overprescriptive. I hope that I have achieved that in two ways. It is not necessarily sensible for individual dwellings to be carbon neutral themselves, because the technology for renewables and low-carbon technologies are for groups of dwellings. They focus on ways in which a development as a whole can be carbon neutral in its broadest aspect, rather than an individual house, which is probably too big an ask, even for those who really want perfection in this area. There might be a renewable energy part of an overall housing development, which might be the travel plan that goes with it; there might be a district heating system or ground-sourced heat pumps put in across the whole estate that allow the larger unit to be carbon neutral, rather than the individual dwelling. That should be even truer of the commercial developments.

Another part of this amendment gives the discretion to the Secretary of State to define what carbon neutral means, because that definition is clearly something that we could debate for ever. At the end of the day, after proper consultation, it should be left to the Secretary of State to make that definition—one that is practical and will never be fudged.

The amendment introduces an aspiration for certainty by putting it into the Bill, which would ensure that we achieve it. I beg to move.

Lord O'Neill of Clackmannan: I support this amendment, which I realise in nature is probing. One of the major reasons why we have an inadequate housing stock in the United Kingdom is that the incoming Government of 1951, charged with the ambition of building 300,000 houses, sought to achieve that by reducing housing standards. That was the way in which Harold Macmillan, as Housing Minister, achieved his obligation. It is as a result of that we have so many substandard houses in comparison with our European counterparts. In that fantastic period in the 1950s and early 1960s, when hundreds of thousands of houses were built every year, properties were more often than not built to standards which were less than desirable in terms of what could have been achieved. They were not bad but they could have been a lot better, and if they had been we probably would not have half of the problems we have today. It is useful, however, to give the Government an opportunity to make quite clear that they are signed up and prepared to take the appropriate steps to achieve the 2016 target.

The kind of pragmatic and flexible approach suggested by the noble Lord, Lord Teverson, in respect of different forms of heating and the combination of different forms of accommodation, is an appropriate way in. We do not want to be overprescriptive, but there are areas where we have to be prescriptive—not only prescriptive but prescriptive in a fairly tight, legalistic way. These regulations tend to be a mixture of the consultative processes which are implicit in secondary legislation. They can afford that degree of flexibility.

As in this decade we address the challenges of climate change and the environment, in some respects we are parallel to the post-war reconstruction challenges which were being addressed in the 1950s. I would like to think that this Conservative-led Government will not make the kind of mistakes made by the Churchill Administration, under the responsibility of Harold Macmillan as Housing Minister, in the early 1950s. I would like to think the Government could clearly and explicitly embrace the desirable environmental objectives set out by the previous Government and which appear to be supported by the Liberal part of this coalition.

Lord Jenkin of Roding: I have listened to this debate with some sense of nostalgia. From 1961 to 1963 I was chairman of the housing committee for Hornsey Borough Council, later to become the London Borough of Haringey. This was a period even later than that referred to by the noble Lord, Lord O'Neill, and my clear recollection is of the overwhelming pressure to build more houses and flats. To digress for a second, we had the problem of a large number of tenants who were sitting in houses which were badly needed for social housing. I think I was the first housing chairman to propose we should offer them a sum and a mortgage to move elsewhere, within 10 miles of the borough, to get some vacancies, clear some slums and build more houses. To imagine that at that stage we should have been building more energy-efficient—and therefore fewer—houses is unrealistic. It is easy to be wise after the event. Others may have longer memories than I do, but having been a housing chairman at that time, I know that was the overwhelming pressure.

I turn to the amendment. Of course one must broadly support the intention but, even with the caveats that my noble friend Lord Teverson has included in his amendment, it verges on the unrealistic. Indeed, recent research by one of our leading professional bodies, Knight Frank, has said that to make sure that all the new houses being built by 2016 are carbon neutral is, in its words, "looking increasingly unrealistic". I have some hesitation about writing this into legislation when extremely well informed people are saying from the outset that, however good the intention, it looks increasingly unrealistic.

Next, there is the question of cost. I am told that to build a carbon-neutral domestic dwelling now—it may well be that the differential will narrow in the years

ahead—will add £30,000 to £40,000 on to every unit produced. If housing budgets are constrained, as they are inevitably are in our situation at the moment, that means that there will be fewer houses, because with any sum of money fewer houses will be able to be built. In those circumstances, that too might be an undesirable consequence of trying to pursue and put into the Bill an unrealistic environmental objective.

My third anxiety about my noble friend's new clause lies in subsection (5). He has said that it is an advantage that he is not being prescriptive but leaving the determination of what is a carbon-neutral construction to the Secretary of State, following consultation. I am told that the question of what is a zero-carbon house is highly technical and that there is as yet no agreement between the various bodies involved. I suspect that this includes the Minister's department and CLG, the other housing department. A conclusion has not yet been reached on this. The question of indoor air quality is also poorly understood, and it is essential on all these issues that time is allowed to ensure that we have sensible definitions if we are going to pursue these objectives.

To have an undeliverable target and a completely uncertain definition of what you are trying to achieve is not appropriate for inclusion in legislation. As my noble friend indicated, what he is trying to get is in the Bill, but it is not very sensible to put it in a Bill when there is such a high degree of uncertainty about it. It may be possible, perhaps at a later stage of the Bill, to frame something that really is an aspiration and something to be aimed for, but without putting in firm dates or such firm details as saying that it has to be zero carbon.

I understand that this is desirable and that over the years ahead more and more carbon-neutral buildings will have to be built; that is part of the process of fighting climate change, to which we are all firmly committed. I say to my noble friend on the Front Bench, though, that I hesitate to accept my noble friend's suggestion that this new clause should be included in the Bill.

Lord O'Neill of Clackmannan: May I ask the noble Lord about a simple point? Britain is not the only country that is building houses, or has been building houses since the 1950s. One of the great sadnesses and shames of being British is that when one travels, particularly in northern Europe, one sees houses of a far higher standard that were built in the days when Haringey Council could not afford to build decent houses, because of the scale of the challenge. It seems that in these other countries, such work was done without undue economic penalty. It seems even now that those countries are meeting that challenge with a great deal more alacrity and success than we are. In Finnish and Scandinavian houses generally, where conditions are more extreme, the quality of housing is vastly superior.

Lord Jenkin of Roding: I yield to the noble Lord and any others, such as my noble friend Lord Deben. I am not as familiar as they are with the quality of the houses in Scandinavia. All I would point out is that winters in the Scandinavian countries and in many parts of northern Europe tend to be very much harsher than they have been over the decades and centuries in the United Kingdom. We get the benefit of the Gulf Stream, and so on. Last winter and the winter before were widely seen as exceptions to the trend. If you are not facing the same pressures from the climate as those faced by other countries which regularly have much harsher winters, I can well understand that perhaps we have been a bit slower in adopting the same standards as they have. All I am saying is that I do not think it is a realistic target that all new houses built after 2016 should be carbon neutral. It is certainly not realistic when no one seems able to agree—although they have been trying for quite a long time—what is actually a carbon-neutral house. I sound these notes not because I have any doubt about the bona fides and intention of my noble friend Lord Teverson, but because of the practicality.

Lord Judd: My Lords, I am tempted to follow the noble Lord, Lord Jenkin, down memory lane, because my first post on the edges of government was as a Parliamentary Private Secretary at the Ministry of Housing and Local Government. That was in the 1960s. I remember then how we were already beginning to face up, not only to the inadequate nature of the building, but to the very disturbing social consequences of the kind of building that had been carried out. We put a lot of effort into how we might turn some of the old terraced streets in our cities, for example, into attractive urban cottages, with space and the rest, to make communities and not just houses. However, I must not get distracted into nostalgic reminiscence.

I hope that the noble Lord will not be embarrassed by a surfeit of enthusiastic response on this side of the Committee to his proposition. I find myself, not for the first time, very impressed by his analysis and argument, and the vigour with which he pursues his case. I listened to the noble Lord, Lord Jenkin, questioning the issue of what is carbon neutral. This disturbs me profoundly. Here we are, in a situation of profound urgency, yet luxurious seminars are still being held all over the place discussing what is carbon neutral and what is not. When are we going to translate this real urgency that from every objective standard confronts us, into the urgency of action? If I look back at my life, I realise that my youth and formative years were during the Second World War. We were in the battle for survival, to preserve our land, and for humanity. We did not fuss about prescriptive regulations in those days. We did what was necessary to win the war. When are we in Parliament going to wake up to the fact that we are in a war situation. We are in the biggest strategic battle in the history of the human species to save the human species from the consequences of climate change and global warming. It is essential to turn this into specific action, and I cannot think of a more practical or sensible suggestion than to say that building regulations are a very good way in which to turn aspiration into effective action.

I have only one question. With the noble Lord's persuasiveness and very sound commitment and analysis, does not he feel that 2016 is a bit luxurious? Because of the urgency of the situation, should not we have an earlier date than that?

Lord Deben: First, I must point out to the noble Lord, Lord Jenkin, that we are committed to 2016 in any case. That is what we are going to do—it is what this Government have committed themselves to and what the previous Government proposed. It is one matter that we agree about. I have to declare an interest because I have a financial interest in a business that seeks to build houses of precisely this kind of format now. It is perfectly possible to do. We are building houses that meet the requirements. The issue is that, unless you build enough of them, the price is greater. It is true that if you build them in penny packets when everybody else is building another type of house, it does cost you more. But if you start to build them as part of the general run of things, the result is that you can build them at a price not unadjacent, as *Private Eye* would say, to the present price for building houses that are not on eco level 6—to use my own shorthand—which is, roughly speaking, what we are looking for. At the moment, a lot of houses are built at eco level 3; we do not build any at less than eco level 4 and we are moving a whole stage up. As the machinery of being able to build those houses comes into operation, you can build more of them.

I very much support the proposals of the noble Lord, Lord Teverson, because they underline the reality of what we can do. The noble Lord spoke of what was happening in Scandinavia and Germany, underlining the fact that, once you get the thing moving, you enable people to build to a price that does not make the market significantly more expensive. Most housing is done in units that are prefabricated in various ways; even in brick, many of the parts are prefabricated. They can be prefabricated to either a lower or a higher level; once enough of them are being made, the price begins to be not unadjacent to the price at present. It is perfectly possible to do it and we are committed to it.

I support the amendment because it says three things that are very important. First, it restates the commitment, and that is important because, I fear, a number of people in the construction industry have been speaking to some of my noble friends who do not want to do this. They have not done the work and do not like the fact that they are behind major companies such as Barratt and Taylor Wimpey that have done the work and know they can do it. They tell their shareholders that they do not need to do it because in the end the Government will give way. They are saying that the Government will not stick to 2016 and that they will save the shareholders a lot of money because they will not have spent money on research, and so on. The real way in which to let down the major housebuilders—which I certainly am not—who are trying to do this is to move in any way from the commitment to carbon neutrality at that date. The people who have spent the money in trying to make this work have been constantly dogged by the backsliders in the industry.

5 pm

I have a lot of criticisms of the previous Government because there was a lot of talk and very little action. However, the one thing that they did and got right was to give a date—2016 for this, 2018 for commercial buildings—and now we have to make that work. I very much support this amendment for this reason. Of course those people who do not believe in climate change will tell you that it cannot be done because they do not want to do it. They do not understand the urgency. They are not prepared to fight this battle. In that sense, they are saying the same thing as the people who always want to put something off because it will never happen. Of course it is going to happen, it is happening; we have to do it, and we have to do it rapidly.

As far as the definition of carbon neutral is concerned, it is not that we do not know what carbon neutral is; it is that we need to write down more clearly what has already been worked out by the Carbon Hub, the group of people working in this area. We have to write down precisely what will be acceptable to the Government in meeting their requirements. There are some details to take care of, but we are almost there. It has taken a long time, as my noble friend points out, because the whole industry has been involved in it. Green organisations and many others have been involved, and they are trying to get something that will stick. There is no doubt that it can be done—it is very close now. Most of us have been working to eco level 6, which is a perfectly reasonable surrogate for the detailed arrangements which will take place.

Therefore, my noble friend Lord Jenkin need not be worried. All the evidence is that we can deliver and manage this; unfortunately, there are some who would like us not to. I know that he is usually on the side of those who want to do things, and I am sure that he will be able to do it.

I will make one last comment, in the hope that I have established that I am on the side of the righteous on this occasion. What happened in the 1950s, when we came out of a period in which a Government totally failed to build any houses, has happened again in the past 11 years. The previous Government have had the worst housing record for building of any government in history; so they should not talk about this as if it were somehow a failure of Harold Macmillan, who was desperately important to this country. When I think of the housing conditions that were prevalent when my father worked at as a parish priest, I will not take lessons from Labour Members about their behaviour on housebuilding. The Labour Party did it again in the 11 years in which it was in government, when we had the worst housing record of any country in Europe. So they should not tell us that.

However, on this, we happen to be agreed, so I am very sorry that the noble Lord, Lord O'Neill, found the one thing that he could argue with me about. Let us unite in saying, "This has got to be done". The noble Lord is absolutely right that there is urgency, and I hope that the Minister will be favourable to what is an important reaffirmation of what the Government have already committed themselves to.

Baroness Maddock: My Lords, I support my noble friend Lord Teverson, and also the comments made by the noble Lord, Lord Deben. I want to bring it home to people is that this makes "eco-nomic" sense. The noble Lord, Lord O'Neill, delights in having arguments, but I agree with him on some of the points that he has made. I remember when I bought my first house, in 1966. It was a little box in Southampton, desperately

hard to keep warm. As some of you will remember, there were floor-to-ceiling windows in those days, and we had one of those picture windows, so trying to keep the house warm in winter was quite difficult and the bills were quite high. Then I moved to a newly built flat in Stockholm where the winter temperature was minus 27, and I say to my noble friend Lord Jenkin that to heat that house cost me less than it used to cost to heat this box with the picture window in England. That is when I got the bug about building proper homes.

I am going back to 1969, and we still have not got there. The longer we put this off, the more it costs us as a nation. We have been spending masses of money over recent years on projects to try to bring houses up to a reasonable level of energy efficiency. It is desperate that we stop doing it any longer. I say to the noble Lord, Lord Deben, over the years many housebuilders and other builders were very conservative and did not want to go with this, and we have been suffering from it ever since. We really must not listen to the voices of holding back any longer. It makes economic sense to stop going down that road.

Lord Oxburgh: My Lords, I, too, strongly support this amendment. Listening to the informative discussion by noble Lords, I have seen my foxes shot one after the other so I will not detain the Committee for long, except to agree that the industry with which we are concerned here is fundamentally conservative. If we wait until there is any indication from the industry that it is ready for this, we shall wait for ever. The only thing to do is to fix a date.

If the noble Lord, Lord Jenkin, with whom I so often agree, were to look at the regulations for vehicle emissions imposed by the state of California a number of years ago, he would see that the motor industry cried that this was totally impossible and would destroy the industry. Lo and behold, within a small number of years it was not only meeting the regulations but exceeding them. We have to fix a date and the industry has to work to it.

The Lord Bishop of Liverpool: My Lords, I also support this amendment. However, I congratulate the Government on the lead they have taken in this Bill. I also congratulate the opposition Benches because, when they were in Government, they gave an unequivocal lead on reducing carbon. It is great from these Benches to observe such common cause across the House. We need that.

I take on board a powerful point that the Minister has already made about having a light touch and not being overly prescriptive because it begs the question: when is legislation necessary? When in a process in a public debate do we need legislation? That question consumes this House on a number of subjects, but on this one it must be something to do with when the public attitudes do not yet match the public good. What we are agreed upon on all the Benches is that it is in the public good is to reduce carbon as urgently as possible. Public attitudes, however, are not yet that adamant. Many of us in this House are working very hard in different ways to try to change hearts and minds on this subject. However, in the light of public opinion not changing as fast as the climate itself is changing, we need legislation, which is why I support this amendment.

Lord Davies of Oldham: My Lords, this has been a fascinating debate, not just about contemporary and immediate housing policy, and the necessities that face us with regard to the threat of climate change and improving the carbon content of our housing stock, but about housing policy in history. I very much enjoyed the speech of the noble Lord, Lord Deben, and he made an important contribution to our deliberations this afternoon. We are as one with him on the importance of the date and of bringing into line an industry which, in the past in the United Kingdom, has not always been the most innovative and has distinctly conservative—with a small "c"—elements to it. It is important to realise that this Government, like the previous Government and all of us as a whole community, are determined on the issue of carbon content because it is so important in the battle against climate change.

The noble Lord will forgive me if I do not go into housing history but he might recall that council housing was introduced by a Labour Government. He might also recall, having cast aspersions on the immediate post-war Government, that there was a fair bit of reconstruction to do, other than to housing, from 1945 to 1951. He might also think with regard to the present housing situation that people have either to buy or rent these housesn so cost is important.

In the basic need of housing, we are rendering many of our fellow citizens vulnerable to a market that is under terrible stress at present. The imminent possible significant interest rate rises cause enormous difficulties for people who have to meet housing costs, which in Britain are so reflective of movements in interest rates. In these circumstances, he might think that those parts of Conservative Party history that have put us in this position may not make us well placed to encourage our community to respond to the necessity of this dimension of housing construction and housing need. For the immediate and foreseeable future—in terms of house building, 2016 is not very far away—people are bound to be constrained by cost and anxiety. The whole of the housing market is bound to be plagued by difficulties of people being unable to afford what they are committed to in terms of houses.

Having said that, I welcome the fact that all contributions to this debate responded to the noble Lord, Lord Jenkin; he has played a valuable part in identifying the proper anxieties that the Government should have, such as the fact that they have to weigh up the overall position of what can be afforded and achieved. Regulations require enforcement. Who is going to do that—local authorities, with their huge, abundant resources to train and develop the capacity to carry out this degree of scrutiny and control? In the immediate future, we are not looking at too rosy a picture on that front either. The noble Lord has identified our anxieties and the Committee—I hope that the Minister will take this message and respond to it—is

[Lord Davies of Oldham]
very strong in its commitment to this amendment, which offers a great deal to the Bill. We are pleased to support it.

Lord Marland: My Lords, that was a magnificent debate. I am very interested to have had a history lesson. It is a slight shame that the noble Lord, Lord O'Neill, provoked political crossfire, because both sides are completely aligned on this. I am delighted to hear about events in 1951 but I am surprised that the noble Lord is of an age where he can remember them—he looks so young. I take his lesson on board. We are all lucky to be able to look in the rear view mirror and complain and criticise, but that is not what we are here to do today; we are moving forward.

I declare my own interest, having been involved in a building project that is going before the planners today—obviously I am not involved any more—for a small carbon-neutral eco-village. I have been working with the Prince of Wales and the Prince of Wales Trust on further housing development in this area, so I am in the vanguard of everyone in this Room and completely in support of them, with perhaps the very mild exception of my noble friend Lord Jenkin, who I know supports the spirit of this measure but is more worried about the timetable. I do not need to take messages back to the Government; I am completely in the vanguard and supportive of the attitude of the previous Government and the current Government to this subject.

In the end, though, we must remind ourselves why we are here: to talk about the Green Deal, not about new housing, which is what the amendment deals with. I am delighted to take this matter back to my honourable friend the Housing Minister, who is fully committed to enabling all new homes to be zero carbon from 2016, and non-domestic buildings from 2019. In July last year, my honourable friend made clear the Government's ambitions for a low-carbon eco-friendly economy, with substantial and cost-effective reductions in carbon emissions forming an essential part of our effort. However, we are debating how we can improve the existing housing stock, not the new housing stock. On that basis, I invite my noble friend to withdraw his amendment.

Lord Teverson: My Lords, I have been seriously impressed by the debate. I actually enjoyed the history. I disagree slightly with the Minister: the 1950s are relevant because we are going to have to spend some £60 billion, or whatever it is, refurbishing the whole of the housing stock from that time, but otherwise I take his point. The historical perspective on this subject is a lesson for the future, which is exactly why I have tabled my amendment. A significant amount of the Bill is not about the Green Deal but about other things. The Green Deal, as I said in my opening remarks, is the most important, radical and needed aspect of the Bill and I congratulate the Government on it.

5.15 pm

There has been questioning, uncertainty and rumour-mongering among the industry about the 2016 date being perhaps optional, and that it might not be enforced. I absolutely agree with my noble friend Lord Deben that if these sorts of deadlines are ever moved away from, it is those who have taken the lead from the Government and invested in the future who will suffer most from that change.

I thank all noble Lords who have supported the amendment. I, too, believe that this is all about scale and moving forward. There are challenges. The price of houses is clearly important—I would not say that it is not—but every technology has shown that moving up in scale in production and volume means that prices reduce. I was trained as an economist and that was one of the first lessons we were taught.

I welcome the Minister's reaffirmation that that date is going to stick. I should still like to see the amendment in the Bill, but the most important thing is that the Government have again taken on the commitment made by the previous Government. That is important. The fact that my noble friend the Minister has restated that today is excellent. On that basis, I beg leave to withdraw the amendment.

Amendment 29 withdrawn.

The Deputy Chairman of Committees (Lord Brougham and Vaux): If Amendment 29ZA is agreed to, I cannot call Amendment 29ZB because of pre-emption.

Amendment 29ZA

Moved by ***Lord Judd***

29ZA: Before Clause 61, insert the following new Clause—

"Proposals for local carbon budgets

(1) For the purposes of ensuring local authorities assist in meeting the United Kingdom's carbon budgets under section 4(1) of the Climate Change Act 2008, the Secretary of State must report to Parliament on proposals for introducing local carbon budgets by December 2011.

(2) These proposals shall—

(a) apply to all carbon authorities, as defined in subsection (4);

(b) set for each succeeding period of five years, beginning with the period 2013–18, an amount for the net emissions from each carbon authority area consistent with the overall emissions reductions required to meet UK carbon budgets.

(3) The Secretary of State shall subsequently report annually on emissions reductions from carbon authorities as part of the annual progress reports and responses as defined under sections 36 and 37 of the Climate Change Act 2008.

(4) For the purposes of this Part—

"carbon authority" means any of the following authorities in England—

(a) a county council;

(b) a district council;

(c) a London borough council;

(d) the Common Council of the City of London in its capacity as a local authority;

(e) the Council of the Isles of Scilly;

"UK carbon budget" means a carbon budget set under section 4(1) of the Climate Change Act 2008."

Lord Judd: My Lords, I think that every member of the Committee regards himself or herself as fortunate in having such a genial Minister handling this subject. I might say that he is genial not only in Committee

and private conversation, but in his correspondence. I thank him for not only his letter to me about his concerns, but the very seductive handwritten comment at the end, which is always the mark of a Minister who is on top of the job.

Lord Marland: Is the noble Lord accepting my dinner date or not?

Lord Judd: I will come to that. I genuinely have no doubts about his intellectual and, indeed, moral commitment on these issues. I have talked with him and I know that he feels deeply about this. I therefore hope that he accepts that much of what we are saying in Committee is to support him in the debates which always take place within Whitehall about turning generalised aspirations into effective action.

I remember in the opening deliberations on the Bill at Second Reading that very powerful speech by my noble friend Lord Giddens. I am sorry that he has not been able to be with us in Committee, but, given all his experience and qualifications, he left no one in any doubt about how he saw these issues as imperative and needing the highest priority. I am sure that he would not mind me telling the Committee that not long after that speech, I went to a meeting elsewhere in this building to which he had been invited to speak on the subject. He started his remarks—which again were very telling—by saying that his message was so grim and would fill so many people with despondency, because of the urgency of the situation, that he wanted to start his remarks with a joke. He said: "There were two parrots. One said to the other, 'I'm not feeling very well today'. The other said, 'I'm sorry. What's wrong?'. The first parrot said, 'I think I have a touch of the homo sapiens'. The other said, 'I wouldn't worry, it does not last very long'". That was a very sobering way in which to start his remarks.

My amendment is very much in the context of the discussion that we have just had on the previous amendment. I have heard for too long the repeated and vehement expression of aspirations. This is not a partisan point—it happens right across the Floor. Because of the urgency and the challenge to the survival of the species, we must really start being specific about this. It is no good just having targets and systems; we must have specific arrangements and measures to ensure that things are happening fast and effectively. That is why I have tabled my amendment.

I applaud the amendment proposed by my noble friend that comes after this one, and I fully support it, but I wanted to spell out some of the specifics, as they strike me. The Committee on Climate Change has said very firmly that a step change in action is needed if we are to meet UK climate change commitments. The vast majority of UK emissions—some 80 per cent—result from local activity, how we heat and power our homes and workplaces and how we get around. As well as getting the big national decisions right, reducing local energy use is really critical. Local government is in a strong position to lead and co-ordinate this local action. There is some outstanding work by trailblazing councils working with their communities to roll out strategies that create green jobs, cut fuel poverty and reduce traffic. But, nationwide, not nearly enough is happening. The challenge of climate change is too grave and urgent to be left to just those councils that choose to prioritise action.

The coalition—and I am sorry about this—has scrapped the local government performance framework, including the framework for councils to act on emissions reduction. From what I hear and read, early signs are that the result of this, and of other spending cuts, is the deprioritisation of action, with moves to weaken targets at the very time when they should be strengthened, the mothballing of area-wide strategies and the sacking of climate change officers. That is the reality of what is happening on the front line—the exact opposite of what we have all just been getting passionate about. A nationwide system is clearly needed to support councils and ensure that emissions come down in every local authority area.

I emphasise that I very much support my noble friend in her later amendment, but I should like to draw out the fact that councils that are trying to do the right thing are telling us that making action on climate change a core responsibility helps them to prioritise action alongside other duties at this time of economic pressure and spending cuts. I emphasise, too, that council leaders are calling for the system to be linked to the ambition of the Climate Change Act. Councils that are already delivering on strategies to cut emissions by at least 40 per cent by 2020 are demonstrating that acting in line with the Climate Change Act may be ambitious but it is realistic. The aim of what is proposed in this amendment is to ensure a step change in action while empowering local people to decide on the emissions-cutting measures that will best serve their communities. I beg to move.

Baroness Smith of Basildon: My Lords, I shall speak to Amendment 29ZB and also about the general principle of local carbon budgets, on which we have tabled two other amendments. We have just heard the noble Lord, Lord Judd, and the noble Lord, Lord Deben, will also speak on this issue.

At the start of discussions on this Bill, I suggested by way of an amendment that the Government should seek to quantify the level of carbon reduction they are seeking to achieve with this legislation, either directly or as a by-product of legislation, given that in improving energy efficiency we reduce carbon. The noble Lord, Lord Marland, said that he was in complete agreement on the relevance of the Bill to carbon targets and to the fuel poor. Today we are seeking to build on that agreement and that relevance.

The value and purpose of local carbon targets is quite evident. Local authorities were very keen to take up the previous Government's pilot schemes which examined how carbon could be reduced by setting targets locally. The success and popularity of these schemes is quite significant. There is fairly widespread support for this approach. The Minister will be aware of the support from his ministerial colleagues, not just from his own department but from other departments as well. The Minister's noble friend Greg Barker has said:

"It can't all be done from the centre. We can put in the big infrastructure",

[Baroness Smith of Basildon]

but,

"fundamentally this is a transition that has to",

have the active engagement of people locally. He added:

"I'm working now with my officials, having worked very extensively with Friends of the Earth in opposition, on local carbon budgets to try and come up with something that is effective, that is fair and useful, but also doesn't impose undue burdens on councils".

The key is the real difference that having local carbon budgets could make.

I am disappointed that since the 2010 spending review we have pulled back and local authorities are no longer required to choose which national indicators they wish to report on. The Department of Energy and Climate Change will still produce local carbon figures, so we are still recognising the relevance of local carbon reduction. This Bill, which already works with local authorities, is an ideal opportunity to bring forward these kinds of measures and work with local authorities and I am grateful to the Minister for the opportunity to raise this.

This issue has some very key supporters. One of the things said quite rightly by Greg Barker is that we have to find a way that is fair and effective but does not produce undue burdens on local authorities. The attitude of local government to local carbon budgets is one of support; clearly they would not support anything they considered placed undue burdens on them.

The Minister may have seen the letter to Secretary of State Chris Huhne from local authority leaders of all parties—Councillor Barbara Janke, the Liberal Democrat leader of Bristol City Council; Sir Richard Leese, the leader of Manchester City Council which is of course Labour and Councillor Mike Heenan, Conservative leader of Stafford Borough Council. There were pages and pages of local authority leaders of all parties who want to support this. I am sure the other noble Lords received the same letter I did from the leader of the Conservative-controlled West Sussex County Council, Louise Goldsmith, as well as from Barbara Janke and Sir Richard Leese.

These council leaders, players not only in their local authority but in their community, would not be seeking to impose burdens on their local authority if they thought they were ineffective, or that they were too costly or that they would not work. They are proposing them because they know they can do it and they know they can make a difference. The Localism Bill is very interesting but one of its big problems is that local authorities may not have the money to implement some of the things they wish to do. This amendment is an opportunity, in the spirit of localism, to introduce measures to have local targets to meet carbon budgets.

5.30 pm

The Government's attitude is interesting. I see that the Minister is reading his notes at the moment. I have sat in his seat on many occasions, and the file comes along with a piece of paper on which is the amendment, the explanation of the amendment and the word "Resist". It then gives you the reasons to resist. I urge the Minister, in his usual style—I congratulate him on the co-operation that he has shown to the Committee; it really has been rewarding for those of us putting forward alternative suggestions to have a Minister who has been so willing to listen and take matters back—to tear up the piece of paper that says "Resist". This is something that we can achieve; we can make a difference. Across Government there have been discussions with Friends of the Earth and Ministers from his own department and from the Cabinet Office. If there is that level of interest from the Government, the Minister can make his mark on the subject with this Bill.

It is unusual to get such widespread support throughout local government and across the parties without question, as well as from the Federation of Small Businesses. I have received a letter from Francis Wood from the FSB, who says:

"The Federation of Small Businesses fully backs the local carbon budget approach. Small businesses want to play their part in the fight against climate change and enjoy the benefits of being more energy efficient. However, we need a framework that is flexible and supportive to encourage small businesses rather than penalise them".

The letter then talks about all the different things that the federation wants to do and how it has worked with local authorities. It continues:

"Meeting the Budgets will require councils to work with local business, as well as residents, community groups and other stakeholders. The London Borough of Islington which has committed to cutting carbon emissions in the local area by 40 per cent by 2020, has placed this co-operative approach at the heart of its plans by establishing a Climate Change Partnership which has brought together 150 local organisations, including many small businesses".

Francis Wood is of the view that local authorities working together with small businesses boosts local business and local employment, citing the examples of,

"offering free solar panels and efficiency advice to residents and businesses".

So, in order to ensure that local carbon budgets work effectively, we think that they need to be mandatory and set out in law.

There is also the role of the trade unions. The GMB has been in contact on behalf of the workforce that works in these industries, and it is very supportive of local carbon budgets. It sees not just see the impact on its workforce in terms of employment but, if we do not reduce carbon, the social, environmental and health impacts on us all. There are reasons why there should be very clear measures.

I draw the Minister's attention to the report from the Audit Commission. The commission, as all Ministers from past and present Governments will be aware, is pretty hot when it comes to seeing if there is value for money or waste. It looked at the impacts in National Indicator 186 on local action on climate change. It is unfortunate that the Government got rid of NI 186 before it really had a chance to bed in and show what it could do. As it says, it was very new at the time of its abolition. Two reports tried to capture whether having local authorities signing up to that national indicator to reduce carbon locally could make a difference, and their view was that these national indicators, with their signed-up commitments from local authorities to reduce carbon, provided additional momentum. The targets were good but they were a small start. One of the reports said that, although NI 186 had its weaknesses, it,

"prompted concerted action for the first time".

So, across the board, auditors, the Audit Commission, business and local authorities want the Government to act, and every indication from government Ministers to NGOs and other organisations is that they also want to act.

I do not pretend that our amendment is perfect; we are happy to discuss its wording and its location in the Bill. We are seeking the commitment that has been made to the principle in private to be put into the Bill, so that as a Parliament we can work with local authorities to make a difference and get the change that we all want to see.

Lord Deben: It is most important that we should consider these three amendments as one because they are seeking to do the same thing. I do not have any pride of ownership for my own amendment, I just want to raise some of the issues which the noble Baroness, Lady Smith, has brought forward.

It is right to say that this is a cross-party concern. There is no division between us on this and it is supported by all sorts of places, some of them not wildly likely. I would like to take up the comment of the noble Baroness about the word "resist". There is another part which happens before that, as all of us who have been Ministers know, and that is when civil servants say, "Better not, Minister", a phrase I remember very well. This seems to be one of those areas.

My only disagreement with the noble Baroness is this: perfectly rightly, the Government saw the particular way of reporting that we have had before with local authorities having a number of drawbacks and fitting into a pattern which the incoming Government were unhappy about. But because one gets rid of something one is unhappy about does not mean that it is better not to put something in its place, where that seems sensible. Here it is sensible. The first reason for this is because of the Localism Bill. If you get rid, absolutely rightly, of regional government and the rest of it, you are going to ask local authorities to co-operate with each other. They need a framework within which they can co-operate. This is one area where they will have to co-operate. In the borough of Ipswich, for example, much of the urban area of Ipswich is in the Suffolk Coastal district council area. To do the thing properly, local authorities will have to co-operate over the boundaries. Therefore I support this kind of structure which will enable people to start off with the same basis, so they know how they are going to do it.

I shall have the pleasure of chairing the Suffolk-wide green conference which we have every year to promote exactly these things. In an entirely Conservative-controlled local authority, county and district, everyone believes that this is a necessary part of doing what they want to do. Suffolk wants to become the greenest county because it wants to force other people to compete with it, and that seems a good thing. The Minister may have been advised that it is not necessary because this is all voluntary and we will all be doing it happily together. We are not asking for compulsion, we are asking for a framework within which people can use their several and different talents to do this job properly.

All the amendments, certainly mine, show the need to take seriously the fact that we will not meet national carbon budgets unless we meet local carbon budgets. I have spent most of the past 10, 12 or 13 years trying to help big businesses change so that they become much more corporately responsible and concerned about these issues. I have become more and more passionate about the practicalities of doing this rather than the high-flown rhetoric. The more one does it, the more one wants to say, "Can I tell you how you can cut your energy by 13 per cent simply by using some kind of regulator of the voltage? Can I help you to do these things in a simple, basic way?".

When I looked at the Bill it seemed that the one failing I wanted to correct is that we need to engage local authorities so that they feel that they have a real part in the achievement of the Green Deal. That is why this is so important. It is to get the local authorities to think that the Government have said that if they are going to achieve these things, if they are going to do these things, local authorities are an essential part of it. A lot of the practical nuts and bolts, which is what the Federation of Small Businesses is saying, have got to be put together at the local level by the local authority working with its own community. That is why my amendment refers to working,

"in partnership with local residents, businesses and"—

I hate the word "stakeholders" but it seems to be compulsory—

"stakeholders including schools and hospitals in drawing up and carrying out the strategy".

The joint strategy referred to specifically in subsection (2) of the proposed new clause draws attention to that co-operative element which the Localism Bill will have and points out that CO_2 is not a respecter of county or district boundaries. It is very important to make this part of the way in which we proceed.

Lastly, I have suggested that we should ask the Secretary of State to introduce the local carbon budget scheme to begin at the start of the second national carbon budget period.

I would like to pick up something that the noble Lord, Lord Judd, said. We do not have a long period of time to decide when it might be convenient for this or that to happen. The timetable before us is dictated by the climate change which we have caused. I will not get back to housing, but if we had known about this at the beginning of the Industrial Revolution, we would have done things rather better. But we did not. Now we are having to pay the price for what was vastly beneficial for the United Kingdom. We have a bigger responsibility than any other country because we got a bigger profit out of it earlier on. What is happening now is something that we caused—not quite alone, but certainly we were the leaders in what has caused the climate change that we have, because it takes that much time to work through. Therefore we have a huge moral responsibility to put this right.

There is an urgency here. In everything we do we should be asking the Government to sign up to that emergency by putting dates on it. We have had too many pieces of legislation. I remember a White Paper on energy in which the only date was 2050; every other date had been taken out. I think that even the noble Lord, Lord O'Neill, will accept that, if you take out every date which the Government are unlikely to live to see, it does not make for a sense of urgency. I am

[LORD DEBEN]
very keen on having things that everybody in this Room will see. Therefore I ask the Minister to take this extremely seriously.

Lord O'Neill of Clackmannan: I am very happy to follow the noble Lord; I broadly support his amendment, along with the other two. There is a degree of repetition, but that in itself is not a problem. As we were listening to his remarks, I was almost tempted to do an AV Bill-type speech here—but I am not going to. As I think I have said before, those of us who laboured in the Augean stables of Scottish legislation in the past have over the years learnt how to make a rather thin line go quite a distance.

I am interested in something that the noble Lord, to an extent, alluded to in his remarks about the start of the Industrial Revolution. When you have been in the House of Commons for a time, boundary changes become a regular feature of your life as a politician, and quite often you move with the changes. Over the years, as a Member of Parliament, I had dealings with about five different local authorities. I do not want to go through them in great detail, but I had five coal mines in my constituency which fed coal into a power station in a different local authority, and that power station generated 2,400 megawatts of electricity. That is an awful lot of smoke going up the chimney and a fantastic contributor to pollution within Scotland. The coal mines have closed, but the power station is still generating.

Across the River Forth was the petrochemicals complex of Grangemouth, which was in Falkirk local authority; and adjacent to that was Bo'ness and one or two other places where there were petrochemicals and hydrocarbon facilities. Then you had Clackmannanshire, where there was, I think, the biggest bottle-making plant in Britain—again, spewing out industrial waste of all kinds. We also had timber-processing plants near Stirling, and the like. Therefore, in an area of 40 to 50 square miles, you had an incredible amount of pollution. The local authority is trying to keep tabs on this. It does not have a clear and specific obligation to try to reduce the pollution, although it has a kind of moral obligation to do so. However, I think that authorities would be anxious about co-operating on a collective basis to reduce carbon emissions and enhance the energy efficiency of these communities, because very often the pollution moves from one area into another simply with the wind gently pushing it along.

5.45 pm

I stress that these are the areas where the greatest amounts of environmental pollution are created. People know about it but I think that they would like an indication of how—to the extent that they are required to do so—their local authorities are addressing the issue. I think that this would be a fertile area of activity for primary schools, drawing up league tables and getting people in to find out what was happening. The doctrine of "unripe time" is perhaps the most seductive of all reasons for government inaction or inactivity. Therefore, I shall join the chorus of those advising the Minister to ignore the folk behind him and recognise that there is consensus in this Committee in favour of carbon targets at a local level. It would greatly enhance public awareness of our international obligations if they were translated into local terms.

As has been said, ultimately national obligations can only be met through local commitment and local achievement. If local authorities are saying, "We are prepared to do our bit by working within budgets", it is only right that they should be given, individually or in concert, the opportunity to come together and establish what they would regard as a reasonable carbon budget. We should push for national discussion about the targets that we have set ourselves as a nation. Whether we are talking about large local authorities such as Birmingham and Manchester and the associated boroughs around them or the devolved Administrations in Northern Ireland, Wales and Scotland, each should assume responsibility in its own way. We cannot continue to just amble along and hope for the best—a position that I think the Whitehall machine would prefer us to adopt or stay with. As I said, this is not a party-political point; I am simply saying to the Minister, for whom I have a great deal of regard, that he should tell the people behind him that these folk are making more sense than the dead hand of bureaucracy would have him believe.

I am not saying that I hope we will necessarily embrace all or any of the amendments that are currently before us; I simply hope that the Minister will be prepared to go away and provide a distillation of the best of all three amendments and give us something to vote for when we reach Report.

The Lord Bishop of Liverpool: My Lords, I, too, support the thrust of the amendments. I completely agree with the arguments that have been put forward by the noble Baroness and the noble Lord, Lord Deben, and shall not repeat them. However, I should like to emphasise two points. First, we hear a lot of talk about whether initiatives should be top-down or bottom-up. However, these amendments—especially the one tabled by the noble Lord, Lord Deben—bring top-down and bottom-up together, and I hope that in that pincer movement we shall begin to change local opinion. Secondly, the north-west is the most renewable energy-rich region in the whole of the United Kingdom. I have before me the local carbon budget of Liverpool City Council and that of the city region. These are very important documents. Indeed, the Prime Minister was recently in Liverpool and on Merseyside with Peel Holdings, the biggest property owner in the region, which is already a partner in setting up a consultation on looking at the tidal barrier for the River Mersey. These are really important initiatives. However, I am concerned that the leader of Liverpool City Council estimates that over the next four years the city will lose about £1 billion of inward investment. That is a serious blow to any community. However, the council is committed to the low-carbon initiative. The leadership of the city and the region needs this sort of legislation to protect it from the pressure that will inevitably come when hard decisions need to be made.

We believe, as we have already rehearsed, in the urgency of reducing our carbon emissions. That now needs to be translated into protection for people at the local level who also believe in it but need our legislative support to deliver it.

Lord Teverson: My Lords, I am going to speak personally here: I welcome the passion of the noble Lord, Lord Judd, on this subject and on the previous amendment; he has brought us back to what it is all about—the fundamentals and challenges of climate change.

I am a member of a local authority. In the previous amendment I should have declared my interest as chairman of a regional development property company, although I am not involved in domestic dwellings.

I have a couple of questions. I agree that local authorities are fundamental to making the Green Deal work and helping to deliver our carbon targets nationally. I welcome particularly the various transition town organisations that have sprung up throughout the country, due sometimes to the frustration of the local authorities regarding their lack of performance in this area, and are trying to move this whole agenda forward.

One of the things that I have learnt from my European experiences is that if institutions do not have the power to change things, you should abolish them rather than invent more of them, which is what tends to happen in Europe. It is a challenge that we have our own carbon budgets at a national level and, even at that level, the levers to make them happen are there and valid, but a number of those are beyond the reach of the UK Government. Car emissions have been mentioned; that is a European single market decision. The way that UK carbon budgets have been set up and brought together means, strangely enough, that in the whole of that carbon area, if we have huge improvements by industry covered by the EU ETS, they are not reflected in the performance of UK plc.

There are other areas, not the least of which is nothing to do with Governments—offshoring. One of the easiest ways for certain local authorities not to meet their carbon budgets would be to rely on that the fact that major employers move or cease to exist. I am in favour of these proposals in principle, so I would like to understand what levers local authorities have in order to have a real effect on carbon emissions in their areas. There is a persuasive power, which is important, and a co-ordination power, but I would like to understand from the proposals how it is felt that what I see as a relatively powerless local government—in comparison with the golden days in the 20th century and early this century that we were talking about—fits in with that.

I have a personal plug to make as well about something that I feel is important. An issue for all carbon budgets is that we should look at carbon consumption within an area as well as carbon production. That way you get rid of offshore issues and that sort of thing. We cannot achieve this to that level of sophistication, and I am not asking for it in terms of a local area, but I would like to hear how local authorities can affect those carbon budgets to make this exercise necessary. This is important as local authorities are essential to delivering this package, but we should be careful before putting too many obligations on local authorities to ensure that they are able to deliver what we want them to.

Having said that, I understand that a number of major local authorities are promoting this—I know that Bristol, a Liberal Democrat/Labour authority, is one—so I am sure that the answers are there.

Baroness Smith of Basildon: The noble Lord asked if the promoters could tell him what local authorities could do. I admit I am rather surprised that, as a local councillor himself, he asked the question, because he knows about Bristol. I know that the Minister is anxious to reply, I hope positively. Perhaps I may draw the attention of the noble Lord, Lord Teverson, to the local carbon framework pilots. I can give him the information, although it is easily available, on the work already undertaken by local authorities. Bournemouth, for example, has encouraged microgeneration in the domestic sector and production of energy from waste. There has been retrofitting for homes in Bristol. These pilots undertook a number of programmes to see what levers local authorities have and what practical measures they can take. It is because the outcome of those pilots was successful, that not just I but all noble Lords would feel confident in putting these proposals before the Committee.

Lord Teverson: I thank the noble Baroness for that. My comment would then be that that shows how important local authorities are in this area. A number of them are probably significant as a proportion of total carbon within their regions.

Lord Marland: This has been yet another challenging and interesting debate. I notice that the noble Lord, Lord O'Neill, has gone for fear of being lynched by the officials behind me. Or perhaps he has gone to speak on the first amendment still being considered on the parliamentary voting systems Bill. We will miss him, of course. I thought that at one point he was probably in the wrong Chamber, but all his views are valuable.

I agree with the noble Lord, Lord Teverson, that the noble Lord, Lord Judd, made a passionate speech—as you would expect from someone who feels very passionately about this matter. I personally thank him for his kind comments. It is a great shame that the noble Lord, Lord Giddens, is not here. He has challenged me to a game of tennis, and my fear is that he is practising in order to try to beat me. That may be his excuse for not being here, but he made a very good speech at Second Reading.

The noble Lord, Lord Deben, comes to this issue with great experience of local authorities, and I am grateful for the amendment of the noble Baroness, Lady Smith of Basildon, on this subject. I should be interested to see the report to which the right reverend Prelate the Bishop of Liverpool referred. As he rightly said, the north-west is energy rich. We should be tapping into that, and I am delighted to hear that Liverpool is making strides within the local authority. Every person in this room—not everyone perhaps, but most of us—is looking to drive carbon reduction in every way. We are committed to it. We feel strongly and passionately about it. We want to see it happen, and we want to see it happen urgently. That is the strand of this debate.

Regarding the Green Deal, which is really what we are here to debate, our initial research revolved mainly around how local authorities could buy into this programme. It does two things. First, research shows that local authorities are among the most trusted

[Lord Marland]
when it comes to people's homes. They have become good exponents of the Green Deal. By working closely with some of the building merchants and others, local authorities will be able to sell the Green Deal, because they will be trusted, and can advise on it. A definite incentive will be introduced for local authorities. If at some point the local authorities are not seen to be buying into the Green Deal—which I think is highly unlikely, because there will be great financial benefits for local authorities in this—we must bring in some form of regulation, where possible, within the remit of the Department of Energy and Climate Change, given that we are not the department that is responsible for local authorities. We must encourage a greater take-up. Our initial findings—I think that the right reverend Prelate said as much—are that there is a big take-up from local authorities, they are enthusiastic about the Green Deal and they want to participate vigorously.

6 pm

It is true that I have "Resist" written in my briefing notes against every single amendment, and it may come as a surprise to hear that, having heard the arguments for the Energy Bill, we are going to consider inserting, through Amendment 31, a new clause under which local authorities will be required to produce a sustainable energy plan to help in rolling out the Green Deal. We have therefore considered the matter but the early indications are that we do not need to give local authorities greater encouragement.

Localism, decentralising and investing power in local authorities to act are part of this coalition's philosophy. Therefore, it would be wrong for us to impose on them top-down regulation, referred to by the right reverend Prelate, to carry out something when we do not yet know the extent to which they will have to carry it out. Yes, they have carbon commitments; yes, we must hold them to those carbon commitments; and yes, we believe that we have found a product that will encourage them to hold to their carbon commitments. If they do not, we will take the action within our remit to ensure that that takes place, working very closely with other departments that can provide support for this, as we have been doing throughout this process. I thoroughly support what the noble Lord, Lord Judd, said. Our war on carbon is fundamental to the Green Deal and that is why we largely have consensus in this Committee. Therefore, I invite the noble Lord to withdraw his amendment.

Baroness Smith of Basildon: Perhaps I may ask the Minister to clarify a couple of points. I am sad to say that I am disappointed with his response. The Green Deal is only one part of what is being put forward here with regard to local carbon budgets. The Bill is not just about the Green Deal; it is also about reducing emissions, energy efficiency and the private rented sector. Therefore, I am disappointed that the Minister cannot look at this issue more carefully.

With regard to localism, he said that he cannot impose powers on local authorities. However, we are not seeking to impose; localism is also about giving local authorities the powers that they ask for, and in this case there is a very clear cross-party steer from local authorities unanimously seeking these powers.

The Minister also said that he did not feel the amendment was necessary because local authorities are going to buy into the Green Deal. He said—I wrote this down as he said it—that there are great financial benefits for local authorities to buy into the Green Deal. Can he tell me what those financial benefits are, because that may well help local authorities when they are seeking to do something about carbon budgets? I hope that the Minister can take this matter away and think about it. If he does, he will see that there is very strong non-party support for it in the Committee. I think that we would all be happy with any wording as long as there was a report to the Government. However, I urge him to think again and not dismiss this matter out of hand, particularly when his ministerial colleague, Greg Barker, has talked about his discussions with organisations such as Friends of the Earth and said how keen he is to pursue this issue.

Lord Marland: The first point is that these amendments come under the section relating to the Green Deal, apart from the amendment in the name of the noble Lord, Lord Deben, which comes along later. The substantive issue here is the Green Deal, but the other substantive issue is that it is not for us to impose on local authorities what they should and should not do. As I said earlier, it is for us to produce a product that they are incentivised to put into homes and which they encourage other people to put into homes. This is what we are doing with the Green Deal. There are other elements relating to the energy sector, and of course we will encourage local authorities to set themselves achievable carbon reduction targets. However, it is for local authorities to buy into that; at this point, it is not for government to be prescriptive. I know that it is a tradition of the Labour Government to decide what everyone must do, and when and where they must do it. However, that is not the tradition of this Government. We are saying, "Here we are. Here's an opportunity. Get on and do it".

Lord Deben: It is not from the Labour Government that this comment comes. This amendment would impose something on a local authority to enable them to do things in common. If we do not do this, different local authorities will not easily be able to do things in a common structure so that they can actually work together. There is a practicality there. Furthermore, it does not impose anything on them to say that they have to produce a carbon budget. If they really want to be difficult, they can always produce a budget that does not mean very much, but then local people will know what they have thought of this. There is a very important localist and democratic position here. I want to know precisely what the Mid-Suffolk District Council thinks about these issues and what its carbon budget is. Happily, I think that I know the council well enough to go round there and bang on their door and say, "I really want this". But it is a piece of information that the public should have.

I ask the Minister to think again about this being an imposition. It is a request to ensure that local authorities can work together and that the public can know where they are on these matters.

Lord Marland: I am not denying any of this. In an ideal world, that is what we would do, but it is up to the Department for Communities and Local Government, not our department, to ensure that there is a common theme running through this. Of course, we are working very closely with them to ensure standardisation. It is absolutely in our department's interest, and the Government's, that local authorities come up with a standardised plan. Of course, we are working within Government to try to achieve that, but it is not for us in this debate to be prescriptive of local government on what it should and should not do. It is for us to carry back the views of noble Lords to other departments, which is what I intend to do, and to make these valuable suggestions. That is the point that I am trying to make.

Do not get me wrong. I repeat what I have said: we are absolutely committed to driving down carbon emissions. It is a very important target for this Government. We have to get the 10 per cent reduction through government—it is a government diktat. That has to be achieved through the local authority and, if the local authority department does not drive it through, local authorities will be exposed in the tables that will be produced about reducing carbon emissions. So there is a mechanism. If local authorities have any sense, of course, they will try to standardise among themselves, but it is not for me today to make commitments. It is for me to take back these suggestions and report them back to the various departments.

I apologise for momentarily suggesting that this was to do with the Green Deal. Of course it is not; it is to do with the Bill as a whole. The noble Baroness was quite right to point that out, and I take back the comments.

Baroness Smith of Basildon: I would not want the noble Lord to think that we have any doubts about his commitment to reducing carbon and ensuring that this Bill is a success, but I do not think that he has understood the point that the noble Lord, Lord Deben, and I made about this not being a pressure or a duty on local authorities other than one that they seek for themselves.

The Minister said that there were great financial benefits for local authorities to bind the Green Deal. This will be significant in this debate and further debates, although we are not talking about the Green Deal at the moment. I appreciate that he may not have the information available, but it would help us to see whether there are other ways to achieve this objective for local government.

Lord Marland: I can answer that immediately. If local government is working with two or three suppliers, it may enter into a binding commission-sharing arrangement or something like that. So there could be financial benefits in supply or in being one of the registered assessors or accreditors, when there may be charges on behalf of building merchants, and so on. That is where there are potential financial benefits.

Lord Judd: My Lords, I thank everyone who has participated in this debate. It has been a privilege for me to propose my amendment in the company of other amendments with so much commitment behind them. I hope that noble Lords in all parts of the Committee will understand this, but it is very cheering to me to know that we have as our principle spokesperson on our side of the House someone who is not only well up to the job with regard to the detail but also has a passionate commitment to the strategy.

The Minister has a rare opportunity. There is widespread, deep commitment across the political divides in this House. That is a good moment in political history and it is a moment of opportunity. It should not be dissipated. We have heard it evidenced by several contributions from different parts of the Committee that he has the good will and firm commitment of local authorities and also of many key people in industry. This is a very powerful combination, and history will take it ill if we are not to seize this moment of opportunity and move firmly forward.

I was impressed by the strictures of the noble Lord, Lord Deben, about our own responsibility for the problem that confronts us. We will not get this right simply in terms of what we do ourselves in this country; we will get it right by combined international action. With his experience, I wonder if he would agree that one of the difficulties in generating the necessary positive and dynamic international consensus is the issue of credibility and leadership. An awful lot of people look at us telling them what they must do and say, "Excuse me, who caused the problem?". They go on to say, "What are you doing about it?". Therefore it is not just in our own immediate tactical self-interest as a nation; it is crucial in getting the international dynamic right that we are seen to take urgent action, and I am sure the Minister takes that point.

The noble Lord, Lord Deben, also referred to the fact that we could not play our part fully without taking into account what should be done by local authorities. He will recall that in my own remarks I made it plain that some 80 per cent of UK emissions result from local emissions and that therefore the local dimension is crucial.

In asking the Minister to take this debate very seriously, as I am sure he will, I make another point. I was slightly concerned that we might drift into an intellectual structural debate about whether we did things centrally, top-down, or whether we did things bottom-upwards and with voluntary co-operation. Life is not like that. You get the dynamic action by the getting the balance right between the two. You need leadership and you need opportunity for those people at the local level who have taken the message to take it forward. That is why the points that have been made about having the necessary support and encouragement for them is so important. It is also necessary to give them the opportunity of mechanisms that are put in place which they can seize and which they have to take seriously.

One might not be spelling out the detail, but one is saying that these things are required of you in terms of telling us what you are going to do. We are not telling you exactly what to do but we are expecting you to be taking action in this sort of way. I go back to the war situation: either we are in a battle for humanity or we are not. If we are in such a central battle, we have to look for comparisons with what we did in the Second

[Lord Judd]
World War and the rest. I make that point seriously; it is of that degree of significance and gravity.

I would like to thank everyone and I wish the Minister well. It would be wrong to drive him into a corner unnecessarily at this juncture. We are looking a situation where he comes back at a later stage in our deliberations, having digested and taken very seriously what has been said, and convincingly meets the arguments. I thank all noble Lords, and I beg leave to withdraw the amendment.

Amendment 29ZA withdrawn.

Amendment 29ZB not moved.

Baroness Northover: My Lords, this is a convenient moment for a short break, as is usual. Perhaps we can reconvene in 10 minutes.

6.15 pm

Sitting suspended.

6.25 pm

Clause 61 : Promotion of reductions in carbon emissions: gas transporters and suppliers

Amendment 29A

Moved by ***Lord Jenkin of Roding***

29A: Clause 61, page 42, line 23, leave out subsection (6)

Lord Jenkin of Roding: My Lords, we move to Chapter 4 of Part 1 and the clauses which encourage the energy industries to do much more in the way of carbon reduction. I do not need to go into the details of the clauses, although someone may want to make a speech on whether the clause should stand part.

Clause 61 applies to the gas industry and concerns the powers of the regulator and the obligations on the companies. In a sense, it replaces what was happening under the CERT programme. Clause 62 does exactly the same thing for the electricity industry. I shall discuss Amendment 29B at the same time because it concerns the same issue as Amendment 29A.

This matter has attracted the attention of the Delegated Powers and Regulatory Reform Committee. Whereas most of the regulations under these clauses are subject to the affirmative procedure, under subsection (6) in each case certain of the regulations will be subject only to the negative procedure. When the Delegated Powers Committee looked at that, it recited the department's arguments as to why there should be this distinction, the department arguing—I am quoting from paragraph 12 of the report—that the matters are,

"'less central, more technical' and 'essentially administrative'".

The committee then said that it did not find this argument persuasive. It remains unconvinced, for instance, that the provision enabled by new paragraph (c), which specifies the method for determining the contribution that any action makes towards meeting a target, falls into that category any more than the other paragraphs do. Therefore, it makes a very clear recommendation that these orders, which are the subject of that paragraph, should have the affirmative procedure on their first exercise. My amendments would simply take out subsection (6) from both clauses, because I was not sure how one would be able to table an order or draft an amendment that dealt with the first exercise of the power and not any subsequent one. That defeated my powers of drafting.

I believe that the case that the committee makes is a strong one. As I have said before in these debates, it is usual for Governments to accept the recommendations of the Delegated Powers and Regulatory Reform Committee, because it is the body which the House has set up to look at these matters. I hope that my noble friend will be able to look with favour if not on the amendments then on the purpose that lies behind them and, if necessary, bring forward a government amendment at a later stage. I beg to move.

Lord Davies of Oldham: My Lords, the Committee and indeed the Minister should be grateful to the noble Lord, Lord Jenkin. There is no doubt that the Government need to look seriously at the point raised by the Delegated Powers Committee, to which we always accord the respect which it deserves.

I understand the difficulty that the noble Lord has had. I myself could not work out what the amendment should look like. However, if we win the moral argument and the Minister is persuaded to observe the convincing case made by the Delegated Powers Committee, it will be for the Government to produce the necessary expertise in bringing forward the appropriate amendment. I am sure that, if the Minister agrees with us, he will address that point.

6.30 pm

Baroness Northover: I am grateful to the noble Lord for tabling these amendments. They relate to the secondary legislation that we will be making under some of the powers that we are proposing and to whether provision made using such powers should be subject to affirmative or negative resolution procedures in the House.

This is not about the majority of the provisions which may be made under this part of the Bill, as most are clearly for the affirmative procedure. It relates to certain specific provision that we might make on more technical aspects, such as the precise qualifying actions or measures which will be eligible for inclusion within the scheme. The Government's proposal was that issues of this sort should be set out in secondary legislation which is subject to negative procedures. The noble Lord, through his amendment, proposes that this should be affirmative.

I am delighted to say that there is a compromise position, which has the support of the Delegated Powers Committee. In its considered report on the Bill, the committee suggested that it may be appropriate for the first use of these powers to be affirmative, with subsequent uses—in effect, later amendments—being subject to negative procedures. That seems to us an excellent suggestion. It has the virtue of maintaining a very strong degree of parliamentary oversight over the essentials while leaving more flexibility for changes to

be made over time. We therefore propose to come back at a later stage with an amendment in line with the Delegated Powers Committee's suggestion, and on that basis I hope that the noble Lord will feel able to withdraw his amendment.

Lord Jenkin of Roding: I can only say that I am extremely grateful. However, before I withdraw the amendment, I want to raise one other brief point which was mentioned by the noble Lord, Lord Davies of Oldham. It is the question of the constant amending of previous legislation. Anyone wanting to look at the current state of the Gas Act 1986 or the Electricity Act 1989—as I am certain the noble Baroness, Lady Smith, will have tried to do—will find it an extremely difficult job. There are now commercial legal publishers who will provide what they consider to be the up-to-date version as amended in perhaps four or five different Acts, as we are doing again here. There must come a time when these Acts will have to be consolidated, because it is becoming a matter of very grave difficulty not only for hapless Members of the two Houses of Parliament but for their advisers. Some of them are extremely good and know their way about. They keep their own copies very carefully annotated but most of us do not. There is therefore a case for consolidating these Acts and I hope that that message is taken back. Having said that, I beg leave to withdraw the amendment.

Amendment 29A withdrawn.

Debate on whether Clause 61 should stand part of the Bill.

Baroness Noakes: My Lords, in tabling my opposition to Clause 61 standing part of the Bill, I am delighted to see that I am joined by not one or two but three noble Lords from the Official Opposition. For the convenience of the Committee, I shall also speak to Clauses 62 to 67 and Schedule 1 standing part of the Bill. Other noble Lords may wish to speak to those clauses later, but the points that I make on Clause 61 apply with equal force to the remainder of this chapter in this part of the Bill. As my noble friend Lord Jenkin has already noted, Chapter 4 deals with the energy company obligation, and I should state at the outset that I am not going to be talking about the energy company obligation itself. The issue that I raise with my stand part notifications is whether it is appropriate to legislate for something which has not yet been properly worked out by the Government.

I have mentioned in Committee the use of framework legislation, and I also raised it at Second Reading. The chapters of the Bill that we have already looked at—the Green Deal and the private rented sector provisions—are also very much lacking in detail. Indeed, to almost any of the many detailed questions put to my noble friend, he has tended to default to saying that this will all be dealt with in the later consultation on the regulations which will appear at some stage in the future. Perhaps I may remark that on that basis my noble friend has so far had a remarkably easy ride on this Bill.

As has been pointed out, it is customary with most framework Bills of this nature for advance drafts of related statutory instruments to be made available during the Committee stage of a Bill. This is important, because it allows the House to discover any issues in the way in which the Government intend to use the powers, which could be better dealt with in the Bill, or whether any safeguards are necessary. That is why it is quite normal for the Government to produce drafts of the related statutory instruments for the Committee—particularly in your Lordships' House, where our obligations as a revising Chamber are more acutely felt than perhaps in the other place. We have not been offered that on any part of the Bill.

The Bill falls into that very small category of Bills which present a serious challenge to Parliament, and in particular to the role of your Lordships' House as a revising Chamber. Our work is typically detailed and thorough, but it is virtually impossible to be detailed and thorough when dealing with long lists of enabling powers. The Bill is certainly not as bad as the Legislative and Regulatory Reform Act, which I am sure the noble Lord, Lord Davies of Oldham, will recall. It is not even as bad as the Public Bodies Bill, which is far from out of the woods in its passage through your Lordships' House. However, the Bill is similar to both those pieces of legislation.

Let me read from the Sixth Report of 2010-11 of the Constitution Committee on the Public Bodies Bill. After rehearsing the history of the Legislative and Regulatory Reform Act, the report states at paragraph 13:

> "The Public Bodies Bill … strikes at the very heart of our constitutional system, being a type of 'framework' or 'enabling' legislation that drains the lifeblood of legislative amendment and debate across a very broad range of public arrangements. In particular, it hits directly at the role of the House of Lords as a revising chamber".

As I have said, this Bill is not nearly as bad as the Public Bodies Bill, but it is firmly in the same category.

I have singled out Chapter 4 of Part 1, rather than the chapters dealing with the Green Deal or the private rented sector, because Chapter 4 is so unclear and so lacking in detail on how the powers will be used, that it is simply not right to give the Executive the power to draft far-reaching regulations to impose the energy company obligation as they think fit, subject only to the affirmative procedure. That of course admits of no amendment and is a very unsatisfactory procedure for dealing with legislation which requires detailed, line-by-line scrutiny, in the way that we customarily approach things.

The impact assessment in respect of Chapter 4 has several pages of complete waffle. It is perhaps easier to go the summary impact assessment, and I shall read from page 8. Under "Costs", it states:

> "There are no costs associated with the primary powers"—

the primary powers in Chapter 4 of Part 1—

> "however, depending on the level of the ECO there is a potential for significant costs to suppliers in meeting the obligation which ultimately we expect to borne by consumers".

Under "Benefits", it is stated:

> "There are not direct benefits from the primary powers, however they do enable future policy which has the potential to deliver benefits associated with energy and thermal efficiency measures".

I note from the summary that there are likely to be significant costs. They are not costs that will be borne by the companies or taxpayers; they are costs which,

[Baroness Noakes]
as is fully anticipated in the impact assessment, will be passed on to customers. Therefore, there could be significant rises in energy bills, but neither customers nor the energy companies or Parliament will have any real influence over their size or incidence.

My contention is that this part of the Bill is simply not ready for passage as primary legislation. I do not challenge the fact that something may well be necessary in due course, but I believe that it would be correct for the Government to decide what to do, to consult on it and then to bring forward primary legislation to implement it, giving both Houses of Parliament—but in particular your Lordships' House as a revising Chamber—the opportunity to do the job that it does so well. In that way, Parliament could give proper consideration to the practicality and fairness of how this area is to be tackled and its impact on companies and, importantly, on consumers. For these reasons, I do not think that these clauses should stand part of the Bill.

Baroness Smith of Basildon: My Lords, I want to make a very similar point relating to Clause 61 but also to Chapter 4 as a whole. We raised with the Minister previously the question of the amount of legislation that will need to be resolved through secondary legislation. There are 52 separate items in this Bill that would be dealt with through secondary legislation. I have had difficulty in understanding in detail what the ECO proposals really mean and how they will operate. It is a serious matter when it is difficult for noble Lords to assess the impact of the operation and the amount of money that will be involved for consumers as well as providers, because so little information can be provided in the legislation. It is all to be done by secondary legislation.

It might have helped the issue to be resolved if there had been a purpose clause at the beginning of this chapter, not dissimilar to the one that I proposed at the beginning of the Bill. Such a clause could set out what this chapter is seeking to do and the purpose of the energy company obligations. Without it, it is very difficult to assess the proposals put forward in the different clauses. Therefore, I have some specific questions for the Minister, although he may not be able to answer them, because the answers have not yet been compiled.

The noble Lord will recall that possibly at Second Reading but certainly in the meetings that he has been generous enough to have with noble Lords prior to and throughout the passage of the Bill, I have raised with him the concern that the noble Baroness, Lady Noakes, has also spoken about—the need to have drafts of statutory instruments before us when we are considering these matters. Seeing the detail of where the Government intend to go would help to inform our discussions; otherwise, they are held in something of a vacuum. I certainly find it difficult to discuss the detail of the clauses.

Perhaps I may raise some specific questions to which the Minister may be able to respond. One question with which I struggle is whether the ECO is effectively and appropriately linked with the Green Deal. Without that link, I am not sure that the ECO can deliver, which is why I mentioned the purpose clause at the beginning. Like the noble Baroness, Lady Noakes, at times I find the impact assessment difficult to read, and it is probably best not to try reading it during a late-night sitting of this House. The impact assessment states:

> "The domestic sector has the potential to play a big role in meeting the UK's carbon budgets by delivering cost-effective emission reductions. Under Green Deal there is a range of policies aimed at helping households install cost effective energy efficiency measures. However there are a range of market failures (positive externalities) and barriers (e.g. consumer inertia) that are likely to continue to restrict households from undertaking cost-effective abatement measures".

It goes on to set out the difficulties, saying that,

> "it is necessary to gain the powers to intervene to ensure that energy and thermal efficiency programmes are focussed on delivering measures in vulnerable and hard to treat houses".

Because the purpose of the obligation and how it underpins the Green Deal are not defined, the provisions in the Bill for the energy companies do not state how these measures are intended to be delivered or how those most vulnerable households will be assisted. There is a lack of clarity about how this will work, and I am sure that the Government could do more to assist the Committee in bringing forward some information regarding it.

6.45 pm

The impact assessment, a weighty document, says directly that the ECO underpins the Green Deal, but then does not give any detail of how it will do so or where the obligation will be linked to the deal's purposes and objectives. The lack of clarity around that is of concern.

There are other issues, and it would be helpful if the Minister could respond. How much money is going to be available with the ECO? Greg Barker has said it would be around £1 billion, but there is no information about how that could be allocated regarding the balance of the hard-to-treat properties versus the fuel poor. A lot of those homes that are hard to treat will also be the homes of people who are fuel poor, so I am not clear on how the balance will work out and how any assessment will be made of which properties should be treated.

It is also an effective consumer levy; the consumer is going to pay. The noble Baroness, Lady Noakes, referred to this. If you had read through the Bill without reading the impact assessment, that would not be obvious. None of the clauses before us make it clear that the consumer is going to pay for this. That is an issue. How much will it be? Will there be a standard levy on all consumers or will it be disproportionate because those who are on the lowest incomes or the fuel poor will be paying the same as others? That information is important.

In a sense, the obligation replaces CERT and CESP, which are funded in the same way as the ECO is. The difference is that while CERT and CESP are in place, we also have the limited Warm Front to help those fuel-poor households. The ECO has to replace not only the former but the latter.

For the past 30 years there have been Treasury-funded measures for energy efficiency schemes for the fuel poor. They are going; they are no more. The whole

emphasis of the costs is going to be placed, in the case of the energy company obligation, on the consumer. There has to be far more information about the implications for the consumer and what the costs of that will be.

The other issue is community schemes. Under CESP there were community schemes, and they have worked pretty well. I am not clear if it is intended that they should be replicated in the new scheme, the ECO. It would be helpful to know if the ECO can be used to defray the costs of measures in hard-to-treat properties where they cannot abide by the golden rule. I do not know if the Minister heard that or if anyone else is able to pick up that point. If the golden rule, which is quite arbitrary anyway, cannot be fulfilled under the Green Deal, will the ECO be able to pick that up for poorer households?

The first part of Clause 66, which refers to new Clause 103B of the Utilities Act 2000, states:

"The Secretary of State may by notice require a person within subsection (3) to provide the Secretary of State with specified information … for the purpose of enabling the Secretary of State"—

and then there are a number of areas to be decided on. What is not in there, and this seems to be an omission, is that the Secretary of State is not asking for information on any assessment of the cost effectiveness, value for money or targeting priority groups. That may be somewhere else in the Bill or hidden away in the impact assessment—perhaps, despite my quite heroic efforts, I have not yet found it—but if the Minister could say how those matters will be judged, it would be helpful.

My final point—I am sure the Minister is very grateful—is on Clause 67. This clause is similar to provisions in the Public Bodies Bill, about which the noble Baroness, Lady Noakes, raised concerns. I have tabled an amendment to that Bill about the transfer of the functions of the Gas and Electricity Markets Authority, which was established by primary legislation—by statute. Here we have a power that allows the Secretary of State to make changes through secondary legislation. We do not know what those changes are and I am not sure what their purpose is. I raise the same concerns that I will raise on the Public Bodies Bill. The Minister is contorting himself as I am speaking. They are the same concerns about making such substantial changes by secondary legislation to organisations established by primary legislation. It would be helpful if the Minister could assist on those points. At the moment we have grave concerns about this chapter as a whole.

Lord O'Neill of Clackmannan: My Lords, I missed the opening remarks of the noble Baroness, Lady Noakes, but I have heard her speak on this subject before. As I said at Second Reading, I am somewhat surprised that we are in broad agreement, although her concerns may not necessarily reach the same conclusions as mine. Nevertheless, we can make common cause in our concerns about this part of the Bill. As has been pointed out, we are affording ourselves the opportunity to pave the way for secondary legislation of an unknown kind. It is highly irresponsible for legislators or the scrutinisers of putative legislation to go down this road. This is not just a matter of partisan bleating; this is a serious constitutional issue.

The last point that my noble friend made, relating to Ofgem, is a serious one. A significant point about the handling of complex markets that are, in effect, oligopolies—not quite monopolies but dominated by big players—is the requirement that we have a credible quasi-judicial market regulator to protect the consumer and, equally important, to sustain competition if that is the road we go down. A shortcoming of the original privatisation processes was that we went from state monopolies to private monopolies. It took a while for the market to kick in. Indeed, it could be argued that we initially went down an overly simplistic route in respect of the competitive market. Certainly, in relation to electricity companies in England and Wales, the market structure was akin to pre-Cavour Italy—a series of city states fighting each other and, as a consequence, leaving themselves open to other invaders. That is what we have at present: five or six major generating companies, of which only two could be regarded as independently British. We live in a global economy and these things happen. However, it is dangerous when too many of the natural resources on which we so depend are in the hands of people who do not necessarily regard our national priorities as their first concern.

However, I do not want to go down that road tonight. All I want to say is that we must be exceedingly careful if we afford Governments of any stripe the right to change quasi-judicial organisations, such as the Gas and Electricity Markets Authority, by a process that affords no real opportunity for parliamentary scrutiny. We are delivered a statutory instrument that, although it has been the subject of extensive consultation, is the final article that we can accept or reject. If the changes were almost emergency measures but there was a difference of opinion, we could well have to defeat the thing and have another lengthy period of consultation before the Government of the day, regardless of party, got it right. So in terms of some of the powers which we are delivering to government here, if they were to stop and think about it they would not want to assume that kind of responsibility.

As far as the ECO is concerned, there were a number of points. First, there is the manner in which we allow electricity and energy companies to introduce new forms of subsidy by imposing what is, to all intents and purposes, an energy poll tax on the households of this country. There is not a great deal of difference in the imposition of the revenue-raising that takes place in these circumstances. The average charge to households is of the order of £80. We are talking in terms of introducing changes in market structure which have been calculated as being anything between £400 and £800. It is a fairly arbitrary means by which that is going to be imposed over a number of years.

We have to be exceedingly careful, therefore, if we are going to dress up support for the Green Deal, the energy and environmental improvement parts of the Green Deal and the financing of it as something that does not involve the Government or taxation but hits every household in this country, regardless of financial circumstances. If there is any group in this country that is entitled to feel that it is paying more towards this scheme through its electricity bills as a matter of course, it is those who live in hard-to-heat houses and

[Lord O'Neill of Clackmannan]
those who are the most vulnerable, either in their health or their financial circumstances. It is to them that we have the first responsibility. That is to say, if we are to have an ECO, its fruits should go to the people who are either the most disadvantaged or the most vulnerable.

It would be helpful for us this evening to get something more than platitudes about market solutions. Markets are not perfect. If they were perfect, we would not need any form of regulation at all. The fact is that they need to be structured and nudged at particular times. What we need in these circumstances is recognition that if we do not have Warm Front or CERT, we still need some form of directed effort towards helping the disadvantaged. At the moment, my understanding is that the disadvantaged, whether they go in for the Green Deal or not, will still have to make their financial contribution through the ECO. It is my contention that they should not be required to pay for something from which they will not get very much, if that is because their local authority, social housing authority or private landlord—which we have discussed at length—is not prepared to enter into this deal in the way that we would like.

As we are giving Government the power to introduce a number of changes by secondary legislation, we are entitled tonight to get reassurances that fairly soon we will see the colour of the Government's money in the form of some explicit draft statutory instruments. They will obviously be doing the rounds at the moment. It would be foolhardy to suggest that somehow they are going to emerge after Third Reading but before Second Reading in the Commons. They will be in pencil form somewhere, stamped with "Draft", and it is not unreasonable for us to ask for that this evening.

We do not divide in this Committee and it is not our intention to gum up the works but such constraints do not apply when we get to Third Reading. A number of people will be concerned about this, not just within the ranks of the Cross-Benchers and the Opposition; we know that in both parts of the coalition there are people who have anxieties about this. Therefore we need a lot more assurance, a lot more clarity and a lot more detail than we are being offered here.

7 pm

As I have said before, the people who read the *Sunday Telegraph*, the *Observer* or the *Guardian* at the weekend, and are looking for advice on the best bang for their buck in whatever area of expenditure they indulge in, will take care over this. They will go to Sainsbury's and Waitrose and sign up for the deals. The people in the poorer areas who do not have the time and cannot always go to supermarkets, but of necessity shop locally—for whom the business of living is in itself too much of a problem—are entitled to a square deal that is part of the Green Deal. At the moment, I do not think that they are going to get it. We will not be convinced that they will get it until we get far more specificity—I have a couple of crowns missing at the moment, so that is rather difficult to say—from the Government. We need a lot more detail. I know that the Minister is labouring because his department has not got everything right, but we need tonight some clear indication that he will lift up the edge of the carpet and let us see what is underneath it. If he does not, he will find that he gets opposition of a different character from what he has received in this Committee, where we have been very polite and very nice. Do not bank on that for too long if we do not get the information that we require.

Baroness Maddock: The noble Lord, Lord O'Neill, is known for not always being terribly polite all the time, and we have seen that today. An important point has been raised here by my noble friend Lady Noakes. This issue has been going on for some time. I have now been in the House of Lords for 13 years, and I remember that when I arrived the first Bill that I debated was on tuition fees—that famous Bill that we were not expecting because it was not in the Labour manifesto, but which nevertheless arrived.

A noble Lord: It was not in your manifesto, either.

Baroness Maddock: Sorry, that was a mistake—I should not have mentioned it. I remember the Bill coming in, and I remember that when a new Government come in they are keen to get their legislation through. What have we had in this Committee? The noble Lord, Lord Judd, and everybody else have agreed that there is a great urgency about what we are doing. So there is always a conflict about making this process in the Houses of Parliament, which goes very slowly, keep up with what you want to do and your ambitions for the nation. This is always a challenge to us, and it is partly what we are facing here. At the same time, there is an issue here.

One thing has changed since I came in 13 years ago. We have the Merits of Statutory Instruments Committee, which gives a whole lot more scrutiny to secondary legislation than it ever did before. I served on that committee for the four years noble Lords can serve before they have to move on, and it was quite fascinating. In the normal course of events, if you are on the Front Bench, you do the primary legislation and you are lucky if you manage to keep abreast of what is going on in secondary legislation. I had done the last Housing Bill and then went on to the committee, where all the secondary legislation was coming through—so I knew what had gone on. We have something that is a little better, and we have used some of the facilities of this House to challenge secondary legislation as we could not before. It is not perfect and, if we were reforming Parliament, I think we would do it better. Nevertheless, it is slightly better than it was before, and we should remember that.

Quite often the previous Government got into this mess, but during the Bill people often tried to bring forward a little more detail. We are not very far into this Parliament, we are all keen for this to happen quickly and the Minister is trying to get to grips with this matter with his department. I appreciate the problems that he has, but most of us would like to see a little more clarification on Report, although his officials may not want that. Given the situation in which we find ourselves, and being realistic about when we will get to Report, that gives the Minister's department a little time to help us with this issue. It is difficult, and I have heard a certain amount of hypocrisy today from

the Opposition. I have been in opposition and I know what this is like. It behoves us all if we think this is important, and if we are all saying to the Minister, "Let's rush ahead with this", to give him a little time to come forward with a little more detail as we go through the Bill. I hope he can satisfy us on that today.

Lord Whitty: My Lords, I am not against relying on statutory instruments to clarify the policy as we go down the line. All Ministers find that it takes time to work out the details, but at this stage we need to put down some markers and to have an idea of the general direction in which the Government are going.

I agree with a lot of what my noble friend Lord O'Neill said on the ECO and fuel poverty. If the Government are effectively putting all their eggs in the fuel poverty basket through the ECO replacing all other forms of intervention, as my noble friend Lady Smith said, however good the scheme which emerges under the ECO is, it will be undermined if the payment for it is on a quasi-poll tax basis. You will take away with one hand what you have given with the other. I urge the Government to think clearly about what they are doing on both sides of that equation.

However, my main point is on Ofgem. I understand that a review of its role is still ongoing. As the Minister will know, there are widely different views, not necessarily on a party basis, on what Ofgem should and should not be doing. Ofgem itself tends to change its mind on what it should be doing. Clause 67 implies that we are taking something away from Ofgem. I should like to know from the Minister whether this is part of the review of Ofgem, which I understand will end in March, when there will be a report. Ofgem is also covered by the Public Bodies Bill, as my noble friend said, and there are uncertainties relating to what will emerge as a regulator in that regard. It is important that the totality of what Ofgem is responsible for is defined before we provide measures which could, piecemeal, carve off bits of Ofgem's role or add bits to it. Before we finish the Bill, we need to hear the result of that review and what the Government propose in total.

Lord Jenkin of Roding: My Lords, I have much sympathy with what has been said about the need to know more about what will be in the orders and regulations made under the Bill. Like others, as my noble friend Lady Maddock has said, I understand the pressures that the Minister is under. He wants to get ahead with this and in the mean time he is consulting on the details of what will go into the regulations. At the same time, he must appreciate that it is quite difficult to debate the Bill—these clauses, including Clause 61, are particularly detailed—without knowing what is in the Government's mind. I shall pick out only one subsection, subsection (3), which inserts new subsection (5A) in Section 33BC of the Gas Act 1986. The new subsection states:

"If the order makes provision … enabling the Authority to direct a transporter or supplier to meet part of a carbon emissions reduction target by action relating to an individual named in the direction the order may also make provision".

I do not imagine for one moment that Ofgem will make an order directing the supplier to deal with Mrs Buggins by name. This must mean categories or classes of consumer. Indeed, the purpose of the Bill—which I very much welcomed at Second Reading—is to concentrate this help on the people who are fuel poor or in a similar category. That is what we are trying to do. However, that is left vague in the subsequent new paragraphs. In new paragraph (a), it is stated,

"authorising the Authority to require specified persons to provide it with information for the purpose of enabling it to identify and select individuals who are to be the subject of a direction".

New paragraph (b) refers to,

"specifying criteria in accordance with which the Authority is to select individuals who are to be the subject of a direction".

One can see that one is moving into a very complex and obviously very necessary part of the whole procedure.

I compare this with the CERT programme, which, after a short delay, this ECO is intended to replace. The CERT programme dealt with very large categories and applied to 11 million people. There was the ridiculous situation that companies that were supposed to concentrate their efforts on the priority group were not allowed to be told who they were. After a tremendous effort, and through the Pensions Bill, we got a power to make a regulation that allowed the Department for Work and Pensions to specify the names of a very small class of pension credit beneficiaries. I was reminded of that marvellous line from Lucretius—I will not quote the Latin as that is out of order—that the mountains heaved in childbirth and what came out was a little mouse. It was a very small group, a very small part of the 11 million.

What seems to be intended is that Ofgem will be given the criteria and will be able to select the groups to which it may then direct companies to give help and support. I hope I have understood this intention correctly. I am sure my noble friends on the Front Bench will recognise that it is very difficult to debate this if one does not have any idea of how that power is going to be used.

Over the several editions of CERT I made the point about not being allowed to identify these groups and having to search the streets to find the people who qualified for the priority group under that legislation. I get the impression that that message has been taken on board and that we are therefore going to have a more specific effort to try to define the group categories. When the Bill refers to,

"an individual named in the direction",

presumably that means they are going to actually have names and therefore addresses so they will know where to go to give their help.

I suspect the noble Lord, Lord O'Neill, is right and that it may be a while before we get to Report. We have to do that on the Floor of the House when it is not occupied with other legislation, but there may be an opportunity for Ministers to give an indication of how the order is to be implemented. This is at the heart of what the energy companies' obligation is about. They are going to help designated groups of people much more specifically than form part of the priority group under the CERT legislation. It is quite difficult to debate this, however, if we do not know who they will be. I take as an example subsection (3) and it is the same in the following subsection; if we could have had some indication as to who they are that would make the debate more meaningful.

[LORD JENKIN OF RODING]

However, going back to my first point, I do understand my noble friend's problem of having to move ahead with this legislation so as to bring forward the day in which it can become operative, while at the same time negotiating in detail with all the various groups and bodies about how it is going to be implemented. We must lean over a little more to help Members of the House to carry out our duty of scrutiny so that we know what we are talking about.

7.15 pm

Lord Marland: My Lords, I am grateful for these comments. Obviously I am a new boy and this is my first Bill, so I do not really know what the procedure is; I bow to my noble friend Lady Noakes, who knows more about it than I do, as do many others in this Room. Knowing how you do this should mean that you are a bit careful and recognise what the Government have to do. Here we are, sitting in this Room, while in the Chamber there have been 14 days of Committee. What is that doing? It is preventing the Government bringing forward legislation.

In this legislation, therefore, we are setting out a framework Bill that allows us to add bits of legislation, allows us time to consider carefully what needs to go towards them and, of course, allows us to bring them back to this House, as a revising Chamber, and indeed to the House of Commons for approval through statutory instruments, which the noble Lord, Lord Whitty, kindly recognised has been normal practice and, I fear, will become normal practice if we have to sit for hours when there is a log-jam in the Chamber. Noble Lords should recognise that government is actually about trying to get things done.

Why are we doing the ECO? The noble Baroness, Lady Smith, is right: the answer is that we have a problem with fuel poverty. It has gone up year on year despite CERT, Warm Front, CESP and every other possible and genuinely well intended attempt by the previous Government to reduce fuel poverty. I am not sitting here criticising the endeavours or saying, "You did this or that wrong", but the fact is that fuel poverty has gone up significantly.

Lord O'Neill of Clackmannan: Before the Minister leaves that point, we should put this in its proper context. When energy prices were low, fuel poverty was falling quite dramatically. When energy prices went up, fuel poverty rocketed. There are three reasons for fuel poverty: inadequate houses that are badly insulated, the poverty and disadvantage of the households and the price of energy. The single most critical factor over the past eight years has been the changes in energy prices, which in large measure are beyond the capabilities and the control of individual companies. Indeed, it can be argued that energy prices in Britain are in fact in the lower part of the European basket. If we are going to change the circumstances of fuel poverty, insulating houses is a major consideration, but not the only one.

Lord Marland: I am grateful to the noble Lord for his intervention because he has just mentioned what I was about to say. There are three criteria. The first is inadequate homes and house insulation, and that is what we are seeking to tackle with the Green Deal in a very strong initiative. That is why it is fundamental that we link the Green Deal and the ECO but that we are sensible and take a measured approach to how we create the ECO, given that CERT and CESP have largely failed in their endeavour.

Secondly, there is the price of energy, which is a separate debate; we will doubtless hit that at various times. This Government are doing everything that we can to deliver energy security. The noble Lord and I would agree that our endeavours to recreate the nuclear industry, which has had no activity for 23 years, and various other endeavours to generate electricity in this country and regenerate our grid system, which has had no investment for many years.

Then, of course, there are the genuine poor. That is what the ECO must be targeted at. Every person in this Room feels desperately concerned about the genuine poor and how we get them out of fuel poverty. As such, we have telegraphed that we will lead a review of fuel poverty to see how we can target them. We are doing several other things in the mean time to eradicate fuel poverty. There are winter fuel discounts and we have come up with the warm home discount; we are now looking for a contribution from energy suppliers to ECO.

The noble Baroness, Lady Noakes, rightly asks, in fine Conservative tradition: who will pay for it? What about value for money? That is at the heart of this Government: who will pay for it and how will people provide for it? It is not as though they are not paying for it at the moment. Energy companies are responsible for delivering CERT and CESP and will be responsible for delivering the ECO. It is up to this Government and future Governments to ensure that there is competitiveness in the market so that companies, in selling their products, try to get a competitive price, which will come largely, we hope, from their profits. Similarly, the noble Baroness, Lady Smith, reasonably quoted my honourable friend Gregory Barker in the other place. He said that £1 billion would be spent on this. In our analysis that is only an initial figure. You would not expect me to go wider than that in this instance until we have developed this further.

The noble Lord, Lord Whitty, rightly says that we are reviewing Ofgem. It is right that we are doing so. I will not come to any conclusions on Ofgem yet because the consultation is taking place. It will conclude in March, which is before the autumn, when we start our consultation on the ECO and so will be able to take the findings into account and link them together, as the noble Lord, Lord Whitty, would expect us to do. Because the result of the Ofgem will be available in March, we hope to be able to take it into account in the passage of this Bill.

Noble Lords should be under no illusion. There is a very good document, which we have put in the Library and should explain clearly what we are trying to do in the ECO and every measure in the Green Deal. It is an excellent summary. It must be good because I can understand it. This is to explain what we are doing. Make no mistake: we are not trying to railroad a new policy through.

Baroness Noakes: The Minister referred to an excellent summary that had been placed in the Library. Judging by the looks of incomprehension around me and my own lack of knowledge, this may not be widely available to the Committee. It certainly does not appear to be in the documents that are available to the Committee at the back. I am not sure that it will answer the questions raised by these amendments but I just note that there does not appear to be a wide knowledge of it.

Lord Marland: I fear that the noble Baroness may be in a small minority on this. I have just sent someone to the Library to get the document. It is there and I see my noble friend Lord Teverson has it. When we launched this Bill the document was attached. I do not want to get into semantics but I am happy for the noble Baroness to be provided with a copy now so that she can read it. I agree that my department produces an awful lot of information, which shows its willingness to be transparent. Perhaps the document could be passed to the noble Baroness; I am sorry that it is a photocopy. I have just sent someone to the Library to check that it is there. The noble Baroness seems confused. I hope the document is satisfactory.

Baroness Noakes: I have now seen the document and it gives virtually no information.

Lord Marland: That is a matter of opinion. That is the opinion of the noble Baroness, but I find the document quite informative, as I know many others do. We will disagree on that.

The reality is that we must, in tabling the Green Deal, look at all the ancillary events that come alongside it. We are trying to improve and work towards reducing fuel poverty. That is why we are embarking on, effectively, a review of CERT to make it better. CERT was a very good initiative and endeavour but it did not hit the targets to the extent that was needed. It had several misadventures, including too many light bulbs appearing on people's doorsteps. Therefore, the ECO will be a development on that theme.

We consider the views of this House very carefully. If we did not, we would not be starting this Bill here, as we have done. We would not be entering into very long debates on every aspect of it before it gets to the House of Commons. We would not be taking away the comments of everyone in this Room to think about in between sessions and when we get to the next stage. I think that is a genuine commitment by this Government to listen, to improve and to get things fit for purpose. I hope this satisfies those people who have raised these points.

Baroness Smith of Basildon: I am grateful to the noble Lord. He has gone some way to answering some of my questions, but not all the way, I regret. I welcome his point about linking the Green Deal and the ECO. If that could be enshrined in what comes before us, it would be helpful and, in the light of our later amendments, it might cover some of those points. His confirmation about roughly the amount of money involved is helpful. However, a number of questions remain. I will read again the document to which he referred and see if it answers them.

I am sorry if the noble Lord feels tetchy about my questions, but the Lords' scrutiny is important. If I may raise one note of contention, I was most concerned that it would have wider implications when he seemed to threaten the use of more SIs if the Opposition seek to properly scrutinise legislation. The way to have shorter debates, if that is what he is looking for, is to have more detail; that is why I ask the questions. However, his comment gives me cause for concern, and, when we get the *Hansard* I will re-read what he has said about having more SIs if the Opposition insist on scrutiny.

Lord Marland: I am not concerned about scrutiny. Of course that is what SIs are for—to add on and improve legislation that is already in place. I merely said: do we think that the debate going on in the main Chamber at the moment is reasonable? Do we think things are being properly scrutinised and debated in the right way? Certain parts of the House of Lords do, large parts of it do not, and that is where the matter stands. I have no problem, of course, with proper scrutiny on these things and putting things towards the House. However, in the time available in this Parliament, we will probably not have the opportunity to get many more Energy Bills through that will be able to change various things. Therefore the opportunities available to us are through statutory instruments, and those are what we intend to use.

Baroness Smith of Basildon: I am not clear which Bill the noble Lord was talking about. The Bill that I am talking about is the Energy Bill before us today. However, in both cases the Opposition are fulfilling their legitimate and proper role in effective scrutiny.

I have a couple more questions. I know that the noble Lord has tried to answer the question, but I will re-read the Green Deal document as it addresses the issues that I have on the ECO. I am merely seeking clarity. I am genuinely not able to work out from the impact assessment, the legislation and the Explanatory Notes exactly how the ECO is going to work. That was the first of my questions. I am disappointed that I did not get answers to all of them, but I am sure that we can return to them. Perhaps the Minister could work with his officials and, before we get to Report stage, if there is more information available on the operation of the ECO, it would be very helpful to have that.

While it would be nice to have the actual statutory instruments before us then, I appreciate the Minister's position. I have been a Minister. I have taken through legislation with statutory instruments. I have taken through a number of statutory instruments. However, if we were to have some of the information detail prior to that, it would assist this Committee and your Lordships' House in being able to make a proper judgment. It is impossible to do so on what we have before us. I do not think that there is a person in this Committee who does not want the ECO to do exactly what the Minister wants it to do—address the issues of the fuel poor and the hardest-to-treat properties.

It would be very helpful to have clarification on two particular points. One is the cost to the consumer. That comes back to the idea of the consumer levy.

[Baroness Smith of Basildon]
I appreciate that CERT and CESP both included the consumer levy, but there was also Warm Front at that time, which was substantially greater than it is now. Perhaps the Minister can come back to us on that one.

The Minister also said that the energy companies would pay for large amounts of the ECO through their profits. Has he consulted the energy companies on that and what has there response been? If they intend to absorb the cost of the ECO through their profits, that would interest the Committee and the House, unless the energy companies intend to pass on the additional cost as well to their customers.

The final point is the one I made a moment ago about the report from GEMA, the Gas and Electricity Markets Authority. The Government are still consulting on what to do. That is why I understood it was in the Public Bodies Bill and that it could be moved from Schedule 7 to other schedules. But in this Bill it does seem that a more specific point is being made—I hope the Minister is listening and not just using his mobile phone—and I wonder if it is possible to give us more information on that, though I may be wasting my breath in raising the questions. I am not sure if the Minister is taking note.

Lord O'Neill of Clackmannan: I have had the opportunity to read this document and the three paragraphs referring to the ECO. It gives some detail but not a lot. Perhaps before we get to Report stage, if there is a delay and if things do take a long time, the civil servants will have the opportunity to provide us with the information we are asking for. It says that the ECO will be focused on houses needing support over and above the Green Deal. Can he tell us the manner in which this focusing will take place?

Secondly, he said the ECO will be able to combine legal powers to incentivise ECO support and Green Deal finance. Perhaps we could get some indication of how the incentivisation process will be carried out, because it would appear that the Government realistically anticipate in this document that something could go wrong. They are saying that these legal powers would be introduced only following a review of the company's behaviour, if there was evidence that the households would lose out. We would want to know what losing out meant. If we can get some idea of the focusing process, if we can get some idea of the legal powers and the incentivisation mechanisms, and if we could get some information about how the Government would assess the means whereby companies would lose out, this would meet a number of our concerns, even if it was not in draft statutory instrument form. It would help if there was a slightly more explicit note.

I was rather surprised when the Minister referred to this document because we have all seen it before. It was a nicely produced thing but it was sufficiently insubstantial never to have appeared on the desk with the other papers. If the briefest reading and not a great deal of analysis under closer scrutiny can throw up four points like that, and if this is to be the defence of the Green Deal—the last but final word—then frankly we need rather more than we have at the moment.

7.31 pm

Baroness Noakes: My Lords, this has been a very interesting debate and I thank all noble Lords from all parts of the Committee who have taken part in the debate. Like the noble Lord, Lord O'Neill, I thought the three paragraphs in the document on the energy company obligation clearly did not go any way towards giving the Committee the kind of information that we would customarily expect to see in something like draft statutory instruments. I did note that when the Minister responded, the one thing he did not do was undertake to give the Committee or the House any further information when the Bill returns to the Chamber. I regret that, and I suspect that it may mean that we will return to this issue.

I got the impression that the Minister was linking the time taken in the Chamber on amendments with the time taken on this Committee. I am conscious that we have not achieved the target that the Minister wished to achieve today; nevertheless, I do not think that any of our debates has in any sense been of an unnecessarily excessive length. I believe that we have raised genuine points.

The Minister suggested that the energy company obligation might be met from profits. I remind him that his department's impact assessment says that,

"there is a potential for significant costs to suppliers in meeting the obligation which ultimately we"—

that is, his department—

"expect to be borne by consumers".

That is why there are important issues that need to be teased out. What is this obligation? Which people will it affect? How much is it going to cost, and how is it going to flow through the system into consumer prices? There is a real problem that it may not alleviate fuel poverty if it just goes round the houses and comes back in the form of bills. We need all those details.

My main reason for tabling my opposition to the clause concerns parliamentary scrutiny; it is not to challenge any part of the energy company obligation. The Minister said that we have to recognise what the Government have to do. Governance is about trying to get things done, and there is a framework Bill in order to allow the Executive to do what it wants. I am sorry, but the reason why we have legislation is to ensure that there are proper checks and balances against the Executive doing exactly what it wants. That is why we have Parliament and, in particular, it is why we have your Lordships' House, which acts as a revising Chamber. It is not about stopping the Government doing what they want; it is about making sure that there are the right checks and balances in the process. This is what I feel most strongly about in connection with this part of the Bill. We are letting the Executive do what it wants but with insufficient scrutiny by either House.

I hope that the Minister will reflect on this debate as we move through this Committee stage and before we reach Report. It is important that your Lordships' House has further and better particulars as an aid to understanding how Chapter 4 of Part 1 of the Bill will be used, and as an aid to your Lordships' House in determining whether it is content with the formulation

of the powers in the Bill or whether other safeguards are needed in the Bill. That is the role of your Lordships' House and I hope that the Minister will facilitate the House in carrying out its role.

Clause 61 agreed.

Clause 62 : Promotion of reductions in carbon emissions: electricity generators, distributors and suppliers

Amendment 29B not moved.

Clause 62 agreed.

Clause 63 : Promotion of reductions in home-heating costs: gas transporters and suppliers

Debate on whether Clause 63 should stand part of the Bill.

Lord Jenkin of Roding: I am aware that we were a little critical of my noble friend in the previous debate but there is something in this clause that I believe deserves mention.

A noble Lord: It is diabolical.

Lord Jenkin of Roding: Is someone shouting? In Clause 63(4) there is a whole series of paragraphs where the words "carbon emissions reduction obligation" are replaced by "home-heating cost reduction obligation". These are two different things, of course, but I firmly believe that both the companies and, in particular, their customers will be much more responsive to a mention of home-heating cost reduction rather than carbon emissions reductions. Here in the rarefied atmosphere of Westminster we are very used to talking about carbon footprints and carbon reductions, but ordinary householders are looking at how to reduce their bills. I very much approve of this change in the wording. It moves away from what I always thought was a real problem with the CERT, which was that it started and ended by being a carbon reduction. Of course, that is what we want but it does not really appeal to ordinary people. Therefore, I welcome this change in the wording.

Clause 63 agreed.

Clause 64 agreed.

Amendment 30

Moved by ***Baroness Maddock***

30: After Clause 64, insert the following new Clause—

"Advice on benefits of new or under-utilised technologies

(1) For the purpose of enabling the Secretary of State to assess the benefits of new or under-utilised technologies in reducing home heating costs and dealing with fuel poverty, the Secretary of State must request the advice of the bodies specified in subsection (2) on the following technologies—

(a) passive flue gas heat recovery systems ("PFGHR systems");

(b) voltage optimisation technologies;

(c) standby down-powering technologies;

(d) dynamic demand technologies;

(e) district network connection technologies; and

(f) such other technologies as the Secretary of State thinks appropriate.

(2) The bodies referred to in subsection (1) are—

(a) the Energy Saving Trust;

(b) the Fuel Poverty Advisory Group.

(3) A request for advice made pursuant to subsection (1) may also include a request for advice as to how those technologies can assist in combating climate change.

(4) The Climate Change Committee must within 12 months of the coming into force of this section consider and produce a report on the ways in which the technologies specified in subsection (1) can assist in reducing carbon emissions.

(5) In this section—

"PFGHR systems" means technology that can use the waste heat from condensing boilers in order to heat water;

"voltage optimisation technologies" are technologies that lower the input of voltage to electrical equipment from that at which electricity is currently generated;

"standby down-powering technologies" are methods by which electrical equipment is turned off, or reduced, during periods of non-use;

"dynamic demand" has the same meaning as in the Climate Change and Sustainable Energy Act 2006;

"district network connection technologies" are technologies that enable consumers to link up lower cost and lower polluting energy generation."

Baroness Maddock: My Lords, Amendment 30 would introduce a new clause into Chapter 4 of the Bill, which is about reducing carbon emissions and home heating costs. We have heard quite a lot about Greg Barker today, but this clause was actually tabled under the previous Government to be an amendment to the previous Energy Bill—as they have guillotines in the other House and a different way of selecting amendments, it was never discussed—and I know that Greg Barker and Charles Hendry, who both now have ministerial positions, were in support of it.

The amendment explains to people exactly what it is doing, but I thought that it might be helpful if I said a bit about what the different technologies are. Gas savers are devices that can be fitted above a boiler to track the waste heat. They improve the efficiency of the boiler because it builds up a reservoir of hot water so that when consumers turn on the tap, hot water arrives rather sooner. This has been described as "free to users" because you have not wasted the heat—you have used it to heat the water. They also reduce the wastage of water, and warm water arrives sooner at the tap; this gas saver won an award from Waterwise because of that. It heats the cold water going into the boiler, thus meaning that the boiler has to do less work to heat to the required temperature if warm water is going in rather than cold water. In a nutshell, this facility uses the waste heat from boilers to heat water. That is what gas savers are.

At some point today there was mention of the various technologies that allow us to use our power more efficiently. We have heard all sorts of figures about how much electricity we use with things that are left on standby, but currently there are no limits to how much power an appliance can use while it is on standby, and some things have to be on all the time—you tend not to turn them off, so a lot of energy is wasted.

[Baroness Maddock]
In the UK, standby represents about 80 per cent of residential electricity use. The proposal to limit standby power to between 0.5 watts and 2 watts could save 73 per cent of this wasted energy. I will not go through all the figures, but you reach 2 per cent of the total UK energy use if you take on these types of measures. Not only would they mean that we were not using the power but it would be another way of lowering people's electricity bills.

The same goes for demand response. Another technology, dynamic demand technology, responds to the voltage in the national grid, and that was mentioned earlier today. These devices use electricity at times only at times when it is plentiful. When electricity demand is high, the appliances turn off; they turn back on again only when demand has dropped. Modern technology makes it possible for us to do this in a way that we would never have been able to do years ago. The current cost to the National Grid of dealing with fluctuating levels of demand is about £80 million, because we keep power stations running at part or half power so that they can quickly be turned up to full power when we get extra demand. If you have dynamic demand systems in appliances, that means we would need less of this type of facility, which wastes quite a lot of power. While the technology does not lead to less electricity being used by the consumer, it would help to save because we would not be running power stations at low power.

7.45 pm

Voltage optimisation technology acts to reduce the incoming voltage to domestic and non-domestic buildings from the national grid. You can take it down from the standard 240 volts to 230 volts, which reduces the energy use for some appliances by up to 10 per cent. Not all appliances react in the same way to lower voltage, so the overall savings would be only 8 per cent. This is something that would enable electricity Bills to be reduced, which is something that we are very concerned about, especially with the fuel poor and with utility prices going up all the time.

Most of us are familiar with daylight responsive lighting. It also reduces the electricity consumption of lights. Lighting accounts for 39 per cent of end-use electricity. We are not always looking at good things coming out of Greece, but a paper by a Green scientist suggested that the use of daylight responsive lighting could reduce electricity consumption by 50 per cent to 70 per cent. Of course, they live in a rather sunnier place than us, so those figures would not be quite so good here.

The amendment is to encourage the Government to ensure that they get best advice about how these sorts of technologies can be used to reduce our carbon emissions and help people to keep their electricity bills down. I beg to move.

Lord Davies of Oldham: My Lords, I have a few things to say. The Minister has made comments about things that go on in the Chamber of which he disapproves. Committees finish at 7.45 pm and often at 7.30 pm. I want to know whether the government Front Bench is going to follow the rules or whether it is departing from them.

Baroness Northover: We fully support the underlying—

Lord Davies of Oldham: No, my Lords, I have asked whether the noble Baroness intends to move the adjournment of this Committee. It is 7.45 pm. I have quite a lot to say on this Committee. In fact, I could probably go on for three and a half hours and I assure the Committee that I certainly will unless the Government recognise that rules are rules. To complain about what is going on in the Chamber, which is well within the rules, and to break the rules in Committee is quite unacceptable.

Lord Teverson: I am not going to talk about the other Chamber, but with this Committee on the Energy Bill, if there is some time left, we take the amendment and finish after that amendment. I am amazed at that intervention. It is quite unnecessary. I find it absolutely astounding. I presume that we will do as we have always done, which is to finish debating the amendment then adjourn. I shall join with the noble Lord in doing that, if that is the case.

Lord Marland: We started at 3.45 pm and we have been here for four hours. That is how long I was instructed that we were here for. We are running over by a minute. I do not think that that is unreasonable; no one is trying to frustrate the Committee. I did not intend to stop the noble Baroness, Lady Maddock, making her excellent speech. I naturally thought that we would finish the amendment.

Lord Davies of Oldham: Well, my Lords, the Minister may assume that we are going to finish the amendment, but we are all entitled to contribute. I would first like to emphasise that we have a great deal of sympathy indeed with the amendment, which has many parts to it that we can see are constructive and advantageous. We note the reference in the Committee to the Energy Saving Trust, a body that is being greatly reduced in its capacity to play any role because of the resources of which it is being starved.

Secondly, my understanding is that the Fuel Poverty Advisory Group is named in the Public Bodies Bill. If the amendment of the noble Baroness, Lady Maddock, were agreed to, presumably that would have implications for the support that she would in due course give to opposition amendments in the Chamber on the Public Bodies Bill that try to protect the very body to which she refers in her amendment. It scarcely makes a great deal of sense to table an amendment about a body that her Government are bent on abolishing under proposals in the Public Bodies Bill. We certainly would wish to give broad support to the amendment, but there are difficulties with it.

I say again that Committees work to strict rules. We have always obeyed them. I have never been on a Committee that has sat past 7.45 pm. This is the first time. If other noble Lords have experienced that, I am seriously in error. I thought I understood the rules regarding the timetable of the Committee stage and I still find it extraordinary that the government Front Bench did not move the adjournment when it should have done.

Baroness Noakes: The noble Lord, Lord Davies, might have forgotten that on Wednesdays the Grand Committee normally sits until 7.45 pm, not 7.30, so we are not 15 minutes but only a couple of minutes over. That is the Wednesday convention. However, I support the noble Lord, Lord Davies of Oldham, having spent many days in Grand Committee, often with him. It is customary in Grand Committee not to overrun by more than a couple of minutes and it would have been helpful not to have begun consideration of this amendment. The custom is not like that in the main Chamber, where if you start an amendment before 10 pm you finish it, but as near as possible to that time. That was the custom when I was in Opposition and the noble Lord, Lord Davies, often had to call time on behalf of the Government. I thought it was fair to say that.

Baroness Northover: As the inexperienced Whip on this Bill, I think I need to apologise if we have overshot. Given that we started consideration of the amendment before the finishing time, and given that it is incredibly unpredictable as to how long any amendment will take, and given that we discussed various clauses, including the one that this amendment slots into, it seemed to me—although I was clearly in error—that we could look at it quickly. That is clearly not the case, and I therefore apologise for trespassing on noble Lords' time.

Perhaps I may respond as rapidly as I can to my noble friend. We fully support the underlying ideas in this amendment. It is essential that, when designing new energy policies, we take into account the costs and benefits of the full range of technologies available. The noble Baroness flagged up some important areas. However, I should point out that including specific measures and organisations in the Bill in this way leads potentially to the kind of problems that the noble Lord, Lord Jenkin, was flagging up earlier, by potentially, if things become redundant, having the problem of needing to consolidate Bills because things have moved on and changed. Although we very much support the ideas behind the amendment, including bringing in new technologies, we encourage the noble Baroness to withdraw the amendment at this stage.

Baroness Maddock: My Lords, I am sorry that it is my amendment that has caused some disruption to the rather smoother running that this Committee has enjoyed. I understand what my noble friend is saying. When I intervened in the previous amendment, I hoped that I was being helpful to my noble friends about how we could proceed in the future and how we could satisfy some of the issues that have been raised today regarding having more detail about what goes on. It is unfortunate that we are doing this at the last minute, because that means it is not possible to get something on record about this in a little more detail. I hear what my noble friend says; I will take this away, and it may be that we look at other ways of ensuring that the Government consider these other sorts of technologies. I know that they take these technologies on board but the right signals must be sent to the markets so they proceed with them. If between now and Report we can bear that in mind, we may get somewhere.

The noble Lord, Lord Davies, is right when he says that the fuel poverty advisory group is down in another Bill. However, that Bill has yet to get through Parliament; it is not there. You write your amendment about the situation as it stands now. Having discussed these issues with the Government, I know that it is their intention that there will be a group that advises on fuel poverty issues, although it may not be called the same thing. Had the Government accepted my amendment and then introduced such a group, when it disappeared out of the Public Bodies Bill and a replacement body was there, they would amend the legislation accordingly. I beg leave to withdraw my amendment.

Amendment 30 withdrawn.

Clause 65 agreed.

Baroness Northover: I think that this may be a convenient—or perhaps less inconvenient—moment for the Committee to adjourn until Monday at 3.30 pm.

Committee adjourned at 7.58 pm.

Written Statements

Wednesday 26 January 2011

BBC: World Service

Statement

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): My right honourable friend the Secretary of State for Foreign and Commonwealth Affairs (William Hague) has made the following Written Ministerial Statement.

I can inform the House that I have reached agreement with the BBC Trust on the strategic priorities for the BBC World Service for the period 2011-14. We have been engaged in close discussion with the BBC in the period leading up to and following the 2010 spending review (SR10).

As the House is aware, the context for the spending review was the fiscal legacy left by the previous Administration. We agreed total expenditure limits of £253 million/£242 million/£238 million over the first three years of the SR10 period. This represents a 16 per cent cut in real terms. The FCO has provided a settlement that keeps the BBCWS's proportion of the FCO family's overall budget at or above its 2007-08 level through to 2013-14.

This settlement required difficult decisions to be made, and we agreed with the BBC that the overall objective was to ensure the World Service remains an articulate and powerful voice for Britain in the world, and a trusted provider of impartial and independent news.

Under the terms of the broadcasting agreement between the Foreign and Commonwealth Office, and the BBC World Service, no foreign language services can be opened or closed without my written authority. As part of the BBC World Service's strategy, I have therefore approved the BBC Trust's proposal to close five language services: Albanian, Macedonian, Serbian, Portuguese for Africa and English for the Caribbean. I have today placed in the Libraries of both Houses copies of my correspondence with Sir Michael Lyons, Chairman of the BBC Trust, confirming this. Some 3.5 million people currently listen to the services that will be closed. The total World Service audience is 180 million.

The BBC World Service has also made strenuous efforts to find efficiency savings and drive down non-editorial costs, and will also be able to make savings from their move to Broadcasting House in 2012.

The BBC World Service asked for funds to help them with the additional contribution necessary for the deficit in the BBC pension funds. In the settlement, the Foreign and Commonwealth Office were able to provide them with £13 million per annum to help them with these extra costs. I have also exceptionally agreed that if the additional contributions are less than the £13 million which the World Service has estimated, then the World Service can use the remaining funds for other purposes.

We are also providing an extra £10 million per annum for new services in markets that we and the BBC World Service have identified as priorities. These proposals include TV programming in Urdu, in sub-Saharan Africa and in Hindi to be provided to local partners. We have also guaranteed the capital for the move of the World Service to their new offices in W1.

These savings, together with the other changes the BBC World Service have announced today, should enable the World Service to prioritise their efforts away from shrinking markets and platforms (where there are developing local broadcasters, or short-wave audiences are falling) to growing markets.

The BBC World Service has an unparalleled international reputation. This Government are committed to supporting the BBC World Service, and ensuring it continues to retain its global influence and reach in a rapidly changing world.

Defence: Gibraltar

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): My honourable friend the Minister for Armed Forces (Nick Harvey) has made the following Written Ministerial Statement.

I am pleased to announce today the appointment of Mrs Eleanor Laing (the honourable Member for Epping Forest) as special representative to Gibraltar for defence.

The strategic defence and security review reaffirmed the importance of the permanent joint operating base in Gibraltar, which provides the Armed Forces with the ability to deploy force around the world and respond to changing strategic circumstances.

Mrs Laing's role as special representative will be to work with the Government of Gibraltar, the Ministry of Defence and Commander British Forces Gibraltar on a range of issues connected with the continued presence of the permanent joint operating base.

She will also work closely with the Governor of Gibraltar, whose constitutional responsibilities include defence and internal security and external affairs.

The special representative may also undertake additional defence tasks by agreement with the Ministry of Defence.

Mrs Laing has agreed that she will resign as chair of the All Party Parliamentary Gibraltar Group.

Defence: Single Source Pricing Regulations

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): My honourable friend the Minister for Defence Equipment, Support and Technology (Peter Luff) has made the following Written Ministerial Statement.

I am today announcing that Lord Currie of Marylebone is to chair an independent review of the regulations used by the Ministry of Defence (MoD)

when pricing work to be procured under single source conditions without reference to competition. The existing framework is described by the government profit formula and associated arrangements (GPFAA)—the so-called "Yellow Book"—of which the MoD is the sole user.

The GPFAA stems from an agreement between HM Treasury and the Confederation of British Industry in 1968. Operational aspects have been reviewed since that time but successive Governments have left the underlying principles in place. Getting single source pricing right is of great significance to all stakeholders, not least taxpayers; the MoD typically places annually around 40 per cent by value of work on this basis.

The formula sets out profit rates allowed as addition to costs, as recommended by the review board for government contracts; my predecessor announced acceptance of the board's last report to Parliament on 30 March 2010 (*Official Report*, col. *98WS*). The GPFAA also includes government accounting conventions setting out what costs are allowed when pricing single source work.

This review implies no criticism of the review board for government contracts, which is a valued part of the existing framework and whose remit has been to maintain the profit formula and examine only those issues set before it by the MoD and industry.

The defence sector has evolved beyond recognition since the inception of the 1968 agreement. At that time, labour constituted over three-quarters of costs within the defence sector. Now it is less than one quarter. The Government owned many more of the assets than we do now. Furthermore, the sector is facing an era of consolidation and restructuring. The Government inherited a fiscal situation that makes it more important than ever that industry is incentivised to reduce costs through the use of modern, fit for purpose commercial arrangements (including for small and medium sized enterprises), additionally making UK industry more competitive on the world market. Therefore, I believe the time is right to carry out this review and have asked that an MoD team, working with the CBI, be established to support Lord Currie's investigation.

Lord Currie will be consulting widely with other stakeholders and will present his initial recommendations to me by July 2011, after which there will be further consultation with stakeholders to agree an implementation plan, at which time I will report back to the House. In parallel, MoD has requested that the review board for government contracts continue its work to maintain the existing processes through completion of its 2011 annual review of the profit formula, due to conclude in April 2011, and thereafter until the outcome of this review is known and a way forward agreed.

Defra: Independent Review of the Science Advisory Council

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): My right honourable friend the Secretary of State for Environment, Food and Rural Affairs (Caroline Spelman) has today made the following statement.

I wish to update the House on developments related to the Science Advisory Council (SAC) to Defra.

I am pleased to announce a new model for the SAC following the outcome of the review of all arms length bodies, and a separate and independent review of the SAC.

The ALB review sought to ensure better co-ordination between science advisory bodies in Defra. As part of this, the department reviewed the role and functions of its 18 scientific and technical advisory bodies. On 14 October 2010 it was announced that the majority of the advisory bodies will become expert committees. They will continue to provide independent advice, but the change will allow for greater co-ordination as the scientific expert committees will work more closely with the Science Advisory Council and Defra's Chief Scientific Adviser.

Defra's Science Advisory Council is to be retained as an NDPB, and will support the CSA in oversight of all relevant Defra scientific committees. It will continue to provide independent advice and challenge to the Chief Scientific Adviser and Ministers on the science underpinning a range of Defra policies.

The independent review of the SAC, led by Professor Charles Godfray and commissioned by Defra's Chief Scientist, Professor Bob Watson, contained 12 major recommendations. Professor Watson and I are content to accept these recommendations which include:

that the SAC be reconstituted as a leaner body of around six people plus an external Chair,

the need to more clearly articulate the role of the SAC and how it adds value to the department's use of science and evidence; and

the need to provide challenge and scrutiny to other bodies providing science advice to Defra.

A new model for the Science Advisory Council will be established in line with the independent review's recommendations. With these recommendations in mind, new terms of reference and a revised code of practice for members will be raised. The recruitment of new members will commence in February 2011, with the first SAC meeting scheduled for September 2011.

The SAC will support the CSA by independently assuring and challenging the evidence underpinning Defra policies and ensuring that the evidence programme meets Defra's needs.

The Defra CSA will have oversight of, and offer support to, all Defra scientific expert committees, and the new SAC will support the CSA in this role. This approach will ensure that the department achieves a greater and more co-ordinated level of evidence assurance.

Separately, Defra is taking forward plans to replace many of its advisory NDPBs with expert committees. Further announcements will be made in due course.

Equitable Life Payments

Statement

The Commercial Secretary to the Treasury (Lord Sassoon): My honourable friend the Financial Secretary to the Treasury (Mark Hoban) has today made the following Written Ministerial Statement.

On 22 July 2010, I announced that the Government would establish the independent commission on equitable life payments. This was in line with the Government's pledge to "implement the parliamentary and health ombudsman's recommendation to make fair and transparent payments to Equitable Life policyholders, through an independent payment scheme, for their relative loss as a consequence of regulatory failure".

Following the spending review, the commission was asked to carry out two tasks. The first was to advise on the fair allocation of funds totalling £775 million amongst all policyholders, with the exception of with profits annuitants (WPAs) and their estates. We had already announced that there should be no means-testing and that the estates of deceased policyholders should receive payments. The second was to advise on any groups or classes of policyholders that should be paid as a priority with regard to the timing of payments, again with the exception of WPAs and their estates.

The commission has met various interested parties, including the Equitable Members Action Group and Equitable Life, as well as receiving representations from a wide range of individual policyholders.

I would like to thank Brian Pomeroy, John Howard and John Tattersall for all their hard work on this issue. They have taken the time and care to find out policyholders' concerns and have used this knowledge to help form their very useful advice. The work that the commission has carried out helps bring us a step closer to resolving this issue.

Today, I am publishing the commission's advice and depositing a copy in the Library of the House. The commission has recommended the following for the allocation of funds:

a pro rata allocation of the available funds, in proportion to the size of relative losses suffered. This equates to 22.4 per cent of each policyholder's relative losses;

a single policyholder view, wherever practicable, offsetting relative gains against relative losses where policyholders have multiple policies; and

a de minimis amount, in the region of £10, beneath which payments should not be made. This reflects the commission's view that administering very small payments below this sum would be disproportionate to the administrative costs of making them while being of negligible significance to recipients.

The commission recommends that the following groups be prioritised for payment, subject to the practical constraints laid out in the Commission's advice:

The oldest policyholders, as they are least able to wait for payment and are also least likely to be in a position to mitigate the effects of a delay; and

The estates of deceased policyholders and, as far as possible, the estates of those who die, before receiving a payment, in the next three years.

The Government accept the principles recommended by the commission. Our task now is to work out how best those principles can be applied in practice to groups of policyholders whilst allowing us to begin making payments as soon as possible.

The Government will publish a detailed scheme design document that includes the practical application and delivery implications of the commission's recommendations. I will make this available for parliamentary scrutiny in the spring.

Intercept as Evidence

Statement

The Minister of State, Home Office (Baroness Neville-Jones): My right honourable friend the Secretary of State for the Home Department (Theresa May) has today made the following Written Ministerial Statement.

The lawful interception of communications is a vital tool for tackling the threat posed by terrorism and other serious crime. The coalition Government are committed to building on this by seeking to find a practical way to allow the use of intercept evidence in court.

The issues are complex. Because of this a first step has been to review previous analysis, including that in the Privy Council review (*Cm 7324*) and in *Intercept as Evidence Report* (*Cm 7760*). Having done so, the Government are now in a position to set out next steps.

As recognised in the Privy Council review the state has an overriding duty to protect the public, including from threats such as international terrorism and serious organised crime. Bringing prosecutions against and securing convictions of offenders is an important means of doing so. Equally, the effective use of intercept as intelligence already makes a vital contribution to public protection and to national security more widely.

Therefore, the programme of work to be undertaken will focus on assessing the likely balance of advantage, cost and risk of a legally viable model for use of intercept as evidence compared to the present approach. The intention is to provide a report back to Parliament during the summer.

Recent work on intercept as evidence has benefited significantly from the experience of the advisory group of privy counsellors, comprising the right honourable Sir John Chilcot, the right honourable and noble Lord Archer of Sandwell, my noble friend, the right honourable Lord Howard of Lympne and the right honourable Sir Alan Beith MP. I am pleased to be able to confirm that the members of the advisory group have, at my request and that of the Prime Minister and Deputy Prime Minister, agreed to continue to provide assistance and oversight.

Mortgages: Consumer Protection

Statement

The Commercial Secretary to the Treasury (Lord Sassoon): My honourable friend the Financial Secretary to the Treasury (Mark Hoban) has today made the following Written Ministerial Statement.

Today the Government have announced a package of measures intended to enhance consumer protection in the mortgage market. These measures will:

transfer the regulation of new and existing second charge residential mortgages from the Office of Fair Trading (OFT) to the Financial Services Authority (FSA);

ensure consumer protections are maintained when a mortgage book is sold by a mortgage lender to an unregulated firm; and

extend the current regulation of the sale and rent back market to all providers.

An additional measure relating to a devolved matter—providing an exemption from FSA regulation for registered housing associations in Northern Ireland—is also included in the package.

This package is part of the Government's wider programme to reform financial regulation, to improve consumer protection and strengthen financial stability. It will simplify the mortgage regulation landscape by making the FSA responsible for all residential mortgages.

The statutory instruments will be published later in 2011. In advance of this, the Government expect the FSA to begin work immediately to implement these measures.

Written Answers

Wednesday 26 January 2011

Air Services: Wales

Question

Asked by ***Lord Jones***

To ask Her Majesty's Government what was the amount of financial assistance given to the Wales North-South air service in 2008–09. [HL5154]

The Advocate-General for Scotland (Lord Wallace of Tankerness): The matter of funding for the north-south air services is entirely a matter for the Welsh Assembly Government.

Alcohol

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what plans they have to introduce a minimum price for alcohol in England and Wales. [HL6010]

The Minister of State, Home Office (Baroness Neville-Jones): The coalition agreement contains a commitment to stop the sale of alcohol below cost price and as a result we have no intention of introducing minimum unit pricing. We feel duty plus VAT is the best starting point for tackling the availability of below-cost alcohol and stopping the worst instances of deep discounting.

We acknowledge the views of supporters of minimum unit pricing but recognise that there are a number of real challenges to delivering such a policy. These include issues of legality, proportionality and fairness and the cost and burden to businesses. However, we continue to keep all policy under review.

Azerbaijan

Questions

Asked by ***Lord Dykes***

To ask Her Majesty's Government what assessment they have made of relations with Azerbaijan. [HL5912]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The United Kingdom's bilateral relations with Azerbaijan cover an increasing number of areas of mutual interest. We value our relations with Azerbaijan, as signified by the Minister for Europe's official visit there in October 2010. The Government hope to continue to strengthen our relationship with Azerbaijan across a range of issues, including shared commercial interests. At the same time, we will continue our support for a resolution of the Nagorno-Karabakh conflict and for Azerbaijan's efforts to meet its international human rights obligations.

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government what is their assessment of the talks between the European Commission and Azerbaijan to facilitate visa-free travel for Azeri nationals in return for gas supplies; and what assessment they have made of its impact on the United Kingdom's immigration policy. [HL5967]

Lord Howell of Guildford: The European Commission and the Government of Azerbaijan will shortly launch negotiations concerning a draft agreement on a visa facilitation regime and on a readmission agreement. The UK is not part of the Schengen group and therefore any negotiations conducted by the European Commission regarding visas will not affect UK government policy. We are unaware of any linkage between this issue and that of future exports of gas from Azerbaijan to European countries.

Banking: Bonuses

Question

Asked by ***Lord Myners***

To ask Her Majesty's Government whether they propose to reduce total executive compensation at United Kingdom banks as a percentage of revenue, profits and dividend compared with the previous year; and whether they will monitor those percentages. [HL5933]

The Commercial Secretary to the Treasury (Lord Sassoon): The Government are in discussion with the banks to see whether a new settlement can be reached whereby smaller bonuses are paid than would be paid otherwise and there is greater transparency in relation to remuneration than hitherto. If the banks cannot commit to such a settlement, the Government have made it clear to them that nothing is "off the table". The Government will keep both Houses informed of all relevant policy developments.

Burma

Questions

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what funding they provide for cross-border aid into Burma. [HL6055]

Baroness Verma: In 2010 the Department for International Development provided £1,057,000 for cross-border humanitarian assistance to Burma from Thailand and China.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what the aid budget for Burma will be for (a) 2011–12, (b) 2012–13, and (c) 2013–14. [HL6056]

Baroness Verma: The future aid budget for Burma is being considered as part of the wider review of the Department for International Development's (DfID's)

bilateral programme. The shape of DfID's programme and spending over the next four years will be made known after this review.

Business: Entrepreneurship

Questions

Asked by ***Lord Harris of Haringey***

To ask Her Majesty's Government what plans the Department for Business, Innovation and Skills has to promote enterprise and entrepreneurship in the United Kingdom following the decision to cancel grant-in-aid support to Enterprise UK. [HL6070]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): The Government are committed to making this decade the most entrepreneurial and dynamic in our history. The Department for Business, Innovation and Skills is currently reviewing the way in which it promotes an enterprise culture and encourages start-ups.

Asked by ***Lord Harris of Haringey***

To ask Her Majesty's Government how much funding the Department for Business, Innovation and Skills plans to provide for (a) enterprise promotion, and (b) enterprise education, following Spending Review 2010. [HL6071]

Baroness Wilcox: The Government are committed to making this decade the most entrepreneurial and dynamic in our history. Following the spending review, we are putting in place an approach to enterprise promotion and education to ensure that our funding will be targeted in the most effective way. Final decisions on funding have yet to be made.

Asked by ***Lord Harris of Haringey***

To ask Her Majesty's Government what entrepreneurship and enterprise projects the Department for Business, Innovation and Skills is (a) fully, and (b) partially, funding. [HL6069]

Baroness Wilcox: The Department for Business, Innovation and Skills keeps records of all projects that it funds. However, these cover a wide range of activities across the department and the relevant financial information is split between a number of areas of spend and a number of individual databases within the department. We cannot therefore readily separate out expenditure on projects specifically relating to entrepreneurship and enterprise.

Citizens Advice Bureaux

Questions

Asked by ***Lord Boateng***

To ask Her Majesty's Government whether they have made an assessment of the number of citizens advice bureaux that will close as a result of their spending plans. [HL5976]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): The Government value highly the work of the Citizens Advice service but funding for citizens advice bureaux is not a matter for central government but for local authorities, which are better able to determine the structure and level of funding of advice services in their area to meet local needs.

Local spending decisions are, and will continue to be, for local authorities. However, the Government do not expect local authorities to respond to this freedom by passing on disproportionate cuts to other service providers, especially the voluntary sector.

Asked by ***Lord Boateng***

To ask Her Majesty's Government whether they have been notified of the closure of any citizens advice bureaux since Spending Review 2010; and, if so, where such bureaux are located. [HL5977]

Baroness Wilcox: Central government has not been notified of the closure of any citizens advice bureaux since the spending review settlement 2010. The Government are aware that local authorities that fund citizens advice bureaux are facing tough decisions but do not expect them when making those decisions to pass on disproportionate cuts to other service providers, especially in the voluntary sector.

Asked by ***Lord Boateng***

To ask Her Majesty's Government how they intend that the functions carried out by citizens advice bureaux should be performed after any proposed closures. [HL5978]

Baroness Wilcox: Central government has not been notified of the closure or proposed closure of any citizens advice bureaux since the spending review settlement 2010. The Government are aware that local authorities that fund citizens advice bureaux are facing tough decisions but do not expect them when making those decisions to pass on disproportionate cuts to other service providers, especially in the voluntary sector.

We know that the umbrella body for the service in England and Wales (Citizens Advice) is working closely both with the membership of the bureaux and with the network of local authorities to ensure that this highly valued service has a sustainable future.

Asked by ***Lord Boateng***

To ask Her Majesty's Government what meetings have been held between Ministers and representatives of Citizens Advice Bureaux in the light of Spending Review 2010. [HL6018]

Baroness Wilcox: The following Ministers have met with Gillian Guy, the chief executive officer of Citizens Advice since the spending review settlement in October:

4 November—Vince Cable and Edward Davey (BIS's Secretary of State and Minister for Employment Relations, Consumer and Postal Affairs);

7 December—Jonathan Djangoly (Parliamentary Under-Secretary of State for Justice); and

1 December—Gillian Guy spoke alongside Edward Davey at the Debt and Personal Finance APPG meeting on Consumer Voice.

Gillian Guy is due to meet with Lynne Featherstone (Parliamentary Under-Secretary of State for Equalities) on 1 February.

Community Relations: New Cross Fire

Questions

Asked by ***Lord Boateng***

To ask Her Majesty's Government whether any assessment has been made of the impact on community relations, policing and public confidence in the inquest system of the events surrounding the deaths of 13 young Afro-Caribbean people in Lewisham in the New Cross fire. [HL5979]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Two public inquiries—namely, Lord Scarman's (1981) and the Macpherson inquiry into the death of Stephen Lawrence (1999)—are pertinent in that they looked at the relationship between young people and the police. However, no specific assessment has been made of the impact on community relations, policing and public confidence in the inquest system following the deaths of 13 young Afro-Caribbean people in Lewisham in 1981.

Following an order by the High Court in 2002, a second inquest was conducted into the deaths by His Honour Gerald Butler QC sitting as assistant deputy coroner in 2004. The inquest lasted 10 weeks and heard evidence from 210 witnesses. The coroner concluded that the fire was most probably deliberate but, as he could not be sure beyond reasonable doubt, he returned an open verdict.

Asked by ***Lord Boateng***

To ask Her Majesty's Government what plans they have to mark the 30th anniversary of the death of 13 young people from the Afro-Caribbean community in Lewisham on 18 January 1981 in the New Cross fire, with a view to strengthening community relations, and the enhancement of the safety of young people at social gatherings and places of entertainment. [HL5980]

Baroness Hanham: We are aware that a special church remembrance service was held at St Andrew's United Reformed Church in Brockley Road on Sunday (January 16) and a new commemorative memorial plaque was put on the house in New Cross Lane to mark the 30th anniversary of the death of 13 young people from the Afro-Caribbean community in Lewisham. Central government has no further plans to mark the 30th anniversary.

In terms of enhancing the safety of young people at places of entertainment, the Regulatory Reform (Fire Safety) Order 2005 requires the "responsible person" to risk-assess the building and ensure that appropriate fire precautions are in place to minimise the risk to life in the event of a fire. Fire safety in private dwellings is the responsibility of the householder.

Criminal Records Bureau

Question

Asked by ***Lord Moonie***

To ask Her Majesty's Government how much has been spent by (a) central government departments, (b) local government, and (c) quangos on Criminal Records Bureau checks in the last 12 months for which records are available. [HL5697]

The Minister of State, Home Office (Baroness Neville-Jones): The Criminal Records Bureau (CRB) does not hold this information. The bureau is responsible for processing applications that have been made in the prescribed manner under Part V of the Police Act 1997. Applications are made by registered bodies (organisations that are registered with the CRB for the purposes of using the CRB checking service) on behalf of employers who are entitled to ask exempted questions under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975. Therefore, there is no central record of such costs.

Education: Dance

Question

Asked by ***Lord Hall of Birkenhead***

To ask Her Majesty's Government what plans they have to review dance education provision. [HL5784]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): In the schools White Paper *The Importance of Teaching*, published in November, we stated that there is much that children need to learn and experience that sits outside the traditional subject disciplines, so we will ensure that there is space in the school day to provide a rounded education for all. Dance contributes both to children's physical and to their cultural education and is deservedly popular.

Dance is an integral part of physical education within national curriculum physical education, which sets out the statutory requirement for all pupils aged five to 16 in maintained schools. We have just announced a review of the national curriculum, in which we have said that physical education will remain compulsory at all key stages. The first phase of the review will draft a new programme of study for physical education. This will be prepared and available to schools by September 2012, with teaching in maintained schools from September 2013.

Energy: Gas

Question

Asked by ***Viscount Waverley***

To ask Her Majesty's Government where they expect the United Kingdom's non European Union produced gas to be imported from to meet demand in five years' time. [HL5943]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Lord Marland): This is a commercial matter for gas shippers. However, an increasing proportion of our gas demand is likely to come via pipeline from Norway and via LNG terminals from Qatar, Trinidad and Tobago, Algeria, Egypt and potentially a variety of other sources, including Australia. Currently, we import no gas directly from Russia and we are unlikely to do so in five years' time.

Equality Act 2010

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what secondary legislation has been made under the Equality Act 2010; what its purposes are; and what other such legislation they intend to make. [HL6088]

Baroness Verma: I refer the noble Lord to the Answers given on 1 November, *Official Report*, col. *WA 348*, and 29 November, *Official Report*, col. *WA 401*.

Twenty statutory instruments relating to the Equality Act 2010 have now been made and published and are listed on the Government Equalities Office website, at the following link, which also makes clear the purpose of each one: www.equalities.gov.uk/equality_act_2010/details_of_statutory_instrumen.aspx

Decisions about outstanding measures and future secondary legislation will be made and announced in due course.

EU: Regulations

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government how many regulations were agreed by the European Union between August 2002 and December 2010. [HL5964]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Figures for Council regulations adopted by the European Union are held on a yearly rather than a monthly basis. Between 2002 and 2009 inclusive, 2191 Council regulations were adopted by the European Union. Figures for 2010 are not yet available.

Government Departments: Staff

Questions

Asked by ***Baroness Seccombe***

To ask Her Majesty's Government how many civil servants were employed by the Cabinet Office in (a) 1997, and (b) 2010. [HL5701]

Lord Taylor of Holbeach: The number of full-time equivalent civil servants employed by the Cabinet Office in the requested years is detailed in the table below.

Year	*Full-time Equivalent*	*Published at:*
01 April 1997	1,027	http://www.civilservice.gov.uk/Assets/css97_tcm6-2540.pdf
30 September 2010	1,620	http://www.statistics.gov.uk/downloads/theme_labour/Table6AllDepts.xls

Copies of the documents have been placed in the Libraries of the House.

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what are the role and functions of the behavioural insight team in the Cabinet Office. [HL6103]

To ask Her Majesty's Government how many staff are employed in the behavioural insight team in the Cabinet Office. [HL6105]

Lord Taylor of Holbeach: I refer the noble Lord to the reply given to the noble Lord Bassam of Brighton on 17 November, *Official Report*, cols. *WA 210-11*.

Health and Social Care Bill

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government how the Health and Social Care Bill will improve patient care. [HL5988]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): In modernising the National Health Service, we aim to create a patient-centred health service that achieves outcomes that are among the best in the world. The Bill contains the legislative changes necessary to best support this aim; every aspect of the Bill is designed to improve the quality of the care that patients receive, the efficiency of the services that provide them and the accountability of services to their populations.

Patients and the public will be put at the heart of the NHS, giving them more control over their care and a greater say in decisions about health services. Patient choice will stimulate improvements in the quality of health services and improve patient satisfaction with the care that they receive. The Bill supports this by creating HealthWatch at a local and a national level to ensure the patient's voice is no longer lost in the system. The new NHS Commissioning Board will also have a legal duty to promote patient choice in the NHS.

The NHS will focus on what matters most to patients—high-quality care, not narrow process measures, which have damaged patient care. A relentless drive to improve outcomes, supported by a new NHS outcomes framework, will enable health services to deliver better care for patients. The Bill supports this by placing a duty of continuous quality improvement (defined in terms of clinical effectiveness, safety and patient experience) on the Secretary of State, the NHS Commissioning Board and commissioning consortia. In addition, the Bill provides that the Care Quality Commission and Monitor in its new role as economic

regulator will ensure safe and robust health services by monitoring, reviewing and reporting on quality and financial issues.

Providers and professionals will be empowered to innovate and drive up the quality of patient care, freeing them from bureaucratic control and making services more directly accountable to patients and communities. The Bill supports this by creating a coherent framework for the NHS that stops political interference in day-to-day decisions and improves accountability by conferring functions directly on the organisations responsible for exercising them. The Secretary of State will retain only those controls necessary to discharge core functions and, instead, transparent institutions—with roles and responsibilities clearly defined in legislation for the first time—will be responsible for the day-to-day operation of the NHS.

Health: Diabetes

Question

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

To ask Her Majesty's Government how many people under the age of 18 are suffering from type 1 diabetes; and whether they have estimated the cost to the Exchequer of type 1 diabetes in under-18s. [HL6129]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The research report *Growing up with Diabetes: Children and Young People with Diabetes in England* states that, in January 2009, 22,783 children and young people aged nought to 17 years in England were recorded as having diabetes. Of these, 21,136 were classified by type and the vast majority (20,488) had type 1 diabetes.

It is extremely difficult to estimate the cost of treating type 1 diabetes in under-18s. Diabetes is a complex condition that affects all parts of the body, making it difficult to calculate an exact cost.

Health: Primary and Community Care

Question

Asked by ***Lord Mawson***

To ask Her Majesty's Government what plans they have to ensure that long-term commitment to local communities and patients in primary care is achieved. [HL5957]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Primary care contractors enter into a contract with the National Health Service to deliver care and services for local people who choose to use the services offered based on the personal experience of the care that they receive from these contractors. This Government are committed to ensuring that all local communities have increased choice to access the care that they want, including their primary care provision.

Health: Social Enterprises

Question

Asked by ***Lord Mawson***

To ask Her Majesty's Government how many social enterprises won primary care contracts in each of the last five years. [HL5952]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The department does not hold this information centrally.

Homeless People

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what plans they have to reduce the number of homeless people. [HL5918]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): This Government are committed to tackling and preventing homelessness. We have established a cross-government working group on homelessness bringing together Ministers from eight government departments to address the complex causes of homelessness and rough sleeping. A new approach to evaluating rough sleeping levels has been introduced so that there is clear information in all areas, to inform service provision and action to address the problem.

We have protected homelessness grant funding, with £400 million over the spending review period. This will be made available to local authorities and the voluntary sector to support their work to tackle homelessness.

We have made an additional £190 million available for discretionary housing payments and other forms of practical support alongside the Government's package of welfare reform measures.

I also refer the noble Lord to the letter of 20 October 2010 from the right honourable Grant Shapps on the spending review's settlement for housing, which includes our plans to build more affordable homes and to renovate poor-quality social housing. A copy of the letter is available in the House Library.

Immigration: Detention

Question

Asked by ***Lord Tebbit***

To ask Her Majesty's Government, further to the Written Answer by Baroness Neville-Jones on 30 November 2010 (*WA 436*), how many people detained for immigration purposes are not free to leave detention by leaving the jurisdiction of the United Kingdom. [HL5674]

The Minister of State, Home Office (Baroness Neville-Jones): The number of people who might be detained for immigration purposes who are not free to leave the

jurisdiction of the UK because, for example, of ongoing court or criminal proceedings is not centrally recorded and this information could be obtained only by the examination of individual case records at disproportionate cost.

There are likely to be few, if any, cases at any given moment and generally these individuals will be kept in detention only if they pose a harm to the public or there is reason to believe that they will not comply with conditions of temporary release.

Iraq

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what assessment they have made of the joint declaration of a summit meeting of Iraqi religious leaders, made in Copenhagen on 14 January, concerning religious tolerance and co-existence; and whether they will propose it for consideration at the forthcoming meeting of the Arab League in Baghdad. [HL5923]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The Government welcome the initiative taken by Iraqi religious leaders to gather in Copenhagen on 14 January 2011 to promote tolerance between religious communities. It would not be appropriate for the British Government to tell the Government of Iraq what should be on the agenda at the Arab League summit. However, we can encourage the Government of Iraq to listen to the wishes of religious groups in Iraq.

NHS: Procurement

Question

Asked by ***Lord Beecham***

To ask Her Majesty's Government whether, and in what circumstances, European Union procurement and competition rules would apply to the award of contracts to social enterprises or mutuals, whether composed of former public sector staff or others as appears to be encouraged under the Localism Bill and the proposed reorganisation of the National Health Service. [HL5884]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): When any employee co-operatives or mutuals are going to be awarded the opportunity to supply services to a contracting authority, the arrangement is likely to be viewed as a public contract for services and so will be captured by EU procurement rules unless the specific circumstances mean that the arrangement falls outside the rules or a general exemption applies.

There is no specific exemption for social enterprises or employee mutuals, so each procurement involving a "spin out" must be considered on a case-by-case basis. Circumstances where the rules might not apply to employee mutuals could include where there is no market for the services—eg where the services are very specialised and have always previously been carried out by public authorities—or where the mutual remains "in house" for an initial period. Possible exemptions include:

the award of service concessions;

the award of service contracts to joint ventures where the private sector involvement has already been competed; and

circumstances where a mutual that is also a contracting authority has been granted an exclusive right to provide a particular service.

Social enterprises and mutuals are subject to European Union competition rules if they are undertakings for the purposes of those rules. Whether or not social enterprises and mutuals are undertakings will depend on the circumstances and in particular on whether they are engaged in economic activity, offering goods or services on a given market. The EU treaty prohibits anti-competitive agreements, concerted practices or abuses of a dominant position by undertakings that affect trade between member states. Anti-competitive practices are also prohibited by the Competition Act 1998.

NHS guidance addresses the application of EU and UK procurement law to the procurement of NHS-funded health services and reflects the overarching principles that procurement must be transparent, proportionate and non-discriminatory, with equality of treatment for different types of provider and providers from different EU member states. This guidance applies in the same way to the award of new contracts irrespective of whether the provider is an NHS body, social enterprise or other public, private or voluntary sector organisation. The proposals outlined in the Health and Social Care Bill (19 January 2011) would build on this approach by establishing concurrent powers for Monitor, as economic regulator, to enforce competition law within the health sector in England where this is needed to address conduct that restricts competition against the patient and public interest.

NHS: Reform

Questions

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what is their timetable for introducing the planned reforms to the National Health Service. [HL5989]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): In *Liberating the NHS: Legislative Framework and Next Steps* (December 2010), the Government proposed a phased transition over four years, to allow enthusiasts to proceed early and to give them time to plan, test and learn under existing legal and accountability arrangements.

Pathfinders and early implementers are already coming together to test the new arrangements and share learning, ahead of the first full dry run of the arrangements in 2012-13. Subject to parliamentary approval, we intend the new system to be fully operational by 2013-14.

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government whether the reforms to the National Health Service will aim to reduce the number of patients who stay overnight in hospitals in order to save costs. [HL6037]

Earl Howe: The Government's commitment to deliver up to £20 billion of efficiency improvements will require National Health Service organisations to work together to ensure that patients are not unnecessarily admitted to hospital—for example, through better management of patients with long-term conditions in, or closer to, their own homes. This will be reinforced by the proposed modernisation plans, since by aligning general practitioners' (GPs') clinical decisions with the financial consequences of those decisions there will be a strong incentive to prevent avoidable, expensive emergency admissions to hospital.

In addition to reducing avoidable admissions, there is also scope for further increasing day case rates and reducing lengths of stay for patients who are admitted to hospital. This is a key way in which hospitals can meet the 4 per cent efficiency requirement that is incorporated in the tariff prices that they will receive in 2011-12. It is also supported by the extension of best practice tariffs, which base hospital payments on best and most efficient clinical practice, rather than simply average costs incurred.

However, hospitals must also ensure that patients are not discharged from hospital inappropriately quickly and, for that reason, from April 2011 hospitals will receive no payment for patients readmitted within 30 days of a previous elective admission.

The avoidance of unnecessary hospital admissions and enabling patients to return home quicker when they are admitted will also be supported by the additional investment to support social care—rising to £2 billion per year by 2014-15—announced in the spending review. This includes funding for reablement, which has shown significant benefits in helping people to regain independence after a crisis and in cutting emergency readmissions to hospital.

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government how the planned National Health Service reforms will affect patient–doctor relationships. [HL6040]

Earl Howe: The White Paper *Equity and Excellence: Liberating the NHS* (July 2010) set out the Government's vision of a patient-centred National Health Service. Patients should expect there to be "no decision about me without me", with greater choice and access to information that helps them be fully involved in decisions about their care.

A more active role for patients represents a significant change to the relationship that many patients have with their doctor. The Government consulted on how to support this change in *Liberating the NHS: Greater Choice and Control*. This consultation closed on 14 January and the Government will publish their response in due course.

The first duty of doctors and other clinicians will always be providing high-quality care to their patients. They will be helped to do this by a new focus on improving outcomes, the removal of top-down targets that do not benefit patient care and greater freedom to innovate and improve. Commissioning by general practitioners (GPs) will further strengthen the relationship between patients and the NHS. The Health and Social Care Bill places legal duties on GP consortia and the new NHS Commissioning Board about promoting the involvement of patients and their carers in decisions about their services and enabling patients to make choices.

Questions for Written Answer

Question

Asked by ***Lord Jopling***

To ask Her Majesty's Government what changes or events within the Department for Education have led them on 11 January to have 33 Questions for Written Answer remaining unanswered after the target time of 10 working days. [HL5802]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): I regret that so many Questions for Written Answer were late. Officials have been reminded of the importance of providing prompt answers. All outstanding PQs have now been answered.

Religious Intolerance

Question

Asked by ***Lord Alderdice***

To ask Her Majesty's Government what are the remedies available for citizens whose safety has been put in jeopardy by inflammatory religious or political statements about them; and what assessment they have made of whether those are sufficient and effective. [HL5559]

The Minister of State, Home Office (Baroness Neville-Jones): The police may carry out a risk assessment on any individual who may be at threat by such statements and offer adequate protection. It would not be appropriate to comment on details of protective security arrangements.

The Government are committed to ensuring that everyone has the freedom to live their lives free from fear of targeted hostility or harassment on the grounds of a particular characteristic, such as their religious beliefs, and are taking action to ensure that the criminal justice services and partners locally are equipped to prevent and tackle such targeted hostility. A range of legislation is in place to enable the police and probation service to take action against those making statements designed to inflame racial or religious hatred. We will continue to keep the effectiveness of these measures under review, including the regular collection and publication of hate crime incidents and prosecutions.

Schools: GCSEs

Question

Asked by ***Lord Quirk***

To ask Her Majesty's Government, further to the Written Answer by Lord Hill of Oareford on 30 November (*WA 444*), whether the 18 per cent decline over the years 1995 to 2010 in the number of pupils entered for nine or more GCSE examinations is evenly spread throughout the school system, or whether it is significantly correlated with (a) region; (b) type of school; (c) parental socioeconomic status; (d) other factors. [HL5498]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): In 1995, 361,797 pupils aged 15 entered nine or more GCSEs. In 2010, 253,342 pupils at the end of key stage 4 (typically those aged 15) entered nine or more GCSEs. This is a fall of 30 per cent.

The percentage fall in London was 15.7 per cent while outside London it was 31.9 per cent.

While it is not possible to compare all school types between 1995 and 2010, those that are possible are given below.

	Percentage change in pupils entering nine or more GCSEs between 1995 and 2010
Community schools*	53.9 per cent fall
Voluntary aided schools	46.7 per cent rise
Voluntary controlled schools	31.8 per cent fall
City technology colleges	70.2 per cent fall
Independent schools	26.8 per cent fall

*Called county schools in 1995

In 1995, performance data were not matched to any parental socioeconomic information. Therefore, a comparison is not available.

The main reason for the decline in the number of pupils entered for nine or more GCSEs is the increased availability and take-up of equivalent qualifications. If equivalent qualifications are included, a greater proportion of pupils entered nine or more GCSEs or equivalent qualifications in 2010 (83 per cent) than entered for nine or more GCSEs when equivalent qualifications were not counted in 1995 (63 per cent). In 2004, non-academic qualifications were first treated as equivalents to GCSEs for performance tables purposes and included in the calculation of performance indicators.

Taxation: Cuts

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what plans they have to introduce tax cuts for low-income workers. [HL5992]

The Commercial Secretary to the Treasury (Lord Sassoon): At the June 2010 Budget, the Chancellor announced that the 2011-12 income tax personal allowance for those aged under 65 would be increased by £1,000 in cash terms, taking it from £6,475 now to £7,475 in 2011-12.

The June Budget estimated that the increase in the personal allowance will lift 880,000 of the lowest-income taxpayers out of income tax altogether and will be worth up to £170 a year for 23 million basic rate taxpayers. The Government's longer-term goal is to raise the allowance to £10,000, with real-terms steps in that direction every year.

Tunisia

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what is their assessment of the effects on British trade and exports of recent events in Tunisia. [HL6014]

The Minister of State, Department for Business, Innovation and Skills & Foreign and Commonwealth Office (Lord Green of Hurstpierpoint): It is too early to tell what effects the current situation in Tunisia will have on Britain's trade with Tunisia. It will be some time before useful assessments can be made. British firms remain involved in a range of business in Tunisia, notably in the energy sector.

We are of course keeping a close eye on the situation as it unfolds. The majority of the population is trying to get back to work. Public offices are reopening and the banking and transport systems are resuming. The country is heavily dependent on tourism and even a short-term disruption could have a significant effect.

Turkey

Questions

Asked by ***Lord Patten***

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 10 January (*WA 415–6*), why they do not plan to make representations to the Government of Turkey concerning the difficulties which British citizens encounter over Anglican worship in Turkey. [HL6006]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): I refer my noble friend to the Written Answer that I gave him on 15 December 2010 (*Official Report*, cols *WA 201-02*). Our embassy in Ankara raises the issue of respect for all religious minorities (rather than specific groups) with the Turkish authorities in their wider discussions on human rights. The Government support EU efforts to encourage reform in Turkey as part of the EU accession process.

Asked by ***Lord Patten***

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 10 January (*WA 416*), why they do not plan to make representations to the Government of Turkey concerning the difficulties which British citizens encounter over Roman Catholic worship in Antalya. [HL6007]

Lord Howell of Guildford: I refer my noble friend to the Written Answer that I gave him on 15 December 2010 (*Official Report*, col. *WA 202*). Our embassy in Ankara raises the issue of respect for all religious minorities (rather than specific groups) with the Turkish authorities in their wider discussions on human rights. The Government support EU efforts to encourage reform in Turkey as part of the EU accession process.

Asked by ***Lord Dykes***

To ask Her Majesty's Government what steps they will consider taking to assist in accelerating the potential membership of Turkey of the European Union. [HL6015]

Lord Howell of Guildford: Turkey's accession to the EU is a key goal for the Government. This must, however, be subject to rigorous application of the EU's accession criteria. We believe that Turkish accession to the EU would contribute to the security, stability and prosperity of both the UK and the EU. We work closely with EU member states and with the European Commission to encourage and support progress in Turkey's accession process.

We also encourage Turkey to accelerate domestic reforms in line with the EU acquis. We support Turkey's engagement in support of the Cyprus settlement process and call for Turkey to implement the additional Ankara protocol.

Tuvalu

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what is their assessment of the situation in Tuvalu. [HL5920]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Tuvalu held parliamentary elections in September last year, which saw Prime Minister Maatia Toafa elected. However, on 21 December 2011 he lost a vote of no confidence and was replaced by Prime Minister Willy Telavi. Demonstrations have taken place in the capital, Funafuti, as part of a political campaign to attempt another change in government. The new Prime Minister has issued a temporary public order banning public demonstrations as a precautionary measure to ensure public safety. We are following events carefully.

Uganda

Questions

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what assessment they have made of the recent cash donations by Uganda's National Resistance Movement-led Government of over £5,000 per NRM MP for use during their election campaigns. [HL5983]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Sitting Ugandan Members of Parliament reportedly received 20 million Ugandan shillings (£5,500) each on 15 January 2011, allegedly to monitor the implementation of government programmes, including the National Agricultural Advisory Development programme, in their respective constituencies. There are concerns about how these funds will be used in the run-up to presidential and parliamentary elections on 18 February and some Ugandan MPs have declared that they will return the money.

My honourable friend Henry Bellingham raised with President Museveni in July last year the importance of credible and peaceful elections. We will continue to urge the Ugandan authorities to ensure a level playing field for all political parties and, to this end, we are providing assistance, including technical support, to the Electoral Commission. We are also providing support to political parties, through a multi-donor (including the Department for International Development) Deepening Democracy Programme.

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what is their assessment of press and media freedoms in Uganda in the run-up to the presidential elections; and what conversations they have had with officials in Uganda's Broadcasting Council about its recent moves to prevent privately owned radio stations from live broadcasting a conference in late December organised by the Buganda Kingdom on the social, cultural, economic and development issues of the kingdom. [HL5985]

Lord Howell of Guildford: Uganda has a lively media whose coverage inspires active public debate on current issues and criticism of government policies. But we are concerned about administrative and legal curbs on freedom of expression, in particular the draft Press and Journalism Bill, and the pressures on journalists.

We are, however, encouraged that in August last year Uganda's Constitutional Court ruled that the criminalisation of sedition was incompatible with the constitution's guarantee of freedom of expression. The court abolished the crime of sedition and quashed 14 outstanding charges of sedition brought against journalists and opposition politicians.

Our high commission in Kampala regularly discusses issues relating to freedom of expression with the Government of Uganda and has raised the draft press Bill with the Ugandan Minister for Information. We were not aware that some radio stations were prevented from broadcasting the Buganda Kingdom's conference in December but can confirm that Central Broadcasting Service, the Buganda Kingdom's radio station, was reopened in October last year after being shut down in September 2009.

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