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House of Lords

Monday, 28 March 2011.

2.30 pm

Prayers—read by the Lord Bishop of Ripon and Leeds.

Homelessness
Question

2.36 pm

Asked by ***Lord Sheldon***

To ask Her Majesty's Government what is their estimate of the number of people sleeping rough in London; and what proposals they have to reduce the number.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The latest statistics show 415 rough sleepers in London on any one night: 23 per cent of the national total. The Government are committed to tackling rough sleeping and preventing homelessness. We have maintained the level of the homelessness grant, with £400 million for local authorities and the voluntary sector over the next four years. A cross-departmental ministerial working group has been set up to address the complex causes of homelessness and to improve support for homeless people.

Lord Sheldon: I thank the noble Baroness for that reply because there is some improvement there, which I look forward to seeing. Sleeping rough can be a dangerous experience. One estimate is that rough sleepers have an average life expectancy of 42 years, and that people who sleep rough are 35 times more likely to commit suicide than the general population. It is difficult to get an accurate figure, because to protect themselves men and particularly women sleep in places where they might not easily be found. Is the noble Baroness aware that one estimate is that 3,600 people sleep rough in London at some point and that the London mayor was actually committed to ending rough sleeping by next year? What proposals are there for that claim to be put into practice?

Baroness Hanham: My Lords, I am aware of the seriousness of homelessness and of rough sleeping. That is why we are trying very hard to end the situation. As I mentioned in my opening remarks, a ministerial group is looking across the spectrum of Whitehall to see what needs to be done about homelessness to stop it completely. It hopes to report quite soon. I am sure the noble Lord knows that the mayor is also taking forward an initiative to try to ensure that people are not sleeping on the street for more than one night. The whole issue of criminal activity and attacks on people rough sleeping will come into the care that they will be given when they are being looked after.

Lord Best: My Lords, did the Minister see the report last week from Homeless Link, which suggested that one in six places in hostels for homeless people will have to go because of the cuts to the Supporting People grants? Will she join the Housing Minister Grant Shapps and campaigners in this field in urging local authorities, even in these difficult times, not to cut the Supporting People grants, which both cure and prevent homelessness?

Baroness Hanham: My Lords, local authorities have no excuse for cutting the Supporting People grants, which have by and large been preserved in cash terms—the reduction is less than 1 per cent. Although that is part of the unring-fenced grant, we still expect to see that amount of money put towards supporting people. Reductions in the number of bed spaces available cannot be attributed to that because the money is there to ensure that there is sufficient accommodation for people who are rough sleeping and are being taken into hostels.

Baroness Doocey: My Lords, I declare an interest as chair of the London Assembly. Is the money also going to provide any specialist help to the estimated one in three rough sleepers who are suffering from mental health problems?

Baroness Hanham: My Lords, the question of why people rough sleep certainly includes mental health problems. The mayor's initiative to take people in immediately—along with the other hostels—ensures that they get access to both healthcare and support for moving on into housing.

Baroness Dean of Thornton-le-Fylde: Is there strong MoD representation on the interdepartmental committee? It is a known fact that ex-service personnel in particular have issues of homelessness and represent quite a considerable number of those sleeping rough.

Baroness Hanham: The answer to that is yes. The Ministry of Defence is represented on the cross-ministerial group. It is well understood that a number of the people who are on the streets are prisoners who have been let out without care. I know that attention is also being given to ensure that better care is given to prisoners before they leave prison, because it is clearly one aspect that is giving difficulty.

The Lord Bishop of Ripon and Leeds: My Lords, can local authorities really stop organisations distributing food to those in need on the streets? Will the Government ensure that charitable work that has been conducted by organisations such as St George's Crypt in Leeds for generations is not destroyed or damaged by anti-humanitarian by-laws?

Baroness Hanham: My Lords, I think that the question refers rather opaquely to the proposal by Westminster to provide a by-law. That is a very specific initiative that Westminster is looking at, and it will involve a

[Baroness Hanham]
very small area. The Government have no intention of stopping soup runs elsewhere in the country. They are a very valuable assistance to people who are rough sleeping, although one has to be careful that they do not provide a magnet for those who are not rough sleeping but are just coming for cheap soup.

Baroness Howe of Idlicote: My Lords, could the Minister tell the House just how many young people and children are involved in sleeping out at this time? What special arrangements will be made to deal with them, not least in the light of all the trafficking that has been going on recently?

Baroness Hanham: My Lords, I do not know the specific number of children who are sleeping rough, but I hope that the answer is nil because it would be a very serious matter if there were more than a few. If I can find out the answer, I will of course let the noble Baroness know. I am very well aware of her interest and that of the House as a whole in the problem of the trafficking of children and women. I know that it will be very high on the police radar to ensure that any child found in the street is immediately taken in.

Baroness Armstrong of Hill Top: My Lords—

Baroness Trumpington: My Lords—

Noble Lords: Trumpington!

Baroness Trumpington: My Lords, would any of the excellent remarks that the Minister has made apply to those sleeping rough in Parliament Square?

Baroness Hanham: My Lords, I believe that the rough sleeping initiative will apply across London and the country.

Prisons: OPCAT

Question

2.44 pm

Asked by ***Lord Ramsbotham***

To ask Her Majesty's Government what action they propose to take in response to the recommendation on gaps in the national preventive mechanism made in the first annual report of the United Kingdom's Preventive Mechanism under the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The Minister of State, Ministry of Justice (Lord McNally): My Lords, the Government welcome this report and are studying its recommendations carefully. MoJ officials are in discussion with Her Majesty's Chief Inspector of Prisons, Her Majesty's Courts Service and the Provost Marshal—Army—to look at any ways of closing gaps that have been identified.

Lord Ramsbotham: My Lords, I thank the Minister for that reply. I am very glad to see that there is a report because while this protocol was signed in December 2003, it was not until March 2009 that the national preventive mechanism was set up. It has an extremely important role, not just in prisons but with immigration detainees. The coalition, as noble Lords will know, has 18 members, but what is worrying them all is that in addition to the gaps that have been identified, about which the Minister spoke, there is a problem of resources. They have to resource those extra inspections from their own budgets. Can the Minister assure the House that cuts will not affect the operation of this protocol?

Lord McNally: My Lords, the Government are committed to the operation of this protocol. All the bodies covering it have had to take their share of cuts, but they should keep in mind the overall commitment to honour the protocol when they apply those cuts.

Lord Corbett of Castle Vale: My Lords, the Minister will be aware that the report also reflects concerns about the length of time that some detainees are kept in immigration removal centres. What is being done to keep their number to the absolute minimum for the shortest possible time?

Lord McNally: My Lords, there is concern, and the UK Border Agency regularly reviews all cases where people are detained under immigration powers. It will consider for release all those who have been assessed as presenting a low risk of harm to the public and/or who are unlikely to abscond. However, there will always be some detainees who need to be detained.

Lord Dholakia: My Lords, one area of concern is the fate of deportees when they are returned to their homeland. How often are the in-country reports updated to ensure that the political situation is taken into account? Secondly, what mechanism exists to ensure that they suffer no harm when they are returned?

Lord McNally: My Lords, that goes slightly wider than this Question. Rather than trying to busk it, I will make sure that I get the correct information and write to my colleague.

Baroness Stern: My Lords, is the Minister aware that one of the bodies in this mechanism is the Care Quality Commission and that last year it inspected 1,700 wards in hospitals where people are detained under the Mental Health Act? It was very concerned about children and adolescents being held in mixed wards because that threatened their privacy, their dignity and their safety. Do the Government have any plans to respond to that concern as a matter of urgency?

Lord McNally: Yes, my Lords. This is being kept under particular review since how young people with mental health conditions are being kept is of concern. As far as possible, the issues identified will be addressed.

Lord Hunt of Kings Heath: My Lords, perhaps we might return to the issue of resources. The noble Lord referred to the UKBA but would he acknowledge that, in the past few weeks, Ministers have referred to an increasing number of responsibilities being given to the UKBA at the same time as 5,000 staff are being taken off its head count? What we have not had is an explanation of how the UKBA is meant to manage these new responsibilities.

Lord McNally: Cuts are being made right across government. I will not go through the mantra of why that is so, as those on the noble Lord's side know it only too well. However, all departments in which the cuts are being made are looking at how to maintain delivery under a much more difficult regime. That is one of the facts of life that we face as a country.

Baroness Farrington of Ribbleton: My Lords, would the Minister care to answer the second part of my noble friend's question? How can the Government justify putting more responsibility on the UKBA when the Minister acknowledges that it is making reductions in effect by putting more responsibility on those staff? Surely a responsible Government would take account of this and not give extra workloads to those whose numbers are being severely reduced.

Lord McNally: The noble Baroness obviously sees herself as the minder of the Front Bench as she often pops up with questions that suggest, usually quite unjustifiably, that I have not answered the question. If she wants it more bluntly, we inherited an economic disaster. Every government department has had to take its hit, including mine; yet there are people within the public service grappling with those realities—in a way, may I say, that the last Government avoided. Those people will continue to do so, and I have every confidence that the UKBA will do that too.

Lord Low of Dalston: My Lords, getting back to the report to which the noble Lord, Lord Ramsbotham, referred in his original Question, the report raised significant concern about detainees with mental health problems, who often do not receive the support and treatment they need when in prison and are often held for long periods in segregation units. Even when they are held in more appropriate settings, they still experience difficulties in accessing mental health services. Can the Minister tell the House what efforts are being made to ensure that all detainees are able to access the services that they require regardless of where they are detained?

Lord McNally: My Lords, mental illness is being addressed by the Government in a new cross-government mental health strategy that was launched in February. On the segregation units, for prisoners for whom segregation is considered to be the only option an initial segregation health screening must be carried out within two hours of the prisoner segregation. In addition, for prisoners in an open mental health situation a mental health assessment must be undertaken within 24 hours. We are taking mental health in the prison population extremely seriously and we will be bringing forward positive proposals to divert those who need mental healthcare away from prison and into the appropriate conditions.

Railways: Cardiff Valley Lines

Question

2.52 pm

Asked by ***Lord Touhig***

To ask Her Majesty's Government whether they will include the Ebbw Valley line in the development of the business case for the electrification of the Cardiff valley lines.

Earl Attlee: My Lords, the Department for Transport has committed to work with the Welsh Assembly Government to develop a business case for the electrification of the key valley commuter lines north of Cardiff via Pontypridd, Caerphilly, Treherbert, Aberdare, Merthyr Tydfil, Coryton and Rhymney, as well as the lines to Penarth and Barry Island to the west. There is no current proposal for electrification of the line from Newport to Ebbw Vale.

Lord Touhig: My Lords, I thank the Minister for his Answer but I am disappointed by it. By the way, the line at present does not go to Newport—it is Cardiff to Ebbw Vale. It opened on 8 February 2008 and in the first year carried 573,000 passengers, breaking all expectations. At weekends it has to double its capacity to carry passengers. It is the only one of the valley lines not to be included in this proposed business plan. Would he be prepared to facilitate a meeting with myself, himself, his Secretary of State and perhaps a couple of Members of the other place so we can put our case directly to Ministers?

Earl Attlee: My Lords, I am aware of the success of the lines. The noble Lord asked about a meeting. Yes, I will facilitate that. I think noble Lords need to understand that electrification can have a good business case when the existing rolling stock needs replacing and the frequency of vehicle movements is relatively high. That does not yet exist on the Ebbw Vale line.

Baroness Randerson: My Lords, the announcement of the proposed electrification of the valley lines was strongly welcomed in Wales but there was some disappointment that the electrification of the First Great Western line did not go beyond Cardiff. I was very pleased to hear that the Government are keeping that under review. Can the Minister give us some detail of how that review will take place?

Earl Attlee: My Lords, Governments keep everything under review. It is important to understand that the rolling stock that will be used on the Great Western line is the bi-mode IEP train. The savings in time from Cardiff to Swansea will be minimal because the maximum speed on that line is severely restricted. Therefore, there would be no benefit from electrification in the short term.

Lord Berkeley: My Lords, given the success of the service on the Ebbw Vale to Cardiff line, why are there no passenger trains from Ebbw Vale to Newport, for which there must be a big demand? I believe that freight has been running on the line for many years. I declare an interest as chairman of the Rail Freight Group.

Earl Attlee: My Lords, the noble Lord makes an important point. As I understand it, although there is a freight line to Newport, the signalling is not up to the required standards for passenger trains. Under the new signalling project, modern signalling has been provided for but not fitted. Specifying train services is a matter for the Welsh Assembly Government, so if they want to specify that there will be passenger train services from Ebbw Vale to Newport, they can do so.

Lord Brookman: I declare an interest as someone who was born in Ebbw Vale, an event that was followed by the Second World War. I recall the final march about the closure at Ebbw Vale—the noble Baroness, Lady Kinnock of Holyhead, and her dear husband were there and her remarks stay with me. Does the Minister agree that commuting from Ebbw Vale to Cardiff and subsequently, I hope, to Newport is of paramount importance for the people who live in that area, especially the young people, to get jobs?

Earl Attlee: My Lords, the noble Lord is absolutely right. Most of the valley lines are going to be electrified for precisely the reason that he describes.

Lord Roberts of Conwy: Will my noble friend bear in mind the increased attractiveness of the valleys in terms of enterprise zones and the promotion of work opportunities if the valley lines are electrified?

Earl Attlee: My Lords, yes.

Baroness Morgan of Ely: My Lords, will the Minister explain this business about being "under review", what the timetable of the review of the electrification of the line from Cardiff to Swansea would be and why he has not done a complete business case on electrifying that line?

Earl Attlee: My Lords, there are numerous possible electrification schemes and we have to go for those that offer the best business case. At the moment, there is not a good business case for electrifying the line all the way to Swansea; there are much more attractive schemes elsewhere. We cannot do everything all at once.

Lord Davies of Oldham: My Lords, no one is asking the Minister to do everything all at once. He will recognise that it will be a considerable time before any of this electrification programme takes place, so will he take seriously the possibility that the Ebbw Vale line may well develop in such a way as to merit inclusion in the projected electrification of the valley lines? There is no doubt about the economic necessity of improved transport links between the valley towns and Cardiff.

Earl Attlee: My Lords, I agree with much of what the noble Lord says, but it is important to understand that when there are relatively few diesel trains running, the savings that you can obtain by electrification are relatively small. At some point, the demand on the Ebbw Vale line may be sufficient to justify electrification.

Energy: Shale Gas

Question

2.59 pm

Asked by ***Lord Trefgarne***

To ask Her Majesty's Government what are the likely implications of the discovery of shale gas on United Kingdom energy policy.

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Lord Marland): My Lords, exploration for shale gas has only recently commenced in the UK and no commercial production has yet been proven. In a recent study for DECC, the British Geological Survey estimated that there could be worthwhile shale gas resources in the UK. However, on current knowledge, it is not possible to estimate the recoverable reserves and therefore it is too early to assess how shale gas in the UK might impact our energy policy.

Lord Trefgarne: My Lords, I thank my noble friend for that reply. However, are the discoveries so far not sufficiently encouraging to provide at least the potential for future energy policy? Will he take that potential into account in making his future plans?

Lord Marland: That is a very topical question. We hope that fracking—I use the word, which you might think has come from "Call My Bluff", advisedly—is about to start in Blackpool. We should have the results of that this week. It is being observed. Once we have the results, we will have further study and a greater awareness of what is potentially there.

Lord Teverson: My Lords, is the Minister satisfied that fracking is environmentally safe? It has been suggested in parts of the United States that it can cause water pollution. Is my noble friend happy that that is not the case, certainly for the immediate Blackpool operation?

Lord Marland: I have just been asked by those on my own Benches what fracking is, so I will further the "Call My Bluff" scheme, if I may. It is hydraulic fracturing—sending in water and chemicals to discover whether there is shale gas there. My noble friend's question refers to whether the water comes out polluted. It is therefore very important that the Environment Agency is on hand to establish whether it does.

Lord Reay: Is the Minister satisfied that the announcement in the Budget of a floor price for carbon, to be introduced from 2013, will not discourage investment in this extremely promising source of abundant and cheap energy?

Lord Marland: My Lords, it is abundant and cheap in America, where a great amount of it has been found—three times the supply, in fact. However, we have different problems here in the UK. We have a high population density and are unsure of the reserves. There are all the planning issues that go with high population density. Therefore, it will not necessarily at this point mean a huge surge in the gas supply in this country. However, the point that my noble friend makes about taxation and the carbon floor price will be taken into account with this technology.

Lord Jenkin of Roding: My Lords, the noble Lord, Lord Teverson, rightly mentioned water pollution. Is one of the problems of exploiting shale gas in a country such as ours not that it requires huge quantities of water? When we are likely to face water shortages in the near future, would that not seem to be rather an unwise thing to do? Is it not clear that the biggest consequence of shale gas will be the exploitation of the enormous American supplies, which are already having an impact on the global gas price?

Lord Marland: My noble friend makes a point about the competition that American shale gas has brought to the gas supply. That is very valuable to us now that we are net importers of gas. We hope that it will compress the price of gas. As to water, it has been pointed out that we are an island and there is a lot of water around us. I do not think we will end up with a huge water shortage, provided that we use the right water.

Lord Naseby: Can my noble friend indicate what other parts of the United Kingdom are undertaking exploratory work in shale gas?

Lord Marland: My Lords, they are largely in the area around Blackpool. I understand that there will be some investigation in Southport and on that coastline. I am not a geologist but it presumably links in some form to Morecambe Bay. That is largely the area that is being investigated.

Baroness Smith of Basildon: I know the Minister is aware that there are concerns, as we have already heard, that there might be risks associated with obtaining shale gas. Why then have the Government not waited for the Select Committee in the other place to report fully on the inquiry that it is undertaking at present, or for the report from the US Environmental Protection Agency on the risk to humans and the environment? That information would have been very helpful to the Government before proceeding. To reassure people who have those concerns, what evidence does the Minister have that it is safe to proceed?

Lord Marland: We have evidence in the United States, as has been referenced. This has been going on for some time, so it is a proven technology. As I mentioned, the Environment Agency is on site to ensure that the process is taking place properly, so I am very comfortable with that. This is not a new technology. We have been using the fracking process in gas development for a very long time, so we have the safeguards in place.

Lord Oxburgh: Does the Minister agree that some of the difficulties with shale gas exploitation in North America and elsewhere have arisen because of an unsatisfactory regulatory regime or through regimes being put into place too late? Is he satisfied that the existing regulatory regime that would cover shale gas exploitation in this country is adequate and derives full benefit from the experience of shale gas exploitation elsewhere?

Lord Marland: The noble Lord is a great expert in this field. However, we have been exploring gas in this country for many years and have a very long knowledge of it. We have extremely sound regulation, but that does not mean that we are complacent about it. We have a very sound industry structure that has stood the test of time, and a great deal of knowledge.

Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2011

Family Procedure (Modification of Enactments) Order 2011

Data Protection (Subject Access Modification) (Social Work) (Amendment) Order 2011

Motions to Approve

3.05 pm

Moved By ***Lord McNally***

That the draft orders laid before the House on 3 and 28 February be approved.

Relevant documents: 16th and 17th Reports from the Joint Committee on Statutory Instruments. Considered in Grand Committee on 23 March.

Motions agreed.

Offshore Chemicals (Amendment) Regulations 2011

Offshore Petroleum Activities (Oil Pollution Prevention and Control) (Amendment) Regulations 2011

Renewables Obligation (Amendment) Order 2011

Motions to Approve

3.06 pm

Moved By ***Lord Marland***

That the draft regulations and order laid before the House on 10 January and 9 February be approved

Relevant documents: 12th and 16th Reports from the Joint Committee on Statutory Instruments. Considered in Grand Committee on 23 March.

Motions agreed.

Tax Credits Up-rating Regulations 2011

Guardian's Allowance Up-rating Order 2011

Guardian's Allowance Up-rating (Northern Ireland) Order 2011

Motions to Approve

3.06 pm

Moved By ***Lord Sassoon***

That the draft regulations and orders laid before the House on 15 February and 9 March be approved.

Relevant documents: 17th and 18th Report from the Joint Committee on Statutory Instruments. Considered in Grand Committee on 23 March.

Motions agreed.

Road Vehicles (Powers to Stop) Regulations 2011

Motion to Approve

3.06 pm

Moved By ***Lord Shutt of Greetland***

That the draft regulations laid before the House on 1 February be approved.

Relevant document: 15th Report from the Joint Committee on Statutory Instruments. Considered in Grand Committee on 16 March.

Motion agreed.

Public Bodies Bill [HL]

Report (2nd Day)

3.07 pm

Schedule 1 : Power to abolish: bodies and offices

Amendment 20A

Moved by ***Lord Warner***

20A: Schedule 1, page 16, line 23, leave out "Youth Justice Board for England and Wales."

Lord Warner: My Lords, I rise to move the amendment in my name and those of the noble Lords, Lord Ramsbotham and Lord Elton. The right reverend Prelate the Bishop of Ripon and Leeds intended to add his name to the amendment but just missed the deadline for the Marshalled List. I am sure that the House will want to hear his views on this matter at a later stage.

Across the Benches Members of this House are saying that the Government are wrong to seek the abolition of the Youth Justice Board. The same position appertained in Committee, with no speaker supporting the Government and five former Ministers, including three from the coalition Benches, saying that the Government were wrong about this. I will not repeat all the arguments made in Committee other than to remind the House that a series of independent reviews have said that the Youth Justice Board has done a good job, with the PAC recently saying that there was no foundation to the Government's case for abolition.

The nub of the Government's argument is that the YJB has done its job and youth justice can be left to local youth offending teams and Ministry of Justice civil servants and Ministers. The five former Ministers made it clear in Committee that leaving this specialist programme delivery work to generalist civil servants who move from job to job carries no credibility in terms of good government. Depending on locally financed YOTs, unaided at this time of severe financial retrenchment, is a recipe for youth justice sinking once again to the bottom of the pile, in terms of priorities, which is why the Youth Justice Board was set up in the first place.

Since the Committee stage, four of us—the noble and learned Baroness, Lady Butler-Sloss, the noble Baroness, Lady Linklater, the noble Lord, Lord Elton, and myself—had a meeting with the Minister and his colleague, Mr Crispin Blunt, who is responsible for youth justice matters. It would be a masterpiece of understatement to say that this was not a meeting of minds, despite the best endeavours of the noble Lord, Lord McNally, who, throughout this sorry saga, has tried to retain a balanced and helpful stance. Particularly worrying has been the absence of any sensible ministerial response to the incisive questioning of the noble Lord, Lord Elton, on why ministerial powers under the Crime and Disorder Act 1998 for holding the YJB to account are insufficient for discharging ministerial responsibilities to Parliament and the public.

In Committee, I teased the noble Lord, Lord McNally, about falling into bad company. I have to say that the more I learn of the Government's thinking on this issue, the more it seems not unlike the stories of Richmal Crompton in *Just William* and the Black Hand Gang. It is at about that level of intellectual competence. In Committee, several Members set out the YJB's success in reducing reoffending and the entry of juveniles into the criminal justice system. Since then, new figures on reoffending have been placed in the public arena. They show a further reduction in the number of juvenile reoffenders by 0.4 per cent in one year between 2008 and 2009—a number that continued in that downward trajectory throughout 2009.

Alongside these achievements, the YJB has significantly cut the number of young people going into custody. The board's abolition puts all this at risk. Given my considerable experience in this area, I say that the abolition of the YJB is likely to mean an increase in the number of young people being placed in custody unnecessarily—at great cost to the taxpayer and likely damage to young people.

The Government have totally failed to make the case for the abolition of the YJB and we should ask them to think again by passing the amendment. That is my overwhelming preference, and it is in the best interests of vulnerable young people and of the public purse. However, if it turns out that we are unable to achieve this, the second amendment in the group, Amendment 21B, becomes important, because it prevents the YJB's functions disappearing into the maw of the Ministry of Justice and, probably in reality, into the maw of NOMS, without any clear focus on youth justice issues. Having a separate agency with two independent non-executives is better than any ministerial warm words, particularly when one realises that the Ministry of Justice has accepted this model for prisons and the Courts Service. We should retain the Youth Justice Board and its name should be removed from Schedule 1. I beg to move.

The Lord Speaker (Baroness Hayman): I have to inform the House that if the amendment is agreed, I cannot call Amendment 21B, by reason of pre-emption.

Lord Ramsbotham: My Lords, I rise to speak to the amendment and to echo what the noble Lord, Lord Warner, said about Amendment 21B. I am conscious that one cannot repeat arguments made in Committee. I, too, remember the remarkable unanimity around the Committee.

I am grateful, as before, to the noble Lord, Lord McNally, for the efforts he made to continue the discussion. I am only sorry that I could not attend that meeting, but from what I have heard about it, and from a letter that the Minister wrote to the noble Lord, Lord Elton, which I hope he will forgive me for quoting, I believe that what is at the heart of the Government's proposal is a fallacy that for years has influenced the consistent failure of the criminal justice system—namely, that policy and operations are one and the same thing, rather than one being the practical deployment of the other. This was brought home to me when a senior official told me that she wished that I would stop talking about strategy. "We don't need strategy; all we need is strategic direction," she said. I asked what that meant. "Top down, of course," she said. That is nonsense. Having something said from the top down does not make it either strategy or strategic direction.

3.15 pm

I do not dispute that the youth justice system, like any other system, requires cross-departmental working based on one strategy and binding on all concerned. I do not dispute that the Minister for Prisons and Probation, Crispin Blunt, the Permanent Secretary, Sir Suma Chakrabarti, or the director-general of the justice policy group, Helen Edwards, are committed to leading and maintaining a dedicated focus on youth justice within the Ministry of Justice, and to ensuring that the necessary skills and expertise are retained. However, these are inward and invisible signs relating to the production of policy that they are responsible for overseeing. What is also needed, as in all effective systems, are outward and visible signs of the delivery of policy in the form of operations that must also be overseen.

This confusion between policy and operations is reflected in Crispin Blunt's letter to the noble Lord, Lord Elton, in which he argues that,

"it is not efficient or sensible to have this unique oversight of part of the offender/potential offender journey through the justice system … A unique body for one part of the journey does not help overall policy formulation … Bodies for every group deserving of special oversight (women, foreign nationals, BME, addicted, mentally ill, learning disabilities, young adults etc) would not improve but complicate matters. My time and that of senior officials would be spent even more managing these relationships, not trying to make a coherent system work for all".

Very few people undertake a journey through the justice system. The majority undertake a journey through only one part, which is why separate programmes need to be made for these parts within the whole. Tell the chief executive of a business that it is not efficient or sensible to have separate departments for finance and sales. Tell the chief executive of a hospital that there is no need for special oversight of surgery, paediatrics, mental health or pharmacy because that complicates matters. Tell the headmaster of a school that you do not need separate maths, science or language departments because it takes too much time to manage the relationship between them. Tell the Chief of the General Staff that you do not need directors of armour, artillery, engineers, communications or medical services because their expertise does not help overall policy formulation. Come on.

This discloses a complete lack of understanding of how systems work in the real world. Systems work where every element within them is co-ordinated into a coherent whole, based on a binding strategy—and where each, as well as the whole, is separately led. Ministers and senior officials who suggest that they might have to spend time managing relationships between different parts are disclosing that their system is incoherent. If there was a proper chain of responsibility and accountability, they should only have to deal with someone who was responsible and accountable to them for making the system work. That person will

[LORD RAMSBOTHAM]
require machinery to enable him or her to do that, but its working will be nothing to do with Ministers or senior officials. If it is, they are guilty of the prime sin of senior managers, which is micromanagement. They are responsible for ensuring that the whole is directed: in other words, for ensuring that everyone knows what is to be done. They are not responsible for the minute details of process—in other words, the minutiae of how—which regrettably has become the practice in the recent past because so few Ministers and senior officials, well versed in how, seem to know how to do the what.

The Youth Justice Board may not be the complete answer to the operational part of the youth justice system, as has been freely acknowledged. Looked at holistically, it includes prevention as well as cure and after-care, and much of its responsibility rests with local government. If it is to be made to work effectively, bearing in mind how many different departments and organisations are involved, it must have an overarching strategy and a coherent structure in which someone is responsible for oversight of policy and someone for oversight of operations, as every other working organisation has.

It may be that after the consultation on the Green Paper *Breaking the Cycle*, the Ministry of Justice will decide to manage the youth justice system differently. But, until that discussion has been held, and until the operation structure to sit alongside the announced policy structure is confirmed, it makes little or no sense to do away with the body that should not only play a key role in those discussions but which has been responsible for introducing the acknowledged success stories, such as the youth offending teams, the reduction in numbers in custody, the reduction in the reconviction rate and providing direction to the previously undirected children's custody provision. However committed, no Whitehall Minister or official could have achieved that.

These are testing times for the criminal justice system with cuts coming on top of already inadequate provision. I know that the Public Bodies Bill results from the Government's obsession with the alleged plethora of public bodies that seem to be obfuscating responsibility and accountability. However, here it is a Whitehall ministry and not a public body that is guilty of obfuscation. Obviously the Government cannot do away with the ministry but they can do away with the proposal—as they have done, thankfully, for the Security Industry Authority and Schedule 7. I believe that when they think through how the minutiae of a coherent youth justice system is made from so many different elements, they will be thankful that they retained a Youth Justice Board that is responsible and accountable for making it work. I therefore very much support the amendment.

Lord St John of Fawsley: With the leave of the House, I hope that I may ask this question. Does the Minister have any idea why we are not having a Statement on the events of Friday, which has prevented many of us expressing our wholehearted support for the bravery and wisdom of the police and the staff of this House in handling that situation?

The Earl of Listowel: I echo the many tributes paid in Committee to the Minister and his colleague, Crispin Blunt, for the Government's overall policy in this area. I strongly support and welcome the amendments from my noble friend Lord Ramsbotham and the noble Lord, Lord Warner. I fear that in this area I am forced to disagree with the Government's direction of travel.

On the matter raised by my noble friend about strategic leadership in this area, the children involved have very complex needs. As vice-chair of the All-Party Parliamentary Group on Children and Young People in Care, I am well aware that a quarter of these children will have come out of local authority care. Indeed, 50 per cent of the girls have been in local authority care. With the reduction in numbers of children coming into custody, we are left with a hard core of young people with even more complex and challenging needs. I should also say that I am a patron of Voice, an advocacy charity for young people, which goes into secure training centres and young offender institutions.

I was glad to hear of the discussions that have taken place since the Committee stage. The Government will be bearing in mind the contributions of the noble Lord, Lord Newton of Braintree, and the noble Viscount, Lord Eccles. We heard in Committee that more than 1,000 fewer young people have been taken into custody in the past three years. To keep a young person in a young offender institution costs £120,000 a year; to keep a young person in a secure training centre costs £160,000 a year; and to keep a young person in a local authority secure children's homes costs more than £200,000. Therefore, many hundreds of thousands of pounds are saved by the successful regime of the Youth Justice Board in reducing the numbers of children in custody.

That money is being reinvested in making the secure estate more effective at rehabilitating young offenders. I recently visited the Wetherby young offender institution and was particularly interested to see its Keppel unit, which is for the most vulnerable young people. I see the right reverend Prelate nodding to indicate his knowledge of the unit. There, for instance, the boys have showers in their own rooms. Normally there are collective showers, but that easily gives rise to bullying and intimidating behaviour. The boys are extremely proud to have a shower of their own; they arrange their shampoos of various kinds. They also have a very good relationship with the prison officers because the ratio of prison officers—so often criticised by my noble friend when he was chief inspector in previous reports on prisons for young people, with a large number of young people for a few prison officers—has been turned around at Keppel. That is so important to the rehabilitation of those young people.

I fear that I am speaking for too long, but the issue has been raised of the need for strategic leadership in this area. Secretaries of State and Ministers have too much to do to give full attention to that needy group of young people and to make the difference in their lives. The chairman of the Youth Justice Board can do just that and has been doing so. She invited the children's directors and chief executives of the local authorities in the north-east of England, in Manchester, Stockport,

Rochdale and Wigan, to visit the young offender institutions to see for themselves what happens there. I spoke to one of the deputy chief executives following his visit. He could now see clearly his responsibility as the leader of a local authority to help resettle those young people, because the holy grail of success in this area is what happens when young people leave custody. They need to be found appropriate accommodation. Following the Youth Justice Board chairman's work, there is now a consortium in the north-east; those local authorities are working together. They have hired the charity Catch 22 to supervise proper accommodation for those young people.

I strongly support the amendments and hope that the Minister will consider accepting them today.

Lord Woolf: My Lords, I hope that your Lordships will forgive me, because I have not spoken to the amendment at earlier stages; it was not possible for me to do so.

I echo what has already been said about the care which the Government have taken to reconsider other parts of the Bill and to take into account comments made by those who have had certain experience in the area. I am sad indeed—because I thought that the result might be otherwise—that, so far, the Government have not felt able to change their approach towards the Youth Justice Board.

I speak from personal experience in various capacities, which perhaps I should declare. One is from my concern with criminal justice as, first, a barrister and then a judge. The second is because I have recently become chairman of the Prison Reform Trust. The third, and most important in this context, is because I was involved in—indeed, I led—the Strangeways investigation and report. I have over many years been so disappointed that initiatives which have proved themselves to be successful have not been able to grow and develop to fulfil their full possibilities. My experience goes back to the time before the Youth Justice Board's creation and before its leadership by the noble Lord, Lord Warner.

I can only say to the House, as sincerely and as emphatically as I can, that this initiative has been wholly salutary. It managed to change the whole approach to a part of the criminal justice system—and, if I may say so, perhaps one of the most difficult and important parts of the criminal justice system—in a way which gave new hope to all those who were concerned for this area of our justice system. The best test of the innovation is to ask, "Did it work?". I would not say that it was always perfect—no change would be—but the balance sheet would show a huge improvement as a result of the Youth Justice Board.

I would urge as strongly as I can that the House consider the importance of this matter, as I am sure that the Government intend to do. However, it would be sacrilege if, whatever the motives put forward, we took out of the criminal justice system something that works, and introduced something that has not worked and has not been tried. I therefore hope that before such a result is brought about, there will be at least the pause for which the noble Lord, Lord Ramsbotham, has asked, to see how matters are dealt with in the Green Paper. I have to say that it really would be sacrilege to rush in and do something which is untried when the experience indicates that we cannot afford to do without the positive influence of the Youth Justice Board.

3.30 pm

Baroness Linklater of Butterstone: My Lords, it gives me enormous pleasure to follow my hero, the noble and learned Lord, Lord Woolf, who never speaks anything but words of the deepest wisdom.

Since we last debated the future of the Youth Justice Board, the folly of the Government's plan to dismantle it seems ever more misjudged, unnecessary and worrying. It is misjudged because the work of the YJB is highly specialist, dealing as it does with the most damaged, difficult and needy children in our community, who must be managed by people with specific experience and expertise, as they have. Children are not—as I said in Committee—small adults and should definitely not be managed by civil servants from NOMS in the MoJ who just do not have the expertise and whose work is with adults, not children.

It is unnecessary because, as we heard so eloquently in Committee from the noble Lord, Lord Elton, the ministerial powers of oversight, responsibility and accountability, which has been an area of central concern to the Minister, Crispin Blunt, are already in place in statute, giving him the power to make changes, decisions and appointments and other wide-ranging powers of overall control.

It is worrying because the desire to abolish the YJB betrays a determined failure by the Government to appreciate just how important, effective and significant this work is with children and young people who offend or are at risk of offending. This work by the YJB over the past few years has resulted, as we have heard, and as the most recent figures show, in a further drop in reoffending by young people. It is an extraordinary achievement.

This failure is exacerbated by a wish to make a decision which is driven by administrative concerns, convenience and cost-cutting—the input side of the balance sheet—rather than recognising and valuing the outcomes now being seen by the YJB, whose work has truly taken off in the past few years and is now achieving real results in terms of properly embedding and co-ordinating the youth offending teams, reducing reoffending and offending through prevention and diversion schemes, joint publications of inquiries, the oversight of the setting of maintenance of standards of professional practice, and much more.

This Bill has rightly concerned itself with rationalising those public bodies which have developed over the years with bureaucracies growing, mopping up precious government resources and duplicating effort which could be absorbed in existing government departments. The tests against which an organisation is validated therefore are that it performs a specific, necessary public service, independently establishes facts and is politically impartial. The YJB's success against these tests is beyond doubt, just as its value is clear to the many bodies with which it works, several of which were quoted in Committee. I will add the words of the

[Baroness Linklater of Butterstone]

Children's Commissioner, who represents the voice of children in this country. She says:

"It is imperative that responsibility for the custodial component of the youth justice system is held by an agency that understands and appreciates the distinct and special needs of children and young people, particularly those who are vulnerable".

It is because these tests are clearly being met and because of its track record of success and the considerable savings that are being made to the Exchequer through the success of diversion and prevention work, as well as because of the judgment of specialists in the field, that I believe that the YJB clearly should not be abolished.

Furthermore, the YJB itself is quite prepared to look at how to accommodate itself to the administrative thrust of government thinking. It is quite able to see a modus vivendi within the MoJ as an executive agency, with its specialist focus maintained, its separate identity from NOMS and its ability to work at arm's length from government, just as NOMS and other organisations already do. It is a mystery to me why this option has been resisted so far by the ministry and why it appears that my dear noble friend the Minister and, particularly, his colleagues in the Commons are hell-bent on reinventing the wheel in the name of some perceived convenience. The idea that the work of the YJB could be taken over wholesale by Ministers and senior officials is totally unrealistic, particularly when it has taken the YJB years to reach its current levels of expertise. We have already heard from the noble Earl, Lord Listowel, about the marvellous Keppel unit at Wetherby YOI. It demonstrates the extent to which specialisms within the specialist provision of the children's estate are so necessary. It is probably saving lives in the process. I just hope and pray that we are not being served notice that other groups in the criminal justice system not currently at issue but seriously important, including women and the mentally ill, can expect no future special attention, and that the reports of the noble Baroness, Lady Corston, on women and of the noble Lord, Lord Bradley, on mental health, whose recommendations have had wide support, are now to be shelved.

We should acknowledge around this House and in the country at large our overriding duty of care for the youngest in our society who need us most and should remember our responsibilities to our most vulnerable children by ensuring that their needs can continue to be met by the very organisation which has the knowledge and skills. To do otherwise would be a serious dereliction of our collective duty. I wholeheartedly support the amendment.

Lord Beecham: My Lords, I start by tendering an apology to the Youth Justice Board and to your Lordships' House for a figure I gave in an earlier debate concerning the number of deaths of young offenders in custody. Those figures had improved substantially in recent years, but I was not aware of that fact. That improvement was in good part, of course, due to the efforts of the Youth Justice Board.

One might have thought that a Bill that deals with part of the justice system would rest upon a sound evidential base. Where is evidence to support the proposal contained in this Bill for the abolition of the Youth Justice Board? Such evidence as there is appears to point entirely the other way. As my noble friend Lord Warner and others have said, the reduction of about one-third in the number of young offenders in custody, in those who reoffend and in those who do not come before the courts at all because of policies of prevention and diversion, is testament to the successful approach of the board. That has been supported by a number of reports. The noble Earl, Lord Listowel, referred to the work of the Youth Justice Board in conjunction with local authority services, which was acknowledged as far back as 2004 when the Audit Commission reported.

Of course, the Audit Commission is also under sentence at the moment, although we have yet to see legislation about that. Even at that stage, the Audit Commission reported:

"The new structures work well. The YJB sets a clear national framework … and takes a lead role in monitoring progress".

It also emphasised the role of the young offender teams. It stated that they,

"are critically placed between criminal justice, health and local government services to co-ordinate and deliver services to young offenders and the courts".

A report commissioned by the previous Government concluded:

"Overall, the YJB earns its place as a crucial part of a system which aims to tackle one of the most serious social policy issues in this country".

Most recently, there have been reports from the National Audit Office and, as my noble friend Lord Warner, mentioned, the Public Accounts Committee in terms of the recent statistics on the reduction of offending by young people. In a report published only three months ago, the National Audit Office declared:

"The Board … has been an effective leader of efforts to create and maintain a national youth justice system with a risk based approach, and in recent years key youth crime indicators have been falling substantially".

The Public Accounts Committee report, which was published only six weeks ago, concluded:

"The youth justice system has been successful in reducing the number of criminal offences … an achievement in which the Youth Justice Board has played a central role".

It continued:

"The planned abolition of the Youth Justice Board has arisen from a policy decision and not as a result of any assessment of the Board's performance".

The board has brought together a whole range of organisations and institutions working in youth justice. It has developed a substantial programme of secure estate commissioning. Indeed, it has been so successful that it decommissioned 900 places recently. Value for money is certainly very much part of its agenda. A range of other initiatives has been taken. Those initiatives range from the piloting of YOTs, as we have heard, to the delivery of the persistent young offenders' pledge to halve the time from arrest to sentence, working with the parents of young offenders and much else besides.

Against that background, it is disconcerting that the Government still are unclear about how the functions of the board will be discharged in the future. In particular, there is widespread concern in your Lordships' House and beyond about the potential transfer to the National Offender Management Service, which deals

with adult offenders. NOMS, to put it mildly, has a chequered record. I would invite the Minister in his reply to assure the House that, if the amendment fails—I certainly hope that it will not—it would not be the Government's intention to transfer the Youth Justice Board's functions to the National Offender Management Service.

As my noble friend Lord Warner indicated, should the amendment fail, as a backstop, an agency would be a better solution. But given the pressures on the department, its ministerial members and the officials working within it, it is inconceivable that the Young Justice Board's functions would be adequately discharged if they are simply transferred into the department. The independence, to a degree, that even an agency status would confer and, in particular, the separation of youth justice from adult justice and NOMS must be a precondition of any organisation of our services for young offenders.

3.45 pm

The Lord Bishop of Ripon and Leeds: My Lords, I, too, support Amendment 20A. It is the experience of a number of Members of this Bench that the Youth Justice Board has been among the most effective of the executive agencies since 1997. I also thank the noble Lord, Lord Warner, for his persistence in helping us to explore the qualities of the board and the opportunities that it has taken to encourage work with both young offenders and those in danger of becoming young offenders. From the perspective of this Bench, that experience has been held together by the right reverend Prelate the Bishop of Liverpool, who is very sorry that he is unable to be with us today to continue the debate.

Many of us have experience of YOIs and the work being done in them, overseen and encouraged by the Youth Justice Board. The board is ideally placed to help young people through programmes such as the Youth Inclusion Programme and the use of youth offending teams. It has been at the forefront of encouraging the restorative justice procedures about which we have spoken often in this House and which deliver high levels of victim satisfaction as well as positively influencing offending behaviour.

The oversight and commissioning of custody places for young people are highly specialised activities. I do not know whether other Members of your Lordships' House have visited Wetherby Young Offender Institution, but it was good hear the noble Earl and the noble Baroness speak of developments there because it is on my patch and I know it quite well. One gains a real sense that it is exploring ways forward for the young people in its care—I would say the same of the other YOI, that at Deerbolt near Barnard Castle. The young people there need the specialist attention which the Youth Justice Board can and does provide. I, too, do not argue that the Youth Justice Board is perfect and I have on occasions argued with it, but I know that it offers specific attention to those young men who often have both disrupted and disruptive lives.

Surely the YJB is among those public bodies which continue to make a real difference to the health of our nation. If the Minister, to whom I, too, am grateful for his own part in wrestling with this issue, is not moved by that fact, will he not accept that, in purely financial terms, this body is saving millions of pounds in terms of the number of young people who are being kept out of our young offender institutions as well as of those within them who are being helped and encouraged towards a future life out of the criminal system?

Lord Newton of Braintree: My Lords, I am feeling rather good because, in the course of the past 20 minutes or so, I have given way, modestly, to every other section in the House, including the Bench immediately in front of me. So I think that I deserve some credit, and I am looking for it particularly from the right reverend Prelate.

I have only a modest speech to make, which is why I refrained earlier. I want just to make it clear to my noble friend on the Front Bench that those of us who expressed some concern at the previous stage have not melted into night but retain some concern. In my experience, which is not inconsiderable, even civil servants have a completely different mindset if they are serving a dedicated outfit, whatever is said about its independence, outside the department than if they are simply part of the department's mainstream. It is an underestimated argument in some of these debates.

Lastly, I ask again a question that I asked on the previous occasion, and I shall try to do so even more crisply—it is the question that the noble Lord, Lord Warner, and others have adumbrated: if youth justice was, by common consent, a mess before and has been made better by the Youth Justice Board, what is the case for believing that it will stay better if it goes back pretty much to where it came from in the first place?

Lord Elton: My Lords, I have moved behind my noble friend not to threaten him but because my voice is very uncertain and I think that otherwise he will not hear what I have to say. I start with an observation on the contribution of the noble Baroness, Lady Linklater. She rightly said that we owe it to the young people who commit grievous crimes to do the best for them and to give them proper, constructive lives. However, I would say that we also owe that to the communities that they wreck and threaten and the families that they disrupt, and to a large extent that is the rest of us. Therefore, this is a popular, not a specialist, subject.

My second prefatory remark is that I was glad to notice that the other amendment in the group, Amendment 21B, has not really been dealt with because, to my mind, it is no substitute. If your Lordships, in the regrettable event of this amendment not being conceded or carried, were to accept that amendment, it would be wise but they would be gaining one slice, or at most two, out of a yard loaf. I shall keep it as short as that.

What have been, and are being, advanced as the reasons for getting rid of the YJB? The first one that we had right at the beginning was that Ministers should be directly responsible for what happens to young people in custody. To encapsulate what I have said before, Section 41 and Schedule 2 of the Crime and Disorder Act 1998 specifically say that the Minister is to decide who the members of the YJB are, who is to

[LORD ELTON]
be the chairman, and who is to be sacked—and he can sack them with or without reasons, according to what is appropriate. That legislation says exactly what the YJB will do under 12 headings and in great detail, which one might think would tie the Minister's arm behind his back. However, we then find that he can alter, add to, remove or change all the members at will with a statutory instrument. The Minister says what the members do, whom they do it to, how they do it, what they get for doing it and what they can spend on doing it, and, with those powers and those in local government legislation, he is capable of transferring those functions away from himself or, under the schedule, sharing them.

The second argument was that Ministers should be responsible publicly for what they do. The Minister is responsible for everything that I have set out, and also, under paragraph 8 of Schedule 2 of the Crime and Disorder Act, he has to lay before Parliament the YJB's annual report so that Parliament is aware, in detail, of what he has been doing and can ask him to defend it—or praise him, if that be the case, although I notice that it is rare that when Parliament wants to praise the Minister it has a debate on an unnecessary measure.

According to the letter quoted by the noble Lord, Lord Ramsbotham, the board members have full responsibility for the purchase of secure accommodation for children. I should tell your Lordships that I had that responsibility when I was a Minister in the Department of Health and Social Security. I shall detain noble Lords no longer other than to say that I heartily wish that I had had the YJB. It would have been a godsend to have had the Youth Justice Board with its insight and understanding of what was going on.

The next thing we were told was that the YJB is ineffective. A great deal has been said already about the change in offending rates and volumes and reoffending rates and volumes. All those are remarkably good figures, as your Lordships can remind themselves when they read *Hansard*, but in all respects they compare favourably with what is going on in the adult system, which is what this was drawn from in the bad days gone by.

It is argued that this is a single issue body. The noble Lord, Lord Ramsbotham, has shown what single issue bodies are and they are not this: they are on the list that he gave about foreigners, the illiterate, sick, mentally ill and so forth. All those are single issues and affect single people, but being a teenager under the age of adulthood as recognised in statute is common to them all. This is a general issue of supreme importance.

I happen to have been a teacher. I taught in schools and colleges and noble Lords should not doubt that the behavioural and emotional responses of young people and adults are different. They have to be managed with tricks out of different boxes. We are talking about a specialism of enormous value to this country, which has produced enormous benefits already, which continue.

I have been told—and I dare say that other noble Lords have been told by the Minister—that the YJB's job has been done and it should hang up his boots, thank you very much. To say that when the offending rates and numbers in custody are all still coming down is a matter of profound pessimism. Surely we must want this to go on. It has been said that the bureaucratic approach of the Youth Justice Board has always been an impediment although it was admitted that that had reduced in recent months. But it has been reducing over the past two years, so that is also an incomplete argument.

We have been told that this is part of the great national programme of localism. In fact, that has not been mentioned yet but I anticipate, with many apologies, what my noble friend on the Front Bench is likely to say to us. The Government are already committed to localism and to the youth offending teams. The youth offending teams are what determine the level to which functions can be delegated. The Government already acknowledge the need for what they call light-touch performance monitoring of them. Anyway, Her Majesty's Government propose to take all the powers back into themselves. What on earth is localist about that?

It is argued that the expertise of the Youth Justice Board will be preserved in the department when it gets there. I do not doubt my noble friend's word or that of his right honourable colleagues, but they cannot foresee or commit themselves to who will replace those people when they retire, are promoted or simply, sadly, die. If they are part of the Civil Service, they will be replaced by people recruited from the Civil Service, which does not mean that they will necessarily have any of this expertise at all.

My last point in this overlong speech is about cost. I remind your Lordships that in the adult system in the past 10 years the population in prisons has increased by 32 per cent at a cost of £36,000 per head per year at current prices. Over the same period, the number of juveniles in custody has reduced by 27 per cent—almost as much. They are more expensive. My figures are slightly different to those given by the noble Earl, Lord Listowel, because his have yet to be reviewed by the National Audit Office. Screening out all that, I reckon that it represents a saving in one year of £58,174 million. If that rather notional figure does not satisfy your Lordships, the decommissioning of 900 places, to which the noble Lord, Lord Beecham, referred, has saved £38 million net. I should add that administrative costs were reduced by 10 per cent as well.

When a car is running sweetly and the engine is doing what it should, you do not go to the garage and ask them to lift up the bonnet and take a piece out of the engine. This is not a bolt-on extra. This is something that has grown up with and caused the youth justice system to develop as it has, under the care of Ministers—which I greatly acknowledge. In supporting this amendment, which I do with fervour, I am trying to save my noble friends from making a catastrophic mistake.

4 pm

Baroness Armstrong of Hill Top: I intervene briefly to give a practical example of the value and the practical work of the Youth Justice Board. I do not see how it could be fulfilled by the department.

When I was a Member in another place, a prison in my constituency subsequently became one of the first secure training centres for young people. It was

commissioned by the Major Government and my Government, I am sorry to say, decided to go ahead with the contracts that had been agreed. When the contracts were first put into place, there was an American contractor, and the thing was a disaster. I had a phone call from the local police chief, who said, "You've got to come—we have to work out what we are going to do. My people are being called in every day and the kids are ending up in the cells because the secure training centre simply cannot handle them".

One of the real problems—I do not know whose idea it was—was to have children aged from 12 to 15 there. Quite honestly, they could not handle prison. One thing that you have to do when you go into prison is to recognise that the better you behave the sooner you will get out. They simply were not able to make decisions like that; they were ripping up their rooms and all the area outside. The Youth Justice Board had to come in, of course. I talked to Ministers and the Youth Justice Board sent someone for nearly a year, virtually full time, to help the organisation to sort out what it was doing and to enable it to build up a group of people who could provide education. The whole idea had been that inmates would receive more intensive education while they were there—and it just was not happening.

I heard some very salutary stories and had salutary experiences in that period. The Hassockfield STC is now run by a different organisation. No one would say that it was trouble-free—I am sure that the Minister has heard of Hassockfield—but it is doing much better than it was. Part of that is because the Youth Justice Board got hold of it and persuaded Ministers that you could not put children as young as that into a prison environment. It was intended as a prison environment, because somebody thought that it would be a good shock for them at that age. It did not work, and all sorts of things went on that should not have gone on. It is still being used but it is being used for an older age group. I still have concerns, but I know that the regime is now much more aware of what it needs to do to work effectively with young people. That would not have happened without the Youth Justice Board encouraging very clearly another organisation to take over. I do not believe that civil servants in the Ministry of Justice would be able to do that; they would not have the expertise or training, and they would not have the professionalism of the woman from the Youth Justice Board who went in and worked at Hassockfield virtually full time for a year.

I hope that the Minister understands that this is not a party-political thing and should not be. It is about how we get the most effective way of working with young people, even the most troubled, who end up at the moment at something like a secure training centre. I hope that the Minister will find a way of thinking again.

Lord Maclennan of Rogart: My Lords, like the noble and learned Lord, who is a former Lord Chief Justice, I did not speak in Committee and I hope that my intervention at this stage will be forgiven. However, this has been an astonishingly informed debate and all those who participated have demonstrated immediate experience of the working of the youth justice system and the Youth Justice Board in particular. I rise as someone who has not had that direct experience in England, although I have observed at reasonably close quarters the working of the children's panel system in Scotland. I commend that to my noble friends as a system that works remarkably well in dealing with the care of troubled children and the prevention of crime.

However, an outside voice can sometimes be helpful in these debates, particularly as, if neither of these amendments is carried, the matter will go to another place where there will unquestionably be knowledge about the youth offending system but not the same direct, immediate experience. I served for 17 years on the Public Accounts Committee and the argumentation that that body has produced, as recently as six weeks ago, appears to be profoundly important in the context in which this measure is being introduced. Inevitably, because the board is one of a number of bodies being wound up, this is seen in the context of economy and value for money. Many of those who have already spoken in this debate have questioned whether value for money will in fact be achieved by drawing these decisions into the department itself.

I do not believe that the implication that Ministers will give it closer insight is sustainable. Ministers are enormously busy and rely heavily on having their attention drawn to weaknesses in a system or in its administration. If the emphasis is to be all on localism—and the place for localism is certainly not being contested by me—it seems highly improbable that there will not necessarily be that experienced oversight of the workings of the youth offending teams, which have had some years to test themselves. It is quite possible that those who have the job of overseeing these matters within the department will feel a need to defend the stance taken rather than a need to spot uncertainties, inefficiencies and unsuitable behaviour.

I recognise that the Public Accounts Committee has not infrequently had the experience of dealing with bodies of this kind within the Civil Service. Ultimately, however, it tends to admit that the accounting officer is responsible for answering the questions. In turn, that might lead to a statement that the real responsibility lies with the policy-maker: that is to say, the Minister. The actuality is very different. The case made by the noble Lord, Lord Ramsbotham, for separating out these functions and having clear responsibility for administration separated from the Minister responsible is unanswerable.

It seems to me that there will be much greater transparency if the Youth Justice Board is preserved. Good and bad examples will surface and lessons can be learnt from both. If this is all done within the department, I fear that the issues will become muddied and unclear. The progress that has been made in bringing about a reduction in recidivism and offending among the young and the economic advantages for the community that have stemmed from fewer numbers in custody, not to speak of citizens' general concern to live peacefully in the community with young troubled people, has definitely been assisted by this relatively new innovation.

I hope the Government will give this real further consideration. We have had lengthy debates on this already and I do not believe that there has been

[LORD MACLENNAN OF ROGART]
sufficient opportunity for extensive consultation with all those involved. I know that the Youth Justice Board has taken a very positive role in dialogue with the Government, but this is something that extends right across the country. People from all ranks of society are affected by it, and consequently it is not something that should be rushed. It is not broken, so we should not seek to repair it.

Viscount Eccles: My Lords, I spoke in Committee and I have not had the benefit of any discussions between Committee and Report. Like everyone else, I await with great interest the reply from my Front Bench. However, I am reminded that there are two amendments in this group and I think it has been notable that only the noble Lords, Lord Warner and Lord Ramsbotham, have actually referred to Amendment 21B in any depth or detail. The noble Lord, Lord Elton, did not put his name to Amendment 21B, so I assume he does not support it.

I suppose the question that we are facing is how much independence should be provided to those who think through and monitor youth justice. There is a very widespread feeling in the House, which I share, that a fairly high degree of independence is desirable. In the discussion, it seems to me that the Youth Justice Board is the good boy and NOMS is the bad boy. That does not seem to be an inevitable outcome of running the Prison Service, but is what has come across. What has also come across to me as I have listened to the debate is that the Youth Justice Board is not quite the clear distinction between policy and operations which the noble Lord, Lord Ramsbotham, put across to us. Many other people have been involved in improvements, which have been referred to, alongside the efforts of the Youth Justice Board.

This is an enabling Bill; nothing happens as a result of this Bill becoming an Act until a Minister lays an order in front of Parliament. Parliament, at that time, as we shall see later in the Bill, can reject that order. Some people feel that the secondary legislation procedures are such that it is not likely that Parliament will reject an order, but I do not agree. The power is there, so when an order is laid we should not give up the idea that we vote it down. As this is an enabling Bill, nothing happens until an order is laid. The question then becomes: do we believe, as in tennis, in sudden death? Amendment 20A is a form of sudden death, Amendment 21B is a form of giving a degree of independence to an executive agency, and neither of these sections in the Bill, if that is what they become, commits Ministers to lay an order at all. There is therefore still a great deal of time before the Government come to an irrevocable decision. I very much hope that my noble friend on the Front Bench will deal with that matter in some detail.

4.15 pm

Baroness Scotland of Asthal: My Lords, I suppose that I, too, should declare an interest as someone who has practised in the field of family law dealing with children for the past 34 years and who has had the privilege of being one of Her Majesty's deputy High Court judges of the Family Division.

On the last occasion that we met to discuss this issue, the noble Lord, Lord McNally, told me that I had been shooting at an open goal. Well, the goal has not got any narrower. However, if I may respectfully say so, I think that the nature of this debate has been slightly different from that of the debate that we had last time. There is now a degree of sadness and almost disbelief that there has been no material change in the approach taken by the Government. At the end of Committee, the noble Lord, Lord McNally, said, in essence, "Give me time. Don't shoot me today. Postpone the execution until Report. Give me time to think again and to persuade my Government". The noble Lord, Lord Warner, with the generosity of spirit for which he is renowned, did so; as noble Lords will remember, he said that recidivism could be addressed and that there was still time for repentance. However, there always comes a time when repentance appears not to have transpired and the judge has to make a decision.

The House has now spoken twice. It is important that in this debate there was not one dissenting voice urging on the Minister the wisdom of going forward with the current plan. If I may respectfully say so, I think that it was poignant to hear the noble and learned Lord, Lord Woolf, say that this was—he used a strong word—"sacrilege". Why is that? Those who spoke on the last occasion and who have spoken today struggled and suffered in order, together with the young people, to try to create a system that is able to deliver change in a material way. The system that we had before the Youth Justice Board was agreed by all not to have worked. It was expensive and dysfunctional and it produced poor outcomes. For all its flaws, the Youth Justice Board has created something of real merit and worth.

When we talk about costs, we need to think about the real cost of the demolition of the Youth Justice Board. It does not come in money; it comes in the pain, injury and suffering that will flow not to us but to the young people who have been so advantaged by the board's work. As the noble Lord, Lord Elton, said so eloquently, it comes in the pain that will be inflicted on us all if vulnerable young people and their dysfunction are not dealt with robustly, carefully and successfully.

This House has a choice. There is a moment when we get to say to the Government and to the other place, "This far and no further". I repeat what many have said. This is not an issue over which the House has divided on political lines. Every person who has spoken has done so with the same voice, because this House cares passionately about young people and about reducing the pain that is caused to them. We should look at the YJB's work not just in terms of the reduction of recidivism among young people. We just need to glance at the fact that there has already been an encouraging sign that the reduction in juvenile crime is effecting a reduction in the reoffending figures that we now see for young people between 18 and 20 and between 20 and 24. The noble Lord knows well that 13 to 24 is the most active age group for criminal behaviour. Therefore, reducing the number of those who enter the criminal justice system, and then reducing reoffending, is very significant.

There is evidence that accountability from a ministerial point of view is delivered very successfully by the method that we currently have. On the previous occasion, the noble Viscount, Lord Eccles, and the noble Lord, Lord Newton, made that point so powerfully; it is not about removing ministerial accountability because that ministerial accountability currently exists. We need strong, national, co-ordinated accountability through a dedicated body, and that dedicated body is the Youth Justice Board. We know how difficult it is to create a piece of machinery that works. The Youth Justice Board works. It works in its current form. The opinion of the House is clearly that it should remain in its current form. An executive agency would be the least bad option if it has to go, but it is certainly not the preferred option.

I gain comfort from what the noble Viscount, Lord Eccles, has said. We need to understand him as saying: "If we lose today, we will come back and defeat you—we hope—on another day, but through a statutory instrument". I would not like to put the House through that pain. I invite the House to vote on this issue, if my noble friend presses his amendment, and say decisively that it does not agree with the removal of the YJB. If the Government need real encouragement to think again, we should ask them to do so by voting in favour of the amendment, as we on these Benches will do in, I hope, great numbers.

The Minister of State, Ministry of Justice (Lord McNally): My Lords, I thought of leaving a long pause to wait for one of my supporters to stand up and make his or her speech. At the end of my remarks I will not appeal to the noble Lord, Lord Warner, not to test the opinion of the House. I did that in Committee because I thought that it would be useful to allow my colleagues to read his speech before coming to a conclusion. Rather than just reading the speech, perhaps seeing the result of the vote—whichever way it goes—will also be an opportunity for them to do so.

At the start of the remarks of the noble and learned Baroness, Lady Scotland, she echoed the noble and learned Lord, Lord Woolf. Using the word that they both used, the House is being asked to vote on sacrilege. Essentially, that is the case for the prosecution: we are about to destroy something of real merit. That is certainly not the intention of the Government. We do not intend to dismantle the youth justice system. We want to build on what has been achieved over the past 10 years. I agree that this debate has been dominated by well informed, experienced speakers who care passionately about youth justice. My experience in my department is of finding similar qualities in the people dealing with this. It is not a matter of uncaring bureaucrats and caring Peers; those qualities exist across the board.

The noble Lord, Lord Warner, suggested that what has happened sounds like an episode of "Just William". Unlike Violet Elizabeth Bott, I promise that I will not "scweam and scweam and scweam" if things go wrong. As with earlier debates, I will report back the result of this one to colleagues. However, I will not hold noble Lords in suspense: my brief does not allow me to make any concessions today.

The noble Lord, Lord Ramsbotham, slightly overeggs the pudding in that the separation between strategic and operational matters is not as clear as he made out. I think that the noble Viscount, Lord Eccles, made that point. There is real benefit in the department and the Minister providing strategic leadership while retaining the real success of the MoJ—the holistic, local response to youth offending. In referring to the situation in young offender institutions and advocacy, the noble Earl, Lord Listowel, may have been trying to return to a matter raised in Committee. We recognise that advocacy and social work provision in youth offender institutions is important. There are legal responsibilities on local authorities and prison governors to safeguard and promote the welfare of young people in custody but we realise that responsibility for funding these services is complex. We have been working on a solution and I expect that I and my colleague, Mr Crispin Blunt, will receive official advice on funding soon. I will write to the noble Lord later this week or next week, putting forward solutions on that point, which he raised in Committee.

I echo the noble Earl's tribute to Frances Done and her chief executive. They have behaved exemplarily throughout in steering the organisation through a period of uncertainty while maintaining the high quality of service which we expect. It is interesting that the noble Earl mentioned the need for local authority initiative. The thrust of the policy the department is putting forward in these new arrangements is that we keep the best of the localism of the youth justice system but encourage local authority initiative and co-operation even further.

I suggest to the noble and learned Lord, Lord Woolf, that undoubtedly the YJB has had an impact but that the holistic approach of the youth offending teams may best explain the success gained during the past 10 years, which has been mentioned on a number of occasions. I emphasise again that we are not going to abandon the lessons learnt in the past 10 years but will build on them. It is worth pointing out that youth policy is not the only policy that the MoJ looks after. I think that the noble Baroness, Lady Linklater, and the noble Lord, Lord Beecham, mentioned this. One might equally ask whether one needs a similar arm's-length body for women, the mentally ill or an educational training body. I see lots of nods across the House. Perhaps that is where we have an ideological difference—"When in doubt set up an arm's-length body, or, if not, a tsar"; that was very much part of another age. It is worth pointing out that Ministers and departments can be responsible for distinctive policies that they can pursue successfully, without necessarily setting up an external body to help them to do that.

4.30 pm

On the point made by the noble Lord, Lord Beecham, I can give him an answer. I think I have said previously that all Ministers are birds of passage. The noble Lord, Lord Elton, also mentioned that. However, it is certainly not the intention within our new structure that the YJB be absorbed into or placed under NOMS.

I pay tribute to the contribution of all faith groups, and of the leadership of the Church of England and the right reverend Prelate the Bishop of Liverpool, to

[LORD MCNALLY]
counsel and service in our prison and youth systems. However, I ask the right reverend Prelate the Bishop of Ripon and Leeds to look at our Green Paper on the rehabilitation revolution, because that fits in a lot with what we are trying to do in our approach across the board to the treatment of offenders and to reoffending.

The noble Lord, Lord Newton, said that he had not melted into the night. Knowing him so well, I honestly never thought that he would do that. Again, I emphasise that I do not believe that separation is strength in the way that some noble Lords advocated; nor is this going back to where we were 10 years ago. The attack on the policy has relied very much on a concept of going back to where we were. That is certainly not the intention.

The noble Lord, Lord Elton, rightly reminded us that we are talking about not only the kind of concern for young offenders to which the noble Baroness, Lady Linklater, and the noble Earl, Lord Listowel, referred, but our responsibility to the victims of youth crime to make sure that we are getting this right. The noble Lord, Lord Elton, with great precision, seems to have set out ministerial powers that are clearly considerable but fall short of being able to abolish the body.

We have never claimed that the YJB was ineffective, but we claim that removing a layer from the system is not vandalism. I was interested in the intervention of the noble Baroness, Lady Armstrong, and the example she gave of advice and intervention. Again, I doubt that that kind of expertise or professionalism would be absent under the proposals we put forward. However, I welcome her view that this is issue is not party-political. One has to look only at the list of noble Lords who have spoken to know the breadth of cross-party views on it.

The noble Lord, Lord Maclennan, referred us to the Scottish panel system. I recently visited Edinburgh and talked with the Scottish Minister of Justice about that country's approach to youth justice, which has aspects of some value that we could study. I also heed his warning that it would be wrong for the department to become defensive rather than proactive about its responsibilities. I do not believe that this will be so under the system that we are putting forward. There is an important function for the YJB in commissioning the secure estate. However, it is important that this responsibility should be taken within the department, with the Minister taking direct responsibility for it.

The noble Viscount, Lord Eccles, said that this was not the end of the story. Certainly, whichever way the vote goes later this afternoon, the statutory instrument will still be debated. However, it would be unfair to those who work in youth justice to suggest that, if the Government were to carry the day today, there would be another opportunity to change policy at the statutory instrument stage—although technically that is true.

As I hinted, I cannot concede on the abolition of the Youth Justice Board. Nor am I able to accept that the establishment of an executive agency would be appropriate or proportionate. As I said in Committee, there were good reasons to establish the YJB at arm's length from the Government. This enabled it to lead the national rollout of youth offending teams and to establish a dedicated, secure estate for young people. However, a decade on, that work is done and we can handle within the MoJ the residual responsibilities of the board, while leaving alone the thrust of youth justice at the operating level of the YOTs, where it has been extremely successful.

It is not true that we have not consulted. We have had 13 youth justice seminars across England and Wales as part of our *Breaking the Cycle* Green Paper. Early responses to that paper indicate that what is wanted is strategic leadership, cross-government working, a dedicated focus on youth justice and fewer central burdens on the YOTs. These responses are all in accordance with our proposals to bring the functions of the YJB into the Ministry of Justice.

I am not sure that either eloquence or a peroration will work on this issue. I hope that I have met the points that were made and explained how people can come honestly to a different view. It is not—I hope that here the case for the prosecution has been dismissed—a callous act of vandalism by the Government. There is an honest difference of opinion in the House about how to build on the success of the past 10 years of the YJB. However, honest differences can exist in a framework of mutual respect, and I hope that that will remain. I certainly respect and appreciate the many contributions that have been made to this debate today.

Lord Warner: My Lords, I am grateful to everybody who has spoken in this debate. There have been many powerful speeches this afternoon, particularly from the right reverend Prelate the Bishop of Ripon and Leeds, and the noble and learned Lord, Lord Woolf. My experience of the utterances of the senior judiciary, whether serving or retired, is that they do not use words like sacrilegious and sacrilege lightly, so the Government would do well to reflect on what the noble and learned Lord said.

The Minister says that he wants to build on the work of the Youth Justice Board. If I thought that he was going to do a loft conversion I would not be too bothered about this, and I certainly would not have moved this amendment. However, he has sounded consistently like a man on the phone to the JCBs, and it is that which has caused great concern, however much tribute he gave to the work of the YJB in the past.

I do not think that we have learnt much more about the case that the Government can marshal on this decision to abolish the YJB. The Minister has been honest and straightforward about it but I emphasise that he and the Government will find that, if they abolish the board, the cost of custody and the cost to the system will rise substantially. I do not think that anyone who has spoken in favour of the amendment wants the Government to be under any misapprehension—that will happen if they get rid of the board and take the functions inside the ministry. It will not only cost the taxpayer more but will do a lot of damage to a generation of young people who get into the criminal justice system and who are both troublesome and very troubled. I have heard the arguments and I wish to test the opinion of the House.

4.41 pm

Division on Amendment 20A

Contents 225; Not-Contents 162.

Amendment 20A agreed.

Division No. 1

CONTENTS

Aberdare, L.
Adonis, L.
Ahmed, L.
Allenby of Megiddo, V.
Alton of Liverpool, L.
Anderson of Swansea, L.
Archer of Sandwell, L.
Armstrong of Hill Top, B.
Bach, L.
Bakewell, B.
Barnett, L.
Bassam of Brighton, L. [Teller]
Beecham, L.
Berkeley, L.
Best, L.
Bhattacharyya, L.
Bichard, L.
Billingham, B.
Bilston, L.
Blood, B.
Boothroyd, B.
Borrie, L.
Boyd of Duncansby, L.
Bragg, L.
Broers, L.
Brooke of Alverthorpe, L.
Brookman, L.
Brooks of Tremorfa, L.
Browne of Ladyton, L.
Butler of Brockwell, L.
Cameron of Dillington, L.
Campbell-Savours, L.
Carter of Coles, L.
Chorley, L.
Christopher, L.
Clancarty, E.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clinton-Davis, L.
Cobbold, L.
Collins of Highbury, L.
Corbett of Castle Vale, L.
Coussins, B.
Cox, B.
Craig of Radley, L.
Crawley, B.
Davidson of Glen Clova, L.
Davies of Coity, L.
Davies of Oldham, L.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Deech, B.
Dixon, L.
Donaghy, B.
Drake, B.
D'Souza, B.
Dubs, L.
Eames, L.
Elder, L.
Elton, L.
Elystan-Morgan, L.
Evans of Temple Guiting, L.
Evans of Watford, L.
Falkland, V.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Fellowes, L.
Filkin, L.
Finlay of Llandaff, B.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Gale, B.
Gavron, L.
Gibson of Market Rasen, B.
Glasman, L.
Golding, B.
Goodhart, L.
Gordon of Strathblane, L.
Gould of Potternewton, B.
Griffiths of Burry Port, L.
Grocott, L.
Harris of Haringey, L.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haskins, L.
Haworth, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hennessy of Nympsfield, L.
Hilton of Eggardon, B.
Hollick, L.
Hollis of Heigham, B.
Howarth of Newport, L.
Howe of Aberavon, L.
Howe of Idlicote, B.
Howells of St Davids, B.
Hoyle, L.
Hughes of Stretford, B.
Hughes of Woodside, L.
Hunt of Kings Heath, L.
Janner of Braunstone, L.
Jay of Paddington, B.
Jones, L.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
King of Bow, B.
King of West Bromwich, L.
Kingsmill, B.
Kinnock of Holyhead, B.
Kirkhill, L.
Knight of Weymouth, L.
Laming, L.
Layard, L.
Lea of Crondall, L.
Liddell of Coatdyke, B.
Liddle, L.
Linklater of Butterstone, B.
Lipsey, L.
Listowel, E.
Lloyd of Berwick, L.
Low of Dalston, L.
McAvoy, L.
McConnell of Glenscorrodale, L.
McDonagh, B.
Macdonald of River Glaven, L.
Macdonald of Tradeston, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
Mandelson, L.
Mar and Kellie, E.
Martin of Springburn, L.
Masham of Ilton, B.
Massey of Darwen, B.
Mawson, L.
Maxton, L.
Mayhew of Twysden, L.
Meacher, B.
Mitchell, L.
Morgan of Ely, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Morris of Manchester, L.
Morris of Yardley, B.
Moser, L.
Murphy, B.
Neill of Bladen, L.
Newton of Braintree, L.
Nye, B.
O'Loan, B.
O'Neill of Bengarve, B.
O'Neill of Clackmannan, L.
Palmer, L.
Patel, L.
Patel of Blackburn, L.
Patel of Bradford, L.
Pendry, L.
Pitkeathley, B.
Plant of Highfield, L.
Prescott, L.
Prosser, B.
Puttnam, L.
Quin, B.
Quirk, L.
Ramsbotham, L.
Rea, L.
Rees of Ludlow, L.
Reid of Cardowan, L.
Rendell of Babergh, B.
Richard, L.
Ripon and Leeds, Bp.
Rooker, L.
Rosser, L.
Rowlands, L.
Royall of Blaisdon, B.
St John of Bletso, L.
St John of Fawsley, L.
Scotland of Asthal, B.
Scott of Foscote, L.
Sewel, L.
Sherlock, B.
Simon, V.
Simpson of Dunkeld, L.
Slim, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Snape, L.
Soley, L.
Stirrup, L.
Taylor of Blackburn, L.
Taylor of Bolton, B.
Temple-Morris, L.
Tenby, V.
Thornton, B.
Tomlinson, L.
Tonge, B.
Touhig, L.
Tunnicliffe, L. [Teller]
Turnberg, L.
Turner of Camden, B.
Wall of New Barnet, B.
Walpole, L.
Walton of Detchant, L.
Warner, L.
Warnock, B.
Warwick of Undercliffe, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilkins, B.
Williams of Elvel, L.
Williamson of Horton, L.
Wills, L.
Wood of Anfield, L.
Woolf, L.
Woolmer of Leeds, L.

NOT CONTENTS

Addington, L.
Ahmad of Wimbledon, L.
Alderdice, L.
Anelay of St Johns, B. [Teller]
Ashdown of Norton-sub-Hamdon, L.
Astor, V.
Astor of Hever, L.
Attlee, E.
Avebury, L.
Ballyedmond, L.
Barker, B.
Bates, L.
Benjamin, B.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Boswell of Aynho, L.
Bowness, L.
Bradshaw, L.
Brinton, B.
Brittan of Spennithorne, L.
Brooke of Sutton Mandeville, L.
Brougham and Vaux, L.
Browning, B.
Byford, B.
Cathcart, E.
Chadlington, L.
Chidgey, L.
Clement-Jones, L.
Colwyn, L.
Courtown, E.
De Mauley, L.
Dixon-Smith, L.
Dobbs, L.
Dykes, L.
Eaton, B.
Eccles of Moulton, B.
Eden of Winton, L.
Edmiston, L.
Empey, L.
Falkner of Margravine, B.
Faulks, L.
Fearn, L.
Feldman, L.
Fookes, B.
Fowler, L.
Fraser of Carmyllie, L.
Freeman, L.
Freud, L.
Garden of Frognal, B.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Geddes, L.
Glendonbrook, L.

Goodlad, L.
Hamilton of Epsom, L.
Harris of Richmond, B.
Henley, L.
Heyhoe Flint, B.
Higgins, L.
Hill of Oareford, L.
Hodgson of Astley Abbotts, L.
Hooper, B.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Hussein-Ece, B.
James of Blackheath, L.
Jenkin of Kennington, B.
Jenkin of Roding, L.
Jolly, B.
Jones of Cheltenham, L.
Jopling, L.
King of Bridgwater, L.
Kirkwood of Kirkhope, L.
Kramer, B.
Lamont of Lerwick, L.
Lawson of Blaby, L.
Lee of Trafford, L.
Lexden, L.
Lingfield, L.
Loomba, L.
Lothian, M.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McNally, L.
Maddock, B.
Maginnis of Drumglass, L.
Maples, L.
Marland, L.
Marlesford, L.
Mawhinney, L.
Methuen, L.
Miller of Chilthorne Domer, B.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Naseby, L.
Neville-Jones, B.
Newby, L.
Noakes, B.
Northover, B.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
Palmer of Childs Hill, L.
Perry of Southwark, B.
Phillips of Sudbury, L.
Plumb, L.
Popat, L.
Rana, L.
Randerson, B.
Rawlings, B.
Reay, L.
Redesdale, L.
Rees-Mogg, L.
Rennard, L.
Risby, L.
Ritchie of Brompton, B.
Roberts of Conwy, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rogan, L.
Ryder of Wensum, L.
Sassoon, L.
Scott of Needham Market, B.
Seccombe, B.
Selsdon, L.
Shackleton of Belgravia, B.
Sharkey, L.
Shutt of Greetland, L. [Teller]
Skelmersdale, L.
Smith of Clifton, L.
Spicer, L.
Stedman-Scott, B.
Stevens of Ludgate, L.
Stoddart of Swindon, L.
Stoneham of Droxford, L.
Stowell of Beeston, B.
Strathclyde, L.
Swinfen, L.
Taverne, L.
Taylor of Holbeach, L.
Teverson, L.
Thomas of Gresford, L.
Tope, L.
Tordoff, L.
Trenchard, V.
True, L.
Trumpington, B.
Tugendhat, L.
Tyler, L.
Verma, B.
Wade of Chorlton, L.
Wakeham, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Wei, L.
Wheatcroft, B.
Wilcox, B.
Willis of Knaresborough, L.
Younger of Leckie, V.

4.55 pm

Amendment 21 not moved.

Amendment 21A withdrawn.

Amendment 21B not moved.

Amendment 21C

Moved by ***Baroness Whitaker***

21C: Schedule 1, page 16, line 36, at end insert—

"(4) Notwithstanding the future of the Library Advisory Council for England, in exercising his responsibility under the Public Libraries and Museums Act 1964, the Secretary of State shall ensure that he has sufficient independent advice for him to enable local authorities to manage their public library duties effectively."

Baroness Whitaker: My Lords, in speaking to Amendment 21C, I take it as given that the immense value of libraries to our culture, economy and well-being is understood. It was agreed by all sides in Committee, not least by the Minister. The problem is that local authorities often cannot manage the cuts without unnecessarily damaging their libraries. They might think that libraries are a soft option to cut or might not see them as very important, or those who benefit might not be well enough organised to mount enough of a protest, although there have been some stupendous outcries, and rightly so.

This amendment would put beyond doubt that the Secretary of State in exercising his duty,

"to superintend, and promote the improvement of, the public library service",

under the Public Libraries and Museums Act 1964 will have the independent and expert resource to help local authorities manage these difficult decisions in the interests of better libraries. Of course departmental officials will be competent and conscientious, and I pay tribute to those with whom I have been discussing this amendment, but with the best will in the world, they are not necessarily going to include among their number the most up-to-date and expert librarians, nor are they independent.

Our public libraries matter enormously. We must ensure that the Secretary of State gets the best advice in keeping them the remarkable asset they are. I beg to move.

Viscount Falkland: My Lords, I do not think there is any point in rehearsing what I said when the noble Baroness moved her amendment in Committee. I think all noble Lords understand the value of public libraries to all those in the community who have been fortunate enough to be introduced to books. The trouble addressed in the amendment tabled by the noble Baroness is that you can have libraries, such as the one I visited this morning in the borough of Merton, which, to use common parlance, tick all the boxes. Not only was the library very full and animated, light and airy, well equipped and with a highly articulate staff, it was full of volunteers from the community. I do not think we need lessons from anybody about what constitutes a big society. We already have one. Anybody who goes into a well run public library will see that it already exists.

The problem addressed by the noble Baroness—I hope that the Minister will be able to give me some encouragement on this—is that you have good libraries, not-so-good libraries and some that are, frankly, very run down. The interesting thing I learnt this morning when I went into this very well run library and spoke to three highly articulate people who worked for it was that nobody seemed to have heard of the body being abolished. That drove me to ask the noble Baroness what she intended to do with her amendment. I hope the Minister will agree that what good libraries are doing needs to be promulgated widely so that libraries that are not doing well know the standards they can

and should reach, and have some idea of how they can do so and can bring in volunteers to give their services to the community. I hope that in her reply the Minister will be able to give satisfaction to the noble Baroness, Lady Whitaker, and other noble Lords who are interested.

5 pm

Lord Newton of Braintree: My Lords, I shall speak briefly. I think that in the amendment in the name of the noble Baroness, Lady Whitaker, lurks a wider point that has affected the House's attitude to large parts of this Bill. It is acknowledged—it was certainly implied in the speech made by the noble Viscount—that there remains a need for spreading good practice and for an advisory role of some kind in order to preserve and enhance library services around the country. I do not know whether the Government accept that but I do know that, for a variety of things, we have been told that these bodies do things which need doing but that they will be done in a different way. It is just that we do not yet know how they will be done. I have sought to address that more general point in one or two of my later amendments.

While, on the whole, I hope that the noble Baroness will not press her amendment—I have been bad enough today already—I hope that she will get a constructive response. Around the country—my observation is only in eastern England—wildly variant policies towards libraries are being pursued by different local authorities. I am not sure that I really believe in a complete postcode lottery for libraries any more than I do for anything else.

Baroness Bakewell: My Lords, I have not spoken on the subject of libraries previously and I support the noble Baroness in her amendment. My point follows on from what the noble Lord has just said and it is about local authorities rather than libraries. Local authorities have a spread of responsibilities which, particularly now, are accentuated by the burden of cuts that they have to impose. There is an opportunity for them to see libraries as an easy touch. There is a myth abroad that libraries are the territory of the well heeled, middle class who regularly read books but who, in their own lives, buy the books that they want and then patronise the users of libraries by pretending that they are concerned. That is by no means the case.

The evidence of the use of libraries across the country is extremely varied from one library to another and from one part of the country to another. It is also varied in the use that is currently being made of libraries by the public. Libraries have long ceased to be only rows of books for the middle classes. They are used by mothers with buggies full of children and large areas are set aside to serve such people. They are used for story telling by informed librarians and teachers who spread the idea of reading stories among young people, thus giving them an appetite for creativity and reading for the rest of their lives. They are used by people who want to read newspapers but cannot afford to buy them. They are used by the old to find company and some interest in life. They are used by the local community to consult documents issued by agencies, government bodies and local authorities.

The spectrum of people who use libraries needs to be understood by local authorities. Who will make that available to them? We need an advisory council which can come across with the information that will help them make the right decision. The body to which this amendment refers does that.

Baroness Jones of Whitchurch: My Lords, I thank my noble friend Lady Whitaker for pursuing this issue today and for allowing noble Lords from all sides of the House to emphasise the vital role that libraries continue to play in their community. Once again, the debate has highlighted the major disquiet that many people feel that their cherished local libraries will not survive the squeeze of local government cuts. This is at the heart of the problem because there is a sense that no one in government is championing their cause. You could say that libraries are an orphan service looking for shelter at a time of economic uncertainty and so far have not found it. On the one hand, policy for libraries still lies with DCMS—I am sure that the Minister will once again speak warmly of the important service that libraries provide—while, on the other, the money to fund the library service lies with DCLG, whose overriding obsession seems to be to cut budgets at any cost.

The Government are already taking steps to abolish the only other national library advisory body, the Museums, Libraries & Archives Council. Now, the only national body able to speak up for the service is to be subsumed into the Arts Council, with a real fear that it will disappear for good.

I do not feel in a position to judge the success of the Advisory Council on Libraries, but I agree with my noble friend Lady Bakewell that libraries around the country are already going through a revolution, opening up their venues to new forms of learning and studying, providing essential access to information and making the links between books, music, theatre and the wider arts. Staff are doing a magnificent job in redefining the service for the 21st century so that libraries remain relevant and loved by their local community.

How can we be reassured that the Arts Council will retain the professional knowledge to give the advice that libraries will need if they are to flourish? How can we be sure that the Arts Council will champion the service when it has so many other priorities? Is this amendment not just a small gesture to reassure libraries at least that the department is serious about protecting their interests at a time of such uncertainty in the rest of the sector?

Baroness Rawlings: My Lords, I am grateful to all noble Lords who have spoken. I thank the noble Baroness, Lady Whitaker, for tabling the amendment and for giving the Government the opportunity to make it absolutely clear that we are committed to the effective management of library services. Consequently, we totally support the underlying spirit of what is a probing amendment. I thank the noble Baroness also for her openness to constructive dialogue on this issue. It has led to a position where the department is under no illusions about the importance of this issue in your

[Baroness Rawlings]
Lordships' House and where the Government can provide clear reassurances about how advice is provided to local authorities.

It is worth me making clear from the outset that we believe that existing legislation provides sufficient protection for library services. The Public Libraries and Museums Act 1964 requires the Secretary of State to superintend, and to promote the improvement of, the library service provided by local authorities in England and to make certain that local authorities fulfil their duties as defined by the Act. The noble Baroness, Lady Bakewell, made a good point about local authorities. That is why we are pressing for improvement.

Ministers are committed to fulfilling their statutory duties. The Secretary of State is providing important practical help and advice for libraries and contributing to the improvement and development of the sector through the Future Libraries Programme. The programme was announced in July and is led by the Museums, Libraries & Archives Council and the Local Government Association. They support more than 30 local authorities participating in the programme to explore options that will help them to deliver more efficiently the front-line services that communities want and need. In line with the decentralisation agenda, the programme encourages local authorities to find their own solutions to the challenges that they face.

The noble Baroness, Lady Jones, felt that there was no support for libraries. I say to her with due respect that she is mistaken, as the goal of the Future Libraries Programme is to share insights from the 10 pilot projects. This will allow local authorities to identify ways in which effective and efficient services can be maintained by taking a longer-term and more strategic approach to the way that libraries are improved. In addition to the Future Libraries Programme, the Museums, Libraries and Archives Council promotes best practice and provides support and guidance to local authorities. Arts Council England will assume responsibility for improving and developing library services following the abolition of the Museums, Libraries and Archives Council. We will work with Arts Council England and Local Government Improvement and Development to continue to make the best-quality advice available and accessible to support local authorities. We will be discussing a new programme of projects to drive the improvement of library services.

This Government are acutely aware of the statutory obligations needed to improve library services and to make certain that local authorities have the advice and support that they need to deliver an effective service. The noble Viscount, Lord Falkland, is right: there are good ones and bad ones, and I reiterate the need to make the improvements. This obligation and this Government's commitment already exist without the addition of a further statutory duty such as that proposed in the noble Baroness's amendment, and therefore I hope that she will feel able to withdraw it.

Baroness Whitaker: My Lords, I thank all noble Lords who have spoken. They have all added appreciably to the debate. I also thank the Minister for her broadly supportive response. I would rather that there were more in the Bill but I accept that much is going on, and the combination of the MLA and the Local Government Association sounds a very powerful one. The Minister gave very interesting information about the 10 pilot projects. I hope that she will communicate the results to the House, as that would help to reassure us. I beg leave to withdraw the amendment.

Amendment 21C withdrawn.

Clause 2 : Power to merge

Amendment 22

Moved by ***Lord Taylor of Holbeach***

22: Clause 2, page 1, line 15, leave out "Subject to section 16,"

Lord Taylor of Holbeach: My Lords, I beg to move.

Lord Whitty: Are we on Amendment 25?

The Deputy Speaker (Baroness Harris of Richmond): Amendment 22.

Lord Whitty: I beg your Lordships' pardon.

Amendment 22 agreed.

Amendments 23 and 24 not moved.

5.15 pm

Schedule 2 : Power to merge: bodies and offices

Amendment 25

Moved by ***Lord Taylor of Holbeach***

25: Schedule 2, page 17, line 14, at end insert—
"Group 5
Competition Commission.
Office of Fair Trading ("OFT")."

Lord Taylor of Holbeach: My Lords, now we are on Amendment 25 and I am sure that the noble Lord, Lord Whitty, will be pleased that we have an opportunity to debate it. I am much relieved, as my notes for Amendment 22 had long since disappeared.

Government Amendment 25 would add the Office of Fair Trading and the Competition Commission to Schedule 2 to the Bill, which, as noble Lords will remember, deals with mergers. The purpose of the amendment is to provide a vehicle through which to take forward a merger of these bodies, and it responds to a commitment made in our debate in Committee.

I should remind noble Lords that the Government are also minded to transfer most of the consumer enforcement functions and resources of the Office of Fair Trading to trading standards, and advice, information and education functions and resources to Citizens Advice. For that reason, the OFT will need to remain in Schedule 5 in order to facilitate the transfer of most

of these functions prior to the expected order to merge. A number of points relating to the consumer landscape were raised by noble Lords in Committee and I am happy to answer questions that may occur in today's debate.

In Committee, the noble Lord, Lord Dubs, asked for more detail about the Government's proposed consultation. I can inform him that the Government published their proposals for consultation to merge the competition functions of the Office of Fair Trading and the Competition Commission and on other changes to the competition regime on 16 March. I do not know whether noble Lords have been able to obtain a copy, but it is a substantial document of 172 pages, covering the breadth of that particular aspect of government. The consultation will run for three months. The Government hope for as wide an engagement as possible, including holding seminars and specific meetings focused on specific issues. The Government intend to issue in May a further consultation document covering a model for the consumer landscape.

Growth matters now more than ever. Businesses—particularly SMEs—and consumers have been hit hard by the economic crisis. Reform is now important to create the right environment for business to create and enter new markets—reducing barriers to entry and encouraging rivalry between firms to promote lower prices and better quality products and services. There is longer-term potential for growth through benefits reaped from innovation that stems from greater competition in the market place.

Competition is the cornerstone of growth, innovation and consumer choice. The UK competition regime is regarded as one of the best in the world. But it can and should be even better. That means that we also need to have a strong regime to promote effective competition in markets. The Government believe that creating one, powerful Competition and Markets Authority would ensure a more dynamic and flexible use of competition tools and resource and a single advocate for competition in the UK and internationally and would end duplication for business.

The proposals in the consultation document include: creating a single, powerful advocate for competition to ensure a dynamic and flexible use of tools to promote strong and fair competition; increasing business confidence through faster decision-making, ending duplication and giving more predictability of competition processes and decisions; reducing barriers to entry by making it easier for the competition authority to tackle anti-competitive mergers and reforming anti-trust provisions to increase deterrence of anti-competitive and abusive behaviour; delivering faster results for consumers by shortening end-to-end studies and investigations into markets where lack of competition is giving consumers a raw deal; reducing the SME burden by introducing an exemption for small mergers from the merger control regime; and giving small business a voice in an extended super-complaints process to spotlight market features that harm small companies.

Those proposals are an excellent opportunity to strengthen and streamline the competition regime to deliver better outcomes for consumers and increase business confidence. The Government want to strengthen and improve the UK's competition regime in order to promote growth, innovation and competition. The proposed merger of the OFT and the CC is about creating one, single competition authority that is dynamic and efficient and retains the best aspects of those bodies. The proposed transfer of the OFT's consumer functions to organisations better placed to ensure enforcement against rogue traders and businesses and give consumers the advice that they need is important to ensure action can be taken at a local level. The Government are consulting on all these proposals. I beg to move.

Lord Borrie: It would be churlish of me not to welcome the 172-page document that has been issued. I have been one of those who has suggested that one common feature of the Public Bodies Bill is that whole lists of organisations covering every conceivable subject were inserted into schedules, in nearly all cases without any explanation as to why or how their functions would be replaced or where we were to go from here. It was a rushed job. Among the bodies listed when Schedule 7 existed—and I am glad that the Government have got rid of it—were the Office of Fair Trading and the Competition Commission.

The Minister said several months ago when we first touched on this, at Second Reading and in Committee, that the intention was to merge those two bodies. Then it became clear that they were not being abolished but somehow brought together. I say "somehow" because it is only now, or 10 days ago, that we have had the 172 pages of explanation. Delighted though I am to see that document, it still raises the issue of how the Government still want by this amendment to insert the Competition Commission and the Office of Fair Trading into the schedule when they have not yet had the outcome of the consultation. In other words, the Government still want to determine the future and merger of these two bodies before they have received the answers to the question that the consultation paper very fairly raises of what the advantages or disadvantages would be of a merger.

It is not appropriate in this debate to raise large numbers of issues about that very lengthy document, and I hope there will be other occasions on which to do so. However, in relation to the Office of Fair Trading, which is to become part of the Competition and Markets Authority, a number of provisions in the first eight or 10 sections of the Enterprise Act 2002 list a whole lot of functions for the Office of Fair Trading—to promote consumer interest, to educate and inform consumers and to have various other functions. The Minister might say that some of those functions will go to Citizens Advice and some will go to trading standards offices. That might be so. However, as a debate on this Bill and the loss of the National Consumer Council indicated, the Minister explained that Citizens Advice would be adequately resourced to be able to substitute for what the NCC now does. The suggestion in the consultation paper to which the Minister now refers indicates that the consumer functions of the OFT are to disappear, as are the consumer functions of the National Consumer Council. Am I right in thinking that that is the result of bringing together the competition functions of the OFT and the Competition Commission?

[LORD BORRIE]

Furthermore, how are the new bodies to function? I am interested to find that the consultation document seems to further the idea that has been working well for 40 or 60 years of a two-stage investigation. The main first investigation, the prosecutorial investigation, was done by the first government department, and then the OFT when it came into existence. The second stage investigation was of a more quasi-judicial type, with experts from different parts of business and the professions brought together in panels to determine individual cases. That range of expertise to be drawn upon by the Competition Commission has generally been thought of, internationally, as a very helpful procedure. As far as I read it—I hope that this is broadly correct—it is intended that the panel system should continue but it is suggested that more people should be full-time rather than part-time. I have generally thought that the very part-time nature of the Competition Commission's panel members is their plus point, because on every day of the week except for one, or perhaps two, they are in their own business, profession or work and bring that in to inform their work as members of the Competition Commission when investigating cases.

I then noticed that it is intended that the actual employees—the economists, lawyers and civil servants within the Competition Commission—are to operate as teams not just at one stage or at the second stage but right the way through. That might be because there is a conflict in the mind of the Government. It might be to do with wanting to save money, which you do if only one team operates on the same case throughout instead of moving from one to another. Yet it also makes it more difficult, surely, for the second stage to be truly independent of the investigation. To make a rather crude analogy, you have the work of the court getting mixed up with the work of the investigators and the police.

I have those various doubts and questions, but then I, like everyone else who has it, has only just received the consultation paper. I think the noble Lord said that we have two or three months to go through it and give our answers but why, here and now in March when the consultation paper has only just gone out, are we as the House of Lords being asked to determine in this Bill that there shall be a merger of these two bodies?

Baroness Kingsmill: My Lords, I support much of what my noble friend Lord Borrie has just said. I have always been in favour of a merger of these two bodies and am pleased to see that the Government are thinking of bringing that about. I have received the consultation paper and I have not yet come to terms with all the points therein. This is a merger that, on the face of it, has a lot to commend it—as I said, I have always supported it—but I feel that the devil is in the detail and that there is much detail to be determined.

From what I have seen in the consultation paper, the one aspect that I regret is the separation of consumer protection from competition issues. When I was at the Competition Commission, our primary and overriding rule was the public interest. We felt constantly that we were protecting the interests of consumers. It is regrettable to separate out those consumer interests and consumer protection from the competition regime. While it is very good that it is proposed that the panel system should be retained, the balance between that panel of, if you like, independents and the professionals who are fully employed must be carefully regulated. I also agree that the part-time nature of the role is one thing that enables its independence and expertise to be maintained.

We also ought to be looking at the separation of the two roles or stages within the competition regime. The first stage is a sort of triage: how serious, how big and how important is this, and what are the main issues? It is important to have that first stage, and it is fundamental to the fairness of the whole procedure that, once that triage stage has happened, it should move on to another panel that looks at it afresh, having had the triage diagnosis to enable it to do so. From my point of view as an ex-regulator and as one who is now on the boards of many companies that have undergone and are undergoing competition investigations, business needs certainty and speedy results. We must ensure that the merged body produces both. If it does, as a result of the consultation document that emerges, that could be a very good thing.

I continue to have a number of questions about this and I think it is a shame that this merger should be regarded and looked at in the context of the Public Bodies Bill. It deserves a piece of legislation of its own and should not just be shovelled in with the consultation document, with such a short time to consider it. Having said that, it is, on the face of it, an appropriate merger.

5.30 pm

Lord Dubs: My Lords, the Minister promised us a consultation document when we debated this in Committee, and we have to welcome the consultation document even if we cannot resist saying, "Decide first and consult afterwards". I suppose if the Minister says that the consultation will be on the detail, that is fair enough.

Since we last debated this issue, I have had a chance to talk to people who know a bit about Citizens Advice and trading standards, and there is a lot of concern as to whether trading standards will be able to manage it, partly because of the cuts in resources to local government and partly because of the question of how trading standards people somewhere in a town such as Carlisle manage to deal with a complaint against British Airways or some other large organisation. Are they well enough geared to take on some of the big boys when they are a small trading standards body in a moderately sized town in the north of England? The balance is not the same as it would be between the Competition Commission and British Airways or between the OFT and British Airways.

However, I am most concerned about the central issue. Of course I welcome the merger of the OFT and part of the Competition Commission, although I am worried about the other parts. I wonder how the process will work. Certainly there will be a detailed input into the consultation process from people who know a lot about it, but what chance will Parliament have to look at the results of the consultation? What

chance will we have to influence the new body through legislation? I agree entirely with my noble friend Lady Kingsmill when she said it ought to have legislation of its own. After all, these bodies were set up through primary legislation. The issues are large enough and important enough to merit a proper debate, with the chance for us to amend the legislation and use the experience that we have, together with the result of the consultation, to see how we can make it better. As I understand it—I hope I am wrong—the Government will simply consult, although they might publish the results of the consultation, and then the legislation will happen through an order that will be unamendable. I fear that Parliament will not be able to play its part and we shall lose some of the benefits of the process that primary legislation gives us.

Lord Whitty: My Lords, my apologies for my premature intervention earlier. I will not repeat everything that my colleagues have said, but we have a potential dilemma here. People are in broad terms in favour of a merger, subject to certain caveats, but the consultation paper indicates that the total approach to competition policy and consumer policy in which this new merged body would operate has yet to be determined. Many of the options in the paper—changes in the mergers procedures and in the relationship between the new Competition and Markets Authority and the sector economic regulators—would indeed, as my noble friend Lord Dubs implies, normally require primary legislation. Changes in the ability of people to raise super-complaints probably do not require primary legislation but the implication of giving that right to SMEs is that some of this is about monopsony and oligopsony as well as monopoly and oligopoly. That certainly requires some explanation and some primary legislative change.

The reality is that the arrival of this document a few days ago indicates that the Government's strategy of introducing a new competition institution by the merger of these two bodies can be properly assessed by Parliament only if you have the totality of the change to the competition regime as a whole. It ought to have been a principle of this Bill that bodies whose basis will require primary legislation should not therefore be dealt with solely on the basis of secondary legislation provided for by this Bill. We saw a smaller example of this the other night when the Government withdrew in effect the proposals for the Security Industry Authority, which will require primary legislation to change to where the Government wish to go.

There is a bit of a constitutional issue here that the Government should be aware of. In general, it is a good idea and I do not propose to oppose it, but the Government are in a bit of a dilemma here and in reality we will have to have a competition Act before we can deliver the new body that the Government are envisaging.

Lord Mackay of Clashfern: My Lords, it is important that this is just a preliminary stage to enable this consultation to happen and, if the results of the consultation are sufficiently clear, to go forward with an order that is, as I understand it, amendable—my noble friend will correct me if I am wrong but I think I am right. If one had to do a lot of these exercises through full primary legislation, not only in competition but in all the other areas that this Bill covers, one would have no time in Parliament to do anything else. A review of this kind requires some mechanism of this sort, and we have endeavoured to make the mechanism as close and as secure as we can. It would be a pity to lose this opportunity to do what might be possible in this way, and, so far as I am concerned, putting this into the Bill at this stage is a step in the right direction.

Lord Taylor of Holbeach: My Lords, I thank all noble Lords who have spoken because I think this has been very useful debate. I emphasise the point made by my noble and learned friend that by inserting these bodies into Schedule 2 we are not predetermining their merger; we are facilitating their merger after a consultative process. Indeed, although statutory instruments are not normally amended in this House, an enhanced procedure in this Bill will enable a full consultative process to take place on the statutory instruments that might be brought before Parliament.

More to the point, the whole process has been evidenced in the foreword, and if noble Lords have got no further than page 1 they will see the foreword by my right honourable friend the Secretary of State Vince Cable in which he talks about the wish to be transparent and open about this process. Indeed, it is in the Government's interest because the contributions made by noble Lords today have been remarkably powerful and useful. I hope all noble Lords who have spoken will feel free to involve themselves in the whole consultative process, because every single one of them will bring their experience to this regime.

I welcome the comments made by the noble Baroness, Lady Kingsmill, about the strategic objective—trying to get a unified Competition and Markets Authority in place with a primary purpose to be decisive, well informed and speedy. Business demands that of us. We live in a highly competitive world, but we can help ourselves and our fellow industrialists and businessmen by the way in which we construct markets and make sure that they operate in the country's economic interest and in the consumer's interest. Although the consumer interest part is being transferred—it will be much more heavily based in trading standards and Citizens Advice—the regime will be co-operative; trading standards officers will still feed in abuses of the market that have become apparent during their investigations.

The noble Lord, Lord Dubs, wondered whether small trading standards departments would be able to take on large organisations. With the backing of competition law, it does not matter how small the authority might be; the power of the law in this regard means that no business, however large, can afford to ignore it. Any systemic abuse through the structure of trading conditions is just the sort of thing that the new authority will take up and investigate at speed.

I am pleased that the idea of the panels is being welcomed. It is part of the detail in the consultation. In many ways, it would be wrong to use this speech to try to predetermine the outcome of that consultation, but there are in the consultative documents steers and guides, at least, to the sort of outcome for which the

[Lord Taylor of Holbeach]
Government wish. I am moving my amendment today with the idea of facilitating that outcome. Parliament's role will be to scrutinise both the consultation and anything that is produced under the Bill.

Amendment 25 agreed.

Amendment 26

Moved by ***Lord Newton of Braintree***

26: Schedule 2, page 17, line 14, at end insert—

"Group 5

Administrative Justice and Tribunals Council.

Civil Justice Council."

Lord Newton of Braintree: My Lords, until about an hour ago I had intended and expected to wind up this speech by claiming a concession from the Government as a reward for good behaviour. Unfortunately, we have just had the debate and vote on the YJB, so my chances of any kind of reward for good behaviour have gone up in smoke. Nevertheless, I hope for a reasonable and positive response from my noble friend.

It is clear to me that the House is fed up to the back teeth with this Bill and would like to see the back of it. Everybody wants to make progress and I will try to fit my speech to that. It is four months since we last debated the Administrative Justice and Tribunals Council and probably five months since we started to talk about this wretched Bill, so I understand the desire to get on.

Four months ago, we debated the inclusion of the Administrative Justice and Tribunals Council in Schedule 1. An amendment in the name of the noble Lord, Lord Borrie, to take it out of the schedule was defeated. I know that I cannot reopen that debate and I am not seeking to; rather, I am looking through these amendments, which I hope people will have realised are designed to add the justice councils to Schedule 2 and other schedules, to give the Government other options. I hope that the Government will feel that that is a reasonable add-on. It does not detract from the fact that the AJTC remains in Schedule 1, so that, if the Government want to bring forward an order to abolish it, they are quite at liberty to do so—my amendments would not prevent it.

I hope that my mentioning the Civil Justice Council, which was originally included in Schedule 7, has not upset the judges, but I am slightly disturbed by the fact that all the judges on the Cross Benches appear to have fled since the earlier debate. I emphasise that my intention is in no way to threaten the Civil Justice Council but to see whether we can make a more rational disposition of advice on justice matters across the board.

5.45 pm

In passing, I observe that my confidence in Ministers has been encouraged by some of the things that have happened since the earlier stage, when I was, frankly, most irritated by the clearly spurious and flimsy arguments that they were using or causing to be used. At least they are now admitting that, in effect, the primary motivation is to save money. The Secretary of State says in a letter, after various preliminaries, that any change of the kind that I am proposing in the Bill—and, as far as I can see, any other change—is,

"undesirable as it would mean that we would not make the savings from the AJTC's abolition that we are planning for".

At least that is straightforward. I can understand it and even relate to it. I was for most of 10 years a Social Security Minister, including three years as Secretary of State. I know what it is like to have the Treasury breathing down your neck, demanding whatever it is that it demands; you know that you are going to have to do some unpleasant things. I recognise that, but what I cannot quite stomach is the notion that, as a country, we are now so impoverished that we cannot spend a little money in this field related to justice between the citizen and the state. Are we really now that poor?

I also cannot accept the argument that everything that the council does could be done—this echoes earlier debates—just as well by the Ministry of Justice. I asked previously what would happen when people made representations about, for example, the effect on tribunals of proposals for legal aid made by the same Secretary of State. How would any part of the ministry take an objective view on that? That would all be part of department policy and the ministry would just have to straddle both horses. I do not accept that the ministry will be able to do some of the things done by the council or, indeed, by the former Council on Tribunals—I see my predecessor on that body, the noble and learned Lord, Lord Archer of Sandwell, in his place.

For me, the main point is that, although the Ministry of Justice now takes what are labelled as administrative justice decisions, the responsibilities for those run right across government. For example, the AJTC is taking a big interest in getting things right first time—improving initial decision-making—which we would all like to see. That is something for every department in Whitehall. The MoJ does not have responsibility for ombudsmen, although, according to its latest pronouncements, it has ambitions to learn a bit more about the subject. The Cabinet Office has that responsibility, although it has not been every effective in that respect, as different government departments have had all sorts of different policies, to the extent that there have been competing ombudsmen in the same field. Even now, the DCLG has proposals in the Localism Bill about ombudsmen that have enflamed more or less the entire ombudsman world. Where does that leave the Ministry of Justice? Will it attack the DCLG? Has it had any influence on those proposals? I doubt it. I simply do not believe that the MoJ can do what it says on the tin.

That links with my second point. Why preserve the Civil Justice Council, which I am in favour of, and the Family Justice Council, which I am also in favour of, but abandon the one council which is concerned with justice between the citizen and the state and which has a 50-year-plus track record of bringing about improvements in that area? Let us be clear: we are not talking here about great judicial reviews or developers seeking to get their plans past a planning refusal. We are talking about hundreds of thousands of social

security claimants, people claiming disability benefits, people who are under compulsory orders going to mental health tribunals and a whole range of others. I have the figures here—I was going to cite them but I will not—and the figures, particularly for those who are on social security and disability benefits, are rising all the time, partly because of the economic problems that we have. Why is this the Cinderella? Given that we are talking about the interests of many of the least articulate and most vulnerable people in our society, this is totally in conflict with coalition rhetoric.

Lord Archer of Sandwell: Since the noble Lord was kind enough to tempt me to my feet, would he agree that many local tribunals and public bodies lead lonely lives, and that the great contribution of a central body is that it can collect and disseminate experience and best practice? If that were missing, everyone's performance would suffer.

Lord Newton of Braintree: I agree. It tempts me to extend my remarks a fraction further to a point I had omitted. The Ministry of Justice knows nothing—and, frankly, as far as I can judge, cares less—about large amounts of administrative justice that relates to local authorities, including, in education, school admissions and exclusion appeals. Many people may regard this as trivial but it also includes the whole area of decriminalised car parking. These are things that affect citizens. They have nothing to do with the Ministry of Justice but they amount to important areas of administrative justice.

I made the point in my earlier speech—I will not repeat it in extenso—that the terms of reference of the Civil Justice Council are, in effect, identical to those of Administrative Justice and Tribunals Council. I will make a few further points before I conclude. Notwithstanding the disappearance of the CJC from Schedule 7 to the Bill, the Government have already cut its secretariat and merged it with that of the Family Justice Council. In respect of the various procedure rule committees, including tribunals, all of which were in Schedule 7, the Government have already put all the secretariats into the same team. They argue that this makes better use of resources. It probably does. However, my amendments simply go with that flow. They create the possibility of what I regard as rational alternatives to abolition, but they do not prevent the Government going for abolition if that is what they continue to want to do. Even if I cannot claim a reward for good behaviour, I can claim a response to rationality, reasonableness and a powerful argument.

Lord Mackay of Clashfern: My noble friend bemoaned the fact that the judges had all fled, but the noble Lord, Lord Elystan-Morgan, is still there.

Lord Newton of Braintree: I apologise to both my noble and learned friend and the noble Lord, Lord Elystan-Morgan. I had in mind those who contributed to an earlier debate. If they all now chip in to support me, I shall give them brownie points as well. My noble and learned friend Lord Mackay might help, too. I beg to move.

Lord Howe of Aberavon: I do not rise for brownie points, which I probably deserve in no circumstances whatever. I am rather alarmed that my contribution to this discussion, in support of what my noble friend said, is founded on my experience almost exactly half a century ago. I make no apology for that. It takes me back to the second half of the 1960s, when the electors of Bebington decided to give me four years leave from the other place, during which time I concentrated on my practice at the Bar. Two of the most important matters with which I was involved concerned the very issues that my noble friend has just talked about—issues affecting real people in the face of difficult circumstances.

For nine months I represented the colliery managers in the Aberfan tribunal inquiry, conducted by Lord Edmund-Davies and his expert wingmen. He did not consider the matter alone but with expertise to help him. Every one of those people whose actions were being criticised, or whose grievances were being represented, were represented by counsel before that administrative tribunal.

Not long after that, I was invited by Kenneth Robinson, who was then Minister for Health in the department presided over by Richard Crossman, to conduct an inquiry into alleged misconduct and mishaps at the Ely Hospital in Cardiff. That gave me some insight into the way in which administration in search of justice can get up to some very curious things. I had three advisers—one consultant psychiatrist, one hospital board member and one senior nurse. We set out by saying, "Please may we announce our existence to the public so that we can call for evidence?". "No, no", came the answer to that. However, we decided that we would not start our work without it, and were able to make that announcement and continue with our inquiry. We were not given any counsel to the tribunal, as such. There was no official solicitor to help us in an investigation, so I had to perform the task of being both chairman of the inquiry and interrogator and, therefore, quasi-prosecutor. It was not exactly comfortable.

At the end of our inquiry, which did not take very long, we produced a report and submitted it to the Welsh health authority for publication, as we thought. However, we were told that it would certainly not be published and we were asked whether we could make a rather different version of the report that we had first filed, confining it to facts and not judgments. Happily, I had a Cambridge acquaintance who was special adviser to Richard Crossman. Many in this House may remember him—Brian Abel-Smith. I was able to convey that strange news to where it mattered and we were then able to produce an alternative version to the one that we were compelled to produce in the first instance. Richard Crossman did not hesitate to publish the full version of that report. Anthony Howard, whose recent death we all mourned, in writing about Richard Crossman said that that publication was,

"perhaps the bravest action of his political career".

Certainly, I like to think that it was something that made a major contribution to the consequences of our inquiry, about which I make no boasts or gestures whatever. We were doing a job and were allowed to do it, but we had to wrestle at various stages to get the framework right.

[LORD HOWE OF ABERAVON]

Since then, I have been involved in different ways in other comparable inquiries and have witnessed others. One in which I was involved most tenaciously for some time was that presided over by the noble and learned Lord, Lord Scott—Lord Justice Scott as he was then. Two other inquiries followed soon after that one. One was presided over by Lord Justice Phillips, now the noble and learned Lord, Lord Phillips, and the other by the noble and learned Lord, Lord Hutton. In those tribunals there were no wingmen, as I have put it, sitting on either side of the noble and learned Lords; they had to conduct the tribunals on their own. In the tribunal of the noble and learned Lord, Lord Scott, no representation was allowed on behalf of any of those people giving evidence to or being judged by the tribunal. That was notwithstanding my submissions as former Foreign Secretary on behalf of the many diplomats whose conduct was being scrutinised, or the interventions of the noble Baroness, Lady Symons, who was then in charge of the First Division Association.

As I say, I believe that Lord Justice Hutton had no legal representation, and certainly no wingmen, to help him. On the other hand, the noble and learned Lord, Lord Phillips, had the full range of expertise alongside him and full representation by lawyers throughout the case. I give those examples without wishing to criticise the principal actors in them as they illustrate the diversity of the different judgments that have to be made when deciding what kind of tribunal to set up, how to formulate it, what tasks to give it and so on. For that reason I was conscious throughout those proceedings of the opinions being offered—sometimes not soon enough—by the Administrative Justice and Tribunals Council. I subsequently wrote a piece in the *Political Quarterly*, from which I wish to quote. It states:

"A number of studies have now been done (or recommendations been made in individual reports) about the factors that have to be taken into account by the appointing minister (or other authority), as well as by the leader of an inquiry. And all these data have now been re-summarised and drawn together in one place within government. That will help, of course. But I am convinced that one thing more remains to be done. We need to ensure the continuous availability of a small corpus of people with experience of this work (not just in one department), who can be thoroughly consulted by those involved in shaping any fresh inquiry. For the necessary decisions often have to be taken under pressure and at speed. In such circumstances, paper-borne wisdom is no substitute for experience … It is this practically tested know-how which has to be accessible whenever it is needed".

It is against that background that I intervene in the debate on this amendment because it seems to me that the council presided over for many years by my noble friend Lord Newton is an organisation which certainly deserves to survive in one form or another. It may be possible to change it or to shuffle it into different places but it has met a very important need and has accumulated wisdom over the years from diverse sources. The Government should proceed with the utmost caution in handling the future of this organisation. They should in particular pay attention to the submissions made by my noble friend Lord Newton of Braintree.

6 pm

Lord Borrie: I congratulate the noble Lord, Lord Newton of Braintree, on devising a way of trying to ensure some sort of future for the Administrative Justice and Tribunals Council after my failure in Committee to secure a vote against abolition. I failed by nine votes despite the support of several Law Lords present on that occasion and of the noble and learned Lord, Lord Howe of Aberavon. I remember that on one occasion when we debated this matter the noble and learned Lord, Lord Woolf, stressed the very point just made by the noble and learned Lord, Lord Howe of Aberavon, on the significance of the work done by the Administrative Justice and Tribunals Council for ordinary people in this country. Often that work is much more important for ordinary people than that done by the courts of our land. The noble and learned Lord, Lord Woolf, emphasised the tribunals to which the noble Lord, Lord Newton, has referred and added in employment tribunals. You could hardly have a more significant set of judicial bodies than employment tribunals when dealing with the troubles of ordinary people such as unfair dismissal cases.

The Government narrowly won the vote on this issue in Committee but in seeking to defend the Ministry of Justice from the queries that some of us had raised the only answer they could provide was that the relevant tasks could be carried out by the Ministry of Justice. Of course, the Ministry of Justice has a great deal to contribute on policy and other areas of administrative justice but it cannot replicate the advice and role of independent people from outside the department who have a range of experience. That experience can be tapped individually by the department; indeed, I think that the ministerial representative said that. However, if this council disappears, you will not get a group coming together and discussing among themselves the important issues of administrative justice. They will merely be seen individually by an appropriate department civil servant and we may or may not hear the results of that discussion. Therefore, I again congratulate the noble Lord on bringing forward the amendment and hope that he will press it to a vote.

Baroness Scotland of Asthal: My Lords, since the noble and learned Lord, Lord Mackay, does not seem to be tempted by his noble friend's invitation I rise to respond on behalf of Her Majesty's loyal Opposition. Not surprisingly, we wholeheartedly support the amendment moved by the noble Lord, Lord Newton. I take this opportunity to commend the noble and learned Lord, Lord Howe, for his powerful intervention and for the work that he did in relation to the Ely inquiry. The House will know that that was seminal to the material changes regarding mental health which came after it.

I invite the noble Lord, Lord McNally, to consider carefully whether he cannot accept the amendments spoken to so ably by the noble Lord, Lord Newton. As we heard from the noble Viscount, Lord Eccles, in regard to the previous substantive debate that we had on the Youth Justice Board, this is enabling legislation. Notwithstanding the fact that the Administrative Justice and Tribunals Council can be abolished, there is nothing to stop Her Majesty's Government thinking again. They are not bound to abolish it. If they want to abolish it, they should think carefully about how it can still be merged, used or modified in regard to other bodies. I invite the noble Lord to think again about

this matter. If Parliament decides that there is to be no independent voice, it is very difficult to see how some of the challenges that have been so forcefully laid out by the noble Lord, Lord Newton, will be responded to.

The noble Lord, Lord McNally, will know the position in relation to legal aid which was touched on by the noble Lord, Lord Newton. As the Administrative Justice and Tribunals Council has recently said in its response to the Ministry of Justice consultation document *Proposals for the Reform of Legal Aid*, some material difficulties arise in this regard. Your Lordships will know that in its response the council opposed the proposed cuts to legal aid for administrative justice. It gave the example that welfare benefits legal aid cost £28.3 million in 2009-10, representing less than 0.18 per cent of the £16 billion value of benefits that are unclaimed every year. The success rate of legally aided clients in these areas is more than 90 per cent. The council believes that the Government bear responsibility for causing many of the appeals in the administrative justice system through poor decision-making, poor communication, delay and overly complex or incomprehensible rules. Not only will the legal aid cuts affect individual claimants, they will contribute to increasing work and delays in courts and tribunals that are already under pressure. How will such a challenge to the department that is also responsible for legal aid be made, made independently, and by whom? The value of an independent critical eye will remain present. Therefore, merging, modifying or otherwise dealing with this issue remains of critical importance.

I understand what has been said previously about the utility of the council's work no longer being identified, but we have not had an answer to the question posed in Committee by the noble Lord, Lord Newton, and again now, regarding how the department responsible for all these administrative issues will deal with issues such as these. The difficulty will remain. The challenges are likely to be much more honed, because the issues that administrative justice touches upon in its remit, in terms of everyday lives, become increasingly broad. I invite the Minister to consider very seriously indeed merging the council with another body, modifying the constitution arrangements under Schedule 3, or modifying the funding or transferring the functions—but not to expunge them in their entirety.

The noble Lord will know that acceding to these amendments would not oblige the Government to do all or any of those things. They would be given the power and opportunity to do so if they, in their inimitable wisdom, decided, on mature reflection, that the same was necessary.

Lord Mackay of Clashfern: My Lords, in view of what has been said, perhaps I may take this opportunity to indicate that this amendment is eminently supportable and that I hope the Minister will respond positively to it. I felt that I did not want to make two speeches; I thought that I had made one already. Anyway, that is my position.

Lord McNally: My Lords, that convinces me only that the noble and learned Lord, Lord Mackay, can resist anything except temptation.

The noble Baroness gave some reasons why the Government should give themselves time to think on these matters. She pointed out that this is only enabling legislation, but, as I said in the previous debate, it is better that we have some clarity in what we wish to do. We are aware that the proposed changes to legal aid will put pressure on parts of this sector of justice, and that is why a concerted effort has to be made to drive up the quality of original decision-making. It is the departments and public bodies that make the original decisions that have the primary responsibility to ensure the quality of decision-making. However, this work with the decision-makers will continue, so as to improve getting it right first time. To drive up standards, we will seek to spread lessons learnt among relevant decision-making bodies.

The noble Lord, Lord Borrie, gave the game away when he said that the amendment and the consequential amendments were a perfectly legitimate and ingenious way of asking the House to reconsider a decision it had already made in Committee. However, the department has never hidden the fact that one of the reasons for the decision was saving money. However, as in the recent debates, almost throughout the Bill, opponents to what the Government propose seem to put enormous emphasis on the benefits that arm's-length bodies can deliver and give no credit at all to the fact that one of the beauties of our system was that one check and balance on the delivery of policy was the direct line of responsibility running from Ministers in their departments through to the Floors of both Houses. We do not accept the idea that all these things have to be done by arm's-length bodies, nor do I accept that the Ministry of Justice knows nothing and cares less about the wider issues of administrative justice. It is unfair to keep on throwing these attacks on civil servants who, in my experience, show an extraordinary commitment in their areas of expertise and are extremely willing to speak truth to power.

6.15 pm

I appreciate that the noble Lord, Lord Newton, is passionate about retaining independent oversight of the administrative justice system and that this has motivated this group of amendments. I recently met the noble Lord, Lord Newton, and the noble and learned Lord, Lord Howe, and faithfully took back their messages to the Secretary of State for Justice. Although I acknowledge their experience and knowledge in this area, and I am also grateful for their recognition that the Government have to make tough decisions, their argument did not carry weight with the Secretary of State. I even gave the Secretary of State the advice of the noble and learned Lord that you abolish in haste and repent at leisure—advice that came from his experience with the Metrication Board in the early 1980s.

It is probably no surprise that I have to tell noble Lords that the amendments do not fit with the Government's decision to abolish the AJTC. I should, however, reiterate that our policy is the right one. The AJTC is relatively expensive for the job it does; the context in which it operates has changed enormously since the council and its predecessor, the Council on Tribunals, were founded; and this in turn makes the

[LORD MCNALLY]
exercise of its functions outside central government unnecessary and, in fact, a duplication of efforts and resources.

In the case of the Civil Justice Council, I have to say that it is a little odd in the context of this particular Bill that a non-government amendment is tabled to put a body back into the Bill, rather than to take it out. Although I understand why the noble Lord, Lord Newton, has done this, I do not agree that the Civil Justice Council should be in the Bill simply to preserve the functions of a body proposed for abolition. The Civil Justice Council was deemed to perform a function that should remain unchanged; the AJTC was not.

I should like to respond first to Amendment 26. It would enable a merger of the Administrative Justice and Tribunals Council and the Civil Justice Council, and replace them with a new body, or abolish one body, with the remaining one taking some or all of the other's functions. This amendment would not allow the Government to abolish the AJTC and to keep the Civil Justice Council as it is—which is our intention. A merger is not desirable. Putting civil justice and administrative justice together provides too wide a range for one body to cover, and the focus of each is different. Tribunals are distinctive in character from the courts, and we are keen to preserve that difference. There are not sufficient overlaps between the two areas to make the whole manageable.

There are further difficulties—in particular, the difference in jurisdiction. The Civil Justice Council covers England and Wales, but the AJTC's remit extends to Scotland. There are also differences between the ways in which the two bodies are set up. Appointed members of the AJTC are remunerated, whereas Civil Justice Council members are not. In addition, even if the policy was sound, the secretariat that supports the Civil Justice Council would not be in a position to take on additional work without an increase in resources. In addition, even if the increase were relatively modest, the resource could not be funded without jeopardising other areas of the ministry's work.

I turn now to the rationale for abolishing the AJTC. When we considered the reforms to arm's-length bodies we looked at all relevant factors including value for money. The AJTC costs about £1.3 million a year. This may not seem a large sum in the context of the ministry's overall budget, but the Civil Justice Council's budget is £312,000—for a body whose work directly supports the practical operation of the courts. I accept that the Civil Justice Council's functions are similar to those of the AJTC. When we looked at functions, we looked not only at statutory functions but at how the bodies worked in practice. Much of the Civil Justice Council's work, such as the production of advice on the technical aspects of civil costs and policy, and pre-action protocols, directly supports the courts. As noted, the cost of the Civil Justice Council is extremely modest. It has unpaid members and little in the way of secretarial support compared with the AJTC. Taking this into account, as well as the technical emphasis of its work, we concluded that the Civil Justice Council should remain.

The Government's policy takes account also of the changes that have taken place since the AJTC was set up. The most significant is the establishment of the Unified Tribunals Service. We consider the AJTC to be no longer vital because the unified service provides a coherent system of tribunal's administration and judiciary for the tribunals within it. For this reason, we do not need the AJTC's tribunal's oversight function. We should keep in mind that the AJTC is an advisory body; it is not an executive body, a regulator, a judicial body or a tribunal.

Our policy is to reduce duplication of effort and resource, and I do not share the view of the noble Lord, Lord Newton, that we would be taking a retrograde step if we were to abolish the AJTC. I have faith that the Ministry of Justice can work effectively with other government departments, and with other administrations and bodies outside the remit of the Tribunals Service, to ensure oversight and to develop a coherent policy on administrative justice. I appreciate the concerns of the noble Lord about the responsibility for administrative justice policy being spread across several government departments. However, the Ministry of Justice is committed to enhancing its role in wider administrative justice issues and will work closely with the AJTC while it still exists, and with other government departments that have an interest in this area such as the Cabinet Office, which leads on ombudsman policy.

The Government resist Amendment 26, which would merge the two bodies. Amendments 30, 32, 37, 45 and 47 would allow orders to be brought forward to modify the constitutions, funding or functions of the AJTC and the Civil Justice Council. The Government oppose these amendments for the same reason. There is not sufficient reason for us to depart from our original view, endorsed by the House in Committee, that the AJTC should be abolished. It should also not be merged with a body that we wish to retain in its current form. I hope that, in the light of these explanations, the noble Lord will withdraw his amendment.

Lord Newton of Braintree: My Lords, a number of points have been made. If I attempted to answer them all, I would rerun both the speech I made a while back and the one I made four months ago. Perhaps I may emphasise three points. First, I am not arguing that we should go on with a body costing the sums that the Minister referred to and should instruct it exactly as we do at present.

Secondly, if my remarks were taken as in any way being rude to civil servants, that was not my intention. I have a high regard for them and have worked with many of them. However, they do not want to touch some quite important tribunals in the local authority field with a barge pole—and nor do they know much about them. These are important parts of the system of administrative justice, as are the ombudsmen.

Thirdly, I turn to the geographical points that were made. The AJTC covers not the whole of the United Kingdom but the whole of Great Britain. It has a separate Scottish committee. Since 2007, it has had a separate Welsh committee, voted for by the House. I cannot be certain what will emerge, but there is a strong possibility that Wales and Scotland will decide to maintain their committees while England gets rid of anything similar that it has. That would not make sense.

I find myself in a position that I neither expected nor wanted. There has been a slight flavour in one or two conversations that I have had that those of us who are pushing these issues are simply trying to defend the work that we did over—in my case—10 years. Obviously, that is in my mind. However, if I test the opinion of the House, it will not be for reasons of amour propre but because it would be wrong to do what is proposed. We need to do more to protect the standards of administrative justice and, in particular, the interests of those relatively less well off and vulnerable people who are to a large extent the subjects and users of the system.

I am a bit disappointed that nobody from the Cross-Benches joined in, but I am profoundly grateful to the noble and learned Lord, Lord Howe of Aberavon, for his consistent support; to the noble Lord, Lord Borrie, for his support once again; and ultimately to my noble and learned friend Lord Mackay, who at least made a friendly comment, although I am not sure where it will take him—I am a very friendly towards him too, I might say.

My last comment is about the Minister's suggestion that the noble Lord, Lord Borrie, gave the game away by referring to the process that will be required to pass an order under Schedule 1, or indeed any other schedule. Much of the first part of the debate on the Bill was taken up with my noble friend Lord Taylor of Holbeach introducing safeguard after safeguard on consultation, the parliamentary process and amendability in certain respects, to reassure people that this would not just be a stroke of the ministerial pen. If a game has been given away, frankly, it was by my noble friend Lord McNally who said, "We don't want to prolong all this uncertainty, do we? We can't really have all this upset again by debating an order and possibly not passing it".

It does not stand up with what the Government have said, and what is now enshrined in the clauses of the Bill—with all the consultation and the rest of it. I am not sure that my noble friends will thank me and I do not particularly want to do it, but I shall not feel happy with myself unless I test the opinion of the House.

6.29 pm

Division on Amendment 26

Contents 198; Not-Contents 191.

Amendment 26 agreed.

Division No. 2

CONTENTS

Aberdare, L.
Adonis, L.
Ahmed, L.
Anderson of Swansea, L.
Andrews, B.
Archer of Sandwell, L.
Armstrong of Hill Top, B.
Bach, L.
Bakewell, B.
Bannside, L.
Barnett, L.
Bassam of Brighton, L. [Teller]
Beecham, L.
Berkeley, L.
Best, L.
Bilston, L.
Blood, B.
Boothroyd, B.
Borrie, L.
Boyd of Duncansby, L.
Bragg, L.
Broers, L.
Brooke of Alverthorpe, L.
Brookman, L.
Browne of Belmont, L.
Browne of Ladyton, L.
Campbell-Savours, L.
Carter of Coles, L.
Christopher, L.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clinton-Davis, L.
Collins of Highbury, L.
Corbett of Castle Vale, L.
Crawley, B.
Cunningham of Felling, L.
Davidson of Glen Clova, L.
Davies of Coity, L.
Davies of Oldham, L.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Dear, L.
Deech, B.
Desai, L.
Dixon, L.
Donaghy, B.
Donoughue, L.
Drake, B.
D'Souza, B.
Dubs, L.
Eames, L.
Elder, L.
Elystan-Morgan, L.
Evans of Temple Guiting, L.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Filkin, L.
Finlay of Llandaff, B.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Gale, B.
Gibson of Market Rasen, B.
Giddens, L.
Gilbert, L.
Golding, B.
Gordon of Strathblane, L.
Gould of Potternewton, B.
Greengross, B.
Griffiths of Burry Port, L.
Grocott, L.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haskins, L.
Haworth, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hilton of Eggardon, B.
Hollis of Heigham, B.
Howarth of Newport, L.
Howe of Aberavon, L.
Howe of Idlicote, B.
Howells of St Davids, B.
Hoyle, L.
Hughes of Stretford, B.
Hughes of Woodside, L.
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Irvine of Lairg, L.
Jay of Paddington, B.
Jones, L.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
King of Bow, B.
King of West Bromwich, L.
Kingsmill, B.
Kirkhill, L.
Knight of Weymouth, L.
Layard, L.
Lea of Crondall, L.
Leitch, L.
Liddle, L.
Low of Dalston, L.
McAvoy, L.
McDonagh, B.
Macdonald of Tradeston, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
Mackay of Clashfern, L.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
Mandelson, L.
Massey of Darwen, B.
Maxton, L.
Meacher, B.
Mitchell, L.
Morgan of Drefelin, B.
Morgan of Ely, B.
Morgan of Huyton, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Morris of Yardley, B.
Newton of Braintree, L.
Nye, B.
O'Loan, B.
O'Neill of Bengarve, B.
O'Neill of Clackmannan, L.
Paisley of St George's, B.
Palmer, L.
Patel of Blackburn, L.
Patel of Bradford, L.
Pendry, L.
Pitkeathley, B.
Plant of Highfield, L.
Prashar, B.
Prescott, L.
Prosser, B.
Quin, B.
Ramsbotham, L.
Rea, L.
Reid of Cardowan, L.
Rendell of Babergh, B.
Richard, L.
Rooker, L.
Rosser, L.
Rowlands, L.
Royall of Blaisdon, B.
Saltoun of Abernethy, Ly.
Sawyer, L.
Scotland of Asthal, B.
Sewel, L.
Sheldon, L.
Sherlock, B.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Snape, L.
Soley, L.
Stevenson of Balmacara, L.
Stone of Blackheath, L.
Symons of Vernham Dean, B.
Taylor of Blackburn, L.
Taylor of Bolton, B.
Temple-Morris, L.
Thornton, B.

Tomlinson, L.
Touhig, L.
Triesman, L.
Tunnicliffe, L. [Teller]
Turnberg, L.
Turner of Camden, B.
Wall of New Barnet, B.
Walpole, L.
Walton of Detchant, L.
Warner, L.
Warnock, B.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilkins, B.
Williams of Elvel, L.
Wills, L.
Winston, L.
Wood of Anfield, L.
Woolf, L.
Woolmer of Leeds, L.
Young of Norwood Green, L.

NOT CONTENTS

Addington, L.
Ahmad of Wimbledon, L.
Alderdice, L.
Allan of Hallam, L.
Anelay of St Johns, B. [Teller]
Astor, V.
Astor of Hever, L.
Attlee, E.
Bates, L.
Benjamin, B.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Boswell of Aynho, L.
Brinton, B.
Brittan of Spennithorne, L.
Brooke of Sutton Mandeville, L.
Brougham and Vaux, L.
Browning, B.
Burnett, L.
Buscombe, B.
Byford, B.
Caithness, E.
Cathcart, E.
Chidgey, L.
Clement-Jones, L.
Colwyn, L.
Cormack, L.
Cotter, L.
Courtown, E.
Craigavon, V.
Cumberlege, B.
De Mauley, L.
Dixon-Smith, L.
Dobbs, L.
Doocey, B.
Dykes, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Eden of Winton, L.
Edmiston, L.
Empey, L.
Falkner of Margravine, B.
Faulks, L.
Fearn, L.
Feldman, L.
Feldman of Elstree, L.
Fookes, B.
Fowler, L.
Fraser of Carmyllie, L.
Freeman, L.
Freud, L.
Garden of Frognal, B.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Geddes, L.
German, L.
Glendonbrook, L.
Gold, L.
Goodlad, L.
Grade of Yarmouth, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hamilton of Epsom, L.
Hamwee, B.
Harris of Richmond, B.
Henley, L.
Heyhoe Flint, B.
Higgins, L.
Hill of Oareford, L.
Hodgson of Astley Abbotts, L.
Hooper, B.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Hussein-Ece, B.
James of Blackheath, L.
Jenkin of Kennington, B.
Jenkin of Roding, L.
Jolly, B.
Jones of Cheltenham, L.
Jopling, L.
Kilclooney, L.
King of Bridgwater, L.
Kirkwood of Kirkhope, L.
Kramer, B.
Laming, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lawson of Blaby, L.
Lee of Trafford, L.
Lexden, L.
Lingfield, L.
Linklater of Butterstone, B.
Loomba, L.
Lothian, M.
Luke, L.
Lyell, L.
Macdonald of River Glaven, L.
MacGregor of Pulham Market, L.
McNally, L.
Maddock, B.
Maginnis of Drumglass, L.
Mancroft, L.
Maples, L.
Mar and Kellie, E.
Marlesford, L.
Masham of Ilton, B.
Mawhinney, L.
Methuen, L.
Miller of Chilthorne Domer, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Naseby, L.
Neuberger, B.
Neville-Jones, B.
Newby, L.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
Palmer of Childs Hill, L.
Patel, L.
Patten, L.
Perry of Southwark, B.
Phillips of Sudbury, L.
Plumb, L.
Popat, L.
Powell of Bayswater, L.
Randerson, B.
Rawlings, B.
Reay, L.
Redesdale, L.
Rennard, L.
Ripon and Leeds, Bp.
Risby, L.
Roberts of Conwy, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rogan, L.
Ryder of Wensum, L.
St John of Bletso, L.
Sassoon, L.
Scott of Needham Market, B.
Seccombe, B.
Selsdon, L.
Shackleton of Belgravia, B.
Sharkey, L.
Sharp of Guildford, B.
Shaw of Northstead, L.
Shipley, L.
Shutt of Greetland, L. [Teller]
Slim, V.
Spicer, L.
Stedman-Scott, B.
Stewartby, L.
Stoneham of Droxford, L.
Stowell of Beeston, B.
Strathclyde, L.
Taverne, L.
Taylor of Holbeach, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Walliswood, B.
Tonge, B.
Tope, L.
Tordoff, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Tyler, L.
Tyler of Enfield, B.
Verma, B.
Wade of Chorlton, L.
Wakeham, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Wilcox, B.
Williamson of Horton, L.
Willis of Knaresborough, L.
Younger of Leckie, V.

6.41 pm

Amendment 27 had been retabled as Amendment 34A.

Clause 3: Power to modify constitutional arrangements

Amendment 28

Moved by ***Lord Taylor of Holbeach***

28: Clause 3, page 2, line 11, leave out "Subject to section 16,"

Amendment 28 agreed.

Amendment 29 not moved.

Amendment 29A

Moved by ***Lord Wigley***

29A: Clause 3, page 2, line 37, at end insert—

"( ) To the extent that this section may be applicable to Sianel Pedwar Cymru ("S4C"), only subsection (2)(a) to (c) and (g) and subsection (3)(a), (b) and (d) shall apply."

Lord Wigley: My Lords, I declare my interest in matters relating to S4C, as I did in Committee. I beg to move Amendment 29A in my name and to speak to the other amendments: in particular, Amendment 34B in the name of the noble Lord, Lord Roberts of Conwy, and Amendment 40, in the name of the noble Lord, Lord Roberts of Llandudno.

I shall not speak at length, as I spelt out the general arguments in relation to S4C in Committee. Our concerns expressed at that time remain. They were particularly

eloquently expressed during Committee by the noble Lord, Lord Morris of Aberavon, the noble and learned Lord, Lord Howe of Aberavon, the noble Lords, Lord Elystan-Morgan, Lord Richard and Lord Rowlands, and, at that time, by the noble Lord, Lord Roberts of Llandudno, himself. I look forward to hearing his comments tonight. The Government have tabled no amendments to assuage the feelings we expressed.

In many ways, the amendments are being taken tonight in the wrong order. Amendment 40 would remove S4C from Schedule 4, and essentially, from the Bill. That is what most of us from Wales want. Amendment 34B would bring S4C into Schedule 3 —something which many of us regard with trepidation, because that gives the Minister the power to apply the provisions of Clause 3 to S4C; and the powers are extremely wide ranging. It would allow the Minister to modify the constitutional arrangements of S4C in how employees exercise its functions, the power to employ staff, how it runs its committees and how it is accountable to the Minister. All those seem little short of giving the Minister powers by order to micromanage S4C.

Amendment 29A is moved not only to get my retaliation in first, but to cope with the unfortunate eventuality that the amendment of the noble Lord, Lord Roberts of Conwy, should be carried and that S4C becomes part of Schedule 3. Amendment 29A restricts the power given to the Minister to subsection (2)(a) to (c) and (g) and subsection (3)(a), (b) and (d). That would still allow the Minister to be involved with the appointment of the chairman—as he apparently is very much at the moment. It would allow changes to the body and to the offices. It would still allow the powers with regard to reports and accounts, which are perfectly normal requirements in the circumstances, but it cuts out the temptation to micromanage S4C.

I shall be very interested to hear the justification of the noble Lord, Lord Roberts of Conwy, for inserting S4C into Schedule 3. Clearly, the Government did not think that those powers were necessary—otherwise they would have put them in the Bill or tabled a government amendment at this stage—or are the Government leaving their dirty work to a trusted pair of hands, who has bailed them out on so many occasions in Wales over the years? As I said, I would rather that Amendment 34B were not moved at all, or, if it is, that it is defeated. Equally, I urge that Amendment 40, to which I have added my name, should be carried. If it is rejected by the Government, it should be taken to a vote.

6.45 pm

All the amendments deal with one simple matter. S4C should never have been in the Bill. The independence of S4C will be critically undermined, as it will be beholden to the BBC Trust for the bulk of its funding, which the Government, without prior consultation, have moved to the licence fee. He who pays the piper calls the tune. S4C will be at the mercy of the BBC Trust for its resources. Its independence will be further eroded by the Minister's indication that BBC staff will sit on S4C's management board—not just on the authority, but on the management board. As such, the BBC will have a preferential position compared to the independent programme producers with whom it competes for S4C's commissions.

The Minister has kindly suggested that S4C can keep its logo. Well, thank you very much indeed, if that is all that independence means. I emphasise that S4C's independence is not philosophical or ephemeral; it is a hugely practical issue. S4C competes against BBC Wales for television rights for sporting and other events. How is it to do so if BBC staff are locked into its management? If it is not meant to compete, how can it be said to be independent in programme content?

I want S4C to be taken lock, stock and barrel out of the Bill. I urge noble Lords to support Amendment 40, to oppose Amendment 34B and to support Amendment 29A if Amendment 34B carries. If Amendment 29A carries, I humbly ask that the noble Lord, Lord Roberts of Conwy, not move his amendment, as the will of the House will clearly be on our side, not his. I beg to move.

Lord Roberts of Conwy: I speak to Amendment 34B. In the course of Committee debate on S4C, I suggested that the reorganisation of the S4C authority's governance might make it advisable to include S4C in Schedule 3, as a body whose constitutional arrangements might be modified by order.

I thought that there was tentative empathy with that view in government, and that that was why S4C was originally included in the now defunct Schedule 7, allowing for transfer to another schedule. I cannot see how the Government can fully implement the commitments given by Ministers to Parliament and others without modifying the structure of S4C. That is why I tabled Amendment 34B to include S4C in Schedule 3.

My noble friend Lord Crickhowell has added his name to the amendment. Unfortunately, he cannot be here this evening because he is taking his wife to hospital outside London, but he has left me with a note of apology to your Lordships. As he played a central role in the creation of S4C and, as a director of HTV, later worked to ensure its success, the House will understand his disappointment at his inability to be here. He has encouraged the Government to accept the amendment. He feels very strongly that the financial assurances given by the Government—given practical effect by the company's inclusion in Schedule 4 —combined, if my amendment is passed, with the ability to create an appropriate and effective management structure put in place after wide consultation inside and outside Parliament, is the best way to guarantee a strong future for Welsh language television.

He also thinks that to remove S4C from the Bill, with all the uncertainties that would be created by the need for primary legislation to replace the existing statute, would be a profound mistake.

I should perhaps add that S4C's current structure and composition are governed by Chapter VI and Schedule 6 to the Broadcasting Act 1990, as amended, and—particularly as to funding—by the Broadcasting Act 1996, which contains the requirement that the Secretary of State increase its funding annually by reference to the retail prices index. Most of us on all

[Lord Roberts of Conwy]
sides of the House at least understand the Government's view that that requirement cannot be met in our current, straitened financial circumstances—which is a euphemistic way of referring to the horrendous deficit that we inherited. It is simply no longer sustainable, and RPI appears to have been abandoned across the governmental board in favour of the consumer prices index.

The Secretary of State, very cleverly, has at least agreed alternative funding arrangements for S4C, predominantly from his department for the first two years—2011-12 and 2012-13—and then from the licence moneys collected by the BBC Trust in the following two years. These new funding arrangements will be subject to an order under Schedule 4, where S4C also appears, and subject to public consultation and special affirmative procedure as prescribed in Clauses 10 and 11, which are absolutely essential reading and make considerable changes in order-making as most us have known it.

The new funding arrangements require the inclusion of S4C in Schedule 4, whereas an amendment in this group proposes the withdrawal of S4C from that schedule. If that amendment succeeds, as the noble Lord, Lord Wigley, suggested it should, the future funding of S4C will be left in limbo, on the edge of a black hole. However, my guess is that when the Bill finally becomes law, S4C will still be in that schedule. There is no satisfactory alternative to the funding arrangements proposed by the Government. We have not heard a single suggestion for alternative arrangements.

This would leave the Government with a number of organisational commitments to fulfil, and I am not at all certain that all those can be met by reliance on and within the terms of the existing broadcasting legislation from 1990 onwards. That is one of the main reasons why I should like to see S4C included in Schedule 3 —to help the Government meet their commitments. The nature of the commitment was spelt out by the DCMS in an exchange of letters between the Secretary of State, the chairman of the BBC Trust and the chairman of S4C towards the end of last year. I detailed these commitments in Committee. They are also contained in a concise form in a DCMS briefing document of 16 December which refers to,

"a strong and independent Welsh language TV service",

with all that that entails by way of editorial and commissioning independence, accountability, distinctive brands and so on. It is not at all clear to me how all that can be achieved without an order under Schedule 3.

Another reason for S4C's inclusion in Schedule 3 is that the authority and the management board have not distinguished themselves in recent years. There has been a damaging divisiveness between them, which most of us who are of Wales know about. Possibly this is a result of the fact that S4C is a curious animal—not a quango, but a corporate body, regulator and programme provider at the same time, as Sir Jon Shortridge, former Permanent Secretary at the Wales Office and the National Assembly, says in his report on the governance of S4C. The authority and the management also pursued what is to me still a puzzling policy of separateness from 2006 onwards, and possibly that might be due to the fact that they were trying to follow the BBC charter of that year which separated the trust from the executive board of the BBC.

The accountability function of the BBC Trust for the licence fee moneys it collects and will spend in part sustaining S4C as well as the World Service is a new ingredient in the melting pot. How I wish that that money could be diverted through DCMS, but I sense that that cannot or will not be done at this stage. Also new is the relationship between S4C broadcasting and devolved areas of government, especially relating to the Welsh language, culture and education. Clause 10, which refers to Welsh Ministers and their functions in these associated areas, is highly relevant in this context. The Welsh Ministers must be consulted when an order is proposed. All these matters, I maintain, should be reflected somehow in the constitution of S4C, which they are not at present. So S4C requires inclusion in Schedule 3.

A fresh constitutional order under Schedule 3 sorting out the membership of the authority and its composition, its duties and responsibilities and, possibly, the shape of the management board—although I respect what the noble Lord, Lord Wigley, says about the detail; we do not want too much detail, although certainly the management board should be somewhere included—would be a very helpful and salutary measure. The consultation and consequential procedure required under Clauses 10 and 11 would also enlighten the Welsh public—who have been much misled in this matter—over the couple of years ahead, as well as government, and enable all interested parties to have their say. It might add a new dimension, indeed, to devolution.

With a revitalised constitution, S4C would once again achieve the excellence it formerly enjoyed and provide a service which met the needs of Welsh-speaking viewers and the many, of all ages, keenly aspiring to learn the language of heaven. This is a challenge to the Secretary of State to rise to the occasion, as I am sure he will over the months ahead. For the moment, I hope that my noble friend on the Front Bench will spell out the Government's intentions once more and inspire trust in the Government and her department to provide a sound basis and proper framework for the future of S4C.

Perhaps I may say a brief word on later amendments, especially Amendment 40. Let me make it clear that I am trying to save S4C, as I did before its birth—as did the late Gwynfor Evans, who threatened to fast to death on this account. We were on the same side, which may come as a surprise to many young people today. Some extremists now say that the Government are intent on killing off S4C. There is not a shred of evidence to support that. S4C has never appeared in Schedule 1 alongside the bodies that may be abolished.

All that we are concerned about really is S4C's funding, which can be rearranged under Schedule 4. If S4C is withdrawn from that schedule, where does that leave its future funding? I would not like to rely on Clause 80 of the 1996 Act and its annual RPI increase. It has not been operated for the coming year, and it is not expected to work for the following year either. The withdrawal of S4C from Schedule 4 deprives the Government of the right to submit a draft funding order for consultation with interested parties, including

S4C, Welsh Ministers and both Houses of Parliament, and then, if there is no bar to progress, to proceed to a final order that regularises the position and assures S4C of its funding for four years, subject to parliamentary approval. If this does not happen, what happens to S4C? It will be left in limbo, at the mercy of events and subject to all the financial pressures of exigencies that might arise. That would be a killer punch for a television channel. I beg those inclined to listen to the populist, demagogic cries from outside and who wish to see S4C withdrawn from Schedule 4 to think again. If there was another, alternative, practicable and sure way forward, all well and good, but there is none. None is on offer. I am trying to save the baby that is S4C. Let us not throw it from a safe cradle to an uncertain fate on a cold floor.

7 pm

Lord Morris of Aberavon: In the interests of brevity, I shall make just two points. There must be a meaningful and transparent financial arrangement between the BBC and S4C if S4C is not eventually to be swallowed up by the much larger BBC. Think of the tale of Jonah and the Whale. Mark Thompson says that he is the custodian of the licence fee. He does not own the licence fee. It is the licence fee payers' money. If it has to be funnelled through the BBC, if there is no top-slicing—and I suspect the Minister would lose that battle—I shall make one practical suggestion; we are all familiar with legislation staging that money cannot be spent without the consent of the Treasury. Let us borrow from that and say that any money that goes via the BBC to S4C must go with the consent and approval of the Secretary of State. I suspect that that will get over most of the accounting problem, and it will underline the Secretary of State's responsibility to ensure independence and financial independence for S4C.

My second point is about the appointment of the chair, which was referred to in the Minister's letter and which I raised at the meeting with him. I think he has fully taken the point on board. Both sides of the House will have some experience of appointments in Wales. I am proud of the appointments that I made when I was Secretary of State from Lady White to the Land Authority to Lord Gibson-Watt to the Forestry Commission. They were personal appointments. The Minister and his good intentions will be judged by the kind of person who is appointed to the chair of S4C. He or she must be a figure who is respected throughout Wales, with a proven track record in administration and who can stand up for S4C and Wales and not become a sort of BBC toy-boy or toy-girl. At every appointment, there will be a parade of those who have served and graced our quangos in Wales. I can assure the Minister that they are the same lot every time they come. They go round and round. I suggest that the Secretary of State is bold and considers someone with at least some experience outside Wales and a deep knowledge of Welsh and Welsh affairs. Our nation, knowing that person's track record, would have some confidence in his or her stewardship. The Minister might well have to reach out to find some such person. I know such a person is there. Please do not give us the old retreads from the old quangos who have not done particularly well in Wales.

Lord Roberts of Llandudno: I shall speak to Amendment 40, which stands in my name. In so doing I remind folk, possibly those who do not have much experience of Wales, of how essential S4C is for Welsh-speaking people. If it were withdrawn it would be as though the BBC were withdrawn from the English-speaking people. Some 600,000 people speak Welsh, and the popular Welsh serial "Pobol y Cwm" attracts 500,000 viewers every week. It is no small fry; it is an important part of the life of so many people.

I shall not take very long, but I shall ask the Minister for assurances on a number of issues. The first is that funding will be guaranteed and ring-fenced for the entire period until 2016. That assurance would set my mind at rest. The BBC charter—at Article 47, I think—limits the way in which it can rechannel the fees, which may only go to some organisation within the remit of the BBC. It is not possible to do any top-slicing with the present charter. In December 2016, we shall have a new charter, so we will have an opportunity, if needed, to revise the BBC charter as far as Wales is concerned.

The second assurance I ask for is that the board of S4C will have a notable majority of people from within Wales and that in no way will the BBC try to have the majority of people on that board. I regret that the executive of the BBC will have any outside input at all, but if Parliament decrees that that is necessary, I ask for an assurance that there will be a majority of people of Wales who understand Wales.

The third assurance I request is that S4C will have total editorial and programming independence with 100 per cent Welsh input. If I can get that, it will be very helpful.

The fourth assurance is that any new governance structure for S4C will be enshrined in a dedicated agreement, a formal declaration, laid in Parliament. It will then become the law of the land. The relationship between S4C and the BBC will be seen as a partnership, and not that S4C is a subsidiary of the BBC. The current level of independent production companies will be retained. I have spoken to some in the past few days, and they are afraid that their input will be less and that they might, as one in Caernarfon already has, not be able to meet the challenges of the present time. We should also look again at the Welsh Assembly's role and responsibility in relation to S4C, especially after the referendum in Wales four weeks ago, following which the Assembly now has full control over topics and issues in 20 devolved areas. Possibly within a few years when the financial situation is better, S4C could become a matter that is devolved to the Welsh Assembly.

Finally, if we are not in Schedule 3, how will that affect our ability to change and to have our own governance? I should be very grateful for assurance from the Minister on that.

For me, the essentials are: secure funding over a long time; editorial independence; looking to a new charter, under which funding can be altered; and a total commitment to the Welsh language. I look forward very much to hearing what the Minister has to say on those matters.

Lord Elystan-Morgan: My Lords, the noble Lord, Lord Roberts of Conwy, has, in a most endearing way, explained to the House how by the purest coincidence it so happened that many months into this Bill he had an idea in relation to Clause 3, which had not commended itself in any way to Her Majesty's Government, but which somehow or another now has been thoroughly and enthusiastically espoused by them. I will say no more about that matter.

However, I think that the submission is one which the House would accept. Clause 3(2) has nine paragraphs attached to it. The totality of the provisions would give a Minister massive, almost dictatorial, powers in relation to the reconstitution of any one of the bodies included in the Bill. If a Minister wishes to do so—I am sure that the noble Lord, Lord Taylor of Holbeach, would not wish to do so—he could exercise utterly emasculated consequences upon S4C. However, if he does not wish to do so, is there any reason why the very limited powers—indeed, in one or two cases they are almost cosmetic powers—referred to in the amendment of my noble friend Lord Wigley should not be accepted? It seems to me that there is an irrefutable logic in relation to that.

I shall speak briefly about the other matters. We have rehearsed these arguments time and again but I have the impression that it is very much the exercise of the rocking horse. There is a great deal of movement but not much forward progress. I speak now as a Welsh-speaking Welshman and as one who can well represent the views of the ordinary persons in Wales who regard the Welsh language as their own language, even though four-fifths of them do not speak it. The problem is that there is a huge chasmic gap between what Her Majesty's Government say and desire—I accept the total genuineness of the noble Lord, Lord Taylor, and his team in this matter—and what is legally possible.

Three of areas of independence are crucial: financial independence, corporate independence and editorial independence. In a letter dated 25 March, which was sent to many of us, there is a guarantee with regard to editorial distinctiveness. It seems to me that there is a world of difference between distinctiveness and independence, a matter into which the noble Lord might wish to look. To me, distinctiveness is much narrower than independence.

As regards financial independence, it would be marvellous if there could be a direct transfer of a part of the fee. The Government would get a quid pro quo—or, one might say, an £80 million quid pro quo. There is a huge restraint on them in the way in which that fee can be spent. If that fee passes through the conduit of the BBC, of course the BBC becomes the accounting agent. But there is way out. The noble Lord, Lord Roberts of Conwy, said that there was not. In June 2006, an agreement between the BBC and the Secretary of State was published and it has formal status. Following that, a few months later, in October 2006, the charter of the BBC was completed. It seemed therefore that there was every intention that the preceding agreement of June 2006 should in some way operate upon the charter. That agreement of June 2006 makes it clear that the Minister, in relation to the licence fee, is entitled to withhold such sum or sums as he sees fit. In other words, they would never go to the BBC at all. I should be most grateful if full thought could be given to that.

The noble and learned Lord, Lord Morris of Aberavon, raised the corporate independence of S4C in this structure. If you have an informal relationship, all is well. There is already an informal relationship. The BBC is responsible for producing 10 hours per week of programmes in the Welsh language, which is no problem at all. But once a structure is set up, one corporation has to dominate over the other corporate bodies. There cannot be a situation whereby they are at arm's length and equal. That point has already been made by my noble friend Lord Wigley.

That is the situation. Well meaning guarantees are being given by the Government, but they are in no way bankable because of the technical, legal difficulties. The problem can be overcome only by tackling those difficulties in a specific way so that the undertaking given is realistic and bankable.

7.15 pm

Baroness Morgan of Ely: My Lords, I am extremely sorry that, despite the impassioned pleas by this House on the issue of withdrawing any reference to S4C from the Public Bodies Bill, the Government have ignored any suggestions to this end and are continuing their unrelenting pursuit of weakening this important channel in Wales. Let us remind ourselves that S4C was born after years of bitter struggle. One cannot deny that the channel is being weakened. It certainly had a massive impact on the language community and on life in Wales, not least the dramatic contribution of slowing the decrease in the number of people speaking Welsh to the point where for the first time in history we can see an increase.

We have moved from a position where S4C was established through statute with guaranteed long-term funding to a position where, under Schedule 4, it may see its funding cut so dramatically as to make it nigh on impossible to run the channel or, under Schedule 3, be modified at the drop of a hat without reference to anyone. One of my greatest concerns about the way in which the Government are handling this matter is the obvious ignorance of what they are dealing with.

The Secretary of State has suggested that the skills and expertise of the BBC will help to protect S4C's independence. He talks as if there is no current relationship with the BBC and suggests that it might be helpful to have the BBC on board as it is able to reach wide audiences and deal with niche programming. Anyone in Wales who has the faintest idea of how the channel works knows that some of the most popular programming on the channel is and has been delivered by the BBC since its inception. We all know this. Why do the Government not know it? We are confident that the skills and experience of the BBC could continue to make a valuable contribution to the channel but there is a massive difference between this and editorial independence, which is essential in order to retain pluralism in the media in Wales and which is already extremely restricted.

At the very least, we need an idea of what the future governance structure will look like. What will the relationship be between the BBC trustees and the S4C board? Who will have the final word? Will there be permanent representatives of the BBC on the S4C board? Will S4C be granted total editorial control? Will the BBC have a veto on the board or will it be a minority voice? Will there be a reference to S4C in the new BBC charter? Are we supposed just to trust the Government that they will do this? What will they say? Where are the assurances? As the accounting body, the BBC would be responsible for funding. It simply would not be able just to hand over the cash and hope for the best. What does independence mean in these circumstances?

This morning, on the school run—I am sure that not many noble Lords are doing that these days—I ran into a cameraman who works on S4C programming now and again. He told me that a camera costs £60,000 and that he would not be investing now because he does not know what the future looks like. This kind of insecurity is already hitting investment and is having a damning effect on the media industry in Wales. The amendment suggested by the noble Lords, Lord Roberts and Lord Crickhowell, would leave S4C in an even more vulnerable situation than under the Government's initial suggestion, which dealt only with the financial situation. Including a reference to S4C in Schedule 3 would allow any future Government to modify profound constitutional arrangements without any accountability in future and at the stroke of a pen. I urge the Government to think again.

Lord Crickhowell: I hope that the House will forgive me for not having been present for the debate. I understand that my noble friend Lord Roberts of Conwy has explained that I had to take my wife to hospital as she is going to have a hip operation very early tomorrow morning.

Most noble Lords who know me will realise how anxious I have been to take part in this debate. I do not think that anyone can question my credentials as far as S4C is concerned. I was one of its creators. I wrote the Conservative election manifesto for Wales before the 1979 general election in which we committed ourselves to a form of Welsh language broadcasting. I engaged in the battles that followed and persuaded my right honourable friend Willie Whitelaw as he then was, later Lord Whitelaw, to change the way forward and to make sure that we sent out the Welsh language on a single channel. At the same time, I engaged with my noble friend Lord Roberts of Conwy on a major exercise to safeguard, strengthen and encourage the Welsh language in Wales. My actions were then followed up by my successor Secretaries of State, working with my noble friend, so I think that it is right to say that no political party has done more for the Welsh language than the Conservative Party. Therefore, when assurances about the future of the language are given by Ministers on behalf the Conservative Party they should be treated with respect.

After I had left the Welsh Office, I was for many years a director of HTV, eventually its chairman. During the early days, we helped to sell S4C's advertising and provided a considerable quantity of its programming; we worked closely with it. We also had something else to do during the later time that I was a director of HTV. We had moved from the years in which people said that television companies had a licence to print money to the years when, week by week and month by month, advertising revenue was collapsing. We had to live in era where we had to adjust our organisation and programming to a rapidly changing world.

The Government have not only given long-term assurances that they are determined to secure the future of S4C but have set out a financial programme and budget for the next four years which I believe give S4C, with its reserves and with the management capability that I hope will be assisted in a number of ways in the future, a sound foundation on which to move forward during the next three or four years.

If we take S4C out of the Bill, we are left with the legislation as it is in a situation where it is quite clear that reductions in expenditure will have to be made. The existing Bill does not give S4C any safeguard. I imagine that there would have to be a new clause in a Finance Bill, but I cannot believe that it is beyond the capability of the Government to ensure that savings are made, as they are being made in every other public body—and, indeed, most private ones.

So I was not so concerned about the inclusion in the Bill of S4C in relation to financial arrangements, but, until very recently, I was concerned about the organisational and structural issues that have been raised with great eloquence by many noble Lords, including my noble friend Lord Roberts of Conwy. They have asked very reasonable questions about who will ultimately be responsible, who the accounting officers will be, and so on. Anyone who remembers my involvement in the tragic drama of the Cardiff Bay Opera House will understand why I perhaps more than anyone understand all too clearly the difficulty when you have one body providing finance and the other being responsible for managing a project. What happened then was that the Cardiff Bay Development Corporation, which was providing the finance, decided that it could second-guess the judgment of the trustees who had been set up with the job of organising and managing the project, and disaster followed.

I see the potential for that kind of disaster if we get wrong the structural organisation of S4C. That is why I very much welcomed the suggestion of my noble friend Lord Taylor of Holbeach, which led to my noble friend Lord Roberts of Conwy, supported by me, putting down an amendment to include S4C in Schedule 3. That will enable us, over the next three or four years, during the period when finance has been provided, to have the widespread consultation that people have very reasonably demanded both inside and outside Parliament. Under the revised structure of the Bill, the matter would then have to be approved by both Houses of Parliament. We would have the opportunity—towards the end of that four-year period, we would be into the next revision of the BBC charter—to work out a solution without rush and without taking S4C out into a black hole by removing it from the Bill, which would be a disastrous way forward. The proposal would provide a combination of finance and structural change and the ability to consult, which should and can enable us to provide a sound future for S4C.

[LORD CRICKHOWELL]

Sometimes people seem to imply that the structure that we now have is somehow sacred, despite the fact that some of the recent management failures by S4C might suggest that changes in structure would be a very good idea. But there is nothing sacred in the present structure. It is not the structure that was put in place in 1982. At that time, the finance was provided largely from the independent television companies. I think that it was my right honourable friend, as he then was, David Mellor, who introduced the changes that led to the present structure. I do not believe that the structure is what matters; what matters is the future of strong Welsh language television broadcasting. No one is more concerned to see that that continues than me. It is because I believe that we now have a way forward that can guarantee a strong future for Welsh language television broadcasting that I will vote against any amendment that takes S4C out of the Bill and will support the amendment moved by my noble friend Lord Roberts of Conwy.

7.30 pm

Lord Grade of Yarmouth: My Lords, I declare a past history of relationships with S4C through my involvement at Channel 4 and later at the BBC. While I cannot speak with the passion of a Welsh language speaker, of a Welsh inhabitant or of somebody of Welsh birth, I have always supported S4C whenever I have had the opportunity and have been involved. I am sure that the archives—because that, sadly, is where my support now sits—will demonstrate that I have always supported the ambitions of S4C and its contribution to the culture and life of these islands.

That said, I regret that I cannot support the amendment. I am listening to this debate as a broadcaster who has in various guises seen various free-to-air public service broadcasting bodies be picked up by the roots more often that the petunias in my garden, be pruned, re-examined, replanted and repotted, with attempts to kill them off and so on. I have been listening to the fear and worry in noble Lords' minds. However, from where I sit and from my experience, I can say that S4C occupies the most privileged position in British broadcasting that is possible to imagine, and the idea of introducing a greater level of accountability and transparency seems perfectly reasonable. Obviously, the devil lies in the detail and change creates uncertainties. However, I am sure that the uncertainties will be ironed out.

I am in some confusion surrounding the independence of S4C. I have heard a number of noble Lords express concerns about its future independence, but then I hear that the solution is to give the money to the Treasury to dole out or to give it to the DCMS—the Government of the day—to look after. I cannot imagine anything more likely to undermine the independence of a broadcaster than being in the hands of the Treasury and the DCMS. I am trying not to sound in any way antagonistic towards S4C, which I believe in passionately. I wish there were a Yiddish channel for the language that is dying out in my culture, but there is not. S4C is a very, very important part of Welsh sovereignty and identity and so on. It deserves to be protected and it deserves public money, but the price you pay today for that privileged position is greater accountability and transparency.

I am sure that the Government are hugely sensitive to the issues that surround broadcasting. I would be very comfortable if my future depended on the BBC Trust. It understands the independence of broadcasting and it exists to create an independent BBC. I can think of no greater guarantor of the independence of S4C than the BBC Trust. Therefore, with great regret, I cannot support the amendment and I commend the words of my noble friend Lord Crickhowell.

Baroness Gale: My Lords, I agree that this has been another great and passionate debate. There have been contributions from many noble Lords who are steeped in the language and culture of Wales and have great knowledge of S4C's history and of how it is run. I am sure that the Minister will have taken note of what has been said.

First, I thank the Minister for arranging a meeting with the Secretary of State, the right honourable Jeremy Hunt. It gave interested Peers the opportunity to discuss their concerns about the Government's proposals for S4C. I believe that all the Ministers and the Secretary of State were made aware of the very strong feelings that Welsh Peers have regarding this matter.

I am sure that over the past few days many noble Lords have, like me, received numerous e-mails from a range of people and organisations in Wales expressing their fears and concerns about the future of S4C. The people who wrote to me were not extremists; they were from organisations such as the National Eisteddfod of Wales, Merched y Wawr, Urdd Gobaith Cymru and a number of churches. I also received letters from a number of individuals, and everyone was very concerned about the Bill as it stands. It seems that very few people in Wales agree with the Government's proposals regarding the future of S4C, although they all recognise that there are problems which need to be addressed, as some noble Lords have mentioned. Of course, funding issues, too, have to be looked at.

In Committee, we mentioned that the four leaders in the Welsh Assembly made very sensible suggestions in their letter to the Prime Minister, calling for an independent inquiry commissioned by the Welsh Assembly and the Westminster Government. However, that suggestion seems to have been ignored—if there was a response, we are not sure what it was. The Minister, the noble Baroness, Lady Rawlings, said in Committee that it had not been practical to have in-depth discussions with all interested parties ahead of the announcement, and that the timetable reflected the Government's desire to put the UK finances in order. Later, she said:

"We have had lengthy dialogues with Cardiff to secure the future of S4C within the BBC partnership with DCMS funding".—[*Official Report*, 9/3/11; col. 1640.]

Can she say something about those discussions in Cardiff, as we are not sure how they went? Who took part, what was the outcome, and are the discussions continuing? I feel that if more discussions had taken place earlier, the general feeling that the Government have not been listening could have been dealt with.

In a letter to the noble Lord, Lord Wigley, Jeremy Hunt said that the Government are committed to the future of Welsh language programming and to S4C as a strong and sustainable Welsh TV service with editorial independence. He said that a change to the funding

model did not represent any threat to S4C as an independent service. I hope that the Minister can give positive answers today in order to alleviate the concerns expressed by noble Lords. I emphasise that all the organisations and individuals in Wales who have written to a number of us are concerned. They believe that S4C should be taken out of the Bill. They have great knowledge of what is going on in Wales and of how S4C operates, and they all want to see it taken out of the Bill. As I said, these people are not extremists.

Everyone who has spoken today has said that they support S4C and wish to see it continue. The one desire is to maintain a strong Welsh language television channel in Wales for the benefit of all who live in Wales and who value the language and culture. The people of Wales need some reassurance that that will happen. The amendments in this group would go some way towards achieving that, especially if S4C were to be removed from Schedule 4.

I hope that the Minister can give some assurance on the independence of, and funding for, S4C. I repeat that we would like to see S4C removed from Schedule 4. We look forward to the Minister's response, bearing in mind what has been said today and that the people of Wales will be listening to what she says. We support the amendment of the noble Lord, Lord Wigley.

Baroness Rawlings: My Lords, we have had another full and passionate debate today, and it is clear that this is an incredibly important issue. Once again, noble Lords on all sides of the House have demonstrated the depth of feeling and commitment that exist on this issue, and I know that the Government share that. I make it clear at the start that Her Majesty's coalition Government remain fully committed to Welsh language television broadcasting, as I said in Committee and in response to earlier questions. We recognise the immense value that it has to the culture, economy and people of Wales and the role that it plays in preserving and promoting the Welsh language. I want your Lordships to be under no illusions about the Government's primary objective for S4C, which is to protect Welsh language television for the long term. I repeat that: it is to protect Welsh language television for the long term. I am afraid that we beg to differ with the views of the noble Baroness, Lady Morgan, which I hope to explain further in my response.

Since our last debate, in Committee on 9 March, I, along with the Secretary of State for Culture, Media and Sport, my noble friend Lord Taylor and the Minister for Wales, have met several noble Lords to discuss S4C and to listen to your Lordships' concerns. We had a very helpful discussion and I am grateful to all noble Lords who attended for their insightful and constructive approach. Their views have been invaluable and I appreciate the frankness and sincerity of their contributions to the debate. It was clear that, while our views differed on some methods of reform, we fundamentally shared the view that S4C must be protected as an independent channel, secured for the long term.

I will take some time today to try to give specific assurances wherever I can to all of the concerns that have been raised. I make no apologies for speaking at length on this issue, for it is one that the Government feel passionately about and one that merits the invaluable attention of your Lordships' House. In doing so, I will speak to Amendment 29A in the name of the noble Lord, Lord Wigley; Amendment 34B in the name of my noble friend Lord Roberts of Conwy; Amendment 40 in the name of my noble friend Lord Roberts of Llandudno; and Amendment 41 in the name of the noble Lord, Lord Elystan-Morgan. I also clearly state from the outset that the Government intend to support Amendment 34B to add S4C to Schedule 3.

I will first talk about the funding of S4C, which so many noble Lords asked about. There has been almost universal acceptance that S4C, like any organisation in receipt of public money, must operate within the economic context in which we find ourselves. Cuts to the funding of S4C are inevitable and the existing, index-linked funding arrangement is simply untenable. The cut to S4C is exactly in line with the cut to the Department for Culture, Media and Sport. Quite simply, that represents the fairest solution. As well as the funding that S4C will receive from the Government and the BBC over the next four years, it will also receive around £20 million per year worth of programming from the BBC, which your Lordships will agree is not an insignificant sum.

A number of noble Lords asked for the funding for S4C to be secured for a longer period. I assure the noble and learned Lord, Lord Morris, that the Government have secured ring-fenced funding for S4C for the entire comprehensive spending review period up to March 2015. The noble and learned Lord asked for ring-fencing up to 2016, but we support it up to 2015, give or take a few months. That should be welcomed in the current fiscal climate and goes beyond the security given to many other bodies. Beyond the spending review period, the Government are committed to making certain that the new partnership arrangement will guarantee a level of funding that is sufficient to allow S4C to deliver its public service remit, as enshrined in legislation.

I reiterate the Government's commitment to have a full review of the scale, scope and funding of S4C before the end of the spending review period, once the new partnership has had time to bed in, as my noble friend Lord Grade said. The long-term performance of the channel should be determined by its success rather than by how much money it receives. That success will be defined following the review which will be shaped by the people of Wales.

7.45 pm

During our debate on 9 March, noble Lords suggested that initial decisions on S4C were taken without meaningful discussions with those in Wales who have a legitimate interest. We acknowledge that the Government moved fast on the decisions during the comprehensive spending review and were unable to consult with everyone. My noble friend Lord Roberts of Conwy stressed that Clause 10 now makes it a statutory requirement to consult before orders are brought forward, and that requirement specifies the need to consult Welsh Ministers on matters that relate to Wales. I assure your Lordships' House and my noble friend Lord Roberts that there will be a full public consultation on the governance

[BARONESS RAWLINGS]
arrangements of S4C and that the views of the Welsh Assembly Government and other interested parties will be part of this process, as requested by my noble friend Lord Roberts of Llandudno in Committee.

This is also what lies behind our support of Amendment 34B in the name of my noble friend Lord Roberts of Conwy to add S4C to Schedule 3. When the Bill was introduced, it was not clear that the powers in Clause 3 would be needed to facilitate the new partnership with the BBC. However, it is now clear that, to make this partnership work in practice, there will need to be some modest changes to the constitutional arrangements of S4C. I am pleased that my noble friend Lord Crickhowell is with us after all this evening, especially as he is so knowledgeable about and experienced with S4C. I am sure that we all wish Lady Crickhowell a swift recovery.

By using the powers in the Public Bodies Bill, we are guaranteeing that our proposals must be subject to consultation and we are ensuring that any changes will be subject to the scrutiny process associated with orders under this Bill. This process, as noble Lords will be aware, stipulates that any order must be accompanied by an explanatory document setting out the findings of a consultation process, along with giving Parliament the option of an enhanced affirmative procedure, which builds in time for a Select Committee to consider the detail of the order. That represents a very real check on the Government's power, and it provides a safeguard that, in practice, prevents the Government from delivering policy that runs contrary to the views of Parliament.

In that respect, adding S4C to Schedule 3 makes the Government's intentions clear, guarantees that consultation will be carried out and secures the requisite scrutiny of the detail when the order is laid before Parliament, as desired by my noble friend Lord Roberts. The Government would also welcome continuing to work constructively with noble Lords as the partnership develops and as the Bill passes to the other place. This is a significant and sincere offer as I genuinely believe that the expertise in your Lordships' House will be positive for the future of S4C. My noble friend Lord Grade made all that very clear in his eloquent speech and I thank him for his support.

To answer the noble Baroness, Lady Gale, if S4C is not contained in Schedule 3, we may not be able to affect the whole of an agreement reached on a partnership between S4C and the BBC. Conversely, if S4C is in Schedule 3, the partnership can take place as agreed and documented as clearly as possible.

The Government cannot, however, accept Amendment 29A from the noble Lord, Lord Wigley, on the extent to which Clause 3 applies to S4C. I can understand the motivation behind the noble Lord's amendment and, in principle, the Government agree with the proposition that not all powers in Clause 3 should be used in relation to S4C. However, in practice, Amendment 29A could actually compromise the reform of S4C, the need for which has been stated a number of times during this debate. It is important that the new chairman of S4C is given full opportunity to assess the detail of what is being proposed and full opportunity to make a contribution to the discussions. I agree totally with the suggestion of the noble and learned Lord, Lord Morris, regarding the importance of choosing the new chairman. I know that the Secretary of State is taking this personally very seriously. It will therefore be some time yet before the discussions are concluded and we can say with certainty exactly how Clause 3 would be used.

As regards the logo, I assure the noble Lord, Lord Wigley, and your Lordships' House that we have no intention of changing the name of S4C and we can say with some certainty that the whole of Clause 3(3) will not be used in relation to S4C. Conversely, the power in Clause 3(2)(f) to amend S4C's governing procedures and arrangements, excluded under Amendment 29A, are likely to be required to implement changes following the conclusion of discussions between S4C and the BBC.

Many noble Lords have asked whether the funding from the licence fee can be given straight to S4C without any accountability to the BBC. What we are trying to achieve is a partnership with the BBC, and such a move would undermine this. The Government are clear that the BBC Trust is the right organisation to ensure that licence fee funding achieves value for money. It is therefore right that the money, ring-fenced as it is, goes to S4C via the BBC. The proposals set out in the licence fee settlement letter make it clear that there must be a genuine partnership with S4C and the BBC, mutually agreed by both the BBC and S4C. This is a critical point. The letter also makes it clear that, within this partnership, S4C must remain an independent service with independent commissioning and scheduling, and with a distinct editorial voice. This cuts to the heart of the issue. The partnership with the BBC should not be misconstrued as a merger or a takeover. No—it is a partnership that will protect the very things that noble Lords on all sides of the House are seeking to protect by having this thoughtful and passionate debate.

I assure noble Lords that the editorial independence of S4C from government, the Welsh Assembly and the BBC is assured. I should also add that the BBC's current obligation to provide programming to S4C will remain, as will S4C's existing relationship with the independent production sector.

Amendment 40 would remove S4C from Schedule 4, which would prevent us from putting S4C on a more sustainable footing for the future. Breaking the link to RPI is important from a financial perspective, but creating a partnership with the BBC, and in turn securing S4C's funding via the licence fee goes, hand in hand with this, and we need to do it all to secure a strong future for Welsh language programming. If the Government were not able to use the Public Bodies Bill to change S4C's funding arrangements, S4C would not be able to rely on the security of licence-fee funding. As many noble Lords, including my noble friend Lord Crickhowell, said, S4C will benefit from this security, particularly as the Government are determined to break the link with RPI.

Amendment 41, tabled by the noble Lord, Lord Elystan-Morgan, would require any changes to S4C made under Clause 4 to be preceded by an amendment

to the BBC charter. The Government agree with the motivation behind this amendment—that there is absolute clarity about the governance structure for S4C within the new partnership. The only difference between us is the mechanism by which we secure this clarity. It is more appropriate to codify the terms of the partnership in a dedicated agreement between the Secretary of State and the BBC, a document laid in Parliament, which enshrines the governance structures agreed with S4C and will set out exactly how S4C will remain an independent service. It would be inappropriate to amend the high-level BBC charter outside of its 10-year review cycle.

Several noble Lords, including the noble Baroness, Lady Morgan, have raised the issue of governance under the partnership, and I can confirm that the BBC will not have a majority on either the S4C board or the S4C executive. Furthermore, the BBC representatives need not necessarily be BBC Trust members but could be individuals nominated by the BBC Trust. I cannot guarantee, as some noble Lords have asked, that there will be no BBC appointees under this new partnership. But let us not forget that these terms will have been agreed during negotiations between S4C and the BBC. It will be S4C itself which will have negotiated the terms of this partnership. It was suggested that the payment of money by the BBC to another body would make that body a subsidiary of the BBC. This is absolutely not the case. Neither is there any intention of removing S4C as a statutory body, nor merging it with the BBC. S4C's current public service remit, as enshrined in legislation, will remain and the Secretary of State will continue to exercise powers of appointment over the chairman and the S4C authority. The relationship will be on the basis of a partnership and not of a BBC subsidiary.

Finally, I suggest again that protecting S4C as an independent service, with independent commissioning and scheduling, and with a distinct editorial voice is absolutely at the heart of this coalition Government. It is a challenging market and savings must be made, but be under no illusions. This Government will do whatever it takes to protect S4C for the long term. These changes have been proposed for the benefit of Welsh language television. This is the goal that we all share and so I would therefore ask the noble Lord to withdraw his amendment.

Lord Wigley: My Lords, the House has listened with considerable interest to the more substantial reply that we have had tonight, compared with the one we had in Committee. None the less, a number of issues remain unclear and some quite unsatisfactory. We still have not had the bankable commitments that my colleagues and I have sought on the ongoing financial independence. We all appreciate that RPI could not continue and in Committee we invited the Government to bring forward some alternative formulae—perhaps 2 per cent of the BBC licence fee—so that there was a sort of ongoing commitment, even though at a different level from that which obtains today. If there was a need for ongoing commitment when the previous legislation was passed, by what virtue is that ongoing commitment not needed in the present circumstances? People could argue that it is needed even more now.

If I understand correctly, we heard that money will be ring-fenced up to 2015-16 but that is a commitment in name which is not in any Bill. There is no mechanism for the safeguards and no assurances on where they will be enshrined. I do not know whether the Government will bring something forward for Third Reading on that; time will tell. Neither have we had any clarity on why the Government are so anxious to secure the provisions of Amendment 34B. It is a pig in a poke. Certainly, there may be things that need to be done but no limit is being given by the Government and no self-denying ordinance as to how far they will take it. The assurances we are given are that there will be consultation. I noted with much interest that consultation is to be based on Clause 10(1)(e), which says:

"the Welsh Ministers, if the proposal relates to any matter, so far as applying in or as regards Wales, in relation to which the Welsh Ministers exercise functions".

Perhaps we should be reassured that Welsh Ministers will therefore be exercising functions with regard to S4C. That is the only interpretation we can have from what the Minister said, but perhaps she was inadvertently misleading the House where that was concerned.

Noble Lords: Oh!

Lord Wigley: No, if the Minister wants to intervene to correct me, I will by all means give way. But if she does not—no—I repeat that the provisions of Clause 10(1)(e) are in regard to those matters,

"to which the Welsh Ministers exercise functions".

At present, they do not exercise functions with regard to S4C. If the consultation is based on that, presumably they will in future. That would be an interesting development.

I am afraid that the Minister has not answered what I regard as a critical point. It is the involvement of BBC nominees and people on the executive function of S4C, taking decisions in circumstances where S4C is adjudicating between various bidders for commissions —independent producers outside on one hand, and the BBC on the other, in competition with each other. If the BBC is to be involved in that mechanism, how on earth can that possibly be fair? Independence means independence, not having people sitting at the table where those decisions are being taken.

I am not sure what position the noble Lord, Lord Roberts of Llandudno, will take on Amendment 40. However, if there is no greater clarification on how those mechanisms are to be assured, I hope that if he does not move it tonight, he will certainly do so at Third Reading. As for my amendment, we have not had the assurances that we need with regard to it and I beg the House to support me in the Division Lobbies.

8.03 pm

Division on Amendment 29A

Contents 162; Not-Contents 197.

Amendment 29A disagreed.

Division No. 3

CONTENTS

Adebowale, L.
Adonis, L.
Ahmed, L.
Anderson of Swansea, L.
Andrews, B.
Archer of Sandwell, L.
Bach, L.
Bakewell, B.
Bannside, L.
Barnett, L.
Bassam of Brighton, L. [Teller]
Beecham, L.
Berkeley, L.
Bilston, L.
Birt, L.
Blood, B.
Borrie, L.
Boyd of Duncansby, L.
Brooke of Alverthorpe, L.
Brookman, L.
Browne of Belmont, L.
Browne of Ladyton, L.
Campbell-Savours, L.
Carter of Coles, L.
Clancarty, E.
Clark of Windermere, L.
Clinton-Davis, L.
Collins of Highbury, L.
Corbett of Castle Vale, L.
Craigavon, V.
Crawley, B.
Davidson of Glen Clova, L.
Davies of Coity, L.
Davies of Oldham, L.
Dean of Thornton-le-Fylde, B.
Desai, L.
Dixon, L.
Donaghy, B.
Donoughue, L.
Drake, B.
Dubs, L.
Eames, L.
Elder, L.
Elystan-Morgan, L.
Evans of Temple Guiting, L.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Finlay of Llandaff, B. [Teller]
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Freyberg, L.
Gale, B.
Giddens, L.
Golding, B.
Goldsmith, L.
Gordon of Strathblane, L.
Gould of Potternewton, B.
Grantchester, L.
Grocott, L.
Harris of Haringey, L.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haworth, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hollick, L.
Howarth of Newport, L.
Howells of St Davids, B.
Hoyle, L.
Hughes of Stretford, B.
Hughes of Woodside, L.
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Irvine of Lairg, L.
Janner of Braunstone, L.
Jay of Paddington, B.
Jones, L.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Southwark, L.
King of Bow, B.
King of West Bromwich, L.
Kingsmill, B.
Kirkhill, L.
Knight of Weymouth, L.
Layard, L.
Lea of Crondall, L.
Leitch, L.
Levy, L.
Liddle, L.
McAvoy, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
Mandelson, L.
Massey of Darwen, B.
Maxton, L.
Morgan of Drefelin, B.
Morgan of Ely, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Nye, B.
O'Loan, B.
O'Neill of Clackmannan, L.
Paisley of St George's, B.
Palmer, L.
Patel of Bradford, L.
Pitkeathley, B.
Prescott, L.
Prosser, B.
Quin, B.
Ramsbotham, L.
Reid of Cardowan, L.
Rendell of Babergh, B.
Richard, L.
Rooker, L.
Rosser, L.
Rowe-Beddoe, L.
Rowlands, L.
Royall of Blaisdon, B.
Sawyer, L.
Scotland of Asthal, B.
Sewel, L.
Sheldon, L.
Sherlock, B.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Snape, L.
Soley, L.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Symons of Vernham Dean, B.
Taylor of Bolton, B.
Thornton, B.
Tomlinson, L.
Touhig, L.
Triesman, L.
Tunnicliffe, L.
Turnberg, L.
Turner of Camden, B.
Wall of New Barnet, B.
Walpole, L.
Warner, L.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilkins, B.
Williams of Elvel, L.
Wills, L.
Winston, L.
Wood of Anfield, L.
Woolmer of Leeds, L.
Young of Norwood Green, L.

NOT CONTENTS

Aberdare, L.
Addington, L.
Ahmad of Wimbledon, L.
Alderdice, L.
Allan of Hallam, L.
Anelay of St Johns, B. [Teller]
Astor of Hever, L.
Attlee, E.
Ballyedmond, L.
Bates, L.
Berridge, B.
Bilimoria, L.
Black of Brentwood, L.
Blencathra, L.
Bonham-Carter of Yarnbury, B.
Boswell of Aynho, L.
Bottomley of Nettlestone, B.
Brinton, B.
Brittan of Spennithorne, L.
Brooke of Sutton Mandeville, L.
Brougham and Vaux, L.
Browning, B.
Burnett, L.
Buscombe, B.
Byford, B.
Cathcart, E.
Chadlington, L.
Clement-Jones, L.
Colwyn, L.
Cormack, L.
Cotter, L.
Crickhowell, L.
Cumberlege, B.
De Mauley, L.
Deech, B.
Dholakia, L.
Dixon-Smith, L.
Dobbs, L.
Doocey, B.
Dykes, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Eden of Winton, L.
Edmiston, L.
Empey, L.
Falkner of Margravine, B.
Faulks, L.
Fearn, L.
Feldman, L.
Feldman of Elstree, L.
Fink, L.
Fookes, B.
Fowler, L.
Fraser of Carmyllie, L.
Freeman, L.
Freud, L.
Garden of Frognal, B.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Geddes, L.
German, L.
Glasgow, E.
Glendonbrook, L.
Gold, L.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Greenway, L.
Hamilton of Epsom, L.
Hamwee, B.
Harries of Pentregarth, L.
Harris of Peckham, L.
Harris of Richmond, B.
Henley, L.
Heyhoe Flint, B.
Higgins, L.
Hill of Oareford, L.
Hodgson of Astley Abbotts, L.
Hooper, B.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howe of Aberavon, L.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jenkin of Roding, L.
Jolly, B.
Kakkar, L.
Kilclooney, L.
King of Bridgwater, L.
Kirkwood of Kirkhope, L.
Kramer, B.
Laird, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lawson of Blaby, L.
Lee of Trafford, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Linklater of Butterstone, B.
Listowel, E.
Loomba, L.
Lucas, L.
Luke, L.
Lyell, L.
MacGregor of Pulham Market, L.
Mackay of Clashfern, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Maginnis of Drumglass, L.
Mancroft, L.
Maples, L.
Mar and Kellie, E.
Marland, L.
Marlesford, L.
Mawhinney, L.
Mayhew of Twysden, L.
Miller of Chilthorne Domer, B.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Naseby, L.
Neuberger, B.

Neville-Jones, B.
Newby, L.
Newton of Braintree, L.
Noakes, B.
Northbrook, L.
Oakeshott of Seagrove Bay, L.
O'Cathain, B.
Oppenheim-Barnes, B.
Palmer of Childs Hill, L.
Patel, L.
Patten, L.
Perry of Southwark, B.
Plumb, L.
Popat, L.
Randerson, B.
Rawlings, B.
Razzall, L.
Reay, L.
Risby, L.
Roberts of Conwy, L.
Roberts of Llandudno, L.
Rogan, L.
Ryder of Wensum, L.
St John of Fawsley, L.
Sassoon, L.
Seccombe, B.
Selsdon, L.
Shackleton of Belgravia, B.
Sharkey, L.
Sharp of Guildford, B.
Shaw of Northstead, L.
Sheikh, L.
Shipley, L.
Shutt of Greetland, L. [Teller]
Slim, V.
Spicer, L.
Stedman-Scott, B.
Steel of Aikwood, L.
Stevens of Kirkwhelpington, L.
Stewartby, L.
Stoneham of Droxford, L.
Stowell of Beeston, B.
Strasburger, L.
Strathclyde, L.
Taverne, L.
Taylor of Holbeach, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Walliswood, B.
Tordoff, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Tyler, L.
Tyler of Enfield, B.
Verma, B.
Wade of Chorlton, L.
Wakeham, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Wilcox, B.
Williamson of Horton, L.
Willis of Knaresborough, L.
Younger of Leckie, V.

8.15 pm

Schedule 3 : Power to modify constitutional arrangements: bodies and offices

Amendment 30

Moved by ***Lord Newton of Braintree***

30: Schedule 3, page 17, line 16, at end insert—

"Administrative Justice and Tribunals Council."

Amendment 30 agreed.

Consideration on Report adjourned until not before 9.15 pm.

London Local Authorities and Transport for London (No. 2) Bill [HL]

Third Reading

8.15 pm

Amendment 1

Moved by ***Lord Jenkin of Roding***

1: The Preamble, page 1, leave out lines 8 to 10

Lord Jenkin of Roding: My Lords, I beg to move Amendment 1 standing in my name and with it I hope we can discuss Amendment 2 and Amendment 3.

I ought to begin by declaring my interest. I am a joint president of London Councils along with my noble friend Lady Hamwee and the noble Lord, Lord Graham of Edmonton. London Councils is the representative body for the London borough councils, one of which, Westminster City Council, formally promotes this Private Bill jointly with Transport for London.

I am glad that at long last I can move the Third Reading of this Bill. It has been a very long wait. The Second Reading was on 20 February 2008. It is more than two years since the Select Committee completed its consideration of the Bill in March 2009. Before I can move to the contents of the Bill I ought just to explain why there has been this almost unparalleled delay with this Private Bill.

The Select Committee sat between 9 and 11 March and heard the petitions and representatives of the pedicab trade—I will deal with that later—and also the London Cycling Campaign. The committee decided that amendments should be made to the Bill and produced its special report which was published on 23 April 2009. At this point I express my warm thanks to the members of the committee, chaired by the noble Lord, Lord Faulkner of Worcester, whom I am glad to see in his place, and whose members included the late Lord Dahrendorf—that, too, gives one an indication of the passage of time. I thank them most warmly for their work.

After the committee reported, a new threat emerged to the Bill. A group of bodies representing the sporting interests voiced concerned about what are now Clauses 16 and 17. These would enable London authorities to recover the costs of cleaning streets and imposing traffic regulation measures at sporting and other events. The promoters became convinced that the sports bodies had very strong support among your Lordships and recognised that there was potentially a serious threat not just to Clauses 16 and 17 but to the whole Bill. Not surprisingly, therefore, they embarked on a process of negotiation with the sports bodies.

That process proved to be very long indeed. Without going into detail, I think that it is enough to say that agreement in principle was eventually reached about a year ago, last spring. However, soon after that the election was upon us, so the Bill had to wait until it could be revived in the new Session. Then, although the promoters believed that they had reached agreement with the sports bodies, a new point of dispute arose and conclusion of that was not finally agreed until the beginning of this year.

The Bill deals with seven distinct subjects. Because the Second Reading of the Bill was entirely formal and there was no debate on the Floor of the House, I think it right to take a few minutes of your Lordships' time to describe briefly the main points in the Bill. As originally drafted, Clauses 4 and 5 would have enabled London authorities to attach street lamps and signs to buildings without requiring the consent of the owner or occupier of the building. The provisions were intended to bring the rest of London in line with the City of London Corporation, which already enjoys these powers. The intention is to avoid cluttering up the streets with more and more street furniture. However, in response

[Lord Jenkin of Roding]
to points made by the then Minister, Rosie Winterton MP, in her report to Parliament on human rights, the promoters put forward amendments to the Bill. Subsections (3) to (7) of Clause 4 now require the authorities to serve notice on the owner of the building in question and to take any representations into account. Subsection (12) requires the authorities to come forward with a statutory code of practice about the exercise of the powers. The provisions relating to compensation have also been amended in favour of the property owner.

If there are any lingering concerns about the precise terms of the code, I suggest that they may properly be dealt with in another place. That leads me to make the point that, although the Bill has taken over three years in this House, it still has to go through the other place. The promoters have taken leading counsel's opinion on the compatibility of Part 2 with the European Convention on Human Rights, and she is satisfied that it is now compliant.

Clauses 6 and 7 deal with damage to the highways. I mention them briefly because they have been uncontroversial. They will enable the London authorities to recover the costs of repairs to the carriageway where damage is caused by construction traffic. They will also enable them to require a deposit in advance of the construction works commencing.

The main purpose of Part 3 is to decriminalise offences relating to builders' skips. One might express some surprise that builders' skips have to be dealt with on the Floor of the House, but the sort of offences that I am talking about are putting them out without a licence or not properly lighting or protecting them. Clause 9 enables a highway authority to require information about who the owner of the skip is in order to determine on whom penalty charge notices should be served. Clause 10 provides that the owner of the builders' skip will be liable to pay any such charge arising from a contravention. Representations may of course be made against the imposition and appeals may be made to an adjudicator, very much as with the existing parking regime.

Part 3 also alters the powers of the highway authority to place conditions on giving permission for placing a skip on the highway and will enable the authority to insist that the skip has, as an integral part, lights or a guard or system of guarding. That would enable the highway authority to fix an immobilisation device to a skip in cases where it has also served a penalty charge notice.

I understand that there may be some concerns about Clause 9(5), which provides for a defence of knowingly giving false information about the identity of the owner of a skip. There has to be some way of enforcing Clause 9, which enables the authorities to obtain from the skip company the name and address of the person on whom they can serve a penalty charge notice. If not, the authorities will end up in a position where the whole of Part 3 will be unenforceable. It would soon become clear if a skip company had given false details knowingly, but I would hope that the threat of appearing in court would deter them from doing that.

I turn now to Clauses 16 and 17, which deal with the recovery of exceptional traffic management and waste clearance costs. These are the clauses that provoke the objections of the sports bodies to the Bill. Your Lordships will see that amendments have been tabled to remove both clauses from the Bill. The quid pro quo—not a surrender to the sports authorities—for that is that a memorandum of understanding has been signed with the Premier League and the Football League. I will explain that in a moment. The clauses as they stand would allow councils and Transport for London, as traffic authorities, to reclaim expenditure incurred in implementing traffic management measures, and allow the borough councils to recover expenditure incurred in complying with their duty to keep land and highways clear of litter, where the expenditure is reasonably incurred as the result of a sporting or other event.

The Department for Culture, Media and Sport expressed some objection at an early stage to what are now Clauses 16 and 17. Its objection was relayed to the Select Committee. Although there were no petitions against the provisions from the sporting parties, after the Select Committee had reported, significant opposition was expressed by them, including the Premier League and the Football League. Therefore, there were negotiations, which resulted in the memorandum of understanding being signed between the promoters and the Premier League and the Football League. The effect of that will be that London clubs that have a certain minimum average attendance will be required to enter into negotiations with the authorities, with the aim of reaching an agreement whereby the costs of the authorities would be recoverable as though Clauses 16 and 17 had been enacted. There are specified target dates for the completion of the agreements. No doubt, if agreements are not reached the promoters will have to consider coming back to this in future legislation to protect their interests.

Clause 18 deals with interference with barriers. It makes it an offence to open, close or otherwise interfere with a barrier erected to prevent the passage of vehicles, or any class of vehicle, into, out of or along a highway without lawful excuse. There has been no objection to that. Indeed, it is a very sensible measure.

Turning now to pedicabs, I cannot say the same for Clause 19. Those of your Lordships who have been in the West End recently will be familiar with what a pedicab is. The Bill, in Clause 19(8), defines them as cycles,

"constructed or adapted … to seat one or more passengers; and … for the purpose of being made available with a driver in the course of a business for the purpose of carrying passengers".

That is a pedicab. The clause is solely about traffic management. It is not about the safety of the pedicabs themselves or the fitness or suitability of the riders. The clause would enable councils and Transport for London to identify the owner of a pedicab and to serve a penalty charge notice on the owner when a parking or moving traffic offence is committed. The clause goes on to say that it would operate only when either the councils or Transport for London have arrangements in place for a voluntary registration scheme for pedicab owners, or if a separate statutory licensing scheme had been enacted. Because such a

scheme would undoubtedly require the pedicabs to display some sort of plate that could be used to identify the owner, that would inevitably follow. However, the clause does not, of itself, set up a statutory licensing or registration scheme.

There was an attempt some years ago, under the previous Bill, to set up such a scheme, but it was rejected by the Select Committee in another place on that occasion. A company that rejoices in the name of Bugbugs petitioned against the clause and appeared before the Select Committee. It owns pedicabs, which are hired out to riders for use in the West End. The Lords Select Committee did not accept the company's arguments and the promoters are expecting opposition to the provisions in another place, not just from the pedicab operators but from the taxi trade.

Part 5 enables London local authorities to provide and operate charging apparatus for electrically powered motor vehicles on highways and to permit third parties to do this. It sets out the procedures for this provision as well as creating an offence of the unlawful use of charging points. The number of electric vehicles has increased rapidly since the Bill was introduced. It is well known that the Government are very much in favour of encouraging their use and, indeed, the Mayor of London has made it a priority. There has been no opposition except from the Society of London Theatre, which was understandably concerned about points being placed directly outside theatres.

In conclusion, I hope that what I have said will persuade your Lordships to give this Bill a Third Reading and agree to the amendments that I propose. I beg to move.

8.30 pm

Lord St John of Fawsley: It is a great relief to support my noble friend on this issue, having voted for justice for young criminals, not without some experience of that matter. Since the Leader of the Opposition has made a habit of talking about himself, I will talk a little about myself, but not too much. The first social duty that I undertook was that of a prison visitor when I was my noble friend's age—18. I have been Minister for Higher Education and I was concerned about the welfare of young criminals. I was equally concerned about protecting the innocent victims of crime. That is why I was moved to pay a tribute to the police this afternoon. I will not go into all that again; I made my point and I am extremely glad that I did. However, it is wonderful that my noble friend shows such persistence. That is what you need in politics; you have to keep going and keep at it. I hope that my noble friend Lord Steel will take the same line with his Bill. He should get on with it, not give it up. In the end, if you persist you will get somewhere but if you give things up you will not. My noble friend deserves every support and congratulation on the way in which he has persevered with this Bill, as does the noble Lord opposite who played such a distinguished part in the committee.

I have an interest to declare as when I left government because of the unemployment figures my noble friend was instrumental in my securing my next appointment. I had the honour to be appointed chairman of the Royal Fine Art Commission, a post which I held for 15 years until the whole of the commission was abolished by fax. Not even the Vatican in its worst days would behave in such a way. When the Orthodox Church got rid of the Orthodox Archbishop of London, it did so by fax. However, it provided a charge: namely, that he coveted thrones.

The Chairman of Committees (Lord Brabazon of Tara): My Lords, I wonder, as the person responsible for the conduct of Private Bills in this House, whether I may bring the House to order. We are dealing with three amendments moved or spoken to by the noble Lord, Lord Jenkin, at Third Reading. We are not dealing with the Second Reading of the Bill or with other issues, such as those that my noble friend Lord St John has just raised. We are considering three amendments that deal with the recovery of street cleansing expenditure—nothing else.

Lord St John of Fawsley: My noble friend the Chairman of Committees is quite right. I was following the bad example of the Leader of the Opposition. One should never talk about oneself. It is a subject that is of interest only to oneself and no one else. I merely wanted to congratulate my noble friend on his persistence in proceeding with the Bill. Here, I make just one point; it is very important that Select Committee reports are speedily implemented. I heard the Select Committee being attacked because of its report. I answered on the millions of pounds spent by the noble Lord, Lord Rodgers of Quarry Bank, on the urban nonsense of turning us all into Dutch flat dwellers in five words that are all that needs to be said on that issue—and I shall then sit down. Those words are: "English people love their gardens". That is it.

Lord Faulkner of Worcester: My Lords, perhaps I may take the House back to the amendment moved ably by the noble Lord, Lord Jenkin of Roding. I thank him for his kind words about my chairmanship of the Select Committee and other noble Lords who took part in those deliberations.

The issue we are discussing in Amendment 1 is whether it is correct to remove Clauses 16 and 17 —formerly Clauses 26 and 27—that deal with the recovery of costs arising from the holding of major sporting events. The Select Committee took a great deal of time to consider this issue. We received a report from the Department for Culture, Media and Sport, but, as the noble Lord, Lord Jenkin, said, there was no petition or evidence of any sort from the sporting bodies indicating that they were unhappy with what was proposed.

We took evidence from the Assistant Director for Public Protection and Safety of the London Borough of Hammersmith and Fulham. He stated:

"The large scale of events of the nature that we talked about cause littering over a widespread area, much of it in our residential streets, not just on the frontage of where the individual streets are. It requires additional street cleansing resources, much greater, over and above what we would normally put on the streets to deliver the cleansing that is required by our residents in the community to return the streets to a satisfactory standard after an event has taken place. The resources and costs specifically relate to the number of events, the scale of the event and the scheduling of when these events take place".

[Lord Faulkner of Worcester]
We cross-examined Mr Austin and the witness from the DCMS. We heard from no witness or petitioner from sporting bodies. We had no knowledge that they were unhappy with what was being proposed. The committee, after considering the evidence very carefully, came to the conclusion that the promoters had made their case. In fact, they presented an exemplary case on the Bill as a whole; but, on this particular issue that required us to go against the advice of the DCMS, we concluded that it would be appropriate, in certain circumstances, for local authorities to recover from those organising large sporting and entertainment events additional costs for exceptional traffic management and waste clearance.

I am concerned to hear that the negotiations effectively took place after we had taken the evidence and considered the issue in detail in the committee. I put it to the House that the time for those deliberations was before the Select Committee considered these matters and that, if it was necessary for petitioners to come forward with objections, that was when those objections should be taken. It is not satisfactory, as a rule of procedure, for negotiations to take place subsequently, and for such pressure to be put on the promoters of the Bill that, in order to get it through, they must take out something which at the time was very important to them.

I do not wish to see the Bill delayed any further, but I am concerned at the way in which these amendments have been brought forward, and by the fact that it has been done not on the basis of our being able to cross-examine the people who do not like what is being proposed, but on the basis of a back-stairs deal.

Baroness Kramer: My Lords, I will speak very briefly. I congratulate the noble Lord, Lord Jenkin of Roding, on bringing forward a Bill that has taken so long to get to this stage. As a newcomer to the House, I find it astonishing that the time of this House has to be spent on issues such as the lighting and guarding of builders' skips. If ever there was an illustration of the need for the Localism Bill, and a more general grant of powers to assemblies and local authorities, this Bill is it.

I will set that aside and make a couple of comments on the provisions. My hope is that as the Bill proceeds to the other House, there will be an element of balance in the way that it is reviewed. For example, returning to the contentious issue of skips, I, like many others, have been in a situation as a resident where I have become frustrated with people who have clearly abused their right to have a skip in the street. On the other hand, I have also done repairs and changes to my home and know that the cost of a skip is an important part of the building budget—so no one would wish that to increase unnecessarily. I hope that that constant balance will remain in the thinking of the House.

I welcome the move to a memorandum of understanding between sports clubs and local authorities. This is a sensible way to proceed on these issues, which are better negotiated between the parties than set out in statute and regulation. It will be less costly and more flexible, with more capacity to adapt to the needs of situations, if we move to a negotiated arrangement rather than always looking for a regulation to sort out the mechanisms. I wish that we could see some of that around pedicabs. Some people regard them as pests and some as positive attractions in the West End of London. I do not understand how one can enforce parking rules against them if the requirement for licensing is not statutory but merely voluntary—presumably that is something that the other House must cope with.

I, too, as I read through the legislation, congratulate everyone on persisting with this through a change of government. I was in the other place when this started. It has taken nearly three years, which is extraordinary. I suggest that local councils and assemblies ought to have the qualifications to deal with these issues, and that this illustrates a matter that we can now pass to those authorities in future legislation.

8.45 pm

Lord Rosser: My Lords, I congratulate the noble Lord, Lord Jenkin of Roding, on the fortitude and tenacity he has shown on the Bill. I shall make only one or two points. As the noble Lord said, the Bill had its far-from-lengthy Second Reading—I think that it amounted to five lines in *Hansard*—more than three years ago, following which it was committed to a Select Committee. The committee reported in April 2009 and approved the Bill with a small number of amendments. It now stands as it was following the committee's consideration. As my noble friend Lord Faulkner of Worcester said, there were no petitions against the clauses that the noble Lord, Lord Jenkin of Roding, now seeks to remove. There was opposition to those clauses from the Department for Culture, Media and Sport. The question is: what has been going on behind the scenes over the past 23 months?

The noble Lord, Lord Jenkin of Roding, threw a little light on the issue, but we should be told more. Apparently, representations were made against these clauses by organisations and businesses in the sport and entertainment industries—organisations and businesses that did not petition the Select Committee which would then almost certainly have called them to give evidence in public so that everyone could have heard their arguments. These organisations and businesses have instead been lobbying in private. We have not been told that the Department for Culture, Media and Sport has single-handedly got the Bill changed in the face of the wishes of the promoters and the report of the Select Committee.

The Select Committee heard evidence from the London Borough of Hammersmith and Fulham which said that the additional cost of clearing up outside the ground after a Chelsea football match was an average of £1,000 a game. It gave evidence of the amount that Chelsea paid in business rates and contrasted it with organisations that paid much more but which did not generate the same traffic management and waste clearance costs. Chelsea is a club with a certain amount of money. At the end of January it spent more than £70 million on two new players. At a cost of £1,000 on average a game for the additional cost of clearing up outside the ground, £70 million would pay for that to be done for around the next 2,000 years.

At a time when local government is having to tighten its belt, services are being cut and closed down and staff are receiving redundancy notices, why is it still felt appropriate, as the deletion of these clauses suggests, for local government and the council tax payer—of which I am one—to have to continue to pay the additional clearing up costs in the streets around a sporting and entertainment event that is put on for commercial gain? Surely organisations and businesses pay business rates just as individual householders pay council tax for the removal of waste from their own premises, not for the removal of waste that they have caused to be generated in the public streets outside as a result of the promotion of an event for that organisation's commercial gain. Clearly that was the view of the promoters of the Bill and of the Select Committee. So what has happened to cause the promoters to change their mind under pressure over these clauses being in the Bill, as revealed by the amendments proposed by the noble Lord, Lord Jenkin of Roding, at this late stage? Who has been making representations in private that they were not prepared to make publicly in front of the Select Committee? I hope that either the Minister or the noble Lord, Lord Jenkin of Roding, will enlighten your Lordships' House on that point.

We have no intention of seeking to stop the Bill. There is much that is non-controversial within it, which clearly the local authorities concerned wish to see implemented. However, a little more information about the lobbying that has—or has not—been going on in private over the past two years to achieve a change in a Bill with which the promoters and the Select Committee were happy, and against which there had been no petitions is surely not too much to ask from either the Minister when he responds, or perhaps more appropriately, from the noble Lord, Lord Jenkin of Roding, when he replies.

The noble Lord, Lord Jenkin of Roding, referred to understandings or to a memorandum of understanding. I hope he will say just how strong and meaningful are the understandings that have apparently been reached and in what circumstances local authorities' costs will be reimbursed, at what level and by whom. Are they written understandings? Are they legally binding? I hope the noble Lord will provide the answers because there must be some concern, subject to the noble Lord's response, that they will prove worthless and meaningless in the light of the removal of these clauses from the Bill.

Earl Attlee: My Lords, it is more than two years since Parliament last considered this private Bill, so it is the first time that it has been considered by the coalition Government. I am grateful to my noble friend Lord Jenkin of Roding for his explanation of the Bill. I should point out to the House that my noble friend is leading on the Bill—not me. The noble Lords, Lord Rosser and Lord Faulkner of Worcester, have made some points about procedure. I want to make it clear that it is not a matter for me but a matter for the Procedure Committee of your Lordships' House, as I am sure all noble Lords would agree. However, this is not the first time that the London local authorities and Transport for London have promoted a private Bill together. The Bill would confer a variety of powers on its promoters to improve streetscape and the local public realm. My noble friend has explained how that will work with the Bill so well that it is unnecessary for me to repeat his work there.

The Bill's provisions would also enable the promoters to enforce sanctions against anybody giving traffic unauthorised access to gated roads and enforce moving traffic and parking contraventions against pedicab owners and operators where the owner or operator has entered into a voluntary registration scheme. Again, my noble friend has given a comprehensive explanation. The Bill would also put in place a comprehensive system to allow the installation and use of charging points for electric vehicles on the highway in locations across the capital.

I acknowledge the amendments that my noble friend Lord Jenkin has proposed and explained so well. Although I very much doubt that we will be voting on the Bill this evening, I should like on behalf of the Government to comment on a few points of note for the record. The Bill creates various new civil and criminal offences in relation to improper conduct when depositing a builder's skip on the highway; the unlawful opening of a gated road to unauthorised traffic; the improper use of a charging point for electric vehicles; and moving traffic and parking contraventions by pedicabs.

The Government are committed not to create new offences unless it is truly necessary to do so. My noble friend Lady Kramer made some pertinent points about that. As such, I should state now that before the Bill reaches its Committee stage in the other place, the promoters will need to have submitted to the Ministry of Justice their assessment of the impact of creating these offences. This will allow the Government to come to an informed view on whether their creation is appropriate. Other clauses have the potential to impose burdens on business, particularly the construction industry. I am referring to the clauses relating to the placement of skips on the highway and to recovering the cost of remedial work on the highway from a developer after a development has taken place.

The Government's position on increasing the burden on business is very clear and we will be considering whether, in our view, the Bill would create an unacceptable burden on business in order to make our views known before the Bill reaches Committee stage in the other place. The Government have already notified the promoters of some clauses which we feel could be improved or altered by some minor amendments, particularly with regard to the affixing of street furniture to buildings, where we would like the owner of the building which is to have street furniture affixed served a notice stating the exact date on which the work will begin and the terms of usage of electric vehicle charging points installed and operated using the powers conferred by the Bill.

We will be seeking to reach agreement on amendments with the promoters before Committee stage in the other place as it is then that the Bill can next be substantially amended. Aside from the specific points I have raised this evening, the Government are content that the Bill passes to the other place, where it can be further scrutinised to ensure that the points I have

[Earl Attlee]
raised—most notably in relation to the creation of new offences and the imposition of new burdens on business—can be addressed to the Government's full satisfaction. I conclude by thanking my noble friend for putting forward the Bill.

Lord Jenkin of Roding: My Lords, I am extremely grateful to all noble Lords who have taken part in this debate, and for the important comments that have been made. I was amused by my noble friend Lord St John of Fawsley, who congratulated me on my persistence. I have to say that that is wholly undeserved. I did not move Second Reading. The people who can be congratulated are the promoters, the London boroughs and Transport for London. I shall take his kind words about that and simply comment that at a very early stage in my career, someone said to me, exactly as my noble friend has said, "Patrick, if you want to achieve anything, keep pegging away". In my life I have tried to follow that nostrum. However, I am grateful to my noble friend.

I turn to my noble friend Lady Kramer. I have a lot of sympathy with her on her suggestion that much of this ought not to come to the Floor of the House in a Private Bill in this form. All I can say to her, in some comfort, is that before 1992 a great many more Private Bills came on to the Floor of the House. However, in that year the Transport and Works Act was passed and all the railway Bills, all the major road Bills and all the rest of it have now disappeared, and what is left are the occasional local authority measures, such as we have here and we had earlier in the previous Parliament from Manchester and others; and, of course, occasionally the universities need to have legislation to amend their statutes. However, I am sure that my noble friend on the Front Bench will have heard her plea for something on more general powers.

I have to say in relation to London—and I have lived in London almost the whole of my working life—that it has conditions and circumstances that are very different from any other city in the country, and I am not surprised that both the City of London and the London local authorities have felt the need from time to time to introduce legislation to deal with the problems which they face. My noble friend also welcomed the negotiated agreement—I will come to the remarks of the noble Lords, Lord Faulkner and Lord Rosser, in a moment. All I can say at this stage is that I was grateful for my noble friend Lady Kramer's support on that.

As for the deal done with the Football League and the Premier League, I understand the indignation that noble Lords may have felt that this was done outwith the consideration of the Select Committee. As the noble Lord, Lord Faulkner, said, the Select Committee examined the authorities from Hammersmith and Fulham. It heard the evidence and felt that the promoters had made a good case for their clauses, and here we are with an agreement having been reached outside the committee. Whether or not it was a smoke-filled room, I do not know; but, nevertheless, it was reached without the full scrutiny that it would have had if it had gone before the Select Committee. I have some sympathy with that point. I asked a number of questions myself about whether there was any reason why the sporting authorities were not aware of what was in the Bill. It is their job to make sure that they do. They are very wealthy organisations; they spend billions of pounds, as one noble Lord said, on buying footballers and so on. I do not see why they could not have done this before, but the fact remains that they did not. They did not put up a petition. The committee therefore could not hear the petition and reach a conclusion on it.

So what have we got? As I explained in my opening speech, after very prolonged discussions a memorandum of understanding has been reached. In each case the club that falls within the definition, which has a reasonably substantial attendance at its events, has to enter into agreement with the local authority to cover the costs that would have been covered by these two clauses. If someone says to me, "An agreement to agree is not worth the paper that it is written on", I would have to say that I was brought up in my legal studies entirely to accept that. However, there rests behind this the fact—and the sporting authorities are in no doubt about this at all—that if they do not reach agreements of the sort envisaged in this memorandum of understanding within a clear time limit which is spelt out here, then future legislation will be brought forward to reinstate these clauses.

Lord Faulkner of Worcester: Does the noble Lord agree that it would have been courteous to this House if the detail of that memorandum of understanding had been made available to your Lordships before we had this debate today? Can he at least give an assurance that it will be published and will be considered in proper detail when the Bill reaches another place so that it can at last be given proper scrutiny?

9 pm

Lord Jenkin of Roding: I have much sympathy with that. I do not think an agreement of this kind could be disclosed to Parliament without the agreement of both parties. I will draw the attention of the promoters to what the noble Lord has said and see whether they can secure the agreement of the sporting bodies that this should be made public before the Bill goes to a Select Committee in another place.

Lord Rosser: Can the noble Lord tell the House how long ago this memorandum of understanding was signed?

Lord Jenkin of Roding: It was reached in the early part of this year. The original agreement had been left before the election. As often happens when negotiations are dragged out over a long period, new objections were made, and it was not until the beginning of this year that finally there was an agreement. Part of the agreement was that the clauses be removed and replaced by that memorandum of understanding. Nobody is in any doubt that if the sporting clubs do not negotiate agreements with the local authorities in good faith, the promoters will bring back the clauses in some form. Having heard the noble Lord, Lord Faulkner, they should be in no doubt that a Committee would take a fairly clear view on the merits of those clauses.

The noble Lord, Lord Rosser, is entitled to his complaints. This has been a very long drawn out matter. One can argue about whether the promoters ought to have given in to the clubs. They clearly thought that the whole Bill might eventually fall on this basis, not just what were then Clauses 26 and 27. They will read in *Hansard* the criticisms that have been made, and I hope that the lesson will be learnt and this will not happen in this form again. I feel particularly sorry for the Select Committee which spent a good deal of time on this Bill only to find that its decisions had been subverted by this memorandum of understanding. I think I have gone on long enough, unless there are any points that I have missed out.

Amendment 1 agreed.

Clause 16 : Recovery of exceptional traffic management and waste clearance costs

Amendment 2

Moved by ***Lord Jenkin of Roding***

2: Clause 16, Leave out Clause 16

Amendment 2 agreed.

Clause 17 : Recovery of costs: appeals

Amendment 3

Moved by ***Lord Jenkin of Roding***

3: Clause 17, Leave out Clause 17

Amendment 3 agreed.

Bill passed and sent to the Commons.

9.03 pm

Sitting suspended.

Public Bodies Bill [HL]

Report (2nd Day) (Continued)

9.15 pm

Amendment 31

Moved by ***Lord Judd***

31: Schedule 3, page 17, line 18, leave out "Broads Authority."

Lord Judd: My Lords, in the absence of the noble Lord, Lord Greaves, I rise to move Amendment 31 and to speak to Amendment 34. In doing that, I should also like to say a few words about the government amendments. When I arrived at the House today, there was a message from the noble Lord, Lord Greaves, asking me to move the amendment and saying that he was "confined to barracks". I thought, "My goodness, the Whips are getting tough on the other side". But, in fact, I am sorry to say that the noble Lord is unwell again. I am sure that it would be the wish of the whole House, because of the noble Lord's commitment on these matters, to send him greetings and God speed for a rapid recovery.

After the profound issues of law and legal institutions that we have been having today, this issue might seem a bit ephemeral. However, I do not believe that it is ephemeral because it is central to the quality of our society and those things that make Britain a place worth living in. Before I speak to Amendments 31 and 34, I should like to put on record how much many of us appreciate the moves made by the Government in their amendments to remove some of the anxieties which were surrounding the future of the park. No one could be in any doubt that we have Ministers, whatever our profound differences on all sorts of things, who are committed to the national parks. Indeed, I was very impressed when I took the chair at a meeting on Thursday to hear the Secretary of State speak so positively about the parks. From that standpoint, I should like to express real gratitude that the Government have moved. In a sense, that makes my remarks on Amendments 31 and 34 sad in that I wish they were not necessary.

The amendments would remove national park authorities and the Broads Authority from Schedule 3, the schedule relating to constitutional arrangements. As has been the case on a number of other parts of this Bill, it is not clear why the wide scope of Clause 3 is necessary in the light of powers that are already available to Ministers and the absence, as I understand it, of radical proposals in the local responses to the Defra review of governance of national park authorities and the Broads Authority.

It has been suggested that the list of constitutional arrangements in Clause 3 could be tightened in relation to its application to national park authorities and the Broads Authority. However, the Government have indicated that they are not ready to do that because of the way in which the clause is set up. Clause 3(1) gives Ministers the powers to change constitutional arrangements and subsection (2) says that that includes X, Y and Z and so on. But it is not a definition of the power itself. So the Government could still make a constitutional change even if it was not listed in the examples.

It might be helpful if I put three specific questions, which I hope are constructive, to the Minister. First, why is it considered necessary to include national park authorities and the Broads Authority in Schedule 3 at all, given the powers that Ministers already have in relation to amending the membership of these bodies—for example, those introduced by the Natural Environment and Rural Communities Act 2006. Secondly, will the Minister indicate which proposals emanating from the Defra review of governance of national parks are likely to require legislative changes, particularly any proposals which relate to the composition of membership of authorities and which would anyway be covered by Section 61 of the NERC Act? Thirdly, can Ministers provide a definitive list of the constitutional arrangements of national park authorities and the Broads Authority that they consider will be covered by Clause 3? Which of these do they consider will need amending in the

[LORD JUDD]
light of the Defra governance review, which, it seems, will not be published until May because of the local elections?

If greater flexibility is still deemed necessary by the Government, surely it would be better for the Bill to contain a dedicated clause relating to national park authorities and the Broads Authority which amended the relevant sections of the National Parks and Access to the Countryside Act 1949 and the Norfolk and Suffolk Broads Act 1988. It could specify what constitutional arrangements Ministers would have the power to amend by order. As it is, I hope that Ministers, with whom we have worked so well on this Bill, will agree that Clause 3 as it stands is unacceptably open-ended. I believe that it is time to reflect. I hope that the Government, as they have so readily done on some other issues, will move to meet these points. I beg to move.

Baroness Miller of Chilthorne Domer: I support the noble Lord, Lord Judd, in the questions that he put. I remember, when the NERC Act was going through, the lengthy debates that we had on how many representatives of the national interest should sit on national park authorities, what role councillors from the principal local authorities should have if, for example, they lived outside the park and so on. Many of the issues are worthy of deep consideration and consultation. It seems unfortunate—I know that it is just how the timing has worked out—that we will have to agree or disagree with the drafting here, before the consultation is completed. Up until now, the governance of national parks has evolved in a way that has carried support. My fear is that if it changes and becomes the subject of ministerial decree that consensus will be lost. I am very concerned, and I am very glad that the noble Lord, Lord Judd, put his questions.

Lord Marlesford: I support totally what was said by the noble Lord, Lord Judd, and by my noble friend. There are very few things which I mind so much about as the national parks; I have been very much involved in them for a long time. The national parks, along with the planning legislation of the same period of 1948-49 were one of the two great achievements of the Attlee Government—the other being the creation of the National Health Service. Let us remember that we created our national parks only some 50 years after the Americans created theirs in, I think, 1898.

I am afraid that it would be absolutely unacceptable for the Executive, whichever Government were in power, to make crucial changes to the organisation and administration of the national parks without specific parliamentary approval in each case. Of course, one is not saying that there should not be any changes at any stage, but I am afraid that my suspicion of Executives is such that I would never agree to something as crucial as changing the national parks without specific parliamentary approval.

It is quite interesting that the national parks and the Broads Authority are mentioned separately, and I am sure that all noble Lords know why that is. The national parks were formed under the 1949 Act and, as the noble Lord, Lord Judd, has pointed out, the Broads Authority was formed in 1988. I was very much involved in that because I was on the Countryside Commission at the time. The only reason that the Broads Authority was not a national park at the time was, first, because the original definition of "national park" was a wild area, which the broads clearly were not, and, secondly, because initially there was a lot of suspicion and opposition in the broads that commercial interests concerned with boating, although perfectly legitimate, might be interfered with by its becoming a national park. Therefore, frankly, it was something of a concession to say that the broads were not a national park and that they had their own separate Act of Parliament.

I am not saying that I would necessarily die in a ditch for that to continue. The crucial thing is that the national parks, including the broads and the parks created since the 1949 Act, should continue to have the complete protection at the pinnacle of our hierarchy of designation of countryside areas. Of course, they are obviously followed by heritage coasts and areas of outstanding natural beauty and so on, but they are so precious to this country that we need a lot of reassurance regarding exactly what powers the Government are seeking and reassurance that those powers will not be exercised without reference to Parliament in each case.

Lord Cameron of Dillington: I very much support the amendment. The noble Lord, Lord Judd, referred to the quality of our national parks. We all consider them to be an essential characteristic of this nation, and the benefits that they bring to our urban and rural societies are huge. To my mind, their quality depends very much on the maintenance of the very delicate balance between local and national interests, which have been thrashed out over the years since 1949. Here, the Government are giving themselves—and, more importantly, their successors—powers to modify the constitution of national parks authorities without having to revert to Parliament. As the noble Lord, Lord Judd, said, those are open-ended, and that must be wrong. This Government may not have any malicious intent vis-à-vis the national parks but there is no sunset clause and I look forward to hearing the answers to the questions put by the noble Lord, Lord Judd.

Lord Maclennan of Rogart: My Lords, I rise briefly in view of the fact that the principal questions to which I wish to have an answer have been posed by the noble Lord, Lord Judd. My noble friend Lord Greaves, whose recurrent illness is distressing and to whom we all send good wishes, was very anxious to know why the Government were proposing to include the Broads and the national parks authorities in Schedule 3, as the Government already have powers to make modifications. This seems to be an omnibus arrangement and it is not necessary if the Government are in a position to act in any event.

Can it also be indicated what particular powers the Government have in mind to alter under Schedule 3 provisions? It does not seem that there is any need to do so. These bodies are responsive to both national and local interests, opinion and governance, and the balance seems to be set quite well. Therefore, if we could hear a little more, it would be of great assistance.

9.30 pm

Baroness Quin: I, too, support my noble friend Lord Judd in his amendment. I was very struck by the support that, even in a very brief debate, he received throughout the Chamber with the comments of the noble Baroness, Lady Miller, the noble Lord, Lord Marlesford, who, we know, is strongly committed to the national parks, and the noble Lords, Lord Cameron and Lord Maclennan. The Government can be in no doubt about the strength of support for the national parks that clearly exists on all sides of the House.

As my noble friend told us previously, he is a vice president of the Campaign for National Parks. I am not involved in quite the same way, but I would like to thank the campaign for the briefing and information that it is always ready to send to Members of your Lordships' House.

I also thank the Government for clearly responding to some of the concerns expressed the last time that we debated this in Committee. In particular, they removed the national parks and Broads authorities from Schedules 5 and 6 to the Bill relating to the power to modify, transfer or delegate functions. Because of that, it is not surprising that the debate has focused on the continuing mention of these authorities in Schedule 3. I agree with the comments and concerns that have been expressed about this.

Obviously, mention was made of the consultation that has taken place and to which the Minister referred when we dealt with this in Committee. In Committee, he said that he and his colleagues were currently considering the responses to that consultation and were committed to announcing the outcome by the end of March. Well, the end of March is this week. Perhaps this evening the Minister might have something to say about the outcome of that consultation. At the time, he was thinking that we would probably get to this part of Report after Easter. None the less, given the interest and concern about this, we would like to know the preliminary findings of the consultation exercise.

In speaking this evening I want to reinforce the questions asked by my noble friend. The key one is why it is still felt necessary to include these organisations in Schedule 3 given the powers that Ministers already have under other legislation. Are there elements of the changes that the Government want to make that cannot be done via the legislation that already exists? We need an answer to that specific point in relation to national parks—it has been pointed out to me that perhaps the Broads legislation is somewhat different in this respect. What is not available to Ministers under the 1996 Act and other legislation mentioned by my noble friend that is already on the statute book?

We would like a list of the constitutional arrangements that the Minister feels are best dealt with in this Bill and cannot be dealt with by some other legislative instrument. Without information of that kind, what is being proposed still seems too wide, too open-ended and too vague. We are not in a clear position to judge what is in the Government's mind.

As we were reminded today, the 11th report of the Delegated Powers and Regulatory Reform Committee stated that despite the welcome changes that the Government have made in the Bill, the committee is still very concerned about the,

"exceptionally wide delegated powers which remain in clauses 1 to 5 and 13".

Given that concern and the importance to our country of the national parks and the Broads, we should get some answers to the questions that were well raised by my noble friend and others who took part in this evening's debate.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): My Lords, I will respond to Amendments 31 and 34 in the name of the noble Lord, Lord Greaves. I would like to say to the noble Lord, Lord Judd, that there has been no element of his legs having been broken or anything like that. Sadly, my noble friend Lord Greaves is ill. He is not here, so we wish him well and look forward to seeing him back in due course.

I will also speak to Amendments 46, 53, 57, 58 and 59. Amendments 58 and 59 are in the name of my noble friend Lord Taylor. Amendments 46, 53 and 57 are in the names of my noble friends Lord Greaves and Lord Taylor, which gives some indication of where we are coming from on those issues.

I agree totally and utterly with the noble Baroness, Lady Quin, about the strength of support on her own Benches for the national parks and the Broads authorities. That is true of all Benches throughout this House, and I reiterate it on behalf of the Government.

We had a good debate on this matter in Committee on a similar group of amendments, and on that occasion I explained the Government's thinking in placing these bodies in Schedules 3, 5 and 6. I shall make things absolutely clear on the scope of Schedule 3 for the noble Lord, Lord Judd, who seemed to imply that the provision could be used in a slightly wider way, with matters from other clauses. We do not think that Schedule 3 could be used to go wider than it is set out, and I hope that I shall be able to cover that matter in due course. We dealt with Amendments 3, 5 and 6, which stemmed from the consultation on the governance arrangements for those bodies, which honoured a commitment in the coalition agreement—our bible—and was run in close co-operation with the national parks and Broads authorities. We asked each authority to make recommendations following consultation on the changes needed for their governance arrangements. We were clear from the start that the objective was to improve the governance arrangements of those bodies and not to remove or replace them. For that reason, they do not appear in other schedules to the Bill—not in Schedules 1 or 2, for example. Our consultation began with these words:

"The Government wishes to retain an independent authority, as currently exists, for each of the National Parks and the Broads. It intends that these authorities should continue to be the local planning authority for their areas".

The paper then went on to raise a number of questions about what modifications or refinements of the current governance arrangements might be desirable.

In Committee, your Lordships pressed me on the sort of steps we might want to take and on why those could not be achieved without this Bill, perhaps by using powers which already exist in the Environment

[LORD HENLEY]
Act 1995 or the Natural Environment and Rural Communities Act 2006. Of course, at that time it was too early for me to be able to give concrete examples, as we were still at an early stage of evaluating the consultation. I have the slightly embarrassing admission to make, because at that stage I announced that we would have the outcome of our consultation by the end of this month. That has slipped a little, because that takes us into the period of local government elections Purdah, and it will not now be until after the elections. At that stage, I still thought that Report stage might be after Easter, but one never knows quite what the Opposition will achieve in delaying government legislation. So there has been a degree of blame on all sides. But we have made significant progress in identifying what might be in our response. As a result, we have come to the conclusion that there is very little likelihood of the powers in Clauses 5 or 6—the powers to transfer functions and authorise delegation—being needed to implement any changes resulting from that consultation. For this reason, I propose to remove the national parks and Broads authorities from the schedules. That is why Schedule 6—because they are the only bodies left in that schedule—will disappear, and Amendments 46, 53, 57 and 58 have that effect. Amendment 59 is a consequential amendment that removes the reference to Clause 6 from Clause 7. Although it is clear that Clauses 5 and 6 are not required to implement necessary changes, the same is not true for Schedule 3, which deals with constitutional arrangements, so I cannot agree to the amendment moved by the noble Lord, Lord Judd.

It would not be appropriate for me to pre-empt or predict the announcement that we shall make after the May elections. However, purely by way of illustration, the House will see a number of the suggestions which national parks authorities have already made. The proposals are—dare I say it?—largely in the public domain, having featured in various board papers produced by the authorities, and elsewhere. They include, for example, the power to remove the requirement for the Secretary of State formally to appoint the members whom parish councils choose and the power to allow non-councillors to be eligible for the parish seats, or to limit the maximum time that all members may serve on a national parks authority. Any of those points, if accepted, could be delivered through Clause 3.

I appreciate that noble Lords might feel that there are other ways of dealing with these things but we think it would actually be easier and better, under the powers in the Bill, to deal with those matters in that way. I therefore hope that your Lordships will agree that it is premature to consider removing Schedule 3 at this stage and that it should continue to stand as part of the Bill. There is no sinister motive behind that; all we are proposing is a power to amend constitutions and all the usual checks and balances are available in the Bill. We want to look at what comes out of that consultation. I have given some hint of that in what has appeared in the public domain but the noble Lord, Lord Judd, will probably know even more—the noble Lord smiles—about what might come from it. I hope that he will accept that this should continue to be part of the Bill.

As I said, we are perfectly happy to remove the national parks and Broads authorities from Schedules 5 and 6, which is why we have tabled our amendments. However, it is quite right that they should remain part of Schedule 3 on the power to modify constitutions. With those assurances, I hope that the noble Lord, Lord Judd, will feel able to withdraw his amendment.

Lord Judd: My Lords, first, I thank the noble Lord for his response and for its friendly tones, which I appreciate and which have characterised the Government's approach to discussions on the future of the national parks. I want everybody to recognise that we know that and appreciate it greatly. We are all getting titbits of indications about what might be in the review and what its outcome might be. The noble Lord has given us a few sweeteners and I have certainly heard some reports and seen some assessments of what that exercise might have indicated, but in the assessments I have seen there is no indication whatever of any great demand for radical change—none at all. There are some very constructive observations but there seems to be no argument coming out for a radical change of arrangements.

I am sure that the Minister, who is a reasonable man, will agree that it is not really satisfactory to be considering giving those undefined and extensive powers to which the noble Lord, Lord Marlesford, referred so well before we have seen the outcome of the consultation. If that consultation was necessary, surely we should see its outcome before we decide whether we wanted to give Ministers certain powers to meet that situation. This is untidy and the noble Lord in his heart of hearts probably would agree with me that constitutionally it is not really acceptable. There are also—and my noble friend Lady Quin made the point very well—all sorts of provisions under existing legislation. It just is not clear what is going to be better about putting these new very extensive, open, ill-defined powers into this Bill.

9.45 pm

I want to thank all those who have participated in the debate. Absolutely everyone, without exception, has spoken with the authority of engagement and of years of experience in these matters. I take particular encouragement from the fact that the noble Lord, Lord Marlesford, spoke; he and I came into the House together 20 years ago. We have watched each other and been friends across the divide and on probably far more issues than not, I am sorry to say, we do not see eye to eye. However, on this issue—the importance of the parks and their qualitative dimension to society and the areas of outstanding natural beauty—we have always seen eye to eye and it was therefore good to hear him. I want to thank everyone, from the Cross Benches, the Liberal Party and my own Front Bench who have contributed.

I am in touch with a very wide cross-section of people who care about these issues deeply. I have the privilege of being president of the Friends of the Lake District which represents CPRE in Cumbria. I have the privilege of being a vice-president of the Campaign for National Parks and although that does not make me a trustee or an executive staff member of either

organisation, it keeps me very much in touch with a wide cross-section of the people involved. I know that there will be a lot of good will towards the Government for the steps they have taken on this Bill so far. They will have generated brownie points as indeed will the measures they have taken so far—although there is a lot more still to be covered and a lot more safeguards to be put in as to what they have done on forests as well. That will accentuate the anxiety about why this particular generalised power is not being compromised at all in the Government's approach and why they are being so intransigent on the issue. It is a pity and I hope therefore that before Third Reading they will, even at this 11th hour plus, go away and think whether there is some way that they can come back and meet this point and not spoil the good will they have generated by leaving quite acute anxiety out there concerning this part of the Bill. At this stage I beg leave to withdraw the amendment.

Amendment 31 withdrawn.

Amendment 32

Moved by ***Lord Newton of Braintree***

32: Schedule 3, page 17, line 18, at end insert—

"Civil Justice Council."

Amendment 32 agreed.

Amendments 33 and 34 not moved.

Amendment 34A

Moved by ***Lord Whitty***

34A: Schedule 3, page 17, line 24, leave out "Passengers' Council ("Passenger Focus")."

Lord Whitty: My Lords, my comment this evening is basically: why is Passenger Focus still here in the Bill? As the noble Earl knows, Passenger Focus had the distinction of appearing in three schedules to start with, plus we had a generalised statement from BIS that it wished to bring all consumer bodies together as one body, probably Citizens Advice. Because the consultation on all that has been postponed, we do not yet know whether the Government are still so minded, although I suspect that the noble Earl's department has seen off that proposal for the moment, so we are discussing Passenger Focus as a separate entity. In default of having a sensible rationalisation of consumer bodies, it is important that Passenger Focus remains.

When we removed Passenger Focus from Schedule 5, I received some assurances on the subject from the noble Earl, but this amendment relates to constitutional change in the body. As we have just heard from the noble Lord, Lord Henley, a lot of things could be done under the heading of constitutional change, so I would like some assurance from the noble Earl that the worst fears are unfounded. It was said that Passenger Focus would be reduced to its core role. I expressed concern at the time that that might mean that it would no longer be able to criticise the general conduct of the railway or bus companies, or indeed government policy, and would simply be reduced to a complaints organisation. I think that, on that occasion, the noble Earl said that that would not be the case, but the drastic reduction in its resources—by nearly 40 per cent—suggests that it will have to reduce substantially. If, in order to meet that very much reduced budget, it has to drop some functions, we should be told which functions the Government expect those will be.

If the inclusion of Passenger Focus in this schedule is simply aimed at its governance, I would need reassurance that that would not remove the regional base of its governance and its wide remit to go into the affairs and performance of individual train and bus companies. I hope that I can receive those assurances tonight, in which case we can have a very short debate on this item and welcome the fact that Passenger Focus will be affected by this Bill only to a minimum degree. However, I need those assurances. I beg to move.

Lord Hunt of Kings Heath: My Lords, perhaps I may briefly support my noble friend in saying that I hope that the noble Earl will be able to give the assurance that he requires. The problem with Schedule 3 is that, on the face of it, it gives considerable power to Ministers to alter the constitutional arrangements of bodies and offices. I take that to mean that, if the Government were unhappy with the performance of the board of such an organisation, they could make drastic changes in its governance arrangements by bringing an order before Parliament. The problem is that that power could also be used to remove members of the board who may be causing some disagreeableness to the Government. That is a matter of concern. Clearly, if these public bodies are not able to exercise their functions in a robust and independent way, they are unlikely to do their job effectively. This relates to all the bodies listed but I think that the question that my noble friend has raised about Passenger Focus is a fair one to put to the noble Earl, Lord Attlee. I hope that, specifically in regard to this body, the noble Earl will say on the record from the Dispatch Box that the changes envisaged to governance et cetera will only be minor.

Earl Attlee: My Lords, this amendment would remove Passenger Focus from Schedule 3, preventing our current proposals to change the governance arrangements of the body. The noble Lord, Lord Whitty, asks why the body is still here in the Bill. He also mentioned other bodies, such as Citizens Advice. He will recognise that BIS is developing proposals for reforming the wider consumer landscape, but it is too soon to say how the reform of Passenger Focus will fit with that, as this is too long term.

The noble Lord expanded his point to Citizens Advice and trading standards organisations, if I may put it like that. We would not want to rule that out but the consideration of options is at too early a stage for any commitment to be given. As was made clear in Committee, the appearance of Passenger Focus in the Bill does not reflect the view that passengers' interests are unimportant. We are very clear that passengers are the only reason that we run a public transport system in the first place. In addition, we fully accept the need

[Earl Attlee]
for a powerful passenger advocate, which is reinforced by EU provisions that require us to have a properly independent complaints body to which passengers can turn. Passenger Focus has that role. This was reflected in the public bodies review, which concluded that Passenger Focus should be retained but substantially reformed to focus on the core role of protecting passengers, while reducing costs to taxpayers.

The noble Lord, Lord Hunt of Kings Heath, made the important point—if I might paraphrase him—that this is perhaps an opportunity to weaken the body in certain circumstances. The answer to that is simply no. We want to maintain an effective passenger advocate; that is the best way of ensuring that transport operators are held properly to account. The Government also value having a passenger advocate that has the confidence and expertise to be a critical friend to the Government and is prepared, where appropriate, to hold both the Government and transport operators to account. This is an opportunity to ensure that role is performed in a robust and cost-effective way.

A significant amount of work has already taken place to review the details of Passenger Focus's work for next year within a significantly reduced budget. As part of this process, it is right that we should look at areas such as the size and composition of the Passenger Focus board. The noble Lord, Lord Whitty, asked how we would achieve the reduction in budget. An obvious area for reduction is research. We do not expect research to end altogether, but it is right to be sure that the current range of research is genuinely justifiable. We need to consider whether operators should do more to canvass the views of their customers, rather than expect the Government to pay for research.

As referred to in Committee, Schedule 3 can be used to implement changes to the composition of the Passenger Focus board. Indeed, we understand that Passenger Focus has for some time been considering streamlining the board's operation. Although the details are still to be finalised, it makes sense that a scaling back of its activities should be accompanied by a smaller board that will also result in savings for the taxpayer. I understand that Passenger Focus is looking at reducing the size and cost of its board through a combination of measures, including not filling vacancies and changing the scale and scope of board meetings. The Government are working constructively with Passenger Focus to help it maintain its important functions within the constraints of a reduced budget.

We are also interested in exploring the continued funding of passenger representation in Scotland and Wales, where rail policy is largely a devolved matter. We are in contact with the devolved Administrations about how this may be taken forward. Some of Passenger Focus's other specific Scottish and Welsh passenger activity, such as the current passenger link work, is expected to be restructured in a similar way to that in England.

I hope the noble Lord is persuaded that there are good reasons to have the ability to change the governance arrangements for Passenger Focus and that he will therefore feel able to withdraw his amendment on that basis.

Lord Whitty: My Lords, I am grateful to the noble Earl, although some of his assurances were not quite as unequivocal as I would have liked. It is also clear that, as a result of the pressure on Passenger Focus's budget, the restriction of research and its refocusing, it will not be as powerful a body as the noble Earl suggests. Nevertheless, I am glad he said that the Government remain committed to having a passenger advocate and see it as a very important part of how we conduct and enforce our public transport policy. I am therefore prepared at this stage to accept his assurances and I thank him for them. I beg leave to withdraw the amendment.

Amendment 34A withdrawn.

10 pm

Amendment 34B

Moved by ***Lord Crickhowell***

34B: Schedule 3, page 17, line 24, at end insert—
"Sianel Pedwar Cymru ("S4C")."

Amendment 34B agreed.

Clause 4 : Power to modify funding arrangements

Amendment 35

Moved by ***Lord Taylor of Holbeach***

35: Clause 4, page 2, line 39, leave out "Subject to section 16,"

Amendment 35 agreed.

Amendment 36 not moved.

Schedule 4 : Power to modify funding arrangements: bodies and offices

Amendment 37

Moved by ***Lord Newton of Braintree***

37: Schedule 4, page 17, line 27, at end insert—
"Administrative Justice and Tribunals Council.
Civil Justice Council."

Amendment 37 agreed.

Amendment 38 not moved.

Amendment 39

Moved by ***Lord Whitty***

39: Schedule 4, page 18, line 5, leave out "Office of Communications ("Ofcom")."

Lord Whitty: My Lords, in moving Amendment 39 I wish to speak also to Amendment 54. Essentially, my question to the Minister is the same as it was in the previous debate: namely, why is Ofcom still included? When we started out on this Bill, almost all the

economic regulators were in one schedule or another—Ofgem, Ofwat, the Office of Rail Regulation and, I think, the CAA were all in there. However, only Ofcom remains. When my noble friend Lord Hunt pressed the Government on this earlier, there were references to cost saving and other things, but why does Ofcom appear in Schedules 4 and 5? Instead of a rational approach to the role of economic regulators, we have had departmentally based assessments of their roles, most of which have not yet reached a final decision. Ofgem and Ofwat are being reviewed by their departments but we are not looking in general at the role of economic regulators. We know that some changes are coming along the line to the scope of Ofcom because the Postal Services Bill, which is passing through this House, extends Ofcom's reach by transferring the work of Postcomm into Ofcom. I support that move but a transfer mechanism or a modification does not need to be included in this Bill because a separate piece of primary legislation exists to achieve that.

Expenditure on Ofcom has already been reduced by the department and the reference in the previous stage to a saving of some £400,000 could be achieved administratively. It is also true that advisory committees to Ofcom can be changed without primary or secondary legislation. Indeed, it seems to me that Ofcom, presumably with the connivance of its parent department, has already removed by stealth the Communications Consumer Panel from effective operation without it being entirely clear where those functions for the protection of consumers in the communications business now lie. Therefore, it is unclear why the Government need additional powers to make savings and streamline Ofcom's operation.

As regards Ofcom's inclusion in Schedule 5, we know about the transfer into Ofcom of the Postcomm responsibilities but there is a suspicion that there may be some transfer out of it. Ofcom has responsibility for regulating a whole range of communications industries, many of which are deeply sensitive. I referred just now to its sponsor department but it is sometimes unclear to us who is the sponsor department for Ofcom because, on the media side at least, a significant proportion of Ofcom's activities now appear to be the responsibility of DCMS rather than BIS. I do not regard that as a particularly healthy move. However, either way, it raises a suspicion that some of its media responsibilities, such as media ownership, broadcasting content and the whole structure of regional broadcasting, may be in line for being curtailed or moved back to the department. It would be alarming if a transfer out involved any of those items.

There are also other responsibilities. Just to show that I am not being partisan, I had a substantial and ongoing row with the previous Government about their provisions in the Digital Economy Bill. Those provisions have been handed over to Ofcom to implement, which is finding some difficult in doing that. There may be some irritation in government about that. Therefore, a lot of Ofcom's responsibilities could be transferred out.

I should like an assurance that Ofcom's continued inclusion in Schedule 5 in particular does not mean a reduction in its scope, particularly as regards those responsibilities. Ofcom has, in general, been a pretty good economic regulator in the consumer's interest, as compared with some other bodies. However, it was and is always up against some powerful telecoms, broadcasting and media companies and their lawyers in almost every move that it makes. I therefore hope that the Government are not envisaging that we should reduce Ofcom's responsibilities and are not using its inclusion in Schedule 5 to facilitate that reduction without primary legislation. I beg to move.

Lord Fowler: My Lords, I agree entirely with the noble Lord, Lord Whitty, that Ofcom is an extremely important body, and I hope that the Government accept that because, in the media area, a body such as Ofcom that is independent and seen to be independent and skilful is of the utmost importance. Certainly, as regards Schedule 3, I should like confirmation that it is not necessarily the case that the proposal means there will be a cut in Ofcom's budget, although the budget can be modified either way.

I say that because it is difficult these days to debate Ofcom without discussing the role of the BBC Trust, which was set up by the previous Labour Government. The previous Secretary of State rightly changed his view, decided that the trust was an unnecessary body and that the logical way to run the BBC would be for there to be one chairman, a board and the executive, rather than the current extraordinary position, which is unique in the western world, whereby there is at one level the executive and then, in a separate building, the trust, headed by the noble Lord, Lord Patten of Barnes—I am glad to say. However, the noble Lord is able to call himself the chairman of the BBC only as an honorary title. That is ridiculous. He should actually be the chairman of the BBC, and there should be one unitary authority. That is the logical way, and that is why 99.5 per cent of organisations in this country run themselves in that way.

The position that I reach from that is that the responsibilities that are now with the BBC Trust could easily be transferred to Ofcom. That is their logical place and everyone has argued for that. If that happened, one would find that the Lords Communications Committee—no longer under my chairmanship—would consider this matter further. If that is the position, there would clearly be adjustments to funding arrangements and the rest, as set out here. That does not necessarily mean that the funding would be reduced, but that the funding for Ofcom would have to increase.

I ask my noble friend Lady Rawlings—who, I am glad to see, is refreshing herself with water for her reply—whether she will confirm that that is the case. It would be a grave mistake for the Government to accept the argument put by people who have very vested interests that Ofcom is of no particular value and should be downgraded. Everything that has happened in the media world over the past six months confirms the view that the importance of Ofcom should be underlined. That is what I should like to hear from my noble friend now that she has refreshed herself.

Baroness Jones of Whitchurch: My Lords, I am grateful to my noble friend Lord Whitty for continuing to champion the organisations that stand out as protecting

[Baroness Jones of Whitchurch]
consumer interests, and for the remarkable good sense that he has shown again this evening in defending Ofcom's independence.

During the passage of the Bill there have been several attempts by Ministers to make reassuring noises about the importance of Ofcom and its central role in the future of media regulation. This may well be the case, but I share my noble friend's concern that the thrust of these changes, far from giving Ofcom greater responsibility, will limit its power to intervene in crucial issues such as media ownership and changes to public broadcasting. Power appears now to be increasingly centralised in the hands of the Secretary of State.

As is the case with many other organisations for which changes are sought in the Bill, one is left to wonder about the cost savings that might occur if the Minister's department is serious about taking on those functions. I concur with the questions of the noble Lord, Lord Fowler, about the proposed savings expected from Ofcom in this context. The Government have trumpeted the increased transparency that will occur, but it remains unclear how we will be able to scrutinise the major decisions that will be taken in the department on issues such as media control. When it comes to transparency, give me Ofcom any day.

My noble friend repeatedly emphasised, in previous debates and today, the special status of the economic regulators and the need to protect their independent function. Again, the Government took steps in the past to reassure the House on this matter. However, like other noble Lords today, I am left wondering why they felt that it was necessary to put the remaining changes to Ofcom in the Bill, and whether this still represents a shift in power and authority away from independent economic regulators and back to the centre. If this is the case, it is a backward step both for the consumer and for the wider public, as well as being a cause for celebration for would-be media barons. I remain unconvinced of the need to change Ofcom's role through the formal mechanism of the Bill, and very much look forward to hearing the Minister's justification of why it is necessary.

Baroness Rawlings: My Lords, I thank the noble Lord, Lord Whitty, for tabling these amendments and for giving the Government the opportunity to state clearly to your Lordships' House how they intend to use the powers in Clauses 4 and 5 to reform Ofcom. The noble Lord asked why Ofcom is included in Schedules 4 and 5 to the Bill. This is so that we can bring forward several small changes to some of its duties that will make certain that it will be able to fulfil its statutory duties as efficiently and effectively as possible.

The communications landscape has changed significantly over the past decade, since Ofcom was established by the Office of Communications Act 2002. It is sensible and timely that we now use this opportunity to make some changes. At a time when the public sector must become more efficient, it is right to amend or remove some of Ofcom's duties, which will result in a small reduction in its cost to the public purse. I confirm that Ofcom is comfortable with the proposed changes to its duties. In answer to the concerns raised by the noble Lord, Lord Hunt, in our last debate on these amendments, I can reassure him that the overarching responsibilities of Ofcom will not change, and that its independence will remain a fundamental principle of regulating the communications sector.

I note, too, that the noble Lord is concerned that the Government may look to introducing additional changes in years to come using the Public Bodies Bill. I can reassure him that we have no plans to make any additional changes to Ofcom's duties other than the nine small changes that we propose to bring forward by order after the Public Bodies Bill receives Royal Assent.

10.15 pm

Once those changes are complete, the Government will use powers set out in Amendment 60 to remove Ofcom from Schedules 4 and 5, thereby repealing the power of Ministers to make changes to Ofcom via secondary legislation. I can tell the noble Lord, Lord Whitty, that that makes certain that Ofcom will not be subject to the powers in the Bill in perpetuity. Like all bodies named in the Bill, Ofcom is included for a specific purpose. Once that purpose has been met, it will be removed from the relevant schedules.

Amendment 39 would prevent the Government making the proposed change to Ofcom's financial arrangements. Currently, satellite filings are paid from Ofcom's grant-in-aid to manage the radio spectrum in the UK. Allowing this change would bring the UK into line with many other countries which charge for this work and save taxpayers in the region of £400,000 per annum. That is not a huge sum, but it is a saving that can and will be delivered. I can answer my noble friend Lord Fowler, after my water refreshment, that Ofcom's inclusion in Schedule 4 is for this purpose and not about funding levels.

Amendment 54 would prevent changes being made to Ofcom's governance arrangements which are part of our commitment to deregulation. Our proposed changes will cut duplication, reduce the need to undertake unnecessary reviews, and allow Ofcom to make cost savings. They include the removal of the requirement for Ofcom to undertake reviews of media ownership and public service broadcasting arrangements every three and five years respectively. Instead they will be done at the request of the Secretary of State. That is more efficient and will ensure that the review process is dictated by a need, not an inflexible statutory timetable.

Another proposed change will remove Ofcom's duty to promote development opportunities for training and equality of opportunity. That should not be mistaken for the Government turning their back on the issue of diversity. It would simply bring Ofcom into line with regulators of other industries who do not generally have such requirements. This decision was made on the basis that the media sector is fortunate to have Skillset already to promote training issues. The removal of this duty on Ofcom will allow Skillset to continue to develop its work in this field. In light of those details and the assurances about the limits of the Government's plan for the reform of Ofcom, I hope that the noble Lord will feel able to withdraw his amendment.

Lord Whitty: My Lords, I thank the Minister for those assurances as they have taken us a little further than previously. I also thank the noble Lord, Lord Fowler, and my noble friend Lady Jones for their contributions.

I understand from the Minister that there are nine changes. I may not approve of all of them but she is probably right to say that they are relatively small changes. One which she cited was about having no regular reviews unless the Secretary of State says so. I would probably not approve on the specifics, but nevertheless I accept that they are relatively minor changes in the overall picture. The power that will come in with Amendment 60 will mean that Ofcom will be removed from the schedules, so it is an early sunset clause. In the light of that, and as we have received greater assurances than previously, I shall not press my amendment tonight.

Although the noble Lord, Lord Fowler, made some good points to start with—and I do not entirely disagree with him about the structure of the BBC—including this regulator in the list for some future secondary legislation is the not way to change the governing structure of the BBC. I am very glad that that is not one of the consequences of allowing this to stand. In the light of the noble Baroness's tight assurances—more than we have had for several other bodies—I beg leave to withdraw the amendment.

Amendment 39 withdrawn.

Amendment 40

Moved by ***Lord Roberts of Llandudno***

40: Schedule 4, page 18, line 6, leave out "Sianel Pedwar Cymru ("S4C")."

Lord Roberts of Llandudno: I thank very much those who have taken part in our debates over a number of days. We have at least impressed on the Chamber the value of the Welsh language and how much it has been a part of our culture and our very personality. I feel that S4C is stronger after our debates.

Noble Lords: Hear, hear.

Lord Roberts of Llandudno: I am glad that those on the Front Bench agree. I would say that jaw, jaw is better than war, war. The discussions that we have had over many hours have resulted in concessions. I asked for eight assurances. I received seven. With that result from our discussions, I can claim a Liberal Democrat victory in this Bill; and I will.

We still have Third Reading, so if things seem to be getting a little difficult, we can always bring it back then. For today, I beg leave to withdraw my amendment.

Amendment 40 withdrawn.

Amendment 41 not moved.

Clause 5: Power to modify or transfer functions

Amendment 42

Moved by ***Lord Taylor of Holbeach***

42: Clause 5, page 3, line 2, leave out "Subject to section 16,"

Amendment 42 agreed.

Amendment 43 not moved.

Schedule 5: Power to modify or transfer functions: bodies and offices

Amendment 44

Moved by ***Lord McNally***

44: Schedule 5, page 18, line 8, at end insert—
"Advisory Council on Public Records."

Lord McNally: My Lords, the three amendments in this group are in the name of my noble friend Lord Taylor of Holbeach. The reason that I am moving them is twofold. First, I am the Minister responsible for the National Archives; secondly, I am badly in need of a victory today.

The amendments moving the Advisory Council on Public Records, the Public Record Office and the Keeper of the Public Records to Schedule 5 constitutes a straightforward and, I hope, uncontroversial legal tidying-up exercise—although I worry that the noble Lord, Lord Warner, is still in his place. They have been agreed with and led by the current chief executive of the National Archives, who is also the Keeper of the Public Records. I reassure noble Lords that no functions currently performed by the National Archives or any of its component parts will be negatively affected. There is no impact on staff and no financial implications.

The rationale for the reforms is to place the National Archives, its chief executive and its advisory bodies on a statutory footing, enabling the Government legally to complete the changes that began with its establishment as an administrative entity in 2003. That involves transferring the statutory duties of some of the National Archives' component parts using Schedule 5, which grants powers to modify or transfer functions to reflect existing administrative arrangements. For example, the role of the Advisory Council on Public Records is to advise the Lord Chancellor on matters concerning public records and archives. Following the merger of the Public Record Office and the Historical Manuscripts Commission in 2003, their respective Advisory Councils on Public Records and Historical Manuscripts also came together to form the Advisory Council on National Records and Archives.

The separate legal functions of the Advisory Councils on Public Records and Archives have for the past seven years been administered by the Advisory Council on National Records and Archives. The chairman of the Advisory Council on Public Records, the Master of the Rolls, assumed the chairmanship of the new body upon its creation and continues to do so.

[LORD MCNALLY]

The council will therefore be included in Schedule 5 to enable it to be renamed the Advisory Council on National Records and Archives, assuming the functions of the existing, non-statutory, Advisory Council on National Records and Archives and the Advisory Council on Historical Manuscripts. This change will therefore formalise the current arrangements to form a single body, providing greater clarity and efficiency, with one body doing the work of three.

In the case of the Keeper of Public Records, the Lord Chancellor appoints the keeper to take charge, care for and preserve public records under his direction. The chief executive of the National Archives holds the statutory office of keeper, as well as the office of Historical Manuscripts Commissioner. By moving the keeper to Schedule 5 to the Bill, the Government will be able to consolidate these roles—and those of the Queen's Printer of Acts of Parliament and Controller of Her Majesty's Stationery Office—into one statutory office, the Keeper of the National Archives. This reform will clarify lines of accountability for the National Archives' various functions by putting in statute the responsibilities of a new keeper. The changes will not affect the way that functions are carried out, and there are no financial implications. It is important to emphasise again that these reforms have been agreed with, and led by, the current Keeper of Public Records.

The Public Record Office was created by the Public Record Office Act 1838 as the national archive for public records. In 2003, the Public Record Office merged with the Historical Manuscripts Commission to form an administrative entity, the National Archives. In 2006, the Office of Public Sector Information and HM Stationery Office were also merged with the National Archives. All four bodies continue to exercise their legal functions, but within a single administrative body—the National Archives—under a single chief executive. The Public Record Office is therefore a statutory component of the National Archives.

The Government are committed to preserving the legal functions performed by the Public Record Office, and it will therefore be moved to Schedule 5, allowing the National Archives to absorb its functions and those carried out by other, non-statutory component parts of the organisation. Clause 7(3) will permit any necessary changes to the Public Record Office's constitutional arrangements, in particular its renaming as the National Archives, and the expansion of its funding to cover its new functions. This will put the organisation on a clear legal footing, provide clarity to the public and finalise the merger process begun under the previous Administration.

These amendments will enable the Government to place the National Archives, its chief executive and one of its advisory councils on a much clearer statutory basis, strengthening—not weakening—the ability of these bodies to perform functions which the Government believe to be of immense cultural value. I hope, on that basis, that noble Lords will feel able to support these amendments.

Amendment 44 agreed.

Amendments 45 to 47

Moved by ***Lord Taylor of Holbeach***

45: Schedule 5, page 18, line 8, at end insert—

"Administrative Justice and Tribunals Council."

46: Schedule 5, page 18, line 11, leave out "Broads Authority."

47: Schedule 5, page 18, line 11, at end insert—

"Civil Justice Council."

Amendments 45 to 47 agreed.

Amendment 48 not moved.

Amendment 49

Moved by ***Baroness Thornton***

49: Schedule 5, page 18, line 15, leave out "Human Fertilisation and Embryology Authority."

Baroness Thornton: My Lords, we turn to Amendments 49 and 50 and the subject of the HFEA and the HTA somewhat late in the evening again. We have now had time to reflect on what the Minister said on 9 March, to read the letter to my noble friend Lord Warner, which the noble Lord thoughtfully copied to me and others, and to compare the two. In reading the debate on 9 March, I realised it had centred on the issues that arise out of the siting of the HFEA rather than on the proposals for the HTA, so I shall start by raising a few issues that are particularly pertinent to the HTA.

Since the previous debate, the Government have announced that the HTA has been appointed as the competent authority to regulate the quality and safety of organs under the EU organ donation directive. The HTA is now the competent authority for two EU directives. I would be grateful if the Minister will explain where this competence will sit under the various options he outlined in his letter to my noble friend Lord Warner. In addition, the HTA's responsibilities with respect to EU legislation extend across the UK, but the Care Quality Commission's remit extends to England only. The Minister can see where I am leading with this question because of the statutory implications that such a move might involve. For example, have the Government consulted the Welsh Administration about this matter or would they divide the legislation or extend the geographical remit of the CQC? Indeed, what if the Welsh said no to such matters regulated by the CQC?

We also need to look at the context in which these changes are being proposed. There are loopholes between coroners legislation, the Human Tissue Act and the Police and Criminal Justice Act which the HTA is addressing at the moment. I think it is right to be concerned with the Government's continued determination to abandon the idea of establishing a chief coroner's officer, the abolition of the National Policing Improvement Agency combined with proposals to break up the HTA's functions. Added to the squeeze on resources in the central government's resource, one should ask

what guarantees will continue to be there and where they will be concerning human tissue not being retained without consent.

When the Minister answered this debate on 9 March, he took the trouble to explain in some detail the Government's thinking about the future of the HFEA and the HTA and spoke about the possible creation of a new health research agency, which I think largely met with a great deal of approval across the House, and I shall return to that matter in a moment. His letter to my noble friend explores the various options that the Government might take with the powers that the Bill will grant them. I know my noble friend Lord Warner will want to explore the contents of that letter, so I shall limit myself to two issues that are still outstanding and need to be addressed before Parliament grants such powers with regard to these two bodies.

The first is the nature of the pick-and-mix proposals for the future of the HFEA and HTA, which the Minister suggested in his reply to the House on 9 March and in his letter to my noble friend, because I do not think it is acceptable to ask for powers fundamentally to change these organisations and not to know at this stage how those changes might be achieved and what they will do. The Minister spoke about this being a road of travel. Roads of travel are fine when one is developing policy but they are more difficult when one is putting into legislation things which will have a direct effect—in this case, on these two organisations.

Secondly, I return to public confidence, which I raised in Committee. I have read the Minister's reply on the importance of keeping public confidence in the functions of the HFEA and the HTA. It centres around the fact that he is keen to assure the House that the legislation, and the ethics that underpin that legislation creating the HFEA and HTA would not be fundamentally changed. But I am puzzled: I do not see how, as regards the options outlined by the Minister—the orders that would need to be consulted on—he would intend to stop those ethical issues that lie at the heart of that legislation being discussed at length because of the public confidence that resides in them. When change is being proposed, that reassurance and the assurance that the new arrangements will do their job is obviously very important. Option papers do not usually provide the necessary assurance about people's jobs or functions and, in this case, about where the ethical issues that underpin that legislation would lie.

I feel that the Government have the opportunity to move forward with the creation of a new science body, and the future of the HFEA and the HTA, with a great deal of agreement across the House and with a great deal of good will to make that happen. I do not think that this Bill is the place to start that, which probably is the heart of the problem.

Lord Willis of Knaresborough: Before the noble Baroness leaves the issue of ethics, if the agency model is developed, which would have a separate ethics committee that I think most of us would accept, does she agree that it is not just simply the ethics of research that is important, it is also the ethnical decisions about developing clinical practice? The need for those to be kept together within the new agency is of paramount importance in order that there is public confidence. Without the setting up of the agency, there will be a huge gap that needs to be filled.

Baroness Thornton: The noble Lord, Lord Willis, makes the point extremely well and much more eloquently than I was able to. It underlines the point that I have been trying to make. Taking the powers to break up the HFEA and the HTA, as it were, is not the way to start that process. The noble Lord makes exactly the right point. The Minister should recognise that there is a great deal of good will to make this happen across the House but not starting here. I beg to move.

Baroness Warwick of Undercliffe: My Lords, I declare my interest as chair of the Human Tissue Authority. I and my authority remain concerned about the impact of the Bill on public and professional confidence in the safe and ethical use of human tissue, as has already been raised by my noble friend. My first question to the Minister is to seek reassurance that the HTA's functions will not be divided. A division of our functions into three or possibly four different parcels would, in my view, risk undermining the legislation that the HTA was set up to implement, increase the regulatory burden on the sectors we regulate and damage public confidence that has been so hard won.

We must not forget that the HTA was established as a result of scandals at Alder Hey and Bristol Royal Infirmary. Those events caused profound grief among affected families, outrage amongst the public and a crisis of confidence. Those events are still recent. The Human Tissue Act, which set up the HTA and was subject to more than 100 of hours of parliamentary scrutiny, was passed in 2004. The HTA began regulating as recently as 2006. In a relatively short period, it has successfully turned around that crisis of confidence. When people know there is effective regulation, they are more confident in donating their tissue for medical research, their organs for transplant and their bodies for medical education and training. Increased public confidence should mean more donation; more donation should increase professional confidence, thereby creating a virtuous circle beneficial for all. More lives are saved; more people are given back their quality of life; and there is more research and surgical skills training for the benefit of the public.

The Government's arm's-length bodies review sets out proposals for transferring the HTA's functions across three or four different organisations. I fear that separating the HTA's functions would risk undermining the progress that has been made in building public and professional confidence. Leading thinkers have voiced profound concerns about dismantling the HTA. Senior legal academics have said in the *Sunday Times*:

"The proposals to abolish the Human Tissue Authority—HTA and the divisions of its functions among larger, non-specialist regulators—risk confusion and error in the implementation of the Human Tissue Act 2004, which in turn will erode public confidence".

In addition, earlier this month, senior consultant surgeons writing in the *Guardian* said that moves to break up the HTA would,

"undermine professional and public confidence in the area of medical consent",

[Baroness Warwick of Undercliffe]
and urged,

"the government to think again and stop trying to operate on things that aren't broken".

I hope that the Minister will listen to these voices.

The Minister has said that the HTA's health-related functions should transfer to the Care Quality Commission. I am still not clear about the fate of the HTA's organ donation and research functions. The ALB review does not suggest a home for its organ donation approvals and suggests that its research functions should transfer to a single research regulator.

With regard to organs, the Human Tissue Act requires board approval of highly sensitive and ethically complex cases of organ donation from living people. If this were to be placed with the CQC, how would the Minister meet the statutory requirement that at least three authority board members who are specifically trained in this area review such cases?

With regard to research, the new regulator for health research will provide a potentially helpful way forward for streamlining medical research in the UK, simplifying life for researchers and increasing the quantity and quality of research. The Minister stated at Second Reading that the purpose of this Bill was to streamline the process of regulation and to reduce costs and bureaucracy. I do not see how the proposal to transfer the HTA's research functions to this new regulator would achieve simplification; nor do I believe the proposals would save money. The sectors that the HTA regulates are interrelated and interdependent, and although it regulates a separate research sector, the licensing framework also allows establishments in the post-mortem, patient treatment and anatomy sectors to store tissue for research as well as for other purposes.

I take the post-mortem sector as an example. The proposal would result in at least one-third of post-mortem establishments needing to be licensed by an additional regulator if they wished to store material for research. A similar proportion of establishments storing tissue for patient treatment would also need to be licensed by an additional regulator. The regulatory burden on an estimated 200 establishments would therefore increase, not decrease. So can the Minister explain what impact this proposal will have on the regulatory burden on these establishments? Can he explain who would be responsible for producing the statutory code of practice on consent and who would be responsible for ensuring consistently high standards if the HTA's functions were divided?

My noble friend Lady Thornton raised concerns about the ethical dimensions of the work being lost in the rush to amend the mechanical processes. I share these concerns. This is a complex ethical landscape. The HTA has the professional expertise to respond to emerging forms of communication such as Facebook and Twitter. These are now being used as conduits for patients looking for organ donors. We are launching consultation on this very issue in May, and this is a good example of how agile and sensitive the authority can be. Can the Minister assure me that the credibility that lay and professional board members bring to the HTA will not be lost in the Care Quality Commission, when the CQC has only a small number of commissioners? An advisory group has been mentioned. If that model is proposed, can the Minister say what guarantee there will be of its independence?

I apologise for raising so many issues at this late hour but there are many issues still to be resolved. In summing up, I say only that the reason the HTA was established has not gone away and there is still work to be done. My argument is not against the Government's intention to simplify the regulatory landscape; rather, I want to avoid putting at risk the substantial gains that the HTA has made by splitting its functions across a number of different organisations and losing the overall coherent approach which has been so successful in supporting public and professional confidence and ensuring that tissues and organs are used safely and ethically and with proper consent.

I have one final plea. David Thewlis and Stuart Taylor, both parents affected by the events at Alder Hey, brought it all home to me recently when they said:

"All the effort and soul searching that went into the establishing of the Human Tissue Authority cannot afford to be overthrown by abolishing the HTA and splitting its functions".

I urge noble Lords to take this on board when deliberating the future of the HTA.

Lord Willis of Knaresborough: My Lords, I apologise to the noble Baroness, Lady Thornton, for missing her opening remarks in introducing the amendment.

The fact that so many noble Lords wish to speak to the amendment at this hour indicates that this is an issue of significance to your Lordships' House. In Committee, my noble and learned friend Lord Mackay ended his remarks by saying that he had helped to give birth to the baby that was the Human Fertilisation and Embryology Authority but that perhaps it was now time to let the child move out, or words to that effect. Before a child moves out into the world, it is important that a responsible parent—and I think that the House should regard itself as a responsible parent—knows that it is safe to do so. However, the reality is that during the passage of the Bill, and in particular during the Committee stage and in the clarification given since then, many questions asked on behalf of the HFEA and the HTA, as the noble Baroness has just indicated, have not been answered. That is regrettable. I think that the House accepts that what the Government are trying to do has a great deal of merit; it is just that it requires organisations to be properly set up before the functions are transferred.

As I have said on two previous occasions, I am not against what the Government are ultimately trying to do. However, before we get rid of two organisations in which the public have great confidence and whose operation is tried and tested, we should be absolutely clear about what will happen to their functions. Although the Minister has made tremendous attempts to satisfy inquiries from noble Lords on all sides of the House, I think that his letter of 22 March to the noble Lord, Lord Warner, raises more issues than it resolves. I am sure that the noble Lord will go through that letter in great detail and therefore I do not intend to do so. However, some of the comments in it indicate that two organisations appear to be in the running to inherit

most of the functions of the Human Tissue Authority and the Human Fertilisation and Embryology Authority —the Medical Research Agency and the Care Quality Commission. I was delighted that the Chancellor made it clear in his Statement last week that the Medical Research Agency is going to be set up but, as many noble Lords have said, that announcement was made literally only a week ago. We know nothing about the way in which the organisation will work, other than the report of the Academy of Medical Sciences suggesting that an agency overlooking the whole of medical research would be a good thing.

As for the Care Quality Commission, it is itself an organisation in its infancy and learning how to do its business. Indeed, there are significant complaints about the Care Quality Commission. That is not an overarching criticism. It is inevitable that when a new organisation sets itself up, particularly one that inherited so many problems from its predecessors, there will be difficulties, yet here we are, saying that we will lump another major piece of work with it.

In Committee, the Minister made it clear that the existing personnel would be transferred en bloc into the new organisations, yet in the letter to the noble Lord, Lord Warner, there is no mention of key personnel being transferred into the Care Quality Commission. I understand that staff are seeking posts elsewhere. They will move out of the organisation. If we are not careful, there will be nothing to transfer and we will be looking for new personnel in these key posts. Will the Minister clarify that issue?

The new Medical Research Agency will not be set up until the latter part of this Parliament at the earliest. The Minister floated the idea that some of its functions could be transferred early using the Public Bodies Act—regulation and inspection of clinical services could go to the Care Quality Commission, for example. There is a further suggestion that all but the research functions of both the HTA and the HFEA could be transferred under the Public Bodies Act, as it will then be, with the final process completed following the setting up of the Medical Research Agency. Such hypothetical and confusing scenarios to break up two well-respected and well-worked regulators will do little for public confidence in either of these two areas. It will do little for clinician confidence and will certainly do nothing for research community confidence either. It is important that the agency is set up, properly staffed and has clear terms of reference agreed with both Houses of Parliament before we transfer these key functions to it.

One function that has been set out by the Academy of Medical Sciences, which is a clear pathway, is an ethical structure. We argued when we were looking at the draft Bill and your Lordships in this House argued during the passage of the Human Fertilisation and Embryology Act that we ought to have some form of parliamentary ethics committee. At least the Academy of Medical Sciences has said that there ought to be an overarching ethics committee to look at both areas. But if clinical ethics are not dealt with by that organisation, who will deal with them? Where within the Care Quality Commission are the sort of important ethical considerations that are necessary if we are to transfer all these functions to that body?

I can see the attraction of a method of transfer of functions to avoid primary legislation. I understand why the Minister would want to go down that road, particularly given the enormously strong public scrutiny over legislation concerning the Human Tissue Authority and embryology and stem cells over the past five years, but the idea that if the scrutiny is only in both Houses of Parliament it will be less severe does not hold up. There are 200 new MPs in the other place who were not party to any of this legislation when it went through. It is highly optimistic to believe that there will not be very detailed scrutiny of any new arrangements. I suggest to the Minister in all humility that he accepts the amendment before us tonight or makes some provision to satisfy our concerns. He should seek a comprehensive solution to the problem that the Government have created for themselves. I for one—and, I suspect, many of your Lordships—would agree that there is a way forward from this. The Medical Research Agency is a good idea. There is a possibility of transferring some of the functions to the Care Quality Commission, but it needs to be done en bloc, rather than piecemeal, so that there is a danger of undermining two excellent regulators, which have public confidence, the confidence of most clinicians and the confidence of the research community.

Baroness Deech: My Lords, I declare an interest as a former chair of the HFEA. My name is on this amendment, and I support every word of what previous speakers have said. Those who oppose this amendment consist largely of those who are impatient about the shackles that regulation imposes and wish to be free of them. They will not be if this government scheme goes ahead. As researchers and clinicians, they will have to deal with at least two departments or bodies in place of one, which can be guaranteed to be no quicker or cheaper.

Criticisms have been made of the style or overlap of inspections, but that is not the point. Those faults can be remedied. Inspection can be delegated or contracted out. What is at issue is the continued existence and symbolism of one integrated body—the HFEA and the HTA—representing lay and clinical interests, accountable to patients through consultations and to Parliament, speaking with one voice to government and to the world. The HFEA may be alone among the many bodies listed in this Bill that has an international significance and symbolism. Google it, and you will see twice as many thousands of references internationally as in the UK. It has achieved a presence in the world that has helped to give UK science a good reputation and has enabled this country to be the first legally to embrace embryo research for stem cells and as the object of study around the world. Other advanced countries have national ethics committees, such as the United States and France, or HFEA-type regulators, such as Canada, California and parts of Australia. They will be aghast that where the UK led the way it is now abandoning its respected structure.

Now we have to look at the unanswered questions—indeed, there are more unanswered questions at this stage of the Bill relating to these two bodies than there were a few months ago. Noble Lords have referred to them. There is a failure of governance in the plans put forward in the Bill. Plans is too positive a word for an

[Baroness Deech]
outline of future options which may or may not involve primary legislation and may or may not be predicated on the establishment of an unknown new body—a general medical research regulator—about which we know next to nothing. The notion of an all-purpose regulatory body for medical research is a possibility mentioned in a letter kindly sent by the Minister to those interested in this amendment and available in the Library. However, there is no information in that letter as to when and whether it will be created and how much will be in its scope. There are no powers in this Bill to set it up; it will have to be provided for in separate primary legislation when time allows. But the new body is a linchpin of the planned dismembering of the HFEA and the shifting of embryo research away from it. How much confidence can UK and overseas researchers who may come here have in our system, while years may go by before it is reconsidered? It will be like the familiar experience of being forced into a single lane on the motorway with a coned-off section indicating improvements but with absolutely nobody working inside the coned-off section and no end in sight. If this amendment is not passed, the attractiveness of the UK research environment may plummet immediately. Just as staff may drift away, so will researchers.

As others have said, the future division of functions has not yet been settled, but we know that there is already a risk that the CQC will be overburdened. If there is an overlap between the CQC and the HFEA in licensing, the CQC should be relieved by dropping HFEA-type inspections. In the mean time, the welfare of patients and children will be at risk. It is not clear what functions will go to the CQC and we do not know where the all important database will go. In a few years' time, children will be entitled to ask how about their parentage. Who will safeguard the answers? Who will enable researchers to carry out anonymised research from that database? The future governance and organisation of IVF and related matters has been cast into even greater doubt than before in this latest attempt to sort out the detail, which goes to show what a bad idea it was to unpick the HFEA in the first place.

11 pm

If the Government will accept this amendment, however, the criteria that should inform the establishment and general shape of regulation will be met. That is: we must keep independence in this sensitive, ethical area. It must be free from government. As a freestanding organisation, the HFEA is much more accountable and transparent than the new proposals for structure would be. It has a global name, which has done this country nothing but good, and provides a one-stop fount for those who wish to know about IVF and research here or who seek guidance as patients. It commands public confidence. There can be no argument about saving costs and preserving efficiency except by leaving it alone.

To fail to accept this amendment means a loss of respect and trust in the UK IVF world, a failure to keep these issues at arm's length from government, more control over funding when it is taken up by the Government and, possibly, an end to hopes of parity of infertility treatment in the NHS. The Government have not settled these concerns. Other countries have copied us. Why would the proposed submerging improve regulation? Why put integration and efficiency at risk? Why is there a need for a structural change at all? We have not been told, but these questions must be answered before Third Reading or we will have to continue to put them. We need the outcome of the promised consultations.

Finally, in summary, the concern is that the starting point for changing these two bodies, the HFEA and the HTA, has been tackled upside down. If it is considered that there is a need for a different HFEA, the starting point should be to look at what, if anything, is wrong with it and what is the best way to overcome those problems rather than starting with a decision to abolish and split up its functions that has been reached not by an analysis of the HFEA but, quite simply, to meet a political target to reduce arm's-length bodies. We should not tie ourselves to an outcome before we undertake a review.

I believe that the fear of many professional bodies and patient groups is that by disassembling the HFEA, we could end up with something much worse. It would seem prudent to do the review and the consultations before we determine the outcome. There is no hurry; one can wait until the new, all-purpose medical regulatory authority is established, and then decide what to do. If not, there is great risk so I hope that the Government will accept this amendment and believe that they would be greatly relieved if they did.

Lord Warner: My Lords, I support this amendment. I am conscious that I must guard against triumphalism after the Youth Justice Board amendment earlier, but I raise that because there are some similarities, in that the Government could walk into the same situation. With the Youth Justice Board, we had a situation where a body was functioning perfectly well and the Government tried to change it before they knew or could explain what to put in its place to safeguard the development of youth justice and the future delivery of services. The Government are in danger of falling into exactly the same position with the HFEA and the HTA: two bodies functioning perfectly well, which have international reputations and which, certainly in the HTA's case, are of relatively recent origin in their passage through Parliament. It is far from clear what the Government will do for a new set of arrangements that go wider than those two bodies and embrace a new agency of health research.

I am grateful to the Minister for his letter of 22 March about the Government's ideas for taking forward the transfer of functions of the HFEA and the HTA using this Bill's powers. However, I am not at all sure that I am much clearer about how things will work out in practice because the Government seem to be saying in that letter that they have a lot of options for changing things but seem rather uncertain about which option to pursue. On the Minister's own admission the Government cannot say at this stage what approach they prefer to take on transferring functions. That is a fairly big lacuna in the Government's thinking. If they cannot say how they want to change these functions with some degree of clarity and when this new agency

will be set up, it is asking quite a lot of Parliament to take it on trust that we should plonk a couple of organisations of some standing and good functioning in Schedule 5 of the Bill and hope it all will all turn out okay eventually. That seems to be the situation—with the greatest respect to the Minister—that we are placed in at this moment.

Part of the problem, it seems to me, is that the Government are very unclear on when they will actually set up the new research agency. The proposed agency commands a huge amount of support across this House and indeed in the world outside. Many of us have long wanted to see that kind of comprehensive, coherent health research agency in place, but it is not an easy job to do. It will be quite a complicated business setting that up. I do not know, and I am not sure that the Government know, when they will have this body up and working and where they will get the funding from. They will need to carry on running existing agencies at a time of some degree of financial restraint and set up a new body to take over those functions in an orderly way. In my time in the public sector I have rarely seen changes of that kind implemented without some extra costs. I have read the Chancellor's statement, in which we all live happily ever after on this particular issue. I would really like to know from the Minister whether the Department of Health has actually got the funding. Has it got a game plan for implementing this agency? When will it come on stream? We need to know that to make any sensible judgments about the transferring of functions.

The noble Lord, Lord Willis, has drawn attention to the complications around licensing in relation to clinical research and clinical practice in these areas. These are complex issues. If we do not know in detail when the agency will be operational and what functions it will have transferred to it, it seems a great leap of faith to put these two bodies in Schedule 5 with a strong commitment from the Government that they are going to act on Schedule 5 and make changes in the functioning of these bodies but without knowing precisely what those changes will actually mean.

I found the penultimate paragraph of the Minister's letter to me of 22 March particularly puzzling. He claims that the mechanism in this Bill reduces the risk of opening up the whole HFEA primary legislation for debate. Like other noble Lords, I view that with deep, deep scepticism. The idea that we can open up a debate about the functions of the HFEA being transferred from it to another body without opening up many of the public concerns around that body and similarly with the HTA seems to me, if I may put it as brutally as this, extremely naive. It is not going to happen. Once you start tinkering with these two bodies of great sensitivity, as I am well aware of from taking the HTA legislation through this House, you are actually opening Pandora's box. You cannot be sure what the outcome will be in terms of public concerns.

I think that we have to go a long way further down the track in understanding the Government's thinking and how this will all work with the establishment of the new health research agency. I do not believe that it is either smart politically or sensible managerially to be heading off in this direction without knowing where the finishing post is.

Lord Harries of Pentregarth: My Lords, I have three brief questions for the Minister, which concern the HFEA database, research and the role of the Care Quality Commission.

First, under one of the options under consideration, the extensive and complex HFEA database will be managed by the NHS body that is at present charged with collecting and analysing all health data. There seems to be some confusion among your Lordships about the exact name of this body; it seems to be complex and changing, but I think that the Minister knows what I am referring to. As he also knows, the remit of that body covers only England, whereas the HFEA is responsible for collecting and analysing data for the whole of the United Kingdom. Furthermore, that body does not collect data from private clinics, whereas the HFEA is responsible for collecting data about IVF and its associated techniques from both NHS and private clinics, of which there are, of course, a good many. Can the Minister explain how these incompatible remits can be reconciled? One body is concerned only with England, but the HFEA is concerned with the UK as a whole; one body is concerned only with NHS data, but the HFEA is concerned with both private and NHS clinics.

My second question is on research. The Government are, I know, very interested in the recommendations in the Rawlins report and have it in mind to bring forward a Bill with a view to centralising all licensing for medical research in the proposed medical research agency, to which a number of your Lordships have referred. There is no doubt that in principle this is a welcome step in the direction of cutting out duplication and time wasting for medical research. However, the Rawlins report did not specifically recommend that research that is at present licensed by the HFEA should be passed to the proposed body; in fact, it simply left that matter to ministerial decision. If the research function of the HFEA is transferred to the new body, research involving embryos will still, because of the HFE Act, need both separate licensing procedures and separate inspection. The law will demand that. This will involve setting up a panel and inspection teams with the necessary specialised scientific expertise and specialised legal advice. What possible savings or advantage can there be in doing this? It would require the re-creation of a mini HFEA within the new parent body.

My third question is on the role of the Care Quality Commission. By October of this year, the HFEA and the Care Quality Commission will already have co-located and will be sharing back-office staff. They are working on how they can share inspections. They are already in the process of saving the kind of money that the Government have in mind. Does the Minister not agree that legally transferring some of the functions of the HFEA to the Care Quality Commission will add to the cost, entail the long drawn-out process of consultation and legislation that he mentioned in his letter to us and result in the break-up and reformation of a specialist team, with all the consequent disruption as well as the expense?

Everybody knows that the Minister commands huge respect in this House, but the questions that I and others have posed cannot be answered at the moment

[Lord Harries of Pentregarth]
and it would be in the Government's best interests simply to accept this amendment.

11.15 pm

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My Lords, I am grateful to noble Lords for providing us with a further opportunity to debate the future of these two bodies. As is clear, these amendments would have the effect of putting the Human Tissue Authority and the Human Fertilisation and Embryology Authority outside the scope of the Public Bodies Bill. The Government recognise that a number of your Lordships remain unconvinced of the merits of our plans to reform these arm's-length bodies. The concerns that various speakers have raised are ones that we have debated previously and are therefore familiar. I hope, nevertheless, that I can address them.

To begin, I strongly feel that we cannot continue with the parallel systems of regulation that are currently running. There must be some scope for rationalisation and relieving the overall burden on those regulated. However, in looking to achieve that, I fully recognise the need to retain regulatory rigour and expertise in the fields of embryology and human tissue. I therefore offer further reassurance on those issues that have proved of most concern: the retention of expertise, public consultation and the potential savings offered by our proposals.

First, expertise will not be lost. It is envisaged that the expertise invested in individuals will follow functions —for instance, through staff transfers and establishing expert reference groups. There will be a carefully managed transition between regulators, which will ensure that key skills and knowledge are passed on to receiving organisations.

Secondly, there will be extensive consultation later in the summer on where functions are best transferred and, subsequently, on the orders to effect the transfers. We envisage that our consultation will cover two main areas. It will set out our proposals for the transfer of the regulation of treatment and research, and set out the options and considerations for other functions where there may be several different possible destinations, such as those related to the collection and sharing of information or policy decision-making. Let me be clear that these functions, which are required under the Human Fertilisation and Embryology Act and the Human Tissue Act, will continue. A number of your Lordships have voiced the fear that, for instance, the HFEA's registers and databases will be dissipated or lost. That will not happen. The consultation document will set out a number of different options for how these functions might be delivered in the future, and we will listen to people's views about this. I can reassure the House that, in considering how to transfer functions, we will want to maintain the best aspects of the current regulatory system and avoid action that might undermine them.

Thirdly, I turn to financial savings. Together, the budgets for the HFEA and the HTA total £13.6 million. Through the streamlining of regulatory functions, we envisage scope for savings in three areas. The first will be in grant-in-aid for reduced overall running costs. The second will be for the regulated bodies in licence fees. The third will be for those bodies in the preparation and demonstration of compliance with the regulatory system. A leading clinician licensed by the HFEA recently said:

> "We pay over £100,000 per annum in fees to the HFEA. Since 80% of our work is NHS funded that means that over £80,000 of the money that the PCT pays for fertility treatments goes straight to the HFEA".

That is money which in large measure could be saved and used to deliver healthcare to patients. The department will undertake more detailed analysis of current costs and potential savings to inform an impact assessment which will be developed as part of the consultation process, so the whole set of equations will be transparent.

Lord Harries of Pentregarth: I thank the Minister for giving way. In relation to that last point, when the impact assessment is made will it be possible not only to assess the impact of what the Government are proposing but that of simply telling the existing bodies that they have to cut costs by a certain amount, so that the one can be weighed against the other?

Earl Howe: My Lords, I do not think that I am chancing my arm by saying that that is my understanding of what the impact assessment ought to look like in that a typical impact assessment will have within it several alternatives so that it is possible to compare different options. I would be happy to come back to the noble and right reverend Lord with a definite answer on that but my understanding from previous impact assessments is that that kind of benchmarking ought to be possible.

The noble Baroness, Lady Thornton, has previously raised her concerns about where the ethical framework for any new arrangements will sit. Ethical safeguards, for example concerning the embryos and gametes that can be used in treatment, the need to consider the welfare of the child and the need for consent in respect of human tissue, are clearly enshrined in legislation in accordance with the wishes of Parliament. These safeguards will continue to remain firmly in place and will underpin the regulation of treatment and research as currently, by whoever is responsible for regulating. Where there are specific ethical issues surrounding new treatments, the department will consider how best to commission expert advice on an individual basis, as is currently being done for mitochondrial transfer, for example.

A number of noble Lords have shown interest in and support for the Government's announcement last week, as part of the growth review, about streamlining research regulation and governance. The Government announced in the *Plan for Growth* on 23 March that they will create a health research regulatory agency to combine and streamline approvals for health research which are at present scattered across many organisations. As a first step, the Government will establish this year a special health authority with the National Research Ethics Service as its core. When established, the new agency will work closely with the Medicines and Healthcare Products Regulatory Agency to create a unified approval process and promote proportionate standards for compliance and inspection within a consistent national system of research governance.

This will reduce the regulatory burden on firms and improve the timeliness of decisions about clinical trials and hence the cost-effectiveness of their delivery in the UK, and has clear support from the Academy of Medical Sciences review of medical research regulation and governance.

In this context, it is important for me to remind the House of a key point. Here I refer particularly to the question posed by the noble and right reverend Lord, Lord Harries. The AMS report recognised at paragraph 9.5.1 that there are significant benefits in bringing all medical research regulation, including embryo research currently undertaken by the HFEA, within the remit of a single health research regulatory agency. Indeed, remarks made by Sir Michael Rawlins in the *Guardian* on 11 January firmly backed up that view. We agree with that proposition but again the consultation will invite views on it.

My noble friend Lord Willis expressed his fears about the Government adopting a piecemeal approach to reorganisation, as did some other noble Lords. I accept that our approach to the HFEA and the HTA may indeed seem rather complex. The powers of the Public Bodies Bill will enable us to transfer some of the functions of the HFEA and HTA to other bodies but they do not enable us to do everything that we have set out in the arm's-length body review. In order to abolish the HFEA and HTA, or to transfer their research-related functions to any new research agency, we will require powers under future primary legislation.

It might help if I provided a rough outline of how and when we could take this forward. We intend publicly to consult on proposals to transfer all the HFEA and HTA functions to other bodies in the late summer of this year. During 2012-13, under the provisions of the Bill, we will prepare draft orders for formal consultation dealing with the transfer of functions, other than research functions. If appropriate, we would then be able to lay the orders before Parliament. This process would enable noble Lords and other interested parties to see, comment on and debate the proposals, as they progress.

Without the inclusion of these bodies in Schedule 5, we would have to provide for the transfer of their functions entirely within future primary legislation. I simply say again, particularly to the noble Lord, Lord Warner, that not including these bodies would significantly increase the risk that the underlying ethical provisions of the Human Fertilisation and Embryology Act and the Human Tissue Act were reopened for debate.

Lord Willis of Knaresborough: Would it not be possible to include a new clause in the Health and Social Care Bill to set up the new medical research agency and leave to consultation and secondary legislation the details that would follow? That would at least give certainty to that organisation and, with a new Bill in the second part of the Parliament, put it into the parliamentary timetable much earlier than envisaged.

Earl Howe: In theory, my noble friend makes a constructive suggestion. We have considered that option and, I am afraid, rejected it on the grounds that the Health and Social Care Bill is big enough as it is, and contains a substantial programme of modernisation. It would be possible to Christmas-tree that Bill almost ad infinitum, and we have decided that that would not be helpful. With the Health and Social Care Bill, we seek to focus on the modernisation agenda, pure and simple. I am sorry to disappoint my noble friend, who makes a perfectly sound point, but I am afraid that we are not going to do that.

As I made clear earlier, I confirm to my noble friend that the CQC will have staff transferred into it. The intention is that expertise in staff and advice will follow the functions. Unfortunately, we cannot be definite about exactly which functions will be transferred to the CQC or elsewhere until after the summer consultation. If, standing here, I were to say exactly how that would work, I would be pre-empting the results of that consultation. I agree on the desirability of having clarity and certainty, and our aim is that there should be more clarity and certainty for HFEA and HTA staff after the consultation.

The noble Baroness, Lady Warwick, asked a number of detailed questions about the effect of our proposals on bodies regulated by the HTA and the way that its functions are performed. The case that she put eloquently was an argument in favour of keeping the HTA's functions together. I understand her point of view; however, I reassure her that we will consult on the option of keeping the HTA's functions together. We will not consult simply on one model, let alone pre-empt the results of the consultation.

Baroness Deech: Will that same option in the consultation apply to the HFEA, whereby its functions can be kept together?

11.30 pm

Earl Howe: The direction of travel for the HFEA is one that we have mapped out. I am not aware that we are considering consulting on keeping the HFEA together. If I am incorrect about that, I will write to the noble Baroness. I understand why she wishes to press me on the point. However, I have not heard this option put forward, and it was not contained in the arm's-length bodies review.

I can assure the noble Baroness that the consultation will give an opportunity to all those with an interest to express their views on where would be the best place to transfer the functions, and on the merits of keeping functions together where appropriate. I recognise that the expertise of the HTA, and the extent to which this will be carried forward, is a key issue. The consultation that we plan will, as I mentioned, give an opportunity for interested parties to express their views on the point.

The noble Baroness, Lady Thornton, asked who would take over the role of competent authority for the EU tissue and organ directives from the HTA. That role will be considered for transfer to other bodies, as with other functions. It involves regulating according to quality and safety standards. We will consult on the most appropriate body for those functions to be transferred to.

[Earl Howe]

My noble friend Lord Willis made clear his view that we should not split research functions. I can tell him that we envisage that the health research agency will cover what is now covered by the approval of research licences. In the context of human embryo research, the legislative requirements that the research is necessary or desirable, and that the use of embryos is necessary, will remain firmly in place. If that consideration includes an assessment of the research technique proposed, it will remain so in future.

The noble Baroness, Lady Thornton, and the noble and right reverend Lord, Lord Harries, asked how we would deal with the devolved Administrations. The intention of the proposals is to reduce both the cost of regulation and the bureaucracy for regulated establishments. It is important that a workable solution is found for the devolved Administrations, while recognising that the subject matter of the legislation is reserved. The Human Fertilisation and Embryology Act extends to the whole of the UK, and the Human Tissue Act extends to England, Wales and Northern Ireland. We hope to agree a way forward with the devolved Administrations that avoids any unnecessary duplication of effort in order to keep costs and bureaucracy for regulated establishments to a minimum. We have had constructive discussions already at official level, and these will continue. The CQC is at present an England-only body. If reserved functions were transferred to the CQC, we would extend its territorial remit in respect of those functions alone.

I will return to where I began. It is surely right that the Government and Parliament should look for opportunities to streamline regulatory mechanisms, as long as this is done in a way that preserves the legal functions, and the ethical underpinning of those functions that Parliament has put in place. The Bill provides us with the means to do that in respect of the HFEA and the HTA. In view of the Government's broader concessions on the Bill, and our intentions to consult widely on the proposed transfers of functions and to protect existing ethical and legislative safeguards, I hope that noble Lords will not press their amendments.

Baroness Thornton: I thank the Minister for another detailed response. I also thank the noble Lord, Lord Willis, the noble Baroness, Lady Deech, the noble and right reverend Lord, Lord Harries, and my noble friends Lady Warwick and Lord Warner. I counted 17 to 20 questions that the Minister was asked. He gave us a great deal of information, some of which was useful and very interesting. However, I do not think that he answered all the questions.

The Minister raised the issue of us not being convinced. We are not being perversely unconvinced. The problem is that there are still too many unknowns about this part of the Bill. Extensive consultation in the summer, to which the noble Earl has referred on many occasions, is after the decision has been taken and after the powers have been taken.

For example, the Minister was pressed on the concern about registers and databases. His answer was that the decision would be part of the consultation, that they would not be dissipated and that there would be options put in the consultation. That is not a satisfactory answer at this point. The same goes for the impact assessment, which will be carried out in the context that the Government will have already taken the powers to do what they want to do.

On the ethical issues that I raised, the Minister suggested that those would go with whoever it seemed appropriate to be the responsible body. Frankly, at this stage of the Bill, an answer that has "whoever" in it is not satisfactory. There is widespread agreement that the medical research agency proposals sound promising, but that simply underlines the point that we should not proceed with including these two bodies in the Bill at this point.

The Minister has said several times that it is a complex process. We agree, and indeed the noble Lord, Lord Willis, made an extremely good suggestion about one way to simplify the process by using forthcoming legislation. Having been the Minister responsible for several Bills that might have been called Christmas-tree Bills, I am not sure that he does not have a very good point.

That begs the question: what is the hurry? If streamlining can be achieved without powers being taken in this Bill, money can be saved, as several noble Lords have said without taking such powers, and a much larger discussion will be taking place as we move forward, it seems to me that those points remain outstanding.

At this point in our consideration, I do not think that we have reached a satisfactory and conclusive point in our discussions about the HFEA and HTA. I hope that we can resolve and clarify the remaining and outstanding uncertainties on this issue before Third Reading, and I very much welcome the fact that the Minister has said that he will be responding to certain points. I am sure that he is prepared to continue those discussions and I hope that we can resolve them before Third Reading. Otherwise, I fear that we may have to return to this issue. I beg leave to withdraw the amendment.

Amendment 49 withdrawn.

Amendment 50 not moved.

Amendment 51

Moved by ***Lord Taylor of Holbeach***

51: Schedule 5, page 18, line 17, at end insert—

"Keeper of Public Records."

Amendment 51 agreed.

Amendment 52 not moved.

Amendment 53

Moved by ***Lord Taylor of Holbeach***

53: Schedule 5, page 18, line 18, leave out "National Park authorities in England."

Amendment 53 agreed.

Amendment 54 not moved.

Amendment 55

Moved by ***Lord Taylor of Holbeach***

55: Schedule 5, page 18, line 20, at end insert—

"Public Records Office."

Amendment 55 agreed.

Clause 6 : Power to authorise delegation

Amendment 56 not moved.

Amendment 57

Moved by ***Lord Taylor of Holbeach***

57: Clause 6, leave out Clause 6

Amendment 57 agreed.

Schedule 6 : Power to authorise delegation: bodies and offices

Amendment 58

Moved by ***Lord Taylor of Blackburn***

58: Schedule 6, leave out Schedule 6

Amendment 58 agreed.

Clause 7 : Consequential provision etc

Amendment 59

Moved by ***Lord Taylor of Holbeach***

59: Clause 7, page 3, line 43, leave out subsection (4)

Amendment 59 agreed.

Amendment 60

Moved by ***Lord Taylor of Holbeach***

60: Clause 7, page 4, line 4, at end insert—

"( ) An order under sections 1 to 5 may include provision repealing the entry in the Schedule by virtue of which the order was made."

Lord Taylor of Holbeach: My Lords, even at this late hour, it gives me great pleasure to introduce this group of amendments, each of which introduces important changes to the schedules. I hope that they will be welcomed on all sides of the House.

Amendment 60 would create a power for a Minister, when making an order under Clauses 1 to 5, to include a provision to remove the body or office subject to the order from the schedule or schedules in which the body was listed. The amendment ensures that, where a Minister has been able to implement the proposed reforms by virtue of an order under the Bill, that body can be removed from the relevant schedule and therefore be assured of its ongoing status.

Amendment 69C represents a solution—which, I am happy to state, has the support of the noble Lord, Lord Hunt of Kings Heath—to the question of so-called omnibus orders relating to more than one body and whether they should be permissible under the Bill. I made a commitment in Committee to consider the matter further and have done so. During our debates in Committee, I expressed my concern that any restriction on omnibus orders should not prevent Ministers from the sensible and reasonable combination of related changes in a single order. For example, I am sure that the House will understand that there is little to be gained from a separate consideration of 160 orders making identical changes to internal drainage boards.

On that basis, the Government propose instead to amend Clause 11 to require that, should Ministers consider it appropriate to bring forward an omnibus order under Clauses 1 to 5, they must explain in the Explanatory Memorandum their justification for the decision. It will therefore be for Parliament to judge whether the Minister's decision was appropriate. I consider that to be a sensible and proper solution.

I am delighted to have added my name to Amendment 72, in the name of the noble Lord, Lord Hunt of Kings Heath, the noble Baroness, Lady Royall of Blaisdon, and my noble friend Lord Norton of Louth. That amendment, much like the amendment in Committee which now forms Clause 16, represents the outcome of genuine engagement and compromise on all sides of the House. I pay tribute to noble Lords who have assisted in presenting it to the House this evening. Amendment 72 effectively sunsets the entries in the schedules by ensuring that an entry in the schedule automatically lapses five years after its commencement. The amendment therefore clarifies that the listing of a body in one of the schedules will not involve endless changes to that body's status but will be a vehicle for specific reforms which the Government expect to be carried out in a timely fashion. As I described the Government's thinking in Committee, the amendment will ensure that the powers in the Bill will remain on the statute book. That ensures that, following future reviews of public bodies, the Government will have the option of using primary legislation to repopulate the schedules as a means of making further reforms, subject to Parliament's consent.

For that reason, I am unable to support Amendment 72A in the name of my noble friend Lord Goodhart. That amendment would sunset the entire Bill, as well as the entries in the corresponding schedules, following the dissolution of this Parliament. To do so would be a mistake. It would leave the Government without a mechanism to take forward the outcomes of what I believe all sides of the House hope will be regular, systematic reviews of public bodies. Particularly given the work that this House has undertaken to craft a mechanism in the Bill which can command the confidence of Parliament and the public, it would be a retrograde step to ask future Parliaments to begin that process from scratch.

The Government's amendments in this group and Amendment 72 each significantly improve the mechanisms of the Bill and are the product of a process of engagement and deliberation that characterises this House at its

[Lord Taylor of Holbeach]
best. It is a pity that we have had to introduce them at this late a stage, in front of a small House, but none the less their significance to the Bill is considerable. I commend them to the House and beg to move.

11.45 pm

Lord Goodhart: My Lords, I have again tabled an amendment that I tabled in Committee, and which is now Amendment 72A. As my noble friend Lord Taylor says, the amendment involves a sunset clause. We now have government Amendment 72, which is a sort of sunset clause—it gets the clause going halfway down, towards the shadow, but not quite going the whole way. In view, however, of Amendment 72 and its wide range of supporters, I will support on this occasion Amendment 72 rather than my own amendment. That does not mean that I think that Amendment 72 is better; it is certainly a step forward but I am not convinced that it is in fact better than a simple sunset clause would have been. The effect of Amendment 72 is that after five years the Act will in reality be dead, but somehow it will be brought back to life by new primary legislation. That seems rather a clumsy arrangement, but if others wish to try it, so be it, and, as I said, I will support it.

Baroness Royall of Blaisdon: My Lords, I am grateful to the Minister. We certainly support him in his Amendments 60 and 69C and we are especially grateful for the work that the Government have done on omnibus orders. We think that they have arrived at a sensible and proper solution, as the Minister said.

As for the sunset provision, when we first broached this subject in Committee, the Bill was a very bad one. That is why we wanted to sunset the whole Bill. Since then we have genuinely engaged with the Minister and reached a very good compromise. Since Committee the Bill—its content and its architecture—has been radically transformed. Although my noble friend Lord Hunt will seek further change to the Bill's architecture at our next sitting on Report, we are content that the sunsetting of the schedules is adequate. We believe it right and proper that at the beginning of every Parliament there is the potential to have what would in essence be a new Public Bodies Bill. However, we also believe that the architecture is such that it could be maintained while looking again at the schedules. By sunsetting the schedules, the bodies that are currently in the schedule will have the comfort of knowing that if nothing has happened to them within the four or five-year period, they will be free, as it were; and the bodies that are not included will know that they can continue to work efficiently and effectively without a medium-term sword of Damocles hanging over them. We are therefore very grateful to the Minister for the changes to which he has agreed, and we look forward to the adoption of the amendments in question.

Viscount Eccles: My Lords, the first three amendments in this group are very welcome. Going right the way back to Second Reading, I remember the suggestion that Schedule 7 be dropped from the Bill being made right at that time. The dropping of Schedule 7 makes the arrangements for sunsetting a great deal easier to agree than they would have been if that schedule had stayed in. These two amendments are rather a subtle way of agreeing to a sunseting procedure, but they are none the less very welcome. I also remember that at Second Reading there was a suggestion that if this was the way that we were going and Schedule 7 were dropped, perhaps we would need Public Bodies Bill (No. 2). I am sure that my noble friends on the Front Bench and, particularly, my noble friend Lord Taylor are very pleased that he has found a way of avoiding Public Bodies Bill (No. 2), and I think we should all be very grateful for that. Finally, we have made a long journey and a lot of progress, which is extremely welcome.

Lord Taylor of Holbeach: I thank noble Lords for the general welcome given to these amendments. I thank those on the opposition Benches for their positive engagement on finding these solutions. For that, I am extremely grateful. I thank my noble friend Lord Goodhart for the gracious way in which he bowed to the consensus building on Amendment 72 and my noble friend Lord Eccles for the recognition he gave to the difficulties this Bill faced and for his part in overcoming those difficulties.

Amendment 60 agreed.

Consideration on Report adjourned.

Draft Defamation Bill

Message from the Commons

A message was brought from the Commons that they concur with the resolution of this House of 23 March relating to a Joint Committee to consider the draft Defamation Bill presented to both Houses on 15 March and that they have made the following orders:

That a Select Committee of six members be appointed to join with the Committee appointed by the Lords to consider the draft Bill.

That the Committee should report on the draft Bill by 19 July 2011.

That the Committee shall have power— (i) to send for persons, papers and records; (ii) to sit notwithstanding any adjournment of the House; (iii) to report from time to time; (iv) to appoint specialist advisers; and (v) to adjourn from place to place within the United Kingdom.

House adjourned at 11.52 pm.

Written Statements

Monday 28 March 2011

Animal Health and Veterinary Laboratories Agency

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): My right honourable friend the Secretary of State has today made the following Statement.

Today I am publishing the framework document for the new Animal Health and Veterinary Laboratories Agency (AHVLA), which is being created on 1 April by the merger of two existing executive agencies, Animal Health and the Veterinary Laboratories Agency (AHVLA), which I announced on 29 June 2010.

The new agency will be an executive agency of the Department for Environment, Food and Rural Affairs with the same remit as its predecessor bodies. In addition to its UK role and commercial activities it will help deliver the Animal Health and Welfare Strategy (GB) through regulatory and advisory activities and the provision of excellent science.

Copies of the framework have been made available in the Library of the House and it will also be placed on the Animal Health and Veterinary Laboratories Agency's website.

Disabled People: Equality

Statement

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): Equality 2025 is a non-departmental public body of publicly appointed disabled people, which was established in December 2006.

The group offers strategic confidential advice to government on issues that affect disabled people. This advice can include participation in the very early stages of policy development, or in-depth examination of existing policy. The group works with Ministers and senior officials across government.

Rowen Jade chaired Equality 2025 from 1 December 2008 to 2 September 2010, when she sadly passed away. This recruitment exercise took place to find a candidate to continue Rowen's good work.

The recruitment exercise was carried out in accordance with the Commissioner for Public Appointments' Code of Practice. The quality of applicants for the post was exceptionally high. I am pleased to announce that the successful candidate and new chair of Equality 2025 from 1 April 2011 is Dr Rachel Perkins.

Rachel Perkins has been a member of Equality 2025 since 1 April 2010. I am confident she will lead the group forward during an interesting and challenging time.

EU: Energy Council

Statement

Lord Taylor of Holbeach: My right honourable friend the Secretary of State for Energy and Climate Change (Chris Huhne) has made the following Written Ministerial Statement.

I was unable to attend the council because of Cabinet business in London. Andy Lebrecht, Deputy Permanent Representative to the EU, represented the UK at the council.

The extraordinary Energy Council began with a report by the Energy Commissioner of the impact of events in north Africa and Japan on the EU's energy market. Although there had been no significant impact on supplies as a result of events in Tunisia, Egypt and Libya, there had been an impact on prices. The EU had 120 days of oil supply. Saudi Arabia and Russia had undertaken to cover any shortfalls in gas and oil supplies. There was general agreement that oil and gas markets were functioning well and that it was important to take a calm approach to reassure the market. The council concluded that although there was no immediate problem with energy supply, the EU should take measures to increase its ability to deal with problems in the future, in line with the priorities agreed at the European Energy Council on 4 February.

The Commissioner then reported on the situation in Japan; and on the role of nuclear in the energy mix of the EU. He noted the right of member states to decide upon their own energy mix and that nuclear would continue to play a large role in the EU for the foreseeable future. He proposed that member states should work together to develop and approve an EU safety check for nuclear power plants. The UK agreed on the importance of a measured response based on the evidence and on lessons learnt from the events in Japan. Most member states supported this position.

The council concluded that the EU response to the situation in Japan should involve comprehensive risk and safety assessments (stress tests) of nuclear power plants in Europe with full involvement of member states in determining how this should be done. EU neighbouring countries should also be involved in the assessment, as well as international bodies such as the G20 and the IAEA. The EU should maintain high standards of nuclear safety, with a continual process of improvement. The council agreed that communication with the public on these issues should be open and transparent.

Housing Benefit

Statement

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): The Government announced in last October's comprehensive spending review that it would extend the housing benefit shared accommodation rate to people under the age of 35 from 2012. This rate currently applies to people under the age of 25 and reflects the costs of renting non self-contained accommodation in the private sector where the tenant has exclusive use of a bedroom but shares other facilities such as a bathroom.

We intend to bring forward these changes by three months so that they start to take effect from January 2012.

The local housing allowance reforms, to be introduced from this April, cap the level of payments to a maximum of a four-bedroom rate and reduce local housing allowance rates so that they are based on the 30th percentile of rents rather than the median. They also introduce overall caps on the rate of local housing allowance for one, two, three and four-bedroom accommodation. Existing customers will be given up to nine months' transitional protection from these reforms starting from the anniversary date of their claim.

By introducing the shared accommodation rate changes slightly earlier, this will bring the timing of the shared accommodation rate change more closely into line with the local housing allowance reforms for existing customers. It will ensure that single people aged 25 to 34 reaching the end of their transitional protection period will experience at that point a single reduction in their housing benefit, rather than two separate reductions.

That is why we have decided to bring forward the shared accommodation rate changes. We will publicise these proposed changes through appropriate channels to make sure that those affected are aware of them in advance.

Members' and Peers' Correspondence

Statement

Lord Taylor of Holbeach: My right honourable friend the Minister for the Cabinet Office and Paymaster General (Francis Maude) has made the following Written Ministerial Statement.

I am today publishing a report on departments' and agencies' performance on handling Members' and Peers' correspondence during the calendar year 2010. Details are set out in the attached table. Correspondence statistics for 2009 can be found in the *Official Report*, 16 March 2010, *WS59-64*.

Departmental figures are based on substantive replies unless otherwise indicated.

The footnotes to the table provide general background information on how the figures have been compiled.

Correspondence from MPs / Peers to Ministers and Agency Chief Executives in 2010

Correspondence from MPs / Peers to Ministers and Agency Chief Executives[1]			*2010*
Department or Agency	*Target set for reply (working days)*	*Number of letters received*	*per cent of replies within target*
Attorney-General's Office	20	150	73
Department for Business, Innovation and Skills	15	13243	71
Companies House	10	109	100
Insolvency Service	10	42	64
Cabinet Office	151	3048	58[2]
Charity Commission	10	143	70
Department for Communities and Local Government	15	9117	77
Planning Inspectorate	7[3]	236	85
Crown Prosecution Service	20	460	98
Department for Culture, Media and Sport	20	4006	96[5]
Royal Parks[4]	10	20	95
Ministry of Defence	15	6072	77
Met Office	10	15	87
Service Personnel and Veterans Agency	15	125	96
Department for Education	15	18512	42[6]
Department of Energy and Climate Change	15	6343	69
Department for Environment, Food and Rural Affairs	15	10944	83
Animal Health	15	121	95
Rural Payments Agency	15	552	63
Food Standards Agency			
DH Ministers replies	20	1081	83
FSA Chair/CE replies	20	121	83
Meat Hygiene Service[7]	15	18	100

Correspondence from MPs / Peers to Ministers and Agency Chief Executives in 2010

Correspondence from MPs / Peers to Ministers and Agency Chief Executives[1]			*2010*
Department or Agency	*Target set for reply (working days)*	*Number of letters received*	*per cent of replies within target*
Foreign and Commonwealth Office	20	9845	90
Government Equalities Office	20	666	80
Department of Health	20	17733	97
Medicines and Healthcare Products Regulatory Agency	20	318	98*
* Agency Ministerial cases			
** Letters sent directly to Agency Chief Executive or where Agency Chief Executives responded on behalf of Ministers			
Home Office	15	13532	56[8]
Criminal Records Bureau	10	1072	70[9]
Identity and Passport Service	10	1014	87
UK Border Agency	20	57651	88
Department for International Development	15	3163	95
Ministry of Justice	15	4084	78
HM Courts Service	15	939	80
HM Land Registry	15	109	78
National Archives	15	36	92
National Offender Management Service	15	1190	70*
	20	348	89**
Office of the Public Guardian	15	191	89
Official Solicitor and Public Trustee	15	43	79
Tribunals Service	15	264	86
* Where Ministers replied			
** Where CEO replied			
Northern Ireland Office	15	649	78

Correspondence from MPs / Peers to Ministers and Agency Chief Executives in 2010

Correspondence from MPs / Peers to Ministers and Agency Chief Executives[1]			*2010*
Department or Agency	*Target set for reply (working days)*	*Number of letters received*	*per cent of replies within target*
Office for Standards in Education, Children's Services and Schools	15	149	88
Office of Fair Trading	15	471	66
Office of Gas and Electricity Markets	15	160	77
Office of the Leader of the House of Commons	15	218	83
Office of the Leader of the House of Lords	15	35	89
Office of Rail Regulation	20	70	84
OFWAT (Water Services Regulation Authority)	10	92	70
Postal Services Commission	5	11	73
Scotland Office	15	88	68
Serious Fraud Office	20	43	83
Department for Transport	15	8359	74
Driver Vehicle Licensing Agency	7	1622	99
Driving Standards Agency	10	158	100
Highways Agency	15	371	93
Maritime and Coastguard Agency	10	21	95
Vehicle and Operator Services Agency	10	86	97
HM Treasury	15	10811	51[10]
H M Revenue and Customs	15	4028	75
HMRC CEO*	15	729	50
*Cases where the HMRC's Chief Executive has replied directly, rather than Ministers			
Treasury Solicitor's Department	10	23	96
Wales Office	15	131	82

Correspondence from MPs / Peers to Ministers and Agency Chief Executives in 2010

Correspondence from MPs / Peers to Ministers and Agency Chief Executives[1]			*2010*
Department or Agency	*Target set for reply (working days)*	*Number of letters received*	*per cent of replies within target*
Department for Work and Pensions	20	19020	85
Child Maintenance and Enforcement Commission	15	3967	99
Debt Management	15	28	86
Health and Safety Executive	15	93	92
Jobcentre Plus	15	3195	94
Pension, Disability and Carers Service	15	2047	100

[1] Departments and Agencies that received 10 MPs/Peers letters or fewer are not shown in this table. Holding or interim replies are not included unless otherwise indicated. The report does not include correspondence considered as freedom of information requests. Includes correspondence received from prospective parliamentary candidates.

[2] Performance has been affected by a 111 per cent rise in correspondence following the formation of the new Government and machinery of government changes. Measures have been put in place to improve performance in 2011.

[3] With effect from 1 July, response target revised to seven working days.

[4] Response target reduced to 10 working days with effect from 1 September.

[5] From 28 June 2010 performance was monitored on 2537 letters received to departmental targets of 2 working days (46 per cent achieved) and 10 working days (82 per cent achieved).

[6] DfE received an increase of 20 per cent in correspondence received compared to the previous year (35 per cent increase for May to December compared to the same period in the previous year) contributing to a downturn in performance. The department is investing in new processes and resources to ensure improvement in 2011. Includes correspondence sent to the former DCSF.

[7] The Meat Hygiene Service was dissolved on 31 March.

[8] The drop in HO performance is attributed to a number of new policies being developed as well as policy areas being reviewed which resulted in a temporary delay in replies being sent.

[9] CRB experienced a 56 per cent increase in correspondence during the fourth quarter of 2010.

[10] Includes correspondence received by OGC, NS&I and the Valuation Office. Performance increased in the first six months of the year to average 64 per cent. The Election, Emergency Budget, Autumn Statement and the spending review public consultation exercise increased correspondence levels, resulting in a temporary drop in performance. Correspondence levels are expected to remain high but with a departmental focus on improving performance taking place.

Transport: GLA Transport Grant

Statement

Earl Attlee: My right honourable friend the Secretary of State for Transport (Philip Hammond) has made the following Ministerial Statement.

Following consultation with the Mayor of London, I have today determined the Greater London Authority transport grant for 2011-12 at £2,804 million.

This grant is provided by the Government to Transport for London to deliver transport services and investment in the capital, including London Underground.

In line with my 20 October 2010 letter to the mayor spending review 2010: TfL funding agreement, £861 million of this grant is designated an investment grant to support delivery of the schemes and milestones, notably upgrade of the Tube, set out in Annexe B of my 20 October letter, and the remaining £1,943 million is a general grant for the purposes of TfL.

Written Answers

Monday 28 March 2011

Anti-Semitism

Question

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what assessment they have made of casual anti-Semitism; and what recent discussions they have had with the Jewish community about this issue. [HL7897]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The Government have not made an assessment about the growth of a casual anti-Semitism, which makes an automatic link between the United Kingdom's Jewish community and the state of Israel but remains concerned and has tasked the cross-government working group on anti-Semitism which also has representatives from the three leading Jewish communal organisations to look into the matter and report back later this year.

Adult Learners' Week

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what support they are giving to Adult Learners' Week. [HL7772]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): Adult Learners' Week is led by NIACE (the National Institute for Adult Continuing Education) which is part-funded by the Department for Business Innovation and Skills (BIS).

BIS is delighted to be a partner in Adult Learners' Week. Every year, hundreds of thousands of ordinary people discover the pleasures and benefits of learning for personal, family and community development.

BIS Ministers and officials work closely with NIACE to ensure that year on year Adult Learners' Week becomes ever more successful in raising the profile of adult learning and encourages more people to improve their lives through learning.

Banking: Bank of Scotland (Ireland)

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what role they have had in the appointments of chairmen of the Bank of Scotland (Ireland), which trades in the United Kingdom, in the past 20 years. [HL7765]

The Commercial Secretary to the Treasury (Lord Sassoon): The acquisition of Halifax Bank of Scotland plc (HBOS) in early 2009 by Lloyds TSB Group plc created Lloyds Banking Group (LBG). Since then, director appointments to the Bank of Scotland (Ireland) have been a matter for the board of LBG. Her Majesty's Government have had no role in the appointments of chairmen at the Bank in the past 20 years.

Banking: Iceland

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Lord Sassoon on 28 February (*WA 211*), how many depositors in each of the failed Icelandic banks have left a total of £420,000,000 unreclaimed; how many of those accounts contain over £50,000 and in which banks; and how many of those accounts are frozen. [HL7707]

The Commercial Secretary to the Treasury (Lord Sassoon): The summary of the unclaimed balances over £50,000 by bank as at 4 January 2011 is shown in the table below. The Government do not hold information on which accounts may be frozen.

Default	*No of accounts not claimed*	*Amount (£)*
Landsbanki	3	246,749.36
Heritable and Landsbanki Wholesale	32	167,554,213.58
Heritable	1	466,970.14
KSF	117	249,932,269.29
Total	153	418,200,202.37

Benefits

Question

Asked by ***Baroness Lister of Burtersett***

To ask Her Majesty's Government what is the number and proportion of (a) men, and (b) women, affected by the imposition of a time limit on contributory employment and support allowance who will be eligible for means-tested benefits in compensation. [HL7987]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): The policy is expected to affect around 690,000 people in total by 2015-16. Of these early estimates indicate around 350,000 to be men and 340,000 to be women.

Around 230,000, 66 per cent of men and 180,000, 54 per cent of women affected are expected to be eligible to claim income-related ESA.

The numbers have been rounded to the nearest 10,000.

Further information can be found in the equality impact assessment which has been published here: http://www.dwp.gov.uk/docs/eia-esa-time-limit-wr20l1.pdf.

Carbon Monoxide Poisoning

Question

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what guidance they will give to general practitioners to undertake tests on patients for carbon monoxide poisoning. [HL7686]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Guidance on the diagnosis of carbon monoxide poisoning, including carbon monoxide testing, was the subject of an updated joint letter from the then interim chief medical officer, and the chief nursing officer, on 11 November 2010. This guidance was sent to every general practitioner and emergency physician in England together with an updated diagnostic flow chart prepared by the Health Protection Agency. No further guidance is planned. The letter and flow chart can be found at: www.dh.gov.uk/en/Publications andstatistics/Lettersandcirculars/Professionalletters/ Chiefmedicalofficerletters/DH_121502.

A copy has been placed in the Library.

Cohabitating Couples

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government, further to the Written Answer by Baroness Verma on 9 March (*WA 403*), what steps they are taking to ensure that cohabiting couples know their parental rights and responsibilities; and whether they will ensure that the legal position is better known, particularly concerning joint registration of births. [HL7628]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): Information around parental rights and responsibilities is available from a range of sources, including the Directgov website and information given to new parents before they register their child's birth.

We will be considering the need for clearer information for parents as part of our response to wider changes resulting from the family justice review which is currently under way. The review panel is due to publish its interim report at the end of March, and a final report in the autumn.

Crime: Knife Crime

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government, further to the Written Answer by Baroness Neville-Jones on 14 March (*WA 4–5*), what assessment they have made of the benefits of introducing a knife amnesty. [HL7769]

The Minister of State, Home Office (Baroness Neville-Jones): Individual police forces, local authorities and other partners are best placed to assess the impact a knife amnesty will have in their locality and to decide whether or not an amnesty would be an appropriate response.

Croatia: EU Membership

Question

Asked by ***The Earl of Dundee***

To ask Her Majesty's Government what steps they are taking to assist in the conclusion by June 2011 of European Union accession negotiations for Croatia. [HL7740]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The Government are a strong supporter of Croatian EU accession. We look forward to seeing Croatia join the EU once all benchmark requirements have been met. We welcome Croatia's intensification of efforts to achieve this. The timing of the conclusion of Croatia's accession negotiations depends on how quickly Croatia is able to demonstrate irreversible reform against these benchmarks, thereby enabling the Commission to make a positive recommendation to the council. The Government have supported Croatian reform efforts through many UK-funded projects and by sending UK experts to assist through the EU twinning scheme. The Government remain committed to Croatia's transition to EU membership.

Education: Salaries

Question

Asked by ***Baroness Jones of Whitchurch***

To ask Her Majesty's Government what process will be put in place to monitor effectively the pay of headteachers, teaching staff and non-teaching staff in academies and free schools; and how this information will be made publicly available. [HL7506]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): One of the freedoms that academy status brings is the ability to set individual pay and conditions for all staff. However, as academies receive broadly the same funding as maintained schools they will need to set pay levels for their staff within this budget.

The School Workforce Census (SWF), run for the first time in November 2010, requires all schools, including academies and free schools to supply data on many factors including staff pay. Schools supply data at individual staff member level, and actual salary details for all teachers in maintained schools and academies are collected, which allows the department to publish the number of teachers by grade and in 5,000 and 10,000 salary bands. The first results are scheduled to be published in a Statistical First Release on the 20 April 2011 and will be available on the DfE website.

All academy trusts are required to publish annual accounts in accordance with the Companies Act 2006. In addition to this, the Charity Commission has published a Statement of Recommended Practice which clarifies how charities should prepare their accounts in order to reflect these legal requirements. This states that charities which are subject to a statutory audit should include a note in their accounts disclosing the number of employees whose emoluments were £60,000 or above, presented in £10,000 bandings. The department expects academy trusts, as charitable companies, to comply with this.

Embryology

Question

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government when the Human Fertilisation and Embryology Authority publicly issued its call for evidence on the safety and efficacy of techniques to avoid mitochondrial disease through assisted conception; why the call for evidence stated that submissions must be completed by 15 March 2011; and who was personally notified of this call for evidence in order to ensure that wide-ranging evidence would be received from experts in any relevant field. [HL7858]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The Human Fertilisation and Embryology Authority (HFEA) has advised that it publicly issued its call for evidence on the safety and efficacy of techniques to avoid mitochondrial disease through assisted conception on Monday 28 February 2011. The deadline for submissions was 15 March 2011 to ensure a report is prepared according to the timetable set by the Secretary of State. The HFEA has also advised that in addition to being advertised on its website, the call for evidence was sent to more than 30 individual experts in the field known to the authority, funding bodies and professional societies, with an invitation to distribute it more widely, if relevant.

The HFEA has been asked to assess the effectiveness and safety of a new technique designed to prevent the transfer of serious mitochondrial disease. This report has been commissioned without prejudice to the Government taking any further steps to make new regulations to allow this technique to be used in treatment.

Energy: Biofuels

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government, in light of the estimate by the UK Sustainable Biodiesel Alliance that there is the potential to produce ten times current volumes of biodiesels from used cooking oil, what proposals they have to encourage the recycling of used cooking oil into biodiesel.[HL7989]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Lord Marland): The Government are interested in the potential of used cooking oil to generate renewable energy and welcome evidence from the UK Sustainable Biodiesel Alliance. This is being considered alongside other evidence to determine the policy and tariffs for bioliquids under renewable energy incentives.

The renewable energy directive provides that the contribution of biofuels from waste towards national transport targets, including used cooking oil (UCO), are double counted. The Department for Transport is currently consulting on proposals to amend the renewable transport fuel obligation (RTFO). The proposed amendment will provide double support to biofuels from waste, including UCO (currently one renewable transport certificate is awarded per litre of biofuel).

Biodiesel will be supported under the renewables obligation (RO) from April 2011.

Bioliquids are being considered for inclusion in the renewable heat incentive in 2012.

The supply of UCO is currently encouraged by a duty differential. The rate of excise duty for biodiesel produced from UCO is 20 pence per litre less than the rate of duty for ultra low sulphur diesel. This 20 pence tax differential was introduced on 1 April 2010 and is set to run until April 2012.

Energy: Coal

Question

Asked by ***Lord Ashcroft***

To ask Her Majesty's Government what percentage of coal used for British energy was imported in each year from 1984 until 2010. [HL7973]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Lord Marland): The table below shows the percentage of imported coal used for UK energy in each year from 1984 until 2010. These statistics are not available for Great Britain.

Year	*Net Imports (Thousand Tonnes)*	*Total Supply*	*Import Dependency*[1] *(%)*
1984[2]	6,601	77,309	8.5
1985	10,300	105,386	9.8
1986	7,877	114,234	6.9
1987	7,428	115,894	6.4
1988	9,863	111,498	8.8
1989	10,088	107,581	9.4
1990	12,476	108,256	11.5
1991	17,787	107,513	16.5
1992	19,366	100,580	19.3
1993	17,286	86,757	19.9
1994	13,852	81,767	16.9
1995	15,037	76,942	19.5
1996[3]	16,811	70,833	23.7
1997	18,611	63,423	29.3
1998	20,273	62,871	32.2
1999	19,532	55,445	35.2
2000	22,786	59,838	38.1
2001	34,992	63,530	55.1
2002	28,149	58,639	48.0
2003	31,349	62,865	49.9
2004	35,531	60,567	58.7
2005	43,433	61,780	70.3

Year	Net Imports (Thousand Tonnes)	Total Supply	Import Dependency[1] (%)
2006	50,085	67,340	74.4
2007	42,821	62,904	68.1
2008	43,276	58,219	74.3
2009	37,520	48,786	76.9
2010[4]	25,394	51,522	49.3

[1] Net imports divided by total supply, multiplied by 100. This is consistent with the EU definition.

[2] Between 1984 and 1995 the components of the import dependency percentages can be found in the long-term trends tables, Table 2.1.1 and 2.1.2, Digest of United Kingdom Energy Statistics 2010.

[3] Between 1996 and 2009 the components of the import dependency percentages can be found in Table 2.7, Digest of United Kingdom Energy Statistics 2010.

[4] Provisional 2010 statistics have been provided. These are sourced from Table 2.5 and 2.6 of the online monthly statistical release. The figures for 2010 will be updated and published at 09.30 am on Thursday 31 March 2011 as part of the quarterly statistical release, *Energy Trends March 2011*.

* The statistics used to compile this table can be found on the DECC website, http:decc.gov.uk/en/content/cms/statistics/source/coal/coal.aspx.

Energy: Nuclear Reactors

Question

Asked by ***Lord Roberts of Conwy***

To ask Her Majesty's Government what is their latest assessment of the practicality of using thorium in reactors as a safer source of energy than uranium. [HL7930]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Lord Marland): The Government's Chief Scientific Adviser, Sir John Beddington, with input from the shadow Nuclear Centre of Excellence and others, recently co-ordinated an assessment of the prospects for research into advanced thorium reactors. This is available upon request from the Government Office for Science. Additionally, the National Nuclear Laboratory (NNL) undertook a recent, independent assessment, in which it assessed a number of claims made by proponents of thorium fuel. The report can be found at: www.nnl.co.uk/positionpapers.

Both reports suggest that the thorium fuel cycle has a number of potential advantages in reducing the cost and radiotoxicity of nuclear power generation, if used in current reactor designs and without full fuel reprocessing. However, both say that the realistic benefits are likely to be too marginal to justify investment in developing thorium technology.

If a full thorium fuel breeding and recycling operation were to be used, the NNL believes that a substantial reduction in radiotoxicity would be achieved and that this might provide a significant enough incentive in the long term to justify the investment. However, both reports warn that a full thorium cycle reprocessing regime has never been developed on an industrial scale, and that the challenges of doing so present significant technical and commercial barriers.

The Secretary of State has also asked the NNL to investigate the wider benefits of next generation reactor designs and to compare the use of thorium and uranium fuels in them. Results should be available by the summer of 2011 and will include an assessment of these systems' radiotoxicological safety.

Equality

Question

Asked by ***Lord Ouseley***

To ask Her Majesty's Government how many legal challenges have been made in the past year about their failure to comply with statutory duties under equality legislation; what were the outcomes; and what remedial action, if any, has been initiated. [HL7971]

Baroness Verma: Information on legal challenges made to government departments in the past year is not held centrally. It is not possible to identify this information without incurring disproportionate cost.

However, the Home Office and the Government Equalities Office received no such legal challenges in the last year.

Equality Act 2010

Questions

Asked by ***Lord Ouseley***

To ask Her Majesty's Government what steps they are taking to ensure that the proposed removal of the requirement for public bodies to provide evidence of their consideration of the fair treatment of groups protected under the Equality Act 2010 in the discharge of their function does not undermine the advancement of equality and fair treatment of those groups. [HL7970]

Baroness Verma: The proposed changes to the regulations supporting the public sector equality duty will give public bodies more flexibility in how they demonstrate their compliance with it. But they will still need to publish evidence on an annual basis to demonstrate how they have had due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different groups. The Equality and Human Rights Commission is working closely with the Government Equalities Office to ensure that public bodies are aware of their responsibilities under the equality duty, including preparing a statutory code of practice and non-statutory guidance.

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Baroness Verma on 31 January (*WA 224*), what is the estimated annual cost to public authorities in fulfilling their duties under the Equality Act 2010 (Statutory Duties) Regulations 2011; and how they will monitor the application of the guidance of the Equality and Human Rights Commission on those duties. [HL7844]

Baroness Verma: The Government published proposed new draft specific duties regulations, as part of a policy review paper, on 17 March, inviting comments on the draft regulations until 21 April.

The Government estimate these proposed new specific duties will result in an annual cost to the public sector of approximately between £20.6 million and £26 million, compared with the annual cost of complying with the existing duties of approximately £40 million and £45 million, thus resulting in a net saving to the public sector of approximately £158 million over 10 years. In addition there are expected to be one-off transitional costs to of between £6.8 million and £9.4 million.

The Government plan to under take a post-implementation review of the Equality Act. As part of the evaluation that underpins this review, work will be undertaken to explore the use and effectiveness of guidance.

Gaza

Question

Asked by ***Lord Turnberg***

To ask Her Majesty's Government what assessment they have made of the response by Hamas to demonstrations in Gaza for greater democracy. [HL7813]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): We are aware of footage of Hamas security forces assaulting students and other peaceful demonstrators in Gaza during demonstrations on 15 and 16 March 2011. The people of Gaza, like the people across the region, have an absolute right to freedom of expression and peaceful assembly. Hamas should not think that while the attention of the world is elsewhere we will turn a blind eye to its actions.

Government Departments: Energy Certificates

Questions

Asked by ***Lord Oakeshott of Seagrove Bay***

To ask Her Majesty's Government what level of display energy certificate was awarded to the Department for Education office at Sanctuary Buildings, Great Smith Street, in each of the past three years. [HL7626]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): The display energy certificate at the Department for Education's office at Sanctuary Buildings, Great Smith Street, has been rated as G in each of the past three years.

While the rating has remained constant, the DEC score has been reduced from 219 to 202 during the period. The department has recently completed a number of projects to improve the energy efficiency of Sanctuary Buildings. This is projected to reduce the CO_2 consumption by 565 tonnes per year. Further work to improve the operation and use of the facility is being developed to reduce energy consumption further.

Asked by ***Lord Oakeshott of Seagrove Bay***

To ask Her Majesty's Government what level of Display Energy Certificate was awarded to the Foreign and Commonwealth Office building at King Charles Street in each of the past three years. [HL7883]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Display energy certificates have been awarded to the Foreign and Commonwealth Office building at King Charles Street in each of the past three years as follows:

2008 DEC	Rating D	Score 92
2009 DEC	Rating E	Score 110
2010 DEC	Rating D	Score 94

A lower rating/score means a more efficient energy performance. 100 is a typical score for the type of building that the Foreign and Commonwealth Office uses in King Charles Street, London.

Asked by ***Lord Oakeshott of Seagrove Bay***

To ask Her Majesty's Government what level of display energy certificate was awarded to the Department for International Development building at 1 Palace Street in each of the past three years. [HL7886]

Baroness Verma: The Department for International Development building at 1 Palace Street, London, was awarded the following ratings in its display energy certificates in the past three years:

2008	138 (category F)
2009	120 (category E)
2010	114 (category E)

Gypsies and Travellers

Question

Asked by ***Baroness Whitaker***

To ask Her Majesty's Government whether they will place in the Library of the House their reply to the letter from the chair of the United Nations Committee on the Elimination of Racial Discrimination of 10 March 2010 urging them to suspend the eviction of Gypsy and Traveller families from Dale Farm, Essex. [HL7874]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The chairman of the United Nations Committee for the Elimination of Racial Discrimination wrote to Her Majesty's Government about the Dale Farm traveller site on 12 March 2010. The Government replied on 10 May explaining that the United Kingdom had not recognised the committee's authority to receive and consider individual complaints and so would not be replying to the substance of the committee's letter. I have arranged for a copy of the correspondence to be placed in the Library of the House.

I also refer the noble Baroness to the answer Baroness Wilcox gave Lord Avebury on 21 December 2010 (*Official Report*, col. *WA 295*) about a separate letter on the Dale Farm site from the United Nations Special Rapporteur on the right to adequate housing. The Special Rapporteur's summary of that correspondence has now been published and I have arranged for a copy to be placed in the Library of the House.

Health: Contaminated Blood Products

Questions

Asked by ***Lord Morris of Manchester***

To ask Her Majesty's Government why there is a deadline for applications for payments in respect of people who died before 29 August 2003 as a result of having contracted hepatitis C from contaminated NHS blood and blood products. [HL7808]

To ask Her Majesty's Government how many people will benefit from the decision to allow payments in respect of people who died before 29 August 2003 as a result of having contracted hepatitis C from contaminated NHS blood and blood products. [HL7809]

To ask Her Majesty's Government what steps they are taking to ensure that everyone entitled to apply for payments in respect of people who died before 29 August 2003 as a result of having contracted hepatitis C from contaminated NHS blood and blood products (a) are aware that they are entitled to apply, and (b) will be able to apply before the deadline for applications. [HL7810]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): A deadline of 31 March 2011 was set in order to encourage those with a valid claim in respect of people who died before 29 August 2003 to come forward as soon as possible. We considered this would give sufficient time for people to register their intention with the Skipton Fund, although we fully appreciate that it may take longer to compile the necessary medical evidence to support the claim. Registration is the part of the process that is required by 31 March 2011.

Since the announcement on 10 January 2011, these new payments have been widely publicised in a variety of ways such as by a press release, by relevant internet sites, by campaign groups such as the Hepatitis C Trust, and by Twitter. A full list of the electronic communications that have been utilised has been placed in the Library.

Annexe 2 of the *Review of the Support Available to Individuals Infected with Hepatitis C and/or HIV by NHS Supplied Blood Transfusions or Blood Products and their Dependants*, which has already been placed in the Library, estimates the number of individuals infected in the United Kingdom with chronic hepatitis C (over the period 1970 to 1991) as 24,539; of whom it is estimated that 4,907 would go on to develop serious infection such as cirrhosis.

The footnote of table 2 of Section 5 of the review report details the assumptions that were made in respect of how many new claims to the Skipton Fund might come forward for those who died pre-2003. This would be in addition to the 4,684 people as at 28 February 2011 who have already made successful claims since the scheme was established. As at 18 March 2011, 376 people in England had registered with the Skipton Fund to make a claim in respect of those who died pre-2003.

Health: Research

Question

Asked by ***Lord Turnberg***

To ask Her Majesty's Government what access the Health Protection Agency will have to external grant income for research if it is transferred to the Department of Health. [HL7816]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The White Paper, *Healthy Lives, Healthy People* committed to setting up an appropriate mechanism to ensure that the income generation activities of the Health Protection Agency can be maintained when it is absorbed into Public Health England and consideration is being given to the most appropriate mechanism to enable this.

Higher Education: Transport

Questions

Asked by ***Lord Willis of Knaresborough***

To ask Her Majesty's Government what resources are made available to local authorities for transport for students over 16 attending (a) full-time, and (b) part-time, further education colleges, sixth form colleges or school sixth forms. [HL7547]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): Local authority statutory responsibilities for transport in relation to post-16 students are funded through revenue support grant and through income generated by councils, including council tax. Formula grant is not hypothecated to a particular service. Local authorities are free to use the funding in line with the wishes of their electorate to meet local needs while taking into account their statutory responsibilities.

Asked by ***Lord Willis of Knaresborough***

To ask Her Majesty's Government what plans they have to make the provision of subsidised transport a mandatory requirement for students aged 16–19 attending further education colleges, sixth form colleges or school sixth forms. [HL7548]

Lord Hill of Oareford: There are no current plans to make the provision of subsidised transport a mandatory requirement for young people of sixth form age in education or training.

House of Lords: Flowers and Plants

Question

Asked by ***Lord Kennedy of Southwark***

To ask the Chairman of Committees how much is expected to be spent on flowers and plants in the House of Lords in 2010–11; and what are the estimates for (a) 2011–12, and (b) 2012–13.[HL7773]

The Chairman of Committees (Lord Brabazon of Tara): It is estimated that a figure in the order of around £24,000 (net of VAT) will be spent on flowers and plants in the House of Lords in 2010-11. This figure includes the cost of flowers for banqueting rooms (around £10,000 up to the end of February) which is recharged to the organisers of the events to achieve a gross profit of at least 30 per cent. There is no single designated budget for flowers and plants and the amount spent largely depends on the banqueting bookings that are arranged. Therefore it is not possible to provide an estimate for the next two financial years.

Housing: Tenancies

Question

Asked by ***Baroness Lister of Burtersett***

To ask Her Majesty's Government how many (a) private tenancies, and (b) social housing tenancies, for dwellings occupied by couples are held (1) by men as individuals, (2) by women as individuals, and (3) jointly by couples. [HL7986]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The table below provides estimates of the number of households in each of the requested categories in England in 2009-10. These estimates are based on data from the English Housing Survey.

Tenancy holders in households with couples, England, 2009-10

	Renting households with couples	
Tenancy holder	*Social renters*	*Private renters*
	Thousands of households	
Individual male	144	303
Individual female	267	118
Joint couple	801	1,072
Total	1,213	1,493

Source:
English Housing Survey

Iraq

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether the river measuring stations on the Tigris and Euphrates in Iraq, destroyed or damaged in 2003 or thereafter, have been replaced wholly or partly; and, if not, whether they will help the Iraqi authorities to do so. [HL7701]

Baroness Verma: An official Government of Iraq publication noting water flow in the Tigris and Euphrates indicates that the river-measuring stations in the two rivers were working in 2009 (*Report on Environmental Statistics, 2009*, Department of Environmental Statistics, Central Statistics Organisation and Ministry of Planning).

As a result of the Department for International Development's (DfID) recent Bilateral Aid Review, DFID will close its office in March 2012. In 2011 DfID will focus on completing three existing programmes covering governance, private sector development and higher education. Other donors including the European Union, Japan, the World Bank and United National Development Programme (UNDP) are providing assistance to the Iraqi authorities on water resource management.

Iraq: Camp Ashraf

Questions

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government, further to the written answer by Lord Howell of Guildford on 9 March (*WA 410–11*), what practical steps they have proposed to the Iraqi government's Ashraf Committee "to ensure the residents' human rights are respected". [HL7670]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): We continue to monitor the situation in Camp Ashraf closely, and regularly discuss any concerns with US, EU and UN colleagues and the Iraqi Government. On 20 February 2011 UK representatives met with the UN and the Iraqi Government's Ashraf Committee and urged the Iraqi Government to ensure the residents' human rights are respected.

Ultimately Camp Ashraf is in a sovereign Iraq and responsibility for the residents lies with the Iraqi Government. We will continue to encourage the Iraqi Government to treat the residents in line with international humanitarian standards and raise concerns where appropriate.

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 9 March (*WA 410–11*), on how many occasions United Kingdom diplomatic representatives have visited Camp Ashraf in 2011; what use of loudspeakers they observed; and what reports they made about the impact of the loudspeakers on residents. [HL7671]

Lord Howell of Guildford: In 2011 our embassy officials, have so far, visited Camp Ashraf once on 16 March to see whether any residents required consular assistance.

We have received reports from camp residents of loudspeakers operating within the camp. During the consular visit, our officials were aware of the presence of some loudspeakers. The Government of Iraq have

publicly stated that the purpose of the loudspeakers is to allow family members to communicate with the residents inside the camp.

We are in regular dialogue with the UN about Camp Ashraf and have raised the issue of the use of loudspeakers with them. UK representatives have also met the Iraqi Government's Ashraf Committee and urged them to ensure the residents' human rights are respected.

Israel

Questions

Asked by ***Lord Harries of Pentregarth***

To ask Her Majesty's Government what representations they are making to the Government of Israel about their refusal to renew the temporary residency status in Jerusalem of the Anglican Bishop, the Right Reverend Suheil Dawani. [HL7824]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): We are very concerned by the Government of Israel's decision to revoke the residency permit of Bishop Suheil. My right honourable friend the Foreign Secretary raised this with the Prime Minister of Israel last November. Our embassy in Tel Aviv continues to press regularly. In his recent press statement, Bishop Suheil publicly thanked my right honourable friend the Foreign Secretary, the British ambassador to Israel and the British Consul-General in Jerusalem for their efforts with the Israeli authorities on his behalf.

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether they will make representations to the Government of Israel about the 222 children held in Israeli prisons at 31 January 2011, and about access to them for their parents. [HL7902]

Lord Howell of Guildford: The UK is concerned about the number of children currently being held in Israeli prisons. We raise our concerns with the Israeli Government about the application of due process and the treatment of Palestinian detainees, including where children are involved, on a frequent basis. Most recently, our ambassador in Tel Aviv has raised the issue of Israel's treatment of Palestinian children with Education Minister Saar and the Ministry of Foreign Affairs' Principal Legal Advisor Daniel Taub.

As the noble Lord is aware, the Government are supporting a project run by Defence for Children International, to monitor, defend and promote the rights of Palestinian children, as protected under the Convention on the Rights of the Child. The UK also supports No Legal Frontiers, which aims to ensure greater access to justice, through the publication of Israeli laws and military orders in Hebrew, Arabic and English and to carry out advocacy work. No Legal Frontiers reports on the functioning of the juvenile military courts and provides legal defence for juvenile defendants.

Israel and Palestine

Questions

Asked by ***Lord Turnberg***

To ask Her Majesty's Government what representations they have made to the Palestinian leadership to respond positively to Israel's offer to negotiate a peace agreement without preconditions. [HL7811]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): My right honourable friend the Foreign Secretary discussed the Middle East peace process with President Abbas during his recent visit to the UK. He underlined the need for both sides to recommit to negotiations on the basis of clear principles supported by the international community.

The Foreign Secretary underlined the UK's view, shared with France and Germany, that the parameters for negotiations should include 1967 borders with equivalent land swaps, appropriate security arrangements for Israelis and Palestinians, a just fair and agreed solution for refugees and Jerusalem as the future capital of both states.

We are pressing the quartet to set out the key parameters for negotiations, along these lines, as soon as possible.

Asked by ***Lord Turnberg***

To ask Her Majesty's Government what is their assessment of Israel's offer to the Palestinian leadership to return to the peace negotiations without pre-conditions. [HL7812]

Lord Howell of Guildford: We remain convinced that there is an urgent need for negotiations to achieve a lasting solution which resolves all final status issues on the basis of clear parameters supported by the international community. The UK, France and Germany have set out their views on what those parameters should be: we continue to discuss these issues with partners.

We support Israel's proposal to extend the Palestinian authority in areas of the West Bank and to ease roadblocks and other restrictions in line with core road map commitments, which both sides should meet. But interim solutions will not suffice. We call on both sides to return to the table as soon as possible.

Asked by ***Lord Turnberg***

To ask Her Majesty's Government what representations they have made to the Palestinian leadership following the recent terrorist killing of a Jewish family in the West Bank. [HL7814]

Lord Howell of Guildford: Palestinian President Mahmoud Abbas has condemned the murders that occurred in Itamar, saying that they were despicable, immoral and inhuman. We welcome his clear stance and his commitment to non-violence in order to resolve the Arab-Israeli conflict. President Abbas underlined this approach during his recent press conference with my right honourable friend the Foreign Secretary.

Japan: Earthquake

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what assistance they have provided to the Government of Japan following the earthquake and tsunami. [HL7663]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): We have offered humanitarian assistance, disaster victim identification and nuclear expertise to the Japanese Government and we stand ready to assist in any way we can. At their request, a 63-strong UK search and rescue team, including medical personnel, was deployed to north-east Japan.

Libya

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what discussions they have had with other states and international organisations about ways and means of evacuating foreign workers and families currently trapped in Libya. [HL7556]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Britain took on a leading role on co-ordinating the evacuation effort. Our Airborne Warning and Control System aircraft directed international aircraft involved in the evacuation. We also set up a temporary joint headquarters in Malta to oversee the military evacuation operation. The UK co-ordinated closely, in particular with the US, Canada, Australia and New Zealand as well as the EU. We directly assisted some 819 nationals of 43 different countries on UK Government-assisted evacuations.

We have also, through the Department for International Development, provided logistic extensive support for foreign workers leaving Libya, including paying for flights to secure the return home of 6,716 people from Tunisia to Egypt and Bangladesh. The International Development Secretary announced last week additional support to the International Organisation for Migration for a further 6,000 people.

Local Authorities: Funding

Question

Asked by ***Lord Trefgarne***

To ask Her Majesty's Government, further to the Written Answer by Baroness Hanham on 15 March (*WA 44*), what are their proposals for allowing parliamentary accountability for the expenditure of £88 billion of central government funding to local authorities. [HL7927]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The expenditure in question is voted by Parliament and there are accounting officers in all departments which give grants to local authorities. Over a third of this funding is provided through formula grant, which is approved by Parliament each year through the local government finance settlement. Through legislation, Parliament has also established requirements for councils to be audited, to make arrangements for the proper administration of their financial affairs and to be accountable to their electors.

Papal Visit

Question

Asked by ***Baroness Turner of Camden***

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 15 March (*WA 46*) regarding the share of the costs of the Papal visit to be paid by the Catholic Bishops Conference of England and Wales, whether interest is payable on the amount. [HL7864]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): No interest is to be paid by the Church. Charging interest would not be appropriate given that Pope Benedict XVI visited the UK as a head of state at the invitation of Her Majesty the Queen and my right honourable friend the Prime Minister.

Police: Northern Ireland

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what steps they are taking to ensure that there is no religious discrimination in recruitment to the Police Service of Northern Ireland. [HL7706]

Lord Shutt of Greetland: I refer the noble Lord to my Written Ministerial Statement of 22 March 2010 (*Official Report*, cols. *WS 57 and WS 58*).

The Government believe that maintaining a police service which is reflective of the society it polices is as important as ever. This view is shared by the Department of Justice and the PSNI themselves and they will continue to work to this end.

Poverty

Question

Asked by ***Lord German***

To ask Her Majesty's Government what assessment they have made of the recent research by the Institute for Fiscal Studies which argues that spending, rather than income, is the best measure of poverty. [HL7703]

The Commercial Secretary to the Treasury (Lord Sassoon): Her Majesty's Government welcome the recent research by the Institute for Fiscal Studies (IFS) on the use of expenditure as a measure of living standards and poverty.

Her Majesty's Government agree that expenditure is a valuable complementary measure of standards of living, in addition to traditional analysis by income levels. The Government set out in the 2011 Budget report the reasons why expenditure may be a better measure of standards of living than income. Analysis of the income distribution alone can be potentially misleading. Among the reasons for this is that for some households, predominately in the bottom decile, expenditure exceeds current income. This could be because some households—typically those containing students, self-employed and unemployed individuals—experience temporary periods of low income and fund their expenditure from savings or borrowings. Because such households are smoothing their lifetime consumption, expenditure may be a better indicator of their standard of living. In line with this, our distributional analysis for the June Budget 2010 and Budget 2011 included analysis by income decile and expenditure decile, going further than any government before in providing a picture of the impacts on households.

The Government are keen to explore complementary indicators of poverty that ensure that the policy response is not just focused on lifting those in poverty above an arbitrary income line, but also tackles the root causes of poverty and deprivation.

However, the Government are also aware that there are a number of difficulties with collecting data on low-expenditure households. Officials are in discussions with the IFS about extending data collection on expenditure, but these are at a very early stage.

Railways: European Train Management System

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether, in light of cost over-run and delays in introducing the European Train Management System on the Cambrian Railway line, they are reconsidering their plan to extend the system. [HL7647]

Earl Attlee: The European Rail Traffic Management System (ERTMS) is mandated for all new lines, substantial renewals or upgrades by EU directive and should enable the rail industry to make long-term cost reductions.

The purpose of the Cambrian deployment was to better understand the detailed issues of installing a system of this type in the UK. The experience gained on the Cambrian has already led to a number of very valuable lessons being learnt.

The Department for Transport intends the National ERTMS deployment plan to be updated to fully reflect the lessons learnt from the Cambrian deployment.

Republic of Ireland: Financial Support

Question

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government what impact the additional borrowing requirement by the Republic of Ireland will have on United Kingdom public funds in terms of (a) any new commitment, (b) monies already committed through a European Union bailout, and (c) in the event of any subsequent default. [HL7669]

The Commercial Secretary to the Treasury (Lord Sassoon): The terms of the UK bilateral loan to Ireland are as set out in the loan agreement that was deposited in the Libraries of both Houses by the Financial Secretary on 10 January 2011. The specific policies that the Irish Government have undertaken to implement, including with respect to fiscal consolidation, are outlined in the Memorandum of Economic and Financial Policies agreed with the International Monetary Fund and the European Commission, which is available on the IMF's website at http://www.imf.org/external/pubs/ft/scr/2010/cr10366.pdf.

The Irish Government for National Recovery programme states that:

"In preparation for Budget 2013, we will review progress on deficit reduction, and draw up a plan which will achieve the objective of reaching the 3 per cent of GDP target for the general Government deficit by the target date of 2015".

This is one year later than the deadline of 2014 set by the previous Government's national recovery plan, but is consistent with the fiscal consolidation targets set by the Irish adjustment programme as referred to above.

Royal Family: Official Visits

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what investigations are made into the human rights situation in a country before a visit by Her Majesty the Queen. [HL7764]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): All relevant factors are taken into account when considering proposals for state visits overseas, including relevant political and social issues. The Government are committed to promoting and protecting human rights around the world. Our high commissions and embassies have a responsibility to monitor and raise human rights in their host countries. They routinely raise our concerns with other governments to uphold universal standards and, where possible, take action on individual cases where persecution or discrimination has occurred and lobby for changes in discriminatory practices and laws. We will continue to defend the human rights of all people.

Safeguarding Children

Question

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what response they have made to the concerns of the National Society of the Prevention of Cruelty to Children that the proposed changes to child protection measures could put children at risk. [HL7805]

The Minister of State, Home Office (Baroness Neville-Jones): The Government have considered carefully the representations received from the National Society of the Prevention of Cruelty to Children (NSPCC) and a number of meetings have been held with officials. The Home Secretary's letter of 11 March to the right honourable Member for Normanton, Pontefract and Castleton (Yvette Cooper) sets out the Government's policy on remodelling the vetting and barring scheme and has been provided to the NSPCC. A copy has been placed in the House Library.

Schools: Academies

Questions

Asked by ***Lord Willis of Knaresborough***

To ask Her Majesty's Government what is the total revenue and capital resource available for the academy programme in England. [HL6741]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): The total revenue budgets for the academies programme in2010-11 amount to £2,092 million and consist of:

a Young People's Learning Agency (YPLA) budget for academy sixth forms—£203million;

a YPLA budget for other academy (pre-16 year old) costs—£1,816 million; and

a Department for Education (DfE) budget for the academies programme (to meet, for example, project development and start-up costs)—£73 million.

The capital budgets for the academies programme in 2010-11 consist of:

a proportion of the budget of £2,241 million which Partnerships for Schools has for meeting the costs of the Building Schools for the Future programme (including academy building projects procured by local authorities under this programme), academy projects procured separately and the co-location programme;

a proportion of the budget of £232 million which the YPLA has for academies' devolved formula capital allocations and two other programmes to facilitate the participation of 14 to l9-year olds in education; and

a DfE budget for other academy building costs—£265 million.

Budgets for 2011-12 have not yet been finalised.

Asked by ***Lord Willis of Knaresborough***

To ask Her Majesty's Government what is the total amount of revenue and capital grants removed from each local authority in England to support the academy programme. [HL6743]

Lord Hill of Oareford: For 2010-11, we are deducting amounts of revenue funding from each local authority with a relevant academy. These amounts are shown in column L of the worksheet entitled *2010-11 Final DSG Allocations* in the published spreadsheet at the following link: http://media.education.gov.uk/assets/ files/xls/d/dsgfinal_2010_11_allocations_v_26.xls. The amounts are based on the funding that the local authority would have paid to the academy if it had remained as a maintained school. Further information about these recoupment figures is contained in the initial worksheet of this spreadsheet. For 2011-12, the amounts to be recouped will depend on the academies established in, and relevant information to be received from, each local authority.

We are also deducting from local authorities' formula grant £148 million and £265 million in 2011-12 and 2012-13 respectively. This is to avoid academies and local authorities being funded for the same services. The adjustments in respect of each local authority are available on the Department for Communities and Local Government website at:

http://www.local.communities.gov.uk/finance/1112/1011adjusteds.xls

http://www.local.communities.gov.uk/finance/1112/1112adjusteds.xls.

No capital grants are being removed from local authorities to support the academy programme.

Asked by ***Lord Beecham***

To ask Her Majesty's Government why they have removed £413 million from local authorities' non-school budgets to pay for services for new academies, including local authorities in areas without academies; and why that amount exceeds by £350 million the Department for Education's estimate of the amount required by the new academies. [HL6807]

Lord Hill of Oareford: We provide academies with additional funding in recognition of the additional responsibilities they have, which would previously have been borne by their local authority. There are two elements to the grant: the proportion which the department can recoup from the dedicated schools grant that would otherwise go to local authorities, and the proportion that the department cannot recoup because it is in respect of services normally paid from other local authority funds. For the latter, to avoid academies and local authorities being funded for the same services, we have calculated a total cost, and this is reflected in the amounts transferred from local authorities' formula grant of £148 million and £265 million in 2011-12 and 2012-13 respectively.

The adjustments were based on national averages and estimates applied equally to all local authorities, including those without academies, as we cannot predict at this stage how many academies will be in each particular local authority over the next two years. An exact figure was given for the next two years to give local authorities greater certainty about the deductions they need to manage. The deductions do not affect the schools budget in each local authority, which is funded through the dedicated schools grant direct from the department, rather than through formula grant.

The Academies Bill impact assessment published on 16 July 2010 identified the present value of local authority central services costs, over a four-year period from 2010-11 to 2013-14, at £430 million. The annual cost was higher at the time of the later formula grant

adjustments, in part because of changes in the number of maintained schools which at that stage were expected to convert to academy status.

Asked by ***Lord Willis of Knaresborough***

To ask Her Majesty's Government when they will answer Questions for Written Answer HL6741 and HL6743; and what are the reasons for the delay. [HL8008]

Lord Hill of Oareford: These questions have now been answered. The delay was caused by officials in the department failing to collate the information required to provide the answer sufficiently quickly to meet the parliamentary deadline. I have asked the Permanent Secretary to investigate why this happened.

Schools: Free Schools

Question

Asked by ***Baroness Jones of Whitchurch***

To ask Her Majesty's Government what is the total departmental budget set aside for the funding of new free schools; and what is the projected number of new free schools starting in the academic years 2010–11 and 2011–12. [HL7508]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): £50 million has been set aside in the financial year 2010-11 to meet the capital needs of free schools. Beyond that, provision forms part of the overall spending review settlement for schools. Allocations for free schools have yet to be decided.

The Secretary of State has recently signed the first funding agreement with the proposers of a free school—to open the West London free school in September 2011. We are also working with a further 40 groups to set up other free schools, a number of which should open in September 2011.

Smoking

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what plans they have to deal with the problem of passive smoking. [HL7840]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The Tobacco Control Plan for England, published on 9 March 2011, sets out the action Government will take across the six internationally recognised strands that make up a comprehensive approach to tobacco control. This includes protection from exposure to second-hand tobacco smoke.

The plan is informed by *The Impact of Smokefree Legislation in England*, an academic review of the evidence on the effectiveness of the 2006 smoke-free law (which was published alongside the plan) and by *Passive Smoking and Children: A Report of the Royal College of Physicians*.

A copy of the Tobacco Control Plan for England and, *The Impact of Smokefree Legislation in England*, have already been put in the Library.

Sri Lanka

Question

Asked by ***Lord Patten***

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 23 November (*WA 321*), whether they now have knowledge of the whereabouts and welfare of Mr Ehneligoda; and whether they intend to make further representations concerning his case.[HL7946]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The UK has expressed its concern about the disappearance of Prageeth Ekneligoda. We do not have any knowledge of his whereabouts or his welfare.

During my recent visit to Sri Lanka I encouraged senior government officials to ease restrictions on the media and protect journalists.

Our High Commission in Colombo regularly raises cases with the Government and will continue to pursue Mr Ekneligoda's case. We also regularly discuss human rights issues with civil society

Taxation: Corporation Tax

Question

Asked by ***Lord Oakeshott of Seagrove Bay***

To ask Her Majesty's Government what is the estimated total, for all banks operating in the United Kingdom, of accrued tax losses allowable against United Kingdom corporation tax. [HL7857]

The Commercial Secretary to the Treasury (Lord Sassoon): HM Revenue and Customs publishes statistics on trading losses from previous years, offset against current year trading profits, and trading losses, offset against other income, for financial sector companies including banks. This information is regularly updated and published in table 11.2, on the HMRC National Statistics website. The latest update is available here: http://www.hmrc.gov.uk/stats/corporate tax/table11_2.pdf.

HMRC does not publish information on total corporation tax losses accrued.

Turkey

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what representations they have made to the Government of Turkey about the release of Mr Nedim Sener and Mr Ahmet Sik, and other recently arrested journalists, and in particular regarding the provision of information to their lawyers of evidence justifying charges against them. [HL7702]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): We have not made specific representations to the Government of Turkey about the release of Mr Nedim Sener, Mr Ahmet Sik or other recently arrested journalists.

Our embassy in Ankara regularly raises issues relating to freedom of the media in the context of wider discussions on human rights with their Turkish counterparts. The EU made a statement on 10 March 2011 expressing its concerns about the arrest of journalists in Turkey and urging Turkey to fulfil its Organisation for Security and Co-operation in Europe commitments on media freedom. We do not plan to make separate bilateral representations in addition to the EU statement.

UN: UK Representation

Question

Asked by ***Lord Hunt of Chesterton***

To ask Her Majesty's Government how they ensure a broad representation of United Kingdom interested parties and experts at meetings of United Nations technical and specialist agencies; and whether they plan to alter their practice and follow that of the United States of restricting representation to civil servants and occasionally ministers. [HL7776]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Our delegations to UN meetings invariably comprise officials and Ministers from a range of relevant government departments and agencies. In practice, lead policy departments have an ongoing dialogue with their colleagues from other government departments as well as with other stakeholders, including those from professional and academic research bodies, non-governmental organisations, the private sector and civil society. Individuals from these groups have and continue to form part of the UK's delegation to UN meetings. In general, it is common practice for government departments to undertake consultation with such stakeholders before and after governing body meetings of UN technical and specialised agencies.

Universal Credit System

Question

Asked by ***Baroness Lister of Burtersett***

To ask Her Majesty's Government who will provide the appropriate budgeting support referred to in Universal Credit: welfare that works for people on low incomes who may have difficulties managing their financial affairs should universal credit be paid monthly; and what form that budgeting support will take. [HL7780]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): The department is carefully considering the frequency with which universal credit will be paid. No decisions have yet been made on this matter.

As part of the design process for universal credit, the department is undertaking a broad programme of customer engagement. This work will inform decisions about how best to provide budgeting support for those who need it.

Universities: Admissions

Questions

Asked by ***Lord Lexden***

To ask Her Majesty's Government how they will ensure that universities retain the freedom to set their own admissions policies. [HL7853]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): Universities are independent and autonomous organisations and as such are responsible for their own admissions decisions. The Government have no legal power to interfere in university admissions.

Asked by ***Lord True***

To ask Her Majesty's Government how they assess fair access to universities. [HL7871]

Lord Henley: The Director of Fair Access is charged with promoting and safeguarding fair access to higher education. Every university intending to charge more than the basic level (£6,000 from September 2012) must have an access agreement agreed with the director. The director publishes annual monitoring reports setting out the outcomes of his annual monitoring of access agreements. These are available on the website of the Office for Fair Access www.offa.org.uk.

The Government published guidance to the Director of Fair Access about his approach to approving and monitoring access agreements applying from September 2012 in February. That guidance says that institutions should agree with the director a programme of defined progress each year—set within a five-year timeframe—in relation to appropriate benchmarks. Access agreements will be reviewed annually. The director published his own guidance to universities on 8 March.

Violence against Women

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government whether during the negotiations on the draft Convention on Preventing and Combating Violence Against Women and Domestic Violence they have objected to the proposed wording that "violence against women is understood as a violation of human rights". [HL7533]

The Minister of State, Home Office (Baroness Neville-Jones): We are supportive of the work of the Council of Europe in raising awareness of violence against women and girls and keen to see the adoption of a strong convention. We are seeking to clarify the meaning of the wording in article 3a on violence against women to ensure that international human rights protection remains robust and effective for all individuals.

Violence against Women Overseas

Question

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what contacts they have had with Margot Wällstrom, the United Nations Special Representative on combating violence against women, since her visit to London earlier this year; who has contacted her; and when.

[HL7757]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Our Permanent Representative to the UN in New York represented the UK at an informal session of the Security Council on 18 February 2011, where Margot Wallström briefed the Security Council on her portfolio. Ahead of that session experts at the UK Mission to the UN in New York were in contact with her office on the important issue of combating violence against women and have also facilitated contact with other member states.

Monday 28 March 2011

ALPHABETICAL INDEX TO WRITTEN STATEMENTS

Monday 28 March 2011

ALPHABETICAL INDEX TO WRITTEN ANSWERS

NUMERICAL INDEX TO WRITTEN ANSWERS

Volume 726
No. 132

Monday
28 March 2011

CONTENTS

Monday 28 March 2011