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House of Lords

Wednesday, 6 July 2011.

3 pm

Prayers—read by the Lord Bishop of Derby.

Office for Budget Responsibility
Question

3.06 pm

Asked By ***Lord Barnett***

To ask Her Majesty's Government what further discussions they have had with the Office for Budget Responsibility regarding their central growth forecast for 2011.

The Commercial Secretary to the Treasury (Lord Sassoon): My Lords, there is a memorandum of understanding which sets out a framework for co-operation between the Office for Budgetary Responsibility and HM Treasury. It states that they are expected to meet regularly to scrutinise forecasting assumptions. The OBR will publish a list of contacts with Ministers, special advisers and their private offices shortly after each autumn and Budget forecast. All credible forecasters are clear that the UK economic recovery will continue. The OBR will publish a new economic forecast later this year.

Lord Barnett: My Lords, I thank the Minister. Paragraph 3.6 of the OBR's economic and fiscal outlook states that,

"there is considerable uncertainty around all the forecast judgements we make".

I know that the Chancellor cannot introduce a plan B because it would kill plan A. When the BBC last week gave him an alternative, the Chancellor said that "flexibility" was written into his plan. What does he mean by flexibility? Is it the Treasury's special reserve? If so, can he remind us how much is in it and how much is left after expenditure on the MoD, Libya and other departments? Is that what he meant? If so, can he exceed it with the permission of the House of Commons? Therefore, is that a sort of plan B?

Lord Sassoon: I would love to be able to tell noble Lords what was in the mind of Robert Peston or whoever was being quoted, because it certainly was not the Chancellor. It was somebody interpreting the mind of the Chancellor.

Of course, there are certain ways in which there is flexibility within the numbers, because the automatic stabilisers operate as the economy fluctuates. In that sense there is flexibility, but I have no idea otherwise what that particular commentator had in mind. It certainly had nothing to do with use of the reserve.

Lord Higgins: My Lords, has my noble friend noted that the recent report of the IMF on the UK economy suggests that the Chancellor's plan A, as the noble Lord referred to it, is on the right course? However, is not the growth forecast referred to in the Question none the less pretty disappointing? Is this not a reflection to a considerable extent of the slow rate of growth in the money supply? Given that that is so, is there not a case for considering a further extension of quantitative easing?

Lord Sassoon: My Lords, I am grateful to my noble friend for pointing out the IMF's recent assessment that endorses the deficit reduction plan, as has the Governor of the Bank of England and just about every other commentator I can think of. That is the plan to which we stick. The third Question this afternoon is on matters related to the Monetary Policy Committee and maybe it would be better to talk about monetary matters then.

Lord Peston: My Lords, does the noble Lord look every month as I do at an admirable document published by his own department which is a survey of all the independent forecasts made every month by the leading forecasters in this country? Is he aware that their latest figures show that the economy will grow by 1.5 per cent this year, not exactly the greatest performance ever; it is predicted to grow by 2.1 per cent next year and the medium-term forecast is approximately 2.3 per cent for the three further years? Is he aware therefore that alleged independent Office for Budget Responsibility, in the document quoted with great approval in the Budget Statement this year, predicted that for the three medium-term years the economy would grow at 2.8 to 2.9 per cent? When will he or his right honourable colleague the Chancellor go back to this alleged Office for Budget Responsibility and ask it how it managed to get the three most important numbers it was talking about wrong?

Lord Sassoon: My Lords, I recognise the numbers that the noble Lord, Lord Peston, quotes from the excellent monthly publication that the Treasury produces averaging out the independent forecasts. The Office for Budget Responsibility last published a forecast in March. It is obliged to put out forecasts at least twice a year. We can look forward to another one in the autumn and we will see what it has to say then. As to the extraordinary charge of the alleged independence of the Office for Budget Responsibility, I was pleased to see, only within the past couple of weeks, that the noble Lord, Lord Burns, has been appointed as one of the first two non-executive members of the office, which is a sure sign that its independence is going to be very safely guarded.

Lord Jones of Birmingham: How on earth do this Government intend to meet their growth forecast if they do not rebalance the economy through a quality manufacturing strategy and at the first whiff of gunshot they still buy German trains and not those made in Derby?

Lord Sassoon: My Lords, first, it is not our forecast. These are the forecasts of the independent Office for Budget Responsibility. Secondly, what is very heartening in the economy is the growth of manufacturing output and the growth of exports. Since last May, manufacturing output has been 4.2 per cent higher than in the same period in the previous year. Since last May, volumes of exports to the rest of the world have been nearly 13 per

[Lord Sassoon]
cent higher than in the same period a year earlier. The private sector has created 520,000 extra jobs in the past year and that is three-and-a-half times the number of jobs by which the public sector has contracted. I really do not think that noble Lords should get pessimistic. We always said that the recovery was going to be choppy but the manufacturing side of the economy is doing very well to rebalance, which is what the economy needs.

Lord Eatwell: My Lords, it is very helpful for the noble Lord to introduce the idea of rebalancing. Will he confirm that a vital component of the coalition's policy to rebalance the economy is growth in business investment? Indeed, the OBR budget forecast contains a projected growth rate of 6.7 per cent for business investment. Will he confirm that latest figures show that business investment is not growing at all, but falling by more than 3 per cent a year?

Lord Sassoon: My Lords, I do not know where the noble Lord, Lord Eatwell, gets his figures from. Since last May, businesses have invested £91.4 billion across the economy and that is 9 per cent higher than in the same period in the previous year. That is very positive confirmation by business of what it sees as the prospects for this economy.

Prisoners: Voting

Question

3.14 pm

Asked By ***Lord Willoughby de Broke***

To ask Her Majesty's Government how they intend to respond to the ruling by the European Court of Human Rights in April that they should make proposals to grant prisoners the vote within six months of that ruling.

The Minister of State, Ministry of Justice (Lord McNally): My Lords, the Government are considering the next steps and Parliament will be the first to be informed when the decisions on the way forward have been reached.

Lord Willoughby de Broke: My Lords, I am most grateful to the Minister for that helpful reply, but it does not take us very much further. In February this year, the other place voted by a majority of 212 against giving prisoners the vote, and during the passage of the EU Bill the Government made great play of the sovereignty of Parliament. Which body is actually sovereign? Is it the UK Parliament or the European Court of Human Rights?

Lord McNally: On the question of the commitments made last April, we have promised to make our position clear on 11 October. On the question of sovereignty, of course this Parliament remains sovereign. In many cases over the years, Britain has signed up to conventions and treaties as the will of Parliament, and that is still the case with regard to the European Convention on Human Rights.

Lord Maclennan of Rogart: My Lords, as the United Kingdom is a party to the European Convention on Human Rights, are we not bound to accept the jurisdiction of the court unless we seek to withdraw from it, which would hardly be in the interests of this country? However, if there is a widespread concern, not only in this country but in other countries, about the jurisprudence of the court, is it not more sensible to enter into discussions about possible amendments to the convention on human rights rather than its break-up and withdrawing from the jurisdiction of the court?

Lord McNally: One reassuring thing is that I am not aware of any party represented in this House that is looking for us either to withdraw from the convention or to see it break up. My noble friend is right: we are looking to see whether we can put forward a proper and sensible programme of reform for the court. My right honourable friend the Lord Chancellor spelled out our agenda, as it were, in a speech in Turkey a few months ago, and we will be taking that agenda forward when we take up the chairmanship of the Council of Europe in November.

Lord Anderson of Swansea: Does the Minister agree that while there may be a case for asking for an extension of time while awaiting the Grand Chamber judgment in the Scoppola case, which also involves prisoners' rights, and a case for negotiating with the court on the broad margin of appreciation allowed in the Hirst case, there is no case whatever for defying the court, as a number of Members of the other place seem rather keen to do, particularly at a time when the UK will assume the chairmanship of the Council of Ministers in November? What sort of precedent would that give to defaulting members such as Turkey and Russia?

Lord McNally: The noble Lord makes the key point in all this. It looks rather macho to say that we are going to defy the court, but one of the real benefits of the convention over the past 60 years has been that it has levered up respect for human rights right across Europe and continues to do so. If I, any of my noble friends, or any member of the Opposition were to meet marginal observers of human rights and put pressure on them, our words would not carry much weight if they were able to say, "Well, when it got tough for you to accept the decisions, you did not accept them".

Baroness Knight of Collingtree: My Lords, does my noble friend believe that it is fair and right that prisoners convicted of crimes should be allowed to vote, whereas Peers in this House are not?

Lord McNally: There is a saying, "You can tell a man who boozes by the company that he chooses". I am well aware of the reasons why Peers cannot vote, because we already have a vote in Parliament. I do not think that that rules out the case for prisoner voting—it is an ongoing debate and the Government are studying the various issues. Another reason why the Government are continuing to have to study those issues is that there are changes in the court's position. The Italian case that the noble Lord referred to means that again there is a slight change in the court's view on these matters, which may change future actions.

Lord Tomlinson: The noble Lord speaks very clearly and enthusiastically about our responsibilities of adherence to the European Convention on Human Rights. Instead of concentrating so much on this micro case of prisoner voting, will he concentrate equally on the macro problem of making the court work? The biggest problem at the European Court of Human Rights is the backlog of cases—over 100,000 cases—and the real reason for the backlog is because the court is being starved of money by the members who have to finance it. Will he make sure that that problem is now seriously addressed so that the court can get on with its real work on the big scale?

Lord McNally: I am not sure I entirely agree that it is simply a lack of money or budget. I know that the noble Lord has made this point about the financing of the court before, but that is why my right honourable friend the Lord Chancellor has made this such an important part of our presidency of the Council of Europe; as the noble Lord says, any court that has a backlog of over 100,000 cases ain't working. We are going to do our best, and we are gathering support for the idea of trying, to get some fundamental reform of the court.

Baroness Lister of Burtersett: My Lords, does the Minister agree that if we deny all prisoners one of the most basic rights of citizenship—that is, the vote—they are less likely to fulfil their responsibilities of citizenship on release?

Lord McNally: That is an opinion that, quite frankly, I share. Perhaps the noble Baroness could come down the Corridor with me and we will try to convince David Davis and Jack Straw.

Monetary Policy Committee

Question

3.22 pm

Asked By ***Lord Spicer***

To ask Her Majesty's Government whether they will maintain the inflation target as the primary criterion of the Monetary Policy Committee.

The Commercial Secretary to the Treasury (Lord Sassoon): My Lords, the Bank of England Act 1998 states that the objectives of the Monetary Policy Committee of the Bank of England are to maintain price stability and, subject to that, to support the economic policy of the Government. The Chancellor reaffirmed in Budget 2011 that the MPC will continue to target 2 per cent inflation as defined by the 12-month increase in the consumer prices index.

Lord Spicer: I thank my noble friend for that Answer—and take it as a yes. In the light of that, what response are the Government giving to the stream of letters of apology from the Governor of the Bank of England for not meeting the inflation target?

Lord Sassoon: My Lords, it is part of the discipline of the way in which the Monetary Policy Committee operates that it is required to write letters to the Chancellor when inflation is outside the target range. The most recent exchange of letters was in May 2011, in which the Chancellor recognised the factors driving short-term inflation, including, particularly, the very high commodity prices. However, it is important to recognise that the MPC's mandate enables it to look through short-term movements in prices towards a medium-term target.

Lord Myners: My Lords, as the Minister said, the Bank of England has two monetary policy objectives: to deliver the inflation target, currently set at 2 per cent, and to deliver growth—and to be accountable to the Treasury and Parliament for doing so. On which of those two objectives does the Minister think the governor and the Bank of England are doing best?

Lord Sassoon: I would always hesitate to hold up and criticise the characterisation of the Bank of England MPC's target by the noble Lord, Lord Myners. However, as I have made clear, it has one primary target—to maintain price stability, with the target that I have already confirmed—and it is doing a fine job in extremely difficult circumstances, when oil prices are 40 per cent higher than they were at the end of last year and agricultural prices are 60 per cent higher than a year ago. Against that background the MPC is doing a fine job in very difficult conditions.

Lord Higgins: Having not got an answer on the first Question, I shall try again. Would my noble friend agree that much of the problem is that the present inflation is imported rather than domestically generated, and that needs to be taken into account in making these decisions? None the less, the MPC also has responsibility for growth. Given the low rate of growth, and the low rate of growth in money supply, is there not a further case for more quantitative easing?

Lord Sassoon: I apologise to my noble friend for cutting him off earlier, but I am glad that he has got in now. It is certainly a bit of a puzzle that there is continued weakness in broad money growth at a time when nominal GDP is growing. I am no macroeconomist, but when I look at the tables I see that, among other things, the velocity of the circulation of broad money is increasing. I cannot see behind me to see whether my noble friend is nodding, but I think he is, so I am all right on that one. Any question of additional quantitative easing or withdrawal of quantitative easing will be decisions for the MPC whenever it sees fit.

Lord Eatwell: My Lords, would the Minister agree that increases in commodity prices and oil prices affect the economy of France, Germany and the United States just as much as they do of Britain? Why then is Britain's inflation rate more than twice that of France, twice that of Germany and significantly greater than that of the United States?

Lord Sassoon: My Lords, the really important thing here is that the inflation expectations remain very low. All the range of forecasters is predicting that inflation will come down to the range of 2 per cent to 2.1 per cent in 2012 and beyond. That is the critical challenge for the MPC, in which it has the market's confidence, and that is what underpins the very low interest rates that we continue to enjoy. We suffer, inherited from the last Government, a deficit the size of Portugal's, but we have interest rates at the level of Germany's.

Lord Newby: My Lords—

Lord Maples: My Lords—

Lord Strathclyde: My Lords, we have time for both noble Lords. We can have the noble Lord, Lord Newby, and then the noble Lord, Lord Maples.

Lord Newby: My Lords, does the noble Lord agree that at a time when real incomes are falling, if the Bank of England Monetary Policy Committee were to raise interest rates now the principal effect would simply be to reduce growth and increase unemployment?

Lord Sassoon: Yes, I completely agree with my noble friend.

Lord Maples: My Lords—

Lord Stern of Brentford: My Lords—

Noble Lords: Cross Bench!

Lord Stern of Brentford: Would the Minister agree that we are fortunate that the Bank of England has taken account of the fragility of output and employment in the UK economy, and will he assure us that the Government will also take account of that fragility in setting their own policy?

Lord Sassoon: My Lords, I can confirm the first part of what the noble Lord, Lord Stern, says. What the Government will do is to stick to a very firm, clear deficit reduction plan as the background against which the Monetary Policy Committee can make its decisions with confidence.

Lord Desai: My Lords—

Lord Maples: My Lords, consumer price inflation is only one measure of inflation. May I suggest that if in the run-up to the crash the Monetary Policy Committee had been looking at asset price inflation—

Lord Strathclyde: My Lords, there are two noble Lords trying to speak. We are on 22 minutes and perhaps we should go on to the next Question.

Overseas Aid: Famine Relief

Question

3.29 pm

Asked By ***Baroness Tonge***

To ask Her Majesty's Government what plans they have to provide famine relief to the people of Ethiopia, Uganda, Somalia and Kenya.

Baroness Verma: My Lords, my noble friend Lady Tonge will be pleased to know that on 3 July the Government announced significant funding for the World Food Programme to help feed 1.3 million people in Ethiopia. The UK is the second largest bilateral donor in Ethiopia. Additional responses are rapidly being prepared for Somalia and Kenya, and we are closely monitoring the situation in Uganda. We are vigorously pressing other donors to play their part in helping to prevent a major catastrophe.

Baroness Tonge: I thank the noble Baroness for that response. Is she aware that the population of the four countries currently threatened by famine has grown from 41 million in 1960 to 167 million now and that it is still rising fast? This huge rise in unsustainable and makes populations more vulnerable than ever to drought and crop failures. Will she now repeat the Government's pledges to give more money to maternal health and, in particular, ensure that when we deliver food aid to starving populations we should also deliver contraceptive supplies and health education to try to ensure that the children whose lives we save today will not be bringing their children to the feeding centres in 10 or 20 years' time?

Baroness Verma: My Lords, my noble friend is aware that the DfID programmes are concentrating on ensuring that maternal and reproductive health is at the centre of all our programmes. Of course, the noble Baroness is right that the populations in these particularly poor countries are growing far more rapidly than those in more developed countries. However, it is through education and supporting women to get better healthcare that we will be able to address this problem.

Lord Judd: My Lords, I declare an interest as a former director of Oxfam. Does the Minister agree that in their welcome response to this terrible crisis the Government must take care to ensure that, in the distribution of assistance, they do not inadvertently undermine sustainability in the area and that this will be done sensitively, in a way that enables people to build their lives again and build their sustainability? Is it not very important to co-operate with the NGOs, with all their insight into the situation, in achieving this?

Baroness Verma: The noble Lord is right. We have to work on a long-term plan, but we also have to react and respond to the crisis at the moment. The noble Lord will be aware that we have just had a review of the way we distribute humanitarian aid and we want to build on the recommendations of my noble friend Lord Ashdown so that there is resilience in the system as well as responding in the short term.

Lord Patel: My Lords, on the basis that famines do not occur overnight and that conditions exist for some time before the crisis develops, would it not be better if the Government were able to have some plans that they could put into action in order to be ahead of the curve, so that the effects of the famine, or other crisis, could be mitigated?

Baroness Verma: The noble Lord, Lord Patel, is right. Following on from the previous question, it is about ensuring that we have warning systems in place. We are also working hard to build long-term resilience by providing assistance on how to develop economic growth and by ensuring that populations are better educated in healthcare in order to be able to respond to the needs themselves.

Baroness Trumpington: Is the Minister aware of the proportion given by neighbouring African countries, such as Nigeria and Zimbabwe, to the total needed to help prevent this famine continuing?

Baroness Verma: My noble friend raises an important question. While we are world leaders, we are pressing Governments, not just from developed donor countries, but also from regional donor countries, to ensure that they are playing their part in responding to this crisis.

Baroness Kinnock of Holyhead: Will the Minister comment on the fact that we knew full well that the Horn of Africa was experiencing the driest year in six decades and the worst regional food crisis in this century, so it need not have been such a surprise to donors? Does she agree that, yet again, the response to what is clearly a desperately serious food crisis has come too late—indeed, only after disaster has struck and thousands of desperate people have been forced to seek food and refuge in refugee camps?

Baroness Verma: The noble Baroness is right: this was forecast. However, we in the UK are playing our part and pressing other donor countries to play theirs. We know that there is a shortfall and we are pressing other Governments to ensure that they respond. We are working very hard with agencies across the globe. Ultimately, it is about ensuring that we are putting long-term resilience plans into place, which take time to build up. At the same time, we will press for short-term responses from other Governments.

Lord Avebury: My Lords, my noble friend talked about the encouragement of other donor agencies. I am sure that she is aware that the Disasters Emergency Committee is still in discussion with the member agencies on whether the catastrophe meets its appeal criteria, although some of its member agencies such as Oxfam and Save the Children have already issued separate appeals. What can my noble friend and the Government do to encourage wider and more effective co-ordination of the voluntary agencies in responding to this and future disasters? In particular, will they encourage wider co-operation between our agencies and those of the Irish Government?

Baroness Verma: My noble friend is right: we need to have better co-ordination. We are working closely with the noble Baroness, Lady Amos. Ultimately, this is about us showing our leadership and pressing other donor countries and organisations to join in the response to this urgent crisis.

The Earl of Sandwich: Will the Minister confirm that, while the aid budget is ring-fenced, there are going to be cuts in the administration of our aid? How will these impact on the emergency services? Will they be protected?

Baroness Verma: I assure the noble Earl that we are looking at cutbacks only in back-office work. Our aid effectiveness will not be affected; in fact, we will be able to deliver better because it will be more focused on results. How we deliver our aid will be at the heart of what we are doing.

Finance (No. 3) Bill

First Reading

3.36 pm

The Bill was brought from the Commons, read a first time and ordered to be printed.

Draft House of Lords Reform Bill

Membership Motion

3.37 pm

Moved By ***The Chairman of Committees***

That the Commons message of 23 June be considered and that a Committee of thirteen Lords be appointed to join with the Committee appointed by the Commons to consider and report on the draft House of Lords Reform Bill presented to both Houses on 17 May (Cm 8077) and that the Committee should report on the draft Bill by 29 February 2012;

That, as proposed by the Committee of Selection, the following members be appointed to the Committee:

B Andrews, L Hennessy of Nympsfield, L Bishop of Leicester, L Norton of Louth, L Richard, L Rooker, B Scott of Needham Market, B Shephard of Northwold, B Symons of Vernham Dean, L Trefgarne, L Trimble, L Tyler, B Young of Hornsey.

That the Committee have power to agree with the Committee appointed by the Commons in the appointment of a Chairman;

That the Committee have power to send for persons, papers and records;

That the Committee have power to appoint specialist advisers;

That the Committee have leave to report from time to time;

That the Committee have power to adjourn from place to place within the United Kingdom;

That the reports of the Committee from time to time shall be printed, regardless of any adjournment of the House; and

That the evidence taken by the Committee shall, if the Committee so wishes, be published.

Lord Williamson of Horton: My Lords, I welcome the selection of members for the Joint Committee, and I wish the noble Lord, Lord Richard, and his colleagues godspeed—but of course not too much speed—in the completion of their report.

The Joint Committee's remit is very wide because the draft Bill itself has a very wide scope, covering composition, functions and the efficiency of the House. However, I suggest that in looking at the draft Bill the committee might also look at the issues raised by the Bill presented by the noble Lord, Lord Steel of Aikwood, because they, too, would improve the efficiency of the House. The noble Lord the Chairman of Committees and the noble Lord the Leader of the House will not be surprised by this comment, because the Steel Bill has the character of the legendary phoenix—when the blaze dies down, the Steel Bill arises alive and well from the ashes.

Lord Steel of Aikwood: My Lords, I would like to speak to the line in the resolution that invites the committee to send for a person's papers and records. If one reads the report of the two-day debate that we had in this House plus the day's debate in the Commons, it is obvious that there are five major issues with which the committee is going to have to grapple. These are, first, the question of whether it is to be 80 per cent or 100 per cent elected, and a subsidiary to that is the role of the Bishops' Bench; secondly, what the election system is to be, as two are outlined in the White Paper but there are others; thirdly, whether the suggested 15-year term is correct, as it was heavily criticised in debate in the other place by supporters of the Bill; fourthly, how the transition from the appointed House to the elected House is to be managed; and, fifthly, perhaps most important of all, what the concordats are to be between the two elected Houses—how will be disputes be resolved and what has been the experience of other dual legislatures in that matter? I have enormous respect for the noble Lord, Lord Richard. I have known him in all his previous incarnations, and think he is a man of great wisdom and experience. But, frankly, he is not a magician. To expect a committee of 26 to deal with these five major issues, plus the four housekeeping matters in the Private Members' Bill that I have been promoting, seems to me impossible to achieve by the date of February which is set out in the resolution. I see that the noble Lord is agreeing with me.

For that reason, I hope that the Committee will seek to send for two papers, which I want to quote. The first is the report from the committee of the noble Lord, Lord Hunt of Wirral, which has already been debated in this House. Perhaps I may quote two passages from it. Paragraph 47 states:

"We recommend that a reduction in the number of members of the House should result in an overall saving to the taxpayer. We recommend that the possibility of offering a modest pension, or payment on retirement, to those who have played an active part in the work of the House over a number of years, should be investigated in detail, though on condition that this should come from within the existing budget for the House and should incur no additional public expenditure".

The committee earlier said at paragraph 46:

"We are attracted by this 'value for money' argument and think it likely that, with appropriate actuarial and accountancy input, it would be possible to identify the potential saving to the public purse which could be achieved if the membership of the House were to be reduced significantly without delay".

I repeat, "without delay".

The other paper which I hope the committee may send for is the seventh report of the House of Commons Constitutional Reform Committee. Again, perhaps I may quote two passages. First, that,

"those proposing radical reform need also to address other incremental, urgent reforms that would improve the functioning of the existing House of Lords. A Government committed to radical reform in the medium term should see and portray short-term incremental reform as preparatory and complementary to its programme".

Secondly, that,

"the current, effectively untrammelled, process for making party-political appointments to the House of Lords, coupled with the lack of any mechanism for Members to leave the upper House, threatens that House's effective functioning in the shorter term … This is a pressing issue that cannot wait four years to be resolved".

I suggest that the Joint Committee should look at these two reports. If it does, it would be fully justified in batting this issue back to the Government, and saying, "You have ignored these two reports. This cannot go on. The House is becoming impatient. You should get on with it, and leave us to deal with these five fundamental issues concerning the creation of an elected House, which is quite a separate matter".

Lord Grenfell: I, too, welcome the composition of the committee: it is a very good choice of Lords' members. With regard to the coalition Government's attitude towards this process, I am inclined to Voltaire's view that common sense is sometimes very uncommon. The Deputy Prime Minister has being recently been saying that he wants to incorporate into the legislation much of what is in the Steel Bill. How does that square with what the noble Lord, Lord Williamson of Horton, said, in issuing his Augustinian warning that speed should not be too speedy? If we follow those two courses, the excellent recommendations in the Bill of the noble Lord, Lord Steel, will not be incorporated until some very distant time, when possibly the legislation might become an Act of Parliament. I feel that the coalition is looking a gift horse in the mouth. This gift horse actually has extremely good teeth, and they should buy it. If we have to wait until legislation is passed, which may be a very long time indeed, we miss out on the possibility of instituting the extremely important, sensible and needed reforms that are recommended as an interim measure in the Steel Bill.

Lord Cormack: My Lords, I endorse what has been said and refer to one other passage in the resolution before us, which says that,

"the Committee have power to appoint specialist advisers".

The noble Lord, Lord Richard, is indeed a sagacious man, and he has an excellent but very large committee. I suggest that the committee looks at the existing powers of your Lordships' House and commissions a study to find out how far those powers have not been used by your Lordships' House acting in a spirit of restraint. Only yesterday, my noble friend the Leader of the House asked for 14 Motions to be approved en bloc. It was pointed out on the Order Paper, as it is every time we have such a Motion before us, that all those things could be individually debated. Could an elected House not debate them at great length? Could an elected House, in conflict with the other elected House and in disagreement with the Government of the day, not cause absolute chaos by exercising the powers that we currently have but do not exercise? I ask the committee to look at just how far your Lordships' House has exercised self-restraint in recent years, and at what would be the consequence if all the things that we could debate were debated, often at great length, and voted on. This is entirely relevant to the committee's discussions. Since it has the power to send for people and papers, and to appoint advisers, I ask that this be considered.

My only other point is that the committee appears to have carte blanche to travel around the United Kingdom. I wish it well in its travels, which I hope will be lengthy and enjoyable. However, if the committee is to look at the effect of elected second Chambers, would it not be appropriate for it also to do some foreign research?

Lord Elton: My Lords, I welcome the names on the list, wish them every fortune in their work and accept that a central issue is the balance between the two Houses. I ask that the members, and those members of the other half of the Joint Committee who are to be appointed from the other House, recognise that the principal question here is not about the balance between the Houses but about the ability of Parliament to maintain oversight of central government; and that this is, perhaps, a closing stage in the 700-year campaign of government to achieve control of Parliament.

The Chairman of Committees (Lord Brabazon of Tara): This Motion follows the decision of the House on 7 June to establish a Joint Committee to consider a report on the draft House of Lords Reform Bill. The Committee of Selection published a report on 17 June, proposing the names of those to be appointed. This Motion, if agreed, would appoint those Members named in the report. The Motion also confers a number of powers on the Joint Committee, which are the set of powers usually granted to Joint Committees. The list of names, which I am very proud to put forward, is admirable and I would be extremely surprised if the committee did not take into account all the points made by noble Lords in this short debate.

As for the point of the noble Lord, Lord Cormack, about the committee travelling abroad, the powers to which I hope the House will shortly agree do not allow for that at the moment. However, if the committee said that it wanted to travel abroad, I am sure we would agree to that.

This is a fairly minor Motion to appoint a very good committee, and one that the House has had the opportunity to look at for at least the past week. I commend it to the House.

Motion agreed, and a message was sent to the Commons.

Ministerial and other Salaries Act 1975 (Amendment) Order 2011

Motion to Approve

3.49 pm

Moved By ***Baroness Verma***

That the draft order laid before the House on 21 March be approved.

Relevant document: 19th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 5 July.

Motion agreed.

Wreck Removal Convention Bill

Third Reading

3.50 pm

Bill passed.

Afghanistan

Statement

3.50 pm

The Chancellor of the Duchy of Lancaster (Lord Strathclyde): My Lords, I would now like to make a Statement that was made earlier today by the Prime Minister in another place about his recent visit to Afghanistan.

"With permission, Mr Speaker, I would like to make a Statement on Afghanistan. From the outset, this Government have sought to take a more hard-headed, more security-based approach to our mission. As I have said, we are not there to build a perfect democracy, still less a model society. Yes, we will help with the establishment of democratic institutions. Yes, we can improve infrastructure, develop education and encourage development. But we are in Afghanistan for one overriding reason: to ensure our own national security by helping the Afghans take control of theirs. This means building up the Afghan security forces so we can draw down British combat forces, with the Afghans themselves able to prevent al-Qaeda from returning and posing a threat to us and to our allies around the world.

This is particularly poignant today on the eve of the sixth anniversary of 7/7—an attack that was inspired by al-Qaeda and executed by extremists following the same perverted ideology that underpinned the September 11 attack in 2001. Three hundred and seventy-five British service men and women have died fighting in Afghanistan to help to strengthen that country and to keep Britain safe from another 9/11 or 7/7. Thousands more—including many civilians—have risked their lives, and hundreds have been injured fighting for the security of our nation. They have been part of an international coalition involving 48 countries with a specific UN mandate, working at the invitation of a democratically elected Government. Though there have been many, many difficult times, we should be clear about what has been achieved.

In 2009, my predecessor as Prime Minister told this House that some three-quarters of the most serious terrorist plots against Britain had links to Afghanistan and Pakistan. We must always be on guard, but I am advised that this figure is now significantly reduced. International forces have been bearing down on al-Qaeda and its former hosts, the Taliban, in both Pakistan and Afghanistan. In Pakistan, Osama bin Laden has been killed and al-Qaeda significantly weakened. In Afghanistan, British and international forces have driven al-Qaeda from its bases. While it is too early to tell for certain, initial evidence suggests that we have halted the momentum of the Taliban insurgency in its heartland in Helmand province.

We are now entering a new phase, in which the Afghan forces will do more of the fighting and patrolling, and our forces more training and mentoring. As President Obama said in his address last month, the mission is changing from 'combat to support'. When we arrived, there was no one to hand over to—no proper army, no police force. In many places across the country, the Afghan national security forces now stand ready to begin the process of taking over security responsibility.

[Lord Strathclyde]

Success in Afghanistan requires a number of critical steps. The first is making sure that the Afghan security forces are able to secure their own territory. I know there have been well known problems, especially with the Afghan police, but there has been real progress in the last two years. General Petraeus went out of his way to praise the recent performance of Afghan forces in a number of complex and dangerous operations. The Afghan forces are growing rapidly. They are ahead of schedule to meet the current target of 171,600 Afghan army and 134,000 Afghan police by the end of October this year. They are now deploying informed units and carrying out their own operations. There have been some real successes.

The Afghan national security forces have prevented insurgents from reaching many of their targets. And just eight days ago, when a major hotel was attacked in Kabul, the Afghan forces dealt with the situation. This was a major, sophisticated attack. The Afghan forces dealt with it professionally and speedily, only calling in assistance from a NATO helicopter to deal with insurgents on the roof. As General Petraeus stressed to me, the Afghan forces acquitted themselves very well. It is this growing strength and capability which will allow us over time to hand over control of security to the Afghan forces and draw down our own numbers.

We remain committed to the objective shared by President Karzai and the whole of NATO that the Afghans should assume lead security responsibility across the country as a whole by the end of 2014. Last month President Obama announced that the US will withdraw 10,000 of its forces from Afghanistan by the end of the year and will complete the removal of the US surge of 33,000 by the end of the summer of next year. At the time of the US surge, the UK increased its core force levels by an extra 500.

For our part, I have already said that we will withdraw 426 UK military personnel by February 2012. Today I can announce that the UK will be able to reduce its force levels by a further 500—from 9,500 to 9,000 by the end of 2012. This decision has been agreed by the National Security Council on the advice of our military commanders. These reductions reflect the progress that is being made in building up the ANSF. Indeed, it is worth noting that for every US soldier who leaves as the surge is removed, two Afghans will take their place.

This marks the start of a process which will ensure that by the end of 2014 there will not be anything like the number of British troops there as there are now, and they will not be serving in a combat role. This is the commitment I have made, and that is the commitment we will stick to.

Having taken such a huge share of the burden and having performed so magnificently for a decade now, the country needs to know that there is an end point to the level of our current commitment and to our combat operations. This decision is not only right for Britain; it is right for Afghanistan too. It has given the Afghans a clear deadline against which to plan, and has injected a sense of urgency into their efforts.

While there is a clear end-point to our military combat role after 2014, the UK will continue to have a major, strategic relationship with Afghanistan—a development relationship, a diplomatic relationship and a trade relationship. Above all, we have a vital national security interest in preventing Afghanistan from once again becoming a safe haven for international terrorism.

So although our forces will no longer be present in a combat role, we will have a continuing military relationship. We will continue to train the Afghan security forces. In Afghanistan I announced plans for a new officer training academy. This was something President Karzai specifically asked me for; and I am proud that Britain is able to deliver it. We intend to lead the academy from 2013, in addition to maintaining our current role in the officer candidate school, which is due to merge with the academy in 2017.

So we will continue our efforts to help Afghanistan build a viable state. But our support cannot be unconditional. In my meeting with President Karzai, I made clear the Afghan Government's responsibility to ensure that British taxpayers' money is spent well and spent wisely. I emphasised to President Karzai just how important it is that he personally grips the problems around Kabul Bank and the need for a new IMF programme. I also urged him to support due democratic process and tackle corruption. And I made it very clear that while Britain wants to stand by Afghanistan beyond the end of our combat mission, we will only do so on the basis that Afghanistan must help itself too.

Almost all insurgencies have ended with a combination of military pressure and political settlement. There is no reason why Afghanistan should prove any different.

As we strengthen the Afghan Government and security forces, so we will also back President Karzai's efforts to work towards an Afghan-led political settlement. The death of bin Laden presents the Taliban with a moment of real choice. Al-Qaeda is weakened; its leader is dead. Last month the UN adopted two separate sanctions regimes, creating a clear distinction that separates the Taliban from al-Qaeda. Local peace councils have now been established in almost all Afghanistan's provinces. These have already allowed more than 1,800 people from 17 provinces to be enrolled on the scheme for reintegration. So we should take this opportunity to send a clear message to the Taliban: now is the time to break decisively from al-Qaeda and to participate in a peaceful political process.

In this task, we need Pakistan's assistance. As I discussed with President Zardari last week, this is now as much in Pakistan's interests as Britain's or Afghanistan's, as the Taliban poses a mortal threat to the state of Pakistan as well.

There is no reason why Afghanistan should be destined to remain a broken country. It has abundant mineral wealth, fertile agricultural land and stands at the crossroads of Asia's great trading highway. It has succeeded in the past, when not wracked by conflict.

Afghanistan still has many challenges ahead. There are real security issues and a lack of government capacity. But 10 years ago Afghanistan was in the grip of a regime that banned young girls from schools,

hanged people in football stadiums for minor misdemeanours and banished radios and any form of entertainment, all the while incubating the terrorists who struck on 9/11 and elsewhere. For all its imperfections, Afghanistan has come a long way.

Today, Afghanistan is no longer a haven for global terror; its economy is growing; it has a parliament, a developing legal system, provincial and district governors and the basic building blocks of what could be a successful democracy. In Helmand province—which, we should remember, with Kandahar was a stronghold of the Taliban and the insurgency—there is now a growing economy, falling poppy cultivation and many more effective district governors. The fact that President Karzai has been able to choose Lashkar Gar as one of the areas to include in the first phase of transition is a sign of the transformation that we have helped to bring about there.

As we enter this new phase of transition, I am sure the whole House will want to join me in paying tribute to our service men and women who have made such incredible sacrifices to protect our national security. While we have been going about our daily lives they have been are out there, day and night, fighting in the heat and the dust, giving up the things that we all take for granted. That is the true character of the British Army, and it is why we are so incredibly proud of all our forces and the families who support them, and so grateful for everything that they do for us. I commend the Statement to the House".

My Lords, that concludes the Statement.

4.03 pm

Baroness Royall of Blaisdon: My Lords, as we prepare to remember the victims of the attacks of 7/7 tomorrow, we are all reminded of why we are engaged in Afghanistan—to secure our security at home. That is why we on this side of the House continue to support our forces in Afghanistan. We will also continue to support the intention to end the British combat role in Afghanistan by the end of 2014. It is right that we make clear to the Afghan Government and their security forces that they need to step up and take responsibility for the future of their country. It is also right that we make clear to the Afghan people, and indeed the British people, that this is not a war without end. This year and next we must maintain the combination of military pressure, the accelerated build-up of the Afghan security forces and the work on basic governance and justice. So we support the Government's plan to maintain British troop levels above 9,000, as they have been for the last two years, for this fighting season and the next. We will give our forces the best chance to consolidate the situation before the process of transition to Afghan control starts to accelerate in late 2012 and 2013, when our forces can start to come home in greater numbers.

Can the Leader of the House assure your Lordships that if our reductions go slower than those of other countries, particularly the Americans, that will not cause British forces to take on a disproportionate share of the burden in Helmand? Can the Government ensure that detailed plans for troop drawdown will always be based on military advice and on conditions on the ground?

We ask our troops to do a difficult job in testing circumstances, so can the Leader also assure the House that our Armed Forces will continue to receive all the equipment that they need in the months ahead, including the 12 Chinooks which the Prime Minister promised but for which the order has yet to be placed?

The bravery and professionalism of our Armed Forces deserves to be given the best chance of success. That will be realised only if we also see political progress in Afghanistan. We believe that just as important as the Americans' decision on troop numbers and military strategy is their decision to start talks with the Taliban representatives who are ready to renounce violence. It is right that those talks have been started in parallel with the military effort, and it is encouraging that both Pakistan and India are taking a more positive attitude to the process, but these are still talks about talks, and much work needs to be done between now and the Bonn conference in December if we are to make the most of that crucial opportunity.

Will the Government press the UN urgently to appoint a senior figure, preferably from the Muslim world, empowered by the Security Council to mediate between the Afghan Government, ISAF and the Taliban? Such a figure could also help to secure the commitment of the countries in the region to supporting a new political settlement reflecting their shared long-term interest in a stable Afghanistan.

Although it must remain a red line that the Taliban and others must commit to a peaceful political process, the current constitution need not be set in stone. Will the Government press the Afghan High Council to consider constitutional reforms, including allowing for a less centralised Afghan state? Those steps need to be taken now, so that by the time of the Bonn conference in December the ground has been prepared and real progress can be made.

As we look to a stronger Afghanistan, we all recognise that issues of governance and the rule of law need to be addressed. I therefore ask the Leader of the House about the ongoing scandal over the Kabul Bank. We welcome the fact that the Prime Minister raised the issue with President Karzi, but that problem symbolises the inability of the Afghan Government to distance themselves from corruption that threatens to undermine the Afghan economy and international development assistance, as well as grievously undermining the faith of the Afghan people in their Government. Can the Leader of the House tell us more about what role Britain is playing in getting the Afghan Government to take the necessary steps to tackle the crisis and allow the IMF to resume support?

Finally, I turn to Pakistan. We all accept that long-term stability in Afghanistan depends on stability in Pakistan. We recognise the hard work and sacrifice of the Pakistani security forces in tackling violent extremism in the north-west of the country, but the situation in Pakistan continues to be serious. There is a danger that bringing bin Laden to justice, which ought to have been welcomed on all sides, will usher in a greater era of mutual suspicion rather than co-operation. What steps are the Government taking to put British support for counterterrorism in Pakistan back on track?

[Baroness Royall of Blaisdon]

We all want British troops to come home at the earliest opportunity, as do their families, but we also want to see the campaign concluded in a way that ensures that their service and sacrifice has not been in vain and that Afghanistan and the wider region moves to a stable future, rather than once again posing a serious threat to our security. We on these Benches welcome today's Statement as a step along the path, but we urge the Government to redouble their efforts to support a new political process for Afghanistan as the greatest priority for the months ahead.

4.09 pm

Lord Strathclyde: My Lords, I am grateful to the noble Baroness the Leader of the Opposition for her support for today's Statement, which I very much welcome. She asked a number of questions, which I shall try to answer. First, I thank her for her support on the end date for the combat mission at the end of 2014. It is important to have set a deadline to encourage all participants in the negotiations and, indeed, to apply a little pressure on the Afghans themselves to encourage them to raise their game in terms of the army and the police. All of those things are happening. The noble Baroness was right to say that it should not be a war without end—we very much agree with her—and the Afghanistan national security force has an important role to play over the next few years.

The noble Baroness asked about the reduction of the UK forces and whether they would be asked to take a disproportionate share of the burden as the US Army withdraws. I can confirm to her that there is no intention to take up any disproportionate part of that burden. Indeed, the drawdown takes place very clearly on the back of British military advice and is being done at a similar pace to the Americans, given that we did not have the same surge as the American army did.

On the question of equipment, it has been recognised for some years that British Armed Forces on mission in Afghanistan do have the equipment that they need. That has been widely welcomed. Of course we will continue to give the Armed Forces what they need while they are in the military zone.

The noble Baroness asked a most interesting question about the role of the United Nations and the possible creation of a figure from the Security Council who would help in those negotiations—help in mediation, I believe, is the phrase that the noble Baroness used. It is not a bad idea, but we feel that the moment for that has passed, because there is every indication that the two sides are already beginning to talk to each other without the need to add the ingredient of mediation. We would be unwilling to introduce a new ingredient into the process at this stage and, indeed, can see some potential undesirability in doing so. It is an Afghan-led process and we hope that it will continue to be.

The noble Baroness also asked a question about constitutional reform and a decentralised state. Our view is that we should not get hung up on every element of the constitution. We have no secret agenda to carve up the country. The people, the parliament and the president of Afghanistan need to work this out to their own timescale.

Perhaps even more important is the Kabul Bank scandal, which has been a shocking event. We are very keen that the Afghan Government and the IMF should reach an agreement on a new programme of support, which must include finding a resolution to the Kabul Bank situation. We very much support the view that there needs to be a recovery of assets, and indeed prosecutions, and that there should be a forensic audit of the Kabul Bank and any other banks that are involved. We also believe that the Afghan parliament needs to vote and agree to recapitalisation of the bank. We have been encouraging both sides—the Afghan Government and the IMF—to reach a satisfactory outcome as soon as possible. We have urged President Karzai to take the necessary action, which includes strengthening future bank supervision in Afghanistan as well as resolving issues relating to wrongdoing at the Kabul Bank.

Finally, the noble Baroness raised the all-important question of the relationship with Pakistan, such an important regional player, important to Afghanistan and particularly important to the United Kingdom. The bonds of the relationship between the United Kingdom and Pakistan are many and varied. They are also extremely strong. We have worked closely with Pakistan to try to achieve a unified view for Pakistan. The threat from the Taliban there is at least as clear as the threat to Afghanistan. However, I confirm to the noble Baroness that the links and the relationship between ourselves and the Pakistani Government continue to be strong, and we will continue to work closely together.

4.15 pm

Lord Dholakia: My Lords, I thank the noble Lord for repeating the Statement in your Lordships' House. I associate these Benches with the tributes paid to our servicemen who are serving us so well and to those who are no longer with us.

I want to pursue the point that the noble Baroness, Lady Royall, the Leader of the Opposition, made about identifying someone who can act as a catalyst in this process. I raise this because one of the successes of the Northern Ireland talks was the involvement and assistance of external elements. I particularly have in mind the former chief of the defence staff in Canada, General John de Chastelain. The Prime Minister was right to say recently when talking about the Taliban that the process of talks needs to proceed, although there will be differences of opinion from time to time. We should remember that there are deep-rooted differences between the Taliban and the Government of Karzai, and therefore, as the Prime Minister said, an external element coming from the Muslim community in that part of the world, free from any suspicions relating to western powers, might be able to assist in this task. It is in all our interests to have peace and stability in that region.

Lord Strathclyde: My Lords, I warmly welcome the tribute to British servicemen that my noble friend Lord Dholakia has made. The question of mediation is really interesting. My noble friend used the word "catalyst" and made a comparison with Northern Ireland. One of the problems with Northern Ireland

was that no one was willing to talk to anybody. The Afghanis have made it clear that preliminary contacts are taking place and we should all welcome that, although of course I am not in a position to go into operational details about it. It must be an Afghan-led process and, as I said to the noble Baroness, Lady Royall, at this stage we would be nervous about putting in place another ingredient when talks have already started and contacts have been made. There seems to be a very positive air about progress and we should wish it success.

Baroness D'Souza: My Lords, I thank the noble Lord the Leader for repeating the Statement and, indeed, I associate the Cross-Benchers with the tributes that have been paid to our courageous soldiers in Afghanistan.

I think it is widely accepted that women in Afghanistan have had a pretty bad time over the past centuries and particularly during the era of the Taliban. The Afghan Women's Network, which is a very respected organisation, wishes to carry out, through many of the women's groups that exist throughout the country, a nationwide survey of their hopes and fears with a view to bringing those views to the hugely important conference that is to take place in Bonn in December this year. Unfortunately, the Afghan Women's Network does not have the resources to carry out the survey. We all know that the British Government are giving an enormous amount of aid to Afghanistan—aid that, in particular, is hugely supportive of women and women's networks. Unfortunately, much of the aid that goes via the Government does not trickle down to the Afghan Women's Network or similar groups. It is deeply important that this survey should be carried out because it means that the views of millions of women across Afghanistan can be brought to the conference in Bonn in December and that their views will be at the centre of the conference rather than just on the margins and can form part of the agreement that is reached following that conference. Can the noble Lord the Leader of the House try to ensure that the funds are made available to the Afghan Women's Network so that they can carry out this survey?

Lord Strathclyde: My Lords, I thank the noble Baroness the Convenor of the Cross Benches for what she has said. She is right about the problems facing the people of Afghanistan. Over a third of Afghanistan's people live in poverty, and Afghanistan remains 155th of 169 countries on the UN's 2010 Human Development Index. But—it is a small but, because it is good news—the UK Government through DfID will commit £712 million to Afghanistan over the course of the next four financial years; and in 2010-11 5.7 million children are attending school—nearly half a million more than last year—and 37 per cent of those attending are girls.

None of that solves the issue that the noble Baroness raised on the Afghan Women's Network, which wishes to carry out this survey. I am sure that it is an extremely good idea. Perhaps the best way for me to proceed would be to draw the noble Baroness's words to the attention of the Secretary of State of DfID to see whether, through his organisation, this is something the department would see some benefit in.

Lord Davies of Stamford: My Lords, no one wishes to keep British troops in Afghanistan for a moment longer than is necessary. Nevertheless, I am very disturbed by the Statement that the noble Lord the Leader of the House has read out today. Surely it makes no sense to engage in negotiations with the Taliban while announcing in advance a deadline for withdrawal, irrespective of progress in those negotiations. Of course it is necessary to keep the Afghan national army and police up to the mark by continuing to confer additional responsibilities and duties on them to see how they cope with those and to keep them challenged, but that could be done without making what I fear is going to be a very fundamental mistake in these negotiations.

Lord Strathclyde: My Lords, I understand the noble Lord's point but, with the deepest respect, his is an outdated view of the negotiation process. I also understand why he holds it. What has changed in the last couple of years is that the Afghan armed forces and police are in a much better position to take over the role currently held by different European, American and NATO forces in Afghanistan. That is the first point. The second point is that there has been a growing realisation that to some extent the Taliban is motivated by the fear that foreign troops will remain in the country indefinitely. We wanted to send a signal that that was not the case. These things are always hard to forecast but we believe this is the right way, not just for Britain but for Afghanistan. It will encourage Afghanistan to negotiate seriously and to raise the professionalism of its armed forces and police. If we get it right, we will have achieved our aim of providing long-term stability for the people of Afghanistan.

Lord Eden of Winton: My Lords, will my noble friend convey our congratulations to the Prime Minister on having made such a timely and important visit to Afghanistan, and on the comprehensive nature of the Statement that he repeated to the House? While the talks with the Taliban are obviously welcome, can we have some assurance that representatives of the Taliban who are engaged in these discussions will actually be in a position to deliver? Is it not important that, while there are talks with central government, there are also discussions with provincial and other leaders in the regions beyond the centre, for it is there, on the ground, that the small steps of progress will carry the most significant impact?

Lord Strathclyde: My Lords, I shall certainly pass on my noble friend's congratulations to the Prime Minister on the timeliness of his visit and the comprehensiveness of his Statement. On the substantive point of my noble friend's question on talks with the Taliban, I broadly agree. We are at the earliest stages of those discussions. Contact has been made, and it must be up to the Afghans to progress the talks. It is an Afghan-led process. I do not suppose there is ever a guarantee that the people with whom you are discussing these issues centrally have the ability to deliver, but I am sure that over time the talks must include provincial leaders, too. If I have any more information to add, I shall write to my noble friend.

Lord Craig of Radley: My Lords, I thank the Leader of the House for repeating the Statement. In it, reference is made to the importance of equipping our forces in Afghanistan. A commitment was made in the strategic defence and security review to order more helicopters. The noble Baroness, Lady Royall, asked whether those helicopters had yet been ordered. If they have been delayed, is there not a fear that the Treasury will argue that they could not be in theatre before our withdrawal is started?

Lord Strathclyde: My Lords, I can tell the noble and gallant Lord that the position has not changed since the announcement in the SDSR. We plan to buy 12 additional Chinook helicopters as well as a further two to replace those lost in operations in Afghanistan in 2009. The Ministry of Defence is working towards the main investment decision on these helicopters.

Baroness Falkner of Margravine: My Lords, we welcome the Statement, particularly its emphasis on reconciliation, but it does not mention that reconciliation is possible only within a framework where the minimal guarantees in the Afghan constitution that women's rights, education and some of the other things that we believe are so important will be delivered through peace negotiations. I fear that if we signal to the Taliban that we will respect it in high office without its renouncing its ideology or making any change to reflect adherence to the constitution, we will not be able to undertake the major strategic relationship that the Prime Minister seeks after 2014.

On the matter of helicopters, can the Leader tell the House whether NATO will continue to provide air support after 2014?

Lord Strathclyde: My Lords, I cannot give my noble friend an answer about NATO and air support post 2014. All I can confirm is that it is the intention of the British Government that British service men and women should not be in combat roles after 2014.

My noble friend's first question was entirely different, being about the role of the constitution in negotiations. It is sometimes nice to believe that we, sitting or standing here, can micromanage this process of negotiation, and I am sure that my noble friend will agree with me that we cannot. We have to believe that those who are most involved in the Afghan-led process can work—for example, by making the preliminary contacts, as they have done—so as to try to deliver a settlement that is inclusive and that addresses the political and economic aspirations of all Afghan citizens, including women, who have been treated so badly in the past, and to try to promote security and stability in the wider region. The process must be actively supported by Afghanistan's neighbours and international partners, including us. My noble friend is not wrong to raise these issues, but it is important that we should not micromanage them.

Lord West of Spithead: My Lords, I thank the noble Lord the Leader of the House for repeating that Statement. All of us in this House are very aware of the commitment of our troops and of the civilians working for us in Afghanistan. I would like to point out that one always refers to troops, soldiers and whatever, but the Royal Navy and Royal Air Force are very deeply involved as well and I think I am right in saying that more Royal Navy personnel are involved there at the moment than the other two services.

We are in danger of deluding ourselves. We are a minor partner, albeit an important one, in an alliance, but the key driver of what is happening in Afghanistan is the United States. Does the noble Lord the Leader of the House agree that once the United States decided that it was going to go and to a certain timetable, we had to fit in with it? It is right for us to be getting out of there, but there was no alternative other than to fit in with that. It is wrong to pretend that we are setting an agenda, which is how we have deluded ourselves in the past.

My other point is that I have real concerns about categorising Afghanistan as of major strategic interest—I think the Leader said—to this country in future. I produced the first national security strategy. A country that is of major strategic interest to us demands from us considerable resources and a willingness to intervene again to do all sorts of things, and I do not believe that, looking to a long-term future, we can afford to make countries such as Afghanistan of major strategic interest. There are areas of major strategic interest, but we cannot go on like this or we will find out that we are involved across the whole world.

Lord Strathclyde: My Lords, I am delighted that the noble Lord, Lord West, reminded the House that the combat role in Afghanistan is not limited to the British Army. My noble friend Lord Astor of Hever reminded me that there are also marines, Royal Navy and RAF personnel in Afghanistan. Indeed, the whole spectrum of the British Armed Forces has been working hard, as have many civilians. It is right that we should support every one of them in the work that we do.

The noble Lord, Lord West, is also right, inevitably, when he says that the key driver is the USA. However, the links between us and the USA are extremely strong. I do not think there is any sense of delusion that the British would carry on operations in Afghanistan without America.

On the point about us having a major strategic interest in Afghanistan, I hope the noble Lord would agree that we may have such an interest not just in Afghanistan itself but in a region of Afghanistan and Pakistan. Given the history of terrorism in the last 10 years or so, there are reasons why we should maintain a major strategic interest in the region. I also agree with him about not deluding ourselves—to use his words again— and I do not think we should delude ourselves about our ability to change as much as we think we would like to. We work in partnership with our NATO allies and our American allies to bring as much peace and stability to the region as we can.

Lord Kerr of Kinlochard: My Lords, I congratulate the noble Lord on his diplomacy in handling your Lordships' questions. I understand exactly what he says about the importance of the internal talks being an Afghan-led process. I know that he is not ruling out the possibility that they could be facilitated and assisted by outsiders.

However, I go back to the point made by the noble Baroness, Lady Royall, who stressed the importance of proper preparation for the Bonn conference. She is absolutely right. I know that the noble Lord agrees with her and I am sure that he sees a role for the UK in trying to ensure that all those in the region with the greatest interest in the future stability of Afghanistan are properly involved in preparations for Bonn, and that includes not just the Chinese, Russians and Indians but the Iranians.

Lord Strathclyde: My Lords, the noble Lord is entirely right. He offered me some praise, which is deeply flattering, and I thank him for it. It is an Afghan-led process and it is important that it should be seen to be so. However, this House knows better than many other houses of parliament how important regional influences are. I would have thought that all those involved in the process understand the need to bring in as many international stakeholders as possible in order to give the long-term peace, stability and potential for growth that the people of Afghanistan crave.

Arrangement of Business

Announcement

4.35 pm

Baroness Anelay of St Johns: My Lords, there are 31 speakers signed up for the Second Reading of the Armed Forces Bill today. If Back-Bench contributions were to be kept to nine minutes, the House should be able to rise this evening at around the target rising time of 10 o'clock. This advisory time, as always, excludes the Minister's and the Opposition's opening and winding-up speeches.

Armed Forces Bill

Second Reading

4.36 pm

Moved by ***Lord Astor of Hever***

That the Bill be read a second time.

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): My Lords, I beg to move that this Bill be read a second time.

The Ministry of Defence normally has an Armed Forces Bill every five years, so my task of speaking to the Bill today is a pleasure that falls to few Defence Ministers. I recall my involvement with the corresponding Bill five years ago, then as shadow Defence Minister. That Bill made very significant changes to the legislation governing the Armed Forces and established a single system of service law for the first time. I pay tribute to the then Government for their work to bring forward the legislation and for implementing it. It was a very large Bill. By comparison, the Bill we are considering today is considerably smaller—perhaps a tenth of the size—but, in its own way, it is also very important. This is reflected today in the large number of speakers from all corners of the House.

The Bill continues a series of Armed Forces Bills that stretch back to the Bill of Rights 1688, which says that the keeping of an Army in time of peace shall be against the law,

"unless it be with the consent of Parliament".

So, one of the Bill's most important functions is that it provides the legal basis for the Armed Forces to continue.

With long intervals between Bills, the Ministry of Defence tends to keep proposals that require primary legislation until the next one comes along. As a result, Armed Forces Bills such as this one, often cover a wider range of topics than service discipline, which is traditionally the main subject.

With the leave of the House, I would like to pick out some highlights. Since coming to office, this Government have confirmed their commitment to rebuilding the Armed Forces covenant to do the right thing by the men and women who have served in our Armed Forces, today and in the past, together with their families. Just over a year ago, my right honourable friend the Prime Minister spoke on HMS "Ark Royal" about the Government's desire to write the covenant into the law of the land. We have looked at the best way to do that.

Our starting point is that the Armed Forces covenant is fundamentally a moral obligation—on the Government, on the nation and on the Armed Forces themselves. It can never be defined by a host of rules and regulations designed to tell everyone exactly what to do in every circumstance. Certainly, where rules need to be changed we will do so. But, generally, the people of this country know how service personnel should be treated. Our task is to create the right framework for that to happen, and to ensure that Parliament plays a central role.

The Bill requires my right honourable friend the Secretary of State for Defence to lay a report before Parliament every year on the effects that membership of the Armed Forces has on service people. The Bill also provides for what the Secretary of State must cover in his report. For example, healthcare, education and housing are recognised as issues which will always be important to the service and the ex-service community. Other issues will only emerge at the time, so the Bill leaves this flexible.

There is also the question of who is covered. The Bill refers to a broad span of people. The total number of serving and former personnel and their families is around 10 million. This is 1 in 6 of the population. For ex-service personnel, it specifies an interest in those who are resident in the United Kingdom. Again, this does not stop a Secretary of State covering relevant issues for those who live abroad—for instance, Gurkhas living in Nepal—but it recognises that many aspects of their lives would be matters for their own Governments.

In preparing annual reports, the Ministry of Defence would consult widely with interested parties inside and outside Government. We hope that contributors will range from charities to the devolved Administrations. But the process of preparing reports will evolve over time. We are breaking new ground. We will learn from experience, listen to comments, and move forward in a positive way. I am clear that that is the right way to do it, rather than making the legislation excessively prescriptive.

[Lord Astor of Hever]

Noble Lords will be aware that this part of the Bill has been the subject of extensive debate, both inside and outside Parliament. I would like to pay tribute to the Royal British Legion for the constructive contribution that it has made to that debate, as well as the huge amount of work that it does every day to support service people. We have listened to its views, among others, and we have amended the Bill to make clear that, in preparing the reports, the Secretary of State must have regard to the unique nature of service life, to the principle of minimising disadvantage, and to the principle of special treatment where appropriate. These are the core themes of the covenant and we agreed that they should be mentioned in the legislation.

I would like to say something about the devolved Administrations and the covenant. We want to ensure, as far as possible, that there is no difference of interpretation or implementation between England, Scotland, Wales and Northern Ireland on issues like healthcare, education and housing. Our working relationships with the devolved Administrations are good. The Government want to work with them on the issues that are to be covered in the annual report. In this area, we favour collaboration rather than legislation. I understand, however, that some noble Lords have real concerns on this issue and I very much look forward to discussing them further in Committee.

Questions have also been raised about the independence of the report. The Government have undertaken to publish, alongside the annual report, whatever observations the external members of the covenant reference group—formerly the external reference group—choose to make on it. I repeat that undertaking here, to provide reassurance that the Government will deal with publication of the annual reports in an open and transparent way.

I should now like to cover briefly some of the other issues in the Bill. Last year, the High Court endorsed the ability of the service police to investigate the most serious allegations under the Armed Forces Act 2006. Nevertheless, we want to be sure that the independence and effectiveness of service police investigations have all the safeguards that we can possibly provide.

The first clause in the group places a duty on each of the three provost marshals—the heads of the service police forces—to ensure that service police investigations are carried out free from improper interference. The second clause provides for the service police to be inspected by Her Majesty's Inspectorate of Constabulary. The third clause provides that the provost marshals will in future be appointed to their positions by Her Majesty the Queen, once again recognising and reinforcing their independence from the service chains of command when carrying out investigations.

There are also provisions in the Bill that will allow commanding officers the flexibility to deal with unfitness through drugs and alcohol. There are two parts to this. One is where commanding officers have reasonable cause to believe that a service person's ability to carry out a prescribed duty is impaired due to drugs or alcohol. The other is a power to test where they have reasonable cause to believe that a person is in breach of a limit on alcohol specified in regulations in relation to particular duties. The limits and duties will be prescribed in regulations subject to affirmative resolution of both Houses.

The main reason for these changes is to act as a deterrent and to create a safer environment when service personnel are carrying out safety-critical tasks in the course of their employment generally and on operations. Rather than limiting commanding officers to acting after an incident has taken place as happens at present, the changes in the Bill will allow commanding officers to act earlier in the future.

The Bill also contains provisions that will allow members of the Reserve Forces to be mobilised to serve, alongside their regular counterparts in the United Kingdom, in a wider range of circumstances than is permitted at present under the Reserve Forces Act 1996. Examples of where reservists could be mobilised under the new arrangements include the foot and mouth outbreak of 2001, where the work did not fall within the definition in the 1996 Act; a major disruption to the road and rail network requiring assistance with the distribution of food and blood supplies; and unarmed support to the security operation for the London 2012 Olympic Games.

The provisions are consistent with the work that has been undertaken as part of the *Future Reserves 2020 Study*, which aims to improve the integration and employability of the reserves within a whole force.

Much was said five years ago about the extent to which the then Armed Forces Bill kept the commanding officer at the heart of service discipline. That Bill became the Armed Forces Act 2006. In practice, it has proved to be a good piece of legislation, and I am pleased to reassure noble Lords that the current Bill does nothing to disturb the arrangements. The commanding officer remains at the heart of service discipline.

I am immensely proud of our Armed Forces. They do a brilliant job, often in the most difficult circumstances. The Bill will allow them to carry on doing that job. Through the reference to the Armed Forces covenant, the Bill also provides the basis for their service to be recognised. I also pay tribute to the families and communities who support them.

I commend the Bill to the House.

4.50 pm

Baroness Crawley: My Lords, I begin by paying tribute to our Armed Forces and the extraordinary commitment they show in protecting both this nation and, when necessary, people of other countries. Our Armed Forces have been particularly heavily engaged in operations over the past few years and a large number of personnel have made the ultimate sacrifice while serving their country. Many more have suffered life-changing and very challenging injuries. We have nothing but the greatest admiration and respect for the courage and enormous bravery of our Armed Forces.

An Armed Forces Bill, as we have heard, is needed every five years to provide the legal basis for the Armed Forces and the system of military law we have here in the United Kingdom. I thank the Minister for his résumé of the provisions of the Bill and for putting

at our disposal his department's very helpful briefing. I remember fondly assisting with the 2006 Act, although my role and that of the Minister were reversed. The Bill has been delayed, as we have heard, because, despite a clear commitment by the Prime Minister in June last year that the military covenant would be enshrined in law for the first time, that commitment was not delivered when this Bill was first published in December 2010. Instead, the Bill simply provided for the Secretary of State to make an annual report to Parliament on the implementation of the covenant. The Royal British Legion was of the view that the Bill, as it then stood,

"looks like the beginnings of a Government U-turn".

In early May this year proceedings on the Bill in another place were delayed by the Government; and in mid-May the Prime Minister, under heavy pressure to honour the commitment he had given the previous June, stated that the principles of the military covenant would now be incorporated in the Bill.

Of the need for the covenant there can be little doubt. Our Armed Forces face significant redundancies, with the first round of 11,000 being announced in just less than two months' time. It appears that there may not be a shortage of applicants in some areas, including among senior Army officers. Money, of course, may be one factor, in the light of pay freezes, as well as a view that more could be earned outside the services. A feeling among some that our Armed Forces are now involved in managing decline and that promotion will be more difficult to secure does not help. Some financial benefits are being cut, or their scope reduced, which may only encourage some to leave. The continuity of education allowance has been restricted, the overseas allowance cut and travel, fuel and expense allowances reduced. Pensions for Armed Forces personnel will no longer be increased in line with the retail prices index, but instead in line with the consumer prices index, which, it is generally agreed, will result in smaller pensions. This is a blow to all concerned.

Of course, there will equally be a great many service personnel who revel in life in the Armed Forces, the camaraderie it provides and the justifiable feeling of doing a worthwhile and very skilled job. They will want to stay and will hope that they will not be made redundant against their wishes and have to face a return to civilian life, particularly when finding alternative employment is difficult, to say the least.

The concept of a military or Armed Forces covenant is not new. It has existed for many years as an unwritten commitment between the state and the Armed Forces, recognising that, in response to the considerable sacrifices made by service personnel, the nation has a duty to acknowledge that fact and to accept a long-term duty of care towards service personnel and their families. In 2008 my Government produced a Command Paper entitled *The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans*. This was the first cross-government strategy on the welfare of Armed Forces personnel. The paper set out a series of cross-departmental measures to improve welfare provision and support. The need was also recognised to make the best use of the support available through other organisations and charities.

The main recommendations in the paper related to education, welfare support, healthcare, housing and compensation. Armed Forces advocates were established within government departments to deliver on the principles and commitments of the service personnel Command Paper. In addition, the external reference group of the Ministry of Defence, now renamed the covenant reference group, with representatives from across government, the devolved Administrations, major charities and the service families federations, monitored implementation of the Command Paper's recommendations and reported annually to the Prime Minister. The 2008 service personnel Command Paper and associated cross-government strategy on the welfare of Armed Forces personnel led to the doubling of compensation payments for the most serious injuries and the doubling of the welfare grant for the families of those on operations. It also led to better access to housing schemes and healthcare, offered free access to further education for service-leavers with six years' service and provided more telephone and internet access for those in Afghanistan. It is important to demonstrate the foundation on which the covenant that we are looking at today was laid.

The Bill sets out to enshrine the Armed Forces covenant in law. Its scope does not go as far as we believe it should, but it is progress in the welfare of our Armed Forces and service families and we shall support it. It represents a considerable step forward from the Government's line in the first sitting of the Select Committee on the Armed Forces Bill in another place in February 2011, when they stated that:

"The covenant is a conceptual thing that will not be laid down in law".—[*Official Report*, Commons, Select Committee on the Armed Forces Bill, 10/2/11; col. 21.]

We will want to discuss in more detail the covenant and the principles on which it is based as the Bill progresses through your Lordships' House, not least what will and will not be in the Government's proposed annual report on the covenant and who will finally determine its contents.

As an Armed Forces Bill comes before us only once every five years and is normally the Ministry of Defence's only Bill, it tends to cover a range of issues requiring primary legislation that have come to the fore since the previous Bill, as the Minister has said. This Bill is no exception. We support the increased powers that it gives to the service police, including the provision on access to excluded material to assist in investigations. We also welcome the measures to enhance the independence of the service police and to introduce a provost marshal to ensure that investigations are conducted free from unacceptable interference. Other measures in the Bill which we support include those ensuring that the service police disciplinary systems are compatible with, and complementary to, the European convention, to protect members of the service community outside the United Kingdom; measures to strengthen the independence and impartiality of service complaints procedures; and of course moves to update regulations to protect prisoners of war detained by UK forces.

However, there are other government decisions beyond the Bill which are not welcome, and are seen to run contrary to the principles behind the Armed Forces covenant. One I have mentioned already, namely the decision to link Armed Forces pension rises to the

[Baroness Crawley]
consumer prices index rather than the retail prices index. The impact of this move will disproportionately affect members of the Armed Forces and their families, since they rely on their pensions at an earlier age than almost anyone else. A 27 year-old corporal who has lost both his limbs in action will lose out on £500,000 in pension and benefit-related payments. The 34 year-old wife of a staff sergeant killed in action would, over her lifetime, be almost £750,000 worse off. I hope the Government will rethink this issue.

Another government decision which seems incompatible with the Armed Forces covenant is the intended demise of the chief coroner's office. That office would give service families the right to the best possible investigations and military inquests when faced with the death in action of a loved one. The Government should think again, particularly in the light of the significant vote on this matter in your Lordships' House.

Our service personnel can be called on to work unlimited hours, in highly dangerous conditions, putting their lives on the line. Living conditions for them can at times be very basic and extremely tough. They can be separated from their families for months on end, and be required to move around from one remote location to another. While we support the moves the Government have made to place the Armed Forces covenant in the Bill, we have concerns about decisions the Government have made, or appear to be on the verge of making, which we believe are incompatible with the spirit and intention of the covenant. I hope the Government will think again on these important matters.

In conclusion, we will certainly want to pursue many of these issues during the more detailed consideration of the Bill in the weeks to come. Overall, we welcome the Bill, which is now in considerably better shape than it was when it started its passage in another place last year. It is important that we take the opportunities that the Bill provides to continue to improve the lives of our esteemed service personnel and their families.

5.03 pm

Lord Lee of Trafford: My Lords, our nation has always rightly had a high regard for our Armed Forces, but only relatively recently has this regard translated into tangible action. The sending of our troops initially into Afghanistan, ill equipped, underresourced and too few in number, was probably the trigger. There ensued an unprecedented, media-led public outcry, putting heavy pressure on the then Government to remedy matters and recognise the sacrifices that our Armed Forces were making. The public mood swung behind our troops. Charities such as Help for Heroes were spawned, and politicians of all persuasions were challenged to do better.

Slowly, things started to happen. I look back at the 2010 manifestos of the three main parties. The Liberal Democrats committed to doubling,

"the rate of modernisation of forces' family homes to ensure they are fit for heroes".

Labour's manifesto said:

"As a sign of our continued commitment to the military community, we will introduce a Forces Charter to enshrine in law the rights of forces, their families, and Veterans".

The Conservative manifesto said:

"We will restore the military Covenant and ensure that our armed forces, their families and veterans are properly taken care of".

Here at Westminster, we now receive returning units from Iraq and Afghanistan. I was delighted to learn from an officer who has just returned from Afghanistan that US forces are now envious of our lightweight helmets, body armour, light rucksacks and boots. Thankfully, we have come a long way in theatre. In parallel to this, the Prime Minister made a pledge on HMS "Ark Royal" last June to write the Armed Forces covenant into law, and put its principles at the heart of the new Armed Forces Bill, which we are debating today. While the Bill has moved slowly, following discussions, lobbying and amendments, it has now reached us in a form that seemingly receives broad support—certainly for the clauses concerning the covenant. Chris Simpkins, the director-general of the Royal British Legion, has said:

"For the first time, Armed Forces personnel and their families will see the principles of fair treatment there on the statute book … We are particularly pleased that the unique nature of Service will now be acknowledged in the Bill, together with the principle that no disadvantage should arise from Service".

The legion estimates that the covenant support package announced by the Prime Minister is worth probably £40 million to £50 million.

Clearly a balance has to be struck between recognising the covenant in legislation and avoiding frequent legal challenges. I believe that the Bill achieves this. I understand that, in delivering the annual report on healthcare, education and housing, the Government will liaise with delivering ministries. I suggest that we go one step further. Could the Secretaries of State for those respective departments produce separate sub-reports or similar, thus giving them a greater degree of ownership, commitment and responsibility? I also ask my noble friend what plans the Government have to publicise all the new benefits and entitlements. I understand that in France there is a website related to its defence ministry, dedicated to families, education, health and housing, which sets out all the state benefits and assistance available to the military, with details of different charities for women, retired personnel and so on.

We shall cover the more detailed aspects of the covenant and annual report in Committee. Turning to other matters in the Bill, my noble friend Lord Thomas will cover justice issues today; my noble friend Lord Palmer will focus on veterans and housing; and my noble friend Lord Addington will deal with the implementation of the covenant. The new provisions to allow reserve mobilisation for work of urgent national importance, and to enable testing for drugs and alcohol pre-incident—rather than, as currently, post-incident—are sensible and to be welcomed.

Finally, I raise two issues in relation to veterans. The first concerns what we might term our atomic veterans and the second concerns former armed services personnel who are in prison. With regard to the former, why have the United States, Russia, France and China set up funds to pay for the medical care of their atomic veterans, while Britain alone has balked at such a settlement? On the latter, the Howard League for Penal Reform has just produced a report from its inquiry into former armed services personnel in prison.

Apparently, nearly 3,000, or some 3.5 per cent, of all those currently in custody in England and Wales have served in the forces. The report makes several observations and recommendations. I ask my noble friend who will be winding up: do the Government intend to respond to the report and in what timescale?

5.09 pm

Lord Stirrup: My Lords, as the Minister said, this is a substantially smaller Bill than that brought forward in 2006 at the previous quinquennial review, when a major revision was made to the administration of justice within the armed services. Nevertheless, I agree that the 2011 Bill contains some important provisions. Perhaps the one that has attracted the most notice, and I expect will attract much comment today, is Clause 2, which seeks to enshrine the military covenant in statute. This, to my mind, is a very welcome gesture, but is it anything more than a gesture?

In order to answer that question, we need to understand the nature of the lacuna that Clause 2 seeks to fill. The noble Baroness, Lady Crawley, referred to the service personnel Command Paper which her Government published in 2008. All of us who are concerned with the welfare of people in the Armed Forces saw it as a very positive step in the right direction, but it was only a step. Some of the changes set out in the paper were, as we have heard, implemented quickly—for example, the doubling of Armed Forces Compensation Scheme payments for the most seriously injured—but others were clearly going to require much more work. This was because many of the issues that over the years have bedevilled military personnel and their families centre on the availability of public services that are outwith the control of the Ministry of Defence. These include things such as access to NHS dentists, places on NHS waiting lists, access to social housing, provision of school places, and many others besides. The enforced mobility to which service personnel are subject put them consistently at a disadvantage in this regard when compared with the majority of their civilian peers.

In 2008, the Command Paper did no more than commit the relevant government departments to working together to find solutions to these problems. The caveat that many of us appended to our welcome of the Command Paper was, therefore, that it not only promised the right things but that it was consistent and sustained the delivery of solutions that really mattered. An external reference group was indeed set up to monitor that delivery. It included representatives of the services' families federations and the leading charities, as well as members of the relevant government departments. Its first report, in 2009, concluded that progress had been made, but that there was still much to do.

As of today, that progress continues. There has been considerable good will, and much good work, between the various ministries, and the people involved deserve great credit for this. However, our society's obligation to treat its Armed Forces fairly should not depend on the good will of the moment. It should not depend on how much—or how little—the military is in the public eye and mind over any given period. Nor should it depend—and forgive me if I seem slightly cynical—solely on a calculus of how much political gain or harm would attach to any given course of action.

I do not wish for one moment to impugn the motives of anyone acting today. I believe their collective heart is in absolutely the right place, but these are exceptional times. One cannot help remembering, with Kipling, that:

"For it's Tommy this, an' Tommy that, an' 'Chuck 'im out, the brute!'

But it's 'Saviour of 'is country' when the guns begin to shoot".

It is worth remembering the perceptive last line of that poem:

"An' Tommy ain't a bloomin' fool—you bet that Tommy sees".

The Minister has implied that the current levels of interest and support will continue. He has said that the people of this country know how their Armed Forces should be treated. This may be so, but it has not prevented the issues that I have outlined from being persistent problems over a great many years. We need a formal undertaking in which military people and their families can have confidence and which they see will be upheld and sustained when the guns have ceased to shoot. To that extent, the proposed inclusion of the military covenant in the Armed Forces Act must be welcome, but what sort of an undertaking are we talking about here? How effectively will it deliver solutions to the kind of problems that I have described? A key reason for enshrining an undertaking in legislation is surely to give people some recourse if that undertaking is not met. In this case, such recourse is not available. Instead, the Secretary of State for Defence is called upon annually to explain himself before Parliament.

I accept the arguments that the services themselves have made—that formal legal redress would generally be neither desirable nor even helpful to their people in such cases—but I have two particular difficulties with the alternative that is proposed. The first relates to the point that I have already made—that the Defence Secretary is not responsible for delivering the services that are at the heart of many of the most difficult and intractable issues faced by the military community. Surely, if Parliament is to probe such matters deeply and effectively, it must do so with those who are directly responsible for the provision in question. If the need to explain actions personally and directly to Parliament is the means by which good behaviour is encouraged, surely the explanations should be required from those responsible for the behaviour, and they should not be able to use the Defence Secretary as a kind of air raid shelter.

Secondly, the Bill seems to leave a great deal to the discretion of the Defence Secretary. Phrases such as,

"as the Secretary of State considers,"

or,

"as the Secretary of State may determine",

crop up quite a bit in Clause 2. Now, I am not suggesting that all boundaries should be set out in the Bill. Such an impractical result is, I presume, what the current wording seeks to avoid. However, is not allowing the Secretary of State alone to define all the parameters as he goes along a little like making him a judge in his own cause? Surely we need some kind of audit function

[LORD STIRRUP]
to ensure that the character and scope of the standards to which the Secretary of State—or, as I hope, Secretaries of State—report attract a degree of consensus that goes beyond simply the ministries being judged.

While I therefore welcome the inclusion of the covenant in Clause 2, the undertaking given there is not yet firm enough for Tommy or Tommy's family to rely upon with confidence through changing times, and I hope that this can be addressed as the Bill goes through its other stages.

5.16 pm

Lord Selkirk of Douglas: My Lords, it is a great pleasure to follow the noble and gallant Lord, Lord Stirrup, who has had a very distinguished career as Chief of the Defence Staff. The issues that he has raised should be examined closely during the passage of the Bill. I welcome what he said in relation to the military covenant. It seems only yesterday that I was present when he presented a Royal Air Force Tornado to the National Museum of Flight of the National Museums of Scotland. It has not only been enormously appreciated, but many thousands of visitors have gone there to see the pride of the Royal Air Force on display.

I have spoken previously in this Chamber in support of the Armed Forces, stressing that Ministers have an inescapable duty to honour the spirit of the military covenant. I am therefore glad to support the Government and the Prime Minister in what the director-general of the Royal British Legion has described as a "historic breakthrough" in this regard.

I notice that in debates in the other place, Members were very scrupulous in mentioning their interests. Therefore, it is appropriate that I briefly follow suit. I am an Honorary Air Commodore and am associated with two service charities—as chairman of the Scottish Advisory Committee at Skill Force, which successfully employs veterans to instruct youngsters who have fallen behind at school; and, perhaps of most relevance to veterans, as president of the largest charity in Britain providing homes for servicemen and servicewomen who have an element of disability. The Scottish Veterans' Garden City Association, with help from the public and service charities and other trusts, has made available 612 houses so far, a total which we hope will soon increase to 622.

Today, I applaud the decision of the Prime Minister and the Government to give increased authority to the military covenant through legislation. Of almost equal importance is the commitment to ensure that there should be an annual report to Parliament on how the covenant is being upheld and implemented. Taken together, these two landmark reforms will greatly increase the status and priority given to service men and women, and rightly so.

To take the military covenant first, we all know that this has long been an informal agreement as to what service men and women could reasonably expect as a result of their willingness to make sacrifices in the service of their country. The principle has always been that those who put their lives on the line should not sustain disadvantage in consequence, and this would mean that if they were seriously wounded they would receive special treatment as necessary.

However, this arrangement did not have the full back-up support of the law of the land, and it is always easy for those who do not wish to see a great reform enshrined in an Act of Parliament to argue that such a move might give rise to judicial review or reviews. I note that Clause 2(3) states that the Secretary of State "must have regard to", and those words place on him not just a moral obligation but also a legislative one. It is very much to the credit of the Prime Minister and the Secretary of State that they have had the moral courage to take legislative action and set out the key principles involved in the Bill. This must be the right way to do it, as it avoids problems that can arise from rapidly changing circumstances.

I have studied the important package of measures that is to be made available, including concessionary bus travel and additional council tax relief, and I welcome the commitment made by the Minister already today. I hope that in due course he will be able to confirm that these concessions will come into force at the same time throughout the United Kingdom.

This leads me to the issue of an annual review of the Armed Forces covenant, which I see as a particularly important step forward. I remember being shocked, while serving as a Minister of Health, when I was told during a visit to Stobhill Hospital in Glasgow that during the First World War trains carrying the wounded had come in under cover of darkness so that the public would not know the severity or extent of the injuries inflicted. Today we are rightly much more concerned to ensure that the adverse consequences of war on the injured and disabled are correctly known and are mitigated in the best ways possible, through services provided by joined-up government. I therefore strongly support the plan that the annual report should cover such issues as housing, health and education.

I now come to my request—which the noble and gallant Lord, Lord Stirrup, himself raised in different language. Ministers should support the Royal British Legion's representations that the preparation of the annual report will be subject to the independent scrutiny of members of an external reference group. I note that Mr Simpkins, the director-general of the Royal British Legion, has said that criticisms by the external reference group would give,

"a satisfactory level of independent oversight".

May I suggest that the Government give careful consideration to obtaining the best possible independent advice, which could be invaluable for the drafting required? I have noted that former Governments have benefited greatly from independent research reports, which often reveal facts which we would not otherwise have been aware of, and which have had a beneficial effect on decisions and the decision-making process.

The Secretary of State for Defence summed up this subject very well when he said:

"We believe that a sensible way forward … is to enshrine the principles in law, provide a regular review of the policies that will make them a reality, ensure that Parliament has a chance to scrutinise that review through the annual report, and ensure that the report is widely informed, consultative and transparent"—[*Official Report*, Commons, 16/5/11; col. 26.]

It will undoubtedly be the case that these decisions and the package of support will greatly enhance the historic covenant. They will help to ensure that fair

treatment and, where necessary, special assistance will be made available to our service men and women who have given so much selfless service to their country whether in Afghanistan, Iraq or anywhere else. It will give them the recognition that they so strongly deserve.

It is a sad reality that our armed services have at times been neglected in past centuries, as the noble and gallant Lord, Lord Stirrup, has suggested. The Crimean War is a case in point. Florence Nightingale found wounded British soldiers having to endure appalling conditions in the military hospital in Scutari. As the noble and gallant Lord, Lord Stirrup, has quoted Rudyard Kipling, I too would mention that he brought to the attention of his generation the harshness of conditions for ex-servicemen of the Crimean War. He wrote a bitter verse, entitled "The Last of the Light Brigade". It ran as follows:

"O thirty million English that babble of England's might,

Behold there are twenty heroes who lack their food to-night;

Our children's children are lisping to 'honour the charge they made—'

And we leave to the streets and the workhouse the charge of the Light Brigade!".

Fortunately, huge changes have been made since those days. In the 21st century, we now have tremendous reliance on the most advanced technology in warfare, and the size of our armed services has been steadily contracting, but alongside those developments is the very special need to recognise the duty of care owed by our nation to all those in the armed services who are prepared to make the ultimate sacrifice to protect and defend our country.

Today, I pay tribute to the Prime Minister and the Secretary of State for Defence for resolving that, for the first time, the armed services covenant should be an agreement whose principles are enshrined in law. They are right to have acknowledged legally a timeless human debt which must always be repaid with openness, generosity and gratitude.

5.25 pm

Baroness Taylor of Bolton: My Lords, it is a pleasure to follow the noble Lord, Lord Selkirk of Douglas. I remember him well from my time as a Minister. Perhaps I can best describe him as a very persistent campaigner on these issues; he has a long-term interest here.

I, too, start by paying tribute to our Armed Forces—those whose care and welfare is affected by the Bill—and their families, who should not be forgotten in our deliberations today. We have been reminded again this week of the ultimate sacrifice that many make, and our thoughts are obviously with the family and friends of those who have been killed in recent campaigns, as they should be with those who have been injured and those who have had their lives changed by their experience of conflict.

During my time in the Ministry of Defence, I saw the real expertise, commitment and dedication of those who served in the Armed Forces, and it is our purpose and responsibility today, and in Committee and later stages of the Bill, to ensure, as far as possible, that they get the framework of service rules that will serve them well, and the support and care that they and their families need both during and after their active service. As the Minister said, this opportunity comes up only once every five years, so we must make the most of it when we have it. Therefore, it is right that Members should comment not only on what is in the Bill but on some things that they would have liked to have seen developed further.

It is because we have a significant obligation to those who serve our country that I want to make a point about some things that the previous Labour Government achieved. I was pleased that mention has already been made of the service personnel Command Paper. I was in the Ministry of Defence at the time when the noble and gallant Lord, Lord Stirrup, was in post. We should not underestimate the degree of change that that White Paper brought about in people's minds. Mention has been made of the military covenant, and it was talked about a great deal before that, but that White Paper was a significant step forward. It was the first-ever cross-government strategy, and it took a great deal of work, in particular, on the part of my ministerial colleague, Bob Ainsworth.

Before that White Paper was published, there was no mechanism for translating the moral obligation that has been talked about today into real provision. I agree with the Minister that we cannot dot every "i" and cross every "t", but it is important that we get the principles and the framework right. Our discussions today and those that will take place in Committee go back to that groundbreaking achievement. I am similarly proud of the Armed Forces Compensation Scheme, and indeed what that Government did on pay and provisions.

The question is: where are we now? Does this Bill do all that it could do? What issues will have to be returned to in Committee? The Minister will know that on an occasion like this the contributions tend to concentrate on where colleagues want to go further and do more, rather than praise what is actually in the Bill. First, I welcome Clause 13, which relates to reduction in rank or rate; I welcome the automaticity of the current arrangements. This ability not to punish twice may not be used often, but I think that it should be available, and I just wanted to put that on the record.

I want to say a few words about some of the issues that I think will need further consideration in Committee, not surprisingly starting with some of the issues that come under the heading of the military covenant. Not much mention has yet been made of one aspect of the changes that have been introduced so far, the issue of Armed Forces advocates. The previous Government piloted an Armed Forces welfare pathway whereby a number of local authorities appointed Armed Forces advocates to ensure that, in terms of policy development, Armed Forces personnel, veterans and their families had their specific needs recognised and that appropriate services were provided at the local level. This was raised in Committee in another place, and the Minister said that we did not need legislation now and that he could talk about possible local solutions. I hope that that indicates real approval of the concept and that the Minister can confirm that. However, I am worried that that approach could be somewhat complacent, especially when we consider the pressures on local authorities at

[Baroness Taylor of Bolton]
the moment. I wonder what mechanisms the Minister thinks we should put in place to ensure that local communities are protected and that we make real progress there. No one can deny that, across the whole range of provisions by local authorities in housing and education, and indeed at the national level, there is a need for monitoring as well.

I will also briefly mention the idea of veterans' ID cards. I am a supporter of ID cards generally, so I may be biased. To me, the provision of ID cards for veterans would be of obvious benefit to them across a range of services in both the public and private provisions. I think that if we did have veterans' ID cards they would have an indirect benefit of increasing public awareness of the needs—and indeed the contribution—of veterans. I hope that we can go further in that direction and explore that aspect further. In the Commons, mention was made of servicemen keeping their military ID cards. I do not know whether that plan, or any variation on that theme, has any potential, but I think that we should look at it.

I will also mention mental health. In healthcare generally, very significant steps have been made in the last few years in respect of the health needs of veterans. However, I think that it was quite difficult to get the breakthrough that led to people appreciating that the mental health needs of veterans were something that we needed to talk about and to highlight. My two ministerial colleagues, Derek Twigg and Kevan Jones, spent a great deal of time trying to make sure that there was proper co-operation in order that we did get the services that we need for veterans who have mental health problems and who often were afraid to come forward and talk about their situation because there was a stigma attached and it was something to be ashamed of.

I want to ask the Minister about the future of the new provisions that were established. We launched six mental health pilots—in Stafford, Camden and Islington, Cardiff, Bishop Auckland, Plymouth and Edinburgh. They were launched with the intention of assessing the needs of veterans and rolling out this programme across the country. It would be useful if we could have an update on that because it really is important that we continue to make progress.

Time is short and I want to say a word about minors, although I am not sure that I necessarily agree with some of my colleagues on this. While protecting the rights of minors and making sure that they know what they are doing when they join the Armed Forces, we have to be realistic and realise that, for some young people, the opportunities for training, education and turning their lives around are available at the age of 17 but may not be 12 or 18 months later. We should look at the whole picture when we talk of issues of that kind.

I end by reinforcing some of what has been said about the need for proper reporting on where we get to on the military covenant. From the speeches that we have heard already, it seems to me that there are loose ends and concerns about exactly what will happen in practice. When the noble Lord, Lord Lee, spoke about relevant Ministers having to report on their own departments, he made a very strong case. At the moment, we have a Secretary of State for Defence who is going to have to report on health, education and housing, none of which is in his immediate remit, but he will not report on, for example, pensions, pay and allowances, and redundancies. Therefore, I think that there is still some scope for clarifying the situation here and for finding a way of making reporting more effective. As has been mentioned, we are talking about 10 million people—one in six of the population—and we have to get right not only co-ordination but reporting, accounting and monitoring. Unless we get that aspect right, we will not be able to go on to make the improvements that we need in the future.

5.36 pm

Lord Thomas of Gresford: My Lords, I declare an interest as chairman of the Association of Military Court Advocates. I am very grateful to the Minister for the meeting that we had at lunchtime today, and I hope that there will be many more such meetings during the passage of the Bill. I was a bit startled to hear my noble friend Lord Burnett say that lawyers should be kept well away from military matters. My mind went back to a Welsh lawyer—a Liberal from Wrexham, my home town and home of the Royal Welsh Fusiliers, I am pleased to say—George Osborne Morgan, Member of Parliament. He was the Judge Advocate-General in Gladstone's time and he abolished flogging in the armed services in 1881. He was a mild mannered person; he was not a military man at all. He was more interested in Sunday schools and in closing pubs in Wales on a Sunday. I think that lawyers have a contribution to make. Indeed, one of the senior judge advocates said to me the other day, "Thank God for the Strasbourg court. Because of the decision in Findlay v the United Kingdom, there have been massive improvements to the justice system in the military". Indeed, the 2006 Act, which was produced by the previous Government, was a milestone in improving the way in which justice is administered in the military courts.

One problem that remains is that of the CO summary punishment powers, where the proceedings do not comply with the right to a fair trial, as embodied in Article 6 of the ECHR. It is a summary procedure where the CO is, by definition, in the chain of command. The CO has extensive powers of summary trial. He can deal with absence without leave; neglect of duty; malingering, such as shooting yourself in the foot; conduct prejudicial to good order and discipline, which is no doubt a charge that many people recall; fighting; damaging or misapplying public property; and the looting of enemy vehicles and stores. Those are all within the CO's competence.

The noble Lord, Lord Selkirk, referred to the Crimean War. I recall that looting was an issue in the Peninsular War at the Battle of Vitoria in 1813, when British soldiery plundered the French wagons and loaded themselves down with as much as they could carry to the tune of £1 million. They did so to the fury of the Duke of Wellington, who called them, with little gratitude for their efforts in the battle and without any affection for them, the "scum of the earth". Their first duty, he thought, was not to loot but to pursue the enemy. However, I digress.

The CO's punishments are limited to: 90 days' detention, forfeiture of seniority for officers, reduction in rank for warrant officers and below, fines of up to 28 days' pay, compensation not exceeding £1,000, and a severe reprimand for officers or NCOs—and this is in a non-compliant jurisdiction. There is no power to dismiss from service, as there is in a court martial, but these are serious punishments and it is obvious that the limitations on punishment are an inducement to soldiers, airmen and seamen to accept summary trial before the CO. To comply with the convention rights, an accused has the right to elect trial by court martial, a right granted to him by Section 129 of the Armed Forces Act 2006. But what if the prosecutor decides to change the charge or to substitute another? I am pleased to see that Schedule 1 to this Bill provides the safeguard that in these more complex situations a court martial will not exceed the sentencing powers of the CO when an accused elects trial. That is to be welcomed.

Also to be welcomed are the provisions in relation to the service police. I have been involved in a number of courts martial and the weakness is always the investigation. It is very difficult for service police to carry out investigations outside this country, dealing with people who are not necessarily nationals with very limited resources. I am pleased to see that this Government are doing something to improve the organisation, and I hope the resources, of the service police.

I also welcome the extension of the drug-testing regime to service personnel and CSSDs—civilians who are serving abroad—who are suspected of being impaired through drink or drugs before an incident occurs. I also applaud the new offence for a member of the Armed Forces who is carrying out a prescribed duty when under the influence of drink. In historical mode, I recall the Battle of Crysler's Field in the War of 1812 against America when British forces, hopelessly outnumbered, succeeded. The American General Wilkinson was too drunk to get out of his bed on board his ship, which was moored in the middle of the St Lawrence river. Drink has always been a problem.

I also welcome, as do the judge advocates themselves, the powers now granted for a qualifying judge advocate to sit in the Crown Court. Most of them will be very familiar with the Crown Court, having served as advocates during their legal careers, but sitting in a judicial capacity in the Crown Court will undoubtedly widen their judicial horizons beyond the military family, not least in sharing experiences with Crown Court judges. There must be two-way benefits. It is a mark of the increasing stature of the military justice system that judge advocates will move to sit in the Crown Court on civil charges.

Other speakers have focused on Clause 2, on the military covenant. I join them in the general welcome for this clause, which recognises that the major worry for soldiers in the field is not so much for themselves, because they have signed up for excitement and danger, but for their families at home and their education, housing and support.

I will raise again the matter of the veterans' courts, which have had such success in the USA. We undoubtedly have a significant number of veterans in the prisons of this country, who tend to be older and in for more serious violent and sexual offences. The courts that they have instituted in the United States are specialist courts which offer tailored support to veterans who have committed non-violent offences to help them get their lives back on track. Ex-service mentors guide each veteran through the court process and ensure that their housing, mental health, employment and substance abuse issues are resolved. I commend the interim report of the Howard League, *Leave No Veteran Behind*, to which my noble friend Lord Lee referred. The inquiry team from the Howard League recently visited the Buffalo Veterans Treatment Court, presided over by Judge Robert T Russell, which has as its mission to rehabilitate veterans by diverting them from the traditional system and providing them with the tools they need to lead a productive and law-abiding lifestyle. I know that there are concerns about costs, particularly at this time, and about whether we have other, existing ways of dealing with these problems, but I hope to address those issues and raise this matter of veterans' courts in Committee so that we can have a thorough examination. If it passes that examination, I shall propose that it be adopted by the Government.

5.46 pm

Lord Craig of Radley: My Lords, five years ago when this House considered the Bill that became the Armed Forces Act 2006, it was, as the Minister has reminded us, a completely new Bill. It replaced rather than amended earlier single-service disciplinary Acts. Every word and clause of the Bill before the House reflected the intended Act. A number of amendments to the text were agreed—I moved some of them. In due course, what we had been considering became the 2006 Act. This time, the Government have reverted to the traditional quinquennial approach. This Armed Forces Bill renews and updates the existing one. But I find it a right mess doing it this way compared to the approach in 2006.

This Bill is over 50 pages of detailed changes to the 2006 Act. It inserts a section here; it substitutes one section for another there; it amends a subsection; it inserts new words; it repeals or revokes bits, parts or all of earlier legislation; it introduces new schedules or changes to existing ones. The insertions, substitutions, repeals et al can be numbered in dozens, not just an odd one or two. Some are described as minor; some are listed as miscellaneous. There is a raft of them entitled "Other amendments". I can see no obvious reason for differentiating in this way, unless it reflects the preparation of the Bill and new thoughts and ideas as they occurred to the drafters. The Bill before the House is little more than a whopping great marshalled list of amendments to the wording of the 2006 Act. Is it just convention that the updating of the 2006 Act must be done in this muddling way? If it were possible, I would have tabled an amendment which proposed that the Bill before the House be presented with all the changes, substitutions, amendments et cetera carried into a new Bill for debate and consideration in Committee and on Report. This legislation, dealing as it does with disciplinary matters, should be comprehensible to service personnel and not just an Act cobbled together and worded for lawyers and other legal experts.

[Lord Craig of Radley]

The Bill before the House does introduce one new and untried requirement. Clause 2 is entitled "Armed forces covenant report". Its wording is to be inserted after Section 359 of the 2006 Act as new Section 359A. Section 359 of the 2006 Act is one of a number of sections towards the back of the Act listed as "Miscellaneous". Section 359's title is eye-catching: "Pardons for servicemen executed for disciplinary offences: recognition as victims of First World War". They were veterans, but is this the best place that the drafters can find for the covenant section? Is this not an unfortunate juxtaposition for the requirement to report on the covenant, a covenant to which the Prime Minister and many members of the Government have given their strong support? I invite the Government to think again about the placing of this amendment. Appearances can be important. These sections would be listed next to each other in the table of contents of the Act. What about Part 14, titled "Enlistment, terms of service etc"? Why not insert here a new heading—"Armed Forces covenant"—and put the wording of Clause 2 after Section 339 of the 2006 Act, numbering it Section 339A?

Clause 2 is titled "Armed forces covenant report", which clearly indicates that an Armed Forces covenant exists. While I accept that to introduce a statutory description of a covenant would be neither practical nor sensible, it is still important to have an understanding or non-statutory description of the reach, the length and breadth, as it were, of the matters considered to fall under the heading of the Armed Forces covenant. The Secretary of State, Dr Fox, described it in the other place as,

"fundamentally a moral obligation on the Government, the nation and the armed forces. It is an agreement between the armed forces and the whole nation, not just the Government".—[*Official Report*, Commons, 10/1/11; col. 47.]

This is pretty woolly. What has been or will be agreed? The MoD internal briefs published on 16 May 2011—*The Armed Forces Covenant*, to set the tone for government policy, and *The Armed Forces Covenant: Today and Tomorrow,* to detail current actions being taken to deliver the covenant—are both helpful. They should be widely distributed because they will provide useful benchmarks for judging outcomes in the future.

Clause 2 requires the Secretary of State to report to Parliament each calendar year, on issues of healthcare, education, housing and any other fields he may determine. However, none of these seems to be his direct responsibility so far as veterans who have left the services are concerned. How then is he to produce an authoritative report on fields for which he has no responsibility? He must seek advice from other government departments, from devolved Administrations and other regional or local authorities. He is required by Clause 2 to draw attention to those who may be disadvantaged in comparison to other non-military persons. On whose judgment must he rely? Does he exercise his own judgment? He is expected to have an opinion according to Clause 2 and to respond to that opinion if it covers some who are disadvantaged.

While not wishing to disparage the Government's good intentions, it is most important that the report and their reaction as a Government to what it says are well thought out and presented. It will not be just the annual report but the responses to and actions taken on the report that will really matter. Who will be held responsible for that?

I have argued before that placing responsibility for veterans who have returned to civilian life on the shoulders of the Defence Secretary is not reasonable. Responsibility for veteran affairs reaches out in many different directions. The previous Government recognised this. Three years ago Command Paper 7424, a White Paper, introduced valuable and far reaching arrangements focused on the Cabinet Office and an external reference group, now renamed the covenant reference group. This group reports to the Prime Minister and Defence Secretary annually.

I have proposed before that this arrangement could be strengthened by transferring the Minister for Veterans to the Cabinet Office, where he would be better placed to gather and consider the various fields of interest to veterans and the ways in which they are supported in the wider community. I was interested to learn from the noble Lord, Lord Morris of Manchester—who I am glad to see in his place—that when he was invited by the then Prime Minister to become Minister for the Disabled, the noble Lord insisted he should not be placed within any of the normal government departments because the interests of the disabled and their support spread right across government. Veteran support too spreads across many fields. Why not look after them in a manner akin to the immensely successful way that the disabled were first supported some 40 years ago? It is an approach I strongly urge the Government to consider. It would give practical meaning to their support for the Armed Forces covenant.

Finally, on Clause 5 about the appointment of provost marshals by Her Majesty the Queen, what arrangements will be required if an individual provost marshal fails in his or her duty and has to be removed? Perhaps the noble Lord will be able to explain.

I also echo the strong feelings about the need for the chief coroner, which have been expressed before many times in this House and have my strong support.

5.55 pm

Baroness Fookes: My Lords, the noble and gallant Lord, Lord Craig, has shot my fox because one of the points that I wanted to make—I will still aim another bullet at it—concerns the incomprehensibility of any one piece of legislation if one seeks to know what the law is on the subject. I share the noble and gallant Lord's distaste for simply amending the previous Act. Unusually, we have the chance to amend the Act every five years for constitutional reasons that have already been touched upon. As it is the only piece of legislation for the Ministry of Defence, I would have thought it possible for the MoD to start to work on consolidation from now on so that when we next get to the five-year point we will have a Bill that is complete in itself. I once served on the Joint Committee on Consolidation Bills. It met but rarely. Here we have an opportunity to put the matter right, at least in one piece of legislation.

On the new part of the legislation on the Armed Forces covenant, I slightly disagree with another noble Lord who felt that there was a weakness in giving the

Secretary of State considerable flexibility in what he might choose to bring into the annual report, which will be his duty. I think that can be a strength rather than a weakness. If something is too prescriptive, it is very easy to find a little way down the line that it does not cover what you wish it to cover. I prefer to give the Secretary of State a little more leeway. I regard this new arrangement as an experiment. I hope that we will develop, refine and improve it year by year. I do not look upon it as being totally static and never to be changed, but that we can improve upon it.

I have one or two questions for the Minister. First, other than the measures for education, health and so on that are already listed in the Bill, does he have anything else in mind at the moment? If he does not, perhaps I may make one or two suggestions.

One suggestion relates to the Chief Coroner. As far as I was concerned, the whole point about the Chief Coroner was that he was given the power to ensure that coroners engaged in military inquests had sufficient training. This was, and remains, a key point for me. I point out that although this was in legislation brought by the previous Government, it was introduced because they were virtually forced into it by the then Opposition losing the day when they had said it was not necessary. However, the balance is now redressed because my own Government are seeking to get rid of it altogether.

I suggest to my noble friend that this might well be an issue that the Secretary of State could include in his annual report. Ensuring that military inquests are dealt with by coroners with sufficient experience to do them properly could be one of his duties in the annual report. That would deal with a real worry that many people have felt. In the early days, when there were a number of deaths, the coroners did not have sufficient knowledge and experience of the Armed Services and their ethos, and this caused many of the families great strain, including of course to the war widows, of whose association I am very proud to be president.

That brings me to another issue. The reference committee—or whatever it will be called—which is going to advise the Secretary of State on the various issues that will form the basis of the annual report, does not seem to be in the Bill. I may be mistaken, but if it is not in the Bill it should be a statutory body. It might well need to alter its membership, but if it is not there, what is to stop a Secretary of State who is not particularly interested in all this discontinuing it? If the Secretary of State is to be fully informed, it is absolutely vital that he has all these inputs from bodies such as the War Widows' Association and SSAFA Forces Help, of which I am a vice-president nationally. One of their strengths is that they deal with individual cases of servicemen, ex-servicemen and their families, so they are at the sharp end and know exactly what the problems are. That kind of information is absolutely vital if we are to have an annual report that means anything at all.

Another issue, which was raised by the BMA in a briefing to me and no doubt to other noble Lords, is medical reservists. They can be called up—at very short notice, of course—but they have found that in many cases being called up actually puts their primary career at risk, particularly if the NHS organisations with which they are associated are difficult about it or maybe have different policies. I suggest to my noble friend the Minister that that kind of difficulty could be ironed out as a result of the annual report. I am of course fully aware that—other noble Lords have made this point—in many cases the Ministry of Defence, and indeed other government departments, have no direct control over the actual people who are going to be helpful or otherwise: the doctors' surgeries, those responsible for waiting lists, and so forth. I am not sure what the answer is to that, save that if there is a body of evidence that is very clear and well set out, it might have some influence as opposed to power. That is at least what I am hoping for; we shall have to see what the result is.

All in all the Bill is a very good development and I wish it well, and I hope that by the time we finish we shall have improved it with some constructive amendments.

Lord Stirrup: Before the noble Baroness sits down, I wonder whether she will allow me just two seconds, for the sake of clarity, on her point about the need for flexibility in what the Secretary of State reports. I absolutely agree on the need for that flexibility; I was merely suggesting that there should be some marking of the way in which he exercises that flexibility.

Baroness Fookes: I thank the noble and gallant Lord for that clarification.

6.03 pm

Lord Davies of Stamford: My Lords, I too greatly welcome this Bill. As has already been pointed out several times by my noble friends Lady Crawley and Lady Taylor, and indeed by the noble and gallant Lord, Lord Stirrup, there is a very large element of continuity between this Bill and the Command Paper introduced by the previous Government in 2008, when I had the honour to be serving in the Ministry of Defence, though I had nothing directly to do with that particular Command Paper except as one of the ministerial team. That continuity is very desirable, and it is moving in the right direction. I do not think that we have necessarily got to the end of the road.

The two points where there may well need to be some strengthening or further progress are again ones that have already been mentioned. First, the provision that the Secretary of State can use his own discretion to report on anything other than the three very important items of housing, education and health, is slightly loose. A number of very important issues have been raised in the debate this afternoon, notably military inquests and pensions; they are not included in that list. There may be scope for increasing the number and the range of items which the Secretary of State has to report on, because with the best will in the world, it is all too easy, if one is a Minister, to avoid making any statement on something that is not politically convenient, or perhaps not politically convenient for colleagues to comment on, if one is not absolutely obliged to do so.

My second concern was elegantly set out by the noble and gallant Lord, Lord Stirrup. It is very important to make sure that there is some progress, that results actually ensue, and that this is monitored. If we do not

[Lord Davies of Stamford]
succeed with this Bill, particularly in the important areas of housing, health and education, the next stage would be to place statutory obligations on local authorities for housing lists, local education authorities for education, and the NHS for dentistry and waiting lists, to ensure that military personnel do not suffer in any of these respects from the need sometimes to relocate at very little notice as part of their military obligations.

As this is a Bill which gives the statutory power to the Executive branch to have Armed Services at all, it is a good moment to review the Government's stewardship of our Armed Forces and the Government's use of our Armed Forces. I will touch very briefly on these two vast subjects.

The Government's stewardship of the Armed Forces over the past 14 months since the election has been lamentable—absolutely appalling and really scandalous. The Armed Forces remain pretty stretched, they have been stretched even more by the Libya campaign, and yet we are about to make redundant several thousand experienced military personnel. The degradation of the equipment programme is an even more serious long-term matter. The House will be familiar with a lot of it—it is extraordinary; we have abandoned all long-range maritime surveillance capability. We abandoned those Nimrods, which were going to deliver that, after every penny of their capital cost had already been incurred. Nothing but the operating costs remained. The Government have not come forward with any proposals on how to replace that enormous capability gap. We have abandoned—at least for 10 years, we are told—our carrier strike capability, which is an extremely serious matter.

Another matter came up in this afternoon's statement on Afghanistan—Chinooks. I was able—at great effort, I must say—to make tremendous and very radical changes in our whole medium helicopter strategy, which enabled me to put together a pot of money with the intention of spending it on Chinooks. As a result we were able to order 22 Chinooks, bringing the total prospective number up to 70, and the Government, I am told, want to cancel 10 of them. This is the same Government, by the way, who, when they were in opposition, had the nerve to tell us that we did not have enough helicopters in Afghanistan. I am afraid to say that the Government are condemned by their own words, but I do not mean to say any more on that particular subject.

It gets worse. In addition to these cancellations of capability which we had acquired, were acquiring, or were planning to acquire, the Government have had a complete hiatus in their procurement programme over the past 14 months.

Lord Selsdon: Will the noble Lord give way?

Lord Davies of Stamford: Of course, but I am conscious of time and I will take maybe another minute or two of the House's time if I have to give way.

Lord Selsdon: I was only going to say that I think we are debating the Armed Forces Bill.

Lord Davies of Stamford: I am very well aware of that. The Armed Forces Bill is designed to give the Executive branch the right to have our Armed Forces. We therefore need, before we give them that right, to discuss how they are treating our Armed Forces at the present time, and what they propose to do with them in the future. It is absolutely elemental. I cannot imagine why there should be a constitutional requirement for Parliament to give this power to the Executive branch unless we discuss those two very important matters, so I do not in any way regard myself as being offside in the matters that I have decided to raise in this debate. I can well understand the Conservative Party feeling embarrassed by some of the things that I am saying. That is not my fault; that is the fault of the Government that they support.

As I said, the situation is worse because of the hiatus in procurement at the present time. All of us who have been defence procurement Ministers—there are several in this House, and at least one who I can see in the Chamber, the noble Lord, Lord Lee—have always taken great pride in delivering what is required today for our Armed Forces. However, we know that during our time in office we will be procuring some long-term things, and that although we will not be around in the MoD when they are required, they are vital for the nation's future. None of these decisions has been taken at all over the past 14 months. I cannot remember how many major projects I was responsible for—I suppose I could if I thought about it—but my successor has not had any at all. It is not his fault. Indeed, I can all too well understand the frustration and pain he must feel about the situation. This means that we are simply not providing for the future in this way. The Prime Minister has recognised that in order to deliver the capability that the strategic defence and security review promises in 2020—even the limited capability, greatly reduced from our own White Paper of 1998—it will be necessary to increase defence expenditure in real terms from 2015. But the Treasury has not been told that is the case and is not allowing the MoD to make any of the long-term procurements which would be necessary to achieve that capability goal and would assume an increase in availability of resources from 2015. The Government have to make up their mind; the Prime Minister has to play straight. Are we going to have more for resources after 2015 and are we going to take seriously the capability projected in the defence and security White Paper, or are we not? Let us be honest. At the moment, the Government are not being entirely straight with the public about this very important matter.

Lord Wallace of Saltaire: I apologise for interrupting but I would simply like to point out, although I know this is rather off the subject of the Bill, that after 2015 we may have another Government, and committing ourselves to long-term defence commitments beyond 2015 is something that we have to consider in rather a different way. Perhaps the noble Lord is assuming that it will not be a Labour Government after 2015, or he is committing a Labour Government to increasing expenditure substantially after 2015. I was not aware that that was yet Labour policy.

Lord Davies of Stamford: The noble Lord will know, I am sure, that defence procurement requires spending money now for capability that will come forward in 10, 15 or 20 years' time. If you do not spend money

now, you do not get that capability coming forward. We spent a lot of money exactly on that basis, as the noble Lord should know, in a naval building programme, in projects for which I was responsible—the A400M and the Typhoon tranche 3, and so forth. That continuum has now stopped. It is exactly like a business that needs to invest every year, which suddenly stops investing. It will pay the price for that five, 10 or 15 years down the road.

Finally, I want to say a word or two about operations and about the use by the Government of the Armed Forces that Parliament allows them to have. I am not going to say anything about Afghanistan, as we have had a Statement on that very important subject this afternoon and I have expressed myself on one aspect of that. But I shall say a couple of words about Libya. First, it appears that the cost of keeping our Tornados in the south of Italy some hour or two away from their targets, with a requirement to provide in-flight refuelling is at least as great or maybe greater—perhaps the Minister will answer the question and tell us which it is—than the cost of continuing with the Harriers and "Ark Royal". We all knew that the decision would be disastrous over the long term, but it looks as if it may not have been a very clever decision in the short term. The French are using the Charles de Gaulle air carrier and they are only half an hour away from their targets. As a result, they do not need any in-flight refuelling capability. The Harriers did incredibly well, as the Minister knows—he knows a lot about these things—in Afghanistan, in ground support and ground attack roles, and could have done extremely well in Libya. That is my first point; I would be grateful if the Minister could respond to it.

Secondly, I am very much afraid that in Libya our Armed Forces are being asked to undertake an operation in which they are being denied all the traditional military means for success. They are operating under two resolutions, 1970 and 1973, which we of course promoted and which mean that we cannot provide arms to the rebels or opposition—our side, apparently the good guys, whom we are trying to support. They cannot put troops on the ground and they cannot provide any support to the operations of the rebels or the opposition—fire support of anything of that kind. It is a strange and worrying situation when we find ourselves asking our military to perform operations in difficult circumstances, although circumstances are almost always difficult when Armed Forces are deployed, but when the obvious military means are not available to them. I simply point that out. I am a great believer that once our forces are engaged, we should support them, and I am not querying this operation. But I would like the Government to think very carefully about undertaking operations under the aegis of resolutions from the Security Council of this kind, which so inhibit our own flexibility and our ability to deliver the desired result.

6.14 pm

Lord Addington: My Lords, I thank the Minister for bringing this Bill in. it is interesting to speak on a Bill that goes directly back to the Glorious Revolution. I return to the substance of this particular piece of legislation, and particularly Clause 2.

The covenant is something that we all discovered a few years ago, in varying degrees—or had it put in those words to us—in the background of a nation that found itself knee-deep in two wars, when there were considerable problems with the Armed Forces and how they were organised at the time. To be fair, in large part those problems have been addressed in recent years. It is very reassuring that we finally have something that we can refer to as a framework for dealing with the covenant in implementing it, but it is only a framework and a suggestion. When the noble and gallant Lord, Lord Stirrup, was speaking, I found myself agreeing totally with him; he spoke in exactly the terms in which I was going to suggest we spoke about this. Indeed, the same bit of Kipling had occurred to me, to be perfectly honest. I would have expressed it not as elegantly by saying that we have a nasty habit of addressing the future as a tarted-up version of today.

A report to Parliament under the current circumstances that was critical of what the Armed Forces were doing would be an embarrassment to the Government for at least a week. It would mean that the entire political village would shake with indignation and rage and would be open to attack from outside—quite rightly. However, what if we have a decade when we do not have anywhere near the same level of commitment and casualties? The noble Baroness, Lady Taylor, is no longer in her seat; it is a long debate, and I do not hold that against her. But I remember having to discuss Question after Question—the noble Lord, Lord Astor of Hever, was there as well—when a list of casualties was read out. If we remove that, how much energy and attention can we focus on these issues and this report?

We have heard many things that would help this report. My noble friend Lord Lee really put his finger on it when he said we had to make it apply across Government. That is one of the best and most constructive suggestions I have heard on a Bill in a long time, and I only wish I had made it. To address this matter properly, we must try to put in more infrastructure in the way this report reverberates throughout the political system and Parliament. If we do not, it is going to struggle.

My noble friend said I would talk about the implementation of this provision. I suggested that I do that, because most of my political background has come from the area of disability rights and campaigning. Here is an area where we have a great deal of law, and it is generally thought that you need to be lucky, persistent or rich to get the best out of the system. Law does not guarantee it. The great joke in the disability world is that if you are going to be disabled and successful, choose your parents correctly. The general consensus is that having a lawyer and a journalist as parents is a very good way in which to get the best out of your legal entitlements. We have to get something that does not go back to that type of implementation. This is another way forward. We must do something that generates enough steam to make sure that it matters—it is not just a rough day for one Minister, it is that rough week for the whole Government. We have to try to implement that and going across the other departments will be a way forward.

To address the covenant itself, I think that there should be a fourth element in here, in proposed new subsection (2)(a). I would like to see some form of

[LORD ADDINGTON]
training for those who are leaving the services, for how to access the outside world and civilian life. That point of interface is where it is quite clear, with the best will in the world, that all the Armed Forces have effectively failed. They have not covered that gap. It is quite common, when you go from two structures—looking at other bits of government, including education and the care services—that you can go through dozens of examples of this where that interface is badly handled by various departments, when the Chinese walls kick in. We have to try to address that in some way; it may not be in the Bill, but we must get the Government to talk and think about the culture here.

The problems with ex-servicemen are probably greatly exaggerated in certain fields, but they exist, when they find themselves adapting to outside life. Indeed, why do people join the Armed Forces in the first place? Possibly they like a structured environment and, if they do not, they have probably got used to a structured environment when they are there. How we handle that change is something we should address, and this Bill would be an opportunity to so do.

I hope that my noble friend will give us some indication of how the Government's thinking is going in dealing with these practical matters. I salute the Government for finally making sure that we make the covenant real and more tangible, but this is only the first step. Making sure that we can take the next step easily and develop it would be a real benefit to future Parliaments and anybody involved in this, because if we do not, we will have this stop-start approach which ultimately leads to legislation and legal action, because it is the only way one can do anything. We want to avoid that whenever we can, but this is a good start, it builds on good practice and I wish it well.

6.20 pm

Lord Bilimoria: My Lords, let us imagine a dream scenario; one in which the public are 100 per cent behind the Armed Forces, combined with a public who are 100 per cent behind the Government, who themselves are 100 per cent behind the Armed Forces and finally, a public who are 100 per cent behind the way in which the Government deploy the Armed Forces. In Iraq in 2003 the public may have been 100 per cent behind the Armed Forces, but they certainly were not 100 per cent behind the deployment. This would apply equally to Afghanistan—sadly, it has been 10 years and we are still there. There are announcements of troop withdrawals and senior people have been saying that the timings of those withdrawals are linked to political timings here and in the United States.

The military covenant is a two-sided coin: the Armed Forces are unquestionably willing to make the ultimate sacrifice, whether or not they agree with where and why they are deployed. We know that they are doing this time after time and day after day. The amazing esprit de corps present in the Armed Forces is something that every business in this country could learn from. It is this spirit that inspires such incredible loyalty, commitment, and sacrifice; a spirit that is upheld unilaterally, a spirit that we, as a nation, are always grateful for. To be accused of taking the Armed Forces' side of the military covenant for granted is an awful thing, and yet the sacrifices are made time and again by our Armed Forces without question.

My late father, Lieutenant-General Faridoon Bilimoria, was commissioned into the Gurkhas, commanded his Gurkha battalion in war, was colonel of his regiment, the 5th Gurkhas and was president of the Gurkha Brigade in India—the Gurkhas were his life. I will never forget that whenever my father asked one of his Gurkha soldiers to do something, the answer that came back from Gurkha soldiers was not, "I will try", or, "I will do my best", it was always two words, "Honcha hazoor". Translated, that is, "It will be done, sir". No ifs, no buts: it will be done. That is the spirit of the Armed Forces.

To continue with my dream scenario, I see fully financed Armed Forces with the best and most appropriate equipment for known and unknown requirements. A stark example of our falling short is the SDSR being rushed through in three months when it took a year last time; an SDSR that, many say, looked at the means and not the ends; an SDSR that, in my view, has clearly not thought through Britain's foreign policy strategy and defence strategy.

As a country, we want to intervene when we are needed. Nobody predicted the Arab spring even as we in this House were debating the SDSR last autumn. We were not prepared and now we are in a ridiculous situation, with no aircraft carriers and no Harriers, conducting our Libya operation with Tornados from Italy and Typhoons from Britain. We do not have the Nimrod AWACS cover that is desperately needed. We have been caught off guard.

I am delighted that the military covenant is being included for the first time in an Armed Forces Bill. This is wonderful news. I believe that it is very important to have a report on the state of the military covenant every year and I believe that to have the covenant written into law would lead to incredibly complex circumstances with endless court cases and laws which would be very difficult to apply in the conditions in which the Armed Forces operate. Could we not, though, come up with a better name than the external reference group, or the covenant reference group? The covenant is too precious to be referred to thus: it is at the heart of the Bill, so, please, may I ask the Government to change the name?

Constant scrutiny of whether the military covenant is being honoured is needed and we often fall short. What about accommodation? I hope that it is reported very specifically that we are still falling far short of the mark, particularly when it comes to the Army. Are we going to do our best to attract the brightest and the best? Will the Government commit to maintaining the boarding school scheme? Where healthcare is concerned, I know we have a high-quality unit in Birmingham and we have Headley Court, but is there adequate priority for all our serving officers, veterans and their families? My father passed away in a military hospital. We do not have those any more, but India does. My mother will benefit from military care for the rest of her life.

There is no question that our Armed Forces, particularly at the low end, do not get paid enough to justify the work and sacrifice they are willing to make. Will the Government address this? This is very much part of the covenant.

Most importantly, the military covenant is about trust and confidence: trust that the Government will always put the defence of the realm first, as its top priority, and trust that they will never let our brave troops down in any aspect. We know that we have the trust and the faith of our troops: we know that they hold their side of the bargain, in spite of breaches, I believe, in our side of the covenant over many years, but our troops need the confidence that they will always have the support of the people, that they will always feel they are fighting for a cause that is appreciated.

I have another word: morale. That is the key word that esprit de corps is linked to. It will exist only if there is an alignment between public backing of the Government's decisions, financial support in welfare and equipment and the treatment of our troops and their families, as the noble Lord, Lord Thomas, said. This is before, during and after their deployment in conflict zones. If there is no alignment, we put the covenant at risk, and we have been pushing the boundaries of this alignment for years. Regardless of technology, robot warfare and drones, there will always be a bare minimum number of troops needed. No amount of technology can make up for feet on the ground, and morale is being affected by the thousands of our service personnel being cut in each of the services today. How can anyone serving feel secure with all these cuts around them every day? How can there be good morale? It takes the stroke of a pen to cut thousands of troops. It takes years to train them and to rebuild those numbers should we ever require them. We are being so short-sighted here, quite apart from the constant pipeline that needs to be filled, even with the cuts. We need to attract the best quality recruits possible to what they see as a secure career.

I remember when my father was General Officer Commanding-in-Chief of the Central Indian Amy with 350,000 troops under his command over an area several times the size of Britain. Whenever I visited him I saw that everyone had a smile and I said, "Dad, what's the secret of this?" He said, "The secret, my son, is that it is no good just to have an efficient army, you need to have a happy and efficient army". That is how important morale is.

Our defence spending is now half, as a percentage of GDP, what it was 25 years ago. We must ask ourselves, are we providing enough support? The service chiefs have been speaking out individually about the lack of resources. Historically, this is highly unusual. Just imagine the lengths to which these individuals have been pushed in order to feel the need to speak out. The Prime Minister's response to the service chiefs was, "You do the fighting, I'll do the talking". Everyone I have spoken to thought these words were unwise and insensitive. This Government have been accused of being a Government of U-turns. I would prefer to think of them as a Government who are willing to listen, to analyse different views and not simply bulldoze through policy, and to change plans if necessary. The Minister holds regular meetings to listen, which I genuinely appreciate. I know that the Prime Minister's heart is in the right place when it comes to the Armed Forces, but when he says that, for the Armed Forces, he will do the talking, is he walking the talk?

To conclude, we may be a tiny nation, but we are still one of the seven largest economies in the world. We still have one of highest defence budgets, in absolute terms, in the world, despite the current cuts. We have influence and the ability to intervene when we require it and feel it is necessary. Our first line of response should always be soft power, but that soft power is hopeless without the hard power if we want to maintain the capability to defend our realm and to intervene where there is little or no choice and where we feel we need to.

Libya has provided us with a harsh warning. If we are to be ready for the unexpected, then the military covenant must be implemented in every way. Then, and only then, will it be a true covenant, a true two-sided coin based on mutual trust and confidence. Then my dream scenario will become reality and, where the military covenant is concerned, we will truly be able to walk the talk.

6.30 pm

Lord Empey: My Lords, I am conscious that in the debate today there are many noble, and noble and gallant, Lords in the Chamber who have years of experience in this area. Indeed, until a few moments ago we had two distinguished former Secretaries of State for Defence in the Chamber, and there are a number of former Defence Ministers here today. There are many people here with far more expertise than I do. Furthermore, I thank the Minister for adopting an open-door policy about these measures. It is helpful to Members to know that they can go and have their concerns addressed in that way. I appreciate that.

I welcome the Bill, particularly the covenant, which I shall speak on. It has to be based on the following principle: if we ask a service man or woman to go on to the battlefield on our behalf, as we have been doing increasingly in recent years, that person should know that so far as is practicable, irrespective of where they come from in the United Kingdom, the services that they can rely on if things go wrong and they become hurt or injured in some way will be applied equally to them and their families. In other words, they will go into battle without that postcode concern at the back of their minds—they know that if they become injured they have a reasonable expectation of receiving the services that they need, wherever they may live.

I have some concerns, which I will come to in a moment, but they are exaggerated by the fact that, as I understand it, those who become injured now have a greater expectation of survival than would have been the case many years ago, such are the advances in battlefield medicine. That means that people are coming home—and thank God they are coming home—in many cases to face 50 or 60 years of disability, be it mental or physical. I have seen it in my own area with my own eyes: a triple amputee or someone with similar characteristics who has survived, who is mentally alert and fit but requires a lifetime of support. I am not sure that we as a nation have fully grasped the significance of the downstream consequences that a number of our services are going to face. I am not sure whether it has been costed out; I do not know how we would even begin to do so. However, we have an obligation to provide those people with the best services that we can.

[Lord Empey]

The Bill is a first step. I see that in the other place an attempt was made to further codify this by the use of a phrase like, "Armed Forces charter". An attempt was made to analyse and define more accurately what the covenant should consist of. However, I support the Government's general principle that you can overplay your hand on this, and we need a degree of flexibility. So I am broadly content with the concept behind the covenant but I have some significant issues with the practicalities.

The Secretary of State has to make a report, and I welcome that, but, as many Members have already said, he is not in control of many of the services that he has to report on. Housing, health and education were mentioned, but the Bill provides that other issues could be brought to his attention. Issues concerning training have been mentioned. We know that unfortunately many returning service personnel collide with the justice system—disproportionately, I have to say—so there is a range of things on which the Secretary of State might find that a report is required.

One other issue is perhaps not highlighted as much, although the noble and gallant Lord, Lord Craig, picked this up in a Question some weeks ago; that is devolution. Under devolution, virtually all those services are under the control of the devolved Administrations. The Secretary of State therefore cannot deliver a report to Parliament off his own bat unless he has the full co-operation of the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly. In order to keep a level of service that is broadly equivalent, we need to work closely with the devolved Administrations, and the Minister mentioned that in his opening remarks.

I want to talk specifically about Northern Ireland. All those services are devolved there but we have to face the fact that there is not in all quarters the same approach, welcome or support for the armed services. We have a circumstance in Northern Ireland where in the key area of education we have a Sinn Fein Education Minister. I do not think that I need to paint the picture any further. We also have a technical issue in Section 75 of the Northern Ireland Act, where people are required not to discriminate against people or to discriminate for them. There is an issue that needs to be dealt with there.

Lest people think that I may be exaggerating this, I want to point out that last year a colleague of mine in the Northern Ireland Assembly, David McNarry MLA, introduced an Armed Forces and Veterans Bill. It went through its procedures and had hearings through a committee. When it came to a conclusion in February this year, a petition of concern was signed by the nationalist Members of the Assembly that meant that it had to go to a cross-community vote where, of course, it would be vetoed. We do not have to speculate; we now know that there may well be difficulties in getting the co-operation of that Administration in preparing the report. I hope that that can be avoided and that it is possible to talk to the Executive and the Assembly to try to avoid any unnecessary and unseemly dispute over this issue, which is important to many families. I say to noble Lords that we do not have to imagine this; it has actually happened. As the then party leader, I encouraged Mr McNarry to bring in the Bill in the Assembly. We knew that the issue was out there and had to be dealt with, but unfortunately it became a casualty of the political dispute that exists.

I want to avoid all those disputes if possible, and it will be my intention to bring forward amendments at the next stage to try to do so. I want to go with the grain of the Bill, not against it, as was put to me by one of the Minister's officials; I do not want to overprescribe it. Equally, though, the Secretary of State cannot allow himself or herself to find that they are able to bring in only a partial report because, as the noble Baroness, Lady Taylor, pointed out during her address, there are loose ends. It will be up to us at the next stage to try to resolve those loose ends. I put those matters before your Lordships.

6.39 pm

Lord Freeman: My Lords, it is a pleasure to speak from these Benches later than my noble friend Lord Selkirk, who made a powerful speech. I join him in welcoming and supporting the Bill. He mentioned in passing the work of SkillForce, in which he plays a very important part. I mention it because it is almost the covenant in reverse. SkillForce employs ex-service men and women, some disabled, in over 200 schools, to teach difficult 14 and 15 year-olds who are taken out for one day a week for two years. The results are outstanding. I pay tribute to the Ministry of Defence, which initiated the scheme and as its founder deserves great praise.

I welcome the Bill. There is a lot to be improved and discussed in Committee; but I do not think we should be churlish—the Ministry of Defence, its officials, and particularly the Ministers have done an excellent job in bringing the Bill forward. It has my full support.

I want to speak briefly about the Reserve Forces, and the relevance of the covenant and the Bill to them. I make no apology for doing so as the former president of the UK Council of the Reserve Forces and Cadets Association. The chairman was our former Black Rod, General Viggers. I am glad to say that he is recovering, albeit slowly, and I am sure that your Lordships would join me in sending to both his wife and himself all best wishes for a speedy recovery.

Clause 28 deals with the call out of Reserve Forces, and makes a very important change. For the first time, statutory powers to mobilise reserves in the United Kingdom will come into force. For disasters, whether natural disasters such as flooding, or a major problem with, for example, the forthcoming Olympics—though of course I hope that that will not be the case—we have for many years relied on volunteers. Now they are to be mobilised and called up, which will provide them with the protection of the covenant. They will get security in returning to civil employment, employer support, and cover for injuries and other health problems. This change is, I think, broadly welcomed in your Lordships' House, and is certainly welcomed by the reserves. The national call-up, on a similar basis as that upon which we call up our reserves to serve in Afghanistan or Iraq, marks a very significant change, and one to be welcomed.

Turning to Clause 2, I very much welcome the fact that the reserves are being put on the same basis as the regulars. We should bear in mind that the studies going on in the Ministry of Defence at the request of the Prime Minister could see—and I emphasise "could", as there is no certainty—a significant increase in our reserves over the next five to 10 years. The study called *Future Reserves 2022* discusses capitalising upon the skills of our reservists, and increasing their numbers significantly, particularly in the light of draw-down from the regular armed services in Germany. Recognising the special skills of some of our reservists will not only be cheaper for the taxpayer, but welcome. The practical implication of Clause 2 in relation to treating the reservists in exactly the same way as our regular forces—and bear in mind that, after service abroad, reservists come back to their community rather than to barracks—is that they will benefit from the provisions of the covenant, particularly in terms of healthcare. The noble Baroness, Lady Taylor, referred to mental health problems, sometimes called "combat stress", and not to be confused with the charity of that name. Combat stress is a growing and serious problem. Reservists may have served, let us say, 10 years in Afghanistan, and might only then begin to show the symptoms of combat stress, and thus need to be covered, as I believe they will be, by the covenant.

In passing, I pay tribute to the injured reserves working group which has pinpointed some of the key problems. I also pay tribute to the liaison group that deals with the employers of reservists. It has made an interesting and powerful contribution to the preparation of the Bill.

I hope that we will proceed with the Committee, Report and Third Reading stages very quickly. If that has to be in the spillover session or when we come back in September, then so be it—but, for Heaven's sake, let us get on with it, so that we can have the first annual report in time for debate next summer or early next autumn. I hope that my noble friend Lord Wallace will give some indication of the expected timing of when we might debate the reports. I conclude by supporting the Bill and congratulating my colleagues on the Front Bench.

6.45 pm

Baroness Drake: My Lords, defence matters are not my area of expertise. Many in this Chamber today are very well informed. I wish to speak on the practices and processes surrounding the recruitment of young people under the age of 18 into the Armed Forces, and the military covenant report. Last year 16 and 17 year-olds made up 29.8 per cent of Armed Forces recruits. That is a very significant proportion which carries with it a very significant responsibility for ensuring accountability for their care.

Recruits who enlist at 16 and 17, from disadvantaged backgrounds and with limited or no qualifications, have a much narrower choice of roles. They are concentrated into roles such as infantry service, which are more likely to involve frontline duties and which carry greater risk of death or injury. This is not an argument against recruitment. Rather, it is an argument for ensuring transparency, scrutiny and accountability when it comes to recruiting and discharging young recruits.

We owe an enormous amount to the men and women of the Armed Forces, who have chosen to fight for their country, for the risks they take and the sacrifices they make. They show enormous courage and dedication. As General Sir Michael Rose eloquently puts it, no other group,

"so expressly sacrifice themselves for the nation".

The country owes a great deal to the service family and we should reciprocate with respect and protection. It is a very important part of the military covenant that those who are recruited into the Armed Forces as minors are protected. Undoubtedly many young recruits thrive in the Armed Forces, which provide opportunities, education, a career and a lifestyle. There are many stories of the personal achievements of young recruits, and for many the Army provides a rich and rewarding career. I congratulate those who work so hard with young soldiers, building their skills and their employment opportunities. However, when it is believed that the child's best interests are served by joining the Armed Forces, that child's evolving ability to understand risk or to change their mind is also important. The Armed Forces may provide an escape route for some young men from disadvantaged backgrounds but this will not work for all.

I fully acknowledged that a career in the Armed Forces provides opportunities to young men, giving them training, structure, self-respect, purpose and team skills. However, as in every sphere of public policy, anecdotal evidence alone is not a basis upon which to develop, make or defend policy. Recruiting under-18s is a policy choice worthy of report in the military covenant report. Looking at the figures available, and the information from the Defence Committee's duty of care investigation and report in 2005, it is common ground that that the youngest recruits are, by a great majority, children from economically disadvantaged backgrounds, and of low educational achievement. The number of young recruits entering the services after leaving local authority care was also raised in that report.

For it to be a sufficient discharge of the duty of care to say that a parental or guardian consent is required, there needs to be a high level of confidence that parents are meaningfully engaged and involved. When a child has been in care, how truly involved are those with responsibility of guardianship? Whatever one's viewpoint, I hope we can all agree that recruiting minors gives a compelling reason to ensure that the covenant is met for them, that the transition to being an adult member of the Armed Forces is founded on clear consent at 18, that there are no barriers to the choice made by young soldiers, particularly those of low educational achievement or those who have experienced social deprivation, and that that is so evidenced.

As the House will know, after the first six months in the forces, until three months following their 18th birthday, young recruits may be discharged at the discretion of the commanding officer. The Joint Committee on Human Rights commented in its May 2010 report on the Armed Forces Bill that a significant number of helpful statistics were provided by the Government. However, it expressed concern about the lack of statistics

[Baroness Drake]
on the number of young people requesting discharge who were then either discharged or had their request refused, which made scrutiny of these arrangements difficult. It went on to comment that,

"without special provision for discharge (other than at the discretion of the commanding officer), there is a risk that continued service may not be considered voluntary … We recommend that a right to discharge for under-18s be established".

The Written Statement made in the other place by Andrew Robathan, Under-Secretary of State for Defence, is to be welcomed. He said that,

"for those under the age of 18, the ability to be discharged will in future be a right up to the age of 18, subject to an appropriate period of consideration or cooling off".—[*Official Report*, Commons, 19/5/11; col. 26WS.]

That right will, I understand, be introduced through separate legislation. However, there are still questions about the conditions under which that right will operate. Will any person enlisting under the age of 18 be clearly informed of this right? What will be the length of the cooling-off period? I ask because that Minister also said, on 14 June, in relation to that Statement, that,

"we shall make every effort to dissuade good young people from leaving if we wish to retain them".—[*Official Report*, Commons, 14/6/11; col. 733.]

This leads me to ask such questions as: what type of dissuasion will the young recruit be subject to during that period? How will the Government ensure that a Minister's benign intention to prevent a young man making a career mistake does not translate into a form of pressure?

I am sure that the Government have legitimate concerns about maintaining the quantity of recruits and reducing wastage in the costs incurred in training and investing in young recruits. I am sure there are many who will advise me that the Armed Forces have an effective framework in place for handling the transition from adolescence to adulthood. However, I return to where I opened: when 30 per cent of Armed Forces recruits are minors, it carries a high responsibility and warrants effective scrutiny. These concerns should be addressed by having a clear right of discharge for young recruits up to their 18th birthday.

The Bill enshrines in law a report on the military covenant from the Secretary of State, which must have regard to the unique obligations of and sacrifices made by the Armed Forces. It would be both right and appropriate for Clause 2 to provide for that covenant report explicitly to cover the impact of Armed Forces life on those recruited below the age of 18, including the long-term educational and employment outcomes for young people. This should not be a matter of discretion for the Secretary of State but a requirement, given the duty of care to those young people. When so many Armed Forces recruits are under 18, it places a responsibility on us all to ensure that the scrutiny and transparency of the experience of these children should be increased and assured. It would also go some way to addressing the concerns expressed by the Joint Committee on Human Rights.

6.54 pm

Baroness Miller of Chilthorne Domer: My Lords, I shall confine my remarks to Clause 25, which is concerned with claims against visiting forces. The role of visiting forces in the UK is defined under the Visiting Forces Act 1952. We in Parliament have very little opportunity to explore and scrutinise the relationship between UK citizens and visiting forces. When questions are asked, they are usually batted back to the questioner with, "We don't answer questions on matters of security". There are many interfaces between UK citizens and visiting forces, whether for matters of trespass because the force bases sometimes cross footpaths that have been diverted, or because of protest at those bases. Therefore, it is important that we get any change to this legislation right.

The change proposed in the Bill is quite small on the face of it. At the moment, should a claim be made, the UK Government can handle and settle it, but it is still the visiting force's responsibility to defend it. My question for the Minister is: why, and for whose benefit, is this change being made? There may well be a very good reason for it. However, when I looked at the Explanatory Notes to discover a little more, the change was explained in paragraph 108 as being made because it was very difficult for the sending state, which would find "itself in unfamiliar proceedings" as the defendant. I find it hard to believe that the USA would have great difficulty in finding a lawyer who could not cope with the unfamiliar proceedings in the UK to defend a case.

This is not a small problem. I am sure that noble Lords are aware of the scale of visiting forces. I could mention, for example, National Security Agency Menwith Hill, better known as USAF Menwith Hill, the scale and importance of which will grow later this year as some of its new facilities are implemented. There is also RAF Fylingdales, USAF Lakenheath, USAF Mildenhall, USAF Croughton, JAC Molesworth, USAF Fairford, USAF Alconbury, the deep space tracking facility at Feltwell and USAF Welford. At all of those bases, the US commander is in charge and the base has a shop, medical facilities and housing; it is a little bit of the USA in the UK. As the USA is our special ally, we have worked very hard over the years to build on that relationship and make sure that we have a very good understanding. However, we in Parliament do not know the basis of that understanding. A lot has changed since the 1950s.

Therefore, I am concerned about whether these changes are being made for the benefit of UK citizens. Will they make matters fairer and easier? I should be very grateful if the Minister could answer any of these questions today. Is this change to the legislation for the benefit of UK citizens, or for the benefit of the visiting forces? As parliamentarians, we want to see that legislation being for the benefit of UK citizens.

6.58 pm

Lord Kakkar: My Lords, I shall confine my comments to health. In so doing, I welcome the inclusion of the Armed Forces covenant provision in Clause 2. The provision of healthcare services for those serving actively is well recognised as being of a very high quality. Review of battle and in-theatre services by the Healthcare Commission identified them as delivering excellent clinical outcomes and very high quality care. We recognise that services for those who have been wounded and returned to the United Kingdom are also of the very

highest quality, including the rehabilitation services that are vital in ensuring that the best clinical outcomes are achieved.

However, there are important concerns about how information will be gathered to enable the Secretary of State for Defence to meet his obligation to make an annual report to Parliament on the health consequences of membership of the Armed Forces. While personnel are actively participating and continue to serve, it is possible to collect information about their access to health services—be it services provided solely by Defence Medical Services or services that need to be provided by the broader and wider National Health Service. It is equally possible to track the clinical outcomes for these service personnel, in terms of whether they are developing physical or mental health problems associated with their service. It is also possible to determine whether one is achieving good clinical outcomes and whether, indeed, those who have healthcare problems are achieving a good experience in the delivery of the services required.

After discharge from the services, however, there are more important concerns about how we track veterans' health, and how we track their access to services. The problems relate very much to the fact that many who have served will, fortunately, have no obvious healthcare problems at time of discharge. However, in the years and decades following their service they may start to develop healthcare problems directly related to their period of active service.

If mechanisms are not in place to track these individuals, it will be impossible to understand the health implications of membership of one of the armed services. Therefore, any report that a Secretary of State makes to Parliament would be inaccurate and potentially miss important information. It may have to depend purely on anecdotal reports of the description of mental health problems or physical health problems, and from that draw conclusions that are erroneous with regard to the broad burden of disease associated with a particular period of service or a particular service in a certain environment.

It is therefore important that, if we are to accurately report the consequences of membership of the armed services with regard to health outcomes, we set up prospective research programmes. These programmes should track individuals from the time of discharge from the services back into civilian life, and ask specific health questions with regard to mental health status, physical health status, access to healthcare facilities, clinical outcomes and experience of healthcare services, if we are to have accurate reporting that will inform the Secretary of State's report and his or her obligation with regard to the armed services covenant, when it deals with the question of health.

A second area where there is considerable concern relates specifically to the commissioning, in the long term, of healthcare services for complex wounded service personnel. As the noble Lord, Lord Empey, said, treatment in theatre is now so successful that many service personnel are surviving injuries and wounding in a way that would not normally have been expected. This is, of course, excellent progress. However, they will be discharged with complex injuries and wounding that will necessitate review of their health status for many decades to come. Under these circumstances, there will inevitably be advances in healthcare and innovation that should be provided to these individuals to ensure that they continue to achieve the best possible healthcare outcomes. It is not reasonable for us to expect that individual general practitioners will be able to do this. I very strongly believe that this group of individuals, the most severely wounded, need to be considered a group worthy of specialist commissioning of their services—either by an NHS commissioning board or by Defence Medical Services—so that the expertise that will inform these clinical decisions can be informed through an appropriate clinical evidence base, searching the world for advances and developments that 20 or 30 years from now could improve the livelihood and the health experience of those who have done so much for our country.

It is equally important that, in making an annual report to Parliament, the Secretary of State is properly informed about the commissioning arrangements, and the success in commissioning appropriate services and achieving the best clinical outcomes for those veterans. I hope that the Bill provides an opportunity for these issues to be reflected in more detail. I also hope that the forthcoming Health and Social Care Bill might possibly be used as an opportunity to ensure that the commissioning arrangements for this particular group of veterans is more clearly defined, and that, in addition, prospective evaluation and research programmes are established to understand their longer-term healthcare needs and the resources that need to be provided to ensure the best clinical outcomes.

7.06 pm

The Lord Bishop of St Edmundsbury and Ipswich: My Lords, I am pleased to participate from this Bench on Second Reading of an important Bill, not least because in my diocese, which covers the county of Suffolk, there are many military units and, in the three years I have been there, I have witnessed several homecoming parades and several church services in my cathedral. The most poignant aspect of these returns is seeing the injured. They are in their uniforms—probably for the last time—with a significant number of their colleagues with whom they have served. One also sees a number of young men, limbless—sometimes triple amputees—and one realises that they have a long life ahead of them, and that the responsibility and care that we owe them as a nation is indeed vital. The fact that so much of this debate has focused on Clause 2 is, I am sure, a reflection of all that.

That said, I am standing in for the right reverend Prelate the Bishop of Wakefield, who has led this Bench in its dealings on the Bill to date. He regrets that he is unable to be in his place today owing to other long-standing public commitments in his diocese. Noble Lords may remember the Motion for debate that he tabled in January this year on the strategic defence and security review and the health of the military covenant. This debate reflected his long-standing concern that, while safeguarding the security of this country, we also provide for the welfare of those who serve—concerns, of course, shared by others on this Bench.

[The Lord Bishop of St Edmundsbury and Ipswich]

Indeed, many of the points debated today were explored further in the Church of England's submission to the Armed Forces Bill Committee inquiry, which reported last month. That submission offered a view of what is mean by "covenant"; it is, of course, a word that means a great deal to us. It drew on the insights on welfare matters provided by the Armed Forces' chaplains, as well as the many church-based voluntary services that provide much needed pastoral and welfare support to current and former service personnel and their families. This submission, alongside that to the Ministry of Defence's consultation informing last year's strategic defence and security review, underlines the seriousness with which the Church of England takes these matters.

When looking at this Bill today, especially Clause 2, which has been so much the subject of noble Lords' speeches so far, there can be little doubt as to the Government's commitment to try to give real meaning to the military covenant, and that is to be wholly welcomed. As other noble Lords have already remarked, this concept has been gaining greater recognition and support in the community over recent years. I first became aware of this enhanced view of the military covenant seven or so years ago on a visit with a group of bishops to the Joint Services Command and Staff College Shrivenham. That gave me an opportunity to mention the military covenant to people in an address the following Remembrance Sunday. It was notable then how few people understood the concept, and that included the political representatives there that day. We have indeed come a long way in a few years in understanding what the whole concept is about. However, there is a continuing need to be vigilant over its observance.

I, too, am encouraged that the Bill does not include a schedule attempting to define too closely in law the exact nature of the relationship between government, the nation and the Armed Forces. A covenant is not a legal contract but a living evolving concept. The living out of a covenant should remain dependent on commitment and trust between parties, not on a legalistic and prescriptive contract in which outcomes and behaviour are predetermined—or, at least, where an attempt is made to predetermine them.

Expectations and obligations underpinning an essentially moral contract, which are at the heart of the Bill's Armed Forces covenant, will of course change over time. It will be affected by underlying social trends, changes within the international system and within the Armed Forces themselves.

However, the health of the covenant has become the subject of debate, and there have been claims that expectations have not been fully met. I surmise that the Bill acknowledges this reality by proposing that the Secretary of State for Defence provides Parliament with the Armed Forces covenant report that we have been debating. The House has heard questions as to whether the reporting provisions as set out in Clause 2 are, in themselves, sufficient and adequate. I recognise that there is sufficient flexibility in the Bill's provisions to allow the Secretary of State for Defence to report, if he so wished, on matters not set out in the Bill that might be considered pressing at the time. I also accept that when writing this report the Secretary of State will draw on the input from stakeholders such as the external reference group, the families federations and the chain of command, and I welcome the Minister's assurance in this debate that there will indeed be that wide consultation.

However, I know that the right reverend Prelate the Bishop of Wakefield, if he were here, would ask if it was entirely right and proper that the responsibility for monitoring and reporting on the health of the Armed Forces covenant should be left to the sole discretion of the Secretary of State for Defence, even if it includes the publication of the observations of the external reference group. It is the view of my colleague the right reverend Prelate and others on this Bench that this responsibility should in the end be entrusted to an independent office—maybe that of a reviewer of Armed Forces welfare. Such a reviewer would be free to inspect and report on all matters concerning the welfare of our Armed Forces and to report relevant findings to Parliament on an annual basis. Independence from government would ensure the credibility of reports and recommendations made to Parliament. It would help to create public trust and confidence that all are honouring the covenant.

I note with interest the recent research undertaken by the Royal British Legion, which shows that 73 per cent of respondents agreed that any report on the Armed Forces covenant should be produced independently of government. Perhaps that would enhance that independence. Amending the Bill to provide for independent reporting would perhaps be one way of avoiding any moves in the future towards that more prescriptive and legalistic approach to the covenant, which so many noble Lords have already said would be better avoided altogether. Keeping the Armed Forces covenant undefined makes more sense if responsibility for evaluating whether the trust and commitment that bind together all covenanted parties is entrusted to an independent body rather than left to the discretion of one party in the relationship.

There is much in this Bill that we on this Bench welcome and support. However, I have little doubt that the right reverend Prelate the Bishop of Wakefield will, when the Bill reaches Committee, seek to table an amendment to the effect I have mentioned. He will have the support of others on this Bench and in the wider church, including the Armed Forces chaplains, as well as the many church-based voluntary services that provide much needed pastoral and welfare support to current and former service personnel.

7.14 pm

Lord Boyce: My Lords, I declare an interest as a trustee and member of various service charities.

I welcome the provisions in this Bill that build on the significant changes brought in by the Armed Forces Act 2006. Five years ago, some of us in this House expressed concerns about the introduction of the then new disciplinary system, especially the speed at which it was proposed to be introduced. However, I am advised that it has settled in well; and this is good news, not least because of its appropriateness in an increasingly joint operating environment.

A successful disciplinary system relies on its constituent parts. For most cases, this is primarily the commanding officer—and some of us majored on this point in 2006. However, I recognise that for more serious cases others have to be involved—the service police, the Director of Service Prosecutions, the court administration officer and the judge advocates. This Bill sets out to strengthen the position of the service police in terms of their independence, and I understand and support the rationale for this. An effective investigation that supports the chain of command is invariably an independent one, and the Government are right to ensure that independence is protected.

However, I am concerned that the Director of Service Prosecutions is to be given the power to appoint prosecuting officers who are not service lawyers. To maintain its credibility, the Service Prosecuting Authority needs to be able to demonstrate that its prosecutorial decisions are taken by lawyers who understand the environment in which the accused persons are operating. The proposal in the Bill seems to reverse the understanding of the position that I thought we had established during the passage of the 2006 legislation.

I note also that the Bill aims to give commanding officers the power to require their people to be tested for alcohol and drugs by the service police. I am pleased that this power rests with the commanding officer, who has the central role to play. However, in this context, I also note that the Defence Council will be given the power to specify duties that will subject to maximum alcohol limits. I hope that the Defence Council will exercise that power with proper regard to striking the correct balance between operational imperatives and the demands we place on our people. More importantly, I equally hope the Defence Council will not attempt to bind the hands of commanding officers, who in my experience are best placed to make that judgment.

I absolutely do not apologise for having mentioned several times the role of the commanding officer and the chain of command. They are absolutely key to the effectiveness of our forces and in particular to what is sometimes called the moral component of fighting power. It was good to hear the Minister reinforce that point in his opening comments.

I turn to Clause 2 on the Armed Forces covenant report, which was levered into the Bill at the last minute. I welcome the implied—I use that word advisedly, particularly following the comments of my noble and gallant friend Lord Craig—formal public and statutory recognition that this clause conveys of the self-sacrifice of all our service men and women, rather than it being imbedded in some Army doctrine manual, as it has been hitherto. I also welcome, bearing in mind the points that I have been making about the command chain, the proposal in the Armed Forces covenant provisions not to attempt to set out specific rights and obligations. It seems to me that, so far as serving personnel are concerned, the structures and processes established over many years of experience should continue to provide a proper mechanism for holding the chain of command to account.

I have in mind, for example, the service complaint system whereby a serviceperson can complain to the chain of command about an injustice that he or she believes they have suffered. The complaints system was bolstered in the 2006 Act by the establishment of the Service Complaints Commissioner. I have read her annual report for 2010 and support the good progress that has been achieved. However, I do not support her call for an Armed Forces ombudsman. The significant changes that have been made should be given time to bear fruit. An ombudsman scheme has the potential to undermine the role of the chain of command. I am pleased that the Government appear to have accepted that point.

The position for veterans and for those the Bill calls "relevant family members" is, of course, different. For these people, the disadvantageous effect of their former service, or the service of their spouse, father or mother, is unlikely to be a matter that the Ministry of Defence can fix. It is likely to be the responsibility of another government department. It therefore seems to me that it is ineffective to require the Defence Secretary to prepare a report and lay it before Parliament. Instead, the responsibility should lie with Ministers having the responsibility for providing the solution—or at least a Minister from the Cabinet Office with the authority to co-ordinate those Ministers.

As the covenant makes clear, it is not just in the fields of education, healthcare and housing that Ministers may have to become involved. For example, there is the matter of former armed service people in prison. In that context, a couple of weeks ago I was pleased to attend the launch of the report of the inquiry into this subject, organised by the Howard League for Penal Reform and chaired by Sir John Nutting QC, to which the noble Lord, Lord Lee of Trafford, referred earlier. I declare an interest as a member of that inquiry's advisory board.

With official estimates suggesting that the English and Welsh prisons hold around 3,000 ex-servicemen, there is understandable public concern as to why those who have served their country go on to offend. The inquiry has been able to dispel some of the myths around serving in the Armed Forces and subsequent offending behaviour, and has thus countered much of the media attention given to the possible connections between the two. It has also made some timely recommendations on how we can do better. These include expanding the current free veterans' helpline provided by the Service Personnel and Veterans Agency to provide information and support to ex-service personnel in a crisis, as well as rolling out existing efforts among the police, probation and prison services to identify ex-servicemen at the earliest possible point and put them in touch with ex-service organisations that can help them.

I commend the work of the Howard League and Sir John Nutting QC to this House, but my point in raising this is to emphasise that this adds further strength to the argument for a Minister detached from the MoD and with cross-cutting responsibilities for veterans, who could provide stewardship in this area as well. I guess that the Minister is getting this point, as it has been mentioned by many. I know that the noble Lord, Lord Ramsbotham, had he been able to be here, would have made the point very strongly also.

[LORD BOYCE]

In sum, I am not convinced that the Government can be held fully to account when the delivery of the covenant is not met, and I fear that the good intentions that lay behind getting the covenant formally recognised may be squandered.

My final comment on the covenant is that perhaps the annual report should also cover how the expectations of those serving, regarding the size, shape and capabilities of their forces, are matching up to what they are being called to do today, and how expectations are being met in proceeding towards the vision for the Armed Forces in 2020—how those expectations actually stack up. Such expectations underpin fighting morale and sense of worth, which surely are a fundamental part of the rationale for the covenant. I am afraid a report on that subject currently would make depressing reading.

7.22 pm

Lord Lyell: My Lords, what a pleasure and privilege it is to follow the noble and gallant Lord, Lord Boyce. Indeed, there is a panoply of noble and gallant Lords sitting opposite us. His was a marvellous and eloquent summing-up of many of the points that I would have wished to raise.

Perhaps I may take 15 seconds, as American radio says, to say what a real pleasure it is to have this Bill before us today under the tutelage of my noble friend Lord Astor. It was 38 years ago that I went on my first visit with the House of Lords Defence Group to Royal Air Force Leuchars. There are high standards among Ministers of your Lordships' House, and I know that my colleagues all around the Chamber with an interest in defence are immensely grateful for the enormous trouble that my noble friend and his departmental team have taken—particularly over some very complicated measures that we are discussing today.

Thanks to just 19 months as a young conscript in the National Service, I realise that service life is different. But every five years we bring civil and criminal law into line with the service environment, even though life—the climate and human relations—can be different in the service environment.

I have an idiot habit of dating the commencement of my notes for the House. As I was making my notes last night, I noticed that it was my 54th anniversary—they reminded me that Recruit Lyell, number 23393360, graduated to Guardsman Lyell. I got promoted but I did not get paid any more as I was a conscript. During my short career in the Scots Guards, we had a marvellous tutor who carried out everything you could want regarding the code and the Armed Forces contract—everything that is contained in Clause 2. He was known as Sergeant "Kiwi" Clements in the Coldstream Guards because he spit-and-polished everything, including us. He made me and 16 other recruits—and many more—into soldiers. I hope that the Bill will keep young soldiers, and civilians, on the right track should they get into any difficulties.

I scanned the measures in the Bill, and will be able to look at them in much more detail in Committee; for instance, measures relating to entry and search in civilian and service establishments, and to drugs and alcohol. Alcohol was familiar to me all those years ago as a young soldier, but recreational drugs are to me extraordinary medicaments. When the Armed Forces are attempting to enforce discipline in behaviour, which is absolutely vital in Armed Forces life, I look forward to my noble friend and his team being able to explain a great many of these matters to me.

I looked at Clause 17, which covers a rather delicate area. There are various aspects that my noble friend will be able to brief me on. His team were able to give me a little help this morning concerning prevention orders. One is called an SOPO, or sexual offences prevention order, the other is an EPO, or extended prevention order, dealing with particularly delicate subjects that cover both service personnel and civilians who might have contact with them or might be in the service environment.

I asked my noble friend's team whether they could cover Clause 17(6) at lines 25 and 26. I would like to know why that particular measure deals only with England and Wales. Do they think that such offences might not take place in a service environment in Scotland? My noble friend is showing some concern, but his team briefed me on this. He need not reply to me tonight as it can be covered at a later stage.

Clause 22 deals with civilians being subject to service discipline. In the guidance the geographical area is perhaps lacking. It covers the Falklands, but it is not clear whether it covers Cyprus, which is well known by my noble friend the Minister as he and I had two very successful visits there, let alone Hong Kong. I hope that it will be confirmed by my noble friend's team that Clause 22 covers any aspects of behaviour that occur virtually worldwide that need to be covered by service discipline.

We shall be able to go into Clause 25 considerably more in Committee. I have some personal knowledge of that area. A C130 aircraft crashed half way between the home of my noble friend the Minister and my home in Scotland. It was a Royal Air Force aircraft, and sadly there was loss of life and damage. There was considerable difficulty with compensation, although happily it was well settled. My evil mind begins to worry about what would happen if a NATO aircraft were involved in such an incident. Possibly my noble friend could explain whether Clause 25 would cover compensation for damage caused by such an accident.

That is enough of my mischief and my light look at the measures before us. They are enormously complicated, dealing with circumstances in which people get into difficulty, and I am terribly grateful to my noble friend and his team. I hope that all of us here this evening will convey our best wishes and respect to every man and woman concerned in defending this nation all over the world. We wish them all well not only tonight but all the time.

7.29 pm

Lord Judd: My Lords, we can do nothing but applaud those final sentiments. The right reverend Prelate the Bishop of St Edmundsbury and Ipswich gave us a graphic description of the military occasions which he saw in his cathedral and elsewhere. It reminded me how much we owe the people of Wootton Bassett, who with great dignity and consistency turn out on

behalf of the nation to honour the fallen. I find that moving every time I see it. That brings home to us the challenge for all of us. It is not just a challenge to the Government; it is a challenge to all of us in both Houses. We have an immense responsibility for those who show such commitment, courage and sacrifice on our behalf.

In his introduction, the Minister spoke persuasively and firmly about the importance of the military covenant. He was right. Repeatedly in our deliberations today, we have returned to that issue. I am certain that if we are to make sense of the military covenant and see it properly implemented, we have to look at the whole context within which we expect our service men and women to serve on our behalf. Therefore, I applaud the fact that the noble and gallant Lord, Lord Boyce, emphasised the importance of the chain of command. He was absolutely right. Paradoxically, although I was long ago a Service Minister—I was responsible for the Navy—I applaud the decision to streamline the chain of command at the most senior levels. If one thing has become clear to me about defence—I am not inventing my attitude retrospectively; I felt it at the time—it is the absolute inescapability of the interdependence of the services. It is crucial to effective defence policy to recognise that interdependence and that the centre has a key role to play.

The change clarifies that and helps to provide a convincing context. Of course, other issues affect the context, which have been well covered in our debate. There is the issue of the services being confident that they will be properly equipped and resourced, not just for the immediate future, but for the long-term future that may be inherent in the operation in which they are taking part. To involve our service men and women in an operation and be unable later to fulfil the consequences of the engagement into which they have entered is, frankly, irresponsible. It also encompasses the vital need to be certain of the legality of the operation in which they are taking part. It is quite wrong to expect people to provide dedicated service unless they can be certain that what they are doing is, beyond doubt, acceptable in terms of international law. There, we have to be careful about mission creep and a gradual change in the nature of the task, which may call into question a legality which seemed clear at the beginning. Obviously, not to dodge the issue, I am thinking of the hazards of the situation in which we find ourselves in Libya.

There is also the issue of service men and women being convinced that the health services are there to support them. As has come out in the debate, we have made great strides in physical support, but I share the doubts of those who fear that we still have a long way to go in the realm of mental health. There also has to be certainty about having convincing arrangements in place, or at least preparing them, for the aftermath and consequence of military activity. Service men and women need to feel that it is not all going to be in vain and prove pointless because the whole thing falls apart after the fighting is over. They must feel confident that we are looking to what follows and planning for it convincingly.

There is a more major issue here. In the long run, if we are to be true to the spirit of the covenant, we must be certain that in our long-term policy deliberations, preparing for the future, we face up to the challenges ahead—that we do not have to adjust policy in the midst of operations but are thinking ahead, so that we have foreseen the context and the implications. For global flexibility, we need compatibility of equipment and operation structures with others involved in an international operation. Is there enough language training to ensure that we can make a success of international operations without language getting in the way?

Perhaps one of the most testing demands is that of peacekeeping. In this, we must face the issue of the significance of human rights. Human rights are not an added-on extra; they are integral to winning hearts and minds and winning the peace. We must understand that if we do not get that right, we are in danger of aiding and abetting the cynical manipulators who seek to recruit the impressionable to extremist causes. That is a central part of our preparation for engagement. It makes huge demands on our services. Servicemen must be prepared to fight one hour and, the next moment, find themselves negotiating. The next day they may find themselves in the midst of a humanitarian caring operation. That is a tremendous demand. Are we quite sure that we are facing up to that in our training?

My last point follows the interventions of my noble friends Lady Taylor of Bolton and Lady Drake. They are right to raise that issue. We spend a lot of time in this House on our policies towards the young: caring for the young, our responsibilities, and the rest. It is a complex issue, and I am not one of those who dismisses the thought of younger people in the armed services, but it brings home a terrific number of issues which we must face. As my noble friend Lady Drake reminded us, there are a considerable number of those young people. There is the issue of their physical and mental well-being and of the academic education and vocational training they get for their life after the services. There is the issue of their future employability. There is the issue of their vulnerability to bullying and harassment. Sadly—too often, in my view—there is the issue of self-harm and suicide. We have to look at those honestly and think how we are facing up to them and how the annual report by the Secretary of State can cover those issues. In the light of what we discover about all that, we must be certain that our recruitment policy is enlightened and sensible, as it should be.

I have the privilege of being president of the Friends of the Royal Naval Museum in Portsmouth and HMS "Victory". I finish by saying that I hope that the Government are not in the midst of forsaking their responsibility to service museums and shuffling them off to the voluntary sector. Museums are central to the morale of the services. They celebrate what the services have achieved on our behalf. They are central to creating an informed public opinion which will support recruitment of the right kind of people to the armed services. That is not something to be put off for society as a whole to look after. They are an integral part of a convincing approach to defence, and I hope that we can have some reassuring thoughts from the Minister on how the Government are determined to keep the funding of museums central to their purpose.

7.38 pm

Lord Palmer of Childs Hill: My Lords, like so many other noble Lords, I will concentrate my remarks on the Armed Forces covenant. Mixed up in the covenant are the effects on members of the Armed Forces and the effects on former members of the Armed Forces. I am struck that, unlike the United States of America, where veterans' organisations are courted by politicians and form an effective lobby, here in the UK we seem only to notice veterans when they parade on events such as Remembrance Day.

How we look after our veterans and how we mark and respect the sacrifices that they have made must be one of the signs of a caring and moral society. Therefore I welcome the improvements outlined in the Bill, and I welcome particularly the many comments made by many noble Lords here today about how veterans will be helped. We need to ensure that there are more than adequate welfare services for veterans and that on returning to civilian life the former service personnel are not disadvantaged as compared with the general populace. I was at a meeting this morning with the civil servants of the DCLG, talking about housing in another environment within the Localism Bill. When I said that I was going to say something about housing today, members of the DCLG said, "We do a lot with squaddies", who leave the service, having been there from an early age, and are suddenly thrust into the real world of which they have no knowledge. They have found great difficulty in dealing with housing, social services and cleaning. It is not only a new world; it is a changed world from the one that they left, and that needs to be addressed. The Ministry of Defence deals with the transition to civilian life. I ask the Minister whether he truly believes that the MoD is suitably equipped to be the veterans' champion.

Another matter on which I trust the Minister will comment is the lack of progress in responding to the campaign for a UK national defence medal. I know the pride that my late father had in his Second World War medals, which were handed down to me, his only son—that is the only war I can remember; the Crimean War was a bit before my time. The Minister will have received a detailed comment from retired Colonel Scriven on Parts 2 and 5 of the draft final medal review dealing with the UK national defence medal. I ask the Minister whether the Government are prepared to move forward to recognise all those who have served the nation by awarding such a medal.

As I said earlier, the other group to be covered by the covenant are the current serving personnel. The matters of concern include healthcare, education and housing. Reports of the quality of housing give rise to great concern. Our servicemen and servicewomen deserve better than the—I use the word carefully—shoddy housing that they may have to endure. Too many of the 44,000 forces family homes in the UK are in a dire state. I understand that there are thousands of complaints over the state of housing repairs and maintenance. The Armed Forces Continuous Attitude Survey relates that the standard of their housing is a major factor in their decision to leave the service. Work is being done by the coalition Government, but I would like the Minister to confirm that a baby born in forces family housing this week will not have to wait until he or she is a soldier before the home they were born in is modernised. The task must be to increase the refurbishment of family homes so that they can all be tackled within 10 years.

I am aware of the commitments made on housing in *The Armed Forces Covenant: Today and Tomorrow*, but I am really worried that the MoD's commitment is only to, in its words,

"examine the scope for refurbishing Service accommodation from efficiencies",

made within the MoD. A number of further initiatives are suggested but they seem to me to be too little and too late for service personnel. I have come to the conclusion that the Government recognise the problem—they have no problem with recognising the problem—but, having spoken to people at the MoD, I believe, in view of the financial situation, that it seems unlikely at this time that funds will be found in the MoD budget for any significant refurbishment of military homes. I believe that the Government need to be more radical and take new initiatives.

Therefore, I very much welcome the Army's new employment model of not moving personnel around the country willy-nilly; thus they will be encouraged to buy their own homes in communities and in and around garrison towns. All encouragement and support must be given to them all to get onto the home ownership ladder, as so many people want to do. There will still of course be a great need for single-person rented housing for service personnel. In my view, the MoD needs to think outside the box on this issue. I ask the Minister whether it would be appropriate to call a round table of housing associations to build new homes for service personnel or to renovate existing stock to a high standard. If nothing happens, I certainly intend to visit some of this housing and talk to housing associations, having been a long-time director of an arm's-length management organisation, a housing association, until a year ago. I believe that housing associations have to be brought into the scenario to deal with a situation that, in my view, will not be dealt with by the MoD because it will not have sufficient money available to deal with it, despite wanting to do so.

Finally, I ask the Minister if we can wait until April 2013, which is the implementation date for the next generation estate contracts that, we are told, will replace current arrangements for management, maintenance and development of UK service accommodation, and whether the Minister realistically thinks that housing procurement policy, as it affects our covenant with the Armed Forces, is fit for purpose.

7.46 pm

Lord Dannatt: My Lords, much of what is in this five-yearly re-visitation of the legislation that regulates the procedures of the Armed Forces has already been well aired and debated, but I would like to draw attention to three particular aspects of the Bill: the covenant, changes to the service police and the call out of reserves. All these, I believe, are important for differing reasons.

Much has already been said about the Armed Forces covenant, but I would like to give my cautious support to this proposal. My support is cautious for several

reasons. Frankly, I would prefer to call it a military covenant rather than the more politically correct Armed Forces covenant; but whether specific mention is made or not, rather like the unwritten quality of the British constitution, there always has been and always will be what I would call a military covenant. It is that hitherto unspoken and unspecified balance, on the one hand, between the legitimate work demanded of the Armed Forces by the elected Government of the day on behalf of the nation, and, on the other hand, the nation's ability, through the Government of the day, to look after and meet the legitimate individual needs of our sailors, soldiers, airmen and marines, their families and our veterans. When the work demanded and the needs met are in balance, the services can run hot and at a high operational tempo; but when they are out of balance, the pressure rises, the heat increases, sparks fly and our servicemen begin to vote with their feet. In my view, we were close to the brink in 2005-06, and many believe that we are getting close again now. Once over the brink, in manning terms at least, freefall is very difficult to arrest.

Do we need a covenant enshrined in law? For the last 300-odd years we have not. However, if the moral obligation on the Government of the day to do the right thing by those who risk their lives on behalf of the nation cannot be guaranteed as an automatic response, perhaps we do now need a legal obligation. Therefore I give my cautious support to this clause in the Bill, but I am pleased to note that the provision is in principle only, not in detail. That said, the success of this part of the Bill, as many noble Lords have said, is not in its drafting and enactment but in its delivery. The noble and gallant Lord, Lord Stirrup, earlier quoted Rudyard Kipling, reminding us that,

"Tommy ain't a bloomin' fool - you bet that Tommy sees!",

and I believe that, in the years ahead, Tommy will be watching very closely.

Straying slightly from the specifics of this Bill, I point out that the provision for the needs of our service people and veterans has never been just the responsibility of the Government. The British way of doing this has always been an amalgam of the best efforts of the public, private and charitable sectors. If that were not so, how did the Royal Hospital Chelsea or the Erskine Hospitals in Scotland come about, to name but two institutions? However, to be really effective, the three sectors need to co-operate together, be well co-ordinated and perhaps even become more integrated. For that to happen, there needs to be a common vision, an agreed plan and, above all, acknowledged leadership. This is not currently in the Bill. Perhaps the Minister would reflect on whether, when the current defence reforms have stopped erroneously targeting the individual service chiefs, effort might be concentrated on arguing for an increased overall defence budget and on thinning down the stultifying bureaucracy and unnecessarily complex decision-making processes within the MoD's head office. When that part of the defence reforms has happened, the physical space in the MoD main building vacated by the departed staff might be offered to the service charities in order that they can co-locate under one roof, cut down on their overhead costs and increase their co-operation one with another, perhaps one day leading to full integration, with the obvious benefits of greater efficiency and effectiveness, in the best interests of our service community and our veterans. I am not alone in commending that thought.

Turning to the service police—and I declare an interest, having been Colonel Commandant of the Royal Military Police for six years—I very much welcome their removal from the chain of command with regard to investigations. It has been too easy to allege improper interference in such investigations, and therefore the proposals in the Bill are timely and sensible, as, in my view, are the recommendations for Her Majesty's Inspectorate of Constabulary to inspect and report on the service police. I do not believe that hitherto the service police have had anything to hide—and therefore they have nothing to fear—but the transparency injected into the process will boost the confidence of all concerned in those aspects of the military policing and judicial system.

Finally, I turn to the clause relating to the call out of reserves. This is a most welcome and timely proposal. Hitherto, in the face of natural disaster, terrorist attack or a sudden security threat, it has not been possible, despite the natural enthusiasm of individual members of our Reserve Forces, to mobilise them legally for these important duties in support of the civil power. Yes, there have been, and are, well-honed procedures for military support for the civil community, the civil ministries and the civil power, but these are provided almost exclusively from the Regular Forces of the Crown. Under this clause, Reserve Forces can be called out for,

"urgent work of national importance".

This means that such mobilisation will give the individual reservist the same rights and protection in being called out for duty at home as he or she would receive when mobilised for deployed operations abroad or for war. For the reservist this is truly transformational, and for the nation it makes a significant resource available, should the need arise—and I suspect that the drafters of this part of the Bill had not completely forgotten the Olympics next year.

I close on another word of caution. The risks of increased use of an increased number of Reserve Forces must be weighed against the financial temptation to reduce our Regular Forces. In land force terms, it is superficially attractive to talk about a future Army of 120,000 with two-thirds regular and one-third reservist. However, although the costs may be attractive, one has to ask: is an Army of 80,000 regulars large enough to do what the challenges of the future might throw at us, and can we recruit a Reserve Force of 40,000 when today, even in a period of high unemployment, we are struggling to man a Reserve Force of 30,000? There is no question that the Armed Forces could not have done what they have done over the past 10 years without the mobilisation of large numbers of reservists, but this admirable legislation for necessary and urgent work of national importance at home must not become a Trojan horse for the wholesale emasculation of our Regular Forces.

7.53 pm

Lord Sheikh: My Lords, this is an important and timely debate, and I very much welcome the Bill. The issues with which it grapples are fundamental to our

[LORD SHEIKH]
democracy and our beliefs. The contribution of our Armed Forces needs to be recognised and respected. We have a duty to repay their courage and commitment, including after their service, and we also have a duty to their families, who also pay a price on our behalf.

The Armed Forces are to be commended for their incredible humanitarian work around the communities in which they serve. In Afghanistan, they work tirelessly to support innocent people who also suffer the consequences of conflict. They endeavour to win the hearts and minds of people through dialogue, bridge-building and peacemaking initiatives, and they have now gained a good understanding of the Muslim and Afghan culture to enable them to do so.

We have previously spent a lot of time in your Lordships' House stressing the importance of the military covenant. Sadly, however, many members of our Armed Forces do not believe that the Government's commitment is as firm and reliable as it should be. Surveys have indicated that only a third of our Armed Forces' personnel feel valued or are satisfied. That is not good enough, and I welcome the Government's commitment, in Clause 2, to enshrine the military covenant in statute and to provide an annual report. Our duties to our Armed Forces and their families do not end with a piece of paper, but I know that Parliament will be robust in scrutinising that annual report, and it should act as a spur in the minds of Ministers now and in the future.

The military covenant is important; how we treat our Armed Forces—past, present and future—and their families reflects directly on us. The public have made their feelings very clear with overwhelming responses to successive charitable appeals and with the proud affection that marks the moving respect demonstrated frequently at Wootton Bassett. The public are entitled to ask what the Government are doing in response, and the report would go some way to providing an answer. We have a duty to speak up for our Armed Forces and to champion their cause. I am a proud supporter of our Armed Forces, and I take every opportunity to support them and their work.

Our Armed Forces have a long tradition of recruiting from a wide ethnic base, and that is something of which we should be proud. I should add that I chair the Conservative Muslim Forum, and in my meetings with ethnic minorities I encourage them to join the Armed Forces.

I take this opportunity to thank the Ministry of Defence for the formation of the Armed Forces Muslim Association on 9 October 2009. I have attended and spoken at meetings organised by the association, whose patron is General Sir David Richards. I am pleased to note that Muslims now hold senior positions in the Army, Navy and RAF. I have been assured that promotions in the Armed Forces will be based on merit, which I greatly appreciate. We now hold Friday prayers in the House of Lords. The Muslim Chaplain to Her Majesty's Armed Forces, Imam Asim Hafiz, periodically leads the prayers, and that of course gives the right message to the congregation.

Many changes are taking place in defence at the moment. Yes, the operational environment is changing, but so are the policy context and the shape of our institutions. We have a bold Secretary of State, who is expressing a clear vision for change and standing up for his department. We saw the conclusion of the strategic defence and security review last autumn—the first since 1998—with a firm commitment that in future these reviews will be held every five years. We have a Government who are getting to grips with a truly horrific legacy of overspend. The financial management of the defence procurement budget has always been complicated and this was worsened by the financial crisis.

We are putting the needs of our service personnel on operations first, making sure that the equipment they need reaches them in a timely and efficient manner. Measures have been put in place over the past 12 months that provide a number of benefits, including doubling the operational allowance, introducing scholarships for the children of bereaved service families, setting up a new community covenant grant scheme with funding of £30 million over the next four years to support action by local communities to help our Armed Forces and veterans, and securing an increase in the rate of council tax relief from 25 to 50 per cent for military personnel serving on operations overseas. These are all good and positive developments and have been well received. This is not just another Armed Forces Bill. By writing the military covenant into law, it makes a clear commitment of the nation's intent for now and for ever. What will be included in the annual report on the military covenant required by the Bill will be crucial to enabling this House and the wider public to hold Ministers to account. I am sure that this will be the subject of considerable debate during the detailed scrutiny that is to follow, but we need to remember that the report is not just the renewal of the military covenant; it will do more.

This Bill also contains measures that build on changes made in the Armed Forces Act 2006, including on discipline, the service police, alcohol and drugs, and entry, search and seizure procedures. These are not trivial matters and I look forward to the scrutiny that will follow. In particular, this Bill offers the prospect of bringing together the service disciplinary procedures more closely than was achieved with the 2006 Act. It should also do much more to align our activities with the requirements of the European Convention on Human Rights, for example through the provisions on service complaints.

It is important that the complaints of members of the Armed Forces can be heard in an impartial and independent way. Allowing the service police to administer tests before incidents will ensure that there is a credible and effective deterrent to alcohol and drug misuse, as in civil jurisdiction. Clause 13 will enable commanding officers to combine the punishment of service detention with a reduction in rank. The court martial will retain its powers. Under Clause 7 it is proposed that the powers of judge advocates to authorise entry and search are amended. We need to examine these in detail together with other clauses at later stages of the Bill.

I will now ask my noble friend the Minister specific questions. Can he tell the House what form the Secretary of State's covenant report will take? Will it be an Oral

Statement, with both Houses having the opportunity to debate it? How will the report be compiled? To what degree will the Armed Forces be asked to participate? Will there be any annual independent reporting on the state of the military covenant in addition to the report by the Secretary of State? How will this Bill affect the reserves and protect the bond of responsibility between these important units and the Government? I know that there is a separate review on the Reserve Forces, but we need to ensure adequate cross-over.

In conclusion, I know that the Minister has a long and deep interest in the affairs of our Armed Forces. I wish to pay tribute to him for keeping Members of your Lordships' House well informed on developments in general, and for holding briefing meetings at the Ministry of Defence, which I attend whenever possible. This Armed Forces Bill is special. Its timing is important and the message it sends out is crucial. As a response to the affection in which our Armed Forces are held by the public, it is long overdue. I am pleased to commend the Bill to the House and I look forward to taking an active interest in its progress.

8.04 pm

Lord Touhig: My Lords, I can appreciate the real sense of pride that the Minister has in introducing this Bill. I was the Minister who took the last Armed Forces Bill through all its stages in the Commons and, having had the opportunity to carry out that task, I share his sense of privilege. I certainly welcome the Government's first tentative steps to codify the Armed Forces covenant, but they are, in truth, very small steps. Taken as a whole, the proposals are pretty thin and cover just three main headings: healthcare, education and housing. After all the rhetoric we have had from Ministers from the Prime Minister down, I am sure I am not alone in being a little disappointed that there is not much more meat on this particular bone. However, it is a start and that is to be welcomed.

We place an enormous responsibility on the shoulders of our service men and women. We ask them to operate in circumstances that are often difficult, unpredictable and dangerous. We ask them to perform tasks that have no parallel whatever in the civilian world. When they join the Armed Forces, they are not joining an organisation like Barclays bank or Tesco. They are joining an organisation where they may have to put their life on the line, and sometimes they make that ultimate sacrifice. Let me say at this point how much it is appreciated that the Minister pays tribute to those who have lost their lives in the service of our country when he comes to this House and that he also never fails also to mention those who have suffered wounds and are being treated as a result of incidents in the conflicts in which our forces are engaged.

I welcome Clause 2 which makes clear that each year the Secretary of State for Defence will prepare and present a report to Parliament on the operation of the covenant. But I am somewhat disappointed that, having listed the three specific areas on which he must report—healthcare, education and housing—it seems that anything else to be reported is a matter for him. Clause 2(2)(b) makes it clear that if he is minded not to report on anything else, that is quite acceptable. I am further concerned to know what powers he will have to examine and report on healthcare, education and housing for former service men and women. How is this to be achieved? Will he have powers to instruct the Secretaries of State responsible for health, education and housing to do this work on his behalf? Can the Minister shed some light on this when he replies? I feel sure that we need more than an annual report to Parliament. I join other noble Lords in paying tribute to the Minister for arranging the briefings that we have had in recent days, but I believe we need an annual independent audit of the operation of the covenant. The noble Lord, Lord Selkirk of Douglas, alluded to this point. As a former member of the Public Accounts Committee in the other place, noble Lords will be expecting me to recommend the National Audit Office as the obvious choice for such an audit. It is independent of Government and Parliament and it has an international reputation. But I think it would be a good idea at the outset to start measuring how successful we are at delivering the objectives in the covenant and that would be better done independently. Such a report could be laid before Parliament by the Secretary of State at the same time as he presents his annual report.

I would like to see this Bill used as a vehicle to do more for Britain's 5.5 million veterans and their families. It is not too late to do that. I had the privilege of being the Veterans Minister and I had the considerable ambition to make the Veterans Agency as well known to the British public as, say, the BBC. My ambition was for the Veterans Agency to be the first point of contact for every service man and woman who returned to civilian life and needed help. Before the then Prime Minister, Tony Blair, phoned me up and said he was awarding me the DCM—Don't Come Monday—and I ceased to be a Minister, one of the last things I was able to do was launch an advertising campaign promoting the work of the Veterans Agency in the north-east of England. I planned that as a pilot, hoping to run it out across the country. I do not know quite what happened to it but it was never launched nationally. I had two objectives in this campaign. First, to raise public awareness of the Veterans Agency, and secondly and more importantly, to raise awareness among ex-service men and women who often do not know where to turn if they have a problem when they have left the services. I am sure I am not alone and that many noble Lords have met these men and women who have served our country well but sometimes feel they are forgotten when they have left the Armed Forces. I look forward to the day when we will do more for the gallant men and women who have risked their lives for Britain. For me, that day will come when we have a separate veterans department dedicated to the interests of veterans and their families. When I was Minister for Veterans, I had a simple mission statement. It was:

> "We will value our veterans, their widows and their families, and we will do everything in our power to demonstrate that".

Why do we need a veterans department? Yes, I was the Veterans Minister, but I was also responsible for the Met Office—I was its legal owner; all the good weather was my doing and the bad weather was my predecessor's fault. I was also the Minister responsible for the Hydrographic Office, mapping the oceans of

[LORD TOUHIG]
the world. I was responsible for Defence Medical Services and the Defence Estates—1 per cent of the landmass of Britain, worth £15 billion. I was the Minister responsible for the MoD Police, reserves, cadets, training, recruitment and retention, pay, pensions, the three services' families associations, service accommodation, service family accommodation, links with service charities, war graves, low-flying aircraft, service children's health and education, including boarding schools, and the Far East Prisoners of War compensation scheme. With such a range of responsibilities, I would quite often sign up to 300 letters a day. Our veterans deserve a Minister whose only duty and responsibility is to them and to their families. I look forward to the day when Britain has such a Minister.

I have one final point on how we treat our veterans. Thirty-five thousand British veterans fought in the Malaysia campaign of 1955 to 1966. They were awarded the Pingat Jasa Malaysia Medal by the Malaysian Government. The Committee on the Grant of Honours, Decorations and Medals, which advises Her Majesty the Queen on these matters, said that the men should be able accept this medal but not wear it. That is a shameful way to treat these brave men, and it is an insult to the king and people of Malaysia. We should ask ourselves, after the conflicts in which we have been involved in recent years, how many Muslim countries want to honour British servicemen. Here is an opportunity to embrace their respect and affection for British servicemen. I hope that this Bill may be an opportunity for us in this House to express our anger at how the veterans of the Malaysia campaign were treated and perhaps to find ways to try to right this wrong. I look forward to exploring this further in Committee with other noble Lords to see whether we can do something a little better and show our veterans that they are not forgotten. We value them; we appreciate them. It should be more than words; there has to be action to demonstrate that.

8.12 pm

Lord Burnett: My Lords, it is a pleasure to follow the noble Lord, Lord Touhig. We have known each other for many years. He was a distinguished Defence Minister. I declare also that I am a member of various service charities.

As have other noble Lords, I should like to put on record my gratitude to my noble friend the Minister for his openness and courtesy. He and his staff are always helpful. The briefings available to us are instructive and it is very much a two-way process. On that note, I hope that noble Lords will forgive me if I make a short tangential point: I hope that we shall soon have an opportunity to debate the *Defence Reform* report which was published late last month. I pay tribute to the noble Lord, Lord Levene, and his committee for producing an excellent report. As the Secretary of State said:

"It is a thorough and compelling analysis that deserves close attention".—[*Official Report*, Commons, 27/6/11; col. 636.]

Many noble Lords will wish to speak to this report.

I welcome this Armed Forces Bill. I suppose that, like a number of other Members of this House, I am a potential beneficiary of the Armed Forces covenant introduced by it. I hope that my noble friend will be able to confirm that service, corps and regimental associations will continue to be consulted in relation to the Bill and the evolution of the covenant. The covenant is a relatively new concept and, quite rightly, the Bill endeavours not to make it legally enforceable. If that were the case, the chain of command would be undermined and there would be other dangerous consequences.

Some stress rights more frequently than responsibilities. They are both important. Paragraph 6 of section C of the covenant states:

"The Government has a responsibility to promote the health, safety and resilience of Servicemen and women".

This is qualified later with:

"However operational matters, including training and equipment, fall outside the scope of the Armed Forces Covenant".

If a person volunteers and passes training in the Armed Forces, he or she should expect frequent postings on hazardous service. Members of our Armed Forces have to be properly trained and prepared. The training and preparation must be both realistic and dangerous. If not, it will be of no use, and our fighting troops will be at a considerable disadvantage when they are in due course deployed. Many in the service prepare physically and mentally by carrying out, voluntarily, arduous, tough and dangerous recreational activities and expeditions. These activities do not come within the strict definition of training. My point boils down to this: all service life is tough, demanding and dangerous. For the reasons that I have given, this covenant should not open the door to a plethora of legal claims. That would undermine not only the chain of command but also the ethos and culture of our Armed Forces, who are second to none.

Will my noble friend the Minister confirm that this covenant will not be capable of being litigated or used in litigation even under the European human rights legislation? Is he aware whether the French have excluded their armed forces by treaty or by some other means from the human rights legislation? Have other countries excluded their armed forces in this way?

The reasons why our Armed Forces are of such a high standard and calibre, and the reasons why they are so respected internationally, are many. They include the fact that, in the 20th century, they evolved into an egalitarian force where rank and respect should be earned and where the needs of subordinates should come before the needs of those of a higher rank. Training and equipment should be of the highest quality. Pay, pensions and manpower levels should be fair and realistic. Individuals should be properly housed and educated. Decent healthcare should always be available. The bereaved and the wounded should always be supported.

The country holds the Armed Forces, rightly, in the highest regard. The noble and gallant Lord, Lord Stirrup, reminded us that public opinion can be fickle. I hope that my Government will give careful consideration to his suggestion that an annual independent audit should accompany an annual report from the Secretaries of State. I have used the plural because I support the suggestion of my noble friend Lord Lee that the

annual report should include sections on health, housing, education, benefits and tax from the responsible Secretaries of State.

If there is a failure of these and other principles that underlie the culture and ethos of our Armed Forces, the remedy should be through the chain of command and ultimately Ministers and Parliament.

8.18 pm

Lord Walker of Aldringham: My Lords, in the *Sunday Telegraph* was an inspiring article about four young soldiers who intend to row across the Atlantic. You might say that there is nothing remarkable about that, but these are four young soldiers who have been badly injured, maimed by bombs in Afghanistan, and between the four of them they can muster only three complete legs. Their plan is to enter the Woodvale Atlantic rowing race, which begins in December, and none of them has any experience of the sea. They hope to raise £1 million to share between Help for Heroes, ABF The Soldiers' Charity and SSAFA. Their endeavour is both inspirational and highly laudable and I am sure that all of us in your Lordships' House wish them every success.

However, their endeavour brings into focus the whole question of the funding of the covenant that is addressed in this latest Bill. The Armed Forces have a long and strong tradition of raising money for charities. In the last century the vast majority of such fundraising activity was targeted on charities that were not linked directly to the armed services—they tended to focus on cancer, children and raising money for those charities which were local to units' bases or linked to their specialist trades.

The service-orientated charities do a remarkable job but in essence they are there to attend to the needs of veterans and their families who have fallen on hard times. However, those who have been killed, maimed and wounded by being sent to war by our country can hardly be portrayed as "falling" on hard times. I believe most passionately that if the covenant is to mean anything at all, when a service man or woman is damaged in any way whatever during their military service, then a clear duty lies with the Government for a lifetime of support.

As the doctrine states, this is about service men and women doing their duty, putting the needs of the nation before their own, forgoing some of the rights enjoyed by those outside the Armed Forces and accepting the grave responsibility and legal right to fight and kill according to their orders and their unlimited liability to give their lives for others. The unique nature of military service means that the Armed Forces differ from all other institutions, as many noble Lords have said.

We should not forget—sometimes I think we do—that during the lifetimes of most of us in this House, British service men and women have lost their lives and been maimed and wounded in Palestine, China, Korea, Malaya, Egypt, Kenya, the Suez, Cyprus, Borneo, Aden and Dhofar. More recently, they have died and been wounded as they fought across the Falkland Islands; as they steadfastly, and without favour, absorbed the venom of Northern Ireland; as they have twice driven massed armour into the Middle Eastern deserts. They have snatched hostages from the swamps of Sierra Leone and the embassies of Kensington. They have hunted terrorists in the mountains of Afghanistan and the Pacific Islands; they have fed refugees, delivered humanitarian aid, slaughtered sheep, put out fires, guarded prisons, cleared domestic rubbish and fought floods. That is a pretty impressive CV by any standards, and there can no doubt in your Lordships' minds about the debt that we owe these people and what we ought to do about it. Even as we debate, our service men and women are at full stretch on operations helping to manage the consequences of, or prevent the intensification of, conflict in various parts of the world.

The covenant that must exist between the Government and the Armed Forces is in my view a simple moral contract which means that, in return for the sacrifices made by those in the forces, the Government will ensure they are treated fairly and they should be confident, as many of the speakers today have said, that the nation will look after them and their families.

Of course, the covenant is wider than just the response to those who are injured. This notion of fairness is, I believe, central to any covenant and must be demonstrated both strategically and tactically. The recent strategic defence and security review committed the Government to being more selective in their use of the Armed Forces,

> "deploying them only where key UK national interests are at stake; where there is a clear strategic aim; where the likely political, economic and human costs are in proportion to the likely benefits; where there is a viable exit strategy".

Just try measuring our latest military adventure in Libya against "key national interests", "clear strategic aim" and "viable exit strategy". How fair does that seem, as a use of our military forces, when we are heavily engaged elsewhere and at the same time key elements of our forces are being dismantled? At the other end of the scale, service men and women who have recently served in Afghanistan are being made compulsorily redundant, which is morally indefensible in my view. In this context, one has to ask: what price a commitment to the covenant? My heart sinks at the thought of the recent defence reform proposals which see a defence board, with only a single military member among seven to 10, giving any airtime to developing a covenant which really means anything.

As many noble Lords have already observed, the Bill introduces the requirement for the Secretary of State to lay an annual report before Parliament about the effects of membership or former membership of the armed services on servicepeople. I am not certain that a covenant lends itself in any way to legislation—of course the covenant is not going into legislation, merely the requirement for the Secretary of State to report—but I am certain that the time for reports, of which there has been a plethora in the past five years, is over. The requirement is absolutely clear, as so many have said. What is needed now is action: action to implement the covenant across all government departments and from top to bottom. It cannot be achieved without the necessary funding.

I return to our four brave young men rowing the Atlantic. We should be enormously uplifted by what they are doing and why they are doing it. However,

[Lord Walker of Aldringham]
there are too many examples of the third sector being exploited to fill the void of support that in my view is legitimately and morally the Government's responsibility, and we should be deeply ashamed that the money they raise is going into that void.

8.26 pm

Lord Selsdon: My Lords, I have thoroughly enjoyed this debate—it was the spirit of it—although I did nip out for a glass of water and bit of chocolate. To be honest, I wanted to join the Navy but it changed the date of entry at Dartmouth so I could not go. However, I managed to get in by the skin of my teeth because of Suez, so before I knew it I was in the Mediterranean on patrol boats taking a star sight on a sea-gull at the top of a pole on HMS "Raleigh". I loved that. I found the excitement great. My generation, such as the noble Lord, Lord Lyell, and others, went off to serve. One won an MC in Aden; many did national service in Libya—it is forgotten that we were in Libya for 30 years; many of the Chiefs of Staff did service there. We have forgotten that we had a worldwide role. We also have a responsibility. The Armed Forces are an asset not a liability, but someone is trying to turn it around a bit and say that they are a liability. They are a responsibility not a liability: a responsibility that everyone willingly wishes to look after.

I have found in your Lordships' House over the 48 years I have been here that we are the greatest repository of defence knowledge that the world has ever seen. Currently, 176 people have been Ministers or served in the Armed Forces and only 15 of them cannot remember their service numbers. One of my favourites, who is very good at this, is former Leading Aircraftwoman Sharples, who occasionally uses her initiative from her Armed Forces days—she can remember her service number—to knock someone off a bicycle with her handbag.

My family, by accident, spent their lives in the Navy and things of that sort, and I had a nephew who became a SEAL team leader and then worked with the British. He said, "Good God, we thought we were trained in the Pacific to lock our arms together for 24 hours, but we are not as tough as the British and we do not seem to have the same initiative to get round the rules and regulations".

My noble friends Lord Astor and Lord Sheikh have given us remarkable amounts of briefing. I have learnt more and more and there are little things that come to light. As I think Kipling said:

"we have got the Gatling gun, but they have not".

The other day, the noble Lord, Lord Lyell, the secretary of what we call the warlords, chaired by the noble Baroness, Lady Dean, introduced a general who I had never heard of, who turned up to make a slide presentation in one of the committee rooms. He could not quite get it to work at first, but when he did, he produced a quite mind-blowing presentation of the way the military in Afghanistan has got into the hearts and minds of the people there. I dug out a copy of that, and being on the Information Committee I had the right to have a trial iPad, so I now have this wonderful presentation on Afghanistan, captured by an Army man who I thought would be sticking only to the Army. I never realised how the training of our troops now leads them to get under the skin of the people there and to become ambassadors, in a strange way, and respected.

I will say something perhaps a bit unkind about the political sector. Those in government have failed to take the advice of those who know. For example, 50 ambassadors and high commissioners wrote an open letter to the Government saying the Government did not know what they were doing in the Middle East. I did not know either, but I did have 12 years working on the Committee for Middle East Trade, six as chairman, and I would go to these places and get under the skin. A phrase I liked was that when asked what is wrong with the Arab world, they would say, "Hashish, Baksheesh and British"—and the worst is British because they invented the other two, but, my goodness, we cannot do without them.

We ran the Middle East from India. When the noble and gallant Lord, Lord Bramall, who was at the same prep school as me, became a major and was assistant to the Chief of Staff at Suez—my noble friend Lord Lyell will correct me if I am wrong—he was asked by his boss, "Bramall, I want you tell us why we have come here; what we are doing here; and what the hell we are going to do next". At that time we were going to withdraw from east of Suez and have no worldwide role. We have to have a worldwide role because we have no inherent economy; we are dependent upon international trade and investment. It is not only the defence of that trade that is important but the ability to get under the skin and help other people.

On the training front—and here will be my challenge to your Lordships—I went to recent meetings in the MoD. I find the MoD very difficult and bureaucratic. I was in the Midland Bank for many years and so I know what bureaucrats are like. It was the same size as the Navy, in effect: about 33,000 people or more. At one of the meetings we discussed the young and the future. We must accept that a 14 year-old today will be voting at the next election; we must accept, too, that at the moment the role for our Armed Forces is not as great as it would need to be because we have no equipment and no kit and we have not yet determined where or when we should intervene and how.

As a member of the Information Committee I set down the challenge because we now have open debates in this Chamber and last year we had a debate with the young on the future of the House of Lords. They all said we were very wise, which surprised many of us. The debate this year is on the Commonwealth and the Commonwealth conference. I laid down the challenge and asked whether we could get approval—which we have got in principle—to debate next year the defence of the realm with 14 to 16 or 17 year-olds. I suggested that the Chiefs of Staff should themselves brief these young people directly, and I ask your Lordships whether you would be willing to be present as guests at that time. It would be good if we could attract the young, with their amazing enthusiasm for dangerous sports. We have to think of the future; we have to think of the young. I hope your Lordships will support this initiative next year.

8.32 pm

Viscount Slim: My Lords, it is always convenient to be tail-end Charlie because everything I want to say has been said so much better by other noble Lords. However, there are one or two matters I wish to raise.

From where I sit, I do not like to get too muddled in inter-party rivalry, but one or two speeches on this side of the House were a little tougher on the military covenant than on the other side. I am quite clear—I said this in the Chamber at the time—that the military covenant was bust, broken and not adhered to under the previous Administration. The noble Baroness—I do not see her in her place—quite rightly stood up and contradicted me but I was quite certain of my ground.

On the Bill, enough evidence has been given and enough worry expressed that in the new reformed mode to which we are moving—and which, I hope, as the noble Lord, Lord Burnett, said, we will debate one day pretty soon—the annual report is still not right. The Secretary of State for Defence has to stand up and not only quote the reports but to represent the Ministers and Secretaries of State of all the other departments. We need to consider this issue in our future debates in order to help him; it is not a question of going against him but of assisting and helping him.

In this debate we have talked about soldiers, sailors, airmen, veterans, reservists and so on, but we have not talked about the politicians who are the key to this. In choosing their Secretary of State for Defence, future Prime Ministers will have to be very careful because the new reform states that they have got to be longer in the job; that they have got to give five-years' worth; that they have got to do this or do that. We must have a Secretary of State for Defence who is going to be there. The job is much more like that of the executive chairman of a major corporation, where you go there every day and you are in amongst it; where you get down to detail. It is a slightly new role for a Secretary of State.

We cannot have the Secretary of State changing every so often. With great respect to the previous Administration, there seemed to be a great number of Secretaries of State—they kept coming and going—and that is not on. The military, the soldiers on the ground—the Tommies we have heard about—are not stupid. They say, "They are changing jobs; they are promoting each other; they are being sacked or whatever". They obviously do not think much of the Ministry of Defence; they do not think much of me—a soldier, sailor, airman, veteran, whatever I am. We have to be careful. In the future the Prime Minister of the day will have to choose even more carefully his Secretary of State for Defence and his other Ministers; they are in for a longer haul.

I wish to raise a point with the Minister about which I have belaboured him enough in the past. However, I first wish to thank him. The previous Administration was good—I had meetings with the noble Lord, Lord Bach, with one or two others and with the noble Baroness, and it was wonderful—but the noble Lord, Lord Astor, has been exceptionally good; he has come out into the open, briefed us and argued with us. However, he has failed completely on one matter. I come back to what the noble and gallant Lord, Lord Craig, and the noble Baroness, Lady Fookes, mentioned, and that is the question of the chief coroner. I repeat what I have said before in your Lordships' House: it is farcical and cruel that it takes one year, two years, three years to officially pronounce a serviceman dead. These are men and women who have fought and been killed in action for king or queen and country, and the fact that the Government will not produce a chief coroner—which the previous Administration said they would—is mean, short-sighted and rather stupid.

I have a suggestion to make to the Minister. There is a lot of pruning going on in this reform, this new organisation, among a lot of the top brass and civil servants. Mind you, I have not yet met anyone with the guts really to bring the Civil Service down to size, but there you are. Why does the MoD not recommend to the Ministry of Justice a retired general, air marshal, brigadier, admiral, or whatever rank, to be the chief coroner? As we have said in previous debates, he does not have to be a lawyer. It would actually be rather refreshing to have someone in the Ministry of Justice who is not a lawyer. What we are looking for is a leader and an administrator; there are plenty of them about in the Ministry of Defence, and you are going to chuck some of them on the heap. I believe that what coroners need is support. They need modern ways of working. They need better administration. They need a quicker process. All these sorts of things that the right man from the Ministry of Defence can do. There has been a strange silence, and no support publically from the Ministry of Defence or the Secretary of State for this business of doing something about sharpening up the coroner system. That is just an idea, and I hope something happens.

I so liked what the noble Baroness, Lady Drake, said, if I may be so bold as to say so. It is of course quite right that no one should go into battle before he is 18 or over. I have to admit that I saw my first dead enemy when I was 17 and, funnily enough, it did not do me any harm. It did not make me odd, or at least no more odd than I might already have been. So it is right that we look after them.

If you go to the Army Foundation College in Harrogate, or to any of the services' apprentices schools, you will find that they are the best schools in Britain. The education and the citizenship training there is better than the average comprehensive school, and they are better fed, too. They also get a bit of pocket money. It is from these places, and the cadet forces—which the noble Lord, Lord Freeman, knows about and has such experience of—that all our future regimental sergeant majors come. That is where the chief petty officers in the Navy come from. Some of them become officers. Do not be too worried about them coming from care homes; they come to a new home. If you talk to them, you will find that they are very happy in their new home. They are not going to go to war, but they must be supported. They will be reported on, I am quite certain, somewhere in the system, but you are quite right: maybe somewhere in the audit—if it is 30 per cent, as you were saying—it ought to come up, too.

I am all for this Armed Forces Bill, but it needs fine-tuning. We need to discuss it and we need to make it a bit better in a number of places. There is a lot of

[Viscount Slim]
experience around the House and many noble and gallant Lords. I hope the Minister and the Government will listen, and please do something about the coroner, because I really think it is pathetic that they do not.

8.44 pm

Lord Rosser: My Lords, I, too, extend my thanks to the Minister and his officials for the briefings on the Bill that have been provided. I am sure that it will have come as no surprise to your Lordships that today's debate on the Armed Forces Bill has proved both interesting and highly informative. Views, sometimes powerfully put across, have been expressed by noble—and noble and gallant—Lords, including the right reverend Prelate, who really understand the culture, concerns and commitment of our Armed Forces from first-hand experience and knowledge acquired over a number of years.

The Armed Forces Bill, which we need every five years, provides an opportunity for a debate about all aspects of the work of our service personnel, and it is already clear from what noble Lords have said today that a number of important issues will be raised during the Bill's further stages. My noble friend Lady Drake had some interesting comments to make on young recruits to the Armed Forces and I hope that the Minister will be able to address the key points she raised.

Concern has been expressed about the extent of the commitments being undertaken by our Armed Forces at a time when financial resources are in short supply. We have heard the word "stretched" in comments attributed recently to senior military figures regarding the effect on both service personnel and equipment.

On 27 June the Minister gave a commitment in this House that we can sustain our operation in Libya for as long as we choose to, and that the Government would continue to provide sufficient resources to achieve operational success in Afghanistan and elsewhere as long as we are in Libya. Although we have no reason to doubt that that is what the Government will do, we will nevertheless make sure that the Government deliver on the undertaking that they have given.

That brings me to the issue of the strategic defence and security review, which has also been the subject of comment during the debate today. Although the Armed Forces covenant does not mention the SDSR, surely part of our commitment to the covenant, and to the welfare of our Armed Forces, should be an updating of our current defence strategy when potentially significant new commitments are taken on, as in the case of the operation over Libya. An updating would also assess the impact on our resources and capabilities, and particularly on our people and on their training and development, to ensure that both now and in the future our admirable Armed Forces will have the resources, without being stretched beyond breaking point, to deliver the commitments that we as a nation have decided we require them to undertake.

The Government's belated decision to keep to the Prime Minister's undertaking in June 2010 to enshrine the covenant—the bond between the nation and our servicepeople—in law, through the amendments to this Bill which they introduced last month in the other place, has been welcomed by virtually all of your Lordships who have spoken. We support and welcome this development, although we will wish to explore further the details of the Government's approach as set out in those amendments. We support the principle laid down in the Bill that no member of the service community, including dependants, should find themselves at a disadvantage arising from service, and that special provision may sometimes be needed to reflect the specific sacrifice some individuals have suffered.

However, it appears that the Secretary of State will only be required to "have regard" to the principles in preparing the annual Armed Forces covenant report. That raises questions about whether the principles will apply to all policy issues across all departments or whether the Secretary of State will be the sole arbiter of what issues should or should not be covered by the principles through the decisions that he makes on what matters should be referred to in the annual Armed Forces covenant report. Will there be any independent audit of progress made in delivering the covenant and commitments or proposals made in previous annual reports by the Secretary of State? Will there be an obligation on all public servants and Ministers to apply the principles in the covenant in all aspects of public policy-making? Will each Minister be accountable for their own sphere of responsibility? The Government's decision to abolish the chief coroner's office, which the Royal British Legion has described as a "betrayal" of Armed Forces families that "threatens the military covenant" suggests that the principles may not apply across all areas of government policy.

We welcome the decision to have an annual debate on the covenant in this House, but only three subjects are specified in the Bill for inclusion in the annual report by the Secretary of State—namely, education, housing and healthcare. Why are other welfare matters, such as pensions and benefits, employment, training and rehabilitation services excluded from specific mention as issues on which the Secretary of State has to report? The three fields that are specified for inclusion—education, housing and healthcare—are devolved, so presumably Scottish, Welsh and Northern Ireland Armed Forces and veterans face the prospect of being excluded from any proposals in these areas that the Secretary of State may make in his report. Is that the position, or will the report apply equally to all UK forces, including veterans, to whom a number of noble Lords have referred with some passion and feeling?

In a debate on 8 June on the War Widows Association, the noble Lord, Lord Ramsbotham, asked if the Government could draw up a shopping list of what the War Widows Association recognises to be the areas of greatest need, insert them into the covenant and then set out in the covenant that the Secretary of State should be required to report every year to Parliament on how the shopping list is being met. The Minister said he would take back to his department the point made about the association's shopping list, since he considered it to be an excellent suggestion. Could the Minister indicate what the current position is on this matter?

We welcome the Secretary of State's intention of a continuing role for the external reference group, with its new name and updated terms of reference, more specifically identifying it with the implementation of the covenant, the welfare of our Armed Forces and the annual report. Is the composition of the group going to change, or will it remain as at present? Is it going to become a permanent body charged with overseeing the implementation of all policy that relates to forces welfare?

Apart from the Secretary of State's annual report and the debate in Parliament, what system will there be for addressing complaints by service personnel over whether the principles of the covenant are being upheld? In addition to the chain of command, the service complaints commissioner will presumably continue to have a role, but in her last annual report she said that the existing complaints system was ineffective, caused extreme delay, failed to deliver justice and led to inconsistencies. The commissioner proposed that an Armed Forces ombudsman be introduced. Is this something that the Government are considering? What changes are the Government contemplating in the light of the commissioner's comments?

While most of the debate has centred on the covenant, the Bill does address a number of other issues, some of which will no doubt be considered in more detail during further stages, not least because they were barely touched on at all during consideration in the other place. One such issue is the role of reservists and the duties they can be called on to undertake, which has been the subject of comment by a number of noble Lords. We see much sense in what the Government seek to achieve by making the statutory role of the reservists less restrictive so that they could in future be called upon to help in addition to, or instead of, regular Armed Forces—for example, when there are significant floods, as there were recently in Cumbria, or something like a major outbreak of foot and mouth disease.

However, can the Minister say whether it would be the Government's intention, under the provisions in the Bill, to use reservists to help in other known, pre-planned events, in addition to the Olympics, as opposed to unforeseen events? Can he also say what would be the Government's intentions in relation to using reservists in a situation where industrial action is taking place? It would also be helpful to know the Government's reasons for not taking powers in the Bill to introduce permissive random testing on alcohol, which applies in some parts of the transport industry. Likewise, perhaps the Minister could provide information, if not tonight then shortly, on what percentage of positions in the Armed Forces—and why—the Government consider not to be safety-critical, and therefore are not covered by the alcohol provisions.

Although there are a number of aspects that we will want to probe in more detail, we welcome the Bill as it has emerged from the other place, as opposed to how it started out in the other place. As my noble friends Lady Crawley and Lady Taylor of Bolton said, the previous Government had a proud record in the field of the welfare of our service personnel. The Armed Forces Act 2006 introduced a single system of service law that was, in effect, a complete overhaul of legislation on military law and service discipline. The Bill we are considering today also makes some modest but sensible changes to those arrangements. The previous Government also ensured that forces pay increases were among the highest in the public sector, invested in accommodation and rehabilitation facilities and increased NHS access for dependants.

In 2008 the service personnel Command Paper was published, which was the first cross-government strategy on the welfare of Armed Forces personnel. Following that, compensation payments were doubled for the most serious injuries; the welfare grant for the families of those on operations was doubled; better access was given to housing schemes and healthcare; and free access was offered to further education for service leavers with six years' service. Impartial oversight of the Government's progress was provided through establishing the external reference group as an independent monitor of the Government's implementation of the service Command Paper.

The enshrining of the Armed Forces covenant in law, as provided for in the Bill, is a step that we support, not just in its own right but particularly at a time of major cuts to the defence budget, which has seen allowances and pensions cut, significant numbers of personnel facing redundancy and additional commitments being taken on. As an Opposition we will always support the Government when they do the right thing by our forces, whom we all admire and respect. The Bill as amended in the other place represents a good start. We shall consider what has been said in this debate and what other interested parties are saying and then decide what amendments to put down, and on what issues, with a view to strengthening the Bill.

8.56 pm

Lord Wallace of Saltaire: My Lords, I thank all noble Lords who took part in this extremely constructive and largely non-partisan debate. We are all concerned to provide the best possible support to serving and former members of the armed services and their families. The coalition Government are conscious that we are building on work that our predecessor in office undertook and which Liberal Democrats and Conservatives in opposition supported in their turn. I very much look forward to an examination of the Bill in that spirit. We are all united in wanting to get the best possible system of support for those who are serving, or who have served, and whose families have been affected by their service in the United Kingdom.

The Bill covers diverse subjects, as so often service law and service welfare need updating in a range of different areas. Expectations about the quality of service justice have risen over the years—human rights considerations have happily been transformed since service punishments included flogging. My noble friend Lord Burnett raised the question of the position of other countries as to the application of the European Convention on Human Rights to their armed forces. On that specific question I will have to write in more detail, but I can assure him of the general acceptance across Europe of the European convention in relation to the treatment of members of their armed forces, including in those countries which formerly lay behind the iron curtain.

[Lord Wallace of Saltaire]

My noble friend Lady Fookes regretted that the Bill contained so many amendments to earlier Bills, rather than consolidating existing law. I remind her that the 2006 Act, which many of us here took part in parliamentary scrutiny of, was itself a major consolidation of the separate service disciplinary codes. The Bill is more modest and is explicitly concerned with revising and updating an existing corpus of service law. The noble and gallant Lord, Lord Craig, rightly raised the question of whether we had found an appropriate peg on which to hang the current provision for the military covenant. We will certainly talk to parliamentary counsel about this and see what can be managed.

My father served in the last year of the First World War; I am a late child of a late family. When he was in his 80s I heard many things about problems of discipline—problems of near-mutiny—in the armed services in the early months of 1918, so I am well aware of some of the sensitivities about that period.

A wide range of issues have been raised in the debate, and I look forward to examining them in more detail in Committee. I confirm that the Government plan to calendar the Committee stage during our two-week September session. The exact dates will be announced as soon as they have been agreed through the usual channels.

Clause 2, on the military covenant, has attracted most attention, and I expect that it will be the main focus of our discussions in Committee. There is a delicate balance, as a number of people have recognised, between setting out rights and weakening service discipline. Writing a code into statutory form would risk inflexibility, demand regular revision and open up the services to endless litigation. I agree with the noble Lord, Lord Dannatt, that fundamentally the military covenant is a moral issue, not a legal document.

Careful negotiation in the House of Commons led to an amendment. I quote a letter on this from the Royal British Legion to the Prime Minister:

> "I fully anticipate that the climate which the amendments to the Bill create will further emphasise the government's continuing commitment to ensuring that the nation, not just central government, delivers the covenant".

I think that we would all agree with that sentiment. This is not simply a government responsibility. It is a matter for all of us—local authorities, health clinics, hospitals, devolved Administrations and ordinary people across the country.

On the timing of the annual report, which the noble Lord, Lord Freeman, raised, we have not yet decided on the timetable beyond the provision in Clause 2 that there should be a report in each calendar year. We will take account of his desire to have a report to scrutinise as early as possible next year. A number of noble Lords have raised the question of how this will be prepared and whether or not parliamentary scrutiny is sufficient. The Government's intention is that it will be Parliament that will hold the Government to account on their contribution to fulfilling the military covenant. Scrutiny is a process, not just an event. We hope that the annual report will be the peg on which the continuing process of scrutiny will hang, but it will be up to the other place and to us to consider whether we wish to have an annual debate or whether from time to time there should be a more detailed committee inquiry. That is part of the process by which we fulfil our functions, with which I am sure all noble Lords here are familiar.

The annual report will be a written report and a substantial document. The Armed Forces will certainly have an input through the chain of command. They will also give feedback thorough the continuous attitude surveys that have been mentioned. I also confirm that the report will also address the problems faced by our Reserve Forces.

My noble friend Lady Fookes wanted to put the covenant reference group in the Bill. I recognise her concerns but, as always, one is cautious about the inflexibility provided by writing things into statute law. We recognise the importance of the covenant reference group and we have no doubt that Parliament will continue to ensure that it plays a major role, but we do not see that writing it into statute would necessarily help further.

Several noble Lords have raised questions of implementation and enforcement because central government does not have the power to enforce this, and I think that most noble Lords would agree that it would be inappropriate for it to interfere in as much detail as in our local provision of health, education and other elements of welfare. This has to be a matter of dialogue and influence. The devolved Administrations, local authorities and others have to work with central government and have to be held to account informally through the media, the service charities and others.

I can confirm that we support the idea of Armed Forces' advocates at the local level, if that is the approach chosen by the local authority concerned, and we are very happy that a number of local authorities are supporting the Armed Forces by signing up to the new community covenant.

A number of noble Lords have raised the question of whether the Veterans Minister should be separate from the Ministry of Defence—I might almost say the question of whether we can trust the Ministry of Defence to look after veterans properly; I think that was the subtext to all that. As someone who regularly goes into the Ministry of Defence, I have to say that it is not entirely isolated from the rest of Whitehall. It works on a continuous basis with the Department of Health, the Department for Work and Pensions and the Department for Communities and Local Government. Officials meet their colleagues. There are representatives from those other departments on the external reference group, which will become the covenant reference group. The noble Lord, Lord Touhig, I think wants to move towards an American system, with a separate veterans' agency. I should say to the noble Lord that my sister is currently writing a history of the veterans' agency in the United States, with particular emphasis on the long history of corruption within it—partly because she wishes to demonstrate that there has been socialised medicine in the United States since the 1920s. I think the noble Lord will recognise that there are many problems with the very odd collection of different agencies through which medical health support is provided in the United States.

The noble Lord, Lord Lee of Trafford, asked about the Service Personnel and Veterans Agency, which runs Veterans-UK, designed to be the first stop for veterans. In addition, it has a website, an e-mail advice point and a telephone helpline, providing information in one place on services from a variety of organisations. The SPVA also provides the Veterans Welfare Service, a national network of caseworkers to support veterans. It is in a sense a small sort of veterans' agency. I hope none of us would want to go into the American model and build it up into a much larger form.

The noble Lord, Lord Palmer of Childs Hill, and others, mentioned housing. We all recognise that there have been tremendous problems with service housing, but that it is now improving. That improvement began under the last Government, and we are continuing to work towards it.

A number of noble Lords have clearly read, and referred to, the report from the Howard League on the inquiry into former armed service personnel in prison. I read the report with great interest, and it is attracting a lot of interest in the Ministry of Defence. The Minister for Defence Personnel, Welfare and Veterans has met Sir John Nutting, the chair of the inquiry, and we will review its recommendations in full with the Ministry of Justice and the voluntary sector and community organisations with which we work on these issues. I should say that the report does not entirely confirm the idea that there is a disproportionate number of servicemen in prison. There is a degree of disproportion for some types of offence, and particularly among the over-45s. It is a very carefully researched report and shows us, among other things, how little we know about this area of offending. The evidence suggests that, from some points of view, ex-service personnel are less likely to commit crimes than civilians.

The noble Lord, Lord Thomas of Gresford, asked about the US veterans' courts. I shall read from the executive summary of the Howard League report on this:

"While we have nothing but admiration for the Buffalo court and its remarkable achievement of preventing further offending, we do not suggest that such a court could or should be replicated in the United Kingdom. The lessons we have learned from our experience of the Buffalo court are twofold: firstly, the advantage of maximising the help available to assist in solving whatever problem the veteran has which may have contributed to his offending; and second, the advantage of veteran to veteran contact".

Noble Lords who have read the report will be familiar with some of the experiments in prisons, including getting prison officers with service experience to advise prisoners who have been in the services. We are attempting to do the same in the probation service.

The question of mental health arose. It is not entirely clear whether there are much higher levels of mental illness among ex-servicemen than in the rest of the population. We should all remember that one in six of our adult civilian population have mental problems at some stage in their lives. The question of whether post-traumatic stress disorder breaks out later in life, and should therefore be watched for, clearly needs further study.

I am aware that ex-servicepeople suffer from flashbacks. In his 80s, my father started to talk about some of his most horrifying experiences, which he had refused to talk about until then. On a lighter note, on the day I was introduced to the House of Lords, my mother-in-law—formerly Lieutenant Robinson, attached to Bletchley Park from 1942 to 1945—realised that the leader of my party in the Lords was the former Sub-Lieutenant Jenkins who had arrived later at Bletchley Park, and proceeded to tear a few strips off him for his behaviour in 1944.

Other Members have raised questions about transition, leaving the services and whether the training provided is adequate. The noble Lord, Lord Kakkar, in particular, talked about tracking veterans when they leave. The real problem is to make sure that we do not lose sight of those who have been severely injured in one way or another. That is certainly something that we need to look at much more actively as a new generation of injured servicemen comes back, first from Iraq and now from Afghanistan.

The noble Baroness, Lady Drake, made an extremely interesting and well judged speech on young soldiers and the under-18s. We see that as a covenant issue. From time to time, it will certainly be one of the subjects that the annual report will appropriately address. We take pride in the fact that the Armed Forces provide challenging and instructive education, training and employment opportunities for young people. We are confident that the recruitment policies for under-18s are fully compliant with the optional protocol of the UN Convention on the Rights of the Child. Defence policy clearly states that no service personnel under the age of 18—unlike the noble Viscount, Lord Slim—are knowingly deployed on operations outside the UK that would result in their becoming engaged in or exposed to hostilities.

The question of the chief coroner came up in several contributions. I remind noble Lords that on 14 June the Secretary of State for Justice made a Statement to the House of Commons, which my noble friend Lord McNally repeated here. It set out the plan to include the office of chief coroner in Schedule 5 to the Public Bodies Act, which will transfer several of its functions either to the Lord Chief Justice or to the Lord Chancellor, rather than abolish them. I hope that will satisfy noble Lords, but if not we shall discuss the matter further in Committee.

The noble Lord, Lord Lee, discussed atomic veteran cases. There will be a hearing in the Supreme Court on 28 July, which will determine whether the cases can go ahead, notwithstanding that they are out of time. The July hearing has been adjourned from an earlier date because the complainants are requesting formal disclosure.

The noble Lords, Lord Palmer and Lord Touhig, raised the question of medals, which is always a very sensitive issue. My noble friend Lord Astor tells me that he has the Malaysia medal, to which the noble Lord, Lord Touhig, referred. I am always conscious that I have a medal, the Coronation medal, which I gained aged 12 by singing as a treble. When I was in my secondary school's cadet force, visiting sergeant majors were furious to see a 15 year-old wearing a ribbon that he clearly did not deserve in their context. One has to be a little careful. As I am sure the noble and gallant Lords will agree, medals are intended to be deserved, rather than simply put up.

[Lord Wallace of Saltaire]

We then considered a number of other issues. My noble friend Lady Miller mentioned Clause 25, to which we may return in Committee. The clause will make the handling of claims easier, in some cases for both the claimant and the sending state, because it will remove the situation in which a British citizen finds themselves directly opposite a representative of a foreign state in a court. I am, however, happy to write about this further to the noble Baroness.

We then came to a number of questions on the reserves, such as the mobilisation of the reserves for natural disasters and the like. I remind noble Lords that the reserves can be mobilised for a number of natural disasters. The intention is to make the mobilisation requirement for our reserves identical to that for our regulars—no more and no less.

Since 2003, we have had some 24,000 mobilisation orders for reservists to serve abroad; noble Lords who watched the lists of each six-month mobilisation to Afghanistan will be familiar with the fact that a significant proportion of those sent out each month have been reservists. We are therefore very much concerned that, when they return, reservists should benefit from the same veteran provision as regulars. I assure the noble Lord, Lord Dannatt, who talked about the future of the reserves, that the report on the future use of the Reserve Forces will be published in the early autumn.

The noble Lord, Lord Rosser, asked whether we see the reserves being called out for other foreseeable events. The answer is no, but they might quite possibly be called out for a number of unforeseeable events in the future. I think the American Secretary of Defense once called this the "unknown unknowns", which we might come to. The noble Lord also asked whether we will use the reserves for strike breaking. No, we will not. The Ministry of Defence would not mobilise a reserve to serve in any such circumstances; we must always remember that reserves are volunteers from all parts of the British national community.

Lastly, we considered a number of questions on service courts, the role of service police and service and civilian prosecutors. I say to the noble Lord, Lord Thomas of Gresford, who is a great expert on all of this, that we believe that the summary jurisdiction as a whole—the commanding officers' jurisdiction and whether it complies with the European Convention on Human Rights—is compliant with the European Convention of Human Rights because of the right to choose a court marshal, and because there is a right to a re-hearing of a commanding officer's decision by the summary appeal court.

The noble and gallant Lord, Lord Craig of Radley, asked about the removal of a provost marshal. That matter would have to be considered by the Defence Council and approved by Her Majesty, because that is part of how we build in the idea of independence.

I was also asked about the overlap of civilian prosecutors and judge advocates. Given that the size of our Armed Forces, their service police and the judicial branch has shrunk, it seems to us that there is some advantage in allowing judge advocates to sit in civilian courts and some civilian prosecutors to serve in military courts because it improves the quality and experience of all concerned.

This has been a very useful and constructive debate and we look forward to Committee. I heard an undertone of calls around the Chamber for a reversal of the defence cuts and for a sharp increase in defence spending. I would say simply that we all have to do the best we can for our service men and women, for veterans and for their families within the constraints of the budget we now have, and within the constraints of what our public are willing to pay for.

I am greatly encouraged by the welcome for this Bill in your Lordships' House today, and I look forward to coming back in September to examine the Bill in more detail in Committee and to the exchanges that that stage will undoubtedly bring. I beg to move.

Bill read a second time and committed to a Grand Committee.

House adjourned at 9.20 pm.

Grand Committee

Wednesday, 6 July 2011.

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Lord Colwyn): My Lords, before we start, the noble Baroness, Lady Garden of Frognal, will say a few words.

Baroness Garden of Frognal: My Lords, before the Lord Chairman calls the first amendment, perhaps I may make a short intervention regarding our proceedings in this Grand Committee. The rules in Committee here are the same as in the Chamber: Members may, of course, speak more than once and they may speak after the Minister. However, some self-regulation is none the less required if we are to make progress on the Bill at a conventional pace. On the majority of Bills before your Lordships' House, we regularly debate about four groups an hour in Committee; on this Bill, we have so far managed about four groups a day.

The Committee may wish to recall the guidance in the *Companion* that the debate must be relevant to the amendment in hand and that the Minister may of course be interrupted only for brief questions for clarification. As for speeches in general,

"The House has resolved 'That speeches in this House should be shorter'".

As long ago as 1999, a Leader's Group reported that,

"Second Reading speeches on amendments are unacceptable."

That word is not in the *Companion*, but I suspect that we will agree that the Committee does not want to retrace the debate at Second Reading.

Our target today is to reach Amendment 85A, which is somewhat ambitious. At a convenient halfway point, we shall have a comfort break. Finally, I understand that the Department of Facilities has arranged for the air conditioning to be cooler today, which I hope will further assist our work.

Education Bill

Committee (4th Day)

3.46 pm

Relevant document: 15th Report from the Delegated Powers Committee, 13th Report from the Joint Committee on Human Rights.

Amendment 66

Moved by ***The Earl of Listowel***

66: After Clause 8, insert the following new Clause—

"Minimum qualifications for teachers

(1) To continue in practice or to take up new employment in a school, teachers must have—

(a) a minimum of 50 hours of continual professional development each year, and

(b) such minimum qualifications in child development and behaviour management as specified by the Secretary of State.

(2) Schools have a duty to ensure that the necessary continual professional development is provided."

The Earl of Listowel: My Lords, in moving Amendment 66, I will also speak to my Amendment 67. These are probing amendments, the purpose of which is to gain reassurance from the Minister about the entitlement of teachers to continuing professional development. Given that this is a changing environment, I would be grateful for reassurance about that entitlement.

In particular, if schools are taking more responsibility for the CPD of teachers, there must be clear funding for that in the future, given the need for consistency of CPD across education. As I hope noble Lords will agree, if we are to do well for our children, it is absolutely vital that our teachers are well supported in schools. If teachers do not get the support that they need through professional development, they are much more likely to burn out early. In addition, matters such as the inclusion of difficult pupils will be more difficult if teachers are not given the support that they need to give those pupils the necessary understanding and support.

When Professor Sir Michael Rutter, the renowned clinical psychologist, spoke some time ago at the British Psychological Society, he highlighted his concern that initial teacher training includes very little input about child development. In the past, there was some reference to child development, but it consisted of a rather dry few pages on Freud, Piaget and other theoreticians. The teachers to whom I speak say that they would prefer to learn about child development and about managing children's behaviour a little while after they have started in practice with pupils, because they realise then the importance of understanding these things. It is very important to have a reflective workforce if we are to get the excellent outcomes for our children that we all want.

The bulk of teachers are already in the profession. Although we are looking at ensuring quality in teacher training and induction, most of our teachers are already in schools and many of our teachers are over 50 years old, so it is very important that we also attend to their continuing professional development. I look forward to my meeting tomorrow with Charles Taylor, the Government's adviser on behaviour, who I think would probably agree with me—I hope that I am not being presumptuous—that it is very important for teachers to be able to depersonalise their interactions with their more challenging students so as not to take personally what may seem to the teacher to be a personal attack but which will very often be something to do with what is going on in the home environment.

It is also important that teachers are aware of developmental milestones, for reasons that many colleagues have given in the past. I hope we might also consider developing some of the best practice from the continent, whereby trainee teachers get to observe a child over a long period, take careful notes and share those observations with other teachers, and thereby learn about child development.

[The Earl of Listowel]

Another very helpful approach is that adopted by the child psychotherapist Emil Jackson and others who are working in 10 secondary schools in Brent, north London. They are working with groups of both school staff and head teachers, sitting with them and helping them to reflect on their relationships and the way that it is working in their classes. Another way of getting that understanding of child development into the teaching workforce is in allowing them a space in which they can sit with professionals such as child psychotherapists, clinical psychologists and child psychiatrists, particularly to discuss their more problematic pupils with them. That is very effective and has many benefits. I apologise for already speaking for rather too long to the Committee and beg to move my amendment.

Lord Storey: My Lords, briefly, I agree very much that in-service training—CPD, as we call it—is hugely important for the teachers in our schools. However, I would say that we currently do that. Every school has to have five days of training. In some schools we still call them Baker days, from somebody we know. My concern is that that training has to be of the highest calibre. As often as not, it is merely a day when people can sort other issues and training does take place.

Also, Ofsted inspections have to look at the quality of training in schools. In terms of observing teachers, every teacher—unless they are newly qualified—has to have set performance and management targets and, as part of that, classroom observations have to take place so that every teacher has to be observed, for a maximum of two lessons per week. To answer the noble Earl directly, training takes place in schools for five days a week, but I am always concerned about quality and teachers are observed at least twice a year.

My third and final observation is that the training days can, however, be quite disruptive to pupils because schools take them at different times. Would it not be great if all schools in an area took their training days at exactly the same time, so that parents could prepare for that and it would not be to the detriment of our pupils?

Lord Sutherland of Houndwood: My Lords, I am happy to give strong support to Amendment 66, in the light of the remarks that the noble Lord has just made. However, I have my reservations about the practicability of Amendment 67.

Lord Lingfield: My Lords—

Baroness Garden of Frognal: My Lords, I wonder whether the noble Lord, Lord Lexden, could speak to his amendment in this group.

Lord Lexden: Thank you very much indeed, my Lords. Spare a kindly thought, if you will, for your comparatively new colleague who is speaking to his first amendment to legislation since he had the honour of joining your Lordships' House. This would have been my second amendment, if the nervous novice had not incompetently passed up the chance to move Amendment 65 at the end of proceedings on Monday, when we were caught up in a fascinating session on the GTC. Perhaps I may just mention that Amendment 65 was designed to tighten further the procedures for reporting serious misconduct and I hope that my noble friend will, in his usual benign fashion, be able to write to me about it.

I will turn, still as the nervous novice, to Amendment 73. The aim here is to explore the possibility of adding to the Bill a reference to partnership between maintained schools and independent schools. As before, I speak as a former general secretary of the Independent Schools Council. For generations, the best independent schools have reached out to maintained schools and their wider communities. The Independent Schools Council conducts detailed audits of these partnership activities. Nine out of every 10 ISC schools are involved in them. Sport, music and drama are the most widespread partnership activities.

Since the Second World War, the state has taken different approaches to the issue of partnership and the wider involvement of the independent sector in our education system. The Fleming scheme and then the assisted places scheme enabled talented children from less well-off families to attend independent schools. These are long gone and will not be repeated, but ambitious new schemes of partnership are in prospect. They include the participation of independent schools in the most important educational reform of our time—the academy movement, which features in a later amendment and in the new system of teaching schools.

Many independent schools have already applied for permission to become teaching schools. If they are successful, an increased percentage of the teaching workforce will get an opportunity to train in the independent sector. If this becomes the case, it is even more important that the sector should be able to take advantage of the opportunities that partnerships can bring and should not be unfairly excluded from the opportunities afforded to teachers in maintained schools. One thinks particularly of continual professional development, to which the noble Earl, Lord Listowel, made reference.

Whatever may happen in these exciting new areas, great effort should continue to be directed at ensuring the success of the independent/state school partnerships scheme, which was introduced by the previous Labour Government shortly after they took office in 1997 and made permanent by my noble friend Lady Morris of Yardley when she was Secretary of State. Relatively small amounts of public money have brought teachers and pupils together in enthusiastic partnership projects throughout the country. Since its creation, the ISSP programme has funded no fewer than 346 projects and allocated just short of £15 million—not a large sum but one that produces considerable benefits. The average value of a grant has been around £43,000. The largest single grant, of just over £500,000, was to a consortium of 18 London schools to enable them to offer gifted and talented provision in mathematics, science and modern languages over a number of years. I will not go into further detail; the Government produce full reports on the outcomes of partnership schemes. The current round includes 24 excellent projects.

It is against this successful background that I bring forward the amendment. Much has been achieved and it may be appropriate, in order to safeguard the partnership in future, to put it on a statutory basis. I therefore beg to move the amendment.

Baroness Hughes of Stretford: I will not detain the Committee. I just wanted, in principle, to support the spirit behind these amendments. We have all talked about the quality of teaching being paramount and about ensuring that this goes beyond initial teacher training and involves continued access to good-quality continual professional development.

I particularly wanted to ask the Minister if he could refer in his reply to Amendment 66(1)(b), which makes reference to minimum qualifications in child development and behaviour. I declare an interest because I used to teach such subjects to postgraduate social work and probation students many years ago. More recently my son did a postgraduate certificate in education and is now, I am very pleased to say, a primary school teacher. I was shocked at the very small amount of time spent on child development and behaviour in his training. I know that it is a question of fitting a lot into a relatively small space of time—a year—but the lack of focus on cognitive development and language development in particular was astonishing. Has the Minister any plans to look at initial teacher training and at the focus, or lack of it, on child development? Will each higher education establishment decide that for itself in terms of the national curriculum, or will there be national guidelines to determine that at least a minimum amount of time should be spent on this important subject?

4 pm

Lord Lingfield: My Lords, I do not think that anyone could quarrel with the values behind the noble Earl's amendment concerning CPD. They are excellent. I draw attention to two matters. Two years ago, I carried out some research on the amount of CPD available for SENCOs and other teachers of children with special needs. Alas, the picture is that very little is available. Some schools do it extraordinarily well and a few institutions do it very well indeed, but the picture across the country is very patchy. I went to one university to see an excellent MA course for special needs teachers. Seven people had received grants to go on it and three had received no grant at all. That was for the whole county. That picture was replicated across the country. Therefore, the noble Earl's amendment must be aspirational in this area. We have an enormous amount of work to do.

The noble Lord, Lord Storey, made a very good point, but I suspect that it applies particularly to secondary schools. We all probably know of many primary schools where that level of training does not take place, and the 50 hours mentioned by the noble Earl would require, for every 10 teachers at the school, a half-time teacher to take the classes of those engaged in CPD. It is a difficult matter. Obviously one must support the aspirations behind the amendment, but it would be very difficult to do what the noble Earl wants straightaway.

Lord Elton: My Lords, one disadvantage of the Grand Committee system is that, if one has an interest in the Chamber, it requires one to be in two places at the same time. I apologise for missing the introduction to the amendment as I needed to be in the Chamber.

The noble Baroness, Lady Hughes, has brought me to my feet. I was very struck by what she said about the shortage of training in behaviour management. In the 1980s, I chaired an inquiry into discipline in schools. One day, when I taught in an education college, I discovered I had lost the attention of my otherwise normally engaged adult trainee teachers, so I inquired why that was. They said that it was because they were having their first teaching practice the following week and that was all they could think about. I said, "It is not too difficult; you know three times as much as the best child about your subject and all you have to do is keep reasonable order and carry on". They said, "Yes, but—". I said, "Haven't you been told anything about keeping reasonable order?". "No", they said, "not a word".

I carried that with me into the inquiry and we inquired of all the training colleges in the country whether they taught behaviour management. They all said yes—and, after a comma, added, "as a cross-disciplinary subject". I thought, "I know what that means". We wrote to all the students who had been to the colleges in recent years and we had more than 1,000 replies. We discovered that only one college had actually successfully tackled the subject on its own and none of the others had taught it at all. It is very important because you can have someone with everything that the children need to know in his head but no means of getting it to them because he cannot get them to sit down and stop talking. It is as simple as that. It takes training, time and confidence. I could go on at great length about the different elements. Perhaps there is a means of instilling in the department and the Minister the necessity of not recognising training until it includes training in the management of behaviour in the classroom, because otherwise it will be inadequate.

Another matter I will raise concerns the second leg of the amendment in the name of the noble Earl, Lord Listowel. I see the impracticalities of it; the idea of having four consecutive hours is well beyond the reach of most places. Apart from anything else, who has a lesson for four hours? Children disperse and go to different lessons. The timetabling would be terrible.

I will address another question. Having heard the noble Baroness, Lady Hughes, I wonder whether my experience of 20 years ago is not still in date. We were very much aware of a phenomenon called "classroom isolation". Teachers went in, shut the door and taught. They were alone with their problems, which they did not like to share because their colleagues would think that they were not succeeding. This provision would open the classroom door regularly. That may have changed, in which case I give three large cheers—but if it has not, something along the lines of the noble Lord's amendment would be welcome.

Viscount Eccles: My Lords, this might be a good opportunity to follow my noble friend, whom I think I first met 60 years ago. We are discussing best practice and experience, and it seems to me that the three

[Viscount Eccles]
amendments represent a lot of experience and best practice. However, I would be very doubtful as to whether any of the matters in the three amendments should be statutory or matters for the Secretary of State. If these matters cannot be dealt with within the education system itself, I do not think that they ever will be.

Baroness Massey of Darwen: My Lords, perhaps I may return to the amendment tabled by the noble Lord, Lord Lexden, who has called himself a novice but was extremely cogent. The amendment refers to the, "duty to promote academic partnership".
I wonder whether that is what the noble Lord really means. I know that there are partnerships of all kinds between schools. He mentioned some in music and sport. I am slightly worried about the word "academic". I am not challenging him but I want to highlight it.

Baroness Howe of Idlicote: My Lords, like other noble Lords, I think that the aspiration behind these amendments is to be applauded. The hours that might or might not be available are more of a problem. Whether there should be some tinkering with the hours required must be a matter for more careful thought on Report. Certainly, I am intrigued by the amendment in the name of the noble Lord, Lord Lexden, and there is a lot to be said for it.

We have got quite a lot of flexibility in how academies will develop. Whether there is room for this in the new schools, I do not know. At one of the schools I was at, the Fleming report approach worked extraordinarily well. There was no question of other students knowing about it at all. Everyone was very much on a par and no one knew who was entering in that way and who was not.

My question for the Minister is: who is in charge and are they sufficiently qualified to teach those who are being educated in prisons—young offenders and so on? There is a great deal of young offender education, which I know the Government want to put on a much more comprehensive basis and for many more hours. Under those circumstances, it would be good to know whether any of these amendments might apply.

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): My Lords, I am grateful to the noble Earl, Lord Listowel, for raising the issue of teacher quality and continuing professional development. We have heard that evidence from practitioners—which can be supported, as if that were needed, by a study by McKinsey—has found that the most successful education systems are characterised by strong systems of professional development, high levels of lesson observation, as the noble Earl argued, and continuing performance management. Also understood is the importance of teachers learning from the best and applying appropriate changes to their own teaching practice. Our approach to CPD and leadership training for teachers is based on that evidence. We are keen to improve the capacity of schools to take the lead for the training and development of teachers, and to create more opportunities for peer-to-peer training.

A key part of our overall proposals is the creation of a new network of teaching schools. This will help give outstanding schools the role of leading the training and professional development of teachers and head teachers so that all schools have access to high-quality professional and leadership development. We have also set up an independent review of teacher standards led by outstanding head teachers and teachers, whom we have asked to recommend to us new standards of competence and conduct for teachers. We hope that these standards will underpin our proposed reformed performance management system to make it easier for teachers to identify their development needs. The terms of reference for the standards review specifically require the standards to include the management of poor behaviour.

The noble Earl also suggested that teachers should have to be qualified in child development and behaviour management. I completely agree that these issues are of the utmost importance. Those points were made by the noble Baroness, Lady Hughes of Stretford, and by my noble friend Lord Elton. Training in relation to these issues is already included in all initial teacher training and trainees must demonstrate their knowledge and skills in these areas in order to attain qualified teacher status. However, I was struck by the points made by my noble friend and by the noble Baroness, Lady Hughes, and I will follow up those points with my honourable friend Mr Gibb, who is the Minister responsible for this area. I hope that the noble Earl will also be pleased to know that the Training and Development Agency for Schools has recently developed and put in place a package of support to improve training in behaviour management for all teachers.

The noble Earl also raised the important question of classroom observation. Again, I agree with him—as I think do all noble Lords—about the importance of that. We are keen to encourage more teachers to take part in school-based collaborative and peer-to-peer professional development and to get feedback on their own practice. That is one of the reasons why we are taking steps to remove the so-called three-hour limit that the current performance management regulations place on the amount of time that a teacher can be observed. I know that these are probing amendments but, as regards some of the specific suggestions, I agree with the points made by a number of noble Lords that a requirement to undertake a minimum amount of 50 hours of CPD is not the route down which we want to go, but I know that he was seeking to elucidate the broader points.

My noble friend Lord Lexden raised the important issue of partnership working between schools in the independent and maintained sectors. I am sure that we can all think of lots of examples where that is going on. I agree with him that it would be good to see even more of that. We are working with groups in the independent sector such as the Independent Schools Council and the independent state school partnership forum to explore how we can get more partnership working between schools in the independent and maintained sectors. As he said, schools from the independent sector can apply for teaching school designation. I think that three independent schools have already made such an application.

It is also the case that independent schools can apply to the education endowment fund that helps support new approaches to raise the attainment of disadvantaged pupils in maintained schools that are below the floor standard. I hope that will be another area that will please my noble friend, as we are trying to build closer relationships and break down some of these barriers that have divided the sectors. As regards his specific amendment, however, he may not be completely surprised to discover that a statutory and particularly prescriptive approach is not one to which I am attracted. However, I would certainly be very keen to do all that I can to bring the two sectors together.

The noble Baroness, Lady Howe, asked about the quality of offenders' education. I am afraid that I am not able to reply to her specific points but I will follow that up with the Ministry of Justice to see whether we can get her an answer on those.

There is clearly broad agreement that raising the quality of teaching is important. I hope that I have reassured the noble Earl that there are plans in place to improve this aspect of the education system. We are keen to raise teacher quality by creating the conditions in which schools and teachers take responsibility for driving their own improvement, as has been discussed. In thanking the noble Earl very much for—

Baroness Morris of Yardley: Perhaps I might ask one brief question about the second part of the amendment tabled by the noble Lord, Lord Lexden. If my reading is right, teachers in the independent sector would have access to training on the same terms as those in the state sector, which would mean that the state would pay for their professional development, or at least some elements of it. The two of us have had discussions about this over the past 15 years. I would be surprised if the Minister responded positively, but the fact that he has not responded at all has left a question mark in my mind about his views.

4.15 pm

Lord Hill of Oareford: My view is that independent schools are independent, and I would not look to the taxpayer to pick up the tab. That is my reaction off the top of my head. It is probably the answer that the noble Baroness hoped for, even if I have disappointed my noble friend Lord Lexden. Some noble Lords will know that I am a great supporter of the independent sector, but the word "independent" is important in that regard.

I thank the noble Earl for giving us the chance to have this debate and ask him to withdraw his amendment.

Lord Lucas: My Lords, I am very encouraged by what my noble friend said in response to the amendments. Perhaps I may pick him up on a couple of points. He said some good things about the integration of the independent and state school sectors. Will he confirm that there is no longer any consideration of the idea of excluding teachers in independent schools from the main state teachers' pension fund, which would make migration between the two sectors extremely difficult?

Secondly, there has been a history of initiatives, of which teaching schools is the latest, intended to develop and spread good practice. In my view such initiatives have always foundered on the lack of information flow between good schools and schools that need good advice. I will not detain the Committee with ideas on how that might be improved, but when the Minister is no longer under so much pressure, perhaps I might try to persuade him that the Government have a role in helping to set up structures to enable information to flow better than it does.

Lord Elton: My Lords, before my noble friend responds to that—

Lord Hill of Oareford: I was not planning to.

Lord Elton: Very well. I would be grateful if my noble friend would turn his mind again to the question of the integration of the independent and state sectors, and co-operation between the two. I take it that there would be no philosophical objection to the private sector buying into the provision of these facilities, which he rightly says should not be given away free.

The Earl of Listowel: My Lords, I thank the Minister warmly for his encouraging response, and I thank noble Lords for expressing sympathy at least for the principles behind the amendments—I am very grateful for that. I need to think more about costs, particularly for developing classroom observation. A number of noble Lords pointed out the cost of having teachers away from the class and of having teachers observing other teachers. I want to make sure that that is kept in mind.

Perhaps I might also briefly apologise for something that I said earlier in Committee about the early years workforce. I made some comments that I regret. It is widely recognised that capacity in that area is fairly low and I might have dwelt more on the very positive experience that I have had of meeting people who have a strong vocation in that area of work. With that, I beg leave to withdraw the amendment.

Amendment 66 withdrawn.

Amendment 67 not moved.

Clause 9 : Requirement for teachers in England to serve induction period

Amendment 68

Moved by ***Lord Lexden***

68: Clause 9, page 15, line 13, at end insert "including any duly accredited school overseas"

Lord Lexden: My Lords, Amendment 68 would extend the possibility of carrying out a statutory induction year to duly accredited schools abroad. The most important matter arising here is the manner in which such an assurance and accreditation would be carried out.

[LORD LEXDEN]

As some noble Lords may know, there is a Council of British International Schools—I have the honour of being its vice-president—which provides recognised accreditation for schools that conform to the statutory standards required of independent schools in England, namely the independent schools standards regulations. Recently, the Secretary of State approved the Independent Schools Inspectorate, which works on terms agreed and authorised by the Government as an inspection body for British schools overseas. This has the happy result of creating circumstances in which many international schools can now meet the necessary requirements to offer induction to newly qualified teachers working in British schools abroad if the Government agree to such a development.

Extending the opportunity for teachers to complete their induction year overseas would have at least two direct benefits. First, it would encourage more schools abroad to seek accreditation through COBIS or by some other means on the clear basis that they meet the same standards as British schools in the United Kingdom. Secondly, it would allow teachers who choose to work abroad to return to the United Kingdom with full eligibility to teach in our schools. Under current arrangements, a teacher trained in a European Union country such as Romania can come to teach in England without needing to go through a probationary period, while a teacher who trained in England but left to teach abroad would not be able to teach in England when he or she returned, even after many years of service.

Now that British schools abroad can voluntarily request an inspection by the ISI and demonstrate that they are meeting the same standards as British schools in the United Kingdom, their inability to offer induction is a purely geographical problem. In some other cases, specifically those of Her Majesty's forces schools in Cyprus and Germany, geography is deemed not to matter, presumably because there is a sufficient level of quality assurance from the United Kingdom. Now that kind of quality assurance can be guaranteed at accredited schools. I know that discussions on this matter between COBIS and the Department for Education are proceeding positively, along with parallel discussions with groups such as British Schools in the Middle East and the Federation of British International Schools in South East Asia. It would be good for Britain, and for British teachers and pupils at British schools abroad, if the recognised induction process could be offered in such schools.

Amendment 69 again draws on the experience of the independent sector, and in particular of the ISC's teacher induction panel, established and recognised by the Government in 2002, which last year acted as the appropriate body for more than 1,250 NQTs serving induction in 800 accredited independent schools. It is the largest appropriate body in the country. The panel believes very strongly that newly qualified teachers should be able to serve only one induction period, not least because such a small number fail—16 last year out of more than 29,000 teachers taking induction. That leads the panel to the clear conclusion that, after the established statutory induction period, the outcome is that only a tiny number are not suitable to teach.

The Government are gaining tremendous credit for increasing the rigour of the selection process for state-funded teacher training places, bringing the system closely into line with the very successful teach first initiative. A revised and significantly reduced set of teaching standards that will underpin both the training and probationary years is in the pipeline.

Given that the new set of teacher standards will cover both years, teachers will be in the satisfactory position of having twice as much time to become familiar with, and proficient in, fewer standards. Thus, it would seem to make even less sense if new teachers who could not make the grade were allowed to retake induction. One year should be enough for experienced professionals to make a judgment on whether new teachers are able to cope with the demands of day-to-day school life. Just as we would expect new teachers who show insufficient knowledge and understanding to fail their initial teacher training, surely we should similarly expect those who are unable to maintain order in a way that meets the required induction standards to fail the statutory induction process without being able to extend that beyond the statutory period.

Finally, and briefly, Amendment 72 relates to a specific, but not unimportant, issue arising from the establishment of teaching schools, which are a very welcome development that will begin in September. The new networks of teaching schools will undoubtedly be successful in training their own staff, whether at initial teacher training level or over the statutory induction year but—and this is the issue—would it be altogether wise to allow these schools to become their own appropriate bodies responsible for validating the induction year and for the oversight of the quality assurance of the process? That is the issue that has led to my tabling Amendment 72.

Lord Sutherland of Houndwood: My Lords, this amendment intrigues me, and it raises a question that I hope the Minister can answer. I hope that the proposal would not in any way affect the positive cross-border flow of teachers between Wales and England and between Scotland and England. There are benefits to both sides at the moment.

Baroness Jones of Whitchurch: My Lords, I am very grateful to the noble Lord, Lord Lexden, for giving us the opportunity to look at the issue of induction periods for staff and to consider who should have to go through that induction period and on what grounds.

Amendment 68, which covers international schools—or any "duly accredited school overseas"—seems to make eminently good sense. Obviously, the underlying issue is accreditation, which means that we need to be sure that the schools that are authorised to perform the induction really are able to provide the quality of teaching to the standards that we demand. However, given that young people these days, as part of their natural early adulthood, move around the globe far more than we ever did in our day, I think that it is perfectly reasonable to expect that young people might want to start their teaching career outside the UK and to bring those skills and experiences directly back into the teaching profession in the UK. Therefore, I very much welcome the intention behind Amendment 68.

On the other hand, Amendment 69 seems rather ungenerous of the noble Lord, because it implies that people who fail their induction will somehow use some underhand way of sneaking back in, so to speak, through the backdoor. When I read the proposal in the Bill, I saw it as much more a facilitative thing. As we have touched on in previous debates, some who start their training when they are very young may not really know in what age group or subject they want to specialise. Therefore, I can well imagine a situation in which some young people, having started off their induction teaching one age group, realise that that age group is not for them and, halfway through the induction year, decide to switch, for example, from secondary to primary or vice versa. I would hope that the regulations that will be set out would enable that to happen. It is not about letting poor teachers that have failed being allowed to get back in; allowing that flexibility for young people to make different career choices seems eminently sensible. Therefore, I support the intent in the original Bill.

4.30 pm

My third point is a question as much as anything. Again, I am very grateful to the noble Lord, Lord Lexden, for drawing this to our attention. It concerns the issue of what is a relevant school, and relates to new Section 135A(1)(a) under Amendment 68. In all this, it is not clear to me where academies fit in. "A relevant school" is defined as a school maintained by a local authority. Are we saying that you cannot do an induction in an academy or that if you qualify and go straight to work in an academy, you do not have to have done an induction period but can just train straight off? That needs to be clarified much more clearly than is set out here.

I read the Bill to mean that academies are excluded, although in a letter from the noble Lord, he states that Clause 8, "Functions of the Secretary of State in relation to teachers" and Clause 9 on induction periods for teachers continue to apply to academies. But I would not read that from the legislation as set out here. I know that I am raising a bigger issue about what in the Bill relates to academies and what does not. Perhaps the Minister can clarify whether academies are covered by this when he responds.

Lord Lucas: My Lords, I support my noble friend's first amendment. Making sure that British education around the world is of high quality does Britain a great deal of good one way or another. There are many countries where our education system comes under far less criticism than it does here and where our qualifications are very highly regarded. All the work that we put in here to make sure that they are even better is important. Now that the system of inspection here, with which we are happy, reaches out to some of those schools, we should acknowledge that by extending to those schools the abilities in terms of raising young teachers that we would accord to them if they were in the UK. They are schools following the British system, using British qualifications and mostly British teachers. I see no reason why we should cut them out of that.

I disagree with my noble friend on his second amendment from two points of view. First, if only 15 or 16 people are failing, why are there so few? What kind of rigorous examination has so few people failing? It really cannot be a mark of quality that so few people fail their induction year. I cannot believe that, as set up now, the processes that allow someone to begin an induction year are so perfect that only that small proportion should fail.

Secondly, I want to argue against the premise that people who fail should not be allowed to retry. I know one of those 15 people and I have had a long conversation with him as to why he failed. In my view, the basic reason is that he wanted to make maths fun and would not put up with the Gradgrind methods that he was told to use. It was silly of him to argue. He should have just knuckled down and gone through it for a year. Then he would have been free to teach and to explore his own way. But he did not because he is a headstrong young man and full of what strikes me to be very good ideas as to how to enliven a subject that I have always enjoyed but many people have not. Where such people have come up against what in my mind is the wrong verdict or have tackled things in the wrong way, they should be given another chance. I look at this in both ways: a lot more people should be failing and they should be given a second chance.

Baroness Garden of Frognal: I thank my noble friend Lord Lexden for giving us this opportunity to talk about induction, which is an important part of ensuring we have good teachers in our schools. Induction is like a probationary period. It provides a statutory national framework for supporting new teachers to make the transition from initial teacher training to their career in teaching. It ensures that NQTs receive support, training and development. At the end of this time, new teachers have to pass an assessment and can then become full members of the teaching profession. Before I come on to the amendments in detail, let me set out briefly some of what the Government are doing to get excellent teachers into the profession, because induction is at the end of the process and needs to be viewed in that context.

Our initial teacher training strategy, which we recently launched, includes the following measures: we will attract the best graduates by offering one-off training bursaries of up to £20,000; we will double the size of teach first, a scheme that has been highly successful in attracting graduates from some of our best universities into teaching; we will raise the bar for entry to teaching by funding training only for those with at least a second class degree, and by introducing literacy and numeracy entry tests; we will focus teacher training better on the skills that teachers need most, including managing behaviour and teaching early reading, items which we have already touched on in this Committee; and, we will give more schools a strong role in the recruitment and training of the trainees that they will go on to employ.

Alongside these reforms, we have been reviewing teacher standards, including those that trainee teachers must meet. We expect shortly to produce new, clear

[Baroness Garden of Frognal]
standards that raise the bar for newly qualified teachers who enter induction, so the Government are doing much—

Lord Knight of Weymouth: Given that the Minister raised the background to this debate, which I am grateful to her for doing, could she clarify one point for me? In terms of the bursaries being proposed in the paper, can the Minister give us her view of the impression given by awarding up to £20,000 per secondary school priority subject, yet so much less for primary school teaching? Is it not really important that we get things right in primaries so that people can become successful in secondaries, and should the bursaries not reflect that?

Baroness Garden of Frognal: Some of this is to do with shortages of teachers. There are more shortages of secondary school teachers, which is why those priorities have been set. However, we would entirely agree with what the noble Lord has said about the real importance of primary school teaching and of introducing an ethos of learning, and of the fun of learning, at a very early stage. Primary school teachers are of the utmost importance in that. The Government are doing much to improve the quality of those who enter induction in the first place but, as my noble friend Lord Lexden has said, induction itself is of great importance. It helps NQTs to handle the fresh challenges they face in their first teaching post, to strengthen their skills and to improve their teaching.

On Amendment 69 it is the case, under current regulations, that NQTs may only serve induction once—a point that has been picked up by noble Lords. In answer to the noble Baroness, Lady Jones, it is a fact that the previous Government's regulations prescribed only one induction period. We have reviewed that position and decided to continue it. Of course, if things change we can always review the position but that is what we are holding to at the moment. Recent discussions with those who work with induction arrangements have supported the current position, reflecting the important points that my noble friend Lord Lexden has made today. We do not plan to allow NQTs to serve more than one induction period. It is of course a key element of ensuring that only those NQTs who meet the required standards are permitted to continue to teach in maintained schools, and we would wish to maintain that.

In answer to the point by the noble Baroness, Lady Jones, about academies, they are classified as independent schools and as such they may choose to offer statutory induction, although they are not required to do so. We will continue that position through regulations. My noble friend Lord Lexden raised an important issue—

Baroness Morris of Yardley: Can the Minister clarify that? If you do your initial teacher training and chose to teach in an academy, if there is no requirement to do an induction year, how do you get your complete teacher training certificate? Is it not needed? I thought every teacher had to have an ITT qualification and undergo a successful period of induction. What is the position for a teacher going into an academy? It is not quite clear.

Baroness Garden of Frognal: They are classified as independent schools, so they come under those criteria.

Baroness Morris of Yardley: I understand that. It is the teacher I am concerned about. It is just a scenario. The teacher completes a period of initial teacher training for a year as a PGCE, then goes into an academy and does not have to serve an induction year. What happens? I am not sure how they complete their qualification.

Baroness Garden of Frognal: I apologise to the noble Baroness. I thought we had switched to another subject. A teacher who wishes to teach in a maintained school would have to have gone through a period of induction, but I had moved on to the teaching schools.

Baroness Morris of Yardley: If the teacher finishes their initial teacher training and then gets a job in an academy, surely the academy has an obligation to carry out their induction year. Otherwise, they cannot qualify at the end of it.

Baroness Garden of Frognal: Academies can choose. It is a choice, as it is with independent schools.

Baroness Morris of Yardley: That is terrible.

Lord Knight of Weymouth: I do not want to delay the Committee, but this is really important. There is no requirement on academies. I can understand there being no requirement on academies if the number of academies was small, but if, as it would appear, we are starting to move towards a vision of every secondary school being an academy, how can we ever be sure that we have enough induction places for the workforce that we need to keep continuing to recruit?

Baroness Hughes of Stretford: As I understand this—I may be wrong—teachers' training is not fully validated until they have successfully completed an induction period. If the choice of whether there is an induction period rests with the school or academy and is not a right for the teacher, there could be a large number of people going into those situations whose training is never finally completed and validated if they have not done a satisfactory induction period.

Baroness Garden of Frognal: My Lords, we seem to have hit an area where it would be helpful if we take this away, look at the detail of the arrangements and write to members of the Committee. The position at the moment appears to lack some clarity. We will write.

Baroness Howarth of Breckland: When the Minister writes, will she tell us the principle behind this? Some of us are anxious that we are going to move towards a position where anyone can teach in any school without appropriate qualifications. We hope that is not the Government's position and so look forward to that being clarified in the Minister's reply.

Baroness Garden of Frognal: We will sort that out in the letter because that is certainly not the intention.

Baroness Massey of Darwen: Could the Minister also explain what the situation will be in so-called free schools where, as I understand it, people can teach without qualifications?

Baroness Garden of Frognal: They are independent schools, so the freedoms that have pertained for some time in the independent sector would apply to free schools.

Baroness Massey of Darwen: But the independent sector does not have unqualified teachers.

Baroness Garden of Frognal: They do not need NQT status in free schools or independent schools. That is not a change.

Baroness Jones of Whitchurch: I am sorry to dwell on this, but I want to pick up the point that the noble Baroness made earlier about induction periods. She has confused me because the legislation states that regulations will be made,

"as to the number of induction periods that a person may serve, and the circumstances in which a person may serve more than one induction period".

As I said in my original speech, that sounds perfectly sensible. The Government are now saying that they have already decided, and that it is one. The legislation implies a level of flexibility that the Minister is now saying does not exist. It is one induction period—end of story.

4.45 pm

Baroness Garden of Frognal: Both the current and proposed primary legislation enable the Government to allow more than one induction period to be served. However, under the previous Government this was not the case, and this Government have decided to continue the practice of the previous Government, so there has not been a change and the facility exists, if required.

Moving on, my noble friend Lord Lexden raised an important issue relating to induction in teaching schools. He indentifies a risk in the possibility of the same teaching school providing an individual's initial teacher training and hosting their induction. I agree with my noble friend when he says that we must not allow this to be a loophole through which poorly trained teachers can enter the system. I can reassure your Lordships that only schools of the highest quality will be able to become teaching schools that provide ITT. They will need to be judged outstanding by Ofsted and pass a rigorous assessment, overseen by the National College, in order to become a teaching school. They will then need to go through the robust accreditation process that all ITT providers currently go through. If they are successful, their ITT provision will be subject to Ofsted inspection. There will be safeguards on the quality of induction in teaching schools by means of the independent appropriate body that oversees induction. I know we will come on to talk about that body in more detail when we move on to the next amendment, tabled by my noble friend, Baroness Perry of Southwark.

The Earl of Listowel: I beg the Minister's pardon for interrupting her, but one point that I know concerns some head teachers very much is the status of those primary schools that currently have a status as a sort of teaching school. The head teacher whom I have in mind works in a very challenging area. Her school's results in terms of educational attainment may not be so high, but it is recognised that she is doing a fantastic job in a very difficult area, where she works with some very challenged families. The concern is that, when the Government are setting parameters for the new teaching schools, they may not take enough cognisance of the huge progress that these head teachers have made with their pupils and will keep more in mind the bare bones of achievement in terms of academic attainment. I would be grateful if the Minister could reassure me that this will not be the case and that head teachers who make a huge difference to children coming from difficult challenging background will not be excluded from the teaching schools initiative.

Baroness Garden of Frognal: My Lords, the schools will need to be judged outstanding by Ofsted, so there will be levels of academic attainment within that. However, we are in no way underrating the value of schools such as the one to which the noble Earl has referred. They may well be able, say, to work in partnership with a school that was rated outstanding, bringing the special skills they have developed in those very challenging schools to bear on the induction period.

Finally, let me turn to the issue of induction at British schools overseas, which was my noble friend's other amendment. The British education sector overseas is growing rapidly. It appeals both to English-speaking expatriates and to local parents in many parts of the world, who want their children to have an education instilling British values and ethos. For those reasons, I agree with the noble Lord that British schools abroad should be able to offer induction.

In response to the question from the noble Lord, Lord Sutherland of Houndwood, there will be no impact at all on current arrangements between England and Wales and between England and Scotland—those will not change.

The good news is that primary legislation does in fact already allow this. These schools are legally independent schools, and independent schools are able to offer induction to their NQTs if they choose to do so, providing the teacher has QTS and the school can provide a suitable post. However, there is currently a legal barrier to this happening, in secondary legislation. Following our review of induction arrangements, I have therefore asked officials to ensure that proposed amendments to the induction regulations will include changes that allow certain British schools abroad—those that have been inspected under the British schools overseas arrangements and accredited by COBIS or other reputable British schools overseas organisations—to offer statutory induction to their NQTs.

[Baroness Garden of Frognal]

I hope that my remarks have provided some reassurance to my noble friend Lord Lexden, and that he will feel able to withdraw his amendment.

Lord Lucas: My Lords, since the noble Baroness is in writing mood, will she enlarge slightly on the questions that I asked in regard to the second amendment of the noble Lord, Lord Lexden? If we are focusing hard on trying to get high-quality teachers, we need to be careful to ensure that we have not built into the system disincentives to getting rid of teachers who are not up to the grade. It was always the problem with hanging someone for stealing a sheep that juries would never convict. It seems to me that we have a similar situation here, as the penalty for failing an induction year is so harsh—the person may never teach in a maintained school again. Most people strain to get these individuals through their induction year and to pass them just because the penalty is so harsh rather than because they have done well enough to be passed into the teaching profession with all flags flying. Therefore, I would like to understand the logic behind the Government's decision to keep it as "once only" rather than allowing a second chance.

Lord Elton: Another class of people who deserve a second chance is those who fall over their shoelaces in the first term and lose the respect of children. They are never going to get that back in that school and will never get a fair trial. They need to go to another school and start again, where you may get a very good teacher out of the experience.

The Earl of Listowel: My Lords, I am sorry to trouble the Committee further, but I am still a little worried by the Minister's response. I was grateful for what she said but I can see a situation where excellent head teachers working extremely hard in very challenging areas producing outstanding results do not get the credit due to them for doing that. It is far easier to get high academic results in a school in a leafy suburb than in an inner-city school. We risk denying our future teachers an experience of learning from an inspirational head in an inner city if these plans are not carefully balanced to ensure that there is a broad base of experience in these teaching schools and they are not situated predominantly in areas where it is easier to get high educational attainment. However, we need to aim always to get the highest educational attainment for all our children.

Lord Lexden: My Lords, my three amendments have precipitated a discussion on induction that has ranged rather more widely than I anticipated. I thank all those who have contributed to this wide-ranging discussion, including my noble friend Lord Lucas who rebuked me for my mean-mindedness. I will work on it and seek to correct it. I also thank the noble Baroness who spoke on behalf of the Government for the many reassurances that she gave, particularly for her comments about the expanded arrangements now in contemplation so that induction can be undertaken in British schools abroad. I beg leave to withdraw the amendment.

Amendment 68 withdrawn.

Amendments 69 and 70 not moved.

Amendment 71

Moved by ***Baroness Perry of Southwark***

71: Clause 9, page 16, line 41, after "regulations" insert "must provide for an appropriate body to receive a report from a person who is independent of the school and local authority, has successful teaching experience and who has observed the teacher during the induction period on more than one occasion and"

Baroness Perry of Southwark: My Lords, this amendment continues with the theme of induction and deals with the rather important issue of who assesses whether the teacher has or has not successfully completed the induction year. The Bill is rather misty on who will do this assessment. New Section 135A(2)(h) simply requires the head teacher ,

"to make a recommendation to the appropriate body".

My amendment would allow a person who is independent of the school and the local authority to make the judgment. They will be well qualified to make it because they have successful teaching experience and will not pop in just once to make the assessment but will observe the teacher during the induction period on more than one occasion. We all know that you can have one bad lesson and then one sparkling one that goes terribly well, so it is important to see the teacher on more than one occasion.

This is very important, not only because, as we all agreed in the previous debate, induction is a vital part of the training of the teacher, but because it is sometimes very difficult to make an assessment. As I know from long observation and experience, the college or university where the students do their initial training tends to judge them much more on their academic achievement than on their practical performance. Also, it will be very reluctant for all sorts of reasons that I do not need to enumerate to fail many of its students. Now we move on to the school. If it is left to the school and the head, there is also a very real difficulty. The young teacher will have been a colleague for a year, and the school will be very reluctant to make a harsh judgment, even when it has grave reservations about her or his ability to perform well. Therefore, we are left with the crucial option of bringing in a well qualified person who will observe on several occasions.

I did not speak in the previous debate but I hope that even those who have not done too well in their first year might nevertheless have their induction period extended, as is suggested by new Clause 135A(2)(g). Like my noble friend Lord Elton, I have seen many teachers flounder in one school and do very well in the next. Crucially, we have heard that only 15 or 16 fail every year. That is simply not enough. We are still letting through a tiny minority of people who are not born to be teachers and who are not very happy in the teaching profession. For their sake, as well as for the sake of the thousands of children whom they may influence in their career, it is important that they are given at the very beginning the chance to say, "Teaching is not for me, so I will go into another profession"—rather

than, out of the kindness of our hearts, just swinging them through. It is pretty miserable to spend the rest of your career doing a job that you are not good at, that you do not particularly enjoy and in which you struggle every day. The red light should come on at a very early stage and I hope the amendment will go some way to making that possible. I beg to move.

Lord Storey: My Lords, I will speak briefly. In days gone by, the inspector called. They would sit and watch newly qualified or probationary teachers, as they were called in those days, and make a decision. We have moved on considerably.

My current experience—I have a newly qualified teacher—is that it is a very detailed process. It is not just about one classroom observation. The newly qualified teacher will have a mentor in school who will guide them through any issues or concerns that they have. Each term, they will be observed on average two or three times. At the end of each term, a detailed form will be completed, which will have to be signed by the mentor and head teacher, both of whom will also provide comments. The newly qualified teacher can give an input into how they feel the first term has gone. That would be in partnership with the local authority and the local authority would then receive that form, which would be completed each term, three times a year. The newly qualified teacher would have to be successful in each of those terms, so it is not just a question of the head teacher observing the newly qualified teacher; other people would be involved in that as well. It would not just be about literacy and numeracy, but it might be that the person responsible for science in the school would observe a class that the newly qualified teacher was taking.

Currently, it is a very rigorous and robust process. I have no objection to an outside inspector or independent person coming in, but I want to assure my noble friend that this current process is very worthwhile.

5 pm

Baroness Morris of Yardley: Perhaps I could ask a question as part of my response to these amendments. I was going to raise this in the previous debate. We talk about the figure of 15 who failed their initial teacher training, which appears to be very low. I am making an assumption that the selection procedure is not so perfect that it has this right. Before we bandy that figure around, perhaps the Minister might let us know how many students drop out, because sometimes there is a managed drop-out. I genuinely do not know the answer to that. That figure might also be very low. It might be useful to have a picture of how many start and finish as well as the statistic of the 15.

The Earl of Listowel: The noble Lord, Lord Storey, reminds me of a meeting that I had with the noble Baroness, Lady Walmsley, and some head teachers a year or so ago. One subject that came up was mentoring. I am not sure whether it was the mentoring of newly qualified teachers or teachers in initial training. The head teachers were making the point to us that it is very important that the quality of their mentors is right. I forget the gradations, but perhaps they are outstanding, good and satisfactory teachers. The head teachers regretted the fact that sometimes teachers in initial training might be given just a satisfactory mentor when they should have a good or outstanding mentor. They may have been saying that they should have outstanding mentors all the time. Perhaps the Minister will bear that in mind. One way to improve outcomes in this area might be to ensure, more consistently, that the mentors are of the highest standard for people in initial training or their first year.

Lord Hill of Oareford: My Lords, as was clear in the previous group of amendments, I very much agree with my noble friend Lady Perry that we have to encourage the best teachers into the profession and support their professional development. I understand that the intention of her amendment is to ensure that only those teachers who are good enough to pass the induction should become full members of the teaching profession. I support that aim.

We have talked a little about the numbers. The figure of 15 is the correct figure but in response to the question from the noble Baroness, Lady Morris of Yardley, in terms of managed moves the figure is something like 10 per cent. That lends some credence to the point of the noble Baroness. Part of the process is that people drop out—the 15 who do not make it—but there are others who do not make it in a less apparent way.

Perhaps I can briefly set out the current arrangements for induction, although I thought that my noble friend Lord Storey gave some helpful observations on that. As he said, each NQT is provided with a tutor who is an experienced qualified teacher and their role is to mentor the NQT on a day-to-day basis, to observe their teaching practice throughout the year and to give them feedback. They contribute to formal assessments of NQTs, which take place each term. At the end of the year the NQT is judged on whether they have met the required standard to become a full member of the teaching profession. Schools do not make that final judgment; they have to work with the independent appropriate body, which has overall responsibility for ensuring that the induction is fair and rigorous and that the NQT gets the appropriate support. It can visit the school, speak to the head teacher and to NQTs to check up on progress. The independent appropriate body makes the final decision on whether the required standards are met, based on the assessments that have taken place over the year and the recommendation of the head teacher.

Arguably, no set of arrangements is absolutely perfect. We are currently looking at induction and, if my noble friend has any individual cases of appropriate bodies not maintaining the required standards, I would be keen to meet her to discuss the issue further. In any case, it might be helpful if I could arrange a meeting for her with the Schools Minister with responsibility for this area just so that we can tease out some of these issues a bit further.

Induction arrangements are just one element of the Government's overall reforms, the key aim of which is to raise the quality of new entrants by toughening entry requirements and by investing more in attracting the best graduates. We hope that that will improve the quality of NQTs entering induction in the first place,

[Lord Hill of Oareford]
which seems to me to be the key issue. I believe that, taken together, our reforms are more likely to achieve the increase in quality that we all seek than would be achieved by the introduction of a new check—to check the checkers, as it were—into arrangements that already feature an independent appropriate body. However, I understand the points that my noble friend made and I would welcome the opportunity to discuss the matter further by asking that she raise her concerns with the appropriate Minister. On that basis, I hope that she will feel able to withdraw her amendment.

Lord Sutherland of Houndwood: My Lords, before the Minister sits down, would he accept that there is a difference between a system in which, by and large, those who make the assessment—that is, the referees—are either coaches or mentors or colleagues and a system in which the independent referee is not also a coach? The difficulty in that relationship is, I think, the point of the amendment.

Lord Lucas: Yes, it would be rather like driving tests being administered by the driving instructor.

The Earl of Listowel: Can I trouble the Minister just a little further? I was grateful for his response about ensuring that there is a high-quality mentor for trainees. If he had a little bit of time to drop me a note on how the mentors will be selected—both for the teachers in initial teacher training and for those in the qualified teacher year—I would be grateful to him for that.

Baroness Sharp of Guildford: I, too, apologise for intervening at this point, but there is one issue on which I would be grateful to have a little bit of clarification. My noble friend the Minister talked about the substantial changes that are being made in teacher training provision. The biggest change is the switch from training teachers in ITT settings, within a higher education environment, to training teachers within schools. Am I right in thinking that there is no legislation—certainly there is nothing in the Bill—that covers that change? Does it require legislation?

Lord Hill of Oareford: I do not believe that legislation is required for that, but we will come on to that issue in a later group, where we have some specific amendments on the role of the HEIs.

Baroness Perry of Southwark: My Lords, I thank the Minister very much for his characteristically generous response and for his understanding of the point that is being made. I am particularly grateful to the noble Lord, Lord Sutherland, for making the point that I was trying to make, which is that those who have been colleagues, coaches and mentors—and all the other good things that we must have during induction—are not the best people to make a final, and perhaps rather harsh, judgment at the end of the induction. I feel that having an independent judgment is important.

However, in view of the Minister's generous response to have further discussions, I beg leave to withdraw the amendment.

Amendment 71 withdrawn.

Amendments 72 and 73 not moved.

Clause 9 agreed.

Clauses 10 and 11 agreed.

Schedule 2 agreed.

Clause 12 : Abolition of the GTCE: transfer schemes

Amendments 73A and 73B not moved.

Clause 12 agreed.

Schedule 3 : Abolition of the GTCE: transfer schemes

Amendments 73C and 73D not moved.

Schedule 3 agreed.

Clause 13 : Restrictions on reporting alleged offences by teachers

Amendment 73E

Moved by ***Baroness Hughes of Stretford***

73E: Clause 13, page 20, line 6, after "teacher" insert "or other member of staff"

Baroness Hughes of Stretford: Clause 13 introduces into law restrictions on the reporting of alleged offences by a teacher in a school up to the point at which that teacher is charged, if they are charged, and covers matters concerning the possible breach of those reporting restrictions and possible defences of those breaches. Noble Lords will know that this has long been an issue and that teachers organisations, and head teachers organisations, to some extent, have talked about it. In fact, the previous Government responded positively to the evidence put before them but decided not to legislate. Instead, they revised the guidance issued to the Association of Chief Police Officers advising police forces not to release the identity of individuals to the media prior to formal charges being brought. The Labour Government also brought in procedures to speed up the processes of investigation because that is another important issue.

I think the general view is that those two measures have had a significant impact and that the problem of reporting of—often very pernicious—allegations about teachers and people in schools has significantly gone away. However, the Government have decided to legislate and, because we are generally sympathetic to the arguments put forward, we do not oppose the legislation. What we are concerned about is that, having decided to legislate, which is a very important step because it is curtailing the freedom of the press by statute, the Government have decided to do so for teachers only. If you are going to legislate on such an important matter rather than go down the route that we have already gone down, which has had a great impact on the

behaviour of the media through self-regulation, we have to be very clear about the principles on which you are legislating, about the evidence that is the basis for that legislation and, therefore, on where you draw the line. Those are the key issues that the Government have to speak to us about today to justify why they think the legislation is appropriate for teachers and for teachers only.

I think we all accept that if people are working with children, particularly in a situation such as a school where it is very concentrated and there are large numbers of children, they can suffer extreme difficulties from unproven allegations, even if no charges are eventually laid because it affects the way they do their job, it generates mistrust from parents and people are often assumed to be guilty, even if the police decide there is no substance to the allegations and charges are not brought. We have stories from the past of longer term difficulties when people's employability has been adversely affected by these kinds of allegations.

We are also aware that it is not just teachers who are in situations where those kinds of allegations can be made. Changes in schools, particularly over the past 10 years or so, have made this very significant. There is a wide range of people now in schools who are doing very similar things to teachers in so far as they are in close contact with children and are often dealing with very challenging children with special educational needs or behavioural difficulties. It is not only teachers who are supervising children. For example, support staff supervise children in non-classroom situations in the school, in the playground, after school and in after-school clubs. It will not necessarily be teachers in those situations. Clearly, those same arguments apply in sixth-form colleges and further education colleges. In a previous day in Committee, I think that we heard the noble Baroness, Lady Sharp, advise us when we were discussing searches that it would probably be security staff in colleges who would undertake searches, not the qualified further education lecturers. The reach of this provision is therefore very restricted.

Also, as I understand from reading it, the provision would not include—the Minister will correct me if I am wrong—people who are teachers but who are providing supply cover, or who are on a temporary contract, or who are teaching in an off-site situation. As it stands, in its very limited reach this proposal does not relate to the real world in schools at the moment or to the wide range of people who are dealing in very close contact with children. In the other place, the justification which the Minister there gave for the limited reach of the Government's proposal was that they had evidence of the impact on teachers but not to support the application of the legislation to school support staff, or to teachers in sixth-form or FE colleges. In fact, Unison has carried out its own survey using the same question that the Association of Teachers and Lecturers used, which has provided some of the evidence to support a case for teachers.

The results of that survey showed that nearly half of all the respondents had experience of support staff in schools facing allegations from pupils, 33 per cent of which resulted in an investigation. Twenty per cent of those accused were suspended and 15 per cent were reported to the police, so there seems to be a substantial body of evidence to suggest that these are also issues for significant numbers of school staff. Similarly, in relation to lecturers and other staff at FE colleges, the Association of School and College Leaders has also provided a wealth of evidence and case studies, some of which were rehearsed in some detail in Committee in the other place. I will not detain this Committee now with those examples, as they can be read in the *Hansard* report from that Committee, but there is evidence of lecturers in sixth-form and FE colleges experiencing the same kind of problem.

My Amendments 73E to 73H, 73J and 73K would therefore simply extend the Government's proposals on reporting restrictions on allegations, which cover the period up to the point only of the person's being charged, to non-teaching school staff and to lecturers in sixth-form and further education colleges. The noble Baroness, Lady Walmsley, has some amendments in this group as well and I look forward to hearing her arguments. I think she is supporting the extension to sixth form and FE lecturers with her Amendment 75, but in her Amendment 75A she is proposing "Wait and see—let's look again in two years" about school support staff.

I simply conclude with the points that I made right at the beginning: if we are going down this road of applying legislation to restrict the reporting in the media of certain allegations, it has to be on the basis of principle and of evidence. In that regard, I cannot see that the case can be made only for teachers. The Government have got themselves potentially in a difficult position, because I could of course go further. I could talk about people working in residential care and in children's homes, or about people working in a whole variety of situations—in young offender institutions, for example. To be quite honest, that is the problem that the Government have created for themselves here. Understandably, once you start to use legislation, other groups will say, "We are in the same situation so this should apply to us too".

This is an education Bill and, for the moment, I shall not use those arguments to that extent. I feel that there is no justification for limiting these provisions to teachers only and, as regards education, these other groups of staff ought to be covered by the same protections. I beg to move Amendment 73E.

Lord Black of Brentwood: This is not the best day for British journalism, I fear, so I almost hesitate to declare an interest as a director of the Telegraph Media Group and chairman of the Press Standards Board of Finance. I spoke on these matters at Second Reading, expressing my concern that Clause 13 is unworkable, unnecessary, has huge, significant ramifications for open justice, sets a damaging precedent and, above all, is based on scant evidence. I am very glad that the noble Baroness raised the issue of evidence because it is very important to this clause.

Of course, it is appalling if anyone, not just a teacher, is falsely accused of a crime, but the transparent pursuit of justice is vital too, as it is part of the constitutional compact between the courts, the media and the public. Justice can be effective only if it is seen

[LORD BLACK OF BRENTWOOD]
to be done, and that is why the media is always opposed to reporting restrictions, except in the most pressing circumstances and where there is overwhelming evidence of need. I fear that my interpretation of the research and data in this area is that that evidence is incredibly thin.

On Monday, we heard from the noble Lord, Lord Puttnam, about the evidence-based approach to policy. He said,

"Creating policy involves learning lessons from the past and gathering evidence from the present".—[*Official Report*, 4/7/11; col. GC 52.]

I could not agree more. The best evidence that we have is from the Department for Children, Schools and Families' submission to the 2009 Select Committee inquiry into allegations against school staff, which concluded after careful analysis that there was no case for teacher anonymity. Subsequently, I have checked with some other bodies that might know about it.

It is important that the Committee looks at the issue of evidence. I have talked to the Press Complaints Commission, which has other issues on its mind at the moment, but it looked at the cases it had dealt with over the past four years and could find only two relating to teacher anonymity where there may have been a breach of the industry's code. The secretary of the code committee of the Press Complaints Commission confirmed to me that there had been no representations from teachers' organisations to the code committee to deal with this issue. I talked to Mr Tony Jaffa of Foot Anstey, one of the leading solicitors in the country dealing with local media, who wrote to me to say that:

"My colleagues and I do not have any recollection of any regional paper ever having received a complaint from a teacher in this context … We have no evidence to support the proposed change … If this were a real problem I would expect to have seen post-publication complaints, PCC complaints, and/or libel claims. We have not seen any of these".

The noble Baroness referred to a UNISON survey, which was very similar to the results of the survey conducted by the Association of Teachers and Lecturers, which points to a high number of allegations that have been made against staff. Among that huge potential number, the number of actual press reports is tiny. This clause is all about restrictions on the media, so we have to look at the number of press reports that follow, not at the number of allegations made within schools and further education institutions. If there is precious little evidence of a problem relating to schools, I can find even less rationale for extending this to further education institutions and to other staff as a number of these amendments seek to do. I certainly cannot find any in the 2009 Select Committee inquiry.

The other point of great concern to me is precedent. At Second Reading, I warned that Clause 13 was,

"the thin end of a wedge that will lead inexorably to much wider reporting restrictions",—[*Official Report*, 14/6/11; col. 734.]

that would have a profound impact on the local media in particular. If we extend the terms of Clause 13 beyond teachers to other members of staff and to further education institutions, as Amendment 73 and subsequent amendments seek to do, as the noble Baroness has said, why stop there? How do the Government explain where the dividing line is, especially when they have already said, as they did in the schools White Paper, *The Importance of Teaching*, that they would,

"consider whether these measures should also be applied to the wider children's workforce"?

In 2009, a survey among local authorities found that allegations—I make the point that it is allegations and not media reports—were an issue across a number of employment sectors involving children, including social care, health care, foster carers and the police. That already brings another significant potential group of people within this ever-expanding set of potential reporting restrictions. As the noble Baroness said, there are other careers where individuals are sometimes alone with children. If we accept the extensions to Clause 13, what is the logic in excluding them? The list could include hotel staff, babysitters, dentists, vicars, scout masters and museum staff. I do not know where it would end.

We can already see it happening in other areas, which is why this clause and this debate are so important. The General Medical Council has suggested that open hearings should be replaced by private discussion between the GMC and a doctor intended to reach mutual agreement on,

"the measures necessary to protect the public without the need to refer the case to a public hearing".

That would apply even in the most serious cases—possibly involving children—that end up in the suspension or removal of the doctor from the register.

It is not fanciful to see that unless we draw a strict line here, we will end up with a wide range of reporting restrictions fundamentally affecting the rights of children that, in effect, usher in a new age of secrecy and cover-up where crimes against children are concerned. As the noble Baroness has said, we interfere with media freedoms in this area at our peril, not because of their impact on the media but because of the impact on the justice system. That is why the groups of people covered by this legislation should not be extended but should be kept as tight as possible.

Finally, I know that my noble friend will speak to Amendment 75A, which is on a mandatory review of reporting restrictions. I am all in favour of a review of the efficacy of the legislation eventually passed in this area because I genuinely believe that it will prove to be unworkable, particularly with regard to issues to which we will turn in the next group. A review must be even-handed and must take evidence from all those involved; that is, the media, children's charities, the police and so on. As I read it, the amendment seeks to direct such a review even before there is any evidence, which cannot be right. By all means, let us look at this again if this legislation reaches the statute book. I think that it will prove to be essential, but it needs to be a proper and independent review.

Baroness Hughes of Stretford: The noble Lord seems to be arguing against any reporting restrictions. Is he arguing against the inclusion of Clause 13 or for the Government's case that this should be restricted to teachers? If so, given the nature of his arguments, how would he justify this for teachers and for teachers only?

Lord Black of Brentwood: My Lords, that is a very easy question to deal with. I am opposed to the inclusion of Clause 13 in its entirety. That was the basis of the remarks I made at Second Reading. However, I sensed the mood of the House on that day, and of your Lordships, that it is unlikely that the removal of Clause 13 will ever happen. These amendments, and amendments to which we will come subsequently, are meant to deal with the reality of the situation.

Baroness Jolly: My Lords, these Benches certainly welcome Clause 13. Our Amendment 75 extends Clause 13 to include sixth-form colleges and colleges of FE. In the interest of moving on, I shall not repeat most of the arguments already made, although I will add one point. As a result of the Woolf report, staff in colleges of FE will teach young people aged between 14 and 16 on vocational courses. This is to be applauded as CFEs are far better places to deliver vocational courses, but it means that, for the first time, much younger pupils will be in those colleges. They deserve the same level of protection as afforded by Clause 13. This provision adds a bit more meat to that.

5.30 pm

Amendment 75A calls for a report on the whole process two years down the line to see whether the process has worked, to collect data and, on the basis of that evidence, to consider extending the reporting restrictions to all staff in schools and FE colleges. Will the Minister consider this extension of the provisions in Clause 13 to include colleagues in FE colleges and review the process after two years to extend it further to other staff dealing with students in colleges and schools?

Lord Knight of Weymouth: I shall to speak briefly to this amendment and to this clause. I am motivated in large part by the speech made by the noble Lord, Lord Black of Brentwood. I wrestled with this subject as a Minister and came under a lot of pressure to bring in a clause such as Clause 13. My judgment at the time was that it would be a slippery slope—the slippery slope that has been described by the noble Lord—and that it would start to include an awful lot of people. The NSPCC put the argument very strongly that we should not go down the road in Clause 13 and that it would be better for children if we put pressure on the enforcement authorities to get on with it and bring cases to justice where there was a case to be put. I was pleased that we managed to get some agreement from the Association of Chief Police Officers to accelerate things. It will be interesting if the Minister has any information about whether that genuinely accelerated things or whether the Minister was just told that it accelerated things.

Probably that is where my instincts lie. A better way of dealing with things is that the police should not feed information to the press and that they should get on with prosecution if that is what needs to be done. Then the blight that can affect professionals in schools as a result of false allegations can be lifted very quickly because there is no doubt of the seriousness of the problem for some individuals.

However, if we are going to have Clause 13, I support the amendments put by the noble Baroness, Lady Hughes. If you are going to give this protection to people who work in schools, you need to give this protection to all people who work in schools. These days, we see support staff, in particular, doing a range of work. In a lot of cases, it is support staff who are doing one-to-one work in schools, not the higher-qualified person, who is left to deal with the majority.

If there is a case to be made for teachers, there has to be a case made for support staff. The noble Baroness, Lady Jolly, made a very strong case in respect of FE colleges, which are starting to educate under-16s. I suppose I am trying to be slightly consensual in saying that I understand and, in the end, kind of agree that I am sceptical about Clause 13 but, if we are going to do it, let us do it properly.

Baroness Howarth of Breckland: I had hoped to support the noble Lord, Lord Phillips of Sudbury, but I am not sure whether he is going to speak now or later. I shall add to what the noble Lord, Lord Knight, said because I, too, believe that this is a question of process rather than of principle. I have talked to the Minister about this before. If we could get the issues dealt with quickly, then we would be able to avoid having to have this kind of clause. I speak as someone who has not only dealt with many victims of abuse—I want to come on to that issue in a moment—but has also supported members of the social work profession who have been faced by unproven, unsubstantiated and quite serious allegations. Having been a director in a child abuse case, I understand all the shock and pain that brings when it happens. It is the same sort of emotion that you feel about not being responsible for what you are being accused of. It is a terrible time for the individual and their family, but if we can get this process speeded up, that pain will be lessened, and we can get on with it.

I agree with the noble Lord who pointed out that we should not deal with the principle in a different way because we have a process problem. The principle must surely be that when an allegation has been made, it must be transparently investigated. I say this because not only have I dealt with people who have been falsely accused, but I have dealt with more young people than most people in this room who have been abused and who have had to face the process themselves. It is a terrible time for the young people when there are delays because they are faced with having to keep their evidence in their mind, they are going to be cross-examined in disciplinary proceedings and if it goes further than that, they are going to find themselves in court. That is another reason for the process to be speeded up.

However, I think the legislation as it stands at the moment is unworkable. I say this because, particularly if you have a situation where there is residential care alongside education—and I declare an interest as a patron of Livability which has a number of schools with both on the premises—what if you have two people accused at the same time? Will one of them find themselves free from publicity and the other one be thrown to the wolves and to the press? Unless the Government think that through, we will have a series of totally untenable situations. I think it is especially

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difficult in the present climate to talk about not having transparency in these situations when the Government are allowing the press into the family justice system. There are very strong feelings among families that find themselves and their situation in the press, albeit anonymously, when they find that the teacher who they think has harmed their child is protected. We have all sorts of muddled principles developing.

If this legislation is passed, it will weaken safeguarding. One of the things I know from many situations involving young people is that when one speaks out, it gives a voice to others. We know that an individual child's voice in a court or in disciplinary proceedings is a very small voice. We know that when other young people come forward because one person has been brave enough to do so, you have much more hope of getting your case together. Even then, those of us who work with young people before the court as victims know that you are very unlikely to get a conviction without a great deal of effort and support. You have much more hope of doing so if you have a number of young people. To those people who say that groups of children come forward to make these allegations, research will tell you that there are very few situations where a group of children comes forward and they all tell exactly the same story that cannot be seen through. The lawyers among us will know that. If you talk to children and young people, as I have done, if they are making up a fairy story, you get it in one. If they tell you the story is the true story, then it follows through.

Like the noble Lord, Lord Knight, I am concerned because it is very difficult for people who are faced with these allegations, but the unforeseen consequences of not making them transparent are huge, and I think we should continue to make sure that our children's needs are paramount, not the adult's needs.

Baroness Walmsley: My Lords, I normally find myself 100 per cent in agreement with the noble Baroness, Lady Howarth of Breckland. However, picking up the last point that she made, I am comforted by the fact that the legislation makes it possible for the police to apply to a court for the restriction to be set aside if they feel that publicising the name of the accused person will enable them better to make their case by encouraging other abused children to come forward. I trust the wisdom of the court in that situation.

As regards school staff, my noble friend Lord Storey has just pointed out to me that certain highly-qualified teaching support staff are allowed to be fully in charge of a class without a teacher being present for up to two days, so they are in exactly the same position as teachers. All these issues make it all the more important that the Government consider our Amendment 75A, which asks them to have another look at this measure a couple of years after it has been introduced to ensure that it is not protecting abusers or allowing the names of innocent people who have had allegations made against them to be dragged through the dirt in the press. I am sure that that is sufficient time to enable the Government to make a sensible decision about whether the measure goes too far or does not go far enough.

Baroness Howarth of Breckland: The difficulty about the police applying to a court is that they will not know that there are other issues on which to move forward if other children do not come forward. That is the problem. Children come forward because they know that something is happening. The police consider that situation, and then they apply to the court. If they do not have that information, they will not apply.

Lord Black of Brentwood: My Lords, I wish to deal with an important point in this regard. My noble friend rightly says that the court has the power to lift a restriction on an application, but the legislation directs the court to have specific regard to the,

"welfare of the person who is the subject of the allegation".

That is a very dangerous measure. My noble friend Lord Phillips will be moving amendments on this matter in the next group, but it is not as straightforward as just going to the court, as the court could already have a predetermined view.

Lord Phillips of Sudbury: My Lords, I was going to keep my powder dry until the next group of amendments. However, I have a problem with Amendment 75A in that it seems to me to involve a one-way inquiry. If it were a case of the Secretary of State having to report to the Houses of Parliament on reporting restrictions, whether they be good or bad, effective or ineffective, I would be wholly behind it. However, it is a one-way ratchet; the Secretary of State can report only on whether to extend the restrictions.

Baroness Walmsley: I would be only too happy if the Minister were to say exactly that.

Lord Phillips of Sudbury: Thank you.

Lord Hill of Oareford: My Lords, I shall try to pull together some of the strands from this extremely good and thought-provoking debate. I fully accept that these are not simple issues. I recognise that the noble Baroness, Lady Howarth, approaches this matter from a slightly different point of view from the generality of the Committee, with her concern for the children involved, whereas generally there was acceptance of the principle that one needs to protect teachers in schools. However, the debate concerns whether one should extend that further. I recognise noble Lords' concerns, some of which were raised by my noble friend Lord Black, which we shall discuss in more detail when we consider amendments in the next group in the name of my noble friend Lord Phillips.

I accept that the reporting restrictions introduced by the clause interfere with rights to freedom of expression. I think that the noble Baroness, Lady Hughes, made this point. I think all noble Lords agree that any such interference would need to be carefully targeted, proportionate and justified. Teachers already have legal remedies if they are the victims of libel and defamation, as we all do, but those remedies are available only once the damage is done. My noble friend Lord Black raised that point.

5.45 pm

It would be a very major step for a teacher, or for any of us, to go down the route of taking a libel action. That is an enormous step for a teacher to take, and I am not at all surprised that there appears to be little evidence of a teacher complaining to the PCC. If one were a teacher and suddenly found oneself the subject of these allegations, I do not think one's natural first route of recourse would be to think, "Oh, I'd better ring the PCC". I understand the points the noble Lord makes, but when one is looking at it from the point of view of what teachers might experience, it is proper for us to think whether, given the particular circumstances, it is right to try to provide extra protection for them and to do so before the damage is done.

We want to provide teachers, including, for example, peripatetic music teachers, sports teachers and supply staff engaged in the school—which is the point made by the noble Baroness, Lady Hughes—with more protection. That is what Clause 13 sets out to do. It makes it illegal for anyone to publish material that would identify a teacher as the subject of an allegation about a criminal offence made by or on behalf of a pupil at their school. It would remain illegal until an independent investigation showed that there was a case to answer, in that the police had pressed charges, or the Secretary of State, in his role as regulator, had published his decision to hold a hearing about the allegation.

The clause as drafted allows for applications to be made to the court for reporting restrictions to be lifted where a public interest case can be made. The clause does not affect in any way the seriousness with which allegations made by children must be considered and, if necessary, investigated by the appropriate authorities. Schools have statutory responsibilities to carry out their functions with a view to safeguarding and promoting the welfare of children. Government statutory guidance sets out that if an allegation suggests that a member of staff has behaved in a way that has harmed a child or may have harmed a child, has possibly committed a criminal offence against or related to a child, or has behaved towards a child or children in a way that indicates he or she may pose a risk of harm, the allegations must be referred to the local authority designated officer so that they can consult the police and local authority children's social care services colleagues as appropriate. The police then have a responsibility to investigate allegations of criminal offences, and local authorities will consider what action may be required under their own statutory responsibilities to protect children from harm.

I agree with the points made by the noble Lord, Lord Knight, and the noble Baroness, Lady Howarth, about the importance of speed. I do not know the precise answer about whether these investigations have got any quicker. In my previous life before coming into this place, I was involved in a number of these cases, and it was an extremely protracted and grinding process that seemed to inch forward. For the child making the allegation and for the teacher who had allegations made against them, there was a sense of drift and of deadlines being set by the police or others which were not met. I think there is a real issue around the speed of the process and that one should try to think about how one should address it. There are also issues for the teacher because suspension is the default position. Once someone makes an allegation, it is currently a natural response, particularly given the legal advice one might receive, to say, "I find it inconceivable that this could be true, but I had better suspend them just in case". There is an issue around that which might address some of these things.

We had a discussion about the evidence. We have had evidence from NASUWT which has given us records of allegations against teachers over the past 20 years where the union had been asked to provide a solicitor. We have a number of individual cases that provide evidence of press reporting of allegations against teachers in advance of charges being brought. The NASUWT evidence showed that 86 per cent of allegations between 1991 and 2009 that were considered serious enough to warrant NASUWT being requested to provide a solicitor resulted in no further action. Only 11 per cent went to court and, of those cases, 50 per cent resulted in the court taking no further action. Only 5 per cent of cases overall resulted in a caution or a conviction.

I have been asked a question which goes to this heart of this matter and which I accept is the proper question: why just teachers? Our argument would be that because of their lead role in relation to school discipline, teachers are particularly vulnerable to false and malicious allegations, but their role also makes it particularly important to protect them from the damage that such allegations, or the threat of them, can cause. Many of the amendments in this group seek to extend the clause to other groups. The Government are not, in principle, unsympathetic to requests to extend the provisions, but I would argue, for some of the reasons that we have already touched on and which have been raised by my noble friend Lord Black, that we should proceed cautiously. These new restrictions would be an interference with freedom of expression and, as such, we must ensure that they are a proportionate response to a clearly identified and pressing social need.

We do not yet have such comparable data for those who work in FE institutions or in relation to other groups of staff in schools. The noble Baroness, Lady Hughes of Stretford, pointed out that there are staff in FE institutions who have the same professional role in relation to the same kinds of pupils as teachers in schools. I accept that point, but there are differences between FE institutions and schools, in ethos, size and average age of the student population. The situation of support staff has been raised and our argument would be that, as a generality, they do not share the teachers' lead role in relation to classroom discipline. To extend the provision, we would need clearer evidence than we currently have that these particular groups experience the same problems.

We are taking action to try to assess and develop the evidence base. The noble Baroness, Lady Hughes, mentioned a survey from UNISON. We have had and will continue to have discussions with representatives of the FE sector on this issue. We have commissioned a survey to look at the day-to-day experiences of how

[Lord Hill of Oareford]
allegations are handled in schools, in FE colleges and by local authorities. This research began in March and we expect to have the results by the end of the year. I see merit in taking the opportunity to evaluate the effectiveness of the provisions contained in Clause 13 for teachers before we consider wider application.

That brings me to Amendment 75A, tabled by my noble friend Lady Jolly. It has been the subject of an exchange with my noble friends Lady Walmsley and Lord Phillips. As the noble Lord, Lord Phillips, pointed out, the request is for a report on how reporting restrictions will be extended rather than whether there is evidence that they should be extended. That is the nub of it. The amendment would also allow the Secretary of State to amend Clause 13 to include descriptions of other staff working with children and young people, should both Houses of Parliament approve the recommendations set out in the report. I see what my noble friends are trying to achieve, but extending the provisions to include other groups would necessarily entail a further interference with freedom of expression and should, in my view, be dealt with by primary legislation so that it is given the careful scrutiny that this House certainly provides.

The Government ought to review the impact of the provisions in the way that my noble friends have suggested and we should do that earlier than the customary period of three to five years. I think the timescale suggested by my noble friends sounds sensible and I believe that that review should include, as my noble friend Lord Black suggested, the views of the media as well. The debate that we have had clearly highlighted the difficult balance between the competing demands of protecting individual privacy and freedom of expression on the other. As the noble Lord, Lord Knight, pointed out from his own experience it is not straightforward. Should one hold back or go down the slippery slope, as he asked?

I understand the arguments for extending the protections provided by Clause 13 but I also accept the arguments that have been made that we should proceed with care and limit the circumstances in which these restrictions might apply. It seems to me that we should keep the effect under review and be prepared in due course to revisit it once we have further evidence. I hope that the noble Baroness, Lady Hughes of Stretford, will agree that we should proceed with this measure, although we should do so with caution. On the basis of that, I ask her to withdraw her amendment.

Baroness Howarth of Breckland: I am really sorry, but can I gently express my incredulity that we can say that teachers are in a different position from, say, care staff? Those care staff find themselves in a parental role with all the discipline and, often, the actual physical contact which that involves from all the aggro that you get when you are dealing with adolescents in the parental role—adolescents who have often failed to be contained in their own family. Are they in a less vulnerable position than teachers? I do not particularly want to extend this but I cannot see the logic at all of saying that this is a special position for teachers, because they are responsible for discipline in schools, when you have care staff in residential establishments—some of them very large residential schools—who in fact find themselves with even greater contact. I would like the Minister to look at that. I still do not understand how a teacher who may be in a residential institution and a care member of staff might both be accused of the same offence, yet one can be protected and the other cannot. I do not necessarily want the Minister to answer at this moment but I would really like him to take this away because it will make his legislation unworkable.

Lord Elton: Without going into the broader field just raised, would my noble friend perhaps look within the school confines, which is what he is addressing here? It seems to me that classroom support staff, who may spend two days at a time in sole charge of a class, are in a position so analogous to that of teachers that they could perhaps be separated from the remainder of the staff for the purposes of this legislation. I realise that, as they more rarely have sole responsibility for the children, they are less at risk but it seems that the risk, although less, is just as real and the damage could be just as great.

Baroness Howe of Idlicote: My Lords, the more I listen, the more I am sad that we did not have the amendment from the noble Lord, Lord Phillips of Sudbury, because that would have put things into a much clearer perspective. I have the gravest doubt the more I listen, frankly, and I agree more and more with my noble friend Lady Howarth.

Lord Lucas: I always find it very hard to agree with the *Telegraph,* so I have been having a terribly tough time over the last 15 minutes or so. Although I would say to the *Telegraph* and others, as they said of us, that they have brought it on themselves and that I have every sympathy for wanting to look after teachers, we have to produce legislation that is practical and that works. I cannot see how what we have in front of us works with Twitter, Facebook and the inevitable communication that there will be between parents and, particularly, pupils. You really cannot have a teacher hoicked out of school with these sort of allegations and not have it flying around on the net. The wording in front of us seems to seek to tackle this by criminalising the children and the parents who will be doing this. That is most unwise. The damage really only occurs when some newspaper picks up a story and eviscerates a teacher to entertain its readers. That is the evil; I do not believe that we should be trying to curb more than that.

6 pm

Baroness Hughes of Stretford: My Lords, I thank everybody who has contributed to the debate. The weightiness of the contributions, whatever conclusion each noble Lord has come to, has exposed the dilemmas posed by the Government's proposal. It will be difficult for the Government to hold the line.

I say with great respect to the Minister that he did not say anything about why the reporting restrictions should not also apply to school support staff, teachers in sixth forms and further education colleges and, as

we have discussed, to a whole range of other people, some of whom work much more closely and in much more intimate situations with some very challenging young people than do teachers. As far as I understood the Minister, he gave two reasons for restricting the provision initially to teachers and targeting the provision on them.

First, the Minister argued that teachers had a lead role in discipline and that that placed them in a special situation. However, noble Lords have exposed the weakness of that argument. If a member of the school support staff can be in sole charge of a class for two days, they are going to have to apply discipline. Similarly, people in other situations who often deal with challenging youngsters will have to apply discipline. School support staff in the playground have to apply discipline, so I am not at all sure that it is right to justify this targeting by drawing a distinction between teachers and members of other professional groups inside and outside schools.

Secondly, the Minister acknowledged the dilemmas posed by the provision but argued that it should be focused narrowly and evaluated for three or five years to see whether it needed to be applied to other groups. The previous Government provided guidance to the Association of Chief Police Officers on what information they should release to regional newspapers and on measures to speed up the investigation process, as I and my noble friend Lord Knight mentioned. We have heard no evidence from the Government on the effectiveness of those measures or how they could be strengthened as an alternative to this legislation with all its problems.

The impact on people caught up in these situations is the same irrespective of whether they are school support staff or work in sixth forms or in FE. That is why the Government are introducing this measure in relation to teachers. I perfectly understand that the noble Baronesses, Lady Walmsley and Lady Jolly, are trying to find a compromise but you can reasonably argue that school support staff are much more likely than many teachers to live very close to an education establishment and are much more likely to be known by a very large number of people beyond the parents whose children go to the school. Therefore, the reporting of allegations which are later proven to be unfounded is likely to have a much more serious impact on them because it will be picked up by the local free paper and everybody will know about that—friends, relations, everybody. That has to be considered.

The noble Baroness, Lady Howarth, argued compellingly that the legislation will be unworkable as restrictions on the reporting of a case will apply to some members of staff but not to others even though the allegations may concern a similar incident. That could also apply to a school nurse running a clinic with a teacher present.

I argued before that when we pass legislation we ought to consider the evidence of the need for it, how it should apply and the principle. The principle that I referred to was that there should be parity before the law, which ought to apply equally to people faced with different situations. Clearly that will not be the case here. In so far as the Government have given us evidence, as far as I can see it is the same quality of evidence that we have in relation to teachers from the teaching unions as we have in relation to support staff and FE lecturers. We do not have a different quality or quantity of evidence supporting the case for targeting teachers.

I hesitate to say this because I do not want to appear divisive, but it is hard to avoid the conclusion that this is another populist proposal from the Secretary of State that is ill considered, unfair and will have serious implications for many individuals. The excellent debate today has exposed that. I concur with my noble friend Lord Knight and others; if we are to legislate to protect people in schools, we ought to do it properly. We have had an excellent debate. I have no doubt that we will return to this matter and beg leave to withdraw the amendment.

Amendment 73E withdrawn.

Amendments 73F to 73H not moved.

The Deputy Speaker (Lord Geddes): It has been suggested to me—if noble Lords will excuse the possible pun—that, as a matter of convenience, this might be an appropriate moment to take a short break. The Grand Committee stands adjourned until 6.20 pm.

6.08 pm

Sitting suspended.

6.20 pm

The Deputy Chairman of Committees (Lord Geddes): My Lords, the Grand Committee will recommence. Before calling Amendment 73HA, I should advise that, following a request from the noble Lord, Lord Phillips of Sudbury, the question that Clause 13 should stand part of the Bill has been degrouped and, therefore, will be put separately after Amendment 73M.

Amendment 73HA

Moved by ***Lord Phillips of Sudbury***

73HA: Clause 13, page 20, line 14, at end insert "unless that person has put the allegation directly or indirectly into the public domain"

Lord Phillips of Sudbury: My Lords, I asked for the degrouping because this is already a long group of amendments, which is the nitty-gritty and I hope to cover them. That the clause should stand part is a separate debate, which touches on many of the things that noble Lords have said with regard to previous groups and I shall make no further reference to that now.

I put forward this group of amendments very much in a probing spirit. They are not perfect. This is a highly complex clause and I shall seek to explain the point of the amendments in turn. But I am mindful of the fact that, if Clause 13 goes through unamended, it will repose in the teaching profession a privilege unique in English law. As others have said, if this should apply to teachers, why not to many other groups? It is

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an argument which seems to me to be quite unanswerable. With great respect, I do not think that my noble friend Lord Hill answered it.

We have this debate on a very pregnant day. The other place has debated the latest extraordinary events in relation to phone tapping. Partly because of that, and because the public are so agitated about the conduct of certain sections of the press, it becomes doubly incumbent on us to keep a cool head. I suspect that we, more than any other group in the land, understand the absolute indispensability of a free and fearless press to the preservation of democracy, the rule of law and open justice. Furthermore, if we are frank, we will acknowledge that it was just such reporting, particularly, I have to say, on the part of the *Telegraph*, which exposed the expenses scandal in both Houses of Parliament. For that, we need to be a little humble.

I should declare my interests. For a decade, I was a proprietor of a newspaper and a trustee of the Scott Trust, which owns the *Guardian*, the *Observer* and a fleet of local papers. For 20 years, I was a governor of state comprehensive schools, one of them as a parent governor. My wife is a former teacher and is presently a governor of a state comprehensive school. I come to this subject with huge respect and sympathy for the teaching profession. I understand exactly what it is on about. I also understand a little about the difficulties of dealing with situations where juveniles are witnesses and complainants. Especially in the early part of my long legal career, I dealt with some of those cases and I understand the quite peculiar difficulties of them.

Diving straight into my amendments, many noble Lords will not understand that truth will be no defence against the criminal charge of identifying a teacher, even if he had in fact committed serious criminal offences against one or many pupils. The clause is clear that until and unless a teacher has been charged, which will often follow a long time after an arrest, no individual and no media outlet can say or do anything which would identify that teacher unless the parent, pupil or media have been to court and obtained consent to lift the restrictions. I am bound to say that in my experience the hurdles of going to court and making an application to lift restrictions are simply beyond the scope of a normal pupil or parent, quite apart from the expense of employing a lawyer to undertake that task.

The first amendment in this group to which I shall draw attention relates to new Section 141F(12). It defines what a publication is in respect of which a criminal charge can be brought against anyone identifying a teacher. It gives exceptions to publication, saying that an indictment shall not be a publication so as to bring on the prosecution for identification and so on. I have added, in Amendment 73HJ,

"a publication by or on behalf of a registered pupil at a relevant school made to a person or persons affected by the allegation or who otherwise has or have a bona fide interest in receiving the same".

If I am the parent of little Johnny who comes back and says that Mr Smith has been doing this or that and I go to the headmaster and say that this is what little Johnny said, and then nothing happens—let us not kid ourselves, often nothing will happen—surely I must be free to go to other parents in little Johnny's class and possibly to a wider group than that. If I were to do so, I would then be liable to criminal prosecution under the provisions of this section and that must be utterly daft because it would then be a publication to a section of the public. That phrase "a section of the public" has a rather legal meaning and I think I am right in saying that my writing round to, say, 50 other parents in the school would fall foul of that. So that is the first amendment I draw attention to.

What needs to be understood is that in some cases no charge will ever be brought, even though there has been a blatant case of assault or sexual interference. The most common reason for that is likely to be lack of sufficient evidence to satisfy the criminal test of beyond reasonable doubt. The younger the pupil, the more vulnerable they are, and the less confident, composed and convincing witnesses they tend to make. The CPS, in deciding whether or not to bring a prosecution, with all the substantial distress that that can bring to the child or young person, or to the witness and their family, will consider that a major factor and, as it thinks that the witness will not stand up, it may simply not prosecute. No charge may ever be brought. There can also be the problem that the evidence is not corroborated.

There is also a complication, which I need to spell out. If a charge is never laid, no publicity can ever be made, even if the case is a bad one, unless someone goes to court and gets the restrictions lifted. Another complication is that although allegations are supposed to be recorded, then reported and acted upon—your Lordships have heard about that several times—the temptation on the part of a head to deal with matters informally and quietly can be very strong, especially where the school is going through a rough patch and where further publicity could be devastating for it. In any event, teachers are human and, knowing the consequences to a valued colleague when certain, perhaps lower level, allegations are proceeded with, and if there is a bond between the teacher and the head, the rules are not always strictly followed. Does anyone think that they were in the Catholic schools, where, a few years ago, revelations came far too late to help the many boys who had been abused? The prep school that I had the misfortune to attend was presided over by a predatory, aggressive homosexual who abused boys on a daily and nightly basis for 12 years. Nothing ever came to light, nothing was published and no charge was brought.

6.30 pm

I will flag up another inadequacy of Clause 13, to which Amendment 73HA refers. Proposed new Section 141F(10) is very important because it gives the circumstances in which the reporting restrictions will be lifted. It states that the restrictions will cease to apply,

"once there are proceedings in a court in respect of the offence".

My amendments will make it clear that proceedings can be in a civil or criminal court, or in a tribunal. Amendment 73HH states that restrictions will be lifted,

"once the person who is the subject of the allegation under subsection (1)"—

the teacher—

"resigns or is dismissed from the employment or engagement".

The point here is that often, at the first sign of exposure, teachers will resign and get the hell out of it. Although of course schools have a duty to take steps in that circumstance, they do not always do so. We should never underestimate the huge pressure on head teachers, the mass of paperwork that will follow in respect of such a case, and so on. That is a very important change to the clause. It will mean that, as soon as a teacher is dismissed or resigns in the face of an allegation, there will no longer be any reporting restriction.

I now draw the attention of the Committee, as others have done, to the vital importance of publicity, particularly in local newspapers. I do not refer to gaudy, sensational reports, but simply to reporting of the fact that, for example, Mr Brown has been suspended from X high school in respect of certain allegations—no more than that. That is not allowed under this clause, but not to allow it in the circumstances that I prescribed in Amendment 73HH prevents the very thing that we want; namely that other boys should come forward. Others have made this point, but it needs hammering. You do not get the witnesses that you need in order to bring a charge unless there is publicity. We are in a Catch-22 position. We cannot have publicity until there is a charge, but we will not get a charge until there is publicity.

Noble Lords will be glad to know that I am coming to the end. I turn to Amendment 73HB, which refers to new Section 141F(5). This covers people going to the magistrates' court and saying, "Look, for these reasons you should lift the reporting restrictions, which are not in the public interest or in the interests of justice". As my noble friend Lord Black said, the fatal words of the proposed new subsection state that the court will come to its decision in the interests of justice,

"having regard to the welfare of the person who is the subject of the allegation"—

namely the teacher. Why on earth not the pupil? How can it conceivably be right to load the dice in favour of the adult against the young person? It is easy to answer, "If he is falsely and maliciously accused, that is justice", but you do not know whether he is falsely and maliciously accused, and you do need to know whether there are others in the town or wherever who have been subject to the same treatment. That is why I tabled the amendment, and I hope that it appeals to the Committee.

Finally, I will deal with some small amendments. I referred earlier to new Section 141F(10) that covers the lifting of restrictions. I have added civil and criminal courts and tribunals. I have also done something for the benefit of the teachers, namely replace the word "offence" with "allegation". It is not an offence until it is proven in a court of law. Until that time, it is an allegation. I think that must be a drafting mistake. I have also put in Amendment 73L to the same effect.

There is one more amendment I should refer to: Amendment 73HA which adds to subsection (3) the words,

"unless that person"—

the teacher—

"has put the allegation directly or indirectly into the public domain",

You may ask what mad teacher is going to put into the public domain an allegation against himself. It will not happen often, but it could happen. I am going back to my own experience. The teacher concerned was an extremely competent, aggressive, up-front person, and you will get the odd, strange person who will think that attack is the best means of defence and will get his or her blow in first, so to speak. Unless we have this amendment, it allows such a person to have their cake and eat it and to take advantage of publicity that is not allowed to anyone else. It is for those reasons that I commend the amendments in this group to the Committee.

Lord Lucas: My Lords, I can remember an occasion that illustrates my noble friend's last amendment. Some boys went to a headmaster and asked if they could have a videotape to use for a project they were doing. He picked one off a shelf and gave it to them, and it was the evidence. People do put these things in the public domain by mistake. I particularly welcome my noble friend's Amendment 73HJ. There has to be the right for pupils and parents directly affected by this to discuss things. It is the obvious way in which things will come forward. Anyway, it is going to happen. You cannot criminalise that sort of conversation within a school community about something that is happening within the school, so it has to be possible. It will be done on Twitter and on Facebook. These things will not spread. No teacher is Ryan Giggs. There is no national interest in the person's name. They will remain in a little corner of the social media, of interest to pupils in the school and to the parents of the children, and that is where it will remain. No great harm will be done because, frankly, the school community knows already. I do not see any objection in the wider media carrying just a basic statement that so-and-so has been accused and has taken leave of absence from the school as a result. That is scarcely something that in that form is going to hit the national media, but it at least means that the basic facts that that has happened are, as they should be, a matter of public property.

Surely the evil we are trying to prevent is a newspaper aggressively trying to dig up information about a particular individual in order to make a story, which you might call a human interest story, for people who have never heard of this person and have no interest in him otherwise. It is just a composed story that might be about anybody, but it is immensely harmful to the teacher concerned. That is the sort of thing that we are trying to prevent. The fact that an allegation is made is there and is fact. It should surely not be hidden. We are not in super-injunction territory. I find my noble friend's amendments very persuasive.

Lord Black of Brentwood: My Lords, I support the amendments tabled by my noble friend Lord Phillips and will speak also to Amendment 73M. Just for the sake of the record, I draw attention to the interests I declared earlier. I was very struck by what the noble Baroness, Lady Howarth, said earlier. She said that this clause as currently drafted is unworkable and that unworkable legislation simply brings the law into disrepute. My noble friend has just said that we are not in super-injunction territory, but I fear that, because of the impact of digital media, which I shall talk about in

[LORD BLACK OF BRENTWOOD]
a moment or two, we will be in super-injunction territory at a sort of local level that will cast this legislation into that disrepute.

If we are to have legislation, at least let it be workable. I believe that the amendments tabled by the noble Lord, Lord Phillips, try to do that by importing into new Sections 141F and 141G the concept of the public domain and the public interest. The exclusion of any mention of the public interest in Clause 13, as it stands, is quite remarkable. I cannot think of any other legislation dealing with incursions into the freedom of the press and freedom of expression which do not have a public interest defence. That must be put right.

In my view, these amendments are crucial because the real problem with this clause—the unworkability factor—is that it takes no account of how allegations are spread and the damage that they can do to schools and to innocent teachers in the absence of responsible press reporting. As I said at Second Reading, my concern is that this legislation will simply drive innuendo and rumour underground and new Section 141F(12) will encourage that. Its definition of "publication" is designed to catch the media, which is not at the root of any mischief here, by tying it to material addressed to the public at large. That is the wrong target. The Minister in another place, Nick Gibb, made it clear that this legislation is not intended to capture private conversations, which include e-mail exchanges, texts, Facebook postings, Twitter and all sorts of other mechanisms. That is precisely where allegations and innuendo, which it seems to me that the Government want to be at the root of this legislation, will build up, now that Clause 13 makes it impossible for them to be dealt with in a responsible way in the press, which is constrained by the laws of libel and contempt. In a short space of time, the weight of individual private exchanges may mean that in a small school everyone knows when a teacher has been accused of something, but only the local newspaper will be unable to report it.

Lord Knight of Weymouth: The noble Lord makes a really powerful point. I am sure that this legislation was drafted before super-injunctions and before the Twitter activity around certain footballers whose names were disclosed and the mischievous and false rumours spread on Twitter about other celebrities and what they may or may not have been doing. Is that not all the more reason for the Government to look at this again?

Lord Black of Brentwood: I could not agree more with the noble Lord. It is a point that I would like to address. Who could imagine what would happen if rumour or innuendo, which turns out to be false, circulates at the school gate about a teacher. There may indeed have been an assault, but perhaps the wrong teacher has been accused in the diaspora of cyberspace, or perhaps, as the noble Baroness said earlier, two teachers have been named in allegations that have been pumping around parents. The only way for teachers to clear their names would be through responsible publication in a local newspaper. That would be in the public interest, and it would reflect the fact that the material is already, in effect, in the public domain because of digital media.

If this law is not to become the same sort of fiasco as the super-injunctions, those defences need to be put in here. I believe that the proposed amendments to this clause will act as a vital pressure gauge and allow accurate and fair reporting where the public interest demands. They will also help some of the massive legal uncertainty that flows from the definition of publication which, by experience, the courts, particularly the magistrates' courts, are not good at dealing with. Often these issues are beyond their competence.

These amendments also mirror exactly the terms of Section 12 of the Human Rights Act, which deals with interference in the European convention right to freedom of expression. That legislation directs a court to have particular regard to the extent to which,

"(i) the material has, or is about to, become available to the public; or

(ii) it is, or would be, in the public interest for the material to be published".

This legislation, which is a substantial incursion into the convention right, should have exactly the same defences as the Human Rights Act, especially as it is certified to be in accordance with the terms of the Act, and these amendments seek to secure that.

6.45 pm

Finally, one of the most critical of my noble friend's amendments seeks to include civil courts and tribunals in the exemption in new Section 141F(10). I ask the Committee to imagine the following scenarios, if this legislation goes through. I know that my noble friend Lord Hill mentioned earlier that it was unlikely that teachers would ever sue for libel, but it might happen. A teacher might sue someone for libel in respect of an allegation relating to him or her that might have been uttered not by the local paper, because it cannot do that, but by somebody else at the school. Evidence in defence given by a pupil could not be published because it would identify the teacher. Indeed, it is impossible to see how the libel action could be reported anywhere because that would identify the teacher.

An inquest where evidence of allegations identifying a teacher is given because it is relevant to the circumstances of the death of a pupil could not be reported. The inquest, or at least sections of it, could not be reported because it would identify the teacher. Employment tribunal proceedings involving allegations against a teacher, whether as a party or as a witness, could not be reported unless the amendment in the name of my noble friend Lord Phillips, which seeks to deal with that point, is accepted.

Therefore, all those cases would be caught, and evidence suppressed, because a teacher might be identified. That would make a mockery of open justice and invite charges of cover-ups. I do not believe that is what the Government intend. These amendments are vital if we are not to usher in an age of secrecy where the cards are stacked heavily in favour of the teacher and against the child. I urge the Minister to take these amendments away and consider whether they can be incorporated in the legislation.

Baroness Howarth of Breckland: My Lords, I shall speak extremely briefly as the noble Lord, Lord Black, has made a number of the points that I was going to

make. I wish to make three points. First, given the debate that took place in the Commons, I seek reassurance that parents and children who share information between themselves will not fall foul of the provision regarding publication. That provision has dangers attached to it but also strengths because, if this legislation is passed, they will be able to share information and ascertain whether other children have been involved. That is crucial.

Secondly, I suspect that the Minister may say that as regards new Section 141F(5) and the protection of the person who is the subject of the allegation, the children concerned may be covered by the "interests of justice" provision. However, that needs to be made explicit because it will not be understood that the children are protected in the interests of justice when the Bill makes special mention of,

"the person who is the subject of the allegation".

That is a serious flaw and goes against all the legislation put on the statute book from the Children Act 1989, which was introduced by the Conservatives and made children's rights paramount, right through to the subsequent legislation introduced by the previous Government.

Thirdly, even if parents wanted to go to court, the present state of legal aid means that they would have no support through the legal aid system to enable them to put their case. Therefore, they are even less likely to do so than might have been the case previously, difficult as such a process is. I support the sensible amendments in the name of the noble Lord, Lord Phillips of Sudbury, and the arguments put forward by the noble Lord, Lord Black.

Baroness Walmsley: My Lords, I hope that my noble friend the Minister accepts that my noble friends are trying to help the Government produce a good piece of legislation and that he will consider the very thoughtful case made by my noble friend Lord Phillips. In an earlier debate, I said that I was somewhat comforted by the possibility that the police would be able to apply to the court for the restriction to be lifted. However, I take the point that my noble friend Lord Phillips and the noble Baroness, Lady Howarth, have made that the last few words of new Section 141F(5) skew the position of the court in the direction of the alleged perpetrator and not of the child. Personally, I think it would be a very good idea to take that out.

I am also very convinced by my noble friend's argument about inserting his proposed new paragraph (b)—in Amendment 73HH—into subsection (10) of proposed new Section 141F, so that the restriction could be lifted once the person has resigned or been sacked. I have had a great deal of evidence sent to me by campaigners against child abuse particularly, it has to be said, in relation independent boarding schools, where of course the opportunities are greater. Very often, however, what my noble friend said is absolutely right: it does happen that it is in the school's interest to sweep it under the carpet and quietly say, "You go away and resign and we will say no more about it", because these schools are financial organisations and they will lose money if things get about that dreadful things have happened there.

We really have to be very careful if we are to pass legislation that might encourage that situation or protect those people because I am told that what happens is, yes, they go away from that school but they pop up somewhere else and carry on. I am sure that my noble friend the Minister is most concerned about safeguarding children and, secondly, concerned about innocent teachers who might have allegations maliciously made against them. We somehow have to find the right balance between those two things.

I would say one more thing about what the noble Lord, Lord Black, said. The Human Rights Act asks us to draw a balance between the rights of free speech and the right to privacy of the individual. We have to bear in mind that it is not all in the direction of free speech. The Act talks about the rights to privacy for the individual as well and there, again, we have to create the correct balance.

Baroness Howe of Idlicote: My Lords, when I spoke a little earlier, I was trying to say that I was sad that the two groupings had not been moulded together because it was very important to hear what the noble Lord, Lord Phillips, had to say before the Minister has the duty to reply. He now has that advantage but I was also impressed by what the noble Lord, Lord Knight, said previously about his own experience of looking at a similar approach to that which the Government are thinking about. In the end, for a number of reasons, they did not go down that path.

We have heard today of the disadvantage that it would be to some groups, if not to others, to say nothing of this sort of behaviour spreading around the country without anyone knowing what would happen if allegations are true and proved. I am afraid that we have had too many instances in the past of things coming to light much later on. We also know the damage that has been done to so many young people as they grow up. I very much look forward to what the Minister has to say because I hope that Members, obviously not just in this House but in the other House, will read carefully what has been said during this debate because it should have considerable influence, along with what the Minister will say to his colleagues in the other place.

Baroness Hughes of Stretford: First, my Lords, I thank the noble Lord, Lord Phillips, for giving me an annotated photocopy last week of his proposals because it enabled me to work my way through them and really think about them. Having done so, if we are to have legislation of this form then the amendments that he has put forward and the powerful arguments he has made from his own experience are compelling. However, I want to draw the Minister's attention to Amendment 73HB, which would delete that phrase in subsection (5) where the court, in thinking about "dispensing with the restrictions", can have,

"regard to the welfare of the person who is the subject of the allegation".

That was picked up by a number of Members here. In our debate on the previous group, we were concerned that the Government were considering teachers, and only teachers, and not other professional groups. For this phrase to be included in the legislation is so

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illuminating. It speaks volumes to me of the mindset with which the Government have approached this issue. Again, we see the Government thinking of only the teacher vis-à-vis, in this situation, the child. That is so disturbing and demonstrates their tunnel vision approach to this whole issue. I hope that they will take this whole matter away and think again.

Lord Hill of Oareford: My Lords, I know that my noble friend Lord Phillips is always helpful, as the noble Baroness, Lady Walmsley, said, because I benefited from his advice when I stumbled into this House last year on the Academies Bill. I was grateful for his help and advice on that, as I am sure I will be on this Bill. I know that my noble friend is always helpful.

The final point made by the noble Baroness, Lady Hughes of Stretford, implied that the Government care less about children than they do about teachers. She did not put it in those words but there was that sense in the way in which she described the mindset of wanting to think about teachers before thinking about children. I am sure that the noble Baroness accepts that in a whole range of other ways the Government are demonstrating their commitment to thinking about children. But we certainly want to make sure that the interests of teachers are taken fully into account and that, in making sure that absolutely the right balance is struck between the interests of the children and the interests of the teachers, the interests of the teachers weigh properly in the balance. That lies behind a whole range of measures we are taking where the Government feel that there are ways that one can demonstrate that support to teachers.

This group of amendments and our very good debate have echoes of the previous debate. My noble friend Lady Walmsley rightly makes the point about trying to strike a balance. We have tried to draft Clause 13 so that there is clarity about when reporting restrictions commence and when they are lifted. We are keen to try to keep that. The provisions are about protecting teachers, but I understand that there may be cases where there should be balance with other matters in the public interest and the courts will be required to strike that balance when considering dispensing with these restrictions.

We have had a fair discussion about Amendment 73HB and the suggestion that under the clause as drafted it looks as though the teacher's welfare is represented as the overriding consideration. It is true that the provision requires the court explicitly to have regard to the likely effect of publication on the teacher. The interests of other parties will also be taken into consideration by the court when considering what is in the interests of justice. But I take the point made by the noble Baronesses, Lady Howarth and Lady Hughes, my noble friend Lord Phillips and others. I will try to rattle through some responses to some of his amendments because I hope that we can allay some of his concerns. But, clearly, with a couple of them, I should like to sit down with him and make sure that we have got the balance right in the drafting to make sure that we do not inadvertently open up some of the concerns that he raises.

7 pm

My noble friend Lord Black raised the question of a public interest defence being added to the provisions. We think that that point is protected by the provision allowing the reporting restrictions to be lifted by the court in appropriate circumstances. They could include circumstances in which the information was to be published by others. We think that the process of applying to the court for reporting restrictions to be lifted provides a proportionate mechanism for taking into account the interests of the individual, maintaining their privacy in the face of what may be false or malicious allegations.

My noble friend Lord Lucas suggested that he could not envisage many situations in which a teacher would suffer loss through having been written about in the newspapers. Indeed, he did not think that there would be much interest in the newspapers writing about some unknown teacher. I can think of some four-lettered public schools for which I have worked in the past where anything to do with those schools, including the teachers, is of great interest to the more sensationalist end of the press, although obviously not that represented by my noble friend Lord Black. There have been many repeated stories about teachers in a number of those institutions. We believe that allowing a public interest defence would mean that potential recourse for those teachers would be left too late.

My noble friend Lord Phillips suggested that we should add to the circumstances that would trigger the lifting of reporting restrictions. He particularly suggested that the resignation or dismissal of a teacher, the initiation of libel proceedings or an employment tribunal relating to the allegation should cause the reporting restrictions to lift automatically. I understand his point following our debate about resignation being used as a way of not dealing with the issue—in effect, an admission of guilt without the admission of guilt being given. I shall reflect on those points, but the Government's position is that the restriction should lift automatically only if it has been independently decided by the police or the regulator that there is a case to answer. If the police decide not to press charges, and the Secretary of State, as the regulator, decides that there is no case to answer, we think it is right that reporting restrictions should continue to be in place.

One of the amendments spoken to by my noble friend, concerning a point also raised by my noble friend Lord Black, relates to an individual effectively deciding to waive their right to anonymity and publicly defend themselves. I am sympathetic to the view of my noble friend Lord Phillips that restrictions should lift to enable others to enter the public debate. We have made provision for the written consent of the individual to publication to be a defence against breach of the restrictions, and that may also deal with some of the concerns raised by my noble friend Lord Black. As part of the conversation that I shall have with my noble friend, that is one of the issues that I should like to explore with him.

In Amendment 73HJ, my noble friend seeks to make sure that provisions do not deter victims of criminal offences from complaining about a teacher's conduct to the proper authorities, such as the school,

local authority or police, or to alert others who may be affected. That point was also raised by the noble Baroness, Lady Howarth. I hope that I can provide some reassurance. The provisions will not criminalise private conversations of that sort; nor will they prevent the police and others carrying out their investigations. Part of the thinking to which my noble friend referred concerned ensuring that parents or others are able to inform the school community of allegations and warn others if they feel that a teacher presents a risk to children. I understand that but, again, I can think of instances in which a well-meaning individual has acted inappropriately on what they believe to be real concerns, which later prove to be unfounded. Another example is that sometimes people within a school—either parents or other members of staff—get excited about an issue and launch a campaign. It is our view that once allegations have been reported through the proper channels to the police, the local authority and the school, it is for those authorities to investigate and establish if the allegations can be substantiated, and in the mean time to take proper precautions to safeguard the interests of the children.

My noble friend tabled a couple of more technical amendments. Amendment 73L relates to an allegation of a relevant criminal offence. That is made clear earlier in the clause, so I am not sure that the change is necessary—again, we can discuss that. Amendment 73HC concerns the provision in the clause for appeal against a decision made by a magistrate in relation to an application for reporting restrictions to be lifted in the interests of justice. The amendment relates to someone who was not a party to the original proceedings and wishes to appeal. We think that their application for leave to appeal should be decided by the Crown Court.

Those are my responses. I understand half of the spirit in which my noble friend tabled his amendments; I know that he is about to introduce a clause stand part debate, which suggests that there is another half of the spirit in which the amendments were tabled. I am grateful to him and would be glad to explore these matters further with him. In the mean time, I ask him to withdraw the amendment.

Lord Lucas: My Lords, perhaps I may pick up on what my noble friend said about private conversations not being included. I entirely understand that, but I do not understand where the Government think the border is in modern social media between private and public. Does he agree that Twitter is at all times public but that Facebook is a pretty difficult area? Kids these days communicate over Facebook in the way that we use e-mail. Communication between children talking about a particular allegation and saying, "Has this happened to you?" or "Have you seen anything like that?" will take place in an environment that might be considered public even though the kids will see it in the same way that we see e-mail. Will the noble Lord say which bits of the social media are public and which are private for the purposes of the Bill?

Lord Hill of Oareford: I will have a go, and if I need to follow up subsequently, I will. We have made it clear that an offence is committed not only when somebody publishes an article or broadcasts a programme in the traditional media, but when somebody posts an allegation on the internet, even anonymously. I recognise, as the noble Lord pointed out, some of the practical challenges posed by investigating the source of allegations on the internet, with which we are all familiar: but that is the intent. It will not affect private conversations, including via e-mail or text. However, where such communications constitute a publication—this is the definition in the clause, which I am sure we can have some fun with—by being addressed to the public at large, or to any section of the public, we propose that reporting restrictions will apply.

Baroness Walmsley: Will a private letter from the parent of one child to the parent of another child in the class be regarded as a publication, or will that be private?

Lord Hill of Oareford: That would be private.

Lord Knight of Weymouth: The issue of Facebook is challenging, because it is possible to establish closed groups within Facebook, which people can join only if they are invited. You would not regard those as public because you are there only by invitation. However, once you are in the group, things can be said. Where would that sit?

Lord Hill of Oareford: I am not answering. I cannot respond to the speaker. We want to hear from the noble Lord, Lord Phillips.

Lord Phillips of Sudbury: My Lords, I am grateful to the Minister for his, as usual, careful and considerate reply. There are a lot of very difficult technical issues involved in that group of amendments. I welcome his invitation to talk about them outside this Committee room, and I will certainly do that.

I want to refer to only one of his answers particularly, because I am wholly, as opposed to partly, unsatisfied by what he said as regards Amendment 73HJ. The Minister's claim was that one could get a parent who wanted to start a vindictive campaign against a teacher. I think that is at the far end of speculative possibility, not least because a parent who did that would be in direct danger of libel proceedings by the teacher concerned. One might argue that teachers do not do that, but I have acted for a few people who have done that and have prospered from doing something to recover their reputations. Anyway, we shall talk about that when the time comes.

The only other thing I would say is that I am most grateful to the other Members of the Committee for their extremely wise and informative contributions to this mini debate and I note that not a single person opposed the amendments. No doubt the noble Lord, Lord Hill of Oareford, will sleep on that. I beg leave to withdraw the amendment.

Amendment 73HA withdrawn.

Amendments 73HB to 73M not moved.

Debate on whether Clause 13 should stand part of the Bill.

Lord Phillips of Sudbury: My Lords, when I tabled the amendments to Clause 13, I thought that I would leave it at that. However, as I delved more deeply into the background to the clause, had conversations particularly with the National Association of Schoolmasters and Union of Women Teachers, and read carefully the 13th report of the Joint Committee on Human Rights, which was published on the 13 June, I became more and more concerned about the blatant lack of any satisfactory evidential base to support what is, on any reckoning, a very major change in the law of this land. It is the first time in our history that such privilege has been given to a protected group. I want, therefore, to test with the House a little further the whole notion of Clause 13 being removed from the Bill.

Many noble Lords have already said that it poses all sorts of technical and other problems. I noted that, in her opening on the previous group of amendments, the noble Baroness, Lady Hughes, expressed some concern about the whole position and about the whole of Clause 13. The noble Lord, Lord Knight of Weymouth, was clearly concerned. My noble friend Lord Black and the noble Baroness, Lady Howarth, were among a number of noble Lords who directly challenged the need for Clause 13 and several others who have hinted at it. So I hope that noble Lords will bear with me if I plod, as I have to, through the specifics of the factual base which the Government say justifies this novel provision, which, let us not forget, strikes at the heart of freedom of the press, law and order, and open justice.

My first point is that the JCHR report to which I have just referred put questions to the Secretary of State for Education. The 13th question was:

"In each of the last three years, how many examples is the Government aware of in which allegations against teachers have been made public before charge?".

The Committee will appreciate that that is the very heart of Clause 13. Publicity after charge is unaffected by the Bill. It is still a highly complex subject, even after charge, but unless there is clear and voluminous evidence that criminal allegations against teachers have been made public before charge, I submit that there is no ground for Clause 13. What was the reply of the Secretary of State to this pregnant question? It was:

"The Department does not routinely collect this data".

7.15 pm

The next question from the Joint Committee—question 14—asked the Government for,

"specific examples … of allegations against teachers"—

again, before charge. They came up with just six cases, referred to in their human rights memorandum. I urge Members, if they are interested, to read the reports of those six cases on page 63 of the June report. Each is a verbatim transcription of the pre-charge press report in each of the six cases. There is nothing but what was actually published on those six occasions: no spin, no colour, nothing. Four of the excerpts from pre-charge publication detailed the suspension of the teachers concerned and two of them detailed their arrests. I emphasise that they were dry and factual; there was no colour and no tendentiousness. None of the reports took more than four lines.

That did not stop the Government from asserting, in paragraph 114 of their extremely long and careful response to the Joint Committee on Human Rights:

"In the examples that the Government has of allegations against teachers being published before charge, the Government is satisfied that in the majority of cases there was no overriding public interest in",

publishing allegations at an early stage. But how many cases were there? Six—and, as I said, in four of those cases there had already been a suspension, in two there had been an arrest and in none of them was there any additional comment. In advancing the case for the need for Clause 13, the Government relied principally on what they were told by NASUWT, because these six other cases came by another route. The union was extremely professional and open in providing me with further information in addition to that which it gave to the Government and the JCHR, and which appears in tabulated form on pages 62 and 63 of the JCHR's 13th report. NASUWT gave me brief details of five further cases of the publicising of allegations against teachers which it obtained from its solicitors, yet the majority of those five cases do not involve any pre-charge publicity at all. They were all newspaper reports of trials—mainly acquittals.

Even on the issue of the number of allegations made against teachers, which my noble friend Lord Hill of Oareford made quite a bit of in responding to the set of amendments before the ones that I advance now, the Government appear to have misinformed themselves. The Minister, Nick Gibbs, said in the other place on 22 March that,

"since 1991 the number of allegations"—

against teachers—

"had increased, and … the majority of allegations made against teachers were false or malicious".—[*Official Report*, Commons, Education Bill Committee, 22/3/11; col. 553.]

Both those points were reiterated by the JCHR in its June report, but the statistics show otherwise. Over the past 10 years, in the statistics for 2000 to 2010 from NASUWT on cases brought to it of teacher involvement with criminal allegations, the average number of reported allegations per year is 181. However, for the past three years there has been a decline: in 2008, not 181 but 148; in 2009, 115; and, last year, 107. Yet the Minister in the other place said that the number of allegations had increased, which is simply wrong.

Further, the NASUWT figures do not state how many allegations were false, let alone malicious. Many allegations fizzle out because of insufficient evidence or corroboration, or because other aspects of the case cause difficulty. I have mentioned the age of witnesses, for example. Your Lordships should also not forget that the authorities involved in schools and in prosecutions, with the police and the courts, are all incredibly overstretched and are usually making choices between a superfluity of cases which they could prosecute. Again, it seems that the Government are working blind on this.

Incidentally, the ATL provided the Government with some rather bald statistics from a survey that it did in 2009—no details of which are given in any of the documentation. It stated that 50 per cent of teachers said that they or a colleague had had false allegations

made against them. The fact that some of these allegations were second or third hand, with no indication of whether they were in respect of criminal behaviour by a teacher, and most of all, of whether there was any pre-charge publicity, makes those statistics wholly unreliable as a basis for supporting a change in the law of this importance.

In case any Member of the Committee thinks that the number of convictions, including cautions, is insignificant in relation to the number of allegations, the NASUWT figures show that in 2009, 15 per cent of all allegations resulted in cautions or convictions. That is not an insignificant number.

Baroness Perry of Southwark: At Second Reading, I quoted figures for the past 10 years from the department which showed that more than 1,700 allegations against teachers were made. If 85 per cent of them were not upheld, the figures do not support the argument that the noble Lord is making.

Lord Phillips of Sudbury: With great respect to the noble Baroness, I cannot agree. Perhaps that is because I am a hoary old lawyer and she, happily, is not. A 15 per cent conviction rate in respect of all the allegations made is a very high outcome. I will happily discuss this with the noble Baroness outside the Room. The ATL figures seem to me to be hopeless as a basis for bringing in this important reform.

The JCHR seems to be lacking in awareness of the balance of injustice and harm between pupils, particularly young ones, and their teachers when it comes to criminal allegations. We are in danger—and in the other place they are even more in danger—of expecting too much of the law. It is not the finely tuned truth machine that ideally we would like it to be. It never can be, given the machinations of mankind, despite the best efforts of our excellent judiciary. We do not talk about rough justice for nothing. That is why in criminal law we have a test of proof beyond reasonable doubt, rather than the lesser, civil test which is based on a balance of probabilities. The bias towards the accused is necessary to protect the innocent from conviction, which we as a society believe is much more important than convicting every guilty person.

We are not talking here about conviction or acquittal but about the freedom of the press to report, within the bounds of defamation, where criminal allegations are made, pre-charge, against teachers. We have to balance their vulnerability to unfair reporting against the undue sheltering of teachers, the interests of actual and potential victims and the interests of the public.

I turn finally and briefly to paragraph 112 of the June report of the JCHR, which states that,

"defamation proceedings offer no protection"—

to a teacher—

"where a report states that an allegation has been made",

provided that it,

"does not assert that the allegation is true".

The noble Lord, Lord Hill, referred to this in his earlier reply.

As one who has done a considerable amount of defamation work and overcome that defence put up by newspapers, I can only think that the committee is wrong when it says that libel proceedings offer no protection. The Reynolds case in 2001 and the Jameel case six years later prevent newspapers sheltering behind the defence of qualified privilege—or reportage, as it is called, in relation to a matter of public interest unless they comply with sensible tests. In the Jameel case, the noble and learned Lord, Lord Nicholls of Birkenhead, said that newspapers would not have a defence unless the report was responsible, fair, on a matter of public interest and in compliance with certain other tests, which would include the obligation to evaluate fairly and sensibly the basis of an allegation. They cannot simply recycle a verbal report of an allegation or something given to them by letter without checking. They have also to check with the person aggrieved, the teacher. They have to give the gist of both sides of the story and, importantly, they have to look at the whole tenor and pitch of the article. I hope that that is enough to show that teachers who are the subject of sensational, biased, unfair reports pre-charge have protection. One or more of the unions might make it their business to pick up a couple of test cases, which they could take and use to make their point. Believe me, that would reverberate around Fleet Street very quickly, as my noble friend Lord Black will confirm.

Teachers might also take up the invitation of the Press Complaints Commission—again the noble Lord, Lord Hill, referred to this—to report grievances in relation to pre-publication publicity. He rightly said that there had been none. But, as the JCHR report says, the notion that no complaints are made because it is a useless thing to do is simply not right. First, it costs nothing to make a report to the Press Complaints Commission. Secondly, it has very real powers over its newspaper members. It can and does make them publish retractions and apologies. So I do not agree with what it and my noble friend have asserted.

To summarise, I sincerely believe that the case for this most important of limitations on press freedom, albeit put forward with sincere concern for a most highly valued section of our community, is unsafe. Surely, the onus is on those who would restrict press freedom, especially to a single group and in a way never ventured before, to prove beyond reasonable doubt that such a change is unarguably essential. But, as I have endeavoured to show, the Government's lack of direct relevant evidence as to the present extent of pre-charge publicity affecting teachers is all but total. It is that publicity, and that alone, which Clause 13 addresses. Not only is the need for the clause wholly unproven but it could and will unfairly disadvantage pupils and, in the worst cases, prevent teacher abuse ever seeing the light of day if a charge for whatever reason, and there are many, is never brought or if a school fails to bring disciplinary procedures against a teacher, and there are many reasons why that might be the case. Nor will truth be a defence, as I have indicated. For those main reasons, I propose that Clause 13 should not stand part of this Bill.

Baroness Hughes of Stretford: My Lords, I did not think that there would be anything for me to say on the clause stand part debate but I want to make one broad comment. When I opened the consideration of the first group of amendments, I introduced the criterion

[Baroness Hughes of Stretford]
that one of the bases on which we should make a judgment about this matter is the basis of the evidence. In summing up that debate, I pointed out that the Government have not produced what the Minister said was important; namely, an evaluation of the impact of the current measures on reporting of pre-charge allegations against teachers. The whole Committee has to be very grateful to the noble Lord, Lord Phillips, who has researched this and has produced some figures today, which look remarkably small in terms of the incidence of pre-charge reporting of allegations against teachers.

Today, I will go no further than to say to the Minister that, at the very least, he has to come back to every Member of the Committee before Report with as definitive information and statistics as he can gather on the current incidence of the reporting of cases against teachers before charges are made and some evaluation of the quality of that evidence. One point that I should make to the noble Lord, Lord Phillips, is that I think that his figures are very compelling. I cannot make a judgment today on whether they are the total number of cases or not. It may not be possible to get that information, but the Committee, in deliberating further on Report, must have the best information that the Government can put forward on that matter and an evaluation of how robust that information is so that we can make a judgment.

7.30 pm

Lord Black of Brentwood: My Lords, I will delay the Committee for just one minute. I originally raised these matters at Second Reading and I wanted to say a few words in support of the noble Lord, Lord Phillips, who has made a compelling and overpowering case. I am also mindful of the remarks that the noble Baroness, Lady Howarth, made earlier about the work of the NSPCC, Childline and others involved in this area.

During our debate in Committee on Monday, I was struck by something that the noble Lord, Lord Peston, said. He said that,

"the fact that these people are young children does not mean that they have no human rights. None of us would tolerate being treated in this way on anything else that we encountered as adults. Whatever was going on, and if we were doing something wrong, we would certainly expect to be dealt with with due process and the right of appeal against anything that was relevant".—[*Official Report*, 4/7/11; col. GC 8.]

To sum up, my main concern with this clause is that what we are doing—this is the real mischief of this clause—is removing from vulnerable children the right that every other citizen in the country enjoys, which is to publicise a grievance or complaint. We should be very clear about that. We are saying to children—this is where the work of the NSPCC and others has been so important in previous years—"Unlike any other group in society, your complaints are treated as false until a charge is made". I do not believe that that is what the Government want. I support the noble Lord, Lord Phillips.

Lord Hill of Oareford: My Lords, I will also be brief as we have already rehearsed many of the arguments this afternoon, so I will not detain the Committee for long. The noble Baroness, Lady Hughes of Stretford, referred to assembling the information that we have. We will, of course, do that although some of it is slightly harder to come by, given its nature.

We have moved a long way in the course of the afternoon—this often happens in your Lordships' House—from the views that have been expressed to us all by the unions and by teachers. Some of their figures as regards the scale of false allegations are so high that I do not believe them in the sense that this is the sort of story that people relate to other people and so it spreads. Like me, the noble Baroness will have seen survey research which shows that 50 per cent of teachers claim to know someone who has been the subject of false allegations. That seems to me a suspiciously high and precise figure. One should not suggest that there is not a problem that needs to be addressed or that a consequence of this measure is that child protection and safeguarding will be weakened.

I support the great British media but arguments have been adduced in relation to the crusading role of the media in child safeguarding issues. I can think of many cases where that is true but I can also think of many where the crusading purpose has been directed at increasing newspaper sales and producing salacious articles. We must be careful not to go too far in taking the moral high ground and taking our eyes off some of the practical issues which teachers and head teachers tell us that they face and fear. We should see this provision as part of a broader range of measures to try to make teachers feel that they have the backing of us all in their difficult job of maintaining order and discipline so that children can learn. One must not lose sight of that point.

My noble friend Lord Phillips quoted powerfully from the exchange between the JCHR and the Secretary of State. Paragraph 1.48 of the JCHR report states:

"However, we are satisfied that the evidence and justifications relied on by the Government are sufficient to justify the imposition of such reporting restrictions as a necessary and proportionate means of achieving the legitimate aim of protecting the reputation and rights of teachers and supporting teachers in their role as the professionals responsible for classroom discipline".

It is worth recalling that the JCHR concluded that the evidence—not as complete as my noble friend would like—led it to that conclusion.

In the course of this afternoon, there have been forceful arguments in favour of extending the clause from the Benches opposite and from some of my noble friends. There has also been opposition to its current breadth. I am aware of the concerns. I would be happy to speak to my noble friend about the earlier issue and try to provide further reassurance. As I have said, we will bring forward the review of the impact of these provisions and we will continue to monitor closely the issues that have been raised.

I argue that these provisions would not enable a teacher to get off scot-free from wrongdoing. Safeguarding duties remain in place. The clause states simply that anonymity should remain in place until someone is charged. I have a difference of opinion with my noble friends Lord Phillips and Lord Black about the effectiveness as a practical act of recourse of the PCC or of a libel action. I understand the arguments of both noble Lords—one with great experience as a

lawyer, the other with great experience of working with the press. In previous situations, people have always said, "There's always the PCC", or, "You can always bring a libel action". I am afraid that I do not believe that the PCC is an effective protector of people, and I do not believe that bringing a libel action would be a practical course of action for a teacher who has had all kinds of awful things going on and their reputation traduced.

Those are the arguments in favour of the clause. I have listened to the points raised by noble Lords on all sides this afternoon. I will try to provide some more statistical information, which I hope will help the Committee. I will also reflect on the points that have been made. On that basis, I beg to move that Clause 13 stand part of the Bill.

Lord Phillips of Sudbury: As before, I am grateful to the Minister. I ask him to reflect on the statistics, as the noble Baroness, Lady Hughes, invited him to do. It is essential that the unions provide us with concrete examples of pre-charge newspaper reports of a salacious nature, because so far they have not produced one. The only reports they have produced have been four-line factual reports. They must produce pre-charge reports.

Finally, the noble Lord, Lord Hill, berated me—no, not that. He would not do that.

Lord Hill of Oareford: That would be libel.

Lord Phillips of Sudbury: No, it would be slander. He very reasonably said, "Look at the end of the JCHR report where it exonerates the Government". Indeed it does, but how it does is beyond my tiny brain to understand. I suspect that the committee was confused.

Baroness Stowell of Beeston: As a member of the Joint Committee on Human Rights, I feel that I ought to respond to that point. I am very sympathetic to the points that have been made, particularly by my noble friend Lord Black of Brentwood. It is my experience in the time that I have been on the committee that its conclusions are made very carefully, after a lot of very careful deliberation. I do not have any experience of the committee concluding in that way without being absolutely confident in its views. It is worth reinforcing that point.

Lord Phillips of Sudbury: I am grateful to the noble Baroness, and I would have been more cautious in my remarks had I known she was here. I think they are blinded by the numbers of allegations thrown around. Those tables are unscientific to an extraordinary extent. Let us remember that all we are interested in is pre-charge newspaper publicity. If the noble Baroness reads her long report, she will find no satisfactory evidence of that. If it is there, let us please have it. On that basis, I shut up.

Clause 13 agreed.

Baroness Garden of Frognal: My Lords, this may be a convenient moment for the Committee to adjourn until Monday at 3.30 pm.

Committee adjourned at 7.41 pm.

Written Statements

Wednesday 6 July 2011

Children: Early Learning and Development

Statement

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): My honourable friend the Minister of State for Children and Families (Sarah Teather) has made the following Written Ministerial Statement.

The importance of the foundation years—as a foundation for life and for future attainment and success—cannot be overestimated. Children's personal, social and emotional development, physical development and communication and language are of paramount importance. Without a strong start in these three prime areas, children will struggle as they develop in life, with friends and in school. It is vital we have the right framework to support high-quality early years education and development.

The early years foundation stage sets the standards for the whole of the diverse early years sector, from birth to five. Reform of the EYFS is one important element of our wider approach to supporting families in the foundation years, which we will shortly be setting out in full, in a publication jointly developed with the Department of Health.

On 30 March Dame Clare Tickell published her independent review of the early years foundation stage, informed by the latest evidence about how children learn and develop, and the views of parents and carers, practitioners, academics and other experts. The Government welcomed her report, and the revised framework, on which we are today beginning consultation, responds to many of Dame Clare's recommendations. The new framework makes a number of significant improvements:

reducing bureaucracy and paper work for professionals, simplifying the statutory assessment of children's development at age five;

simplifying the learning and development requirements, reducing the number of early learning goals from 69 to 17;

stronger emphasis on the three prime areas which are most essential for children's healthy development—personal, social and emotional development, physical development and communication and language (with four specific areas in which the prime areas are applied—including literacy and mathematics);

a new summary report for parents on their child's development between the ages of 24 and 36 months, linking with the Healthy Child review carried out by health visitors, so that children get any additional support they need before they start school ; and

strengthening partnerships between professionals and parents, ensuring that the new framework uses clear language.

Consultation on the early years foundation stage will run until 30 September. The aim is to have the new framework in place from September 2012.

Horn of Africa

Statement

Baroness Verma: My right honourable friend the Secretary of State for International Development has made the following Statement.

The Horn of Africa is currently experiencing a major humanitarian crisis: 10 million people are in need of emergency relief and the situation is likely to get worse, in places, before it improves when the next rains come. This is the Horn of Africa's most severe drought since 1995. In some areas, 2010-11 has been the driest period in 60 years, and soaring local and global food and fuel prices have made the situation worse. The ongoing conflict and insecurity in Somalia in particular is exacerbating the problem and driving over 10,000 people a week to flee into neighbouring Kenya. Ethiopia, Somalia and Kenya are the worst hit.

In the long term, people in the Horn of Africa desperately need food security. The UK is a world leader in supporting countries to become more resilient to drought and famine, and has been working in the region for many years. Thanks to UK support, 7.8 million people in Ethiopia have access to cash and food in exchange for work through the Productive Safety Net Programme. DfID funding is also helping create 60,000 new jobs that are not dependent on rain-fed agriculture. A further 60,000 people are assisted through a safety net programme for the poorest households in Kenya.

These programmes that build long-term resilience are having an impact. In 1992, 71 per cent of the population of Ethiopia was chronically malnourished (out of 53 million). Today, only 46 per cent of a total population of 80 million is malnourished, so tens of millions more Ethiopians are able to feed themselves throughout the year. Those benefiting from UK-supported programmes have proved less vulnerable to the current drought. But long-term resilience takes many years to build up, and emergency relief is needed now to respond to the crisis before our eyes, and to make sure that the significant development gains of recent years are not eroded.

On 3 July the UK Government announced significant funding for the World Food Programme to help feed 1.3 million Ethiopians for three months and to help 329,000 malnourished children and pregnant women. Our commitment will allow the WFP to access food from the Government of Ethiopia's emergency food reserve now, while also starting procurement to replenish the reserve in time to meet shortfalls expected during the peak period of need (September to November).

The UK has also provided strong support for Kenya and for Somalia in the last financial year, funding emergency nutrition, health, water and sanitation and livelihood support activities through UN agencies, Red Cross and non-governmental organisations. We are rapidly looking at what additional support the UK should give in Somalia and Kenya.

But other countries must also do more. We are vigorously pressing the rest of the international community and governments in the region to join us in stepping

up and taking action to prevent this disaster becoming a catastrophe. Intervening now is more cost effective than waiting for the situation to get worse. I am in close touch with Baroness Amos, UN Under-Secretary-General for Humanitarian Affairs, who I met on Tuesday 5 July to discuss how to galvanise a bigger and more effective response.

Ministry of Defence: People Pay and Pensions Agency

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): My right honourable friend the Minister for Defence Personnel, Welfare and Veterans (Mr Robathan) has made the following Written Ministerial Statement.

With effect from today, the People, Pay and Pensions Agency (PPPA) will cease to have the status of executive agency of the Ministry of Defence (MoD).

The People, Pay and Pensions Agency (PPPA) was formed in April 2006 to bring together civilian pay, pension and human resource (HR) services. The PPPA subsumed the Pay and Personnel Agency (PPA) and became the single provider of all corporate civilian personnel services to the MoD.

My right honourable friend the Secretary of State for Defence (Dr Liam Fox) announced on 22 March 2011 (*Official Report*, cols. 49WS-50WS) the intention to establish the new Defence Business Services (DBS) organisation, bringing together the delivery of a range of corporate service functions to support all areas of the department from one organisation. The DBS stood up on 1 July 2011 and the civilian HR function of the DBS provided by the PPPA has been renamed as DBS—Civilian HR.

This change in operating status will have no impact on PPPA's customers and will deliver efficiencies and wider savings to Government, in particular the costs incurred in auditing the agency's annual report and accounts.

Regional Development Agencies

Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): My honourable friend the Minister of Business and Enterprise (Mark Prisk) has today made the following Statement.

The coalition is committed to closing the regional development agencies (RDAs) and facilitating the delivery of economic development at the local level through supporting the establishment of local enterprise partnerships (LEPs) and the existing role of local authorities in fostering and sustaining growth.

In the 12 years they have existed the RDAs have undertaken the acquisition, development and sale of a range of land and property assets for the purposes of providing economic development to local communities, assistance in deprived areas, and regeneration to encourage growth and new business. However, this model is no longer affordable in the current economic climate and we need to agree a future for these assets that is affordable while enabling them to be developed in a way that is responsive to local needs.

In preparation for closure, each of the eight RDAs (outside London) has developed a plan for their assets and liabilities. The National Transition Board, chaired by the Department for Business (BIS) and involving the RDAs, Department for Communities and Local Government (DCLG), HM Treasury and others, has considered these plans. In relation to land and property assets, on 14 April I confirmed my agreement to:

disposal of sites that are market ready, where the economic development and regeneration objectives have been achieved;

market disposal of sites to local authorities who want to acquire assets;

retention within central government of key national land assets including those where technology and innovation centres (TICs) are located; and

transfer of the RDA coalfield sites to the Homes and Communities Agency (HCA).

I am confirming today the Government's intention to transfer the majority of the RDA land and property portfolio into a stewardship arrangement through which local partners, including local authorities, businesses, LEPs and others will be able to influence their development and ensure they are developed in a way which maximises economic outcomes for the area. Most of these sites are not ready for market sale and in the majority of cases require further investment to deliver economic benefits. To achieve delivery of this we intend to transfer title to these assets to the Homes and Communities Agency (HCA), which will be responsible and accountable for managing the portfolio. Subject to completion of the necessary detailed work and arrangements the transfer is currently planned to take place on 19 September 2011.

The HCA will use its expertise in land and property management to ensure that the assets are fully developed in a way which will help deliver economic growth and regeneration to local areas. Under HCA supervision of the stewardship arrangement HCA will establish local committees to allow local partners such as local authorities, businesses, LEPs and others to influence development of the portfolio. National policy interests will be managed through BIS and DCLG representation on a newly constituted Land and Property Board, and with BIS local membership of the local stewardship committees.

The portfolio includes income-generating assets which will provide investment funds for those assets which need further development. This recycling of receipts should enable the arrangement to be largely self-financing.

DCLG will use its powers under Section 51 of the Housing and Regeneration Act 2008 to transfer the assets from the RDAs to HCA. The detail of these transfers is still being agreed. The Secretary of State for Communities and Local Government will approve the final list of assets to be transferred. Details of the transfer order will appear on the DCLG and BIS websites once it has been made. We will set out detail

of the assets being put into the stewardship arrangement by LEP area at that point. There will be a transfer of staff from the RDAs to the HCA in accordance with TUPE regulations.

Under a similar but separate stewardship arrangement, BIS will contract HCA to manage its interests in three nationally important technology parks: Ansty Park, Coventry; the Advanced Manufacturing Park, Rotherham; and SPark, Bristol. HCA will manage these in order to continue the development of these land assets which will maximise their impact on economic growth. These sites have been identified as assets of national importance to be retained under the ownership of central government in order to be developed further to support investments in innovation and technology. Four facilities based on these sites form part of the recently established High Value Manufacturing Technology and Innovation Centre funded by the Technology Strategy Board.

This transfer is in line with the principles for disposal of assets published on 10 February 2011, which can be viewed at www.bis.gov.uk/rda-assets. I will provide an opportunity for Members of the House to discuss these transfers at a meeting early in the autumn, once the local details of the transfers have been established.

Taxation: Policy

Statement

The Commercial Secretary to the Treasury (Lord Sassoon): My honourable friend the Exchequer Secretary to the Treasury (David Gauke) has today made the following Written Ministerial Statement.

Budget 2011 announced a number of tax policy changes and longer term tax reforms that will be subject to consultation. These are summarised in the tax consultation tracker, which is available on the HM Treasury website at: http://www.hm-treasury.gov.uk/tax_updates.htm.

HM Revenue and Customs (HMRC) and HM Treasury have today published the following consultation document: *Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCT)*—a consultation on a scheme to provide further support for seed investment, simplification of the Enterprise Investment Scheme (EIS) rules by removing some restrictions on qualifying shares and types of investor and refocusing both EIS and venture capital trusts (VCTs) to ensure they are targeted at genuine risk capital investments.

The following consultation document will be published on 7 July: *Modernising Powers, Deterrents and Safeguards: Bringing HMRC's Information Powers into Line with International Standards for Tax Information Exchange*—a consultation on proposals to bring the UK's information gathering powers fully into line with international standards set by the OECD.

Updates to dates for some consultations planned for July have been made to the tax consultation tracker.

Treatment of Detainees

Statement

The Minister of State, Ministry of Justice (Lord McNally): My right honourable friend the Lord Chancellor and Secretary of State for Justice (Kenneth Clarke) has made the following Written Ministerial Statement.

The Government and the detainee inquiry have agreed the terms of reference and protocol for the inquiry's work, which are being published today on the inquiry's website at www.detaineeinquiry.org.uk, along with some frequently asked questions and answers about the inquiry and its preparatory phase to date.

As the Prime Minister said in announcing the detainee inquiry on 6 July 2010, the purpose of this inquiry is to examine whether, and if so to what extent, the UK Government and their intelligence agencies were involved in improper treatment, or rendition, of detainees held by other countries in counterterrorism operations overseas, or were aware of improper treatment, or rendition, of detainees held by other countries in counterterrorism operations in which the UK was involved. The primary focus is the aftermath of the attacks of 11 September 2001 and particularly cases involving the detention at Guantanamo Bay of UK nationals and former lawful UK residents.

The inquiry will also consider the evolution of the Government's response to developing knowledge of the changing practices of other countries towards detainees in counterterrorism operations in this period. This will include how the response was implemented in departments and the security and intelligence agencies. The Prime Minister has asked the inquiry to report to him within one year of commencing. The inquiry will identify any lessons to be learned and make recommendations for the future, to which the Government have undertaken to publish a formal response.

The Government hope that the inquiry will be able to start as soon as it is possible to do so. However, as the Prime Minister made clear in his public letter of 6 July 2010 to the right honourable Sir Peter Gibson, the inquiry chair, this depends on the end of related criminal processes, the timing of which is a matter for the police and the Crown Prosecution Service.

The Government are grateful to the inquiry for the important preparatory work it has done to date and which it will continue to do. The inquiry is a vital part of the set of measures announced by the Prime Minister that aim to draw a firm line under the serious questions that have been raised about the United Kingdom's actions. We want to understand properly what happened and to learn any necessary lessons. We look forward to the detainee inquiry being able to get under way formally in due course and will make a further statement to the House when in a position to do so.

Written Answers

Wednesday 6 July 2011

Armed Forces: Pilots

Question

Asked by ***The Lord Bishop of Hereford***

To ask Her Majesty's Government what steps they are taking to provide professional development and career opportunities, both inside and outside the Navy, for Navy fixed-wing pilots whose jobs no longer exist as a result of the Strategic Defence and Security Review; and how this compares with the RAF Harrier pilots in the equivalent situation. [HL10367]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): All Royal Navy (RN) and Royal Air Force (RAF) pilots previously employed on the Harrier have been re-employed in flying or flying-related appointments within their respective services. These appointments allow the pilots similar career opportunities and professional development as other RN and RAF pilots.

RN pilots remain eligible for redundancy under the Armed Forces redundancy scheme. If selected, pilots will receive the normal resettlement support and training to help transition into civilian life. In respect of opportunities outside of the RN, a scheme providing targeted assistance for pilots to start a second career in the civilian aviation sector has been extended to include pilots who may leave the service under redundancy terms.

Qualified RAF pilots will not be made redundant in the first phase of RAF redundancies.

Armed Forces: Staff

Question

Asked by ***Lord Chidgey***

To ask Her Majesty's Government how many officers, non-commissioned officers and servicemen and women have resigned or opted not to extend their engagements in 2009, 2010 and the first six months of 2011. [HL10370]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): The following table lists those service personnel who have voluntarily left the Armed Forces in 2009, 2010 and up to 30 April 2011.

Service		*1 Jan-31 Dec 2009*[1]	*1 Jan-31 Dec 2010*	*1 Jan-30 Apr 2011*
Naval Service	Officers	240	170	50
	Non-Commissioned Officers	630	470	210
	Other Ranks	680	540	250
Army	Officers	360	460	160
	Non-Commissioned Officers	1,520	1,980	700
	Other Ranks	1,050	1,800	550
Royal Air Force	Officers	180	170	60
	Non-Commissioned Officers	590	500	170
	Other Ranks	510	360	120

Information on those who decide not to extend their engagements is not held centrally and could only be provided at disproportionate cost.

Note (1): Voluntary outflow figures for the Army are not held prior to 1 April 2009.

Asylum Seekers

Questions

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Baroness Browning on 16 June (*WA 203–4*), whether they intend to address the statistical gap in relation to the unavailability of data on the numbers of asylum applications since 1997 (a) that have been accepted, and (b) where the applicants were otherwise permitted to remain in the United Kingdom. [HL10599]

The Minister of State, Home Office (Baroness Browning): Historically, data prior to April 2000 (asylum applications) and May 2000 (asylum initial decisions) were derived from manual counts of cases as they arrived and when decisions were taken and only relate to principal applicants. It would not be possible to generate the necessary statistics for these earlier years.

Generating statistics for between April 2000 (asylum applications)/May 2000 (asylum initial decisions) and 2004 for dependants and information on asylum applications from later years that have been accepted or been otherwise permitted to remain would involve matching databases which would be difficult, costly and time consuming and could not be done within existing resources.

The United Kingdom does not yet have full controls in place for people leaving the country, so information is not available on the number of these asylum seekers and dependants currently residing in the United Kingdom.

Data on numbers of principal asylum applicants between 2004 and 2009, as at May 2010 (tables provided in my answers to PQs HL8059 and HL9144), granted asylum, humanitarian protection and discretionary leave at initial decision and appeal are also available in the published tables of the *Control of Immigration: Statistics United Kingdom 2009*. This does not include applications accepted at other stages of the process or those permitted to remain outside of the asylum process. This publication is available in the Library of the House and the Home Office Science website at: http://www.homeoffice.gov.uk/science-research/research-statistics.

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

To ask Her Majesty's Government what guidance they have issued to the UK Border Agency regarding the appropriateness of returning people of Nuba ethnicity to Sudan, in the light of reports of violent attacks targeted at that group. [HL10626]

Baroness Browning: The UK Border Agency is aware of recent events in the South Kordofan area of Sudan and is monitoring the situation closely. Our returns guidance is constantly kept under review.

All asylum claims are carefully considered on their individual circumstances in light of the latest country information. Those found to need international protection will be granted asylum or another form of leave. If claims are refused, applicants have a right of appeal to the immigration courts.

The UK Border Agency does not enforce the return of individuals, unless it, and the UK courts, consider that it is safe to do so.

Bahrain

Questions

Asked by ***Lord Hylton***

To ask Her Majesty's Government what assessment they have made of the fairness of the trial in Bahrain, before a military security court, of doctors and nurses, which security court, of doctors and nurses, which resulted in two life-imprisonment sentences. [HL10421]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Our embassy has been able to attend some of the many trials currently taking place in the national safety courts, including the trials of the 48 medical staff. Our primary concerns in the legal process have been the methods of arrest, early access to legal counsel, allegations of abuse in detention, methods of interrogation, alleged coerced confessions, the charges brought against defendants, and the implications that medical professionals may not be allowed to carry out their duties without fear of recrimination.

In the hearings we attended, the judging panel appeared to give due attention to the points raised by the defence and prosecution teams. One key difference between the national safety trials and the civil court hearings we observed is that the defendants have had little chance to speak, other than to confirm their names. We have also observed that many defendants do not have legal representation until after the first hearing, suggesting that they have not had access to legal counsel beforehand. The Government have told the embassy that some defendants may have refused counsel and that the court has therefore had to appoint a lawyer at the first hearing.

We will continue to monitor the legal proceedings.

Asked by ***Lord Hylton***

To ask Her Majesty's Government what information, if any, they have received about the beginning of dialogue in Bahrain between the Government and the opposition. [HL10423]

Lord Howell of Guildford: The national dialogue in Bahrain began on 2 July with an initial meeting and address by the chair of the national dialogue, the speaker of the National Assembly Mr Khalifa bin Ahmed Al Dhahrani. The participants agreed that the dialogue would cover four main themes: political, economic, human rights and social issues. A range of political societies, civil and non-governmental organisations, prominent figures within the kingdom of Bahrain and the media attended.

Benefits

Questions

Asked by ***Lord Kirkwood of Kirkhope***

To ask Her Majesty's Government what is the current total expenditure on all major welfare benefits, including housing benefit and council tax benefit, by benefit type for the latest year for which figures are available. [HL10493]

To ask Her Majesty's Government what is the percentage expenditure of Gross Domestic Product devoted to all major welfare benefits, including housing benefit and council tax benefit, for the latest year for which figures are available; and how this compares with other Organisation for Economic Co-operation and Development countries.[HL10495]

To ask Her Majesty's Government what was the total annual expenditure on all major welfare benefits, including housing benefit and council tax benefit, for each financial year since 1997, by (a) cash amounts, (b) real terms costs in 2010 prices, and (c) as a percentage of Gross Domestic Product. [HL10496]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): Information relating to Great Britain has been placed in the Library.

Benefit spending in Northern Ireland is a matter for the Northern Ireland Office. Child benefit (and tax credits) are administered by Her Majesty's Revenue and Customs.

Transfers of functions into and out of Department for Work and Pensions, and its predecessors, affect the observed trends, and figures here do not control for such transfers.

Comparable OECD figures are not available, because of differences in individual countries' welfare systems. However, some information on OECD countries' welfare spending may be found at: http://www.oecd.org/els/social/indicators/SAG.

DWP benefit expenditure information can be found at the following website: http://research.dwp.gov.uk/asd/asd4/index.php?paqe=expenditure.

DDP figures quoted are taken from the HM Treasury website as below. Please refer to this for more information regarding these figures http://www.hm-treasury.gov.uk/data_gdp_fig.htm.

Care Services

Question

Asked by ***Baroness Wheeler***

To ask Her Majesty's Government, in the light of the fact that 81 per cent of publicly funded home care is now provided by the independent sector, what assessment they have made of the Equality and Human Rights Commission's suggestion that independent providers of home care for older people may be operating outside the reach of the Human Rights Act 1998; and what plans they have to bring independent social care workers working in the home, or in care homes, within the social care regulatory framework. [HL10396]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): It is unlawful for a public authority to act in a way that is incompatible with the European Convention on Human Rights. Under Section 6 of the Human Rights Act 1998, private companies which are exercising public functions will also be public authorities within the Act in respect of those functions. If a public authority of this kind has breached convention rights, a claim can be brought against it.

The Government do not consider that it would be proportionate to subject all social care staff, many of whom are low-paid workers, to compulsory statutory professional regulation.

The vetting and barring scheme (VBS) already provides arrangements to bar those who pose a risk to vulnerable people from working in the sector. Social care workers are within the scope of the VBS and will continue to be when the scheme is remodelled as proposed in the Protection of Freedoms Bill, which is currently before Parliament.

However, ensuring that people are protected from abuse is also a key responsibility of employers, through effective training, good supervision of staff and robust disciplinary procedures to deal with misconduct. To support employers in their duties, the Government are committed to introducing, subject to parliamentary approval, a system of assured voluntary registration for unregulated workers, including social care workers in England, as a lever to improve quality and further safeguard people who use services.

In addition, care providers of regulated activities are regulated by the Care Quality Commission, in accordance with statutory regulations. Providers must comply with these requirements to ensure the quality and safety of care. This includes ensuring care workers are appropriately trained and experienced and that service users are safeguarded from abuse and neglect.

Children: Poverty

Question

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

To ask Her Majesty's Government, further to the answer by Lord Freud on 23 June (*Official Report*, col. 1385), what is the recent research about the impact of in-kind support on child poverty referred to. [HL10630]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): In my earlier Answer I restated our position that using income transfers alone is not the way to solve poverty and that a comprehensive approach is required. Thinking beyond income transfers to in-kind support is supported by the recent OECD report *Doing Better for Families* which highlighted that child poverty is lowest in those countries with strong service and childcare-based interventions.

Our child poverty strategy demonstrates that we are making a sustained, long-term attempt to lift people out of not only poverty of income but poverty of aspiration and poverty of outcomes. We have maintained funding for Sure Start, with a refocused core offer that supports disadvantaged families, introduced new grants for the most disadvantaged young people through the fairness premium and the 16-19 bursary fund, and our welfare reforms are also based on the principle that work is key to reducing poverty.

Courts Service: User Survey

Question

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

To ask Her Majesty's Government why they have ended the HM Courts Service Court User Survey. [HL10584]

The Minister of State, Ministry of Justice (Lord McNally): My honourable friend the Parliamentary Under-Secretary of State, made a Written Ministerial Statement on 14 October 2010 (*Official Report*, col. 36WS) setting out why court users surveys would not be commissioned for 2010-11.

In April 2011 Her Majesty's Courts Service (HMCS) and the Tribunals Service came together to form a new integrated agency, Her Majesty's Courts and Tribunals Service (HMCTS). To have commissioned surveys for 2010-11 for the two agencies that were soon to close would not have represented good value for money, as the results would have been of limited use and would not have been available until after the creation of the new integrated agency.

HMCTS is currently considering how best to extract relevant user insight and intelligence for the new agency at proportionate value and cost.

Courts Service: Victim and Witness Support

Question

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

To ask Her Majesty's Government why they have ended the Witness and Victim Experience Survey.

[HL10583]

The Minister of State, Ministry of Justice (Lord McNally): The Witness and Victim Experience Survey (WAVES) was a useful source of information on victims' and witnesses' experiences of the criminal justice system. However, following a review, it was concluded that although WAVES provided valuable information on a subset of victims and witnesses, the department's future evidence requirements would best be met through alternative approaches, and the survey was ended.

The main reasons for this were that the principal findings from WAVES were stable over time, and the survey excluded some victim and witness groups of interest, such as domestic violence and sexual offences, victims and witnesses aged under 18, and cases that resulted in an out-of-court disposal or remained undetected. The data collected from WAVES are still relevant and continue to be analysed and used. Alternative methods for measuring victim and witness experiences are currently being explored by analysts within the department.

Crime: Drink and Drug Driving

Question

Asked by ***Baroness Hayter of Kentish Town***

To ask Her Majesty's Government, further to paragraph 3.32 in the Government's response to the reports by Sir Peter North and the House of Commons Transport Select Committee on Drink and Drunk Driving, what progress has been made on the Home Office specification for an approved portable evidential breath testing device; and what they envisage as the timetable for its publication.

[HL10632]

The Minister of State, Home Office (Baroness Browning): We are completing consultations and hope to publish the specification during the summer.

Criminal Records Bureau

Question

Asked by ***Lord Tebbit***

To ask Her Majesty's Government, further to the Written Answer by Baroness Browning on 21 June (*WA 275*), whether they have made any assessment of the balance between cost savings achieved by outsourcing work of the Criminal Records Bureau to places outside the jurisdiction of the United Kingdom and the risks of failure to maintain confidentiality of the data being processed.

[HL10556]

The Minister of State, Home Office (Baroness Browning): No such assessment has been made because the function which is undertaken outside the jurisdiction of the United Kingdom is the responsibility of Capita under the terms of the contract, which was originally fully evaluated through competition in accordance with EU procurement rules and regulations. The contract requires Capita to ensure the compliance of all its subcontractors, wherever they may be based, with all relevant provisions of the contract, including those relating to data protection.

Additionally, site visits have been undertaken on behalf of the Criminal Records Bureau by an appropriate security consultant, to ensure the appropriateness of the information assurance governance arrangements and assurance was given following these visits.

Disabled People: Motability

Question

Asked by ***Lord Morris of Manchester***

To ask Her Majesty's Government what recent contact they have had with Motability about the Motability scheme; what the outcome was; and what action they have taken or will be taking as a result.

[HL10399]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): Motability is an independent charity and is wholly responsible for the policies and overseeing the administration of the Motability scheme.

The Department for Work and Pensions regularly meets with Motability to discuss the performance of the specialised vehicles fund, which Motability administers on its behalf, and to discuss the Motability scheme more generally. These discussions are helpful to both parties in order to ensure that the scheme, in which disabled people can use their disability living allowance to lease a vehicle, gives personal mobility on terms which represent value for money and meet the needs of disabled people. Senior governors and directors of Motability have also met with DWP Ministers for similar discussions about the specialised vehicles fund, the Motability scheme and a wide range of mobility and transport issues.

Drugs

Question

Asked by ***Lord Moynihan***

To ask Her Majesty's Government whether there is a correlation between the prohibition of controlled substances and the market for controlled drugs.

[HL10548]

The Minister of State, Home Office (Baroness Browning): The Home Office has not made a formal assessment of the correlation between the prohibition of controlled substances and the market for controlled drugs.

Previous research commissioned by the Home Office in 2007, *The Illicit Drug Trade in the United Kingdom*, provided some qualitative insight into the operation of illegal drug markets, including an indication that enforcement action taken against the trafficking of illegal drugs increased their price.

Controlling drugs that cause harm is a key part of our efforts to protect the public, not least vulnerable people, and to meet our obligations under the international conventions on reducing drug misuse and drug trafficking.

Reference: Matrix Knowledge Group (2007) *The Illicit Drug Trade in the United Kingdom* Home Office Online Report 20/07.

http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/pdfs07/rdsolr2007.pdf.

Economy: Northern Ireland

Question

Asked by ***Lord Kilclooney***

To ask Her Majesty's Government (a) on what date the HM Treasury consultation Relaunching the Northern Ireland Economy was originally due to close; (b) whether that date has now changed, and, if so, why, and on what date the consultation is now due to close; and (c) how this change, if any, was communicated to the Northern Ireland public. [HL10535]

The Commercial Secretary to the Treasury (Lord Sassoon): The HM Treasury consultation *Rebalancing the Northern Ireland Economy* was originally due to close on 24 June 201 1. The consultation closing date has now been extended to 8 July 2011. The consultation deadline has been extended to ensure all interested parties have sufficient time to submit a response. This includes attendees at a high-level consultation meeting, which will be held in Northern Ireland on 7 July. The extended deadline has been clearly stated on the HM Treasury Rebalancing the Northern Ireland Economy consultation web page.

Embryology

Question

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

To ask Her Majesty's Government what assessment they have made of the figures recently released by the Human Fertilisation and Embryology Authority relating to the number of women who have become pregnant through IVF but have subsequently decided to abort the pregnancy. [HL10627]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The department has made no assessment of this information.

EU: Budget

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government what is the United Kingdom financial contribution to (a) the European Union Agency for Fundamental Rights, and (b) the European Institute for Gender Equality. [HL10483]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The UK makes its contributions to the EU budget as a whole and not to individual areas of spending within it. The UK's contribution to the EU budget in 2011 was around 12 per cent, post-abatement.

The Institute for Gender Equality received a total contribution from the EU budget of 7.5 million euros in 2011 and the EU Agency for Fundamental Rights received a total contribution from the EU budget of €20 million in 2011.

In line with the UK's contribution to the overall EU budget, around 12 per cent of each of the institutions budgets could be considered the UK's contribution.

European Court of Human Rights

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government what is their international legal obligation to comply with final judgments against the United Kingdom of the European Court of Human Rights. [HL10656]

The Minister of State, Ministry of Justice (Lord McNally): As a party to the European Convention on Human Rights, the UK is obliged to comply with judgments of the European Court of Human Rights (ECtHR) against the UK as a matter of international law. Article 46(1) of the convention, states: "The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties".

Extremism

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government how they will modify the Prevent Violent Extremism strategy in the light of the report by the Police Science Institute at Cardiff University. [HL9478]

The Minister of State, Home Office (Baroness Browning): Following an extensive review the Home Office published the new Prevent Strategy on 7 June 2011.

The report entitled *Assessing the Effects of Prevent Policing* by the Universities' Police Science Institute, Cardiff University, was submitted to the review and account was taken of it in preparing the strategy.

Finance: Regulation

Question

Asked by ***Lord Lipsey***

To ask Her Majesty's Government whether they will set out their planned timetable for the legislation envisaged in A new approach to financial regulation (Cm 8083). [HL10602]

The Commercial Secretary to the Treasury (Lord Sassoon): The Government published a White Paper and draft Bill, *A New Approach to Financial Regulation: The Blueprint for Reform* on 16 June.

The draft Bill will shortly be considered in pre-legislative scrutiny (PLS) by an ad hoc Joint Committee of both Houses. PLS is currently scheduled to conclude by 1 December.

The Government will consider the Joint Committee's report and introduce the Bill shortly thereafter. The Government expect the Bill to receive Royal Assent by the end of 2012, subject to parliamentary scheduling considerations.

Forestry Commission

Question

Asked by ***The Earl of Clancarty***

To ask Her Majesty's Government how much land as (a) a percentage, and (b) by acreage, the Forestry Commission has sold off in each year of the past 20 years. [HL10401]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): The public forest estate in England, Scotland and Wales, managed by the Forestry Commission, was treated as a single entity between 1991 and 1997. During that time the total area managed decreased by 59,923 hectares or 5.3 per cent of the 1991 land area.

Forestry was devolved in 1999 and the area sold in Scotland and Wales from this time is a matter for the respective Administrations. Land sales in England from January 1997 to December 2010 are shown in the table below.

Sales—by calendar year 1997 to 2010

Year	*Total area (hectares))*	*% of 1997 land area*
1997	2662	1.003
1998	1269	0.478
1999	283	0.107
2000	441	0.166
2001	97	0.037
2002	888	0.334
2003	806	0.304
2004	866	0.326
2005	47	0.018
2006	198	0.075
2007	1637	0.617
2008	306	0.115
2009	1056	0.398
2010	1564	0.589

All new sales of public forest estate land were suspended on 17 February, pending receiving and considering the advice of the independent panel which is due to report in April 2012.

Government Departments: Research and Data

Question

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

To ask Her Majesty's Government, further to the Written Answer by Baroness Browning on 23 June (*WA 334–6*), when they expect to get the results of the research "Satisfying labour demands through migration". [HL10587]

The Minister of State, Home Office (Baroness Browning): The report for the project Satisfying Labour Demand through Migration is due to be published on the European Migration Network (EMN) website: (http://emn.intrasoft-intl.com/html/index.html) in the week commencing 4 July 2011.

The findings from the UK report are included in a synthesis report on the topic, produced by the European Commission. The synthesis report was published on the EMN website on 15 June 2011 and can be accessed here: http://emn.intra_softintl.com/Downloads/prepareShowFiles.do;jsessionid=3EOD982681B8144BED121A00EA3EEAC6?entryTitle=01_Satisfyingpercent20LABOURpercent20DEMANDpercent20throughpercent20migration.

Government Departments: TV Sets

Question

Asked by ***Lord Jopling***

To ask Her Majesty's Government, further to the Written Answer by Lord Taylor of Holbeach on 22 June (*WA 338*), whether they will answer now the questions put to them, which were why it took the Government 28 working days to respond to Lord Kennedy of Southwark's Question for Written Answer HL8962 when the target time for answering Questions for Written Answer is 10 working days, and why the Government have not yet counted the number of television sets in the Cabinet Office. [HL10559]

Lord Taylor of Holbeach: The Government always aim to answer Questions for Written Answer within 10 working days. Unfortunately there are occasionally delays in the process which means it is not always possible to achieve this.

The Cabinet Office is a large estate comprising 11 buildings in central London and four in the regions. Information relating to the exact number of television sets is not held centrally and to collate this information would incur disproportionate cost.

Health and Social Care Bill

Question

Asked by ***Lord Beecham***

To ask Her Majesty's Government what legal advice they have sought regarding the reduction in capacity at strategic health authority and primary care trust levels in advance of the Health and Social Care Bill. [HL10538]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The department has sought legal advice as required across the range of reforms contained in the Health and Social Care Bill, including around issues of reductions of capacity in the current National Health Service organisations.

Health: Preventative Care

Question

Asked by ***Baroness Smith of Basildon***

To ask Her Majesty's Government what steps they intend to take in response to the finding in the recent Frontier Economics report that investment in the Women's Royal Voluntary Service services in preventative care for older people provides significant savings for the National Health Service and local authorities. [HL10489]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Investment, by the National Health Service and local authorities, in integrated preventative services can lead to better outcomes for individuals including helping people to live independently for longer, and can realise efficiencies for both the NHS and local authorities. That is why we have invested £150 million in the NHS this year to support re-ablement, which will help people recover their independence after a spell in hospital.

Health: Reciprocal Agreements

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 16 June (*WA 209–10*), which European Union member states, other than the Republic of Ireland, use an average cost basis for calculating health care payment claims between themselves and the United Kingdom; how the United Kingdom and Irish average costs of £3,600 and €6,800 are calculated; and what is the reason for the large differential. [HL10600]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Under Regulation 1408/71, all member states claim healthcare costs for pensioners and their dependants and the dependants of workers on the basis of an average cost. Under Regulation 883/2004, which entered into force on 1 May 2010, this changed, and all member states will claim actual costs, except those member states that choose to continue to claim an average cost for healthcare provided to those residents.

Those member states that will continue to claim an average cost are:

Ireland;
Spain;
Italy;
Malta;
The Netherlands;
Portugal;
Finland;
Sweden; and
United Kingdom.

The calculation of each member state's average costs is for the Government of that member state to decide. The UK's average costs are calculated on the basis of domestic healthcare expenditure and the size and profile of the UK population for the reference year in question.

Homeless People

Questions

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government which government department has responsibility for the needs of homeless people. [HL10593]

To ask Her Majesty's Government how much was spent by central government in meeting the needs of homeless people in (a) 2000, (b) 2005, and (c) 2010. [HL10594]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Department for Communities and Local Government is the lead department; however, given the sometimes complex nature of homelessness, other government departments need to be involved in helping meet the needs for homeless people—that is why my right honourable the Minister for Housing and Local Government established a cross-government working group on homelessness bringing together Ministers from eight government departments to address the complex causes of homelessness and rough sleeping—not only housing, but just as importantly health, work and training.

The table below shows Department for Communities and Local Government homelessness grant funding for the years requested.

	2000-01 (£m)	*2005-06 (£m)*	*2010-11 (£m)*
Local Authority Revenue	2.9	44.7	74.1
Local Authority Capital	0	39.5	0

	2000-01 (£m)	2005-06 (£m)	2010-11 (£m)
Voluntary Organisation Revenue	28.6	15.0	18.7
Voluntary Organisation Capital	0	1.0	0
Total	31.5	100.2	92.8

The table below shows Supporting People Programme homelessness funding, this is collected retrospective year end from top-tier local authorities via the Supporting People Local Systems data set. This includes spend broken down by Supporting People client groups including single homeless with support needs, homeless families with support needs and rough sleepers.

	Homeless Families with Support Needs	Rough Sleeper	Single Homeless with support needs	Total
1 April 2009-31 March 2010	50,607,342	19,661,062	220,649,883	290,918,287
1 April 2005-31 March 2006	49,472,818	16,259,386	251,770,808	317,503,011

The Supporting People programme did not exist in 2000 so no comparable figures are available. Spend data to cover financial year 2010-11 are not available yet.

This Government take homelessness very seriously that is why we are maintaining investment in homelessness grant at £100 million a year for each of the next four years to support local authorities and the voluntary sector in their work to tackle homelessness.

A further £6.5 billion has been allocated to Supporting People over the spending review period.

Homelessness: Rough Sleepers

Questions

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government what is the estimated number of rough sleepers in the United Kingdom in (a) 1990, (b) 1995, (c) 2000, (d) 2005, and (e) 2010. [HL10590]

To ask Her Majesty's Government how many rough sleepers were found to have died in (a) 2005, and (b) 2010. [HL10591]

To ask Her Majesty's Government what overnight sheltered accommodation is available for rough sleepers in (a) Glasgow, (b) Edinburgh, (c) Cardiff, (d) Belfast, (e) Liverpool, (f) Leeds, (g) Birmingham, and (h) the London Boroughs. [HL10592]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The Government have introduced a new more accurate way of evaluating rough sleeping levels in England. Previously only local authorities where there was a known, or suspected, rough sleeping problem were required to provide a count. All areas across England now provide counts or robust estimates giving a clear national picture. Latest statistics show 1,768 rough sleepers in England on any one night in autumn 2010 and are published at the following link: http://www.communities.gov.uk/documents/statistics/xls/I 845849.xls.

Rough sleeping statistics for previous years are published on the DCLG website but are not comparable to the latest figures and so have not been provided here.

The department does not collect information specifically on the number of rough sleepers who were found to have died or overnight sheltered accommodation available for rough sleepers in cities. However, Homeless Link, the national umbrella organisation for front-line homelessness services, do offer a quick accommodation search facility at http://homelessuk.org/search/search AccomSimple.asp.

This Government are committed to tackling rough sleeping and preventing homelessness. We have maintained the level of 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 improve support for homeless people.

House of Lords: Sitting Times

Question

Asked by ***Lord Grocott***

To ask the Chairman of Committees how many sitting days of the House since 1 January 2011 breached the firm convention that the House should rise no later than 10 pm on Mondays, Tuesdays and Wednesdays, 7 pm on Thursdays and 3 pm on Fridays; and, in each case, by how much the time was exceeded. [HL10580]

The Chairman of Committees (Lord Brabazon of Tara): The *Companion to the Standing Orders* states that "it is a firm convention that the House normally rises by about 10 pm on Mondays to Wednesdays, by about 7 pm on Thursdays, and by about 3 pm on Fridays". Between 1 January and 28 June inclusive, the House sat past these times on 44 occasions, as shown in the table below.

Date	Day	Rising time	Time past 10 pm, 7 pm or 3 pm (in hours:mins)
10.01.2011	Monday	22:46	00:46
11.01.2011	Tuesday	22:15	00:15
12.01.2011	Wednesday	23:58	01:58
17.01.2011	Monday	12:52	14:52
19.01.2011	Wednesday	03:03	05:03
24.01.2011	Monday	01:35	03:35
25.01.2011	Tuesday	23:25	01:25
26.01.2011	Wednesday	23:48	01:48

Date	Day	Rising time	Time past 10 pm, 7 pm or 3 pm (in hours:mins)
31.01.2011	Monday	22:08	00:08
08.02.2011	Tuesday	22:11	00:11
09.02.2011	Wednesday	23:03	01:03
16.02.2011	Wednesday	23:46	01:46
28.02.2011	Monday	23:11	01:11
01.03.2011	Tuesday	23:06	01:06
02.03.2011	Wednesday	22:10	00:10
03.03.2011	Thursday	19:06	00:06
07.03.2011	Monday	01:13	03:13
09.03.2011	Wednesday	00:30	02:30
14.03.2011	Monday	22:42	00:42
16.03.2011	Wednesday	22:19	00:19
21.03.2011	Monday	23:39	01:39
22.03.2011	Tuesday	00:08	02:08
23.03.2011	Wednesday	22:46	00:46
28.03.2011	Monday	23:52	01:52
29.03.2011	Tuesday	01:02	03:02
05.04.2011	Tuesday	22:44	00:44
26.04.2011	Tuesday	22:08	00:08
27.04.2011	Wednesday	23:32	01:32
03.05.2011	Tuesday	23:07	01:07
04.05.2011	Wednesday	22:18	00:18
09.05.2011	Monday	22:19	00:19
10.05.2011	Tuesday	22:09	00:09
16.05.2011	Monday	22:06	00:06
17.05.2011	Tuesday	22:41	00:41
18.05.2011	Wednesday	22:09	00:09
24.05.2011	Tuesday	00:14	00:14
06.06.2011	Monday	22:47	00:47
07.06.2011	Tuesday	22:42	00:42
08.06.2011	Wednesday	22:13	00:13
13.06.2011	Monday	22:23	00:23
14.06.2011	Tuesday	22:32	00:32
16.06.2011	Thursday	22:00	03:00
23.06.2011	Thursday	19:27	00:27
28.06.2011	Tuesday	22:18	00:18

Houses of Parliament: Refurbishment

Question

Asked by ***Lord Grocott***

To ask the Chairman of Committees which House refurbishment contracts have been rescheduled as a result of the additional sitting week in October; and, in each case, what additional costs have been incurred. [HL10581]

The Chairman of Committees (Lord Brabazon of Tara): It is likely that the additional sitting week in October will disrupt works planned as part of the mechanical and electrical works programme, the purpose of which is to refit the mechanical and electrical building services within the Palace of Westminster. The contract for this programme will not be rescheduled, but the additional sitting week means that some work, previously scheduled for that week, will now need to be carried out when the House is not sitting and at weekends. It is estimated that these changes could cost approximately £25-30,000, of which the House of Lords will pay 40 per cent. It is also likely that the additional sitting week will disrupt the programme of occupation for Millbank House, but the cost implications of this have not yet been quantified.

Housing

Questions

Asked by ***Baroness Ford***

To ask Her Majesty's Government how many homes in receipt of funding by the Home and Communities Agency will be built to Code Level 4 of the Sustainable Buildings Code in the financial year 2011–2012. [HL10360]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The table below sets out forecast unit completions for the 2011-12 financial year, achieving Code for Sustainable Homes level 4 or better, funded through the National Affordable Housing Programme.

Sustainable Homes	Forecast Completions 2011-12
Level Four (****)	7,957
Level Five (*****)	111
Level Six (******)	151

Source: Homes and Communities Agency, 24 June, 2011.

Asked by ***Baroness King of Bow***

To ask Her Majesty's Government how much funding was made available to (a) each local authority and (b) each other agency under the Overcrowded Housing Pathfinder Initiative in each year it operated. [HL10366]

Baroness Hanham: The funding made available to each local authority in England under the overcrowding pathfinder initiative in each year is set out in the table below. No funding was made available by the department to other agencies under this initiative.

	Local Authority Pathfinders			
Local Authority	2008-09	2009-10	2010-11	Total
	£000s	£000s	£000s	
London Borough of Barking AND Dagenham	150	218	100	468,000
London Borough of Barnet	150	160	100	410,000
London Borough of Bexley	100	80	50	230,000
London Borough of Brent	100	100	100	300,000
London Borough of Bromley	100	100	80	280,000

Local Authority Pathfinders

Local Authority	*2008-09*	*2009-10*	*2010-11*	*Total*
	£000s	*£000s*	*£000s*	
London Borough of Camden	100	180	120	400,000
London Borough of Croydon	200	180	100	480,000
London Borough of Ealing	100	242	100	442,000
London Borough of Enfield	100	90	100	290,000
London Borough of Greenwich	100	100	120	320,000
London Borough of Hackney	100	130	120	350,000
London Borough of Hammersmith and Fulham	158.5	300	120	578,500
London Borough of Haringey	100	110	100	310,000
London Borough of Harrow	100	100	80	280,000
London Borough of Havering	100	120	80	300,000
London Borough of Hillingdon	100	120	120	340,000
London Borough of Hounslow	100	100	100	300,000
London Borough of Islington	100	130	120	350,000
Royal Borough of Kensington and Chelsea	100	130	100	330,000
Royal Borough of Kingston upon Thames	100	160	100	360,000
London Borough of Lambeth	100	60	80	240,000
London Borough of Lewisham	100	120	80	300,000
London Borough of Merton	100		50	150,000
London Borough of Newham	100	80	100	280,000
London Borough of Redbridge	100	80	50	230,000

Local Authority Pathfinders

Local Authority	*2008-09*	*2009-10*	*2010-11*	*Total*
	£000s	*£000s*	*£000s*	
London Borough of Richmond Upon Thames	100	60	50	210,000
London Borough of Southwark	210	222	120	552,000
London Borough of Sutton	100	90	80	270,000
London Borough of Tower Hamlets	100	110	120	330,000
London Borough of Waltham Forest	100	100	100	300,000
London Borough of Wandsworth	100	70	20	190,000
London Borough of Westminster	100	90	100	290,000
City of London	100			100,000
Birmingham City Council	100	130	120	350,000
Bradford Metropolitan District Council	100	100	100	300,000
Leicester City Council	100	100	80	280,000
Liverpool City Council	100	70	50	220,000
Manchester City Council	100	130	120	350,000
Bristol City Council	25	65	50	140,000
Coventry City Council	25		-	25,000
Dudley Metropolitan District Council	25	25	50	100,000
Kirklees Metropolitan Council	25	35	80	140,000
Knowsley Metropolitan Borough Council	25	35	50	110,000
Leeds City Council	25	105	100	230,000
Luton Borough Council	25	35	50	110,000
Medway Council	25		50	75,000
Nottingham City Council	25	45	80	150,000

Local Authority Pathfinders

Local Authority	*2008-09*	*2009-10*	*2010-11*	*Total*
	£000s	*£000s*	*£000s*	
Oldham Metropolitan Borough Council	25	65	80	170,000
Rochdale Metropolitan Borough Council	25	65	50	140,000
Sandwell Metropolitan Borough Council	25	45	100	170,000
Southampton City Council	25	55	80	160,000
Sheffield City Council	25	35	80	140,000
Slough Borough Council	25	25	80	130,000
Walsall Metropolitan Borough Council	25	45	80	150,000
Wigan Council	25	25	50	100,000
Total	£4,593,500	£5,167,000	£4,540,000	£14,300,500

This programme was a time-limited, three-year pilot scheme that was scheduled to end in 2010-11.

Immigration

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Baroness Browning on 23 June (*WA 342*), how the absence of non-European Union students working in the United Kingdom can create a loss of output; whether that student output would not otherwise be produced; and why it was impossible to make estimates of the extra annual cost of providing housing for the current number of student residents. [HL10642]

The Minister of State, Home Office (Baroness Browning): The student proposals are estimated to reduce output because some students and their dependants will no longer contribute to economic output through work, either because they no longer come to the UK, or because their right to work while in the UK is removed.

The extent to which output is lost depends in part on the extent to which non-migrant labour fills the gap. The evidence from existing economic literature implies that there will be no displacement of non-migrant workers by migrants. However, it is not clear that this necessarily applies at a time when growth in the economy is less well established. If there was some displacement, the economic impacts would be significantly lower. The Migration Advisory Committee has been commissioned to research the labour market, social and public service impacts of migration, including the issue of displacement, and is due to report in November.

The impact of providing housing for students, for example on rents or capacity, was considered but we were unable to estimate the impact this might have due to the absence of suitable data, and the complex way these impacts are felt.

Immigration: Children in Detention

Question

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government how many children were detained for immigration purposes in each month of 2011. [HL10595]

The Minister of State, Home Office (Baroness Browning): Monthly figures are not available. Information on the number of children in detention is collected on the last day of each quarter. The latest published information shows that as at the 31 March 2011 there were no children recorded as being in detention. The table below shows the number of children entering detention, held solely under Immigration Act powers, by month, January to May 2011.

Children entering detention [M](1) held solely under Immigration Act powers, by place of initial detention, January to May 2011 (2)(3)(4)

United Kingdom						*Number of children*
Place of initial detention	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Total*
UK Border Agency Removal Centres						
Brook House	0	0	1	0	0	1
Campsfield House	0	2	0	0	1	3
Dover Immigration Removal Centre	0	0	0	0	0	0
Dungavel	0	0	0	0	0	0
Harmondsworth	0	0	0	0	0	0
Haslar	0	0	0	0	0	0
Lindholme	0	0	0	0	0	0
Morton Hall (5)	:	:	:	:	0	0
Tinsley House	2	0	4	0	7	13
Yarl's Wood	0	0	0	0	0	0
UK Border Agency Short Term Holding Facilities						
Colnbrook Short Term	0	0	1	0	0	1
Pennine House	0	0	0	0	0	0
Grand Total	2	2	6	0	8	18

(1) Some detainees may be recorded more than once if, for example, the person has been detained on more than one separate occasion in the time period shown, such as a person who has left detention, but has subsequently been redetained.

(2) Figures exclude persons recorded as entering police cells and Prison Service establishments, those recorded as detained under both criminal and immigration powers and their dependants.

(3) Figures include dependants.

(4) May include persons detained for less than 24 hours.

(5) Morton Hall opened on 16 May 2011.

(M) These figures are based on management information and are not subject to the detailed checks that apply for national statistics. They are provisional and subject to change. These figures may alter when produced for the national statistics publication following more detailed checking.

: Not applicable.

Information on numbers of children entering detention is published monthly and is available from the Home Office Science, research and statistics website at: http://homeoffice.gov.uk/science-research/research-statistics/migration/migration-statistics1/.

A copy of the latest month will be placed in the House Library. June 2011 figures will be available on 28 July 2011. Information on children detained as at the last day of each quarter, solely under Immigration Act powers, is published quarterly in the *Control of Immigration: Quarterly Statistical Summary*, which is available from the same website and from the Library of the House. Figures for those detained as at 30 June 2011 will be published on 25 August 2011.

Migration Advisory Committee

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Baroness Neville-Jones on 27 January (*WA 202*), whether they will (a) review the purpose of the Migration Advisory Committee and its remit to advise on labour market needs and economic impacts in migration policy development, and (b) consider extending its membership beyond labour market economists to others with relevant interests. [HL10510]

The Minister of State, Home Office (Baroness Browning): The Government have no plans to alter the purpose, remit or membership of the Migration Advisory Committee.

NHS: Peterborough Primary Care Trust

Questions

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government why the Peterborough Primary Care Trust has not signed a contract with the Peterborough and Stamford Hospitals NHS Trust for the provision of clinical services for 2011–12. [HL10529]

To ask Her Majesty's Government how many chief executives, or acting chief executives, the Peterborough Primary Care Trust has had in the past three years. [HL10530]

To ask Her Majesty's Government how many finance directors, or acting finance directors, the Peterborough Primary Care Trust has had in the past three years. [HL10531]

To ask Her Majesty's Government how many meetings directly related to the Peterborough Primary Care Trust's accumulated debt has (a) the chairman, and (b) the chief executive of the strategic health authority had with the chairman of Peterborough Primary Care Trust. [HL10532]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): This is a matter for the National Health Service locally and as such, the information requested is not centrally collected.

The noble Lord may wish to contact the chair of East of England strategic health authority directly for more information.

NHS: Primary Care Trusts

Questions

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government whether the chairmen of primary care trusts have a contractual obligation to spend time at the trust in person; and, if so, who is responsible for monitoring that requirement. [HL10534]

To ask Her Majesty's Government what guidance they have issued on the number of hours per week a chairman of a primary care trust is expected to devote to trust business; and who is responsible for monitoring time spent. [HL10560]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Chairs of primary care trusts (PCTs) are public appointments, and as such, are not subject to a contract of service or contract for services. The terms and conditions attached to a PCT chair's appointment states a time commitment of three to three and a half days per week. There is an expectation that a proportion of the time PCT chairs spend on their role will be on trust premises; however, the amount of time this involves will vary from week to week. The performance appraisal of PCT chairs is the responsibility of strategic health authority chairs.

NHS: Reform

Questions

Asked by ***Baroness Thornton***

To ask Her Majesty's Government what consideration has been given to the second recommendation of the report by the King's Fund Commission on Leadership and Management in the National Health Service that the Government's plan to reduce net management posts by 45 per cent should be revisited. [HL10477]

To ask Her Majesty's Government what is their timescale for the planned reduction by 45 per cent in net NHS management posts; and what percentage reduction is envisaged for each year. [HL10478]

To ask Her Majesty's Government what impact assessment has been made of proposals to reduce management posts in the National Health Service by 45 per cent. [HL10479]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Strong leaders, particularly clinical leaders, are essential to delivering a modern National Health Service that gives patients the best care and outcomes. We will consider the recommendations of the King's Fund; while we recognise that we will always need good managers in the NHS, we want those at the front line to have more of a say—less bureaucracy for managers, and a leadership role for clinicians. Our approach to reducing administration costs across the sector is based not upon simple cuts but on systematic modernisation, which will remove and streamline layers of bureaucracy while empowering professionals and patients.

The Government have committed to reducing administration costs across the public sector by one-third by the end of the spending review. The department will achieve this by removing layers of bureaucracy, closing primary care trusts and strategic health authorities and moving responsibility for commissioning closer to patients.

The coalition Government's commitment to reduce over 45 per cent of management costs (not posts) by the end of the spending review is included within the one-third reduction in overall administration costs.

The costs and benefits of reducing administration costs were published in the impact assessment of the Health and Social Care Bill in January this year. A revised impact assessment will be published when the revised Bill enters the House of Lords. The timetable for the reduction is currently being considered in the light of the changes to the Bill, but the total reduction will be achieved by the end of the spending review.

NHS: Restructuring

Question

Asked by ***Baroness Wheeler***

To ask Her Majesty's Government whether they will publish a workforce transition strategy to guide the current changes to NHS structures. [HL10518]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): A national human resources transition framework which provides generic guidance, covering the employment and human resources processes throughout the transition will be published during the week commencing 4 July 2011. This framework is intended to help provide consistency during the transition as well as encouraging best human resources practice throughout.

NHS: Service Quality

Question

Asked by ***Lord Beecham***

To ask Her Majesty's Government what advice they have commissioned or received about the impact of changes in staff numbers and organisational change on the quality of services in the National Health Service. [HL10539]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): It is the responsibility of local National Health Service organisations to plan and deliver a workforce appropriate to the needs of their local population, based on clinical need and sound evidence.

The department has been working with strategic health authorities (SHAs) workforce colleagues to develop an assurance process and a mechanism to give local NHS organisations, SHAs, the department, Ministers and the public reassurance that workforce plans are safe, affordable and do not compromise quality.

Local safety and quality assurance processes for workforce plans should reflect clinically led service redesign and ensure there is sign-off by the provider medical directors and nursing directors.

Northern Ireland: Recognition Payments

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Lord Sassoon on 22 June (*WA 315*), what was the tax status of payments to Royal Ulster Constabulary (RUC) officers under the measures taken to implement the Report of the Independent Commission for Policing in Northern Ireland; under what legislation recognition payments made to former part-time RUC reserve officers constitute earnings derived from employment; and whether redundancy payments made to civil servants are liable to tax. [HL10451]

The Commercial Secretary to the Treasury (Lord Sassoon): Payments to Royal Ulster Constabulary (RUC) officers were taxed in line with normal employment income tax rules. Income tax law provides that an employee is liable to tax in respect of the earnings from his/her employment, which are defined as all salaries, fees, wages, perks and profits whatsoever. The principal legislation is the Income Tax (Earnings and Pensions) Act 2003.

Payments made on the termination of employment are different. A genuine ex gratia redundancy payment is not a reward for an employee's services—it is compensation for the premature loss of his/her job. Nevertheless, the excess of payments above £30,000 are treated as employment income by the law. This applies to civil servants in the same way as any other group of employees.

Peru

Question

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

To ask Her Majesty's Government what reports they have received about a sterilisation programme in Peru and about the number of women who have allegedly died as a consequence of the programme; and what representations they have made since May 2010 to the Government of Peru regarding the programme. [HL10512]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The Peruvian Government commission set up to investigate the programme concluded in 2002 that the responsible parties should be brought to justice and the victims be compensated. Investigations carried out by the commission and independent human rights groups suggest at least 20 women died as a direct result of the programme.

Former President Alberto Fujimori's programme of mass sterilisation was carried out in Peru from 1996 to 1998. We have received no new reports and have made no new representations on the subject to the Government of Peru during the period in question.

Playing Fields

Question

Asked by ***Lord Ouseley***

To ask Her Majesty's Government how many playing fields have been lost over the past 36 months; and what assessment they have made of the implications for the leisure, recreational fitness and health of the population. [HL10418]

Baroness Garden of Frognal: The Department for Culture, Media and Sport does not hold records on the number of playing fields that have been lost over the past 36 months and has made no assessment of any such loss. However, Sport England records the number of applications for new playing fields received and approved by local planning authorities. The most recent data available can be found in the following table:

	2006-07		*2007-08*		*2008-09*	
	Total	*%*	*Total*	*%*	*Total*	*%*
Total number of applications	1267		1287		1322	
Number of approved applications by the Local Planning Authority	985	78	991	77	1048	79
Rejected or withdrawn by LPA	201	16	216	17	191	14
Applications yet to be decided by LPA	81	6	80	6	83	6

Sport England is a statutory consultee on planning applications that affect playing fields. This means that any planning application that affects a playing field has to be referred to Sport England for comment by the local authority. As part of Sport England's £135 million mass participation initiative Places, People, Play, the Minister for Sport and the Olympics and Sport England recently launched Protecting Playing Fields, the £10 million fund to protect and improve sports fields across the country. The programme will fund projects that create, develop and improve playing fields for sporting and community use and offer long-term protection of the site for sport.

Queen Elizabeth II Conference Centre: Performance Targets

Question

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

To ask Her Majesty's Government, further to the Written Statement by Baroness Hanham on 23 June (*WS 133*), what were the performance targets achieved by the Queen Elizabeth II Conference Centre for the period 1 April 2010 to 31 March 2011. [HL10670]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Performance against targets for the financial year ending March 2011 were as follows:

Contribution to the Exchequer:	Target:	£1 .20 million
	Outturn:	£1 .20 million
Capacity utilisation:	Target:	65.0%
	Outturn	54.3%
Score for value for money:	Target:	90.0%
	Outturn:	97.6%
Complaints per 100 events:	Target	less than 2.0
	Outturn	0.32
Response time for complaints:	Target	less than 4 days
	Outturn	1.0 day

The drop in occupancy percentage for the year was directly related to fewer meetings taking place, particularly those from government departments.

Republic of Ireland: Deportation

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Baroness Browning on 16 June (*WA 216*), why the public interest is not served by deportations of criminals to the Republic of Ireland unless serving a sentence of more than 10 years; whether they will review the 2007 decision not to deport Irish nationals save in exceptional circumstances; and why the numbers deported have reduced in the last four years. [HL10597]

The Minister of State, Home Office (Baroness Browning): In his Statement of 19 February 2007 which set out revised criteria for considering Irish nationals for deportation, the right honourable Member for Birmingham, Hodge Hill (the then Immigration Minister) stated that "in reviewing our approach in this area we have taken into account the close historical, community and political ties between the United Kingdom and Ireland, along with the existence of the common travel area". There are currently no plans to review this policy. Most of the 18 Irish nationals included in the figures provided for 2007 were deported before the announcement of 19 February. Only small numbers of Irish nationals have been deported from the UK since that date.

Retail: Mary Portas Review

Question

Asked by ***Lord Myners***

To ask Her Majesty's Government whether recent comments by Ms Mary Portas on the future of the United Kingdom high street are consistent with the requirement for objectivity in her role as a Government adviser. [HL10568]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): This review covers a subject that is of great interest to all citizens. Whilst it has been commissioned—and is supported by—the Government, it remains independent. Mary Portas is listening to a wide range of stakeholders.

Sexual Assault Referral Centres

Question

Asked by ***Baroness Gould of Potternewton***

To ask Her Majesty's Government what are the funding arrangements for the sexual assault referral centres in England; and how the centres are monitored to ensure that they are providing the best possible service for those who have been raped or sexually assaulted. [HL10582]

The Minister of State, Home Office (Baroness Browning): Sexual assault referral centre (SARC) are locally commissioned on a collaborative basis by police forces and NHS primary care trusts and it is for local areas to determine what level of funding and service provision is required. The Home Secretary has committed to providing £1.72 million of funding per annum from the department's crime prevention budget over the next four years to part-fund independent sexual violence adviser (ISVA) posts. This includes 29 ISVAs working in SARCs. Local partners are responsible for ensuring that the service provided by their SARC meets the standards set in the joint Home Office and Department of Health guidance. In addition, the NHS provision in SARCs is subject to the regulatory regime of the Care Quality Standards Commission.

Sport and Leisure: Funding

Question

Asked by ***Lord Ouseley***

To ask Her Majesty's Government how policies and programmes linked to the concept of the Big Society will deliver positive outcomes in situations where a local authority decides to lease the management of all leisure and recreational facilities in order to achieve budgetary reductions and the local community are reluctant to take on the costs and other burdens. [HL10420]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Local authorities that choose to lease or transfer assets to the voluntary or social enterprise sector will want to ensure that such a transfer is financially sustainable over the long term. Handled well, such transfers can generate savings and protect the continued local community use of such facilities.

Policies such as the community right to buy and the community right to challenge will strengthen the ability of local communities to improve and protect community facilities, including leisure and recreational assets.

Sport: Investment

Question

Asked by ***Lord Ouseley***

To ask Her Majesty's Government whether any studies have been conducted about the impact of reduced investment in facilities and infrastructure on participation in general recreational activity and competitive sport at community levels. [HL10419]

Baroness Garden of Frognal: The Department for Culture, Media and Sport is not aware of any such studies.

Tourism: Taxation

Question

Asked by ***Lord Myners***

To ask Her Majesty's Government whether they have been consulted by Cornwall County Council on the introduction of a daily tourist tax in Cornwall. [HL10621]

Baroness Garden of Frognal: The Department for Culture, Media and Sport has not received any representations from Cornwall County Council about the introduction of a daily tourist tax. Taxation is a matter for Her Majesty's Treasury.

Visas

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Baroness Browning on 23 June (*WA 354*), whether the appropriate salary in Appendix A section 75 of the Immigration Rules for Tier 2 (Intra company transfer) employees differs from the tier 2 Guidance with regard to allowances that count towards the appropriate salary; if so, why; and whether under that section (a) accommodation allowances, and (b) travel and subsistence allowances, which are business expenses can be included in the appropriate salary. [HL10641]

The Minister of State, Home Office (Baroness Browning): The policy set out in the Immigration Rules and in tier two guidance is the same. Accommodation allowances relating to the employee's main place of residence in the UK can be included up to the limits set out in the rules and guidance. Allowances to cover business expenses, such as overnight accommodation away from the employees main residence, or travel and subsistence, are categorically excluded.

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