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OFFICIAL REPORT

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House of Lords

Tuesday, 12 October 2010.

2.30 pm

Prayers—read by the Lord Bishop of Chester.

BBC: Licence Fee

Question

2.35 pm

Asked By Lord Fowler

To ask Her Majesty's Government what are their plans for the future of the BBC licence fee.

Baroness Rawlings: My Lords, the Government announced in a Written Ministerial Statement on 16 September that there would be no increase in the licence fee on 1 April 2011. A decision about 2012-13 will be taken as part of the next funding settlement. Discussions on the next funding settlement will begin next year. The Government will take all relevant factors into account, such as the economic climate in the country, the views of the BBC and its competitors and, of course, public opinion. We remain committed to a strong and independent BBC that forms the cornerstone of public service broadcasting. The fundamental question of what the BBC should look like and the role that it will play in the longer term will be carefully addressed at the time of the next charter review.

Lord Fowler: My Lords, I thank my noble friend for that reply and very much welcome the last part of what she had to say. In view of her Answer, do the Government believe that the licence fee is the best way of financing the BBC and of securing its independence, and are they entirely and absolutely committed to its continuance?

Baroness Rawlings: My Lords, I am so pleased that my noble friend Lord Fowler has asked me this supplementary as the House knows that he is probably the most knowledgeable and experienced Peer on this subject. It is important to me and it gives me the chance to stress that the Government are fully committed to the principle of the licence fee as the primary method of funding the BBC. As the noble Lord will know more than most, with the development of technology and viewing habits we will need to keep this under review to make certain that current arrangements do not become outdated. The BBC continues to be the jewel in the crown in the UK's media landscape and the licence fee is fundamental to supporting it.

Lord Soley: I have some sympathy with the broad comments about the licence fee but does the Minister accept that it makes it even more important that the Government take a very clear view against the takeover of BSkyB by News Corporation?

Baroness Rawlings: I am sure that we all listened to the "Today" programme this morning on which this matter was discussed. I confirm that we have received a letter from a variety of media groups asking the Secretary of State for Business, Innovation and Skills to consider blocking any acquisition as regards BSkyB and News Corporation. However, it is premature to speculate as the parties have not yet announced the result.

Baroness Bonham-Carter of Yarnbury: Does my noble friend not agree that while it is important that the BBC is realistic about its new licence fee settlement, it is equally important that the settlement is not punitive, as this will damage not only the BBC but the independent sector which contributes so much to the creative industries in which the BBC invests to a considerable degree?

Baroness Rawlings: I thank my noble friend Lady Bonham-Carter for her points. How savings will be made is a matter for the BBC, but the chairman of the trust has asked the director-general to absorb the cuts without significantly reducing the quality of the service to licence-fee payers. Regarding competition, across the media landscape we want there to be scope for deregulation, new business models, sharpening competition and greater economic benefits.

Lord Corbett of Castle Vale: Does the Minister share my view that the BBC licence represents possibly the best value for money in the country, given the BBC's range of programmes and other activities—especially its consistent investment in all branches of the arts? I am sure that we have all lately enjoyed the proms again. Will she acknowledge that the range of programmes at the price at which the licence fee is set represents much better value than the rates charged by Sky for largely imported, second-rate programmes?

Baroness Rawlings: The noble Lord, Lord Corbett, strays into a slightly different area, but I agree with him that the BBC must demonstrate that it is operating efficiently and giving licence-fee payers value for money. The BBC should be prepared to defend all its expenditure decisions.

Baroness Afshar: My Lords, are the Government aware that the BBC punches way beyond its weight in foreign policy, and that the BBC Persian service is regarded by Iranians as their best source of information and actually forms the best ally that the Government have in Iran? Any cuts might well undermine Britain's influence there.

Baroness Rawlings: The noble Baroness makes a very good point and the BBC World Service is very special. It does not come under the same funding arrangements as the rest of the BBC because it is funded by the Foreign Office. I know that the Persian service is absolutely wonderful. The Cyrus Cylinder was presented by the British Museum and is now on show in Iran. The presentation was recorded on the BBC World Service. I thank the noble Baroness very much for that question.

Lord Ryder of Wensum: Can my noble friend give me a cast-iron commitment that the absurd and complex governance arrangements at the BBC will be reformed?

Baroness Rawlings: I thank my noble friend for his question. The Government have reservations about the current governance structure and are considering the scope for change within the current charter framework. The governance structure was introduced in January 2007 when the charter came into full effect. The structure is intended to last for the duration of the charter—that is, until the end of 2016.

Baroness Jones of Whitchurch: My Lords, is the Minister concerned that Sir Christopher Bland recently talked of the licence fee being used in a punitive and vindictive manner? What reassurances can she give that any decisions about its future will be free from political partisanship?

Baroness Rawlings: In giving those details, I think that the noble Baroness is referring to the previous Government. We have no punitive agreements. There will possibly be cuts, but those are in the hands of the BBC Trust.

Employment: Defence Expenditure Question

2.44 pm

Tabled By Lord Lee of Trafford

To ask Her Majesty's Government how many jobs in the United Kingdom are sustained by defence expenditure.

Lord Lee of Trafford: My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare a number of shareholdings in companies benefiting from defence spend.

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): My Lords, first, I am sure that the whole House will wish to join me in offering sincere condolences to the families and friends of: Trooper James Leverett, the Royal Dragoon Guards; Private Thomas Sephton, 1st Battalion the Mercian Regiment; Bombardier Samuel Robinson, 5th Regiment Royal Artillery; Marine David Hart, 40 Commando Royal Marines; Major James Bowman, 1st Battalion the Royal Gurkha Rifles; Lieutenant Neal Turkington, 1st Battalion the Royal Gurkha Rifles; Corporal Arjun Purja Pun, 1st Battalion the Royal Gurkha Rifles; Marine Matthew Harrison, 40 Commando Royal Marines; Marine Jonathan Crookes, 40 Commando Royal Marines; Sergeant David Monkhouse, the Royal Dragoon Guards; Senior Aircraftman Kinikki Griffiths, 1 Squadron RAF Regiment; Staff Sergeant Brett Linley, 11 Explosive Ordnance Disposal Regiment, Royal Logistics Corps; Corporal Matthew Stenton, the Royal Dragoon Guards; Lance Corporal Stephen Monkhouse,

1st Battalion Scots Guards; Sapper Mark Smith, 36 Engineer Regiment; Lance Sergeant Dale McCallum, 1st Battalion Scots Guards; Marine Adam Brown, 40 Commando Royal Marines; Lieutenant John Sanderson, 1st Battalion the Mercian Regiment; Rifleman Remand Kulung, 1st Battalion the Mercian Regiment; Sapper Darren Foster, 21 Engineer Regiment; Sapper Ishwor Gurung, 69 Gurkha Field Squadron, 21 Engineer Regiment; Lance Corporal Jordan Bancroft, 1st Battalion the Duke of Lancaster's Regiment; Lance Corporal Joseph Pool, 1st Battalion the Royal Regiment of Scotland; Captain Andrew Griffiths, 2nd Battalion the Duke of Lancaster's Regiment; Kingsman Darren Dedy, 2nd Battalion the Duke of Lancaster's Regiment; Sergeant Andrew Jones, Royal Engineers; Trooper Andrew Howarth, Queen's Royal Lancers; Corporal Matthew Thomas, Royal Electrical and Mechanical Engineers; Rifleman Suraj Gurung, 1st Battalion the Royal Gurkha Rifles; and Sergeant Peter Rayner, 2nd Battalion the Duke of Lancaster's Regiment.

I turn to my noble friend's Question. The last available information, published in *UK Defence Statistics 2009*, estimated that 300,000 full-time jobs in the UK were supported by Ministry of Defence expenditure and defence exports: 155,000 directly and 145,000 indirectly. In addition, the MoD employed 177,840 service and 85,850 civilian personnel as at 1 July 2010.

Lord Lee of Trafford: My Lords, first I join these Benches in the earlier tribute, and also send the condolences of the whole House to the relatives and friends of Linda Norgrove.

I thank my noble friend for his Answer. David Cameron described the defence budget as, "the biggest mess I've inherited as Prime Minister". The highly irresponsible decision of the previous Government to order the two aircraft carriers, recently and sarcastically described in the media as "HMS Unaffordable" and "HMS Impecunious", when the MoD was effectively bust and before a defence review, has clearly skewed the current SDR, making it now even more financially rather than strategically focused. Will my noble friend tell the House whether defence contractors have been helpful in modifying or waiving their penalty clauses, given our overall national financial situation; and will he confirm the promise that we will get a defence industrial strategy by the first quarter of 2011?

Lord Astor of Hever: My Lords, the MoD's key suppliers have been working with the department on a commercial basis, looking at ways to improve innovation and cost reduction across the board in support of the SDSR. With regard to the second part of my noble friend's supplementary question, I confirm that we are developing a new defence industrial and technology policy that is intended to replace the previous defence industrial strategy. We will launch this process on 2 November this year in an event co-hosted by ADS, the industry's representative body, and there will be a Green Paper by the end of the year. After a formal consultation period in the new year, we will publish a White Paper next spring that will set out our industrial and technology policy for the next five years or until the next SDSR.

Lord Rosser: My Lords, from these Benches I join the Minister in paying tribute to all those who have lost their lives serving our country since the House met before the recess. For the families, there is overwhelming grief and sorrow at their loss and the pain of separation but also in each case pride at the brave and committed service given by the loved one they have lost. Our thoughts and prayers are with those bereaved families and with the colleagues and friends of all those who have died.

The Secretary of State for Defence in this self-proclaimed transparent Government appears to have written a secret letter to the Prime Minister on a matter of real public interest—namely, whether our Armed Forces will in future have the resources to continue to carry out the commitments we expect them to undertake. Does the Minister agree with his Secretary of State's concerns that the strategic defence and security review is not really a genuine review of defence and security strategy but is instead everything to do with the Conservative Government's spending review aimed at cutting costs, with inadequate regard for the consequences for private sector jobs in our industrial base and for our Armed Forces and their continuing ability to meet the onerous responsibilities we place upon them?

Lord Astor of Hever: My Lords, this is not just a Conservative Government; we are in coalition with the Liberal Democrats—

Noble Lords: Oh!

Lord Astor of Hever: In my department, that is working very well. The noble Lord mentioned the leaked letter. This was a private letter between the Secretary of State and the Prime Minister, and for that reason and because it was a leak, I cannot comment. Both the Prime Minister and the Secretary of State are acutely aware of the sensitivities of such a review—a review made necessary because of the huge deficit that we have inherited and because there has been no defence review since 1998. However, I assure the noble Lord that this is not a crude cost-cutting exercise; it is a genuinely strategic review. We will establish clearly what the defence contribution to our security posture should be and structure our Armed Forces accordingly.

Lord Davies of Stamford: My Lords, during a strategic defence review, would there not be consultation with allies, with the academic world and think-tanks, and indeed with industry? Why has that not happened? Why has there been only one meeting of the Defence Industries Council since the election? How can you possibly take account of industries' perceptions and views of, and insights into the future of, defence technologies and so on if you hold a consultation with them only after the review is completed?

Lord Astor of Hever: My Lords, we have consulted a number of foreign countries which, indeed, have made representations to the SDSR. I know that the noble Lord is interested in France, which has, as an example, done that. Turning to industry, we understand

how dependent localised economies are on the defence industry and we have engaged very widely with industry in this review. We invited and received submissions from industry and think-tanks, as well as from colleagues from defence establishments overseas.

Lord King of Bridgwater: Will my noble friend accept that he should take no lessons from the previous two noble Lords who spoke on this subject? Anyone who is familiar with the current defence situation knows that the way that the defence budget was left was a disgrace. Given the problems that the present Government now face in bringing some order out of the unfunded chaos that was left behind, he has everyone's reasonable support at a critical time when we are at war in Afghanistan and when our forces need every support that they can get. My noble friend will have all reasonable support from reasonable people in tackling a very difficult situation.

Lord Astor of Hever: My Lords, I am very grateful to my noble friend for that support. There will be painful changes and in some cases reductions, but I am very positive about the outcome. We have wonderful men and women in our Armed Forces and I have been hugely impressed by the dedication, commitment and innovation at work in the department. I have no doubt that, when the final decision is taken by the NSC, the country will come out of the SDSR with more adaptable, efficient and affordable Armed Forces, which are configured for 2020 and beyond.

Planning: Appeals *Question*

2.54 pm

Asked By **Baroness Oppenheim-Barnes**

To ask Her Majesty's Government, in the last 12 months, what proportion of non-commercial local authority planning applications where there have been no significant public objections were sent to appeal; and what proportion of those appeals were successful.

Earl Attlee: My Lords, the Government do not collect statistics on the volume of objections to planning applications which go to appeal. I can inform the House that, in the 12 months to the end of March 2010, some 190,000 planning applications, which could be considered non-commercial, were decided, with more than 80 per cent granted. In the same period, the Planning Inspectorate decided 7,066 householder planning appeals in England, with 35 per cent allowed.

Baroness Oppenheim-Barnes: My Lords, I thank my noble friend for that reply. Does he agree with me that, although planning regulations are absolutely necessary, the delays and expense which are often caused by individuals—not by big companies—making applications which are delayed for up to six months, cause a lot of extra expenditure and often cause them to lose their mortgages? Would it not be more helpful

[BARONESS OPPENHEIM-BARNES]

to everyone concerned if an informal advice process were set up in the early stages so that the time taken on applications would not be so long or so costly and so that very important advice could be taken on board?

Earl Attlee: My Lords, my noble friend is absolutely right. At the pre-application stage, an applicant should share his proposals with the local planning authority. That would provide an early indication to applicants of any potential reasons for refusal and would offer the opportunity to amend the proposal. Applicants should also speak to their neighbours and others who may be affected by the proposal before it is submitted to the local planning authority.

Lord Rosser: My Lords, following statements made in the election campaign, it appears that the Government's policy is that local communities should have a major say about whether there should be significant new housing developments in their backyard. Does that mean that this Conservative Government would, or would not, expect local authorities to be deflected from agreeing to planning applications for new housing simply because there are significant local public objections?

Earl Attlee: My Lords, where there are local objections to a planning proposal, the local planning authority will take them into consideration. If it chooses to refuse the application, the applicant has the opportunity to appeal to the Planning Inspectorate, which will take all matters into consideration.

The Earl of Listowel: My Lords, given that many families with children in this country experience extreme hardship, living in overcrowded, unsanitary conditions, will the Government reflect again on their changes to the spatial strategy which they introduced and think again about whether they might do more to streamline planning to make new homes available to such families who need them so much? I declare my interest as a landlord.

Earl Attlee: My Lords, the noble Earl makes an important point. During election campaigns, I am always struck by the condition of our housing. It is so variable. It distresses me to see the conditions in which some people have to live. We are well aware of the problems and we are addressing them.

Baroness Gardner of Parkes: My Lords, is the Minister aware of the problem that occurs when people go ahead and build contrary to planning permission? Very often local authorities give retrospective permission, which is very unsatisfactory for local people who would have opposed the project. Does he think that it is important to follow up on that and does he think that a proper appeals procedure to a decision is the right way, rather than having illegal building?

Earl Attlee: My Lords, I am well aware of the problem of retrospective planning permission, but such decisions are made by local planning authorities. As matters currently stand, it is not possible for a third party to appeal a planning decision.

Lord Rennard: My Lords, when might legislation be brought before Parliament to change the planning system? How far does the Minister think that local authorities might be expected to anticipate such legislation?

Earl Attlee: My Lords, I do not think local authorities need to anticipate legislation. The localism Bill has a significant proportion of planning provisions in it and it will be appearing before Parliament very soon.

Lord Campbell of Alloway: My Lords, without the complexity of planning, is this not a matter within the ambit of the governor of a prison? Can he not exercise his initiative and willing efforts?

Earl Attlee: My Lords, the noble Lord has asked an excellent question and I shall look into it.

Prisons: In-cell Sanitation *Question*

2.59 pm

Asked by Lord Ramsbotham

To ask Her Majesty's Government what is their response to the finding of the report of the National Council for Independent Monitoring Boards that in some prison establishments the lack of in-cell sanitation means that slopping-out, officially ended in 1996, still continues.

The Minister of State, Ministry of Justice (Lord McNally): My Lords, slopping-out should not occur in the 21st century. However, it is simply not possible to install in-cell sanitation in all parts of the accommodation at certain prisons and electronic unlocking is the best option for the provision of sanitation.

Lord Ramsbotham: My Lords, I thank the Minister for that reply but, as he knows, today 20,000 prisoners may have to defecate into a bucket, which will remain with them in their cell until they are let out from that cell. The electronic system, which was used as the justification for saying that the process had ended, does not work all the time—indeed, it is switched off during the day—and too many prisoners spend all day locked up in their cells. Can the Minister assure the House that something will be done to improve this disgraceful and uncivilised situation and will he undertake to report back to the House at regular intervals as to what improvements are being made?

Lord McNally: My Lords, I do not recognise the figure of 20,000—or was it 2,000? I thought that the noble Lord said 20,000.

Noble Lords: He did.

Lord McNally: He did; to err is human. I have read the independent monitoring board's report, which prompted the noble Lord's question, and it does not make easy reading, but I put it to him that, as he must

have experienced during his time as inspector of prisons, this problem is in a small number of prisons—nine—that do not have these facilities and which, with just under 2,000 places, make up about 3 per cent of the total prison estate. We are looking at the situation and consulting about guidelines to governors to see how it can be improved, but in the present state of the prison estate we do not see the opportunity in the near future to supply in-cell toilets in these places and therefore the electronic system will continue.

Baroness Linklater of Butterstone: My Lords, is my noble friend aware that Grendon prison, our only therapeutic prison, which deals with prisoners with particularly challenging psychiatric issues, is one of the 10—I think that it is 10, but I may be mistaken—prisons without integral sanitation? Does he not agree that, given the particular challenges in that prison, it is unacceptable to be queueing or, most of the time, stuck in your cell with a pot?

Lord McNally: It is true, as my noble friend said, that Grendon has a particular and very challenging regime—it is a therapeutic prison. It is perhaps surprising that it should be a prison that does not have in-cell facilities. However, the question is whether we keep the real benefits, which I think my noble friend would acknowledge, of what goes on there in the therapeutic approach to prison for some very difficult prisoners. The toiletry situation is a problem, but it is managed by the electronic locking system. On balance, I would prefer to keep the success of Grendon as a therapeutic prison, even with the downside of the lack of in-cell facilities.

Lord Anderson of Swansea: Are women's prisons completely free of this uncivilised practice?

Lord McNally: Yes, my Lords.

The Lord Bishop of Liverpool: My Lords, I gather that in-cell sanitation is covered by Prison Service Order 1900. Whose responsibility is it to oversee the application of Prison Service orders and this one in particular? What power does the independent monitoring board have in relation to NOMS to make sure that these observations are acted on?

Lord McNally: On the latter point, it is an independent board and a very welcome independent board. As these exchanges prove, it does its job. NOMS has to respond. It is responding by reviewing at the moment the accommodation standards guidelines and updating guidance to prison governors. The overall responsibility rests with Ministers of the Ministry of Justice. We oversee, while NOMS reports to us. The dilemma that we face in 3 per cent of the prison estate is that old cells—some of them were built surprisingly recently, in the 1960s—are too small to accommodate in-cell facilities. The other side to this is that, where there are no in-cell facilities, there is only one prisoner to a cell but, where there is a toilet in the cell, there are two prisoners to a cell, which also has its downsides.

Lord Elton: My Lords, does NOMS provide additional manpower to deploy when the electronic system is not working in order to mitigate the results?

Lord McNally: My Lords, I understand that that is the process. If there is any failure or any increase in demand, the prison authorities redeploy guards so that the electronic system can be used and so that when, occasionally, the system breaks down, it can be operated manually.

Lord Corbett of Castle Vale: My Lords, on the problem of providing in-cell sanitation in older prisons, I invite the Minister simply to put his foot down and say, "These cells will not be used from the end of this month". That is the way to solve this.

Lord McNally: What we would do with the 2,000 prisoners in those cells, I am not sure.

Lord Corbett of Castle Vale: I am asking the question.

Lord McNally: Well, I can answer a question with a question. We inherited a prison population of 83,000. That also has problems in terms of accommodation.

Lord Selkirk of Douglas: Does the Minister accept that, whenever there is an improvement in conditions in prisons, it tends to lead to a reduction in tension between prison officers and prisoners and is invariably in the public interest?

Lord McNally: Absolutely. I have read this report and followed it up. Prisoners lying back on their Dunlopillo mattresses watching colour television before taking a Jacuzzi is the image of prison life given in some of our popular press. Prison life is grim and sometimes downright unpleasant. Whether that meets with approval or not, it is the reality.

Baroness Howe of Idlicote: Having listened to what has been said today, I think that we cannot tolerate this situation and I hope that putting it right will be top of the agenda of prison governors, NOMS and everybody. At least as a temporary measure, if any of this is going on in prisons where prisoners are still locked up during the day, could I ask that we encourage the firms that the Government are thinking of encouraging to set up a business or factory within the prison so that at least the prisoners can be employed during the day?

Lord McNally: As we have already been doing, we will certainly consider the idea of in-prison work. The dilemma is whether you have toilets in a cell, which is not itself particularly pleasant when you also eat your meals in that cell and share it with another person, or an efficient system of release to a wash block where toilet facilities are available. That is what is used in 3 per cent of the prison estate. I am not sure that I can give the noble Baroness or any noble Lord an early solution to that dilemma.

Arrangement of Business

Announcement

3.09 pm

Baroness Anelay of St Johns: My Lords, at a convenient point after 3.30 pm, my noble friend Lady Wilcox will repeat a Statement entitled “Lord Browne of Madingley review”.

Referendums: Constitution Committee Report

Motion to Take Note

3.09 pm

Moved By Baroness Jay of Paddington

That this House takes note of the Report of the Constitution Committee on Referendums in the United Kingdom (12th Report, Session 2009–10, HL Paper 99).

Baroness Jay of Paddington: My Lords, I welcome the opportunity to open this debate on the Constitution Committee’s report entitled “*Referendums in the United Kingdom*”. The report, which we published in April, was the last one produced under the distinguished chairmanship of the noble Lord, Lord Goodlad, who I can just see in his place and who I am delighted will be speaking immediately after me. Perhaps I may take this opportunity to pay a warm, personal tribute to the noble Lord’s distinguished leadership of the Constitution Committee and thank him for his advice and support as I took over the chair after the general election.

The committee’s inquiry into referendums was extensive and has proved to be extremely timely. We received a great deal of political and academic evidence, both written and oral, from national and international sources. The committee is grateful to all of those whose evidence contributed to our report and particularly to our specialist adviser, Dr John Parkinson, of York University. I must also thank the Government for their response, but I note that it is rather late, having been received only last week, and perhaps a little thin. But, of course, I realise that in the interim the coalition Government have produced their own Bill proposing a UK-wide referendum on the voting system for the House of Commons. That Bill has already had its Second Reading in another place and begins its Committee stage today. Perhaps some of the recommendations and observations of our committee are acknowledged in the current Bill. I leave the House to judge as I describe the detail of our report. I look forward with great interest to the Minister’s reply, which will give your Lordships a first opportunity to hear in this House the Government’s thinking on the principles and practice of referendums.

As the House will be aware, although there has been very much debate in recent Parliaments about referendums, they remain a relatively untried method of testing opinion in the United Kingdom. This is in contrast to many other modern democracies, including countries such as Australia and New Zealand which

share our Westminster traditions and where referendums are a regular feature of political practice. Here, the 1975 vote on our membership of the EEC remains, 35 years later, the only example of a UK-wide referendum, although obviously the referendum method has been effectively used to determine devolved and local government systems. It was against that background that the committee set out to analyse the arguments for and against using referendums as a constitutional and democratic tool, and to make recommendations for their possible future use.

The basic questions come down to these. On the positive side, do referendums improve modern democracy by making voters more involved in decision-making so that controversial issues particularly can be firmly and, one hopes, conclusively resolved? On the negative side, does the use of referendums undermine a representative Parliament and oversimplify complex issues to no great general advantage? Perhaps equally important is the practical question: do individual referendums attract a sufficiently substantive voter turnout to give their decisions authority?

Overall, the committee’s position was more negative than positive. Having listened to all the evidence, we were not convinced by the case for using referendums as a common practice in 21st century governance. We regretted the ad hoc manner in which many referendums have been held—often to deal with political crises or as a tactical device by a government in trouble—and the evidence suggested that difficult issues were not finally settled by a referendum result.

If we look at the history of our 1975 referendum, it seems clearly to illustrate some of these drawbacks. It was, after all, primarily held to resolve internal policy disputes within the Labour Government of the time—about the EEC, of course—and the result certainly did not finally resolve that question, as subsequent Conservative Governments have found out. The Minister may not want to comment this afternoon on the relevance of those negative points to the current Parliamentary Voting System and Constituencies Bill, but I have no doubt we will return to them when the Bill reaches this House.

To return to the report before us today, although the Constitution Committee was sceptical about the general values of referendums, it recognised pragmatically that they are going to be used, and therefore a large part of the report is concerned with when it is most appropriate for a referendum to be held and what are the most effective ways to organise one in order to achieve proper participation and a respected result. We were aware, of course, that enthusiasm for referendums is often politically driven by a legitimate wish to use every possible means to give greater power to the electorate. This is particularly true now, when what one might call the hostile dislocation between government and the governed has become such a major political problem. The coalition Government certainly emphasise this aspect in their response to the committee’s report, saying:

“A fundamental concept ... is the transfer of power from the Executive to Parliament, and from Parliament to people. The Government believes that referendums can be a valuable means of giving people a greater say over important issues, at both the

national and local level. However we recognise that national referendums cannot and should not be held on every important issue”.

For our part, the committee concluded that if referendums are to be used, they are most appropriately used in relation to fundamental constitutional issues, and that begs the question of what is a fundamental constitutional issue. The committee did not want to duck the question and was clear that it could not provide a precise definition, but has none the less agreed a list of topics for which it thinks a referendum would be appropriate: to abolish the monarchy, to leave the EU, for any of the nations of the UK to secede from the Union, to abolish either House of Parliament, to adopt a written constitution, to change the UK system of currency, and to change the electoral system for the House of Commons. The last is, of course, the subject of the current Bill.

Your Lordships will have noticed that the list does not include reform of the House of Lords as a fundamental constitutional issue. However, I was interested in the reply given last week by the noble Lord, Lord McNally to a question from his noble friend Lord Phillips of Sudbury, when he said that that was not the Government’s plan “at the moment”. He may wish to expand on that answer. But whatever may qualify as a fundamental constitutional issue, the committee was strongly of the opinion that this should be a decision for Parliament, not government alone. Legislators, not Ministers, should decide whether or not to hold a referendum. However, the committee and the Government are agreed that national referendums should be exceptional events. On local referendums we are perhaps slightly further apart. The Government have already published a consultation paper on local referendums to veto council tax increases, and their response to our report notes that they are committed to giving people the power to instigate referendums on any local issue as a way of making,

“the Big Society part of everyday life”.

The committee is sceptical about this approach, and while we accept the need for greater local involvement in local decision-making, we think other ways of reinvigorating citizen participation should be explored.

We heard evidence about a distinctive type of referendum, the so-called “citizens’ initiative”, where citizens can propose statute laws or broad policy changes. These initiatives have been successfully adopted both in Switzerland and in half of the United States, but most members of the committee felt that it would be extremely difficult to adapt such initiatives to the United Kingdom. We also looked at the idea of citizens’ juries and assemblies. Personally, I am sympathetic to the possibilities that we could develop on this issue, and I was impressed by the evidence of my noble friend Lady Kennedy of The Shaws, who had previously chaired the Power Commission.

The committee had one specific concern about local referendums of whatever type—who is to regulate and supervise them? Currently in our system, the Electoral Commission has no responsibility for local referendums, and my noble friend Lord Wills, who I believe is also speaking in the debate, gave evidence to us as a Minister on behalf of the previous Government saying that he thought it risky to extend the commission’s

role to cover them. Can the Minister tell us, particularly given the new Government’s evident enthusiasm for local referendums, how they are to be regulated and is it intended that the Electoral Commission should extend its role in this area?

As noble Lords will recall, the Electoral Commission was set up under the Political Parties, Elections and Referendums Act and, under this legislation, is already charged with responsibility for national referendums. The PPERA has not been tested in a national referendum. Our only experience has been the rather ill-fated local referendum on the north-east in 2004. The committee therefore thought it necessary to examine our legal and practical framework in a comparative way. The Minister for Political and Constitutional Reform, Mark Harper MP, has kindly written to me to say that he found the committee’s inquiry about this very valuable.

Our main recommendation—which is now particularly relevant given the proposed referendum next spring—is to require the Electoral Commission to make a thorough retrospective analysis of its first experience in a national referendum and then make proposals for change. Equally, if not more important, we propose that there should be a parliamentary post-legislative scrutiny exercise of the PPERA after that vote. The Government have responded that they agree with the need for an evaluation but have not been precise about what form that evaluation may take. Perhaps the Minister can help us further with that this afternoon.

After the 2004 north-east local referendum, the Electoral Commission asked the then Government to make changes to the legislative framework for referendums. The committee was sympathetic to many of its proposals and recommended that the Government should take steps to ensure that they were implemented. We therefore welcome the inclusion by the coalition Government of three of these proposals in the current Bill. First, the creation of a statutory regional counting officer role; secondly, the Electoral Commission to be given powers to promote public awareness of the registration and voting process at a referendum; and, thirdly, aggregation of spending limits for permitted participants to bring them into line with the rules of spending by third parties in a conventional election.

The Government have also agreed in their response to the committee to give consideration to the further proposal for what we would like to see—a generic code of conduct for referendums, again under the PPERA. However, once again the Government have not been specific about what form that consideration will take.

Beyond the overall organisation and conduct of referendums, our report also discusses other important practical issues concerning the timing of referendums and how information is to be provided to voters during campaigns. Perhaps the most significant is the vital question of deciding a referendum question. At present this is entirely in the hands of the Government, who are not obliged to take account of advice from the Electoral Commission. The committee recommends that, to ensure neutrality, the Electoral Commission should in future be given statutory responsibility to formulate referendum questions, which would then be presented to Parliament for approval. The Government disagree and prefer to continue to make the final

[BARONESS JAY OF PADDINGTON]

decision while taking account of comments on intelligibility from the commission. No doubt this is happening now in the light of the Electoral Commission's recent report on the problems that it has already encountered with the proposed question on AV.

The timing of referendum campaigns and votes also, naturally, raises tricky issues. Should referendums be held on the same day as other polls? We first decided that referendums should certainly not be held on the same day as a general election and that where there was a potential clash with other elections there should be a presumption against holding referendums on the same day. We concluded that this should be judged on a case-by-case basis by the Electoral Commission. The Government share our view that it should be judged on a case-by-case basis but see no reason in principle why referendums cannot be held on the same day as other polls. The Government's response states that where it is proposed to combine a referendum with other polls—as will be the case in the proposed referendum next May—they will work closely with the Electoral Commission to ensure that any practical risks are managed.

The House and the Minister will be aware of the widespread concerns about this expressed by Members of the other place at the Second Reading of the Parliamentary Voting System and Constituencies Bill, and I imagine the same issues will be raised here today. At that time, the Deputy Prime Minister, responding to the debate, seemed sympathetic to some of the points raised. I ask the Minister to tell your Lordships whether any progress has been made on this subject, whether the Government have had discussions with the Electoral Commission about the problem and whether practical risks and ways of managing them have been identified.

A proper understanding of the question being asked and clarity about the nature of the poll are essential to a successful referendum. This in turn must depend on the quality of information that voters have received. The Constitution Committee was not happy about the effectiveness of the regulation of information provision in UK referendums and has commended the system used in New Zealand in its 1992-93 electoral reform referendums. There, a totally independent body provided information and ran the public education process. The Government's response to this is not terribly forthcoming and states in a slightly anodyne way that it is important that voters are able to make an informed choice in any referendum and that the process for achieving this will depend on the subject matter of the poll. What steps will the Government take to ensure that voters are able to make an informed and objective choice? I remain of the opinion that there is a strong case for an independent information body in any UK referendum.

Part of the concern about information ties in with concerns about funding referendum campaigns. The committee heard from several witnesses who felt that their campaigns, particularly in local referendums, had suffered through lack of money. Some complained of the unfairness of small organisations having to compete with others which were awash with private donations, although it must be said that most witnesses felt that the PPERA, if properly followed, would iron

outmost inequalities. There was other evidence suggesting that the loopholes, even under the new Act, might be exploited. The committee therefore recommends that the Government adopt some of the points raised by the EC, which has decided to make its regulations on funding more transparent.

In conclusion, I shall quote directly from the Constitution Committee's summary of its most important findings:

“Referendums are not a panacea ... Referendums may become a part of the UK's democratic and constitutional framework. There has been little consistency in their use. They have taken place on an *ad hoc* basis, frequently as a tactical device rather than on the basis of constitutional principle. Notwithstanding this, we acknowledge arguments that, if referendums are to be used, they are most appropriately used in relation to fundamental constitutional issues. There are difficulties in defining what constitutes a 'fundamental constitutional issue' ... there is a grey area where the importance of issues is a matter of political judgment. To leave such judgments entirely in the hands of the government of the day is in our view inappropriate. Parliament should decide whether or not a referendum is appropriate”.

I hope that the House will accept that the committee has attempted a dispassionate and comparative review of what has now become a topical and controversial issue in UK politics. I look forward very much to the debate and to the Minister's reply. I beg to move.

3.28 pm

Lord Goodlad: My Lords, I thank the noble Baroness for her very kind remarks about me, which were wholly unmerited but most generous. It was a great privilege to serve on your Lordships' Select Committee, which performs an extremely important function. I wish the noble Baroness every success in the chair, which she will adorn with great wisdom and experience. She has covered the main issues in the report comprehensively. I echo her appreciation of the contribution of the committee's advisers and witnesses, and the evidence given to the committee will be an important quarry for many years to come for those who are interested in the subject.

I welcome the Government's acceptance of the majority of your Lordships' committee's recommendations, particularly a referendum on change in the voting system for the House of Commons, in Wales, on further powers for the National Assembly in accordance with existing legislation and on further transfers of power to the European Union, and that Parliament should judge which issues are the subject of national referendums. I shall therefore touch briefly on where the Government's response disagrees with the recommendations of your Lordships' committee.

The Government say in their response to your Lordships' committee's report:

“Parties across Parliament will have the chance to consider legislation as it goes through Parliament”.

Quite who drafted that, I cannot imagine, but the Government may rest assured that not only parties across Parliament but individual Members of both Houses of Parliament will scrutinise any forthcoming legislation with vigour. It is puzzling that the Government reject the view of your Lordships' committee that decisions leading to past referendums have been taken on an *ad hoc* basis and for political convenience—in

victory, magnanimity. Perhaps that is a pointer to the future. The Government's response agrees with your Lordships' committee that it is difficult to determine precisely in what circumstances a referendum should be held and agree with the suggestions for those occasions when a referendum would be appropriate. While providing a useful guide, it does not and cannot represent a definitive list. Your Lordships may think that there is no ad hocery or political convenience involved there.

In evidence, Peter Kellner argued that the decision to hold the 1975 European Communities referendum was a constitutional outrage. It was wholly to do with holding the Labour Party together. Vernon Bogdanor asserted that the offer of the 1979 devolution referendums was made for tactical purposes in order to overcome Back-Bench opposition in Parliament. Michael Wills from the other place opined that the referendum in the UK had been used as a political tool, but did not see anything wrong with that. Vernon Bogdanor recommended that referendum questions should be formulated by a neutral body such as the Electoral Commission. The noble Baroness, Lady Kennedy, reminded us that the Power commission, which she chaired, had recommended that an outside body should have control over the question.

David Butler told us that referendums in the UK are going to happen only when the Government of the day want one or when it would be too embarrassing because of past promises to get out of one. Normally, they will have a referendum if they think they are going to win it and not if they are not going to win it. It is really a matter of straight politics. Since that time, matters have changed. Homer, in the form of David Butler, has nodded and the forthcoming referendum on parliamentary voting systems will not be a caucus race in which everybody wins a prize. Ad hocery and political convenience are again matters of personal speculation. Your Lordships' committee said that it is possible to set out in legislation specific issues that should be subject to a referendum, as has been done in the past. In their response, the Government agreed with that statement and said:

"We do not propose to set out in legislation the issues which should be subject to a referendum".

No ad hocery or political convenience there.

The Government's response disagrees with your Lordships' committee's disbelief that local referendums are the most effective way of increasing citizen engagement with the local democratic process, saying that they can play an effective role in supporting local decision-making and empowering residents to make localism and the big society part of everyday life. There is a reference to excessive council tax increases. The common-sense view is that local referendums would be to oppose rather than support local decision-making. The Government are silent on who might pay for such referendums and what their cost might be. Perhaps there might be an opportunity for referendums on that matter.

On the subject of holding referendums on the same day as general elections, which your Lordships' committee opposed, as the noble Baroness said, the Government responded that a case-by-case approach was appropriate in that area. Again—no ad hocery or political convenience there, either.

Your Lordships' committee recommended that the Electoral Commission should be given a statutory responsibility to formulate referendum questions, which should then be presented to Parliament for approval. The Government, in rejecting the recommendation in their response, said that when provision for a referendum was made by Order in Council rather than by legislation, the commission's view would be taken into account in framing the question included in the order. Obviously, there is no question of ad hocery or political convenience there.

I, together with many other noble Lords of my generation, took part in the 1975 referendum on the renegotiation of terms of British membership of the European Community. I was a relatively newly elected Member of the other place and keen to support the Yes campaign. I persuaded the then Conservative agent from the Northwich division of Cheshire, the late Maglena Roberts, that we should have phone-in sessions so that I could personally respond to concerns. Despite her reservations after many years in her post about the merits of this new-fangled idea, not least on the grounds of advertising expense, she eventually went quietly—or relatively quietly.

On the first day of the phone-ins, as the clock in the Conservative Association office in Northwich ticked up to 10 o'clock, Maglena watched the telephone as if it was an anarchist's bomb about to explode. At 11 o'clock I said, "Miss Roberts, will you please look after the telephone while I make us both a cup of coffee". On the second day, the telephone eventually rang. The caller's inquiry was, "Mr Goodlad, what is the position of animals in the European Community?" I glanced down at the desk on which Miss Roberts had thoughtfully spread out copious briefing on every possible subject that could be covered. There was no line to take on the position of animals in the European Community—far less a suggestion as to what I might say if pressed. Without, I hope, breaking step, I tentatively said, "Madam, I believe that in general the rules are very strict", to which the caller said, "Thank you, Mr Goodlad, I am very glad to hear it". That was the only inquiry. Halls were booked for public meetings—half a dozen, as I recollect, widely advertised at some expense. The maximum attendance at any meeting was two people, and the only question asked was from a lady who said, "When does the Women's Institute meeting begin?"

As many noble Lords will recollect, the front cover of *Private Eye* at the beginning of the 1975 campaign featured a photograph of an elderly couple dozing in deckchairs on Blackpool beach with knotted handkerchiefs protecting their heads from the sun. The caption below the photograph was, "The Great Debate Begins". I look forward, as I am sure do all noble Lords, to further great debates, which I trust will not be disrupted by less important matters.

3.39 pm

Lord Hart of Chilton: My Lords, I straightaway declare an interest as a member of the Constitution Committee and it goes without saying that I agree with its conclusions and reasoning. Yet the Government do not seem to share the committee's reservations over

[LORD HART OF CHILTON]

the use of referendums generally and say that because they are firmly committed to giving people a greater say in politics, they believe referendums are one means of doing that. I therefore wish to add a few observations about the evidence that we received.

Over recent years, almost everybody experienced in politics has been anxious about the public's disaffection with and lack of trust in politicians and political institutions. There have of course been other periods of our history where disaffection has been just as great, if not greater, so we must always keep a sense of proportion. Nevertheless, I listened carefully to the witnesses from home and abroad who put forward arguments seeking to enhance the democratic process, not just by the use of referendums but by such things as citizen initiatives, citizens' assemblies and deliberative processes—the latter suggested by the Power commission and its chair, the noble Baroness, Lady Kennedy of The Shaws. In each case, practical difficulties arose when considering the proposals.

The first difficulty involved the relationship of referendums to parliamentary sovereignty and the principles of deliberative parliamentary democracy at Westminster, which include debates, pre-legislative scrutiny and Select Committees with the power to call and cross-examine witnesses—just as we have done. Of course, referendums are not incompatible with parliamentary democracy, but I believe that the latter is much to be preferred as a decision-making forum and that nothing should be done to undermine it.

Secondly, there came the “slippery slope” argument; how do you select the topics on which to give a referendum when there is no written constitution to provide guidelines? Without guidelines, there could be an enormous temptation to use referendums as a populist measure or to avoid facing difficult decisions. There is also a danger of using referendums to entrench legislation and prevent change. I accept that the Government say that the referendums which they have in mind will be exceptional events, but the suggestion that referendums should be used as part of a process of giving people a greater say in politics has a tendency to raise expectation and increase the appetite.

We must remember that the referendum process is expensive: about £120 million a shot, we were told. Except on a few issues, a referendum seems to appeal to an articulate minority, with the majority indifferent. We must also not forget the absent 10 per cent from the electoral register and that, each year, some 10 per cent of the adult population change address. We were told that, depending on the timing of a referendum, between 8 and 18 per cent of eligible voters would be unable to participate. Proportions of them would be significantly higher in metropolitan areas and non-registration would be significantly higher among young people and some ethnic minority groups.

Thirdly, there came a warning from the United States of America about citizen initiatives. The Californian experience was labelled as a device for the sad, the mad and the very rich, who could find a support organisation for anything under the sun. Demands for increased services were matched by a lack of desire to

pay the taxes needed to provide them, while scattergun demands have a habit of bringing with them unintended consequences.

Fourthly, there was the deliberative democratic process which, to my mind, had considerable educational merit. Yet it was conceded at once that it was not an alternative to a referendum. It was costly and would only sample the opinion of a few. Nevertheless, it was clear that in-depth explanation and debate informed and changed minds and—interestingly, in the case of the House of Lords reform policy—changed a knee-jerk reaction in favour to fade right away as a priority. Incidentally, my own small-scale, but just as expensive, deliberative exercise sessions with taxi drivers on my way home over the past few years has confirmed that finding.

Our report sets out the evidence for all these proposals. There were widely differing views and there was no unanimity. However, because it seemed likely that referendums would remain in the parliamentary toolkit but there was no agreement on their use, we concluded that they should be used only in relation to fundamental constitutional issues. We listed some, but not on the basis of a definitive list. Even here, though, there were differences of opinion among the witnesses. For example, the noble Lord, Lord Wills, a Minister in the previous Government, thought that a change in composition of the other place would be a fundamental change and would merit a referendum, but a change of composition in your Lordships' House would not. Since then, of course, there seems to have been a change of heart, but the present Government believe that a referendum is necessary for a change to the voting system while a significant reduction in membership and material changes to parliamentary boundaries do not merit one.

In conclusion, after listening to and reading again the evidence that we received, I have no doubt that neither referendums nor other initiatives constitute a panacea for, or give a restoration of, trust in politics. In my view, the rush to legislate on fixed-term Parliaments and a change in the voting system, without proper consultation or scrutiny, has increased my concern that we have not learnt any lessons on how to handle constitutional reform or re-engage the public. Nor do the focus group responses to the Electoral Commission's report on the question for the AV referendum give a great deal of hope; most of them did not understand what the first past the post system was, let alone alternative voting. Indeed, the other day I met someone who thought that AV was another form of transmittable disease.

So long as they do not undermine parliamentary democracy, initiatives to educate the public are to be encouraged, but in my view public trust will be restored only when Members in the other place re-engage with their constituents, as the best already do, and reform their own procedural practices, not least by being emboldened to hold the Executive to account. At this very moment when that re-engagement could and should take place, though, constituencies and MPs throughout the country are to be thrown into the melting pot. As the noble Lord, Lord Goodlad, often says, *sotto voce*, “You couldn't make it up”.

Higher Education: Funding Statement

3.47 pm

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): My Lords, with the leave of the House, I would like to repeat a Statement made in another place by my right honourable friend the Secretary of State for Business, Innovation and Skills.

“I would like to make a Statement on the future funding of higher education and student finance, in the light of the report published today of Lord Browne’s independent inquiry. Lord Browne was asked to undertake his review in November last year. The review was set up by Labour on a cross-party basis, and that is how we want to proceed.

I and my colleague, the right honourable Member for Havant, want to thank Lord Browne and his review panel. The Government endorse the main thrust of the report, but we are open to suggestions from inside and outside the House over the next few weeks before making specific recommendations to Parliament, with a view to implementing the changes for students entering higher education in autumn 2012. More detail will be contained in next week’s spending review on the funding implications, but as a strategic direction the Government believe that this report is on the right lines.

Lord Browne acknowledges that:

“The current funding and finance systems for higher education are unsustainable and need urgent reform”.

The issue is how, and that question has to be framed in terms of how the higher education sector contributes to the deficit reduction programme.

There is also, I think, consensus around the idea that there should be no up-front tuition fees for students. That would seriously deter students from low and middle-income families. This Government are strongly opposed to up-front tuition fees. Indeed, we share Lord Browne’s conclusion that we should extend exemption from up-front tuition fees to part-time students, currently 40 per cent of the student population, who have been unfairly discriminated against hitherto.

The question, then, is how much the graduate contributions for tuition should be. We are considering a level of £7,000. Many universities and colleges may well decide to charge less than this, since there is clearly scope for greater efficiency and innovation in the way that universities actually operate. Two-year ordinary degrees are one approach. Exceptionally, Lord Browne suggests there should be circumstances under which universities can price their courses above this point. But, he suggests, this would be conditional on demonstrating that funds would be invested in securing a good social mix, with fair access for students with less privileged backgrounds, and in raising the quality of teaching and learning. We will consider this carefully.

We believe it is essential that if the graduate contribution is to rise, it should be linked to graduates’ ability to pay. On average, over their lifetimes graduates

earn comfortably more than £100,000 more than non-graduates. However, not all graduates benefit in this way. Some choose socially useful but modestly paid or unpaid work, which may include time spent bringing up a family. At present the graduate contribution acts like a poll tax and is not fair.

Lord Browne has come up with persuasive proposals to deal with this issue. He suggests a £21,000 graduate income threshold before any payment is made, as against £15,000 at present, and for it to be linked to average earnings. He also suggests that a real rate of interest should be paid but only over that threshold. The effect is striking. Twenty per cent of graduates could pay less than they do now. The top third of graduate earners would pay more than twice as much as the lowest third. That is fair and progressive. The Government broadly endorse this approach and will examine the details of implementation. The principle of needs-blind admission to universities must remain central.

The cost of university education to individuals and the state reflects living costs as well as tuition costs. The Browne report makes some constructive suggestions here. We shall come forward with detailed proposals that will make it attractive for students from families of modest means to go to university and will be fair and affordable, including exempting the poorest students from graduate contributions for some or all of their studies.

Lord Browne considered alternatives, including a graduate tax, as I believe the new leader of the Labour Party favours. There are some key features in the current proposal for progressive graduate contributions which incorporate the best features of a graduate tax. It would be collected through the pay packet at a rate of 9p in the pound above the £21,000 threshold; combined with a real interest rate as Browne recommends, it would be progressive and related to ability to pay. But Browne identifies serious problems with a “pure” graduate tax. The proposal is unworkable: it does not produce sufficient revenue to finance higher education until 30 years from now; it weakens university independence; and it is unfair to British graduates, as opposed to graduates living overseas.

If there are any lingering doubts on the opposition Benches I would strongly commend a letter from the new shadow Chancellor to the new Labour leader three weeks ago, which reads thus:

“Oh, and for goodness’ sake, don’t pursue a graduate tax. We should be proud of our brave and correct decision to introduce tuition fees. Students don’t pay them, graduates do, when they’re earning ... at very low rates, stopped from their pay just like a graduate tax, but with the money going where it belongs: to universities rather than the Treasury”.

I do believe, moreover, that we need to look beyond the graduate population. Fifty-five per cent of young people do not go to university. We must not perpetuate the idea, encouraged by the pursuit of a misguided 50 per cent participation target, that the only valued option for an 18 year-old is a three-year academic course at a university. An apprenticeship can be just as valuable as a degree, if not more.

Finally, there is a challenge to all of us to promote a long-term sustainable future for higher education. This has been a difficult issue for all parties of this House.

[BARONESS WILCOX]

Those opposite have ranged between being early advocates of a graduate contribution, such as the Member for Sheffield Brightside and the new shadow Chancellor, through to those implacably opposed to change, to the current Labour leadership who remarkably have now embraced a graduate tax. The Conservatives initially campaigned against graduate contributions but reversed their position. The Liberal Democrats consistently opposed graduate contributions. But in the current economic climate that policy is simply no longer feasible. That is why I intend, on behalf of the coalition, to put specific proposals to the House to implement radical and progressive reforms to higher education based on the Browne report”.

My Lords, that concludes the Statement.

3.56 pm

Lord Triesman: My Lords, I thank the noble Baroness for repeating the Statement and giving us the opportunity to ask what I hope will be constructive questions about the direction that the Government now intend to follow. I appreciate the fact that the Secretary of State included so few rhetorical flourishes about the economic climate. I do not generally accept what is said about that but, more to the point, the university finance issues have been long in the making—we have had to address them very many times—and getting them right was in our minds well before the collapse of parts of the international banking system. I acknowledge what the noble Lord, Lord Browne, said in the passage quoted by the Minister about the depth and strength of the issues involved.

This is an urgent question because, in my view and that of the Opposition, investment in the United Kingdom’s higher education teaching and research is directly correlated with past prosperity, and will no doubt be correlated with future prosperity, future prospects for our country and with the ambitions of individuals and their families. If we seek growth, it is a key investment element in growth. Lord Dearing said that and, as I recall, no political party dissented from that view. He made the point that everybody should contribute to that investment—another principle from which there was no dissent on anyone’s part. We have long known what is needed to build on these achievements and to ensure that we retain our international competitiveness and the inclusive reach of our higher education.

Further to my point on the Secretary of State, I shall not dwell on the volte-face by the Lib Dems as it is sufficiently frequent as to be unexceptional. Nor will I dwell on Nick Clegg’s statement of 28 April that a £7,000 fee would be a national disaster. Let us look with care at the Browne report and ask questions about it. We will look very carefully at all the proposals. Incidentally, the issue about having a tax or other provision really concerns what the mechanism should be, whether it is progressive, appropriate, and affordable and whether having mountains of debt is a good start in life in the current environment. All those questions could be asked of any system and we will press them with regard to this and any other system. I thought that I detected in the Statement—I should be grateful if the Minister could tell us whether this is the case—an

indication that a White Paper was on the way. I think that a couple of passages suggested that further work was to be put before Parliament. Any reform of student finance which relies on a significant increase in tuition fees and is based on the assumption of deep cuts in public funding to higher education also raises serious concerns. I hope in a few moments to return to some questions on that.

Our approach to the reform of student finance—a matter which I have spent a good deal of my adult life concerned with—is guided by the following principles: establishing a stable and long-term footing for higher education funding which enables our universities to fulfil the role that they must play in promoting knowledge, innovation and economic growth; no stop-start or radical and sudden changes in the unit of resource, as we saw under a previous Government; avoiding an unfair and unsustainable increase in the burden of debt on lower and middle-income graduates; and ensuring that graduate contributions are progressive, as I said a few moments ago, so that those who earn and can afford more end up paying more than those with smaller incomes.

It is those considerations that draw me to the questions that I believe the House will want to address over the next period. Can the noble Baroness tell us whether middle-income graduates will pay a fair share as compared with high-income earners? A first reading of Browne—we have had only a brief time for it—and the Statement suggests that not only do the proposals combine higher fees with the setting of a real interest rate, but graduates on middle incomes will end up paying far more than their fair share when compared with graduates who are relatively better off—those earning the highest amounts. There will potentially be significant differentiations between the two groups in cash terms because middle-income earners will take far longer to pay off their loans and will be more affected by the charging of a real rate of interest. Is this the correct reading of the proposition which has been put to us? If it is, I fear that we are in for a flawed future.

Will high earners be debt free much earlier than middle-income earners? It is likely that a larger proportion of people on lower incomes will be saddled with high debt for about 30 years. This will mean that, in most cases, they will retain their debt into their middle 50s—probably when their own children are starting to go to university and they are trying to work out how to finance that. Throughout that period, as we know from past debates, they are buying houses and starting families. I note that, on average, one has to be 37 years old before buying one’s first home. All these events come together in life and it is important that we do not make it more difficult, if we are placing more importance on families and having a home and a sustainable way of living. The Browne review estimates that on average only the top 40 per cent of earners will pay back all the charges paid up-front on their behalf by the Government. That tells me that 60 per cent will not be debt free for at least 30 years. Is that not the case?

What will be the impact on off-balance-sheet borrowing, which has always been one of the real issues with a student tax? The claims that it is too difficult to fund the cost of moving to a graduate tax ring hollow when the system that is being proposed

will require the Government to borrow to fund the cost of much higher fee loans. The only difference is that the borrowing to pay universities the up-front fees is off the balance sheet. Can the noble Baroness tell us what level of off-balance-sheet borrowing the Browne review requires? What are the plans regarding the sale of the current debt book, a thorny issue which I remember well? That will impact across the whole of this area.

Will there not be a differential for, and a longer impact on, women? Many women will over their lifetimes earn less than men because of the differences in their careers. Will the Government give an undertaking today that they will undertake an equality impact assessment and give proper consideration to what might be a discriminatory difference between men and women in this regard?

The final questions are tremendously important to the university system and, I hope, to the House, because of the way in which we will all need to understand the process that we are going through not just today but over the next few weeks, which will include the comprehensive spending review. The proposals are unlikely to increase the overall funding to universities. That will almost certainly be the case if some of the cuts to university funding that have been hinted at in well sourced reports come through in the comprehensive spending review. Reports suggest that on the teaching side of university funding, the cuts will not be 25 per cent, or the sorts of figures that we have talked about in other areas, but possibly 70 to 80 per cent. Is the Browne report to be used simply as a mechanism for replenishing those cuts cut without producing any additional income for the universities, which they plainly need? Will it be a mechanism simply for shifting who pays the current quantum, rather than for producing an environment in which there is real growth and real competitiveness, and our universities can stand in the front rank of world universities, as they have done throughout their history and as they do today? That is vital, because some of those who are doing the sums in this sector have been telling us overnight—I have no doubt that they have told the Minister and her colleagues as well—that it will probably take a fee of something like £8,000 per year to produce any new money for universities if cuts at the level that have been prefigured come through the pipeline.

The noble Baroness may well say, “Wait for the comprehensive spending review and we will find out what all of these figures are”. Of course I understand that, but these are well sourced reports. They may be the type of report that raises the level of alarm so that when something slightly less draconian comes through one feels that only a few of one’s teeth have been kicked out rather than the whole set. However, if this is a mechanism designed not to grow the income of universities so that they can complete their historic mission but to replace elements that have been cut, that is not the proposal that has run through Robbins and Dearing and, I hope, will run through Browne and into the future. No account of our national financial interest will be answered by cutting off that growth.

I ask one final question of the Minister. Will she say whether the noble Lord, Lord Browne, was privy to what is in the comprehensive spending review, so

that he was able to do the sums and make sure that what he was doing would make the contribution that plainly he intended to make? If he was, I am afraid that we are in for some dire news for universities, and students are in for dire news as well. Of course, we will study and explore this, but I ask these questions because I hope that they will provide the answers that will tell us the trajectory of our universities over the coming years.

4.08 pm

Baroness Wilcox: My Lords, I thank the noble Lord, Lord Triesman, for some very helpful comments and a largely constructive reply. I suspect that he will not be pleased with much of my reply, because of course we are waiting for the comprehensive spending review. Therefore, beyond what I have already said, there is very little to add at this stage that would not be conjecture. As Her Majesty’s Opposition know, there are very hard choices to be made here, and both we and they value the high quality of our universities and want to keep standards as high as we possibly can. We are second in the world only to the United States of America. That is a fine record and one that we would like to keep. However, we are in a very difficult set of circumstances. Again, I thank the noble Lord, Lord Triesman, and will help him by answering just one or two of his questions.

The noble Lord asked whether this is yet another squeeze on middle-income families. We are committed to ensuring that higher education is affordable for everyone. The Government will provide finance for anyone who succeeds in securing a place at university so that no one has to pay for tuition up front, as I said. We also recognise that all students need some help towards living costs. The noble Lord, Lord Browne, has put forward generous proposals for maintenance support and these need to be considered carefully as part of the spending review process. We want a system which provides adequate support for students from low and middle-income families but which is also financially sustainable.

We intend to publish an HE White Paper later this year, leading, we hope, to a higher education Bill in the autumn of 2011. I think that that was what the noble Lord meant in asking that question.

He also asked how the review of the noble Lord, Lord Browne, could affect any potential sale of the student loan book. The treatment of the existing student loan book was not included in the terms of reference for the Browne review, and the Government are currently looking at a range of options for a potential sale.

4.11 pm

Lord Sewel: My Lords, the Minister will be aware that higher education is a devolved subject. Indeed, the financing of higher education differs somewhat in the devolved territories and in Scotland a separate review is under way. Should the Scottish Parliament come to a different solution from that advocated by the Government, will this Government ensure that, in order to fulfil its responsibilities to finance higher education, the Scottish Parliament will be granted additional powers?

Baroness Wilcox: The noble Lord, Lord Sewel, has me there. It is a wonderful question but at the moment I have no answer for him. However, I shall be only too delighted to check and come back to him. At this stage, I apologise.

Baroness Sharp of Guildford: My Lords, I thank the Minister for making the Statement, although, as all sides of the House will know, some of its contents are not totally welcomed by those of us on the Liberal Democrat Benches. Ideally, we should have liked to see a situation in which it was proposed to have no tuition fees, with the costs being met through progressive taxation. Our second best option was a graduate tax. However, we recognise that, given the current financial situation, that is not to be, and we also recognise the very real needs of the universities for extra funding.

As I understand it—perhaps the Minister will confirm this—this is an interim Statement. As she said, we are expecting the comprehensive spending review, which will spell out the details. However, the Government have accepted two aspects in the Statement. One is that a good deal of the extra funding will come from students themselves, and they accept that this will be in the form of repayments relating to extra loans. However, I suspect that the precise mix of loans, grants and dispensations for low-income families will be presented not within the framework of the comprehensive spending review but in—I hope I am right in thinking this—a separate Statement setting out precisely how this is going to be worked out.

I have two further questions for the Minister but before asking them I should like to say two things. First, I am pleased that the proposals suggest a level playing field for part-timers and full-timers. This is an issue for which I and many other people on all sides of the House have fought for a very long time and it is very good to see it at long last. Secondly, I also welcome the simplification proposed for the higher education system—that is, having one higher education council instead of HEFCE, OFFA and the QAA. Indeed, the Office of the Independent Adjudicator is also included, although I wonder whether it is appropriate for that to be subsumed into the single council. Although I recognise that this was not in the terms of reference, I am sorry that the review did not look further and perhaps amalgamate the old Learning and Skills Council element of adult education, as it would be good to see an adult higher education council.

I have two questions. First, am I right in thinking that—although Browne is suggesting no cap on fees, allowing universities to vary fees between institutions and indeed between subjects—the Government are, in effect, suggesting a cap of £7,000? My second question picks up a point made by the noble Lord, Lord Triesman: does the Minister accept that, although raising the threshold to £21,000 is to be welcomed, the introduction of real interest rates on a loan of £30,000 will mean that, even at an income of £30,000 a year, with repayments of £68 a month or £812 a year, most of the £812 will be consumed by interest payments and that very little capital will be paid off? That means that those in that income bracket will retain that debt

and probably will not have paid it off after 30 years; they will have it hanging round them, with a 9 per cent extra marginal rate of tax.

Baroness Wilcox: My Lords, I thank the noble Baroness, Lady Sharp, very much for that. It is very nice to hear her speak from this side of the Chamber. I was a little confused to start with, as this is the first time I have spoken from here with our friends on this side.

I am very pleased that the noble Baroness likes the idea of the inclusion of part-time students. It is a very good idea. At times, I have been a part-time student, so I think it will be helpful. Yes, we are looking at fees simplification, but as has been pointed out, there are further discussions to be had outside the House and within it. At this stage, nothing is written in tablets of stone as regards the skills council and so on.

The noble Baroness asked what the fee cap would be and, if there is no fee cap, whether fees could be charged at £20,000. Browne makes important recommendations about the structure and level of student contributions. We need to consider the options carefully and work out the implications of implementing them. We are considering a level of £7,000. The noble Lord, Lord Browne, recommends that there may be exceptional circumstances under which universities can price their courses above that threshold, but that would be conditional on them doing more on quality and to promote access for students from less privileged backgrounds. We are considering this proposal very carefully. There are strong views both for and against and we recognise the concerns from some that student contributions over £7,000 would put off some applicants, particularly those from low-income families. Equally, some argue that universities need to be able to charge more if they are to match the highest international standards, but we shall consider the arguments before reaching final conclusions.

Baroness Morgan of Huyton: My Lords, there is much to welcome in the report and it is a very comprehensive and far reaching review. Unfortunately, it was established as a means of getting extra, long-term sustainable money into the university sector and is now being used, in essence, to replace major cuts. That said, I have one specific question, picking up on something raised by the noble Lord, Lord Triesman, which, with respect, I do not think was answered: the potential differential effect on women in the review. I shall give you one example. If you take a female teacher in the lower middle-income bracket, who maybe takes time out or works part-time for several years bringing up children as she wants to spend some time at home with them, can it possibly be fair that she, in the end, pays substantially more than a full-time City worker, earning considerably more?

Baroness Wilcox: I think that there was broad mention in the Statement that I repeated of women having to be with families and having to take time out. I hope that this will all be covered after we have got rid of this awful business of the money. These are the areas that we really need to discuss and get right now. If it is

possible for us to move forward on areas of discrimination, we have an opportunity to get university fees—the way that they are done and the way that they are presented—right. Perhaps the noble Baroness, Lady Morgan, can contribute to that and ensure that I fully understand the situation of women, so that we can use all the time that we are spending on university funding and the future of universities to try to get a much better system.

Baroness Perry of Southwark: My Lords, I thank my noble friend for repeating the Statement and very much welcome the prospect of finance to meet universities' growing difficulties in providing the excellent education that we all wish for in this country. I echo the welcome of my noble friend Lady Sharp for the provision for part-time students, for which many of us have argued for a long time. That is extremely welcome.

My question is about the relationship between what graduates will be repaying and the differential fees which the universities will charge. As I understand it, the proposal in the Browne report is that universities will be able to charge variable fees, quite different fees from each other and for individual courses. Is there a mechanism whereby the repayment which graduates will make will be matched to the differential amount which the universities charge; and, if so, how will that mechanism work?

Baroness Wilcox: Clearly, we are hoping to be able to fund students to do exactly what they want to, exactly when they want to do it. Therefore, given the way that these things are put together, at the end of the day we will decide just how much money they need, and we want to make sure that they get as much money as they need to do the course that they need.

Lord Elystan-Morgan: My Lords, can the noble Baroness confirm that a study has been made of the possible prejudicial and deleterious effect of any adjustment of the cap in relation to higher education finances in Northern Ireland, Wales and Scotland? If not, can she give an assurance that such a comprehensive and rigorous study will be made before Her Majesty's Government come to any final conclusion in this matter?

Baroness Wilcox: My Lords, there will be consultation with the devolved authorities, of course, to see how this all progresses.

The Lord Bishop of Chester: My Lords, when the present cap was introduced, the Government of the day said strongly that it would be a cap—a limit—and that variable fees would be charged. In practice the £3,000, now indexed, has been a normal charge. Do the Government expect the £7,000 to be the normal fee, or do they genuinely expect and aim to introduce variable fees?

Baroness Wilcox: Yes, we expect variable fees.

Lord Liddle: My Lords, does the Minister accept that, in considering the review of the noble Lord, Lord Browne, equality of access to university is an absolutely fundamental principle? This is important in

two key respects. First, while we welcome the extension of help to part-time students—that is an important social reform which the noble Lord, Lord Browne, is proposing—it will be wholly negated for the universities which rely heavily on teaching income if the teaching grant element of support for universities is slashed in the forthcoming comprehensive spending review. I speak with an interest here as a director of the University of Cumbria. Secondly, in terms of the principle that the brightest working-class children should be able to go to the very best universities in this country without fear of finance being a deterrent, what action is the Minister proposing to ensure that bright working-class children will be encouraged to apply for the best universities and will have bursaries and scholarships of sufficient adequacy to ensure that they do not face any deterrents?

Baroness Wilcox: This is very important to us; I support the noble Lord on it. We all agree that widening participation is very important. We are clear about the importance of promoting fair access and widening participation in higher education. We are clear that the brightest and best must have access to higher education irrespective of family income and in those universities where, as the noble Lord described, they have difficulties at the moment. We hope that as you give evidence to us, we hear these problems explained further and better and we know what we have after the spending agreement, we will then be able to start moving forward.

Lord Phillips of Sudbury: My Lords, I declare an interest as chancellor of the University of Essex. My question is about consultation. Before asking it, I pay tribute to the noble Lord, Lord Browne, and his team for producing this report. I pity the Minister and, indeed, the Government for having to contend with what is on any reckoning the most complex set of issues and counter-issues. It is gratifying to have the sense of the House that this will not become a political football. My question is this: public confidence in consultation is very low, so will the Minister give an absolute assurance that consultation on the set of issues we have to confront here will take as long as it takes and that every single one of our 130 or so universities will be individually consulted and that they, in turn, will consult *inter alia* with student unions and their staffs? Without that, frankly, we will not get the best outcome and we will not assuage public anxiety as we must.

Baroness Wilcox: I thank my noble friend Lord Phillips for that question about consultation taking as long as it should take and making sure that all universities and student unions are included in all the conversations. That will be the case. We will consult with all the facts before us. This has been a slow start for us as a Government, and I know that people are getting short-tempered with the lack of progress. We feel it. We would like to move ahead further than we have been able to do so far. The comprehensive spending review will allow us, at last, to see what the news is and to move forward from that. I am part of a coalition Government, and I can tell the House that over the past six months we have learnt to do consultation. We

[BARONESS WILCOX]

are doing better for it. I may not be able to produce the important answers to some of the very important questions that have been asked today, but I hope that the consultation process will bring about the thing that we all want: good education and good universities for our children, to give them the best.

Baroness Symons of Vernham Dean: Perhaps the noble Baroness will return to one of the questions raised by my noble friend Lord Triesman. He asked her whether the noble Lord, Lord Browne, had been given any indication of the Government's evolving thinking on the CSR while drawing up his report. That is an important question. Was the noble Lord, Lord Browne, kept informed about government thinking on that point?

The noble Baroness, Lady Sharp, said that she and others in her party would have liked to have seen no raising of the cap. But it went a little further than that, did it not? Before the election, 57 Liberal Democrat MPs not only felt the same as the noble Baroness, but signed a specific pledge saying that they would oppose the raising of the cap. The Minister speaks for the coalition. Will she tell her us her feelings about that and does she regret what those 57 Liberal Democrat MPs did?

Baroness Wilcox: On the first question, the noble Baroness will have to ask the noble Lord, Lord Browne. He is here today and it is lovely that he is. On the second question, all three parties here assembled have had to rethink this problem over time. Certainly, the Benches facing me have changed their mind more than once.

Lord Willis of Knaresborough: My Lords, the noble Lord, Lord Triesman, made an important point. A principle was established by the Labour Government in 1998; namely, that fees represented replacement funding. All the money which came in from the first round of fees was replacement funding. But the issue is fundamental. If our universities cannot get additional resources as a result of this increase, we will not remain competitive.

What assurance can the Minister give at this stage that additional resources will come into our universities for research and teaching over and above any loss of revenue as a result of the comprehensive spending review? On a very important point, we are to have real interest on repayment of loans after £21,000 is reached. If students repay those loans in their entirety and therefore escape having to pay any interest, have the Government and the noble Lord, Lord Browne, calculated the loss and therefore the additional revenue that would have to be taken out of the system to compensate?

Baroness Wilcox: My Lords, my noble friend comes from the other place, where I believe that he chaired the Commons committee on education. This man knows his questions. I cannot answer pretty well everything that he has asked me, sadly. There is nothing more that I can say at this stage. I realise that the comprehensive spending review is hampering us with everything today, so I offer my apologies for that.

Referendums: Constitution Committee Report

Motion to Take Note (Continued)

4.33 pm

Lord Rennard: My Lords, the Select Committee was right to see significant drawbacks to the widespread use of referendums and to note that they have been used in the past for reasons of tactics rather than principle. There are good reasons why a referendum may sometimes be appropriate in a representative democracy, but there are also dangers to democracy from increasing the use of referendums. History teaches us that referendums can be used, as Clement Attlee famously observed, as,

“devices for demagogues and dictators”.

Even sincere attempts to use referendums for democratic reasons can fall foul of various problems to which elections may be less susceptible. Several witnesses to the Select Committee drew attention to the way in which the question on a referendum ballot paper is often not the question on which people actually vote. In 2003, a national newspaper attempted to conduct a referendum on the question of whether there should be a national referendum on the proposed constitution for Europe. Using newsagents as polling stations, it sought to give people their say on this issue. But evidence suggested that as many as 90 per cent of those who voted thought that the question had been about the single currency and not about the constitution at all.

The Select Committee report quotes Dr O'Malley of Dublin City University illustrating how in Ireland the first referendum on the Lisbon treaty became one on abortion and conscription rather than on the treaty. This was, as Professor David Butler described, a result of the disproportionate influence exercised by a single very rich individual who wanted to influence the outcome of that referendum. So referendums may not always be about handing power to the people, they may be about handing disproportionate power to certain wealthy groups and individuals.

More frequently, referendums can effectively become about support or opposition to the Government of the day. The timing of the 1997 referendums in Scotland and Wales, and the nature of those campaigns, suggested that they were as much about a referendum endorsing the change of Westminster government that had just taken place as the questions on the ballot paper about the future governance of Scotland and Wales. Elected Governments across the world are advised that if they wish to make changes that are endorsed by a referendum, they should generally do so before the so-called mid-term unpopularity kicks in, making it much harder to win such a poll, which can become a protest vote against the Government themselves.

When should a referendum be right in principle as opposed to a tactic to suit the party in power that proposes it? I think that the committee has produced a good list of the most obvious potential issues that may be considered of fundamental constitutional importance and could therefore be appropriate for a national referendum. The clearest case to be made for a referendum

must be on the issue of how people elect their representatives. That is because the alternative to a referendum on this issue is that those representatives effectively choose for themselves the system by which they are elected. There is much we may learn from the experience of the referendum on electoral reform that is due next May.

The committee looked in particular at the issue of thresholds in referendums. But before we get to the referendum next May, there are attempts being made in the other place today to impose a threshold that 40 per cent of the electorate be required to endorse change before it can happen. If such a threshold had been adopted in the recent general election, requiring MPs to have the support of 40 per cent of their electorates, then only three out of the 650 Members of Parliament would have been declared elected. We do not have a minimum turnout threshold for electing MPs, MEPs, councillors or other representatives, so I cannot see the general justification for one in order to deem a referendum vote valid. The committee was therefore right, in my view, to recommend a general presumption against the use of voter turnout thresholds and super-majorities.

I cannot, however, agree with the committee's conclusion about whether or not referendums can generally be held at the same time as other ballots, and nor do the Government. The issue of turnout, and therefore of legitimacy, may be linked to whether or not referendums can be held at the same time as other elections. It seems somewhat contradictory that some of those who make democratic legitimacy arguments in support of a minimum turnout threshold, in particular for referendums, also argue for the decoupling of referendums from other elections. All those of us who have been involved in elections know that it is hard enough to get people out to vote at any time without increasing the frequency with which they have to do so. The argument against holding a referendum at the same time as other elections is based on the idea that people could not comprehend a referendum question that otherwise would be intelligible because they are also electing representatives on the same day. This defies the experience of many countries. It also defies past experience in this country, which noble Lords opposite may well remember; that of the referendum on creating a London Assembly and a mayor of London. That referendum coincided with the London borough elections in 1998, and we know that London voters had no difficulty dealing with these separate issues on the same day. I do not expect that we will ever be asking voters to deal with the series of questions and huge range of elections that voters in the United States often cope with.

There is also an argument about the cost of staging a referendum. The marginal costs of holding a referendum on the same day as other elections are but a small fraction of what the costs would be of a separate referendum, which are equivalent to the costs of a general election.

More fundamentally, one of the potential downsides of referendums identified by the committee is the problem of people treating the vote in a referendum as a vote on the Government of the day rather than as an issue of principle. This is actually ameliorated by

holding referendums on the same day as other elections. People can use their elections to have their say on the Government of the day and who their representative should be, while at the same time using the referendum to decide an issue of principle. In a number of other countries, a referendum on future changes to the voting system has coincided with a general election held under the old system, thereby binding the hands of those elected under the old system to make any change required by the voter for future elections. That is a democratically healthy principle and one that I hope we may see in future.

4.41 pm

Lord Pannick: My Lords, I want to focus on the Government's written response to the committee's report. The Minister, Mr Harper, said that the Government do not share the committee's concern that referendums in the past have been used as a tactical device in an ad hoc manner. He assured noble Lords and the committee that the Government are committed to the use of referendums as a means of giving people a greater say in politics. The evidence which the committee heard—I declare an interest as a member—clearly established that Mr Harper is simply wrong in his analysis of the past and that the current proposals the Government are putting forward strongly suggest that Mr Harper's hopes for the future are unlikely to be met.

As to the past, some of the most striking evidence we heard is summarised at paragraphs 37 and 38 of our report. The noble Lord, Lord Goodlad, has already mentioned the evidence of Professor David Butler, of Nuffield College, Oxford, that normally referendums happen only when the Government think they are going to win. It may be that the next referendum will happen only because the Government think that they are going to lose. Steve Richards, the chief political commentator at the *Independent* newspaper gave similar evidence. He emphasised that the referendum is a tool used by political leaders to suggest that they are giving away powers when in fact they have carefully controlled the circumstances to ensure that they attain the desired result.

None of this should take anyone by surprise. The referendum is a powerful political mechanism and politicians will use it in the way they use all other political mechanisms—to advance their own political agendas. Referendums in the past have simply not been used to give people a greater say in politics—Mr Harper's aspiration. Indeed, if that had been the case, important social reforms such as the abolition of capital punishment, homosexual law reform and race relations law would have been prevented or at least severely delayed.

Of course, people must be encouraged to have their say on political questions, but decisions on such matters are for Parliament. Parliament has the task not merely of informing itself but also of leading public opinion where appropriate. Its task is not simply to identify what public opinion is and then to follow it.

If we confine our attention to constitutional issues, we see that it is simply not the case that the referendum has been used consistently in the past; it has been used wholly arbitrarily. Major constitutional change has

[LORD PANNICK]

occurred in this country without a referendum: the Parliament Acts of 1911 and 1949, the decision in 1966 to give the right of individual petition to the European Court of Human Rights, the Human Rights Act 1998 and the removal of almost all hereditary Peers from this House in 1999. The committee's report is surely correct, therefore, in stating at paragraph 96 that the inconsistency in the use of the referendum in this country supports the view that the referendum is at heart,

"a tactical device rather than a matter of high constitutional principle".

That is the past. As to Mr Harper's hopes for the future use of the referendum as a means of giving people a greater say in politics, the evidence of this Government's record so far does not suggest any move away from the tactical use of a referendum as, when and to the degree that it suits the Government. Mr Harper's letter includes a list of the matters on which they are considering referendums. It does not include their plan to reform this House to introduce a wholly or mainly elected upper Chamber—the noble Baroness, Lady Jay of Paddington, referred to this matter in opening today's debate. The question inevitably arises why, if the Government are so keen, as Mr Harper tells the committee and the House, on the referendum as a means of giving people a greater say on major constitutional reforms, the public are not to be given such a say on House of Lords reform.

The Government are proposing a referendum on the voting method for elections to the other place, but as your Lordships well know, the Parliamentary Voting System and Constituencies Bill will offer the public a choice only between the present first past the post system and the alternative vote method of election. Any objective exercise to identify the views of the public would include the choice of proportional representation as a means of electing the other place; indeed, it has long been the view of those on the Liberal Democrat Benches that such a system should be adopted.

I, like all your Lordships, have great admiration for the debating skills of the noble Lord, Lord McNally, as well as for all his other qualities, but I am doubtful that even he can persuade noble Lords today that the lack of any present intention to offer a referendum giving a wider choice of voting systems can be consistent with Mr Harper's assertion that this Government deprecate the use of the referendum as a tactical device.

I hope that the Government will be slow to propose referendums in the future, even on constitutional issues. Complex issues of government are best decided by Parliament, taking full account of the views of all sections of society, of course. I am concerned, like the noble Lord, Lord Rennard, that referendums will inevitably be strongly influenced by the drafting of the question, the power of the press to influence thinking, the popularity of the Government when the referendum occurs and the ability of people to understand the issues that are being posed. The Electoral Commission's recent report on the proposed referendum on the alternative vote revealed an alarming state of public ignorance on the subject—a matter to which the noble Lord, Lord Hart of Chilton, has already referred.

My point is not to encourage the Government to hold more referendums: it is that the committee was undoubtedly correct to conclude that a referendum is, always has been, and will remain, a political device that a Government will inevitably seek to manipulate to advance their own objectives. When the Government propose a referendum, we should lock the doors and make sure that the political burglar alarms are working.

4.51 pm

Lord Foulkes of Cumnock: My Lords, like the noble Lord, Lord Pannick, I have the greatest respect for the debating skills of the noble Lord, Lord McNally, who is an old friend. I propose to put a few points to him to test them later in the debate. First, as one of the non-members of the committee, like the noble Lord, Lord Rennard, I add my sincere congratulations to the noble Baroness, Lady Jay, and to the members of the committee on a well considered and helpful report. I only wish that I could say the same about the Government's response to the report.

In particular, we in this House should be concerned at the apparent contempt in the Government's response to the report, and in the Bill being discussed today in the House of Commons, for the role of Parliament. The Government seem to be saying that as soon as they decide something, it will happen. What has happened to the phrase "subject to approval by Parliament"? We are told that it will be a five-year Parliament because the Deputy Prime Minister has decided that. He does not say that it is subject to the approval of Parliament, which it is.

Equally, with a referendum, whereas the Electoral Commission very cleverly and carefully says "the proposed referendum", the Government call it the referendum that is due to take place, not which they hope will take place or is planned. The presumption is that because it has been decided by the Government it will automatically happen, without proper consideration by either House of Parliament, let alone both.

I take two points from the report. First, the committee recommends that,

"cross-party agreement should be sought as to the circumstances in which it is appropriate for referendums to be used".

That is certainly not in the spirit of the Bill going through the other place. There does not seem to be any cross-party agreement there. The second point is that:

"We recommend that referendums should not be held on the same day as General Elections".

Following that argument, I presume that that would apply to elections in Scotland, Wales and local government elections in England. I will concentrate on that. The Government's response to having a referendum on the same day as these elections is that it saves money. I have a better suggestion for saving money: do not have a referendum at all. That would save even more money, if that is a main constraint that concerns them.

The Government's response is full of strange ideas. For example, I take the suggestion of local referendums on council tax increases. That is a populist notion; I do not know whether it comes from the Liberal Democrats or the Tories. It is probably from some old liberal tradition which still exists on the Benches opposite. But it begs lots of questions—and I shall give three.

Why not a referendum on a council tax decrease, which has just as much effect in reducing services? That is not being suggested. Why not have referendums on other taxes? And how much will the referendum cost? Will it cost more than the tax increase that might take place? The suggestion begs so many questions that it is manifestly something put in without any great thought at all.

As the noble Lord, Lord Pannick, said, the referendum on the alternative vote offers only that one choice—the simple choice between first past the post and the alternative vote. I make no bones about it. Like many of my colleagues on this side and a great many opposite, I am in favour of first past the post. For the lower House, which produces the Government and from which the Government are decided, it normally results in stable government—although we have an exception at the moment. If we had an elected second Chamber, although that is a separate debate, there would be an argument for electing it by some form of proportional representation so that the revising House was of a different composition, in order to look at the legislation coming from the Government in the lower House. But why are we having this referendum on the alternative vote? Most of us on our side do not want it, most of the Tories do not want it and the Liberal Democrats do not really want it. They want the single transferable vote—proper PR. So why have we got it? The only thing that I can deduce is that it is a Trojan horse, the thin end of the wedge. Once 150 years of tradition in this country of electing the Commons by first past the post is thrown aside and we move to AV and there are problems with it, people could say, “Well, if we’ve done it once, let’s do it again—let’s try the single transferable vote, or the system we have in Scotland”. Once you open the Pandora’s box—I hope noble Lords will excuse me mixing metaphors—you do not know where it will stop.

Finally, I turn to the question of having a referendum on the same day as the elections in Scotland, Wales and local government elections in England. I shall take Scotland as an example and point out to noble Lords the reality of the confusion that it will cause. Of course, the electorate is not stupid—no one is suggesting that. Each person will go in and do their best to understand the system and the whole election campaign. Let us imagine, however, that the elections and a referendum are taking place in Scotland on 5 May next year. People will go in to find two ballot papers for the Scottish Parliament elections—one for first past the post, on which they have to put an X opposite the name of the person whom they want to be their constituency representative. They might see Sarah Boyack in Edinburgh Central—a little propaganda getting in here—and they put an X down next to her name. Then they have another list in which they have to put the numbers one to five against the party that they want to support for the list candidates. So that is quite a complicated thing already. In the run-up to that, there will have been campaigns for the constituency and the list, and people will need to understand that—and it takes some understanding, I assure you. Then they would have a third ballot paper on which the referendum vote would be cast. All that is quite a complicated exercise already. Then we come to the real fly in the

ointment: the voting on the referendum will be carried out on a different franchise from that for the Scottish Parliament, as the noble Lord, Lord McNally, said in a reply to me only recently. The referendum will be held on the parliamentary franchise and the vote for the Scottish Parliament will be on the local government franchise, so people will come in and they will be told, “Oh no, you can’t vote that way”, or “Wait a minute, we’ll have to check”—you can imagine the confusion which will take place. I hope that I have illustrated enough and I look forward to the explanation from the noble Lord, Lord McNally, of how this will be dealt with, particularly with the two different franchises.

We will also have two different campaigns running at the same time. The noble Lord, Lord Rennard, says that people will of course understand the different campaigns and vote differently on them, but he also said earlier that Governments carefully choose the times of referendums to get particular outcomes—they want to have it early in this period—so he has already admitted that contamination takes place; in this case, there will be cross-contamination. A referendum might be voted through or voted down not because of the value of the arguments on it as such, but because of people’s other concerns about the Scottish Parliament, the Welsh Assembly or, indeed, what is happening here in Westminster in relation to the coalition Government. It is very stupid and I hope that the Government will think again.

When the Bill comes through the other place, there is an amendment to change the date which, if it does not get through there, will come here. I hope that the coalition Government will seriously consider separating the dates. I made it clear that I do not want the referendum at all and will vote against it if we have that opportunity, but if we are to have it—if that is the will of Parliament, ultimately—then I plead with the Government not to have it on the same day.

Finally, on the gerrymandering Bill—a better title for it than the long title that it has—which is now going through its committee stage in the House of Commons, perhaps I might tell my own Front Bench, and I choose my words carefully here, that if the Government continue to ride roughshod over Parliament and to propose things such as having no appeals or hearings for boundary changes, and if they bring things in which are entirely against the spirit of our democracy, we in opposition should respond in like terms.

5.02 pm

The Lord Bishop of Chester: My Lords, the committee’s thorough and skilful report is most welcome, not only for the contribution which it offers to the potential use of referendums but for the way in which it implicitly opens up questions about the effective operation of our democracy, which so obviously lie in the background. For my part, while I welcome the general tenor of the report, with its caution about the use of referendums and its various health warnings along the way, here and there I think that the report is too cautious. I may be able to offer the Minister a little more pastoral care than he has received so far in the debate.

Why do I think that the report is a bit too cautious? Our aim is good government through a strong, representative democracy. One easy conclusion would

[THE LORD BISHOP OF CHESTER]

be that if this aim is already achieved, there is little need for the use of referendums unless major constitutional change is proposed. Even there, there are issues to debate. This, in large measure, seems to be the underlying logic of the committee's report, and there is much to commend that, but there are two ways in which the logic needs some qualification.

The first picks up some comments made by the noble Lord, Lord Foulkes, although not quite in the context in which he offered them, concerning the current balance in our constitutional arrangements between the Government, or Executive, and Parliament. It has been widely remarked in recent years that the balance has become an imbalance, with the Executive using the powers at their command to dominate Parliament. It is several decades since Lord Hailsham coined the well-known phrase "elective dictatorship" in his Dimpleby lecture to point up the dangers, but since he issued that warning the dangers have got even greater. Perhaps the advent of coalition government has not entirely helped, not least in this House where a whipped vote of the coalition partners will be much harder to defeat than has previously been the case.

The problem of an over-dominant Executive is widely before us, and it is not conducive to the flourishing of representative democracy. The natural solution, of course, would be to seek to rebalance the relationship between the Government and Parliament, but that is more easily said than done because of the pressures that the Government are under and because so much power has in practice already been transferred to the Executive.

Perhaps a somewhat greater use of referendums would be a useful tool of empowerment to the people of this country, a way of embodying and demonstrating that the power which Governments wield is exercised on behalf of all our citizens. We have to face the widespread cynicism about politics and politicians today, as we have been sharply reminded in the past two years. We should not underestimate what needs to be done in order to counteract this, and a somewhat wider use of referendums on a consultative basis may have a place in the appropriate strategy. This would not be a panacea, as the noble Lord, Lord Hart, suggested, but it may have a place in a consultative way.

If referendums were purely consultative, that would take the sting out of a great deal of what the noble Lord, Lord Pannick, said in his powerful speech. The decision could rest with Parliament, be it about capital punishment or constitutional change, but there is a real advantage in empowering people and involving them in decisions. If we say that there is public ignorance, that is not a reason for not consulting people; it is a reason for increasing public knowledge, and properly conducted referendums could have a place in achieving that.

I shall point to a couple of examples, one where a referendum was used and one where it was not but it might have been and, I believe, should have been. Imagine for a moment that there had not been a referendum in the north-east in 2004 about regional devolution. This was a highly political subject, the government of the day at least appearing to be strongly

in favour of regional devolution. It is easy to think that the government of the day would have convinced themselves of the rightness of their proposals and gone ahead, but a clear result in the referendum effectively prevented that happening—rightly so, I believe. In saying this, I am aware that any referendum will be a rough and ready tool, and the outcome will need careful interpretation. Proper questions were raised about aspects of the process and campaign in the north-east. Nevertheless, I think it is widely accepted that the wisdom of holding that consultative referendum is undeniable.

Let us look at this from another point of view in, perhaps, a more controversial area where referendums have not been held, and the committee draws attention to this—that is, over successive European treaties. I tread somewhat warily into this territory, but the lack of any referendum on at least one of the treaties since 1975 has had a bad effect on how politics is viewed in this country. There is a widespread sense—not only among London taxi drivers, although they certainly exhibit it—that too much power has been transferred without proper scrutiny and democratic consent to the European Union by successive Governments forcing the relevant legislation through by heavily whipped votes. I say this as a supporter of the European Union who is largely grateful for our membership, but the absence of any recognised test and mandate of the people of our country as a whole may yet return to haunt our political life, not least since the major parties have broadly taken the same European policies to the electorate in successive election campaigns.

I move to a more local example from my own neck of the woods in Cheshire. Several years ago, without a local referendum, there was a consultation—I put inverted commas around the word in my notes—about the future shape of local government in the county of Cheshire. There were three options, broadly: a continuance of the previous arrangements in some form of dual administration by a county council and six district councils; a single Cheshire-wide unitary; or two new unitaries, east and west Cheshire. The great weight of the responses to the consultation favoured either a revised status quo or a single unitary. However, a political decision was made by the Minister to impose two new unitaries, which seemed to most people in my community to have little local support. The noble Lord, Lord Phillips, who is not now in his place, said earlier that public confidence in consultation is very low; I am not surprised that that can be said.

I pay tribute to those who are making the new system of east and west Cheshire work, but there remains the widespread feeling that the community of Cheshire was subject to an executive decision in London that did not take sufficient account of what the people of Cheshire judged was best. The very fact that the new unitaries are called east Cheshire and west Cheshire rather indicates that there is an underlying social and geographical reality of Cheshire to which both belong. The exercise has been much more expensive than a single unitary would have been. The people of Cheshire as a whole deserved the chance to be consulted before a decision was taken by the Minister, just as the people of the north-east were consulted about regional devolution.

Perhaps it is implied in the coalition agreement that this should have happened, because a referendum is required for the introduction of an elected mayor. Should it not also be required for any major change in local constitutional arrangements? Amid my general support for the government response, I look forward to the Minister's response on that specific point. It is relevant not just to elected mayors.

Lord O'Neill of Clackmannan: Can the right reverend Prelate, in a national, rather than a local government, context, take account of the fact that referenda tend to be judgments as much on the proposer as on the proposition? If the proposer is not very popular at any time, it affords the electorate an opportunity to have a go at them. That is probably the reason—more so than any other—why devolution in the north-east was rejected. In 2004 the status and popularity of the Labour Government in an area where they were normally held in high regard were somewhat lower than we would otherwise have expected them to be.

The Lord Bishop of Chester: That point was raised earlier in the debate. Of course there will be a range of factors that come into play. I lived and worked in the north-east for nearly 10 years. I was not surprised that when the people were consulted they gave the response that they did. I think that most people would now think that it would have been wrong to introduce regional government. However, to address the point more directly, the very fact that referendums are held so sporadically, in such an ad hoc way, has contributed to the fact that they can be misused or interpreted as a judgment on the proposer. That is why a slightly more organised protocol for the use of referendums, particularly, perhaps, for local issues but occasionally also for national issues, would be beneficial to our democracy. However, there is no panacea and there are dangers with whatever approach one takes.

I conclude with a more general point about the exercise of political power. The notion seems to have grown up that strong government necessarily means powerful government, with the government of the day being perceived to be in charge of events. Yes, that is understandable. However, the intolerable pressures of the modern media can push a Government too far. Is it not one of the implications of the idea of a big society, as opposed to a big state or big government, that a strong Government can display their strength by sharing their power with the people most affected by a decision? That, I believe, lies behind the proposed localism Bill. It is also the underlying reason why we should be prepared to welcome a rather wider use of consultative referendums than has been the case in recent times, and as the committee's report recommends.

5.14 pm

Lord Brooke of Sutton Mandeville: My Lords, it is a pleasure to follow the right reverend Prelate the Bishop of Chester. We owe the existence of the Lords spiritual as a valuable element in your Lordships' House to their medieval predecessors' reluctance to serve in a court to try their fellow Peers. It is good to know that referendums can honourably enter the purview of the Lords spiritual.

On a personal note, I mourn the recent death of Lord Bingham. His maiden speech in your Lordships' House as Lord Chief Justice was on the then constitutional settlement. On principle he never spoke in this Chamber as a Law Lord, save to give judgments; but one had hoped that in retirement he might have come back to speak in this Chamber, not least on constitutional subjects—so he is already missed.

I congratulate the noble Baroness, Lady Jay of Paddington, not only on securing the chairmanship of the Constitution Committee of your Lordships' House but on having celebrated it so admirably today. I congratulate her, too, on the compliment paid her by the Electoral Commission at lunchtime today in providing briefing in room 13 on the Parliamentary Voting System and Constituencies Bill and its referendum implications, which I like to think was a deliberate act.

I have myself never been a member of the Constitution Committee, so what qualifications do I have to speak? Perhaps I should declare one interest in that the local polls in Wales on the Sunday opening of pubs during the 1960s, referred to in paragraph 2 of this report, was the product of a suggestion by my noble and leaned friend Lord Howe of Aberavon—as he then was not—and was implemented by my late noble kinsman as Minister for Welsh Affairs. I have a miniature qualification in having lived in Switzerland for a year 50 years ago, and thus breathed the referendum air.

I spoke in Marlow on the yes platform on the 1975 referendum and was told engagingly afterwards by my fellow speaker, a Wing Commander Martin, that I had developed arguments he believed no one else in the hall had ever thought of before. Wing Commander Martin was, I think, the first British officer into Sarawak after the Japanese surrender and remarked to me that he thought the people of Sarawak might well have voted for the return of the Brookes as white rajahs if the opportunity had been afforded them.

I lived through the 1977-79 debates on Welsh and Scottish devolution as a participant opposition Back-Bencher, and 20 years later in the 1997-1999 period I felt unease about the referendum arrangements regarding Scotland, Wales, the Greater London Authority and the Belfast agreement, which seemed to be made up as the Government went along and were regulated and finally corralled only by the Political Parties, Elections and Referendums Act 2000 after all four of these referendums had been done and dusted. The more's the pity given the international praise that that Act has since received. Perhaps that Act may let us draw a line under the past.

In relation to the Belfast agreement referendum, the Prime Minister—whose name had already been deployed in the Welsh referendum by a plane drawing a banner across south Wales, saying, "Vote yes, vote Blair"—was pressed to campaign on the Belfast agreement referendum by Labour MPs who had been campaigning for the yes vote, which they feared they might lose without his participation, which gave rise to one pledge or promise of his which he, of course, was later unable to fulfil. That brings me, as a new reader, to the excellent report that we are debating today. The gallimaufry of quotations assembled from relevant academics is a rich quarry even if it occasions the

[LORD BROOKE OF SUTTON MANDEVILLE]
 same discipline one has to observe in the splendid, comparatively recent biography of Georgiana, Duchess of Devonshire, of constantly needing to look up the *dramatis personae* in the index. The cut and thrust of observations and apothegms is worthy of a Platonic dialogue, though they are, of course, to some degree taken out of context, and it leads to suspense in the process to see on which side of the argument the committee will eventually come down, which it summarises by assessing the balance of evidence. Out of context, surprise sometimes occurs.

On the issue of choice of subjects for referendums, I have on a prior occasion cited one of my late noble kinsman's constituents, a very competent photographer named Miss Compton Collier. She lived in a flat in West Hampstead, possessed neither radio nor television and never read newspapers. She told her bank manager that it was his obligation to let her know if anything of real significance occurred. He prudently inquired what her standards of "real significance" were. She said that that was a very easy question to answer: they were the death of the sovereign or the outbreak of war. That procedure has much to recommend it, but as a resolution for the choice of subjects by one's bank manager, it is as unpredictable and impenetrable a method as the Duckworth Lewis one is to the average spectator at a limited-overs cricket match.

Knowing, however, that the noble Lord, Lord Wills, will have both the right and opportunity of reply, I shall follow the principle of getting your retaliation in first which is pursued by the British Lions on rugby football tours, and say that, on his point on the composition of the House of Lords being irrelevant because the people of this country have had decades to consider this change—a view which the coalition seems to share, as other speakers have said—as the right reverend Prelate said, the same might likewise have been said about regional government in the north-east, when the noble Lord, Lord Prescott, was driven back to that far-off fastness because he believed that he knew the answer for sure, as in the example given by Professor David Butler to the committee that a referendum on 4 November some years back proved otherwise and earned the experiment the title of 4/11 throughout Whitehall. If I had a preference for elections to your Lordships' House, I would not bet my own house on such a result if a national referendum on the composition of your Lordships' House were held.

My own interpretation of the overall tenor of this report is that the referendum is a device not without worth but that it should not be abused by overuse. That seems to me a very British conclusion to which I have no difficulty subscribing.

5.21 pm

Lord Liddle: My Lords, I also welcome this excellent report by my noble friend Lady Jay's committee. I should like to add my thoughts on referenda as they apply to the European Union.

I suppose that, so far in my life, I have been involved in one real referendum and two failed referenda. I took part in the 1975 referendum on the European Union. I was one of the organisers of "Oxford says yes to Europe" and greatly enjoyed the campaign. In

my period working as a Europe adviser to Tony Blair when he was Prime Minister, I was also involved in debates and discussions on two referenda on the European Union, neither of which actually happened—very regrettably, a referendum on whether we should join the euro; and, very thankfully, a possible referendum on the constitutional treaty.

In 1975, I had come to the view that a referendum was a good thing because it would settle the Europe issue for all time. Well, it did not. I think that that should be a warning to all referendum enthusiasts—it does not settle issues for all time. When I started working for Tony Blair I allowed myself to be persuaded again that a referendum on the euro would be a good thing. It was the arguments of Hugo Young that I found most persuasive. He said that this would be an existential choice for Britain, about Britain's future direction in the world, and it was right that we should have a referendum on it. As we know now, that issue became bogged down and blocked in questions of whether the economic circumstances were right for Britain to join, and whether the five economic tests were fulfilled. In retrospect my view is that if a referendum were to have been held, it should have taken place in 1998 or 1999, on the principle of whether Britain should join the euro. Then the decision on when we did it, according to when the economic circumstances were right, should have been left to the Chancellor and to the Cabinet. That was what the late Lord Jenkins of Hillhead urged on the Prime Minister at the time, and in retrospect he was right.

The constitutional treaty referendum was announced by the Prime Minister to the House of Commons in April 2004. I could never see a case for it because the constitutional treaty, despite its portentous title, was nothing more than a classic amending treaty to the basic treaties of the European Union. In its policy content it was a lot less significant in its effects than the Single European Act. I remember a meeting at which Mr Blair expressed these views very forcefully to the then Foreign Secretary, saying, "Jack, are you saying that we should have a referendum on this treaty? That would involve running up and down the streets, telling people to come out and vote in favour of a double-hatted Foreign Minister. Do you think that that is what people are going to respond to?"

When the referendum was proposed in 2004, it was done purely for tactical reasons, not for reasons of principle. The tactical reasons were, first, a misjudgment about how this House would vote on the treaty and a feeling that a referendum clause would be added; and secondly, a fear that the issue would be very damaging to Labour in the European elections that were coming up. Those are not good reasons for having referenda, and I was extremely pleased that when Gordon Brown became Prime Minister, he saw no case for a referendum on the Lisbon treaty and that, once he had made the decision and explained it clearly, the passage of the Bill through the House was a complete damp squib. I remember the then Minister for Europe, Mr Jim Murphy, telling me that he had had hardly any letters about it in his postbag.

In the recess, the coalition Government announced in a Written Ministerial Statement by David Lidington on 13 September that legislation would be introduced

this Session for multiple referenda on matters European, on the basic test of whether a transfer of powers would take place. According to the Statement, not just new treaties but so-called ratchet clauses which amount to the transfer of an area of competence or power from the UK to the EU will be subjected to a referendum. Well, I find it deeply objectionable. First—this is a point about referenda—the Government’s language is all about transfer of powers. That is not how I see it. We are talking about a pooling of sovereignty to give us more power to act over things that are important to us. Technically we may be surrendering sovereignty to Brussels, but we are gaining real power to act. That raises real questions about how the questions would be posed in such referenda on so-called transfers of powers, because that would confuse people.

Secondly, if the Bill had been in place in 1997, we would have had referenda on every amending treaty that has passed since—not just on the treaty of Lisbon but on those of Nice and Amsterdam. That makes three referenda in all. Technically—the noble Lord, Lord Hannay, may correct me—we would have had a fourth, because in 2004 it was decided under a passerelle clause to make immigration and asylum a matter of qualified majority voting, which certainly would have passed the Government’s test of what would have required a referendum. So many referenda in such a short period would be ridiculous and I do not think that people would know what they were all about, but having referenda on so-called passerelle clauses is an added great confusion. Who will decide which passerelles represent a fundamental so-called transfer of power? That is very unclear. We will probably have the Supreme Court deciding which matters should be subject to referenda. Therefore, I see this as an undesirable development, and frankly I am amazed that my good friend the noble Lord, Lord McNally, and the Liberal Democrats have agreed to these proposals being brought forward by the coalition Government. I find it amazing that what was the most pro-European party in Britain has agreed to them.

I do not rule out all referenda. If we in Britain are to have a referendum on Europe, let us have it on big and simple choices. Let us have a referendum on whether we are going to be fully committed members of the European Union or whether we are going to pull out. It seems that we could have a referendum on that. However, do not let us kid ourselves that, except on these very big issues, referenda are a way of dealing with the problem of legitimacy in our democracy. We do that by restoring trust in our parliamentary institutions and by having politicians and political parties that are prepared to argue and lead—not to go for the cop-out of referenda, which I believe just encourage the backstairs politics of tactical manoeuvre.

5.31 pm

Baroness Quin: My Lords, I, too, am pleased to participate in this debate, particularly as this was the last report in which I was involved as a member of the Constitution Committee, and it is a subject that I was particularly keen to see the committee examine. I am glad to say that I strongly support the report and its recommendations.

I take this opportunity to congratulate my noble friend Lady Jay on her appointment as chair of the committee. I add my own words of thanks to the outgoing chairman, the noble Lord, Lord Goodlad, who also addressed us this afternoon.

I hope that this debate is timely. It is good to see that, unlike the debates on many committee reports on the Floor of the House which are often dominated by committee members, the debate on this one has also attracted a large number of Members who were not involved in the committee’s deliberations but have obviously been very interested in the committee’s work on this subject.

I was certainly concerned about aspects of the Government’s policy on referendums, and that concern was triggered when the then leader of the Opposition, now the Prime Minister, said on 10 June 2009 in another place:

“Is it not time to allow people the opportunity to present a proposition and have it voted on in a local referendum ... Should we not give them the right to hold a referendum on massive council tax rises?—[*Official Report, Commons, 10/6/09; col. 800.*]

That seemed to herald a considerable change in our political system, perhaps even going so far as to introduce a California ballot initiative system of a kind which I think has caused many problems. Certainly it begged a lot of questions about how massive tax rises should be defined, and indeed perhaps, following the comments of my noble friend Lord Foulkes, whether massive reductions could also be the subject of a ballot.

I was also concerned that at the time the then leader of the Opposition and his team did not wish to give oral evidence to the committee, despite being invited to do so. I am therefore very glad that the current committee has been pressing the Government to give their opinion on these issues. I hope that the Minister who has the possibly unenviable task of responding to the debate will be able to give us more information about the Government’s precise plans.

In that connection, I have learnt—and certainly the point has been made—that the Government are proposing to transform the leaders of 12 large councils into mayors, with mayoral powers, and then to ask for this to be subsequently confirmed in a referendum at some unspecified date. That seems to be an extraordinary way of bringing in a change. If you agreed with referendums, presumably you would ask the people beforehand, but it seems very strange to bring in this change and then, at some unspecified date, to ask for it to be confirmed. Perhaps in his reply the Minister can enlighten us on that specific point.

In some ways it is difficult to argue against referendums, certainly when one hears comments such as, “Let the people decide” and “Let the people’s voice be heard”. However, I share the concerns of both the committee and many others who have spoken in this debate that, despite what the Government say, we have tended to proceed on an ad hoc basis for a variety of political reasons and for political expediency. Certainly, the precedents are not good. The 1975 referendum was essentially devised as a way of massaging divisions in the Labour Party. I think that the current Minister and I—I was a junior member of his staff in the Labour Party at the time—both remember that period very

[BARONESS QUIN]

vividly. Indeed, the referendum which was unexpectedly—to me, at least—announced in April 2004 and which has been referred to in detail by the noble Lord, Lord Liddle, also seemed to be an announcement for short-term political consideration rather than a decision thought out on the basis of constitutional principle.

I believe that we need to think about when we want to use referendums, and I also believe that we should try to proceed on a cross-party basis as much as possible. That might be seen as a naive belief in our party-political system; none the less, when we talk about constitutional innovations and major constitutional changes, it would be much more satisfactory if cross-party, or at least a fairly broad measure of, agreement could be achieved in those circumstances.

We need to think about how far we are a parliamentary or representative democracy and how far we want to move towards being a plebiscitary democracy. The noble Lord, Lord Liddle, mentioned the debates about the Lisbon treaty and I largely agree with him. It was a long, complicated treaty and I would be the last person to say that members of the public are not capable of judging for themselves the nature of a treaty such as that. However, one part of me wonders what Parliament is about if it is not there to scrutinise in detail, line by line, treaties and then come to a decision as a result. That seems to be a fundamental element of a representative democracy and it is certainly something that we should think about very carefully before changing it. Sometimes a referendum can seem to be an abdication of responsibility in which a Government say, “Oh well, this issue is too difficult. Let’s not deal with it ourselves”, yet sometimes in politics you need the courage to make difficult political decisions.

I was not going to mention the north-east referendum at all, having been indelibly scarred by the experience. However, I was provoked into doing so by the comments of the right reverend Prelate the Bishop of Chester and those of the noble Lord, Lord Brooke, who I think, to my horror, said something about the north-east being a “far-off fastness”. I say to the noble Lord, Lord Brooke, that if you live in the north-east, you think of the south-east of England as being a far-off fastness.

I do not think that the north-east referendum was a case of a Government very keen on the idea trying to foist it on an unwilling population. The genesis of north-east devolution is rather different. Many north-easterners—indeed, I was one of them— campaigned for years to try to promote the idea of regional devolution, and the Government, of whom I was very proud to be a part, had some members who were not very enthusiastic about it. I very much agreed with the comments made in an intervention by my noble friend Lord O’Neill, who said that of course a referendum is very much influenced by what is going on in the country at the time of that referendum.

I say to the right reverend Prelate that there had been many opinion polls before the actual referendum in the north-east which showed that people favoured the idea of regional devolution and yet the timing of the referendum must, in many ways, have delighted the No campaign almost beyond its wildest dreams. There was an anti-politician feeling around which was not

helped by the fact that MPs’ expenses were published for the first time and their salaries, secretarial expenses, living in London allowances and all the rest were added up as if there were a huge inflated sum which MPs were putting in their pockets. Although I am a strong supporter of the Scottish Parliament, it was also unfortunate that at that precise time the estimates of the building in Edinburgh happened to be more than 10 times the original estimate and, therefore, if you were a No campaigner saying, “Who wants a lot of extra expensive politicians and a white elephant?” then these things were grist to the mill. I console myself by remembering that in Wales there was a very strong vote against devolution in the 1970s but, none the less, public opinion can and does change. Although I may not be around myself, I hope that this will happen in the north-east.

Quite rightly, the report looks at international examples. I wish to add one which does not appear in the report: it is interesting that Germany, a strong and decentralised democracy, is very much against national referendums because of past experience particularly in the interwar years and when the regime used them to manipulate public opinion and to engineer particular outcomes.

In conclusion, I think that the committee is right to urge caution. We need to think carefully about referendums becoming an integral part of our system. Preferably, we should proceed on a cross-party basis. In highlighting these points, this debate is very much to be welcomed. Like others, I look forward to the Minister’s reply without envying him his task.

5.42 pm

Baroness O’Loan: My Lords, this is a carefully reasoned and well evidenced report on the use of referendums. The questions addressed by the committee are very specific and address the range of key issues fundamental to this debate.

Perhaps the most compelling conclusion is that contained in paragraph 94 of the report, which states:

“Notwithstanding our views that there are significant drawbacks to the use of referendums, we acknowledge arguments that, if referendums are to be used, they are most appropriately used in relation to fundamental constitutional issues”.

The committee went on to give us an indication of what it regarded as fundamental constitutional issues. The list was not definitive, but it was strongly indicative of the boundaries which the committee considered reflect the appropriate use of referendums.

Those referendums which have taken place within the United Kingdom since 1973 fall largely within the definition of constitutional issues, although it is questionable whether they were all fundamental constitutional issues. Perhaps the most significant one for me was the Belfast agreement in 1998, in which 71.1 per cent of those polled gave community consent for the continuation of the Northern Ireland peace process on the basis of the agreement. The road to peace was long and hard, both before and after the agreement, but the referendum and the breadth of the provisions of the Good Friday agreement formed a sound basis on which the community could embrace the proposed mechanisms for peace. Although we continue to be subject to paramilitary activity, the

majority of the population are focused on the economic and social development of Northern Ireland. I would argue that that is the proper use of a referendum.

The committee noted the claimed positive features of referendums, but was persuaded by the counter arguments to recommend limitations on their use. The limitations are well articulated in the report: that referendums tend to be dominated by elite groups—we have certainly seen that; that they can have a damaging effect on minority groups; that they may block progress, but they do not settle the issue anyway; that they fail to deal with complex issues; that they tend not to be about the issue in question, particularly when the issues are very complex; that voters show little desire to participate in referendums; that referendums are costly—already today several noble Lords have mentioned the £120 million cost of a national referendum; and, most importantly, that they undermine or have the potential to undermine representative democracy.

The committee concluded that there are significant drawbacks to the use of referendums. It noted that,

“we regret ... the manner in which referendums have been used, often as a tactical device, by the government of the day”.

The committee recommended that, where possible, cross-party agreement should be sought on the circumstances in which it is appropriate for referendums to be used. Yet, as has been said by noble Lords today, we do not have cross-party agreement on the current proposed referendum and I am not even sure that there is coalition Government agreement on the proposed referendums.

There are many complex issues which evoke calls for referendums. For example, in response to rising crime levels there were calls for the return of birching in the 1950s and since. There are regular calls for the reintroduction of capital punishment and for the banning of immigration. There are calls also for a referendum on the issue of assisted dying. These are profound and fundamental questions. Should we have referendums on all these issues as well?

I want to use the issue of assisted dying to explore this matter through the evidence given to the committee. There are opinion polls which regularly indicate that a majority of people would favour a change in the law on assisted dying, but that is not, of itself, a sufficient reason for changing the law. Few would suggest that Parliament's role is simply to legislate in accordance with what opinion research suggests. Obviously, public opinion has to be given due weight by legislators, but like everything else it has to be examined thoughtfully and its significance assessed. When one speaks to the disabled and the terminally ill, they use one word to describe their reaction to the possibility that the state will license killing and that word is fear. They are afraid. Despite the popular calls for euthanasia or assisted dying, none of the disability organisations, and none of the organisations for sufferers from diseases such as MND or MS, has called for it.

In reality, referendums are helpful only in telling us what individuals say in response to a given question. They do not tell us much, if anything, about the respondents themselves, about how knowledgeable they are, for example, on the subject in question and how strongly their views on the subject are held.

Like so many issues, assisted dying is a highly complex issue, transcending a number of specialised areas of expertise, including law, medicine and ethics, on which few people can be expected to have any in-depth knowledge. To say that is not to argue that the opinions of people who have an incomplete understanding of any subject should be of no account. We all have opinions on subjects about which we may know little or nothing, but we cannot seriously expect our opinions to be translated into legislation simply because we hold them. Sound law-making has to be founded on solid evidence and objective assessment as well as on public opinion. It is Parliament's role to examine the evidence on any particular issue in an objective and dispassionate manner and to reach balanced conclusions.

For example, the noble and learned Lord, Lord Mackay of Clashfern, took evidence from more than 140 expert witnesses in four jurisdictions before reporting. We also had lengthy debate on the Joffe Bill. That is quite different from the sort of spin and media treatment that issues will receive in the media, which is the source of many people's knowledge of any subject and which will lead, almost inevitably, to a given result in the polls.

The committee examined initiative processes which allow citizens to propose statute laws, constitutional amendments or broad policy principles or to challenge statutes and amendments passed by representatives. The committee was not convinced by the arguments in favour of those initiatives.

Reference was made in the evidence to the experience in Oregon, where assisted dying was legalised, after a lengthy and complex legal process. The Act was first passed in November 1994 by a margin of 51 per cent in favour and three years later it was implemented after extensive and multiple legal proceedings. The committee heard evidence from Dr Tolle of the Oregon Health and Science University Centre for Ethics in Health Care. She said this about the vote which introduced the Death with Dignity Act.

“The day after the vote I wrote an article ... In that article I described the fact that when people voted, and remember you cannot change anything, you vote yes or you vote no on an initiative, many people were voting about a very tragic experience a loved one had had in end of life care and saying, ‘I vote for anything different’. Many would say, ‘What you have said is too narrow for me, I would include poor pain management, I would include inadequacies in the hospital, I would include poor conversations and planning, I would include much more in the basket and then say yes’. In some ways it was a vote of no confidence about some aspects of end of life care”.

There is a cautionary note there on the limitations of the use of a referendum. Those limitations are well recognised by the committee in its references to complex issues.

The complexity of the arguments in relation to assisted dying is a clear example of why the committee has drawn those conclusions. Complex issues are not amenable to decision-making by a yes/no answer to a question. I am pleased, therefore, to see the government response to the report, which indicates that they will not support the wider use of referendums, but I am a little perplexed that they are holding a referendum which appears to be presenting the people with the

[BARONESS O'LOAN]

choice of alternative voting or first past the post, with no reference to the other options—I think that there are about a dozen options for alternative voting systems—particularly the single transferable vote, which we have in Northern Ireland. It seems to me that deciding to offer alternative voting in a referendum but not to discuss issues of the House of Lords or to offer other options is not consistent with the Government's broader response to the committee's report.

In conclusion, responsibility for decision-making on why and when we need a referendum is Parliament's, and only those decisions which are of a fundamental constitutional nature should be put to a referendum. For the rest, Parliament should continue to exercise its historic and profoundly important functions.

5.51 pm

Lord Wills: My Lords, I rise to welcome the report from the committee, to which I gave evidence when I was a Minister. The report is comprehensive, practical, thorough in its analysis and wise in its conclusions—which is not a surprise given the distinguished membership of the committee, many of whom we have already heard from today. I congratulate my noble friend Lady Jay on assuming the chairmanship of the committee.

It is a timely report, given the new interest in direct democracy. The reasons for that have been frequently rehearsed. There has been a well documented decline of trust in politicians and increasing disengagement from formal democratic processes, and disadvantaged groups and younger people, in particular, are increasingly unlikely to vote at elections. The weakening of old collectivist structures and historic social identities and the rise of a professional political class have all served to undermine engagement with the party politics on which our system of representative democracy depends. Those problems are real and need to be addressed. So it is not surprising that there has been growing interest among commentators and politicians in direct democracy but, as many noble Lords have already pointed out, we need to be very careful to think about improving representative democracy, not replacing it. If nothing else, the history of the 20th century, reminds us of the dangers of plebiscitary democracy, and ought to remind us of the virtues of representative democracy.

In the current climate, we cannot take the virtues of representative democracy for granted, so I hope that noble Lords will forgive me if I briefly rehearse what I think they are. Representative democracy allows, through the power of universal suffrage, for the fairest distribution of power among all citizens. It offers space for scrutiny and deliberation on complex issues, and it does so continually as such issues arise, which, in my view, inevitably makes for better policy. Crucially, it fosters the articulation of the needs and aspirations of the inarticulate and the protection of the interests of minorities, all of which are hallmarks of a decent and civilised society.

However, representative democracy can and should be augmented to adapt to new circumstances, and referendums can have their place in that. The arguments for their use are well set out in the report. I share the committee's view that there are "significant drawbacks"

to their use, and not simply because of any threat to representative democracy. For example, referendums can be vulnerable to manipulation by the wealthy and the powerful, who can dominate single issue campaigns more easily than they can the complex layers of political activity that characterise the operation of parliamentary democracy.

I recognise the committee's concerns about the use of referendums as what it describes as a, "tactical device by the government of the day",

and I recognise its cogent arguments for defining when referendums should be conducted, but I also read with great interest the evidence from distinguished experts, who laboured to produce such a definition of the terms. For all their wisdom and ingenuity, none of the proposals in the report would be immune from interpretation. In the end, I still believe that, in the absence of a fully codified constitution, it is difficult to avoid a central role for the judgment of politicians on the circumstances in which a referendum should be held.

That is why, incidentally, I think that the committee's approach in drawing up a practical, although not exhaustive, list of instances where a referendum should be held is more helpful than an attempt to construct a theoretical framework. However, I am not as worried as are the committee and many of its witnesses about a central role for the judgment of democratically elected politicians. Of course, politicians will often seek to use referendums for their political ends—that is not a surprise—but they are, in the end, accountable for their decisions. That includes the holding of referendums and their considerable expense—about £100 million, or up to £120 million, if some witnesses to the committee are to be believed. That democratic accountability allows for at least some protection against flagrant abuse.

As the committee concludes, referendums are not a panacea. They are also not the only way of increasing democratic engagement. Some such methods, such as citizens' initiatives, have considerable drawbacks as we have already heard from my noble friend Lord Hart, but I would have hoped that the committee's tepid conclusion that,

"such tools as a citizens' assemblies and citizens' juries may be worthy of consideration",

could have been a little more enthusiastic. I hope that it will consider returning to that specific issue in a future report.

New methods of engaging the public in policy formulation through deliberative democracy are potentially very important, in my view, in both engaging the public in politics between elections and improving public policy. Citizens' summits, for example, bring together between 500 and 1,000 people to deliberate on policy, exposing them to a range of opinions and policy options. Those involved are selected randomly but filtered to ensure that they are demographically broadly representative. Such exercises can enable the public to bring relevant knowledge and experience to bear on policy formation that may not be so available to cloistered Ministers and officials. Engaging the public in that way can help to legitimise and entrench policy that might otherwise be unnecessarily contentious.

In a policy paper entitled *A National Framework for Greater Citizen Engagement*, published two years ago, the then Government set out when they thought that national policy formulation would benefit from greater public participation in such ways. Those circumstances included: where issues will result in significant constitutional change; where individuals themselves need to act in addition to the Government to make a significant impact—for example, on behavioural issues such as obesity or smoking; where there are several policy options on which the Government have an open mind; and where there is public benefit in exploring complex and difficult trade-offs between different policy options—for example, between a personal desire to purchase cheap flights and the societal need to reduce carbon emissions. The noble Lord, Lord Brooke, may infer from what I just said that, although I still stick to my view that the composition and further reform of this House is not a suitable topic for referendums, for some of the reasons that I have already given, I think that it would be wholly appropriate for that sort of deliberative engagement with the public. I will wait with great interest, as I am sure he will, for what the public may decide after due deliberation on the issue.

Any new such mechanisms to re-engage people with democratic processes and improve policy formulation will succeed only if they fulfil five conditions. First, they must register with the public, and that means that they must be regular and pervasive. Secondly, they must be credible—people must believe that they matter. So they should be open and transparent. Participants must be aware in advance how much influence they might have, with a shared understanding of when and how these mechanisms will be used. The Government must not embark on engagement for the sake of it with no discernible outcome. Thirdly, they must be systemic; otherwise people could too easily regard them as a version of the politicians' tactical device that the committee so deplores. Such deliberative assemblies should represent a permanent change to the process of policy development. Fourthly, they must be representative, as accessible as possible and include a broad spread of the population. Finally and importantly, such mechanisms must also be consistent with the primacy of representative democracy. Such new mechanisms should feed into parliamentary consideration of issues, not replace them.

Towards the end of their time in office, the previous Government conducted an exercise, unique in this country, in such popular, deliberative policy-making. It was conducted by TNS-BMRB, a well known market research company, independently of government. This project explored the potential for a written statement of values, perhaps to act as a preamble for a Bill of Rights, the merits of such a Bill and the potential for a written constitution. The results of these deliberations were not always comfortable for the Government and their stated policy and led the debate into areas that the Government had not always expected, but the deliberations were notable for their seriousness, the commitment of those taking part and the good sense of the conclusions. The Government learnt valuable lessons about the conduct of such exercises for the future. The general election intervened before the Government could build on this work, but TNS-BMRB

produced a detailed and comprehensive report, and I commend it to all noble Lords with an interest in our constitutional arrangements. I hope that this Government, who in theory are committed to such innovations, will take note and continue the work of their predecessors in this area. I hope that the Minister can give me some comfort in his reply. This report on referendums makes an important contribution to a debate which will undoubtedly continue, and we all owe the committee our thanks for its work.

6.02 pm

Lord Rodgers of Quarry Bank: My Lords, as other speakers have said, the Constitution Committee was guided through this inquiry by my noble friend Lord Goodlad. As a member of the committee, I too pay tribute to his calm chairmanship, as on other occasions, and I enjoyed his anecdotes today. I also thank the noble Baroness, Lady Quin, who spoke earlier, who persuaded the Committee to look into the role of referendums. It was prescient, given the outcome of the general election, but inevitably, on the eve of the dissolution, few future Ministers kept the report by their pillow when it was published on 7 April. The Government's response appeared six months later, only 10 days ago.

In paragraph 226, the Committee said—and I repeat what others have said today:

“Referendums are not a panacea”.

It continued:

“We note the arguments for their use as a way of strengthening the democratic process. The drawbacks and difficulties of their use are serious”.

Here I follow the noble Lord, Lord Pannick.

In his letter of 30 September covering the response, Mark Harper, the Minister for Political and Constitutional Reform, said:

“Referendums are an important part of our package of reforms”.

He added that the Government,

“does not share the Committee's general concerns”.

So there is a significant difference of emphasis and style between the report and the response. For my part, I stand firm to the report.

I am not easily persuaded to welcome referendums. I did not like the decision to make what became the 1975 Common Market referendum—so far, the only nationwide referendum in the United Kingdom—although once settled, I campaigned for yes. The referendum was clearly a device to hold the Labour Party together and to stay in what became the European Community and then the European Union. The report says it regrets,

“the ad hoc manner in which referendums have been used, often as a tactical device”.

The response snaps back that the Government “does not share” that description, but that was precisely what happened in 1975.

While it emphasises that there are “significant drawbacks”, the report says that if referendums are adopted, they would be,

“most appropriately used in relation to fundamental constitutional issues”.

It then names seven, although it is not a definitive list. The response is a cautious agreement.

[LORD RODGERS OF QUARRY BANK]

The Government are pressing ahead for an elected or partially elected House of Lords. This is certainly a constitutional issue, as it would abolish the House as we have known it, and a referendum would be appropriate. I hope Ministers will confirm that they are considering it for the Bill we expect by the end of the year, although there was no hint of it in yesterday's short debate. We shall listen carefully to what my noble friend says in his closing speech.

The response says that the use of any major ratchet clauses of the Lisbon treaty will be subject to a referendum, as the Foreign Secretary confirmed last week. I will not pursue further European matters—I listened very closely to what the noble Lord, Lord Liddle, said—except to say that in 1975 the turnout was 64.6 per cent. If the Government were faced by ratchet clauses, I would hope to choose a referendum only if the public believed that they were major issues that should override Parliament.

Let me turn to paragraphs 214 and 215 in chapter 7, "Summary of Recommendations"; and the earlier chapter 4. Despite the need to encourage greater citizen engagement, the committee was not convinced by arguments in favour of citizens' initiatives and local referendums. I think the committee tried hard to give them the benefit of the doubt, but when it came to the point, the oral witnesses were not particularly keen. The government response is disturbing. In the current fashion and language, the Government make the point that local referendums can play a role,

"empowering residents to make localism and the Big Society part of everyday life".

They continue:

"This is why we are committed to giving residents the power to instigate local referendums on any local issue".

I repeat, "on any local issue". In taking oral evidence, we discussed the possible outcome if there was a local referendum on whether to close a hospital. The witness, the noble and learned Lord, Lord Fraser of Carmyllie, said that,

"where a much-loved hospital is in danger of being closed ... the result will be ... overwhelming".

The committee knew, as noble Lords know, that the answer to closing would always be no.

There have been recent campaigns against the closure of A&E and maternity departments. Localism may be attractive, but I am far from happy if the future of the NHS is now to be determined by unrestrained citizen initiatives. New major trauma and stroke services have been developing in London. I am impressed by their progress as it has meant high-quality centres, rather than preserving some very average hospital departments. Inevitably there have been critics, but if the Government are to encourage local initiatives they could mean a set-back to reform.

The July White Paper on liberating the NHS is also about choice and control, sharing decision-making, democratic legitimacy, public engagement, effective dialogue and partnership, and more. But if we are to have referendums on any local issue, I am far from clear that the National Health Service would be better managed and resources more effectively employed. The White Paper states:

"We will give the NHS a coherent, stable, enduring framework for quality and service improvement".

I hope so.

In their response to the report, the Government say that they are,

"committed to renewal of our political system", and that:

"A fundamental concept ... is the transfer of power from the Executive to Parliament, and from Parliament to people".

That is fine, but I am yet to be convinced that our freedoms and our security would be better protected by an endless series of referendums rather than by established elected institutions.

6.11 pm

Lord Desai: My Lords, it is a great pleasure to follow the noble Lord, Lord Rodgers. I too join everyone in congratulating my noble friend Lady Jay on having got the chairmanship of the committee and on introducing this debate. Since quite a lot has been already said, I should like to take a different tack. The argument that referendums are imperfect or that they are not a panacea is not news. Nothing is perfect and nothing is a panacea. Even the representative democracy that we have is not a panacea.

The arguments made that decisions taken at referendums are influenced by other extraneous events or variables can be said about any election. When an election takes place in a constituency, people may vote for person X or person Y on no consideration of reading the manifesto or on knowing the policy or whatever the person may have said, but on the colour of his hair or something like that.

I do not think that we can construct an ideal decision-making system and say, "Referendums are not like this; therefore we reject them". Our difficulty is somewhere else. Not only, as the committee points out, do we not have a written constitution, but we have a particularly highly centralised decision-making system. Despite devolution we are a highly centralised system in which the primacy of the House of Commons allows the party with a majority to more or less dictate when and how it would choose to have a referendum or not. There is nothing that we can do about it.

The argument has been made that the 1975 referendum was to establish peace in the Labour Party. The ruling party had problems and, therefore, it had to have peace established within itself because it wanted to govern for the next three or four years. Things were difficult from the early days for the 1974 to 1979 Government. My noble friend Lord Foulkes said that keeping the Labour Party united was in the national interest and I agree with him.

But let us look at today: the idea that every passerelle has to be put to a referendum is not driven by logic. It is driven by the fact that the Conservative Party is deeply divided on Europe. If it is not divided, the coalition is deeply divided on Europe. When the ruling party is divided it is very convenient not to have to make the decision on the Floor of the House in a Bill, but to have a referendum and give the responsibility to someone else for getting the wrong decision. Then you are out of it, which can be very useful. I do not want to be cynical, but a system which so crucially depends on a cohesive majority in the House of Commons for

running the country will need something like this if there is no cohesive majority in the House of Commons. That is not to be sneezed at.

Another point was cogently made by the committee. If we are going to use referendums we should use them for only major constitutional questions. I quite sympathise with that. The committee lists four or five major constitutional topics. During the passage of the regulatory reform Bill a few years ago, the noble Lord, Lord Norton of Louth, added a schedule. The Bill was designed to speed up regulatory reform—cut the red tape and all that. Many noble Lords were suspicious that this way of doing regulatory reform would bypass the legislature and would make major legislative amendments. Therefore, a schedule listed every Act which should not be subject to amendment by the procedure in the Bill. I apologise for forgetting the exact title of the Bill, but I thought that if the noble Lord, Lord Norton, was here, he would tell me. The schedule to that Bill is a good guide to the many different Acts. It is not an *acquis communautaire*, but almost an *acquis Britannique* of all the very important Acts. Perhaps we should start with that list of Acts which cannot be touched except by a referendum.

The only argument for having a referendum would be that citizens feel differently from elected representatives. Therefore, citizens' wishes should be consulted on such a question. But if that is the case we have to have some sort of threshold on participation and on the size of the majority. Some noble Lords will recall the George Cunningham amendment; my noble friend Lord Foulkes very painfully remembers it. It put down a threshold as to participation in the Scottish referendum. It would be entirely proper to do that. Unless participation is above a certain threshold, such as two-thirds of the electorate, and the final weighted average of the majority in the referendum plus the rate of participation is at least above 40 per cent, the referendum should be declared void. There is no point in having a referendum with very low participation and a majority which represents not the people's wishes at large, but the wishes of only those who have bothered to come out and vote. That may make the wrong decision. If referendums are to be legislated on, we must insist on a threshold condition on every referendum, regardless of how major or minor the decision at stake is.

6.18 pm

Lord Owen: My Lords, my noble friend Lord Pannick is in his place. I accept his definition that a referendum is a powerful, political mechanism to advance a politician's own political agenda. If we are honest, that is what referendums have come to represent. But where I disagree with the tone of this report is that I do not think that it has been generous enough to that powerful mechanism producing some very important political stability. Edward Heath first suggested that there should be a referendum in Northern Ireland. I was against it at the time, but the more I reflected, the more enthusiastic I became for it. I think that it has shown itself to have been a very important element in achieving what we hope will be a lasting peace in Northern Ireland.

As to Europe, I am utterly convinced that the 1975 referendum has been of tremendous benefit for the pursuit of a reasonably consistent European policy

over the years since. My noble friend Lord Rodgers and I disagreed. Even though we went through the Division Lobby against our own party in support of the EU, I felt that a referendum "prior to" could have been won, which would have given us the wholehearted consent which the then Conservative Government were never able to achieve.

Before people are too critical of Harold Wilson's referendum in 1975, we should remember that there were two elections in 1974, on both of which occasions the promise to have a referendum was held and therefore in some respects endorsed by the British people. But I have no doubt also that, just as the referendum in 1975 was fundamental in keeping a pro-European policy, so it was a tremendous mistake on the part of the Labour Opposition in 1983 to campaign to come out of the European Community without even a referendum. It was one of the contributing factors to that long suicide note and a really massive defeat.

We come to the question of the euro. Which of us now believes that we should be in the European eurozone? The commitment made under duress by all three political parties in the 1997 election to have a referendum has been a fundamental safeguard in avoiding what would have been a huge mistake, given the precariousness of the UK economy. Sometimes a referendum can have a powerful effect without it actually being utilised, and we need to reflect on that.

No one could deny, and the report does not deny, that changing the voting system of the House of Commons is a major constitutional question. There is no argument: if this is to be done, it should be subject to a referendum. I used to think that we could do it as a party-political fix; I believed that when I was leader of the SDP. In those days, I thought it would have been perfectly legitimate. I think that now that referendums have established their authority and credibility on major constitutional questions, nobody can contemplate a change as a political fix. But, as I have said, most referendums come out of a political fix, so this is what we are discussing.

On the first part of the political fix, I shall address my remarks to my noble friend Lord McNally. First, I believe the coalition Government are making a great mistake in setting a date now when they do not have a clue what public opinion is going to be like by May of next year. Common prudence would suggest making that decision later by order and not getting themselves into this tangle at the moment. On the second part, the Government ought to address an important political question. The leader of the Liberal Democrats has already called this a "miserable compromise", which it certainly is. He should consider when it would be most likely that the British public would agree to even this narrow choice of the alternative vote as opposed to first past the post. It would be if they had seen a coalition work effectively for four years. The natural time for this referendum would be—if we are to have fixed-term Parliaments, which I hope will pass, although it is right for people to say that it is still to be accepted and the legislation still has to go through—in 2014.

My next appeal is to the Labour Party—especially to its new leader, for whom I have high hopes as he comes from a completely different generation—to think

[LORD OWEN]

again on this issue. I do not deny his having fought an election to have the choice of the alternative vote, and he is extremely wise as the leader of his party to say that he is going to vote for it. But there is a deeper question here, and it is basically a democratically one. Once a decision has been made for political and tactical reasons to have a referendum, it is certainly open to the rest of us who are not party to this to argue for a proper democratic basis. One of those arguments is the way the question is put, and that is quite right. I have a great deal of sympathy for the comment of the noble Lord, Lord Desai, that there should be a threshold. It was uncomfortable for me personally in 1979, and it helped to lose us the election, but there was not by any standard full-hearted consent in Scotland. I do not believe it would have been right to have gone through with it on that narrow vote and thus with less than wholehearted consent. I am not sure what the definition is, but perhaps the committee will give more thought to what “wholehearted consent” is. Winning by one vote is not enough on a referendum. You are out there to try to create a much greater democratic base for what you are doing, so while one vote may be enough to win an election—although I have my doubts about it—it certainly is not enough on a referendum and is therefore something we should look at carefully.

The deeper question I want to address to the Labour Party both in this House and in another place is that every element of democratic justice calls for at least one other option on the ballot paper, that being proportional representation. There are limits to the choices that can be put forward and I am not going to go into the different systems of proportional representation, but the alternative vote is definitively not a proportional system. It is also a fact that every time this issue has been looked at, the alternative vote has been rejected. It was rejected by the Labour Party's own Plant commission. It was rejected by the Jenkins commission which was set up by the Labour Party, and it was rejected when the Liberals and the Social Democratic Party set up a commission to look at it. So it seems a travesty of democratic justice that the only alternative for voting in the House of Commons is to be the alternative vote. If the new leader of the Labour Party was to make this an issue, not only would he identify himself with every social democratic party in Europe—it would not be a bad start for a new generational Labour leader—he would leave the way open for the Labour Party in the future to form a coalition with a Liberal Democrat party rather than it just being tied endlessly to coalitions with the Conservative Party. Tactically, it would be a rather good position, but it would also be justified by the present situation. We would also then have more enthusiasm for this referendum.

I must say that my fear at the moment is that of nil enthusiasm. I have long wanted this change to the voting system, but I have absolutely no personal enthusiasm whatever. I am not sure that I will even be able to persuade myself to vote because it is such a miserable compromise. Put in a third option in the form of a proportional system and I certainly would man the barricades and fight for it. I believe, too, that a lot of other people would do the same, and that it would be an enthusiastic debate. Further, we do not

need to coincide with the Scottish elections. When listening to the noble Lord, Lord Foulkes, it was the first time I understood the complexity of the ballot paper that the Scottish electorate will have to face. That is a pretty powerful case for not coinciding with the elections in Scotland.

I hope that the issues will be debated fully and I shall finish with these words. Referendums have been good for British democracy, but used too frequently or in a foolish way, they will not work. The safeguard is in the form of both Houses of Parliament; they will decide. On the question of the reform of the House of Lords, personally, I would leave this open. If the parties in the House of Commons can come to an agreement on what House of Lords reform should be, I would not wish for a referendum. The issue that those of us who are not party to the debates should hold over them is that if they come out with some cobbled-up compromise that cannot carry conviction with the three parties in the House of Commons, then the House of Lords would be fully entitled to demand a referendum.

6.28 pm

Lord Grenfell: My Lords, it is a great pleasure to follow the noble Lord, Lord Owen. He has given us much food for thought in his authoritative speech, and from the perspective of these Benches I might say some marching orders as well. I liked what he said about the coalition Government walking into what I would call a heffalump trap by naming the date for the referendum. The other reason I think they have made a mistake is that they do not know how long it will take to get the legislation through, and particularly through this House. We know that a serious lead time is needed before referendums can be held.

I join others in congratulating the noble Lord, Lord Goodlad, and the committee he lately chaired on yet another first-class report. I congratulate also my noble friend Lady Jay on taking over the chairmanship of this important committee and on her very impressive presentation of this report. It is a measure of the interest in it that some 13 out of the 19 participants in the debate are not members of the committee. As one of the 13, I intervene briefly to address only two matters—referendums on constitutional issues, as discussed in chapter 3, and the question of thresholds, addressed in chapter 5.

I have never been a fan of referendums, and I do not believe I am entirely alone in that among noble Lords. For instance, I noted in the published evidence that my noble friend Lady Quin—who I am happy to see in her place and whose speech I enjoyed—has a strong attachment to fully representative democracy. I take much comfort from that. However, that said, I recognise that despite the many negative features of referendums—not least the almost Napoleonic urge of Governments these days to use a direct appeal to the people for tactical advantage—we are coming to accept that referendums, if used sparingly to supplement, not replace, representative democracy, need not necessarily pose a threat to our democratic system. As the committee concluded, they may become a part of the UK's political and constitutional practice—I rather think

they have already—and that adds urgency to the committee’s rider that, where possible, cross-party agreement should be sought as to the circumstances in which it is appropriate for referendums to be held.

The noble Lord, Lord Liddle, gave a masterful lesson on the need to avoid resort to referendums on complex issues such as ratchet clauses and so-called transfers of power in the EU. Not long ago I was spending almost all my waking hours locked in communion with the text of the Lisbon treaty, and the nightmare thoughts of submitting it to a referendum occupied my unconscious hours.

The question that preoccupies me is whether or not referendums should be held on constitutional issues. I read with great care and interest the evidence given to the committee on this point, particularly the evidence given by the Government. The argument in the Government’s memorandum submitted to the committee that referendums should be used,

“only where fundamental change in the constitution of the country is under consideration”,

appears at first glance to be sensible. However, as many members of the committee and my noble friend Lady Jay noted, it begs two questions: what is a fundamental change and who decides that? These questions were so thoroughly examined, both in the published evidence and in the body of the report, that it would be presumptuous of me to go over that ground in the presence this afternoon of so many of those who participated in the proceedings. Instead, I intervene in the debate to express my profound satisfaction that the committee, while recognising the impossibility of defining precisely what is a fundamental constitutional issue, had no difficulty in including the abolition of either House of Parliament in its non-exhaustive list of those it felt most obviously fell within that category. This is a very important conclusion.

As my noble friend Lord Hart of Chilton recalled, my noble friend Lord Wills, in his previous incarnation—he was a thoughtful Minister in the Ministry of Justice—had stoutly defended before the committee his and the then Government’s contention that while a move to an all or mostly elected House could be considered a fundamental change in its composition, the reform as a whole could not be considered of fundamental constitutional importance as it was not intended to involve any change in its powers or functions. Many, including myself, had great difficulty in accepting this contention.

As I have said before in your Lordships’ House, the coalition Government and those on other Benches, including where I sit—but not myself—who are calling for an elected second Chamber are not calling for a simple reform; they are, whether or not they care to admit it, calling for the abolition of this House and its replacement with something entirely different. If that is not a fundamental change of far reaching constitutional importance I do not know what is.

In the debate in this Chamber yesterday, initiated by my noble friend Lord Hunt of Kings Heath, some of us challenged the Government’s repeated assurances that a move to an elected Chamber would not bring about a significant change in the balance of power between the two Houses. For reasons which need no airing in a take-note debate focused on a report on

referendums, I remain unconvinced by this assurance and therefore welcome the committee’s conclusion that abolition of either House falls within the definition of a fundamental constitutional issue and is consequently, in my view, one where a referendum should be deemed appropriate for the envisaged so-called reform of the Chamber. I agree with the noble Lord, Lord Norton of Louth, and others when they point out the glaring inconsistency in the Government’s treatment of the proposed move to AV compared to its treatment of Lords reform.

I have no doubt that the abolition of this House and its replacement by an elected Chamber should be submitted to a referendum. The warnings of the noble Lord, Lord Pannick, and those of my noble friend Lord Hart, are well taken, but I do not think the British electorate cannot be helped to understand what is at stake in such a significant constitutional change.

Finally, and briefly, I turn to the matter of thresholds, discussed in paragraphs 180 to 189 of the report. I note that the evidence the committee received was broadly against turnout thresholds and super-majorities; and that it led, after its careful weighing of the advantages and disadvantages, to its conclusion at paragraph 189 that there should be a general assumption against them. However, the committee recognised in that same conclusion—this is worth recalling—that,

“there may be exceptional circumstances in which they may be deemed appropriate”.

This language is obviously an accurate reflection of the committee’s sentiments, but I find it disappointingly weak. There are strong arguments for a voter turnout threshold for referendums on fundamental constitutional changes, as advanced by some of the witnesses. I accept the point made by Professor Butler and others that the no side can defeat a proposal by simply encouraging people to stay at home or to sit on Brighton beach with handkerchiefs on their heads. I accept also the difficulties posed by inaccurate, out-of-date electoral registers—which is not, however, an insoluble problem—but I am not comfortable with the idea that a major constitutional change can be either approved or disapproved on a very low turnout. I am aware of being in a minority in holding this opinion and I have no settled view on where the threshold might be set, but I remain disappointed with the conclusion’s words, “may be deemed appropriate” where I would prefer to see, “would be deemed essential”.

We will be looking again at many of these issues when the Parliamentary Voting System and Constituencies Bill finally reaches this House. In the mean time we have to thank the noble Lord, Lord Goodlad, and members of the committee for the excellent report, which will inform our discussions. They have done this House and the whole of Parliament a great service.

6.37 pm

Lord Woolf: My Lords, I, too, was a member of the Constitution Committee at the time it was considering this issue, but of course I am no longer a member. I thought the fact that the committee selected the issue of referendums, or referenda, as an appropriate subject for its consideration was indicative of the importance

[LORD WOOLF]

that the part of the Constitution Committee plays within the workings of this House. We should take satisfaction from the fact that there are committees which are prepared to tackle extraordinarily difficult topics in a way which is helpful to the consideration of important issues. It was a privilege to be a part of that committee under the chairmanship of the noble Lord, Lord Goodlad. It is clear from the admirable way in which the committee's report was opened to the House by the noble Baroness, Lady Jay, that the noble Lord's successor meets the calibre that the Constitution Committee requires if it is to be properly chaired. We had a masterly, if I may use that term, laying before us of the contents of the report.

The thrust of the report, read as a whole, is clear. It says not that a referendum can never play a proper constitutional part in the workings of our unwritten and unentrenched constitution, but that those occasions should be strictly limited to where it can be done appropriately. If that be the situation, it is inevitable that political considerations will influence the Government of the day when they think that there should be a referendum. All that it is possible to do is develop conventions one by one which ensure that, in espousing a referendum on a particular occasion, we are not further undermining the strength of parliamentary representative democracy, the fundamental basis of which has been that the citizens of this country express their views by voting into power Members of Parliament and, through them, the Government of the day. Each time that people decide that there is a need for a referendum, they are to some extent undermining the commitment of this country to representative parliamentary democracy. For that reason alone, I suggest that we should use it only where we are satisfied that it will contribute to the proper governance of this country to do so.

What are the tests? The committee made it clear that there was no satisfactory single test. It was identified that the obvious situation where referendums may be able to play a part is where significant or fundamental constitutional change is proposed. However, as has been pointed out more than once during this debate, the definition of fundamental constitutional change is an issue on which views can differ. I do not need to remind this House, which will in due course be addressed by the noble and learned Lord, Lord Falconer, on behalf of Her Majesty's Opposition, that Governments can make deplorable mistakes as to what is a fundamental constitutional change. The Government of which he was a Minister thought that to change the role of the Lord Chancellor was not a matter that involved a fundamental constitutional change, albeit that subsequent events have shown beyond peradventure that it involved reconsidering and redefining the relationship between the judiciary, the legislature and the Government, all three arms being critical to the proper working of the constitution.

So we should heed the message of the report. If we are to adopt the referendum as part of our constitutional practice, we should ensure that it plays no more part than it should, having regard to the circumstances when it can supplement our basic approach to the governance of this country.

6.45 pm

Lord Inglewood: My Lords, as one of those Members of the House speaking who was not a member of the Constitution Committee which has prepared this most interesting and worthwhile report, I should explain that the reason I rise to speak is that much of my active political life was spent in the European Parliament, where I was much closer to referenda than would probably have been the case had I been engaged in domestic politics.

That experience has made me less fond of referenda. My heart says yes; my head says no. Representative parliamentary democracy and the supremacy of Parliament, however foxed they may appear, are nevertheless very important. I am concerned that the political class of which we are all part sometimes seems to assume that everybody wants permanent participatory political revolution, somehow leading to the hegemony of the politically active. A lot of empirical evidence suggests that many people who vote in referenda do not do so on the basis of what is on the ballot paper, in slightly the same way as they often do in by-elections. It was put to me rather graphically by an Irish friend, who said, "It doesn't matter what it says on the ballot paper; they always vote about abortion".

If the point of a referendum is to give the public a direct say on a particular issue, it is not being achieved if the electorate cast their vote for some other completely different reason or simply stay at home on a "plague on both your Houses" basis. As we have seen in the past 30 years a widening in the application by the courts through judicial review of the overriding test of reasonableness in Governments' decision-making, I become concerned that the referendum does not necessarily achieve that.

Process is important in decision-making—after all, that is what democracy is all about—but so is the essential character of the decision that is taken. Both matter, because when political decisions are taken, particularly those of the kind that are being considered in the context of this debate about referenda, it is important that the legitimacy of what is decided is accepted. That is particularly true if the outcome is one with which you personally disagree. We all become quite happy, even if we are a bit concerned about political process, if the outcome aligns with what we want to occur. One has only to look at the result of the 1975 referendum on whether we should remain in the European Community. We still find people arguing that the issue is not settled.

I am not sure how important my own personal views on this might be, other than possibly to myself, because we hear from the Government that legislation will be brought forward to bring referenda into our system under certain circumstances. However, if we do that, everybody should know what the new rules of engagement might be. If one looks back at the spectacle of the political debate that took place about whether there should be a referendum on the Lisbon treaty, one finds it pretty unedifying. In my judgment, there was massive posturing, humbug and manoeuvring, ostensibly in the interests of good governance, which, except in a few honourable cases, was basically motivated by partisan political aspirations. That did nothing other than degrade further the relationship that exists

between the public and politicians. In short, it is not the way to run a country. It is a general proposition to which I think almost everybody would subscribe that there should be clarity in what the law is and what the rules are. That is important both for British citizens and for those who, in one way or another, might be affected by the result of a referendum in this country.

I was a tiny bit surprised that the committee and the Government seemed to think these should be dealt with on an ad hoc basis by Parliament because it was so difficult to write the necessary definitions into law. Other countries seem to do it perfectly well. Cannot we? Are our judges more stupid or is our law more difficult than other nations? I do not think so. The law courts and in particular the Supreme Court are set up in order to settle difficult points of law and are manned by first-class legal minds who can do it perfectly well.

The noble and learned Lord, Lord Woolf, has just said that he believes we should evolve a series of conventions to do this. It would be nice if that could evolve over time, but I do not think we have enough time. Anyway, one might say that Parliament is always sovereign so it can rewrite the rules as and when it wants. If we introduce clarity, we will introduce a valuable check on the way that referendums evolve in their application in this country. The most important thing is to make it as difficult as possible for the Government of the day to gerrymander the legislative process in order to implement the policies that they want to get on the statute book.

6.51 pm

Lord Anderson of Swansea: My Lords, I join the noble Lord, Lord Inglewood, in his scepticism about referendums. I also join the noble and learned Lord, Lord Woolf, in his concern about parliamentary democracy—a theme which has been echoed by many others in the debate. I also join the broad, overwhelming consensus for congratulating the framers and writers of this report. For me, it is like a very good textbook covering all the areas, but with the added element that it is a textbook written by practitioners who know the how of things, and how parliamentarians and the people respond.

The report covers a range of arguments for and against, some of which are contradictory. Referendums settle an issue; no, referendums do not settle an issue. The answer is that you choose your referendum. Some do, and some do not. It could be argued that the referendum on the Northern Ireland settlement was quite decisive and the extremists were unable to mobilise against it as a result. The same might be said about the recent referendum in Turkey on constitutional matters where the military, however tempted, would find it difficult to stand against such a substantial majority. However, the recent referendum in Moldova, which was boycotted by the opposition, solved absolutely nothing. Were a referendum to be held in Sudan next year, one wonders whether the results would in fact lead to closure in respect of constitutional changes within Sudan.

Obviously, if opponents do not like the result of a referendum, they can rerun it—as we saw, for example, in Denmark, where the second referendum, with rather cosmetic changes, was accepted, and also in Ireland. There must be a degree of scepticism.

I join the debate with my personal experiences. Apart from the referendum on Sunday opening in Wales, in which I played a minor part from exile in London, I played some part in the referendum in 1975 on the Common Market. It was clear—who can doubt it?—that the Cabinet wanted to avoid reaching a decision on the issue because it was deeply divided. There were heavy voices within the Cabinet speaking against the European Community, so a “god out of the machine” device—a referendum—was used in the hope of solving the issue. The status quo in 1975 was that we were already in the European Community, so there was a major premium among the populace in voting for the status quo, which was an important matter. But has it closed the issue? It had not closed it by the time Tony Benn and others said, “Let the people decide”. The people decisively decided in 1975 and there were no major changes between then and 1983, but Tony Benn and others were not reconciled to Europe. Even now, there may be 60 or 70 members of the Conservative Party in the other place who would withdraw from the European Union tomorrow if that were possible. There is not closure.

I recall speaking with Edward Heath on the yes platform in 1975 against my noble friend Lord Kinnock; and yet I was with my noble friend in a later referendum, in 1979, on devolution in Wales. We were sceptical about the motives of those in favour of devolution and we used the argument of the slippery path to independence and so forth. I confess that we pressed for a referendum and for the 40 per cent floor as a tactical device at that time. Who can doubt that in most of these issues it is tactics that prevail and dominate? The result of that 1979 devolution debate in Wales was a massive majority—four to one—against the Government’s devolution proposals. In 1997, however, broadly the same proposals, with some minor administrative changes, were put before the people of Wales and there was a vote in favour.

What had changed? The proposals had not changed. The context had changed. In 1979 there was a highly unpopular Labour Government at the fag end of their life and there was great scepticism among the people. They wanted to give the Government of the day a black eye. In 1997 there was a popular Government led by Tony Blair. All the media appeared to be in favour of the proposals in 1997. Yet, even with all the media attention, there was a 50 per cent turnout and the vote was 25 per cent for and 25 per cent against. Had it been 24 per cent in favour and 26 per cent against, would that have led to closure?

Similarly, although the vote on the Quebec question in Canada was against, it is not a dead issue. The proponents of “Québec libre” will keep seeking a referendum in the hope that one day there will be a narrow majority and then there will be closure.

Of course, the key difference in Wales was who was making the proposal in 1997 as against the position in 1979. Had there been a 40 per cent or 30 per cent turnout instead of 50 per cent, would that have changed the legitimacy of the result? There is no going back in Wales now, but it was on a very narrow majority. It was almost like the Ryder Cup, going to the last tee. It could certainly have gone the other way.

[LORD ANDERSON OF SWANSEA]

My own experience has also included campaigning for a yes vote in France on the Maastricht treaty. It was clear to me at the time that the details of the Maastricht treaty played virtually no part in the debate. The real issue was whether you liked President Mitterrand. On the platform, I was asked about immigration and various farm subsidies, which were virtually irrelevant to the subject under discussion. Compare that with the French referendum in 1968 put forward by President de Gaulle on an administrative question. The actual subject played little or no part in the result. It was a good opportunity for the people of France to reject President de Gaulle, and he resigned fairly shortly after that. Then there was the first Irish referendum on Lisbon, when the key issues for the no campaign were abortion and neutrality, which had nothing to do with the Lisbon treaty. Of course, much of the debate was dominated by one very rich individual; just as one fears that on a referendum now, Mr Murdoch, a non-citizen, will play a major role.

So what are my conclusions from these experiences? First, referendums do not necessarily settle matters. One thinks of the 1983 suicide manifesto of my own party with respect to Europe. Secondly, even if there is a yes/no question, the debate may focus on irrelevant questions. Thirdly, the referendum may be used, as the committee says, in an ad hoc manner and as a tactical device. It is absurd of the Government, in their rather slim and inadequate reply, to argue otherwise. The referendum may often be a partisan manoeuvre; the result clearly depends on the context and who asks the question and when. In Sweden, in respect of the European Union, there was a fairly fixed majority against joining, but there was one brief window of opportunity, which by chance happened when the referendum took place. So it depends when the question is asked. This is wholly relevant to the question that will be posed next May on the alternative vote; the context is likely to be one of cuts and it is very likely that the coalition parties will lose substantially, particularly the Liberal Democrat party. There will be a fairly half-hearted advocacy by the Government and, effectively, the Liberal Democrats will be taken for a ride. It is very likely that the referendum on AV, because of the timing and the cuts, will be lost and lost massively.

Do these reflections rule out referendums as an instrument for decision making? No, not necessarily. They may be justified when the rules of the game are in question. One thinks of House of Lords reform, which has been a Liberal Democrat obsession for some time. It is likely that if there were to be a referendum on House of Lords reform, there would be very little interest or participation beyond the M25—or whatever is the English expression for beltway. How does one interpret low participation? On further devolution in Wales, there is a commitment, but devolution is a process. Does one have a referendum on each of the incremental changes? The suggestion that there should be referendums on council tax increases is absurd. It would be like turkeys voting for Christmas. Who is going to vote for a council tax increase? As for the surrender of sovereignty argument, it was put forward as a populist gesture. The truth is that QMV has often

helped this country and it has been very much in our interests, so this is rather a silly pledge to please the anti-Europeans.

Overall, I remain sceptical about the case for referendums. I would certainly hear arguments in particular cases, but they should be used in our constitution very sparingly, if at all.

7.03 pm

Lord Hannay of Chiswick: My Lords, no one could possibly suggest that this debate, and the report on referendums in the UK that we are considering, are not topical and urgent. For that reason, we owe a debt of gratitude to the Constitution Committee under its two successive chairmen, the noble Lord, Lord Goodlad, and the noble Baroness, Lady Jay. In this Session of Parliament, we are being asked by the coalition Government to approve two major pieces of constitutional legislation that provide for the holding of referendums—legislation on the UK method of voting and that dealing with further transfers of powers to the European Union. By the time this Session is over, we may well have taken two major steps towards embedding referendums in our constitutional practice. As this report recognises, that could have seriously negative consequences, as well as some, at least, of the advantages that their protagonists will advance. Today's debate provides an opportunity to go in some depth into the wider arguments for and against the use of referendums, which should assist our future debates on the specific measures being put forward.

My main criticism of this otherwise excellent report is that it confines its scope to referendums in this country, although there is the odd reference to the use of referendums elsewhere—in Switzerland, for example. In this debate, many of the participants have ranged much more widely, and they have been right to do so. Limiting the report damagingly narrows the field of inquiry and excludes a number of examples that could usefully underpin the arguments deployed for and against—mainly against—the use of referendums. Is it not relevant, for example, that the German constitution makes no provision at all for holding referendums in the light of that country's disastrous experience with plebiscitary democracy in the inter-war period? Should we not be paying some attention to France's experience, in the referendum that General de Gaulle lost and the EU referendum of 2005 on the constitutional treaty? Both were simply votes about individuals. They were nothing whatever to do with the subject on the order paper. The loss of the constitutional treaty was merely a reaction to the unpopularity of President Chirac. Then there is the recent Turkish example mentioned by a previous speaker. All the evidence points towards the vote having been more about the AK Party's popularity and a precursor of next year's general election than a considered view of the actual constitutional changes being proposed. One might also cite the Greek Cypriot referendum of 2004, when the country's president exhorted his people to vote no to emulate the heroic Greek response to Mussolini's ultimatum in 1940. That list is not exhaustive, but it illustrates just how real are what the report calls the "significant drawbacks" to having referendums.

The main thrust of the significant drawbacks is to undermine the crucial contention by the supporters of referendums that they are in some way a superior form of democracy—a test superior to the system of representative parliamentary democracy, for which our ancestors fought and in some cases died. But how on earth can referendums seriously be considered as a superior form of democracy if fewer people turn out to vote than in general elections, if their votes are cast without fully addressing the issues at stake and if, indeed, they are cast more to register a view on the Government of the day who are asking the question than to provide an answer to the question itself? But if the superior test criterion cannot be answered convincingly, what are you left with? It is just another electoral gimmick with uncertain consequences for our constitutional evolution and, possibly, damaging side effects. That is the sort of analysis that would get any new medical prescription banned or at least substantially delayed.

So much for the significant drawback side of the ledger. How about the plus side of it? Many considerations on that side seem to teeter between the threadbare and the counterintuitive. Can it realistically be maintained that a referendum settles a contentious issue once and for all? The 1975 referendum on our European membership certainly did not do that. Within a few years of that decisive two-thirds/one-third vote, one of our two main parties was campaigning to withdraw. Did the referendum vote on Scottish devolution deter the Scottish National Party from pressing for independence? Evidently not. Should the vote in next year's proposed referendum on our voting system produce a very low turnout, as it quite possibly may do, will that not feed the controversy rather than settle it?

Then there is the argument that frequent use of referendums and our system of representative parliamentary democracy can happily live side by side, indeed can strengthen each other. I find that totally unconvincing. Once we start to make regular use of referendums, there will be demands for more of them. More single-issue causes will demand that they, too, should have their day in court. We can already see that in the Welsh claims that their future is more important and more worthy of referendum treatment than our adjustments to EU treaty law; such demands will become steadily more difficult to resist. Little by little, the legitimacy of the system of representative parliamentary democracy will be challenged and leached away. Is that something we can happily contemplate?

I hope that the Minister will be able to respond to some of these concerns when he replies. He and I voted in the same Lobby when we resisted the demand for a referendum on the Lisbon treaty, so I imagine that he is not totally insensitive to them. These concerns are, in any case at least, nothing to do with the subject matter of next year's referendum on the voting system. I will vote yes, for the alternative vote—although I would like it to be made properly proportional—but how much better if that were to be done by an Act of Parliament, just as every change to the franchise, from the Great Reform Act 1832 onwards, was carried forward.

7.11 pm

Lord Falconer of Thoroton: My Lords, I agree with what the noble Lord, Lord Brooke of Sutton Mandeville, said. We suffer a substantial loss in not having Lord Bingham of Cornhill to debate these issues. He was probably the greatest constitutional lawyer of his generation and he died unseemly early. He would have made a great contribution to these debates and I entirely agree with the noble Lord.

I join with other Members of your Lordships' House in congratulating the committee on its report. The only criticism that I have detected throughout is the fact that there were not sufficient foreign examples. I am glad to say that the noble Lords, Lord Anderson of Swansea and Lord Hannay, have now put that right with their encyclopaedic knowledge of foreign referendums, including those in Greece, Turkey, Cyprus and other countries in which I know that the House has a huge interest. I believe it to be a very good report. It deals with the matter forensically, sets out the evidence and comes to conclusions that it is hard to disagree with.

In this House, we tend to be self-congratulatory; we tell ourselves how good we are on many topics. Very often, we are not that good on every topic, but on constitutional affairs we are good. We have an important role to play and the Constitutional Committee has made a major contribution, over the years that I have been in the House, in informing that debate. This report on referendums is another in that line, and its effect is to make people ask, "Well, why is it wrong"? If it is not wrong, we should be agreeing with it and acting upon it.

I have the most profound sympathy for the gentleman called Mr Mark Harper, whoever he may be. He had the misfortune to sign the Government's response. I know, from being a Minister, that from time to time you have to sign responses on behalf of the Government. Your problem is generally that you have committed yourself to a particular course of action that the committee's report rightly identifies to be completely wrong and based on no principles at all. You have two methods by which you can deal with this. Either you say next to nothing—in which case the noble Lord, Lord McNally, would have got up to say it is the most insulting response he has ever seen, as it was so short—or you do what Mr Mark Harper does, which essentially is to fly in the face of the evidence. For example, he says that there is absolutely no evidence whatever that these referendums are done on an ad hoc basis for political purposes when, if you read the report, there are pages and pages of that. The noble Lord, Lord Pannick, set out the evidence, which was overwhelming. Poor Mr Mark Harper; I looked up his previous history and I am happy to tell your Lordships that he ran his own accountancy firm from 2002 to 2006. He cites his interests as being, *inter alia*: work and pensions, law and order, the USA and Israel. His three interests are: travel, walking the dog and going to the cinema—none of which equipped him for the terrible task with which he found himself.

I congratulate the noble Lord, Lord Goodlad, who has provided leadership for the committee, and the noble Baroness, Lady Jay, who I have absolutely no

[LORD FALCONER OF THOROTON]

doubt will continue to provide such good leadership. Our role in this House on constitutional matters is, ultimately, not to initiate major constitutional change but to scrutinise, amend, improve and, in exceptional cases where we foresee disaster or believe that our constitutional values are at risk, to block. The noble and learned Lord, Lord Woolf, referred to the major constitutional changes that I was involved in. What this House did in relation to those was to slow them down dramatically, improve them and then pass them. That is a good model for the way that this House should deal with them.

We now face a major period of constitutional change, led in practice by the Liberal Democrats. The noble Lord, Lord McNally, who is much liked in this House, has a critical role in it. It is none the worse for the fact that it is led by the Liberal Democrats, and I pay tribute here to the support that they provided for the constitutional changes that came through Parliament after 1997—things such as the Human Rights Act, the Freedom of Information Act, the devolution Acts and the reforms to the Lord Chancellor. They supported those consistently throughout and we will, wherever we can, support them consistently.

It is worth pointing out, however, that those constitutional changes emerged from a long process of discussion, led by the noble Lord, Lord Maclennan, and the late Robin Cook, in which both parties were seeking to identify the right and the best changes. The constitutional changes that we are now faced with have not come out of a long process where we were trying to come to the right answer. They have come from five days of shambolic negotiations, in which the prize at the end of the five days was not the best constitutional changes but, in practice, ministerial cars for the Liberal Democrats.

On the changes that we are looking at, the first with which we will be dealing is an alternative vote system. On this side of the House, we supported that system and a referendum in our manifesto. Before the noble Lord, Lord McNally, gets up to point it out, we lost the election but no other party supported that particular proposal—and that proposal is the one which the public are now being asked to vote on in a referendum. That is why the timing of the committee chaired by the noble Lord, Lord Goodlad, as it was, is very apposite. On this side of the House, we agree with almost everything that the committee has said. Perhaps I might highlight some of the points.

Referendums, as the noble Lord, Lord Goodlad, candidly said in his speech, occur on an ad hoc basis for politically driven reasons. I adopt all of the reasons from the noble Lord, Lord Pannick, to destroy the unfortunate Mr Mark Harper's rejection of that view. The fact that they are ad hoc and politically driven does not mean that they are wrong and I agree with the noble Lord, Lord Owen, in what he said on the utility that they have produced in our country. In Northern Ireland, referendums have also had a beneficial effect. I adopt what my noble friend Lord Wills said in evidence to the committee: that the fact that they are based on politically-driven motivations does not make them bad. They are now accepted as an occasional part of our constitutional furniture and much as the

noble Lord, Lord Hannay, may rant away at the effect of referendums, they are here and here to stay. The right course in how to deal with them is exactly as the committee did: to seek to define the circumstances in which they should be used.

When things start, ad hockery is fine but, as time goes on, if no principles are involved then doubt creeps in and confidence in the political system is reduced. I agree with the committee's approach that major constitutional change will sometimes, if it is not backed by referendums, lack legitimacy. If you use the referendum too much, on the other hand, its abuse and constant use will lead to losing confidence in it as well. In parenthesis, in one of his responses I understand Mr Mark Harper to be saying that it is the Government's intention to introduce mayors in certain places and get the introduction of the mayor approved subsequently by a referendum. Is that right? Does the noble Lord, Lord McNally, think it a sensible use of the referendum power to introduce the change first, then have it approved by referendum?

We should be careful to set the bar high for the circumstances in which we use referendums. I gratefully adopt paragraph 118 of the report:

"Parliament should judge what issues will be the subject of referendums. In its first report, this Committee stated that it would 'focus on issues of constitutional significance' determined by whether an issue raises 'an important question of principle about a principal part of the constitution'. We believe that this provides a useful test, first, of whether an issue is of fundamental constitutional significance, and second, of whether a referendum is therefore appropriate".

I say that that is the correct approach. There are circumstances in which referendums are not appropriate. I completely agree with my noble friend Lord Liddle that a referendum was not appropriate either for the Nice treaty, which the Government then led by Tony Blair said would have a referendum, nor for the Lisbon treaty, which the Government led by Gordon Brown said would not. On neither occasion was a referendum appropriate, because they did not satisfy the paragraph 118 test.

On the question of fundamental change to your Lordships' House, if the change were fundamental—in particular, if you changed the way in which you elect noble Lords—a referendum probably would be appropriate, because that would be a significant change to our constitution.

To allow referendums on a range of local issues, such as excessive council tax increases, would be a dangerous move. I agree with my noble friend Lord Foulkes of Cumnock that that in effect would close yet further the space for good local government, and I would be against the excessive use of referendums in local issues. I am strongly in favour, as are so many noble Lords, of the fact that there are many ways, and more should be developed, to engage the public with their politicians, but that should not include local referendums.

I shall conclude by referring to three particular issues on referendums. First, it must be right that a neutral body should formulate the question. Parliament should definitely approve it, but if we want to have faith in referendums, the question should be formulated by a neutral body such as the Electoral Commission. Why does Mr Mark Harper oppose it?

Secondly, on the timing of the referendum, paragraph 145 of the report makes the case that if the referendum is on the same day as a general election, that will mean that the referendum gets completely swamped. It says that referendums should never be held on the same day as a general election and that there should be a presumption against it being on the day of other elections. The reasoning given in the evidence is that the other elections—the Scottish and Welsh general elections, for example, which will take place on the day—swamp the issue. When there is an election on the same day, the referendum becomes a secondary issue that is inevitably the victim of those other issues. That was the evidence. Will the Minister tell us why Mr Mark Harper rejected that evidence?

Thirdly, the report is generally opposed to supermajorities or voter thresholds, though it says that there is a case for there being a supermajority or a voter threshold where you are dealing with a major constitutional issue. Does the Minister think there is any constitutional issue that is more major than how the first Chamber is elected?

I congratulate the noble Lord, Lord Goodlad, and his committee on an excellent report.

7.23 pm

The Minister of State, Ministry of Justice (Lord McNally): My Lords, I think the whole House will want to send our sympathy to Mr Mark Harper. Not since Mark Antony outsmarted Brutus has such an orator turned his forensic skills on someone. Here we have the noble and learned Lord, Lord Falconer—a professional wordsmith, a Queen’s Counsel, a positive Cicero—turning all his powers on to an accountant. Now he is appealing for sympathy from the House. I am sure that Mark Harper will survive.

It is difficult to respond to a debate like this. I have a well written 15-minute ministerial response that would cover a number of the issues, but it would not catch the flavour of the debate. I will try to do so instead by responding to some of the questions, but I ask for the understanding of the House. In this debate we have covered Northern Ireland, the role of the Lord Chancellor, links between the judiciary and the legislature, Europe, constitutional reform, local government and elected mayors, and devolution in Scotland, Wales and England. In just some of the speeches, I think there was some rehearsing of Second Reading speeches for future legislation. I will try to respond in the context of the report.

The attitude that I have taken to constitutional reform all my political life is that I agree that one should look for consensus where possible. I agree with the noble and learned Lord, Lord Falconer; I still count as one of the most fruitful and useful periods of my political life the time that I spent serving on the Cook/Maclennan committee before the 1997 election, when we hammered out a lot of the ideas that occupied the first period of the Labour Government after that election. We were pleased to give our support to that range of constitutional reforms.

One should look for consensus, however, only if it can be achieved. I have also said in debates in this House that if the Reform Act 1832 had had to wait for consensus, the Member for Old Sarum would probably

still be sitting in the House of Commons. Sometimes constitutional reform is carried through by an individual or a Government with a clear idea of what they want to do and the guts and determination to carry their argument through both Houses.

I shall be frank about where I stand on the question of referendums. The noble Baroness, Lady Quin, reminded us where she and I started on this. I was actually in the meeting of the national executive of the Labour Party when Mr Anthony Wedgwood Benn proposed that the party should adopt a referendum on Europe as its policy, and he could not find a seconder for that resolution. That was because most of the parliamentarians sitting around that table expressed the view of referendums that has been expressed many times in this House and, to a certain extent, is reflected in the report—the suspicion that referendums had been used in the past by fascist dictatorships and that they undermine the essential basis of a parliamentary representative democracy. The fact that a year or so later Mr Benn carried his resolution does not negate the point. I suspect that my generation and those who are older probably share the view of the noble and learned Lord, Lord Howe of Aberavon, that referendums are best kept for Welsh opening hours rather than for more serious matters.

On the other hand and to put it into context, a few weeks ago I expressed these views to one of the younger MPs from my parliamentary party. He fiercely, and with a gleam in his eye, denounced me for such views, saying that if we were ever going to reconnect with the people, we must keep an open mind about the use of different kinds of systems for engaging the public. He was firmly of the view that the use of referendums and some of the ideas for involving people that were outlined in the Power report—such as the new schemes for involving and consulting people via the internet—were the new politics and that we must recognise that.

I read the report with great interest but with a feeling that perhaps there is a generational difference in attitudes to such things. Down the corridor there are people who are willing to look at these issues and challenge some of our more small “c” conservative views about the use of referendums. As the noble Lord, Lord Owen, pointed out, they have been used since 1975, not on a national basis, but frequently and sometimes with good benefit. I take the point that was made about the vote in Northern Ireland, which undoubtedly helped to cement the agreement.

I congratulate the noble Lord, Lord Goodlad, and the noble Baroness, Lady Jay, respectively, on the report and on securing time for this debate. It has been an excellent debate—one of those that you are fearful of when it is your job to reply, as you see all the school debating stars coming out for the game. It is a tribute to the committee that, as has been pointed out, so many of those who have spoken today were not members of it. We get used to having debates on reports where virtually all the speakers were from the committee itself. It shows the quality of this report that it has brought out such a varied range of experts in the topics under review. I also say to the noble Baroness, Lady Jay, that I have not found a committee report that has been so much respected by officials and

[LORD McNALLY]

Ministers. This is not a report that has been put on the shelf and forgotten. It has been read and this is reflected in the legislation that is going through Parliament at the other end. It is difficult at the moment to give all the answers because things may be changing even as we speak.

However, I know that there have been responses to the report—for example, on the wording of the question—which would certainly not abdicate responsibility. This is the Government's policy. Although it seems that there is a superficial attraction to saying "Hand it across to a neutral party", it is the Government's view that is being put to the people. However, they took notice of what the committee said. I believe that an amendment has already been tabled in the other place, reflecting the Electoral Commission's comments on the question. I hope this will produce the desired result of a question that people find acceptable.

Lord Foulkes of Cumnock: I am very pleased by what the noble Lord, Lord McNally, has said about taking account of some of the recommendations. Will he specifically address the question of holding the referendum on the same day as the Scottish, Welsh and, in England, local government elections? I think the overwhelming view of this Chamber is that that would be a bad thing. Will the Government take serious note of that?

Lord McNally: I am quite sure that the Government will take serious note. One of the things that makes a debate such as this very difficult is the fact that we are talking about legislation that is passing through both Houses. We are talking about legislation which has yet to be debated fully in this House and is at around the midway stage in the other place. I understand that Members have specific criticisms of the ideas. Sometimes they may find to their surprise that the Government are flexible. At other times, as the noble and learned Lord will know from his ministerial experience, the Government will dig in their heels and say, "No, this is the way it's going to be". I do not think there is any evidence that the Government are using a steamroller on this. We are listening and consulting.

I saw Mark Harper's response to the report. To try to get the House at least half on his side, I draw attention to his point that the Government agree that national referendums should be exceptional events, although they do not share the committee's general concern that such referendums have been used in an ad hoc manner or as a tactical device. With such things it is best to leave it to the academics and historians to take a view. I suspect that local referendums, as somebody pointed out, will be rather expensive and, after a while, irritating. Let us just see how this works out.

I will move on to some of the questions that were specifically asked of me, particularly by the noble Baroness, Lady Jay. She asked whether there would be information provision in the referendum and whether some of it should be independent. Again, the Government have already tabled an amendment to the Bill that will give the Electoral Commission the explicit power to provide information on both first-past-the-post and AV electoral systems. I also think—and this was certainly

my experience of the 1975 election—that the two counting systems come together quite effectively. I say to those who preach doom for the coalition after this exercise that the other lesson I learnt was that, although in 1975 the various members of the Cabinet went out to campaign fiercely for their specific points of view, they came back together as an effective Government after the referendum. So that model does work in a referendum.

I have already mentioned that the Government have taken the Electoral Commission's advice on the wording of the referendum. To the question of who will regulate local referendums, I am given the most helpful response that this matter is being considered. You cannot have better than that. Perhaps more helpfully, on the need for a post-referendum evaluation, about which the noble Baroness, Lady Jay, also asked, we absolutely agree. Indeed, the much maligned Mark Harper also made clear in his response that there would be a proper and full evaluation by the Electoral Commission of the lessons to be learnt from the referendum, and that the Government would take actions following any recommendations that came from that.

I am running out of time to give full responses. I was very interested in the contribution of the noble Lord, Lord Wills. I shall certainly look at the work that he did before leaving office. I told him privately yesterday, and tell him now publicly, that he is a hard act to follow, not least as regards some of the work that he was doing on constitutional reform involving outside bodies and interest groups. I will certainly follow up some of that work.

The noble Lord, Lord Owen, came to the help of the pro-referendum side by illustrating how referendums have helped, if not to settle matters, at least to settle them for a time. He warned about fixing the date, but you cannot win in that regard. If you fix the date, you are considered to be opportunistic; if you do not fix the date, you are considered to be opportunistic. We have settled on the date not, as everyone has said in the debate, because those who want referendums pick only the date when they think they can win. Everybody is telling us that the relevant date will not be a very opportune time on which to hold a referendum on the voting system. We will see. As I say, once the two groups come together to put their arguments, it could be a very interesting and exciting campaign.

If I have missed any major questions, noble Lords can leap up. When I gave my list of things that had been covered in the debate, I missed out the coverage by the noble Lord, Lord Brooke, of the Duckworth Lewis method of scoring at a limited-overs cricket match. I agree with him; I still do not know how it works.

The debate has shown the value of these reports. I agree with the remarks of the noble Baroness, Lady O'Loan, as regards paragraph 94, which sets out the issues for which referendums are most appropriately used. It states:

"To abolish the Monarchy; To leave the European Union; For any of the nations of the UK to secede ... To abolish either House of Parliament; To change the electoral system for the House of Commons; To adopt a written constitution; and To change the UK's system of currency".

It is not an exhaustive list but it is not a bad one with which to start. We are all indebted to the committee. As I said in the middle of my speech, this report has

been closely studied in Whitehall. It is already having an effect on the legislation that is going through the House. We are all indebted to the committee for such a formidable and useful piece of work.

7.43 pm

Baroness Jay of Paddington: My Lords, the whole House will be very grateful to the Minister for taking the trouble to give us his personal analysis and description of his reply to the debate. It is very encouraging to hear—as I asked at the outset—that some of the things which were raised in the committee’s report have already been adopted by the Government. We understand, of course, the problems of dealing with this kind of “take note” debate while legislation goes through the other House.

I welcome my noble and learned friend Lord Falconer of Thoroton back to the Front Bench. We look forward to his continuing involvement in constitutional issues although the now famous Mr Mark Harper may be less enthusiastic. I congratulate all noble Lords who have spoken in this very distinguished list of speakers we have heard from this afternoon. I am particularly grateful to those who have commented favourably on the quality and timing of the report. However, as I said at the outset, that praise is primarily due to the noble Lord, Lord Goodlad, who I was delighted to note took part in the debate.

As so often in your Lordships’ House, this type of debate has attracted an enormously authoritative group of views from people who have had various experiences in different types of referendums, which they have reported very faithfully. I hope that the House will not think it unfair of me to say that most of those contributions reflected the general scepticism about referendums conveyed in the report. I, of course, support that given the part that I took in the committee’s inquiry.

We have heard from a large number of speakers—this was also noted by the Minister in his conclusion—who did not take part in the committee proceedings as they were not members of the committee. That has enormously enriched the debate. I go so far as to say that today we have had a very powerful form of pre-legislative scrutiny of the political parties and referendums Bill, which we hope will come to us in due course. I hope that we all look forward to those deliberations. Like the Minister, I think that at Second Reading we shall hear again in one form or other some of the contributions made this afternoon. In the mean time, I hope that the House will accept the Constitution Committee’s report on referendums as a timely contribution to our further deliberations.

Motion agreed.

Digital Switchover: Communications Committee Report *Motion to Take Note*

7.46 pm

Moved By Lord Fowler

That this House takes note of the Report of the Communications Committee on Digital switchover of television and radio in the United Kingdom (2nd Report, Session 2009–10, HL Paper 100).

Lord Fowler: My Lords, this is the last report of the Communications Select Committee which was under my chairmanship until the election. I take the opportunity to thank all the members of that committee for the support which they consistently gave me and for the wide experience that they put at the service of the House. I rode on the shoulders of a range of broadcasting professionals and other media professionals, including religious broadcasting professionals and irrepressible experts on the new media.

Given all the adventures we had setting up this committee—the noble Baroness, Lady Howe, will remember that—I am also extremely glad that it is continuing in this Parliament as it is an important committee and has a great role to play. My only sadness is that my successor as chairman—my noble friend Lord Onslow—is unwell. We all wish him a speedy return to the House.

The case for digital switchover in television and radio is basically the following. Digital broadcast uses less space in the spectrum than the equivalent analogue broadcast, more services are possible and the space freed up on the spectrum by switching from analogue to digital television broadcasting is in demand for other services. The same does not apply as far as radio is concerned. There are many new services. That is why television switchover has gone so smoothly in this country—the public can see the benefit. New programmes are open to them. They may still sit there of an evening wondering what exactly is worth watching, but the choice is there and the process has been managed so far, I think, without substantial hitch, bar one issue: that is, the help scheme for the elderly.

The predecessor of the Communications Committee, the Select Committee on the Royal Charter—one or two members of that committee are present—was in no doubt about how the help scheme should be financed. We said that it should come out of general taxation like other social security payments such as free television licences for the elderly. The then Government rejected that advice and insisted instead that it should be financed by the licence fee—a regressive tax. Our report shows the result. Rather than a 65 per cent take-up, which was the Government’s estimate, there has been a 20 per cent take-up. This has resulted in a likely underspend of between £250 million and £300 million. In other words, licence fee payers were charged too much, the BBC was deprived of income which could have gone to other programme making, and the previous Government slightly fluffed about trying to find something else to spend the money on. I hope that if there is a help scheme for radio switchover, at least we will learn the lessons of television and not raise the money in that way.

The main problems on switchover obviously concern radio. It remains a powerful medium in this country. It has defeated all predictions of its demise. Ninety per cent of the population listen regularly to the radio and it boasts some of the best programmes. On radio, the “Today” programme each morning is politically more important than any of its television rivals. Drama on BBC radio goes much wider than anything on television. Classic radio successfully challenged the view of the old controllers of Radio 3, who seemed to believe in the wide appeal of 15th century Mongolian chants.

[LORD FOWLER]

And—how do I put this?—some of us prefer the noble Lord, Lord Bragg, on radio on Thursday mornings to the noble Lord, Lord Sugar, on television on Wednesday evenings on BBC1.

Of course, the popularity of radio and FM radio is much of the problem as far as switchover is concerned. The public are well satisfied and they ask, not unreasonably, what the advantage will be of making the change. They know that they will get some new services—Radio 7 and 4 Plus come to mind—but, with the best will in the world, this is not on the scale of television. However, what they are also beginning to understand is that there will be a substantial cost to them for switchover—a financial cost and a cost in inconvenience. Of course they are absolutely right. The best estimates suggest that there are more than 100 million analogue radios in this country, all of which will become substantially useless in the new digital world. The public will get community radio, but precious little else. Thereby, families up and down the land will find that their ordinary FM radios have become redundant. Certainly, judging from my post bag and my experience, we are often talking about three or four radios in a household becoming redundant. If you have a hi-fi receiver and you want to continue listening to music on the radio—the Proms, for example—the cost of replacement is likely to be substantial.

That is not the end of the matter. There are about 33 million cars on the road. Virtually all have analogue radios and will require converters at an additional cost. As a broad rule of thumb, the position is as follows: by the time of the switchover, it should be possible for cars of less than five years old to have garage-fitted converters behind the dashboard and an external aerial. The cost to the motorist is likely to be between £75 and £100. For cars which are more than five years old, the prospect is that the converter would go into the glove compartment and, if you fit it yourself, the cost will be about £40 or £50. I emphasise that this is in addition to the costs of replacements in the home.

Therefore, there is no question that there is a substantial cost to switchover and a substantial cost to the ordinary person. That has never been made sufficiently clear to the public in the lead-up to this process. The inevitable question that arises is: should we go ahead? Is it worth it? To be honest, there are formidable disadvantages to digital switchover for the consumer. If there had been a referendum—we were debating referendums in the previous debate—I very much doubt whether we would have gone ahead. However, the previous Government decided that we should go ahead, for a variety of reasons—particularly the views of the radio industry. That is where we are and that is the position that the new Government have inherited.

The Government announced their policy on 8 July in a digital radio action plan. If I may carp to the Minister about just one point of that announcement, it was made not in Parliament and certainly not in reply to the Select Committee which had received a reply from the Government only a few weeks before. Anyone who looks at that government response will find it full of happy and pretty meaningless generalisations. It could have been written by our old friend, the noble

Lord, Lord Davies. It probably was written by him and was inherited by the new Government.

The action plan was launched at an outside conference and not before the inevitable trailer in the morning, which allowed the *Guardian* to write that the Minister, “will declare the government’s support for digital radio today”, and that, in a speech in London, he “will say...”. In a previous report, the Select Committee said that it wanted to restore the influence of Parliament and that statements should be made here first, without trailers. It would be a vast pity if the policy of spin was to continue now that the noble Lord, Lord Mandelson, and Mr Campbell have left the scene. It would be a particular pity in this case, because the Government have had some very powerful arguments on digital switchover for continuing with the policies.

I pay tribute to the Government because they clearly took note of our report—particularly our strong advice that the public had to be taken with the process. The Minister, Mr Vaizey, said that 2015 remained the target date. However, he added:

“We will not switch over until the vast majority of listeners have voluntarily adopted digital radio over analogue. We will not switch over to digital until digital coverage matches FM”.

He believed that there would be benefit to the public in multichannel national radio in the same way as in television. To be frank, whether that is right or wrong there is one further and conclusive reason why we need to proceed. Many people have relied on the promise of the previous Government and bought new sets. More than 11 million digital receivers have already been sold, about a quarter of radio listening is already digital and, of course, the radio industry is preparing for the change. The motor industry is preparing to make digital radio standard in all cars by 2013. A U-turn in policy would run the risk of turning public confusion into an utter shambles.

Therefore, the committee agrees with the Government that we should proceed—but subject to a number of steps to help the process. Of these, by far the most important is public information—telling the public what is happening and sharing the knowledge that at present is too often confined to the radio industry and the Government. It is a matter for concern that the public are still buying analogue radio sets, not all of them necessarily cheap, when in a few years’ time the plan is to make those sets redundant. The retailers need to explain the position to their customers. It is also a matter for concern that the motor industry has not proceeded faster than it has. The standard fitting of converters by 2013 is perilously close to the 2015 target for introduction. Most new cars can have a digital radio as a fitted extra, and the advantage of that should be spelt out.

More and better information is very much of the essence, as is the development of a scrappage scheme, given that manufacturers and retailers are likely to have something of a bonanza as the switchover date comes nearer. I do not pretend that even with these steps the outlook for the future is perfect—and some will put it rather more strongly than that—but it will certainly be an improvement on what has happened up to now.

My last point is that in this area—again I pay tribute—the Government have not only listened to, but acted on, some of the recommendations in our report. That stands in contrast to what sometimes happened in the past. Earlier, I mentioned the help scheme for television. The previous Government drowned us in words of appreciation for our hard work and skill, and did precisely the opposite of what we recommended, with dire results. I will give another example. We opposed the setting up of the BBC Trust. Again, the previous Government thanked us fulsomely for our report—again, the thanks went on and on—and again they went ahead with a plan that is now almost universally condemned.

My point, as I leave this Select Committee, is that there is a great deal of practical experience on a committee such as the Select Committee on Communications. A wise Government will listen to that advice. I hope that this Government will continue on the path that they have begun, and I hope that they will give the advice the proper consideration that it deserves. I beg to move.

8.01 pm

Lord Maxton: My Lords, I thank the noble Lord, Lord Fowler, for initiating the debate on our report. Perhaps more importantly, I also pay a sincere tribute to his chairmanship of the Select Committee for Communications in the last Parliament. He brought a great deal of expertise to the job and was always fair and tolerant in his handling of the members of the committee, even when they were the irrepressible advocates of the new media. I am sure that there were times when I tested his patience and good will, and there were times when we disagreed on issues. However, he always treated me with both tolerance and respect and I thank him for that. Lastly, I thank him for the fact that because of this debate I will be unable to watch Scotland playing Spain on television. That is something for which I owe him serious thanks.

This is a very thorough and thoughtful report, and already many of its proposals, as the noble Lord said, have been either recognised or implemented by the Government or Ofcom. The part of the report dealing with the switchover from analogue to digital television by 2012 is basically non-controversial—with the exception of the one issue that he raised—and it rightly praises those who are dealing with it. In passing, I note that the technology, even in this area of television, is changing rapidly. Sky is now showing some 3D programmes, which one can watch if one has a 3D television, and this may become the norm, particularly if it becomes possible to watch 3D without wearing awful dark glasses. If this happens, consumers yet again will be required to purchase new television sets. More importantly, internet televisions are now on the market, allowing viewers the ability to read e-mails and surf the web on their televisions from their armchairs using a remote control very similar to their present one. This will mean that access to a range of video sites will be available, which will allow viewers to watch programmes from around the world as well as catching up on all the channels broadcast in this country.

I am in some difficulty speaking second because—as I am sure those who served on the committee might expect—I am not going to follow completely the

committee line on the major part of the report. Rightly, with the switchover from analogue to digital going smoothly, it is the much more controversial switch from the FM radios to digital sets using DAB that is the major concern of the report, on which I will concentrate the rest of my remarks.

As the noble Lord, Lord Fowler, said, the advantages of this switch are not as obvious as those for television. The lack of digital signals in parts of the country, the quality of the sound in some areas, the large cost to the consumer of replacing existing FM radio sets that, unlike TV sets, are redundant, and the cost to smaller community radio stations of obtaining access to the DAB spectrum, even if it is available, are all reasons why the switchover will be difficult. DAB is probably already out of date. DAB+ is being introduced in other countries in Europe, making DAB sets unusable when travelling abroad. As the noble Lord said, DAB radios are not at present being installed in cars, and it may be some years before they are standard. Lastly, the cost of changing the radio transmitters to digital for the last 15 per cent of the population, mainly in rural and remote areas, who at present get FM signals, may prove prohibitive.

Is this debate relevant? Is the only choice between FM radio or digital, whether through DAB or DAB+; or is there an alternative that will be more reliable, give greater choice and in the long run be cheaper? I believe that internet radio is that alternative. I use the term internet radio as shorthand for the ability to listen to thousands of radio stations and other sound streams from around the world using whatever device, mobile or stationary, is available to the listener. After putting this suggestion at a Question Time before the Recess, I received a letter from the noble Lord, Lord Shutt of Greetland. It would be easy to attack him for the ignorance shown in his letter were it not for the fact that the arguments he put were the same as those put by my noble friends who were Ministers in the previous Government.

The first point made in the letter by the noble Lord, Lord Shutt, is that internet radio listening is a one-to-one delivery system and, as the number of users increases, so does the cost to the broadcaster. I do not even begin to understand that point. I have put it to several people and nobody else understands it, either. Radio stations around the world stream their programmes on the internet, and they are available to anyone who wishes to listen to them and has the correct equipment. I cannot believe that the BBC would stream all its stations, both national and local, radio and television, on the internet if every time someone listened to them—and Ofcom research indicates that that could be up to 17 million people in this country daily—it incurred more costs. It would not do it, and nor would any other radio station.

The second argument in the letter is that broadband networks do not have the capacity for everyone who listens to radio to switch from FM or DAB to listening on the internet. Certainly, if everyone who now has a radio at home went out tomorrow and bought an internet radio, threw out all their other radios and listened only to internet radio, the broadband system might not be able to cope. I say “might” because I simply do not know. However, we are not talking

[LORD MAXTON]

about switching from FM to DAB in 2010 or even 2012. The earliest date suggested for even a limited switch is 2015, and many witnesses we interviewed did not think that even that was realistic.

Broadband capacity has increased enormously, while compression technology has also improved dramatically. I remember that in 2001, in the other place, I asked the then Secretary of State for Trade, Patricia Hewitt, how she defined broadband. Eventually—and it was eventually—she suggested that broadband could be defined as anything between 400 kilobytes and 2 megabytes. Now, less than 10 years later, 20 megabytes is the standard offering of nearly all broadband companies.

BT is on target to provide 100-megabyte cable access for 40-plus per cent of households. Virgin Media is already offering its customers 50 megabytes for a small extra charge and is experimenting with 200 megabytes. Other countries, such as South Korea and Japan, provide not just radio but all their television services down cable. Even in rural areas at the moment, 10 megabytes is not unusual. By 2015, it is inconceivable that the capacity of the broadband network will not have grown by more than enough to cope with it being the main provider of domestic radio use. After all, the Government are committed to ensuring that every household has access to broadband by 2012 and that 90 per cent of households will be able to access high-speed broadband by 2017.

So what about car radios, which account for some 20-plus per cent of radio usage? I proved to myself recently that you can get internet radio on your car radio probably easier than you can get DAB radio. As the noble Lord said, DAB requires the purchase of a specific, relatively expensive device to transform, not very successfully, your car radio from FM. Getting internet radio can be done with a cable and a smart phone with 3G capacity. I have an iPad, which will surprise no one. On it I have a radio app which accesses radio stations from around the world. I plugged my AV lead into the iPad and was able to listen to Minnesota Public Radio as my wife drove me along a motorway in Scotland. Okay, who wants to listen to Minnesota Public Radio? But the point was made. I was also able to listen to BBC Radio Scotland on my iPad while on holiday in Lanzarote.

What other advantages will internet radio provide? It will provide a massive choice of stations of course, a quality of sound at least the equal of DAB—and there are those who argue that it is actually better than DAB—and, once everyone has access to broadband even in the remotest rural areas, using the internet to provide high-quality radio may be both easier and cheaper than changing all the transmitters to provide DAB radio. I am no technology expert but surely providing radio, and indeed television, down a wire—either cable or telephone—uses less radio spectrum than listening to radio or watching television by terrestrial means. Nearly all households have a telephone at the moment and the Government are committed to ensuring that they all have access to broadband by 2012.

I believe that the Government need to look again at this issue before they embark on an expensive and possibly useless programme of introducing DAB radio.

8.12 pm

Baroness Bonham-Carter of Yarnbury: Oh dear, my Lords, how does one follow that? I think that I shall just return to the words that I wrote earlier and not try to address the technological forest that the noble Lord, Lord Maxton, has sketched out.

I rise as someone who was a member of the Communications Committee when this report was published and when it was so ably chaired by a man whom I can now publicly call my noble friend—Lord Fowler. No more secrets and no more subterfuge about our relationship—there are good things about the coalition. On a serious note, I am proud to have been a member of the committee, and proud of the many other reports that we published under his expert leadership—a hard act to follow. I also thank our clerk, Ralph Publicover, Rita Logan, the committee assistant, and Papiya Chatterjee, who was our committee specialist. I thank, too, fellow members of the committee, many of whom are here. It was a very convivial group and I hope that the right reverend Prelate the Bishop of Manchester has not taken personally the exodus of the Liberal Democrats from the Benches around him.

The report that we are debating today is about the digital switchover of television and radio. Like, I suspect, most people this evening, I shall concentrate on radio.

In 1922 when the British Broadcasting Company was set up, it transmitted only radio of course and it had a staff of four people. That admirable series “A History of Modern Britain” had wonderful footage of those pioneering days, when the only choice for listeners appears to have been in the sole gift of a Captain Eckersley, who would, using the words of the presenter Andrew Marr,

“trundle his piano from his local pub to an equally local army hut from which he would perform to the nation”.

Those days when choice for listeners was confined to one man’s piano repertoire are long, long gone, and the advent of digital television and radio means change as fundamental as when Lord Reith got rid of Captain Eckersley.

The digital switchover of television is under way, running, it appears, without major problems and to time. Of course London—by far the biggest challenge in terms of numbers—does not switch until 2012, the crucial year of the Olympics. However, one of the factors to have helped with the TV switchover has been the large number of people who, one way or another, already have digital television services, and that number will no doubt be even higher by 2012.

Therefore, where television is concerned, the technology, and the expansion of choice that it has given, has been embraced by viewers. I believe—here I think that I probably differ from my noble friend Lord Fowler—that the same benefits of increased choice and new, innovative ways to enjoy content can and will be equally popular with radio listeners, and that is what the switchover to digital radio will supply.

Our report warned of the potential danger of a very different reaction to radio switchover. My noble friend Lord Fowler went so far as to say that he thought it might cause a “major row”. I do not think it is necessary for it to cause a major row. The most

important thing to come out of our inquiry was the need to allay the confusion that surrounds digital radio switchover among the public and the sense of uncertainty within the industry. Witness after witness appealed for clarity of both purpose and information, and called for the Government to make the case for switchover.

In July, on launching the government/industry *Digital Radio Action Plan*, the Communications Minister, Ed Vaizey, made a firm commitment that the future of radio was digital and that the Government would indeed lead in the drive to overcome the remaining barriers to switchover. The Minister believes that it should be radio listeners,

“who will determine when [digital switchover] can happen through their listening habits and purchasing decisions”.

This was welcomed—not surprisingly, exuberantly—by consumer groups, and indeed the opportunity provided for consumer representatives to be actively involved in the process is absolutely right. I think more thought should be given to setting a date and I am sure there will be as we proceed. Talk about a target but not a commitment worries me. Perhaps we are trying to be all things to all pressure groups when in the action plan we say:

“the timetable for the delivery of the Action Plan supports a target switchover date of 2015 as a target which all parts of the industry can work towards ... However, there should be no conflict between the timetable and the switchover criteria. When the decision is made to set a firm date for digital switchover, it will be the criteria, not the timetable, which take precedence”.

I am not sure what that means and it is the kind of paragraph that should not be included in an action plan.

My concern is that there may be a horse and cart problem. Retailers have to be convinced that we are genuinely moving toward switchover before they will stop selling, and indeed marketing, analogue radios to people who need to be convinced before they stop doing what they are doing now, which is still buying them in their droves. Car manufacturers are still fitting analogue radios in new cars which, it is said, will stop by 2013, but will it if 2015 remains a target caught between timetable and criteria?

It is greatly to be welcomed that the BBC is increasing digital coverage from 85 per cent to 92 per cent by 2011, through the installation of 61 new national DAB transmitters. However, the fact is that uncertainty is not an incentive for investment in new technology, or for that matter in content which is so much part of the bonus that digital radio will bring.

Another big concern we encountered was about FM, and I am sure we all welcome the decision to retain FM as a platform for small, local and community radio stations. Also a precondition of switchover is the extension of digital radio multiplexes to match that of FM, which means that all existing stations that want a digital future will be able to have one. But there is no point in being able to get digital radio if most of us find it impossible to access and use. Here I agree with the Consumer Expert Group that,

“the emphasis should be placed on improving basic usability, rather than the advanced functionality of digital radio to encourage take-up”.

In other words, digital radio needs its own version of the electronic programme guide which allows the viewer to navigate their way easily among the myriad choices on offer through digital television. For the blind and partially sighted—this is not the case for television—that needs to incorporate voice recognition. Returning to the matter of FM, fears about local stations being sidelined can be allayed if the technology that allows seamless switching between analogue and digital continues to be developed.

Finally, I turn to the help scheme. Radio, perhaps even more than television, is of huge importance to the old and the vulnerable. For 91 per cent of the blind and partially sighted, listening to the radio is their favourite pastime. I think we need assurance from the Minister that the Government will implement a help scheme similar to that in place for television switchover. Although the take up, as my noble friend Lord Fowler mentioned, for the television help scheme was much lower than anticipated, it has been crucial to those it did help.

The evidence about the implementation of the TV switchover help scheme was that it has been largely successful, but inevitably problems have been encountered, things have been learned and there are improvements that can be made. It is axiomatic that the experience of the TV switchover help scheme should be the foundation of the radio switchover help scheme.

I wish to mention a couple of specific points that emerged from evidence we took. The help scheme should be advertised nationally from the beginning, alongside the information campaign for switchover, rather than regionally as it is rolled out. In general, there is a need for greater co-ordination between the help scheme and the digital outreach programme—the latter is run by a partnership of voluntary organisations—particularly in regard to post-installation support, which it is felt needs to go on for longer than under the television scheme. Under the previous Government, the transition to digital for radio was characterised by drift and more drift, but under this Government and their Minister Ed Vaizey, I believe that there is recognition of the need for clarity and for certainty.

8.23 pm

Baroness Howe of Idlicote: My Lords, despite the late hour, I am glad that your Lordships' House has had this opportunity to review the progress made towards digital switchover, both for television and radio, since our committee's report was published in March and in light of this Government's or the previous Government's reaction, which was produced in June.

Today the noble Baroness, Lady Rawlings, has already heaped paeans of praise on the noble Lord, Lord Fowler. The terms of office of the noble Baroness, Lady Bonham-Carter, and I as members of that Select Committee ran out at the same time as that of the noble Lord, Lord Fowler, although I claim the right to say just how privileged and lucky we were to have him as our excellent chairman from the time we fought—and we did fight, as the noble Lord, Lord Fowler, has already mentioned—to have such a Select Committee established in your Lordships' House. Without any

[BARONESS HOWE OF IDLICOTE]

doubt, the background of the noble Lord, Lord Fowler, steeped as it has been in the media world, was of immense value to us all in the work of the reports that we have undertaken. I stress that that will be sadly missed in the work that the committee will be undertaking in future.

Today, I want to spend my time on two issues—probably the same issues as the noble Lord, although my views may be slightly different. The first is the progress that has been and continues to be made as we move towards the final phase of TV switchover in 2012 and, secondly, on the longer timescale envisaged before radio digital switchover takes place. The first thing to say on television is that progress has clearly been made since our report was published and has speeded up since the Digital Economy Bill became law. One illustration of that is that our report estimated that by the end of March, about one-fifth of television would have switched over, whereas Digital UK tells us that, by Christmas this year, it will be one-quarter of all UK homes, which is 7.1 million homes. It is fair to say that most TV viewers have more than accepted the added value that digital will bring to their TV watching. When buying new sets—and that is still happening a lot—and other equipment, they are certainly alert to the technical as well as the other benefits that the industry continues to place in the marketplace.

The outreach programme, albeit within the limitations outlined by the noble Lord, Lord Fowler, is, I would have thought, doing pretty well. Digital UK has now commissioned DOL with a total of £6.7 million to complete the cost of its work until the last switchover action is complete. What has been achieved in those regions which have already switched over is, I would argue, value for money. Its approach, as switchover reaches the region, is to brief and embed necessary switchover messages into the routine work of well known and trusted local, voluntary and community-sector organisations. I understand that the new culture Minister, Ed Vaizey, remarked at Digital UK's AGM, when congratulating the voluntary sector on the vital role that they were playing within the DOL scheme, on how well that reflected the Government's big society approach and that this could be a model for other major public change projects. I think it fair also to say that the outreach programme has proved effective in helping large numbers of people, including potentially vulnerable consumers and citizens.

On the digital radio front, it is generally agreed that the point of national switchover to digital will take longer to achieve and, above all, must reflect the consumer/citizen belief that digital radio has reached the stage when it would produce a greater quality as well as a greater variety of radio programmes. As we have heard, our report recommended the 2015 date, if those aims were achieved, and that continues to reflect the majority view of the organisations that have written in. However, although more action is and will be needed, we should not forget, as the Government's *Digital Radio Action Plan* reminds us, that the UK is nevertheless the current world leader in take-up of digital radio. About 11 million sets have been sold to 35 per cent of UK households, with digital listening

accounting for 24 per cent of total listening in the UK. Surely we do not want to lose that initiative of being a world leader.

Equally, as Ed Vaizey has said, certainty for the sector and consumers is key to unlocking potential and building confidence in a digital future for radio. Thus, we already know that switchover can be made only once 50 per cent of listening is to digital, national DAB is comparable to FM, and local DAB reaches 90 per cent of the population and all major roads. It is indeed good news that the Society of Motor Manufacturers and Traders expects its members to put digital radios in all new cars by 2013, and quite a number of them are doing it already. Clearly 2013 will be crucial as the target year for those—Ofcom, broadcasters, manufacturers, retailers and consumer groups—working together with Government to meet the conditions necessary if it is to be agreed that switchover will happen two years later in 2015.

I hope that the Minister will be able to give us some up-to-date information on how all this is progressing, what remaining funding gaps—which have been pointed out—need to be financed and, in particular, whether the funds needed for the remaining required build-out of the national, regional and local digital infrastructure have been agreed and, if so, who will provide them and pay for it. I believe there are ongoing government discussions with the BBC about funding local digital coverage. If so, can the Minister tell the House when the Government expect to be able to make an announcement on this?

One other recommendation our report made was that a help scheme with special focus on disadvantaged and special-needs groups should be set up through general taxation, as has already been noted, and that it should not be financed out of the licence fee as happened with digital TV. The potential importance of such a scheme for radio switchover must clearly remain on the agenda. We have already heard that the blind, the partially sighted and others will be disadvantaged if they are not helped with these added methods of accessing the digital future on radio in the way that they will need to be helped. Perhaps the Minister will be happy to give us some up-to-date insight on the strategy on this.

8.32 pm

The Lord Bishop of Manchester: My Lords, it has been an enormous privilege to have served on the two Select Committees that have been so graciously and knowledgeably chaired by the noble Lord, Lord Fowler. His ability to enable amicable agreement on a range of matters between atheist, humanist and church members has been remarkable. Without exception, the reports that he has overseen have always been enhanced by his experience and expertise and have been of a very high standard. I agree with the noble Baroness, Lady Bonham-Carter, about the conviviality of our meetings, although all I can say about her reference to these Benches is that tonight they are a lonely place. I join noble Lords in wishing the new Select Committee well under the noble Earl, Lord Onslow. I am very glad that my friend the right reverend Prelate the Bishop of Liverpool, who cannot be in his place tonight, is a member.

As the noble Lord, Lord Fowler, said, the switchover to digital television has, on the whole, been successful. By contrast, the issues facing the radio industry, as the Select Committee report indicates, are much more complex. While the Government's digital radio action plan and last month's consumer expert group's recommendations are welcome steps forward, the case for digital radio switchover still needs to be more compelling if listeners are to be persuaded. The BBC's Trust's July appeal in its strategic review for greater clarity from government in terms of overall policy and the active involvement of the BBC and the commercial sector has clearly been heard. Indeed, many of the Select Committee's carefully argued recommendations have been reflected in the action plan, but there are still areas that require robust perseverance if all this is to be the way forward.

Even though much has been said and written about DAB, a far clearer articulation is needed to communicate effectively and widely that, as part of a multi-platform radio ecology for the future, the UK is now committed to DAB as the digital standard. I hear what the noble Lord, Lord Maxton, said about DAB+ and there is a real need for clarity to help people to understand why it is, if it is to be so, we remain with DAB. I also noted with interest his points about the internet. I recall that when we first sat together on a Select Committee he told me that it would not be long before I would be listening to radio and watching television on my computer. I did not believe him. Scarcely a day goes by now when I am not doing those very things.

Another key part of the mixed ecology is, as other noble Lords have said, the continuance of FM. I welcomed the assurances by the Government on the future of FM when the action plan was launched. In the Committee stage leading to the Digital Economy Act, I made a number of interventions to stress the fact that smaller, local stations, many of which serve their communities extremely well and for which it would be economically unviable to go digital, need to have the security of knowing that the FM band will be open to them for the long term. I very much hope that the assessment, to which the plan makes a commitment by the end of 2012, of the role and character of the small, local and community stations remaining on FM will bear in mind that the FM band could continue to provide a critical platform for small stations, which not only serve geographically defined areas but identity-defined and interest-defined groups as well.

I am glad that the tripartite report from the BBC, Digital Radio UK and RadioCentre recognises that. Although some of those stations may decide to move to digital and expand their coverage, others for very good reasons will need to remain on FM. Those stations are vital to forging the togetherness of local communities, promoting local social action and encouraging democracy. They need to know that their platform is secure.

The radio sector has arguably suffered from some past political ambivalence over the best way to proceed with switchover. The action plan's emphasis on a consumer-led process and a range of criteria, placing the onus on the sector to provide world-class digital radio programmes and woo the listener, is surely a sensible way forward. It is certainly preferable to the

rigidity of the former 2015 timetable. The noble Lord, Lord Fowler, quoted the Minister on this. Saying that we will support switching off analogue, but only when the vast majority of listeners have already switched over to digital, strikes me as the right approach for the Government. Therefore, the important thing would be for the radio industry to recognise that and to act on it.

If broadcasters deliver great radio content on the digital platform and let listeners know that it is there, people will buy the receivers and tune in. Making the case for switchover compelling for consumers will reduce considerably the amount of resourcing required for public information and the switchover help schemes, although not of course completely. As the noble Baroness, Lady Howe, said, there are and always will be vulnerable listeners, including the elderly and disabled, who require help and who must not be overlooked. On that, I stress the importance of the switchover help scheme and the points made by the noble Baroness, Lady Bonham-Carter. It was also interesting to hear the warnings given by the noble Lord, Lord Fowler, in relation to the TV help scheme experience.

However, none of this emphasis on a consumer-led transition should be an excuse for delay in the Government, the BBC and commercial radio partners exploring together further arrangements for significant investment in the transmission infrastructure for national and local DAB radio. People will not tune in if there is nothing to tune into. And even with the BBC's plans for 61 new national DAB transmitters by the middle of next year that will take coverage to just over 90 per cent of the population—almost 100 per cent within the M25—it would still require several hundred new transmitters to reach the final small percentage of the population. Radio, in particular, provides a very important sense of connection for those in the remote and isolated rural areas, and the truth is that we still do not know when some of the more inaccessible parts will be reached with a reliable digital signal. So there remains much to do on the pathway to a digital upgrade, and the matter of car radios has also been mentioned by several noble Lords as a good example of some continuing confusion.

I welcome the fact that the Government are adopting a detailed, determined and far more pragmatic approach. The noble Lord, Lord Fowler, was absolutely right to emphasise that better communication about the benefits of going digital is required. Perhaps the Government will produce an action plan plus that seeks genuinely to provide incentives towards and enable digitalisation without bankrolling the industry. The plus would involve investment, perhaps through long-term state loans or even—and I was present during the short debate on the licence fee at Question Time—a licence fee settlement that reflects the cost of building up the network to extend coverage at least to match that of the current FM map.

Whatever the solutions, none of the problems around the digital switchover for radio is insurmountable. Continuing contributions from the new Select Committee, concerted efforts by the broadcasters—BBC and commercial—creative responses from radio manufacturers and a convincing lead from the Government which

[THE LORD BISHOP OF MANCHESTER] remains sensitive to the human issues may, if properly co-ordinated, lead to a mixed radio ecology of which this nation could continue to be rightly proud.

8.43 pm

Lord Inglewood: My Lords, I should declare that I was a member of the Communications Committee in the last Parliament and that I am chairman of the Cumbrian Newspaper Group, which has some radio stations. I cannot speak for other members of the committee, but when I left for my summer break I put the affairs of the media as far as work in this House is concerned entirely out of my mind, so that when I came back and turned my attention to writing a speech for this evening, I forgot entirely about television. The reason for that, as noble Lords will have gathered from my earlier comments, is that I live in Cumbria, which is part of the Border TV region. We have already had digital switchover up there and, as far as we are concerned, it is all history. I think it is true to say, speaking as an individual, for my neighbours and from the evidence we have received from the experts, that it has been a great success. It has happened and it has worked. What is more, it seems to have worked considerably below budget.

In 1996 and 1997 when I was Minister for Broadcasting, I recall asking one of the officials, "How are we going to do this? We have said that we are going to turn off, so what will happen?". Everyone was rather lost, so I said, "Oh well, we will have to fill their mouths with gold". We have done it, and it has worked even by not giving them very much gold, so it has been a considerable success.

As has been said by others, the important point for radio is that the experiences of television provide a good basic template for a similar process for radio, even though they are not entirely the same. We are right to go ahead with digital radio, even at its lowest level. The world moves on—and it is moving on into the digital era. I see the noble Lord, Lord Maxton, shaking his head and I shall come to his point in but a moment.

The question then is: how do you take it forward? We are at a point where decisions have to be made about whether or not to go ahead with digital audio broadcasting—DAB. I believe that it is right that we should go ahead with it. Some of the debate about whether it should be DAB or DAB+ was coloured by commercial considerations. However, the important thing as far as that is concerned is that the multi-standard chip becomes compulsory. This would allow the simple DAB to evolve into the DAB+ system if that is appropriate.

A number of noble Lords asked about FM and it is right that we should deal with it. There is a whole range of different radio stations—smallish and medium-sized commercial stations and community stations—which will not be able to find a place on digital as it is currently conceived. Exactly what the future for them is I do not know. I have a suspicion that the noble Lord, Lord Maxton, is right and that the moment will come when the existing FM transmitters need replacement and it is likely that these stations will move directly to broadcasting on the internet.

A number of your Lordships mentioned the importance of the timetable for taking forward this process. I can corroborate that because once the television industry was given fixed timetables it then came forward with sets, and when it was done on a large scale the unit costs declined substantially.

However, unlike television, the radio industry has had a series of problems thrown up by car radios. It is right that emphasis is being placed both on ensuring that conversion kits are available at a sensible price and that services such as traffic reports, which are important to motorists, can be received via the digital systems. However, we should remember that if you can afford a car, you can afford a radio to put in it. To put the question of costs into proportion, a digital radio does not cost much more—indeed, it will shortly cost less—than a tank of petrol.

As to the role of consumer groups, one of the great developments since the end of the Second World War has been the rise of the consumer lobby. This has been to the advantage of everyone. On the other hand, one of the lessons of the TV digital switchover is that people are much more adept in the use of changing technology than the prophets of gloom might suggest. Almost by definition, one of the characteristics of the consumer lobby is that it looks for every possible difficulty because that is where it sees it should be coming from. The lesson learned from the rollout of digital TV and, more generally, from the way in which the electronics industry has developed, is that the industry has been extremely revolutionary. It has introduced systems of controlling these magical devices—they are magical to me—which enable relatively simple people like me to deal with them. I believe that giving the manufacturers confidence will lead them, from their own perspective of self-interest, to find ways of enabling people both to afford and to use the means of locking into the new technology.

As a number of noble Lords have already said, this is the final debate on the previous Parliament's Communications Committee. I add my thanks to the noble Lord, Lord Fowler, for the way in which he led us, respected our views and enabled us to have a convivial time. I am not sure whether anyone else has said this, but I suspect that he did so in such a way that he got his own way most of the time—and that is the highest accolade you can give a chairman.

8.50 pm

Lord Gordon of Strathblane: My Lords, simply because the evidence has been bound into the volume with our report, it looks a more daunting read than it really is. I hope that that does not put off some of our colleagues in the House, because we are all listeners and viewers and digital switchover will affect us all. It is very important that this House at least is well informed as to the effects of digital upgrade, particularly on the radio sector, which I shall concentrate on.

It has already been pointed out that in television everything seems to be going well. In a way, it is not surprising. The digital offer in television is a distinct improvement on radio; there are more services; and the public wanted more than five digital services. The cost of conversion is about 10 per cent of the cost of a

set, which is buttons. More than that, the Government made money by selling off the surplus spectrum, so everyone was happy. That should not, however, stop us from acknowledging the very good work done by Digital UK in ensuring that it has all gone quite as smoothly as it has so far. I hope that continues.

By contrast, there is absolutely no evidence that the public wanted any more radio stations—indeed, as I shall shortly indicate, we have far too many at the moment. The Government get no money from selling off the spectrum, and the cost of converting an analogue radio set—as has already been pointed out, there could be as many as 100 million of them in this country—is pretty well the same as buying a new digital radio set.

So let us examine how we got into this position, for I concede that the case for digital switchover in radio is not nearly as strong as it is in television. Let us go back to the Broadcasting Act 1990, which introduced the great concept of licences being auctioned off. Smart operators such as my noble friend Lord Macdonald, who is sitting along from me, very sensibly bid about £2,000 for STV's licence. Other people chipped out many millions of pounds and have been feeling the pinch ever since.

There was however a public outcry at the idea of auctioning off television without a criterion of quality threshold. So a quality threshold was introduced for television but not for independent national radio. This meant that independent national radio licences went to the highest bidder. The reason that it was not a pop station was because the House, on the recommendation of the then IBA, said that it would not be. When asked how he defined "pop", the noble Earl, Lord Ferrers, who was then the Minister, said, "Thump, thump, thump". It was a very apt description. Showtime won the licence, bidding over £1 million more than Classic FM. It was awarded the licence provided that it could raise the money by 16 August 1991. It failed to do so, however, so the licence went by default to Classic FM.

It is fair to say that the IBA, and subsequently the Radio Authority, was quite proud to be allowed to regulate Classic FM. It was the sort of thing you could talk to your friends about. Their wives might admit that they listened to commercial radio as distinct from saying, "I think my cleaner sometimes listens to it". The authority was very anxious to ensure that that Classic FM would survive. Given that its licence would be up for auction in a few years, all that somebody had to do was come in with £5 more than Classic FM's bid, whatever rubbish they were going to broadcast, and they would get the licence. So the authority came up with the wheeze of suggesting to the Government that the 1996 Act include provision for digital radio and extend the licence of any broadcaster who agreed to broadcast on digital.

I was one of those operators at the time—I regret that it is no longer an interest since my company was acquired in 2005—who, like everyone else, said, "Yes, extend our licences for 12 years and, of course, we'll run a second digital transmission system". We regarded it simply as a tax worth paying for the security of having one's licence, and nobody did very much about it. It is easy to blame politicians, but the honest truth is that the radio industry did not do much about it.

If we fast forward to 2008, a report came out—a report that was unpublished until ours came along—stating that the actual benefit from digital switchover would not appear until 2023. By 2008, the situation for commercial radio had changed out of all recognition. Audience levels were down, advertising revenue was down and commercial radio's share of listening was down. With about 130 stations, commercial radio used to enjoy a majority of listening. It had 51 per cent and the BBC was privately prepared to lose share down to 30 per cent. The Radio Authority and subsequently Ofcom licensed more and more radio stations so with three times the number of radio stations—390—commercial radio's share dropped as it now is to 41 per cent.

A real problem faces commercial radio but at this hour I will not indicate the remedy. It involves a change in the ownership rules. The Government are signed up to that, as were the previous Government, and that will make a difference. Without that, frankly, the future is fairly bleak. We are in a difficult situation and one thing that can be said with absolute certainty is that the independent sector cannot afford two transmission systems. We heard evidence. For example, Michael Betton from Lincs FM said that supporting two transmission systems would literally be the difference between staying in business and going out of business. What do we do? Do we say that we will abandon the digital experiment and say "We're very sorry all you people who bought digital sets when we told you it would be a good idea. We'll just forget about it"? The general feeling in the radio industry is that radio cannot remain an analogue island in a digital world. Although the benefits are not huge, we must go ahead with switchover and make the best of it.

The noble Lord, Lord Carter, was right to set a target date and say that we were pressing ahead. More has happened in the 10 months since Digital Radio UK was set up in response to the target date of 2015 than happened in the previous 10 years. At last, the radio industry has geared up and things are happening. Motor car manufacturers are guaranteeing that they will have digital sets by 2013. That would not have happened if the Government had not given a firm date. As various speakers have said, we all need certainty, particularly those who have been asked to invest large amounts in retooling plant and equipment to install digital radios.

Although I fully endorse the decision to press ahead with digital, like other members of the committee, I believe that it should be done provided certain other things happen. The first thing that I would agree on is a big expansion in coverage. I do not like phrases like 90 per cent simply because I usually end up being part of the 10 per cent. Even 92 per cent sounds great, but I will guarantee that the remaining 8 per cent of the population covers large parts of Britain geographically. Rural areas tend to do that.

Universality of provision is a key ingredient in public service broadcasting. Let us remember that we extended terrestrial television coverage at huge uneconomic expense because we thought that it was something that every citizen should have. We must have the same attitude to digital radio and, I say in deference to my

[LORD GORDON OF STRATHBLANE]

noble friend Lord Maxton, with regard to broadband provision throughout the country. I am very worried about all the high talk of 20 megabytes and 100 megabytes in the city and, frankly, 2 megabytes, if you are very lucky, in rural areas. That would increase the digital divide and it will rule out living in a rural area in a few years' time unless we really motor on this and start to provide wide broadband coverage throughout the country.

The next point we insisted on was that something was done about cars. It has already been pointed out that there will be 20 million old cars without digital radios. Having talked to the digital people yesterday evening, they think that the cost of re-equipping a car when it goes in for an MOT will be around £70 or £80. That is not cheap, but perhaps it is bearable.

The other thing is to have a sensible disposal programme for the useless analogue radio sets. To be honest, I think that we are all right on the DAB versus DAB+ argument. If the Government's ruling is that all sets must incorporate the multichip that will adapt to all services, I think that we are covered on that.

This was my first full report on the committee. I joined part the way through the previous report on the film industry. I thoroughly enjoyed my time on the committee under the chairmanship of the noble Lord, Lord Fowler. I greatly valued the assistance that we had from our Clerk and his assistant, Ralph Publicover. The noble Lord, Lord Fowler, was an outstanding chairman. He not only guided us through the meetings, but his contribution to the writings of the report went far beyond the call of duty and the House is greatly in his debt.

9 pm

Lord Clement-Jones: My Lords, congratulations are due to the noble Lord, Lord Fowler, on two counts. First, I congratulate him on the production of a very impressive report by the committee that he chaired—and I can say that not having been a member at that time of the committee. Secondly, he is going out tonight with something of a bang, with his introductory speech. Certainly, when his report was published it caused quite a stir. The key quotation was:

“The Communications Committee of the House of Lords says there is ‘public confusion and industry uncertainty’”.

That was widely picked up. Then the noble Lord, Lord Fowler, was quoted by the Minister at the very beginning of his speech when he launched the digital radio action plan this July. He said,

“to quote Lord Fowler from earlier this week digital radio switchover could cause a ‘major row’”.

This report has certainly made quite an impression, not only in public but also in ministerial minds. We have had a very interesting debate tonight. I took the criticisms in the report as being largely of the process, not of the concept of switchover. I was extremely interested to listen to what the noble Lord, Lord Fowler, had to say. Although a lot of scepticism and doubt was expressed, at the end of the day his and the committee's view seemed to be that we should nevertheless go ahead with radio digital switchover. Clearly the criticisms have been taken into account by the new Minister responsible and by Digital Radio UK. I did

not have the benefit of listening to the evidence that the committee took in its deliberations last year and earlier this year, but I am an unashamed enthusiast for digital radio. By that I mean that I see the problems, in the words of the right reverend Prelate, as being surmountable. Essentially, the glass is half full.

I shall not enter the lists with the noble Lord, Lord Maxton, but although I listened with great attention to his extremely interesting speech I do not believe that internet radio is necessarily the means by which we shall listen to the radio. It is an extremely valuable alternative, particularly for travellers with their iPhones and iPads—and I am the proud owner of an iPad, like the noble Lord—but I believe that digital radio has many advantages beyond those of internet radio. I understand the industry technological and cost arguments, but above all I believe that quality and convenience for the consumer must be the key factors in switchover—and I think they are there, with the sound quality, the ease of switching stations, the ability to time-shift and record and with the sheer variety of stations. Here I disagree with some noble Lords, who seem to believe that we have quite enough stations already. The fact that some of our very popular regional stations can go national is a major plus for digital radio.

Consumers are becoming much more engaged in the process. Let us take the rescue of BBC 6 Music, for example. I do not know how many listeners it had before the campaign started—probably about half a million—but the campaign actually raised the number of listeners to 1 million over a period of time. I am pleased to have taken a small part in the campaign to rescue 6 Music, which shows that digital radio stations are building real loyalty among the public.

The committee, however, was right to point out some of the key flaws in the process and to seek assurance on them. Let us take a few of the major criticisms: the question of information for and communication with the consumer and the lack of public understanding; the need for help schemes to be in place by the beginning of 2012 at the latest; and the fact that the Government should make it clear that DAB should be the standard. Much of this has been met by Ed Vaizey in his announcement and by the digital radio action plan launched in July. He confirmed that the target switchover date will be before 2015; that digital will need to cover the equivalent of FM—that is, at least 90 per cent; and that more than 50 per cent of households will need to have access to digital radio. Those are crucial conditions and, as many noble Lords mentioned today, that consumer-led process is vital.

I disagree with some noble Lords—I believe that this actually builds on the policies set out in the *Digital Britain White Paper*. I think it was the noble Lord, Lord Gordon, who mentioned the noble Lord, Lord Carter, but he needs to take some credit for having set the ground rules and for the way in which we are proceeding. I believe that this is not a discontinuity of approach but very much the continuity of it. I hope that the noble Lord, Lord Evans, will espouse the same continuity when he responds from the opposition Benches.

We now know that under the digital radio action plan there will be a strategic marketing and communications plan which meets some of the criticism

about public communication, and that a study will take place on the merits of putting a help scheme into place. That is rather more mealy-mouthed than many of us would want to see. As we have heard, however, proper assurance is being given that new cars will be fitted with digital radios from 2013 and there will be affordable conversion kits. Once they are available in bulk the price of those conversion kits might even fall to £65 rather than the higher figures that some noble Lords have mentioned.

It is also now clearer how better coverage of over 90 per cent, up from the current 85 per cent, will be achieved by the installation of new transmitters. As for DAB+, it is also much clearer that DAB will remain the standard. We heard about the necessity of multi-standard chips from the noble Lord, Lord Inglewood. Crucially—this was an important issue when we debated the Digital Economy Act—there is also a much clearer future for FM radio and a much better understanding of its role. For the foreseeable future, FM will remain as a delivery channel of choice for local and community radio. The Minister could not have been clearer when he launched the action plan and said,

“we will not switch off FM. FM will remain a platform for small local and community radio ... as long as these services want it”.

Now, that was pretty unequivocal and extremely welcome.

I am very glad that UTV—which lobbied very heavily on the issues covered in the Digital Economy Act, and was sceptical about the whole principle of digital switchover—is now essentially on board with the digital switchover strategy. I believe that the commercial radio industry is very much on board with it as set out in the action plan. It is also clear that progress is being made on the single receiver and platform-neutral tuning, as the committee wanted. In summary, I am strongly supportive of the new—or perhaps I should say restated—strategy.

However, some questions remain, and they derive mainly from the consumer expert group report published in September. I very much hope the Minister can give a response to some of the ideas in that report, which suggested that a firm digital switchover date should be set only when 70 per cent of listening is done on digital. That is quite a high hurdle and I will be interested to hear what the Minister says about it. Is an independent body required as the key information provider on digital radio, as it states? Then, there was the issue that my noble friend Lady Bonham-Carter raised. There must be accessibility in the development of usability features on equipment for the disadvantaged. Then, crucially, and many noble Lords have mentioned this in the course of the debate, there is the need for consumer support through a help scheme for vulnerable listeners, not an optional extra but a vital element of the whole process. Will the Government go ahead with a help scheme? Will they then commit to funding it to fairly modest levels—I think that the quotes for this have been £5 million or £6 million—and will it be provided through general taxation? Those are key issues.

Lastly, will we build on the positive experience with the voluntary sector on digital outreach, with the help scheme for digital television switchover which has proved such a great success? I very much hope that

digital radio will build on the success of that. We have momentum for digital radio switchover, but there are still some important issues to resolve. I look forward to the Minister's reply.

9.10 pm

Lord Donoghue: My Lords, in welcoming this excellent report on a highly complex subject, I wish to focus briefly on the aspect of digital radio, which has exercised others today, and on which the noble Lord, Lord Fowler, spoke so well. I also thank him for the fine work that he did as the chairman of the committee.

Here I should declare a passionate interest—a lifetime of listening to music of all kinds. As with millions of other music lovers, I listen often on the radio, and the quality of the sound matters enormously. The Proms are best heard on a good-quality FM tuner radio like my lovely old Revox tuner. Sadly, the plans of the previous Government, which I generally supported but not in this area, were hostile to the interests of myself and many others who listen to music on the radio—hostile because they proposed to abolish rapidly the existing analogue FM system, which provides excellent music reproduction, and replace it with the technologically redundant DAB system, already abandoned in most of the rest of Europe, except, I think, by Norway and Ireland. I will be corrected if noble Lords can find another country—maybe Estonia. DAB has poor music sound, and almost all music lovers and listeners will confirm that.

The plans were hostile because the Government steamrollered ahead with this perhaps ill thought-out scheme without consulting sufficiently the consumer interest of the listening public. There was, and still is, little evidence of consumer demand for digital radio broadcasting. Television is a wholly different issue; the digital switchover works, and I am very pleased about that.

This question of radio broadcasting matters, as the noble Lord, Lord Fowler, stated. Some 90 per cent of the population over five years old listen to the radio for an average of, as the report said, 22 hours per week. That was in 2009. Despite the massive advertising campaign for DAB, still only 21 per cent or 22 per cent of listening was on digital in 2009, and only 16 per cent is on DAB even today. I cannot understand why noble Lords say that the consumer is supporting it; the figures are contrary.

As has been said, more than 30 million cars are currently driving without DAB. Despite the well advertised threat of scrapping FM in 2015, only roughly a quarter of new radio sales were digital in 2009. Virtually all car listening is currently on FM. I often go to hi-fi shops, and the staff there say that the majority of customers are still not interested in digital; instead, they are willing to invest their money in FM tuner radio equipment, despite the threat of rapid abolition.

So, why has the propaganda campaign to impose DAB on the British listening public failed? And it has. Most of the British public do not like DAB sound and most are content with analogue FM. That is the reason. It is not a failure of communication. That is what Stalin said whenever people complained that they were starving in the Russian countryside: “It

[LORD DONOUGHUE]

must be a failure of communication and propaganda". No, that was a failure of food production and this is a failure of technological production.

There is not the faintest prospect of reaching the target of 50 per cent coverage by digital—in 2013, remember—which is the prelude to the 2015 switchover. Yet still some in Whitehall, the BBC and the radio industry—from which we have heard distinguished representatives this evening, not that they wish to do this—wish to impose digital sound broadcasting on British listeners, effectively by abolishing the superior FM competition. This is how the East German communist regime boosted sales of its notorious Trabant car; it excluded superior competition. DAB, though not DAB+, is in my view the Trabbie of broadcast sound. The propaganda campaign for DAB often referred to the proposed digital radio switchover as “upgrading”. I noticed that my noble friend Lord Gordon used that word, though I know he was referring to television and not radio. Perhaps in the propaganda this was a misspelling of “degrading” as far as broadcast sound is concerned. I congratulate the Communications Committee on explicitly refusing to accept that spin.

There are of course advantages to digital broadcasting that were widely canvassed and have been mentioned tonight. The main benefits are extra functions, the possibility of interaction, wider station choice and ease of tuning. Those are true, yet as the Ofcom research has shown, there is no evidence that radio listeners want these facilities. All the evidence is that radio—especially music—listeners are content with the present FM. Ofcom’s published research shows 91 per cent public satisfaction with FM. Only 3 per cent want access to the extra radio stations that DAB gives them.

Digital campaigners also argue that the existing FM infrastructure needs costly renewal, while the report says it will cost £10 million per annum for 20 years. That is peanuts compared to the cost of switching to digital. There is the cost of expensively extending the digital multiplexes and of wantonly forcing listeners to dispose of some 100 million analogue radios, costing consumers an estimated £6 billion. I say to my noble friend that these sets would resent being called useless. My Revox does not think it is useless; it is excellent but threatened with redundancy and resents that. There is the cost of abandoning the excellent FM transmission equipment, including that at Wrotham, which serves London; of spending all the money on hundreds of new digital transmitters, many in dense urban locations; and of abandoning the FM spectrum, which cannot be sold. In sum, this venture offers more stations, which the public do not want, with poor audio quality, at huge cost to the consumer, who was never consulted. Better communications and advertising for DAB will not change that.

This venture for DAB radio was launched partly at the wish of the radio industry, which saw benefits in switching off bigger FM stations. To the radio industry it offers probable savings of around £30 million. To the BBC it offers a possible way of coping with the advance of internet radio, which has been so well spoken of, though I doubt whether it will succeed. I greatly sympathise with what my noble friend said

about that. To the previous Labour Government it no doubt had the image attraction of appearing modern. Nowhere was the interest of the listening consumer taken into account.

This good report and the government response seek commendably—though late in the day—to address that consumer factor, but nowhere is the mediocre quality of DAB sound addressed. The committee rightly rebukes the previous Government for not having done—or certainly not published—any cost-benefit analysis on this project. We can understand why they did not produce any analysis of the balance of costs and benefits as the costs are high and the benefits are few, at least to the public radio consumer. Certainly, there will be few benefits for some decades to come.

So what do we do now, finding ourselves in this mess on digital radio but not TV? The report is impressively coy on this basic problem. It hints correctly that, like the Irishman at the crossroads—he may have been a relative of mine—it would not start from here. But we are here and the committee gives some excellent pointers to the Government on how to clarify the future. However, to me it seems too defeatist in accepting that FM radio has no future and in accepting the unrealistic dates of 2013 and 2015 for switchover.

I believe that the new coalition Government, and their promising Minister, Ed Vaizey, should be more radical and brave. For a start, they should read and accept the recent report of their own advisory body, the Consumer Expert Group, entitled *Digital Radio Switchover: What is in it for Consumers?* As I said, there is a short answer to that. It contains an attack on the digital plans and accuses the radio industry of attempting to “bully” the public into adopting DAB. It states that the only consumer benefit in the switchover would be the ultra small stations, to which few would listen.

For the future, in addition to studying carefully what my noble friend Lord Maxton said, I suggest three conclusions which might have been in the report. First, the Government should maintain indefinitely the national—not just local—FM radio platform, which a large proportion of the public enjoy and prefer. The Consumer Expert Group states categorically that,

“there are no economic or technical barriers to FM continuing as a broadcast platform”.

Secondly, since we are down the digital radio path, the UK should switch to using the superior DAB+ technology in radio receivers as soon as possible. Finally, the switchover date for transmissions should be delayed until, say, at least three-quarters of all radio listening is by DAB+. I see no virtue in meeting a bad target date. I am encouraged by what the Government have already said in that area. Such a delay would allow a steady and measured transition to a more realistic date without steamrolling the poor consumer into rapidly throwing away his excellent FM equipment. We should allow him or her to enjoy their existing superior sound for much longer.

9.24 pm

Lord St John of Bletso: My Lords, it was a great privilege and pleasure to be part of this extremely topical inquiry by the Communications Committee

chaired by the noble Lord, Lord Fowler. Coming in as the 10th Member in the batting order, I fear that many of the points that I shall make have already been made.

However, I share the concerns of the noble Lord, Lord Donoughue, because while there is a very compelling case for digital television switchover which has progressed on time and on budget—in fact under budget, according to the noble Lord, Lord Inglewood—with minimal teething problems, I have struggled to comprehend the urgency for digital radio switchover and particularly the need for it to be implemented by 2015. I want briefly in my remarks to comment on the SWOT analysis of the implementation of the plan by 2015.

Clearly, with radio playing such an important part in many households throughout the United Kingdom, it is vital that the needs and concerns of radio listeners are fully addressed. For consumers voluntarily to adopt digital radio there needs to be an independent report as well as a cost-benefit analysis giving a balanced view on the advantages and disadvantages of the switchover.

It is difficult to find a single authoritative source that explains what to look for when buying a digital radio and how to compare different products. I agree with the recommendation of Consumer Focus that there should be an easy-to-read checklist that would prompt consumers about what digital products can deliver, explain the different features and help them to make more informed decisions. However, I also believe that there should be better staff training at retail outlets and that there should be more consistent training whereby retail staff are encouraged to become “accredited digital advisers”, as have I heard them referred to.

As the noble Lord, Lord Gordon of Strathblane, mentioned, the commercial radio industry is clearly under considerable pressure. Advertising revenues in 2000 were in excess of £750 million and have reduced to currently around £560 million. Broadcasters which have invested in digital services have had to pay dual transmission costs. I was surprised to hear that more than two-thirds of commercial radio stations are loss-making or making less than £100,000 per annum. I appreciate that while the FM spectrum is almost full at the moment and, therefore, the release of digital spectrum would give the industry more opportunity to grow and offer more services to listeners, I would argue that consumers are more interested in the quality of content and signal, rather than an additional choice of programmes. As the chief executive of RadioCentre, Andrew Harrison, pointed out,

“with the current structural economies of the sector, it is very difficult to both maintain an analogue distribution network and invest in digital content”.

One of the catalysts to greater take-up of digital radio will be the improvement of DAB coverage. I quote from paragraph 105 of our report, which states:

“Improved coverage will encourage more digital listening, more purchases of digital receivers, greater advertising revenues generated by digital stations, and more investment in digital content”.

That is crucial. It is also essential to ensure that consumers have access to digital services and that no groups are left disfranchised should analogue services be switched off in 2015.

While Digital UK has managed the communications campaign for TV switchover in an exemplary and efficient manner, I question the effectiveness of the communications campaign for radio switchover. This is not just the responsibility of Digital Radio UK, but also of manufacturers and retail outlets.

In preparation for a digital radio switchover, I strongly support specific measures being put in place to protect vulnerable listeners such as blind and partially sighted people, who rely on their radios even more than do other listeners. The recent excellent DCMS consumer expert group report, published in mid-September, stated:

“Research shows that vulnerable listeners are the slowest to convert to new technology and as such are unlikely to be among those who voluntarily adopt digital radio before a switchover is announced”.

One of our key recommendations was that all digital radios contain a multistandard chip, giving us the option of a subsequent move to a different standard. I understand that some but not all DAB radios can be upgraded to work with DAB+. With technology advancing at such a rapid rate, it is inevitable that we will have a future of DAB+. I was tempted to speak about internet radio, but I will resist. My concern is that some cheaper DAB radios may not be upgradeable and may become obsolete. It is important that there should be an industry standard label indicating if a DAB radio is upgradeable to work with other digital radio formats.

One major concern about the digital radio switchover raised by the inquiry related to the use of in-car radios. This was the hobby horse of the noble Lord, Lord Maxton, and I will not repeat the concerns that he and others raised. I hope that the noble Lord, Lord Fowler, is correct in saying that all vehicle manufacturers will install digital radios by 2013, and that there will be a reliable solution to in-vehicle conversions.

We have heard a plethora of statistics. The noble Lord, Lord Donoughue, mentioned that there are at least 120 million analogue radios in circulation, and I understand that at least 90 million are in regular use. It is important that clear guidelines are given to consumers and retailers to ensure that regulations on the disposal of obsolete devices are appropriately applied and followed.

In conclusion, while I am a firm supporter of the digital age and all its benefits of choice and quality, there is not yet a compelling argument that the target date of 2015 for digital radio switchover is realistic or practical. Any target date set should be looked upon as secondary to the important consumer issues.

9.33 pm

Lord Macdonald of Tradeston: My Lords, I declare my interest as an adviser to Macquarie Group, whose infrastructure funds have investments in the transmission business Arqiva and in the security communications service Airwave.

Like other colleagues on the Select Committee on Communications, I compliment the chairman, the noble Lord, Lord Fowler, on his foresight and his leadership, which produced such a timely and well received report on digital switchover. The government response in June was the most positive response to any

[LORD MACDONALD OF TRADESTON]

Select Committee report to which I have been party. Of course, it came from the new coalition Government, but it tracked pretty closely the policy put in train by their Labour predecessors—such as the noble Lord, Lord Carter, who has been mentioned—in the Department for Culture, Media and Sport.

Those Labour Ministers were far-sighted in setting up a shadow Digital UK group in 2002, and wise to ensure that when Digital UK formally came into existence in 2005, it was not a quango but an industry group made up of major players in the broadcasting and communications sector. The funding model was also generous and has underpinned the success to date of digital television switchover for 7 million homes. Although the remaining 75 per cent of UK homes are still to be switched over in 2011 and 2012, I think that there is among us tonight a growing confidence that the digital television switchover programme will continue to come in on time and, even better, well under budget.

As anticipated, there have been problems: with retuning, with regional overlaps in transmission, and with a small proportion—about 1 per cent—of elderly Freeview set-top boxes. The fact that we hear so little about all this in the newspapers, which are usually keen on stories about television, suggests that these problems are being sorted—in many cases, very effectively with the help of the voluntary sector, particularly charities looking after the elderly and those with various disabilities. Like the noble Baroness, Lady Howe, I am impressed by the outreach programme. As she said, it was good to hear the culture Minister, Ed Vaizey, pay tribute to those charities when he launched Digital UK's annual report in July, and it was certainly politically astute of him to praise it as a model for other community initiatives which would at last bring to life the Prime Minister's vision of the big society.

The growing confidence in the successful completion of the ambitious programme for digital switchover is all the more remarkable when we recall some of the dire predictions that it would be a major political catastrophe for the Labour Government. Consumer rebellion was predicted at the prospect of scrapping all those tens of millions of redundant analogue TVs. In fact, consumers' enthusiasm for digital sets and flat screens ran far ahead of all our expectations. However, our thanks should also go to Digital UK, to its chairman since 2002, Barry Cox, and his chief executive, David Scott, who is now overseeing this huge transition. I trust that we will still be praising their professionalism on completion of the television switchover programme at the end of 2012.

Your Lordships may also be reassured to know that the CEO of Digital UK in its formative years, Ford Ennals, is now the chief executive of DRUK—Digital Radio UK. Mr Ennals's experience is particularly to be welcomed, as our Select Committee discovered, somewhat to its surprise I think, that the previously low-profile switchover of radio from analogue to digital ran a far higher risk of consumer discontent than did television.

Our report highlighted very real concerns about public confusion and industry uncertainty over radio switchover, which the noble Lord, Lord Fowler, described

very persuasively and comprehensively. However, again I am pleased to note that the response of government has been positive in addressing our concerns and sensible in maintaining the trajectory of progress mapped out by the previous Government. Surely it is better now to look forward and work for positive change. As my noble friend Lord Gordon said, the commercial sector should not have to carry on with the cost of dual transmission.

The two criteria to be met before a date can be set for the switchover to digital radio are that 50 per cent of listening must be on digital and that for national radio stations digital coverage should be equivalent to existing FM coverage. On that basis, the earliest anticipated switchover date is 2015. It is a timescale that should certainly calm the nerves, and it may well allow all these issues to be properly addressed.

Like its television twin Digital UK, the radio body DRUK is an industry body, made up of broadcasters, retailers and, of course, motor manufacturers, the latter being particularly important. I share the robust view of the noble Lord, Lord Inglewood, that the cost of conversion in cars might not be quite as daunting as people assume. Obviously there is enthusiasm for in-car listening, with 20 per cent of radio listening being done while driving, and it is essential that digital kit is built in quickly to new models and that cheap and convenient converters can be fitted to older cars.

There are other issues, as noble Lords have outlined, but I think that the Government's digital radio action plan, published in July, answers most of the major concerns raised by our Communications Committee. I hope that coalition Ministers can now persuade the Treasury to release the £6 million of funding required for a two-year public information campaign. The Minister has been asked to comment on that.

The previous Government got the message over for television and the challenge for the coalition Government is to ensure that radio switchover goes just as smoothly. I underline the point made by the right reverend Prelate the Bishop of Manchester. The challenge for broadcasters is to talk up the attractions of digital radio, to get them over to the public and to accelerate consumer uptake. We are promised many more stations, catering for many more interests.

As ever, the BBC must lead the way. It already broadcasts services of which the wider audience is barely aware—witness the rapid rise in listeners to BBC 6 Music's edgy programming only after a public row over its proposed closure. Tuning in to digital stations will also be easier and there will be clever features, allowing us to rewind and to record programmes. However, echoing my noble friend Lord Donoughue, for me the unique selling point would surely be better quality sound. In big, built-up markets like London, we need stronger signals and better coverage to ensure that there are no infuriating weak spots. As my noble friend argued, the sound quality must at least match that of analogue radio. You do not have to be an audiophile to expect even better quality from digital signals.

Last month, Ministers received the report of the Consumer Expert Group on digital radio switchover and, like the noble Baroness, Lady Bonham-Carter, I

believe that its findings should be taken very seriously. In particular, I draw your Lordships' attention to its concerns about sound quality. It fears that cramming more stations onto a digital multiplex will lead to poorer sound quality. Even the classical music station, BBC Radio 3, is said to deteriorate when Radio 5 Live Sports Extra joins it in the current digital output. Another complaint is that services broadcast with lower bit-rate levels, are more difficult to hear, according to the Consumer Expert Group.

Broadcasting engineers are often dismissive of such criticisms as audiophile crankery. However, I recall that after many years as a programme executive in ITV, I would repeatedly ask about viewer complaints that sound levels rose when the adverts came on and I would be told, in baffling technical detail by the staff, that it was all in the mind. Belatedly, a senior engineer admitted that although the decibel level might not go up for the adverts, the dynamic of the sound might be tweaked to make it more intense. I did not understand the technicalities, but I concluded that the viewers were right and that I had been misled. I suspect that listeners are right too on sound quality. To ensure that listeners are not misled again I support the call by consumer groups for more research into the impact of low bit-rate levels in digital signals.

If high-definition television has been a driver in the success of digital television, it seems a bit cloth-eared of broadcasters not to take seriously what some consumers are saying about better sound quality. As I recall, it was digital radio's initial USP—unique selling proposition, as the marketers say. So I hope that the radio industry goes back to basics and gives us better digital quality. I also hope that the encouraging progress being made with the switchover to digital television can be replicated with radio and that the report of the Select Committee on Communications has made that success more likely.

9.43 pm

Lord Evans of Temple Guiting: My Lords, I take this opportunity to congratulate the committee on, and thank it for, its sterling work under the chair of the noble Lord, Lord Fowler. In the few short years since its inception, the committee has chosen strong and important issues to investigate and to report on. Its work has been widely reported in the media and it has helped to raise the profile of this House and its scrutinising role.

I have listened to this debate with a great sense of personal regret. I spent my life in the media and I never had an opportunity or the privilege of joining the committee, which, from everyone's description, has been brilliantly run in every way by the noble Lord, Lord Fowler. Given that we are talking about content, clearly the content of this committee has been absolutely brilliant.

The report looks at the process of digital switchover as it affects both television and radio in the UK. TV switchover from analogue to digital began in 2008, and is planned to be completed in 2012. Proposals for the delivery of digital radio upgrade were outlined by our party when in government in the White Paper, *Digital Britain*, published by my noble friend Lord Carter. A range of the proposals in that report form the basis of the Digital Economy Act 2009.

I will not say too much about the digital television switchover because, as the noble Lord, Lord Inglewood, and a number of other Peers have said, it is working well. Of course, there are problems. One of the major problems, as identified by the noble Lords, Lord Fowler and Lord Maxton, is in the help scheme, which is intended for those aged over 75, registered blind or partially sighted, and those who are entitled to disability living allowances. The take-up has been lower than expected and, as we heard from the noble Lord, Lord Fowler, there has been a £250 million underspend. I understand that the current Government are consulting the BBC Trust on how the underspend can be redeployed. Will the Government take up the committee's recommendation that any help scheme associated with radio switchover be funded from general taxation and be better publicised?

I turn to the thornier issue of digital radio, which rightly takes up the bulk of the committee report and has been widely discussed in our debate tonight. Labour, in government, made the case in the report, *Digital Britain*, that if radio is to compete with other media, it must have greater flexibility to grow, innovate and engage with its audience. In addition, the report stated that it needed to show advantage over analogue radio through the delivery of new content and functionality. While the FM spectrum was essentially full, it was our view that radio would gradually use its relevance in the digital age as people turned to other digital services that had more local content or interactivity. We have all seen how successful TV programmes—whether you like them or not—such as “The X Factor” have been in their use of interactivity, with millions of votes being cast every week. Already, there are about 10 million DAB radios in use in the UK, but the rate of take-up needs to be accelerated if we are to succeed in fulfilling digital radio's promise for a medium that the *Digital Britain* report described as “portable, intimate and ambient”, and to ensure that radio competes with other formats. In our approach, we had the support of the vast majority of the radio sector.

What is the Government's approach to digital radio upgrade—a point made by several noble Lords—particularly given that the mechanisms and powers for digital radio upgrade are now in place? Do they plan to scrap it altogether, leaving those who paid good money for radios to throw them on the scrapheap? There is growing disquiet in some parts of the radio industry, with concern that switchover will result in a two-tier system—again, a worry that has been articulated tonight. Will the Government leave DAB in limbo, so that broadcasters will be left with the additional costs of broadcasting on both digital and analogue platforms?

The committee recognises that if digital radio is to be a success soon, a number of actions need to be taken by the Government, and we on these Benches are very keen to know where the new Government intend to take us. While in government, our plans had two criteria that had to be met before the next stage could be preceded with. These were, first, when 50 per cent of radio listening was to digital sources—Ofcom are monitoring that—and, secondly, when national DAB coverage was comparable to FM coverage and local DAB coverage reached 90 per cent of the population and all major roads. Is it the Government's intention

[LORD EVANS OF TEMPLE GUITING]
to keep these criteria or do they plan to change them? What effect will the cuts in the budgets of DCMS and BIS have on the programme of change?

When in government, our intention was that these criteria would be met by the end of 2013, paving the way for the delivery of digital radio upgrade by the end of 2015. Upgrade was not intended to mean a complete switch-off of an analogue radio service. Instead, all national and large local services were to be carried on DAB only and would no longer be broadcast on analogue, leaving ultra-local radio services to be broadcast on FM. Do the Government intend to stick with the original timetable or will they allow it to slip?

The noble Lord, Lord Fowler, and many other noble Lords talked about the problem of radios in cars. As we have heard, the number of DAB radios in new cars remains very small. What plans do the Government have to try to ensure that DAB radio take-up by the public is greater? Are they talking to manufacturers about fitting DAB-compatible radios as standard? What discussions are they having about retrofitting DAB radios in cars?

I shall briefly pick up some of the most important questions in the committee's report. The committee argued that, given the importance for the plans for digital switchover of universal reception of the BBC's national stations, it is essential that a firm and unambiguous plan and funding for the completion of the BBC's national multiplex be put in place as soon as possible. In their response, the Government revealed that they asked Ofcom to form a coverage and spectrum planning group to cover these concerns. It will report in the spring of 2011. Can the Minister tell us whether the planned timetable for Ofcom's report to the Government is still on track? Do the Government expect to receive any interim conclusions? The committee highlights a cost-benefit analysis of digital radio migration carried out by PricewaterhouseCoopers in 2009 that suggested that the balance of benefit would be achieved only after 2026. The committee recommended that a full impact assessment and fresh cost-benefit analysis be carried out. In their response to the committee's report, the Government agreed and said that work would begin shortly. Can the Minister tell us whether the work on this cost-benefit analysis has begun? When do the Government expect the report?

The Committee recommended that the Government should encourage the industry to devise a sensible scrappage scheme for the disposal of analogue radios. Can the Minister outline the Government's plan in this area? How do the Government intend to ensure that scrappage is completed in a way that does not negatively impact on the environment? How will they ensure that those on the lowest income—particularly the elderly, who depend most of all on radio—are able to get subsidised radios? Will the Government look at using some of the unspent surplus from digital TV switchover to support digital radio switchover?

Finally, can the Minister say anything about how compatible our system of digital radio will be? As one of the earliest adopters of digital radio technology and the world leader in terms of take-up, our DAB standard is now relatively out of date—a point made

by my noble friend Lord Maxton. Other standards such as DAB+ and DMB—digital multimedia broadcasting—are more efficient, have additional capacities and are used in Europe. What discussions have the Government had with broadcasters and manufacturers on this issue? Do they have any plans for future transition to a higher digital standard?

I conclude by saying how fascinating I have found this debate. I look forward to the Minister's reply.

9.55 pm

Baroness Rawlings: My Lords, I thank and pay tribute to all members of the Communications Select Committee for their time and work in producing this report on the digital switchover of radio and television. In particular, I acknowledge the contribution of my noble friend Lord Fowler, who during his time as chairman expertly steered the committee through a period of significant change in the communications industry and has kept the subject in debate. He was obviously an inspired chairman, as we have heard from the eight members of his committee. I am pleased to say that the Government, building on the detailed work of the noble Lord, Lord Carter, and the previous Government, have already sought to address many of the recommendations made in the committee's report through the digital radio action plan.

Digital TV switchover has made huge progress so far. By the end of August this year more than 25 per cent—around 6.7 million—of UK homes had completed the digital TV switchover. A further 10.5 million homes will switch in 2011. We recognise that it is too early to be complacent as we are only a quarter of the way through the programme. There are many challenges to come. Next year there will be 21 regional switchovers and in 2012 the major conurbations of London and the north-east of England will switch. The TV switchover programme is, however, on track for near completion in 2012, is well under budget and will be in time for Her Majesty the Queen's Jubilee and the Olympics.

So far, relatively few problems have been identified. They are mainly to do with difficulties over retuning and issues of regional overlap. However, the numbers reported are small. So far more than 360,000 people have been helped by the digital help scheme, while local community engagement through regional Digital UK teams, Digital Outreach Ltd and the voluntary sector has helped to provide information to an estimated 350,000 people.

On digital TV underspend, Ministers have made it clear that the ring-fenced money not needed for digital switchover should be made a priority to support broadband in the UK. In answer to my noble friend Lord Fowler, the help scheme underspend will be used for purposes consistent with the BBC's public purposes. This money has not been diverted from programme-making. It was additional funding which was ring-fenced for this purpose.

There are lessons to be learnt from the TV switchover when considering the case for radio. However, as the Communications Committee noted, it is essential to communicate clearly the differences between the two issues. Let me clarify the Government's position on digital radio switchover. They have not yet set a date

for radio switchover. They are, however, fully committed to securing a digital future for radio and believe that a switchover is the right way to deliver a co-ordinated transition. The Government have agreed 2015 as a target date which all parts of the industry can work towards. To be clear, 2015 is only a target date, albeit one which we and the industry are supporting.

My noble friend Lord Fowler commented at the publication of the digital radio action plan and has reiterated today that,

“the public have got to be taken with the process”.

As the Minister for Communications has pointed out:

“Consumers, not government, through their listening habits and purchasing decisions will ultimately determine whether a switchover to digital can happen”,

and, in the same vein, when a switchover to digital could begin. I hope that this answers my noble friend Lady Bonham-Carter’s concern.

Radio listeners are often passionate about the radio and the stations they listen to. The radio is a lifeline for many, especially the elderly and the blind. I personally feel that it would be a grave error if those who rely most heavily on the radio are left behind in any future switchover. We and the radio industry do not underestimate the scale of the task ahead of us. However, the complexity of the issue should not in itself be a barrier to change, nor does it undermine the necessity for it. I can assure the noble Lord, Lord Evans, that the Government have set out their commitment to the listening and coverage criteria to be met before a date is set for radio switchover.

Digital radio offers a greater choice of programmes for listeners as well as business opportunities for broadcasters. It is already well established and over 11 million DAB sets have been sold. It offers listeners a wide range of content and possibilities, and has proved itself to have found a passionate although at times vocal audience. On the comments of the noble Lord, Lord Donoughue, I doubt whether anything I say is going to address his concerns. However, if he is right, which I do not believe he is, then the listening criteria will never be met. All listeners, not the vocal few, will drive the market’s direction.

I turn now to the specific recommendations made in the committee’s report. One is on energy and waste. In July, we published independent research into the energy efficiency of digital radio which disproves the argument that digital radios consume vastly more energy than their analogue equivalents. The research shows that the difference in energy consumption between digital and analogue sets is now minimal and continues to improve. We are all aware of the need to reduce energy consumption, and I can reassure the noble Lord, Lord St John, that we are also considering the environmental factors, specifically on the sensitive issue of the disposal and recycling of analogue radios through the waste electrical and electronic equipment directive. In answer to the question of the noble Lord, Lord Evans, on the scrappage scheme, we have no such plans but will look closely at the recent scheme run by the BBC and Digital Radio UK.

Turning specifically to the committee report, I welcome the recommendation that a full impact assessment, including a cost-benefit analysis, should be commissioned

as a matter of urgency, and I understand that work has already begun. In response to the question of the noble Lord, Lord Evans, I can say that the first report will be completed by the end of 2011. Of course, the cost-benefit analysis will also be essential in identifying which, if any, listeners would be disproportionately disadvantaged by the switchover, and consequently if a help scheme is necessary and what its scope might be. If there is a case, we will take steps to introduce a scheme to support the most disadvantaged listeners. In response to the question of my noble friend Lord Fowler on funding the help scheme through general taxation, I can tell him that no decisions have been taken on how a scheme, if it is required, would be funded. I also agree with my noble friend Lady Bonham-Carter on the importance of a help scheme for the disabled.

In respect of in-car conversion, we welcome the agreement of car manufacturers to fit DAB radios as standard in new cars by 2013 and note that in many cases this has already begun. But that is only half the story. Many people to whom I have spoken are worried rightly about their older cars with analogue radios. Devices already exist on the market which can convert these radios. We expect there will be a growing market for affordable and easy to fit converters.

I welcome, too, the importance that the committee has given to DAB coverage; it is a linchpin in this process. The Government have been clear in their view that broadcasters—particularly the BBC—need to do more to improve coverage over the next two years. To this end, we welcome the BBC’s recent commitment to increased coverage of its digital services. In answer to the question of the noble Lord, Lord Evans, we believe Ofcom expects to produce its report on coverage and planning early next year. In answer to the noble Baroness, Lady Howe, negotiations with the BBC and commercial radio sectors on DAB coverage funding are ongoing. Unfortunately, it is too early to predict when an agreement will be reached, although we understand the urgency of the issue. As to who will pay, it will be a mixed ecology of commercial and BBC funding.

I agree with the right reverend Prelate the Bishop of Manchester that it is important that FM should continue until a decision on switchover is made. Even after switchover, FM will continue for small local services, community, hospital and student radio.

One theme that came through strongly in the committee’s report was the need for a public information campaign. We agree. The digital radio action plan sets out the process for this. In answer to the noble Lords, Lord Evans and Lord Gordon, the action plan sets out plans for minimum receiver specifications. We expect the multi-standard chip to be part of this.

I agree with the noble Lord, Lord Maxton, about the importance of internet radio. He has demonstrated, yet again, that he is truly one of the true technological pioneers in the House. However, internet radio will not meet the needs of all listeners. Online network coverage is not universal, nor can it easily support large volumes of simultaneous radio. In addition, it is not free at the point of access and it is a very costly delivery platform for broadcasters.

[BARONESS RAWLINGS]

In drawing the debate to a conclusion, I repeat my thanks to the committee and to those noble Lords who have spoken today, and especially to the driving force of my noble friend Lord Fowler. The debate has been built on the importance of the report and I hope that I have answered the majority of the questions raised. At this late hour, I apologise that I have not been able to answer all noble Lords' questions; I shall write to them. Finally, we will of course give due consideration to all the points raised today as we continue with both the digital TV and digital radio switchover programmes.

10.09 pm

Lord Fowler: My Lords, I am grateful to the Minister for her helpful response to the debate. The noble Lord, Lord Maxton, is purring with content after the unaccustomed praise he has received. It has been a serious and thoughtful debate which has raised a series of important questions, such as the one raised by my noble friend—I am pleased to call her my noble friend—Lady Bonham-Carter about the dilemma of the 2015 date and whether it is a commitment or a target. The importance of making the case for switchover

compelling for the consumer was raised by the right reverend Prelate the Bishop of Manchester. Quality of reproduction and of DAB sound was raised by the noble Lord, Lord Donoughue, in a wonderfully aggressive speech, and by the noble Lord, Lord Macdonald. These are all important questions which the Government would do well to study, because it is quite clear that the case is not entirely made as far as this House and—I have no doubt—the public are concerned.

I again thank all the members of the old committee, the Clerks and their staff. I am delighted that the Select Committee is to continue. There are important questions in communications for any democracy. Present events demonstrate some of the clashes that there can be. These issues deserve careful and objective analysis, which is what the Select Committee on Communications is all about.

I hope that the noble Baroness, Lady Howe, who did so much to get the committee formed, is satisfied with the developments that have taken place, and happy that it is continuing. Above all, therefore, I wish the new committee all good fortune in its work.

Motion agreed.

House adjourned at 10.11 pm.

Written Statements

Tuesday 12 October 2010

Animal Procedures Committee: Annual Report

Statement

The Minister of State, Home Office (Baroness Neville-Jones): My honourable friend the Parliamentary Under-Secretary of State for Equalities and Criminal Information (Lynne Featherstone) has today made the following Written Ministerial Statement.

In accordance with Section 20(5) of the Animals (Scientific Procedures) Act 1986, the committee's annual report for 2009 has today been laid before the House. Copies are available in the Vote Office. The report includes details of:

- a committee report and Minister's response on appropriate methods of humane killing for fish;
- a committee report and Minister's response to the strengths and weaknesses of the current system of severity limits as a way of prospectively assessing suffering and severity;
- committee correspondence on progress with the revision of directive 86/609; and
- the committee's programme of work for 2010 onwards.

Armed Forces: Armoured Vehicles

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Haver): My honourable friend the Minister for Defence Equipment, Support and Technology (Peter Luff) has made the following Written Ministerial Statement.

I am pleased to announce the successful outcome of the light protected patrol vehicle (LPPV) competition for a new vehicle to replace the existing Snatch Land Rovers and Weapons Mount Installation Kit (WMIK) vehicles on operations in Afghanistan. Following a rigorous trial and assessment phase, preferred bidder status has been awarded to Force Protection Europe for an initial tranche of 200 vehicles, subject to successful completion of contract negotiations. This initial tranche will be procured through the urgent operational requirements process and we expect the first vehicles to be delivered for training in 2011. Further buys of LPPV will be subject to the confirmation of our wider requirement, which will be confirmed by the strategic defence and security review and defence planning round. Force Protection Europe's vehicle represents leading-edge technology and will provide an unprecedented balance of protection, weight and agility for a vehicle of its class. The vehicle is a new design developed specifically to meet the requirements of UK Armed Forces and is only now possible due to the considerable investment by the Ministry of Defence and UK industry in this technology. LPPV is a UK design and will be manufactured in the UK, creating

or sustaining over 750 UK jobs. LPPV is also ideally placed to take advantage of the export market, which the Government are fully committed to supporting.

CDC Group plc

Statement

Baroness Verma: My right honourable friend the Secretary of State for International Development has made the following Statement.

I wish to inform the House of the Government's decision to reconfigure CDC in order radically to increase its development impact.

CDC has the potential to be the jewel in the crown of the UK's support to the private sector in developing countries. In the past, when its expertise was more developmentally than financially focused, its record of achieving investment returns was at best uneven. Subsequently, the balance has tipped too far the other way. CDC now needs to reinvigorate its development DNA and marry this together with business know-how and financial discipline. It must strive towards both development and financial gains.

As a fund of funds, CDC has in some ways been a remarkable success. In terms of financial performance, we applaud the achievement of turning £1 billion into £2.5 billion since 2004. But CDC has become less directly engaged in serving the needs of development. Using public capital, CDC pursued the narrowly defined private sector goals for which it was incentivised and this meant the greatest return for the least risk. This was not consistent with concentrating its efforts in the regions of greatest development need.

We will create a revitalised CDC with a great deal more clarity and ambition over what it does and where it works.

Specifically, I shall propose that CDC reduce new commitments to future third-party funds and consider the benefits of liquidating some of its existing investments where this can be done on attractive terms. We will not end commitments to new third-party funds since they can be the most appropriate way to mobilise funding in some countries and for some investment purposes. But the fund of funds model should make up no more than part of a new, broader and more actively managed portfolio.

CDC should regain its power to make investments directly in target countries. This could be done through co-investment with other sources of capital where, by doing so, CDC would make possible desirable investments that could not otherwise be made.

In addition to regaining greater investment control, CDC should be committed to participating through a wider range of vehicles, including investment in debt instruments and the provision of guarantees. Greater flexibility will enable it to build a more diversified portfolio in terms of risk, maturity and liquidity.

I should like CDC also to develop a more active approach to portfolio management. Its purpose is to invest in the poorest countries or sectors where capital is otherwise not available—to provide patient capital to finance and kick-start private investment in the most difficult regions.

CDC also needs more financial firepower. It needs to try to find liquidity for its investments so that capital can be recycled more quickly to new targets. We are also exploring how CDC could regain its power to borrow. This would give CDC the ability to move more quickly and more effectively.

CDC must continue to show that it is improving the way in which firms in the poorest countries operate and that it monitors and demands improvements in the conditions under which people work. CDC must also continue to demand more effective treatment of environmental issues, more transparency and a rigorous approach to corruption.

These reforms will enable CDC to become a distinctive, innovative and differentiated development finance institution, with clearly measurable development impact and additionality, and new commitments targeted throughout sub-Saharan Africa and the poorer parts of Asia. I want CDC to be more pro-poor focused than any other development finance institution, doing the hardest things in the hardest places.

Identifying the sectors on which CDC should focus in future is a complex area. The correlation between investment and poverty reduction is not straightforward. The Government want to listen to a wide range of views before taking any decisions. CDC and DfID will commission independent studies, which will be made public on the DfID website, and my department is also launching a consultation, outline details of which will be available on Wednesday 13 October.

Regaining greater power over the investment of capital needs to be staged carefully, will take time and will need resources of human capital additional to the dedicated people working for CDC at the moment. CDC must attract people of the highest calibre, who are passionate about pro-poor investment and whose expertise is rewarded by remuneration that is fair and appropriate, but not excessive. As part of the consultation, I will consider what that remuneration structure should be.

I shall make a further announcement early next year and CDC will reflect the necessary changes in the business plan that it will publish in the spring.

Disabled People: Right to Control

Statement

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): My right honourable friend the Minister for Disabled People (Maria Miller) has made the following Written Ministerial Statement.

On 25 February 2010, the right to control trailblazer sites were announced and a national consultation on the right to control draft regulations, *Making Choice and Control a Reality for Disabled People: Consultation on the Right to Control Trailblazer Regulations*, were published.

We have worked closely with disabled people and their organisations to develop the right to control and continue to do so. Our advisory group, chaired by Baroness Jane Campbell, have co-produced both the policy and the draft regulations.

The consultation period finished on 26 May 2010, with 34 responses received in total from trailblazer sites, disability organisations and individual disabled people. The responses received have helped us to ensure that our trailblazers are supported by the most appropriate regulations possible. Today, with the publication of our government response to coincide with the laying of our draft regulations in Parliament, we are getting closer to achieving our aim of providing disabled people with the choice and control they have told us they want.

We are phasing the introduction of the right to control in trailblazer areas to ensure that the best possible service will be provided to disabled people. The majority of the sites will start to offer the right to control from 13 December, with two of the more complex trailblazers, the Sheffield City Council and Barnsley Metropolitan Borough Council joint trailblazer and the Greater Manchester consortium, commencing on 1 March and 1 April 2011 respectively.

Since the initial announcement of the sites piloting the right to control, Redcar and Cleveland Borough Council has withdrawn from being a trailblazer site. There have recently been significant management changes within the council and it now feels the need to dedicate existing available resources to other priority areas within adult services.

The government response to the right to control regulations consultation, *Making Choice and Control a Reality for Disabled People: Consultation on the Right to Control Trailblazer Regulations*, can be viewed and downloaded from the Office for Disability Issues website at www.odi.gov.uk/right-to-control. Copies of the document will also be placed in the House Libraries.

Higher Education: Funding

Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): My right honourable friend the Secretary of State for the Department of Business, Innovation and Skills (Vince Cable) has today made the following Statement.

Lord Browne of Madingley today presented the Government with the findings of the independent review of higher education funding and student finance.

The review was tasked with making recommendations to Government on the future of fees policy and financial support for full-time and part-time undergraduate and postgraduate students in England.

The report is the culmination of months of diligent inquiry by Lord Browne and his panel of experts. They have taken evidence from a wide range of people including students, the higher education sector and business.

We will judge their recommendations against the criteria set out in the coalition agreement, including the need to:

- increase social mobility;
- take into account the impact on student debt;
- ensure a properly funded university sector;

improve the quality of teaching;
 advance scholarship; and
 attract a higher proportion of students from disadvantaged backgrounds.

I am placing a copy of the report in the Libraries of both Houses. Copies will also be available from both the Vote Office and the Printed Paper Office. Electronic copies are available on the BIS website.

I intend to respond to the report in an oral Statement to the House at 3.30 pm today.

Millennium Development Goals

Statement

Baroness Verma: My right honourable friend the Secretary of State for International Development has made the following Statement.

The Deputy Prime Minister and I represented the UK at the United Nations millennium development goals summit, which took place on 20 to 22 September 2010. World leaders, civil society organisations and prominent business leaders gathered to agree the action needed to meet the millennium development goals by 2015 and to lift millions of people out of poverty.

The UK's main objective for the summit was to secure renewed momentum in the global fight against poverty and to agree an ambitious approach to reaching the millennium development goals by 2015. It was an opportunity to reinforce the UK's reputation as a serious and committed world leader on development. The Deputy Prime Minister reiterated the UK's commitment to reaching 0.7 per cent of GNI in aid from 2013 and challenged others to live up to their promises.

The UK focused its efforts on securing a major push on the most off-track millennium development goals, particularly women's and children's health. UN Secretary-General's Ban Ki-Moon's "Every Woman, Every Child" event launched a global strategy aimed at saving the lives of more than 16 million women and children. At the event, the Deputy Prime Minister set out the UK's new commitment to save the lives of at least 50,000 women in pregnancy and childbirth and of 250,000 newborn babies and to enable 10 million couples to access modern methods of family planning over the next five years.

With the support of UK leadership, the event generated an unprecedented \$40 billion in resources for maternal and child health. As important as the financial commitments was the wide range of partners that came behind the strategy. Developing countries were prominent: Afghanistan and Yemen pledged to increase access to family planning and safe births, and Nigeria committed to spend a share of oil revenues on healthcare. Significant new commitments also came from the private sector (Johnson & Johnson committed \$200 million over the next five years), charities, NGOs (World Vision International committed \$1.5 billion over five years) and international organisations.

The UK also co-hosted a high-profile side event on malaria, which challenged leaders from both rich and poor countries to do more to save lives needlessly lost

every day to this disease. The event succeeded in generating impressive new support. I announced our commitments to help to halve the number of deaths caused by malaria in at least 10 African countries by 2015 by increasing access to malaria prevention, diagnostics and treatment backed by an increase in funding up to £500 million per year by 2014.

I also announced the UK's support for the Scaling Up Nutrition (SUN) "1,000 days" campaign at a side event co-hosted by Hillary Clinton. This initiative and the Nutrition Leaders Group will help to drive this forward.

UK leadership was also commended for its increased focus on results and mutual accountability. The UK pressed and secured an annual review mechanism as part of the summit's outcome document. Work is under way to record all the policy and financial commitments, not just from Governments, made at the summit. There was a clear commitment from the Ban Ki-Moon to ensure that all sides will be held accountable.

The summit ended with the formal adoption of the outcome document *Keeping the Promise: United to Achieve the Millennium Development Goals*, a copy of which will be placed in the Library of the House of Commons. This important document sets out a path towards meeting the MDGs, giving a lifeline to millions of the world's poorest people. The UK Government are now focused on ensuring that we and our partners around the world maximise our efforts to reach the millennium development goals in the next five years and live up to our promises to the world's poorest people.

NHS: Whistleblowing

Statement

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My right honourable friend the Secretary of State for Health (Andrew Lansley) has made the following Written Ministerial Statement.

On 9 June, I made a Statement to the House about the failings of the Mid Staffordshire NHS Foundation Trust (*Official Report*, col. 333). I made clear my intention to hold a full public inquiry into how these failings have continued unchallenged and undetected for so long.

A culture of fear and secrecy had pervaded this trust, leaving its staff feeling unable to raise concerns. Therefore, I set out action needed prior to the publication of the inquiry's findings in March 2011. Specifically, I made it clear that I intended to initiate work on whistleblowing, to improve conditions and procedures for those who wished to raise concerns.

Today, I am launching a public consultation on amendments to the NHS constitution and its handbook, which are concerned with making clear the rights and responsibilities of NHS staff and their employers in respect of whistleblowing.

The consultation proposes three key changes: highlighting existing legal rights of all staff to raise concerns about safety, malpractice or other wrongdoing without suffering any detriment;

introduce an NHS pledge that employers will support all staff in raising such concerns, responding to and where necessary investigating the concerns raised; and

create an expectation that NHS staff will raise concerns about safety, malpractice or wrongdoing at work that may affect patients, the public, other staff or the organisation itself as early as possible.

Responses from all interested parties are welcome. The consultation and response form have been placed in the Library and copies are available to honourable Members in the Vote Office. The documents can also be found at <http://www.dh.gov.uk/en/Consultations/Liveconsultations/index.htm>.

The consultation closes on 11 January 2011.

I am pleased to say that this consultation follows significant progress already made on whistleblowing since June. On 25 June 2010, new guidance was published for the NHS, developed through the Social Partnership Forum (SPF) with expert support and advice from the independent whistleblowing charity Public Concern at Work. Designed to support NHS organisations that are in the process of updating or creating whistleblowing policies and procedures, the guidance promotes best practice. It suggests simple steps to help NHS organisations to ensure that their whistleblowing arrangements are fit for purpose. The guidance can be found on the department's website at www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4050929.

In addition, the NHS Staff Council has negotiated changes to the terms and conditions of service handbook for NHS staff covered by Agenda for Change, to include a contractual right and duty to raise concerns in the public interest. A circular to NHS organisations informing them of these changes was published on 13 September 2010 with immediate effect. Both these are available on the NHS employers website at www.nhsemployers.org/PayAndContracts/Pay%20circulars/Agenda-for-Change/Pages/2010.aspx.

Pakistan: Floods

Statement

Baroness Verma: My right honourable friend the Secretary of State for International Development has made the following Statement.

I would like to update the House on the humanitarian situation in Pakistan following the floods and on the UK Government's response.

It is now nearly two months since the floods hit. The situation, particularly in southern Sindh province, continues to be extremely difficult: 7.3 million people there have been affected and, of this total, 2.3 million people are in need of immediate assistance. Significant shortfalls continue in the distribution of relief across all sectors and capacity to respond is stretched. The World Food Programme continues to drop food rations by air and public buildings such as schools still house tens of thousands of people. The full extent of loss and damage may not be known for several weeks, as many areas remain under water.

In other areas of Pakistan, the situation is mixed. In Punjab, the majority of the 5.3 million people affected have now returned to their home areas and the focus is beginning to shift from emergency relief to early recovery. In Khyber Pakhtunkhwa most of the 3.8 million people affected have returned home and are beginning to rebuild their lives. Approximately 1 million internally displaced persons are gradually returning to Sindh from Balochistan. The monsoon season is now drawing to a close and snow has already been reported in the northern mountainous regions reflecting the seasonal change to winter.

The scale and shifting patterns of both displacement and return mean that it remains a challenge to achieve the necessary pace and scale of response. The UN continues to build up its surge capacity and to improve co-ordination. NGOs are beginning to improve their reach in Sindh province. The Government of Pakistan are responding through the relevant provincial disaster management authorities and are still delivering relief through the Pakistan military in Sindh province.

Meeting the remaining emergency relief and early recovery needs of the critically affected population remains our immediate priority. To date UKaid has helped approximately:

- 900,000 people receive health care services;
- 620,000 people receive clean drinking water;
- 425,000 people benefit from the distribution of over 60,000 hygiene kits;
- 1 million people receive hygiene awareness sessions;
- 420,000 people benefit from shelter kits; and
- 36,000 and 48,000 pregnant and lactating women receive nutritional supplements.

Given the changing nature of the situation, support is now needed to help Pakistan to recover from the floods. On 17 September, the United Nations launched a revised plan to provide a framework for remaining emergency relief needs, but also to help up to 14 million people to get back on their feet and recover from the floods. The total funding requirement stands at just over US\$2 billion (£1.3 billion) over the next 12 months.

The revised UN plan was discussed at a high-level UN meeting on 19 September in New York. At that meeting, I announced an additional £70 million of funding to help to meet remaining emergency relief needs and in particular to support the people of Pakistan to rebuild their lives. UK funding will help to revive agriculture, provide temporary education facilities to get children back into school, help people to rebuild their communities and provide short-term employment opportunities. This brings the UK's total contribution to £134 million, in addition to the £60 million raised through the generosity of the UK public through the Disasters Emergency Committee (DEC) appeal.

I would like to emphasise to the House the Government's commitment to ensuring transparency and value for money. Funding allocations will continue to be made on the basis of rigorous assessments of needs on the ground and will be subject to thorough monitoring and evaluation. None of the resources pledged for relief will be channelled through the Government of Pakistan, in line with standard humanitarian practice.

My department has already begun to allocate the additional funding. In recognition of the ongoing emergency needs of flood-affected people in southern Sindh, we are aiming to address the emergency health and water and sanitation needs of approximately 500,000 people through international and local NGOs at a cost of up to £8 million. I am also pleased to announce that we plan to help to meet the immediate agriculture needs of approximately 850,000 vulnerable people in Punjab, Sindh and Balochistan and the critical winter rabi cropping window in late October/November, at a cost of some £7 million.

Our commitment to the people of Pakistan remains a long-term one. The UK will continue to play a leading role in encouraging others in the international community to step up to the mark. The UK was instrumental in securing a commitment at the European Council on 16 September to develop ambitious trade measures for Pakistan, including the immediate reduction of import duties and improved longer-term access to EU markets through generalised system of preferences (GSP+).

The floods require an exceptional response from the Government of Pakistan as well as from the international community. At the forthcoming Pakistan Development Forum, the Government of Pakistan should set out plans for growth and economic reform as well as reconstruction. The credibility of these plans will determine how donors respond to future reconstruction and development needs.

Transport: Eco-driving Training *Statement*

Earl Attlee: My honourable friend the Parliamentary Under-Secretary of State for Transport (Mike Penning) has made the following Ministerial Statement.

The Department for Transport has today published its response to the consultation on options to increase the uptake of eco-driving training for drivers of large goods vehicles and passenger carrying vehicles.

Consistent with the Government's deregulation agenda, I have decided not to make eco-driving training a mandatory part of the driver certificate of professional competence at this time.

I will instead respond to industry assurances that it will have the will to increase uptake of eco-driving training without direct government intervention, and will encourage and support industry-led initiatives to improve fuel efficiency and tackle carbon emissions, of which a number have emerged as a result of this consultation.

In 2012, the department will review the level of uptake of eco-driving training and fuel savings resulting both from these industry-led initiatives and from voluntary uptake as part of the driver CPC and will reconsider the case for government intervention.

I have placed copies of the consultation response document and associated impact assessment in the Library of the House.

Written Answers

Tuesday 12 October 2010

Crime: Violence

Question

Asked by **Lord Rosser**:

To ask Her Majesty's Government what are the trends in violent crime in the past 15 years. [HL1441]

The Minister of State, Home Office (Baroness Neville-Jones): There are two main sources of official statistics on trends in crime; the British Crime Survey and police recorded crime. Both sets of statistics have different strengths and weaknesses and provide an incomplete picture.

Statistics on the number of incidents of violent crime from the two sources are published annually in the *Home Office Statistical Bulletin, Crime in England and Wales*, a copy of which is available in the House of Commons Library.

It is important that crime statistics are robust and trustworthy so that the public can have faith and confidence in them and this is why we are reviewing how crime statistics should be collected and published in the future.

Energy: Tariffs

Questions

Asked by **Lord Corbett of Castle Vale**

To ask Her Majesty's Government whether they will introduce minimum standards for energy tariffs as part of the requirement that energy bills inform customers of the cheapest tariff available from their current supplier in the upcoming Energy, Security and Green Economy Bill. [HL2396]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Lord Marland): Providing customers with information about their supplier's cheapest tariff is about giving them the information they need to take control of their household energy costs. We are working on the details of this proposal but we are clear that cheapest tariff information needs to be presented in a straightforward and meaningful way to consumers.

Ofgem has recently introduced new overarching standards to prevent the selling of products that are inappropriate to a customer's needs or offer products that are unnecessarily complex or confusing.

In a recent open letter to suppliers, Ofgem reminded suppliers of their obligations under these standards. A copy of this letter is available online at http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents/Open_letter%20on%20transparency.pdf.

Asked by **Lord Corbett of Castle Vale**

To ask Her Majesty's Government whether they will ensure that the price of a tariff is guaranteed for as long as it takes to complete a switch, as part of the requirement that energy bills inform customers of the cheapest tariff available from their current supplier in the upcoming Energy, Security and Green Economy Bill. [HL2397]

Lord Marland: Providing customers with information about their supplier's cheapest tariff is about giving people the information they need to take control of their household energy costs.

If a customer agrees a contract for a fixed-rate tariff then, subject to the terms and conditions of this tariff, they will be guaranteed the agreed price upon completion of the switching process.

If a customer agrees a contract for a variable tariff then the price of that tariff may change during the switching process, subject to the terms and conditions of that tariff. In these circumstances, consumers have the right to transfer to a different tariff or supplier without having to pay the increased charges, providing they inform their supplier within 20 working days of receiving the notification of a price change.

Immigration

Question

Asked by **Lord Condon**

To ask Her Majesty's Government how many people have benefited from the Global Calais Project; and what is the total amount of money provided to returnees. [HL2267]

The Minister of State, Home Office (Baroness Neville-Jones): The Global Calais Project was established in February 2009. Since then, 154 people have so far benefited from receiving reintegration assistance in their countries of origin.

No cash is given to migrants under the project. Reintegration assistance is provided in-kind, through vocational training, business set-ups, education or job placements and is worth up to €4,000. It is administered by the International Organisation for Migration. Up until the end of September 2010, £344,107 of reintegration assistance has been provided under the project.

Northern Ireland: Security

Question

Asked by **Lord Eames**

To ask Her Majesty's Government what is their assessment of the security situation in Northern Ireland. [HL2148]

Lord Shutt of Greetland: The threat level in Northern Ireland remains at severe, meaning terrorist attacks are highly likely. So far this year there have been 37 attacks. My right honourable friend the Secretary

of State for Northern Ireland, the local Justice Minister and the chief constable are all working extremely closely to combat the dissident threat and the security forces continue to exert pressure and pursue these terrorist groupings. PSNI has many more police officers back on the street and is continuing to invest in the right capability and technology to tackle the threat. So far this year there have been 167 arrests and 58 persons charged with terrorist offences. This compares to 106 arrests and 17 charges in the whole of 2009.

Papal Visit

Question

Asked by Lord Kilclooney

To ask Her Majesty's Government what was the cost of the previous three state visits by Heads of State to the United Kingdom prior to the state visit of Pope Benedict XVI. [HL2157]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): This information is not held centrally in the form requested and is only available at disproportionate cost.

The full cost of inward state visits are borne by a number of different agencies. The Foreign and Commonwealth Office pays Buckingham Palace for some aspects of inward state visits including hotel accommodation and transport for the official delegation, staffing costs and the cost of the state banquets. There are a number of other costs covered by other agencies, including policing and ceremonial costs. The cost of the papal visit is not comparable to that of inward state visits.

Passports

Questions

Asked by Lord Roberts of Llandudno

To ask Her Majesty's Government how many personal passport interviews took place in (a) 2008, (b) 2009, and (c) the first six months of 2010. [HL2144]

The Minister of State, Home Office (Baroness Neville-Jones): Personal passport interviews are conducted through the interview office network of the Identity and Passport Service. The recorded number of personal passport interviews undertaken in 2008 was 286,444. In 2009 there were 291,190 and from January to June 2010, 163,982 interviews have taken place.

Asked by Lord Roberts of Llandudno

To ask Her Majesty's Government how many applications for passports were rejected following personal interviews in (a) 2008, (b) 2009, and (c) the first six months of 2010. [HL2145]

Baroness Neville-Jones: Identity interviews were added to the passport process primarily to address first time application fraud through deterrence and fraud detection arising from a personal interview.

In 2008 one application was refused as a direct result of a confirmation of identity interview. In 2009 two applications were refused as a result of this process and a further two were refused up to the end of August 2010. In addition to the five instances of confirmed fraud mentioned above, applications have also been withdrawn when customers are advised that an identity interview is required. From September 2007 to August 2010, 3,153 applications were withdrawn at this stage. Together this information underlines the usefulness of the interview as a deterrent to those attempting to make a fraudulent passport application. Notwithstanding this IPS is currently reviewing its interview processes to improve on fraud prevention and deterrence.

People Trafficking

Question

Asked by Lord Roberts of Llandudno

To ask Her Majesty's Government when they will opt in to the European Union Directive intended to co-ordinate European efforts to combat human trafficking for sexual purposes. [HL2143]

The Minister of State, Home Office (Baroness Neville-Jones): The Government decided not to opt in to the directive at the outset, but to review the position once the directive has been agreed. We still have the option of applying to opt in at a later stage.

Police Commissioners

Question

Asked by Lord Hunt of Kings Heath

To ask Her Majesty's Government what response they have received to their proposals for elected police commissioners. [HL2100]

The Minister of State, Home Office (Baroness Neville-Jones): Formal consultation on the proposals to introduce directly elected police and crime commissioners ended on 20 September. Responses have been submitted by a range of key policing stakeholders and individuals and these will now be considered before the publication of the Government response later this year.

Prisoners: Release

Question

Asked by Lord Avebury

To ask Her Majesty's Government whether, in the case of a prisoner given an indeterminate sentence for public protection, they will treat the prisoner as if they had undergone any course specified, if they have reached their tariff but have not been able to do the course for reasons beyond their control. [HL2227]

The Minister of State, Ministry of Justice (Lord McNally): Once an indeterminate sentence prisoner's tariff has expired, it is for the independent Parole Board and not the Secretary of State to determine whether the prisoner should be released from custody

into the community. The board will direct the release of a tariff-expired prisoner only if it is satisfied that it is no longer necessary on the grounds of public protection for the prisoner to be detained in custody.

In making its determination, the Parole Board takes into account a wide range of factors, of which attendance on accredited programmes or courses is just one. Other factors include the behaviour and attitudes exhibited by the offender whilst in custody, his progress in respect of education and training, as well as his response to any other interventions.

Ultimately, it is for the prisoner to demonstrate to the Parole Board that his risk of harm has been reduced to the extent where he may be safely managed in the community.

Queen's Diamond Jubilee

Question

Asked by Lord Roberts of Llandudno

To ask Her Majesty's Government what plans they have to celebrate Her Majesty the Queen's diamond jubilee in 2012. [HL2147]

Lord Shutt of Greetland: The Government have put in place the necessary arrangements to create a special four-day Jubilee weekend over the first week in June in 2012. This will allow communities to come together to celebrate the Queen's Diamond Jubilee. Although planning for the Diamond Jubilee is still at an early stage, we are considering a number of ideas and working closely with Royal Household colleagues who are developing a programme of events for 2012. Further details are available at www.culture.gov.uk/diamondjubilee.

Roads: Congestion

Question

Asked by Lord Lea of Crondall

To ask Her Majesty's Government what research they are undertaking into the cost to the economy of road traffic congestion due to the school run compared with 20 years ago. [HL2315]

Earl Attlee: There is currently no research being undertaken into the cost to the economy of road traffic congestion due to the school run.

Roads: Maintenance

Question

Asked by Lord Trefgarne

To ask Her Majesty's Government what is their assessment of the progress made with the road works in South Kensington around the museums and along the Brompton Road. [HL2266]

Earl Attlee: Local road works are a matter for the relevant local highway authority, which in this case would be either Transport for London or the Royal Borough of Kensington and Chelsea.

Taxation: Corporate Tax

Question

Asked by Lord Stoddart of Swindon

To ask Her Majesty's Government what is their position regarding the United Kingdom's participation in any scheme using the enhanced co-operation provisions of the Treaty of Lisbon to establish a common corporate tax. [HL2291]

The Commercial Secretary to the Treasury (Lord Sassoon): There is currently no proposal from the European Commission for the European Union to establish a common consolidated corporate tax base. The question of establishing one by enhanced co-operation is therefore not relevant at this time.

Vehicles: Automatic Plate Recognition

Question

Asked by Lord Hunt of Kings Heath

To ask Her Majesty's Government whether they will ensure that closed circuit television cameras installed in Sparkbrook, Sparkhill, Washwood Heath and Kings Heath are removed following the independent review of their installation. [HL2308]

The Minister of State, Home Office (Baroness Neville-Jones): Project Champion, to which you refer, is an operational matter for West Midlands Police. Chris Sims, Chief Constable of West Midlands Police, issued a statement on 30 September 2010 which included the following key points:

the Chief Surveillance Commissioner, Sir Christopher Rose, has confirmed that no cameras associated with Project Champion have ever been used, and that all the covert cameras have been removed; and all the overt cameras are covered up and will remain so until their future has been determined, following work with a new project board which has strong community representation.

In both the coalition agreement and the Queen's Speech the Government have made a commitment to re-examine the balance between civil liberties and national security and to ensure proportionality and necessity. This commitment includes a planned review of all counterterrorism legislation and measures, including the regulation of both CCTV and automatic number plate recognition (ANPR) cameras.

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