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House of Lords

Tuesday, 23 November 2010.

2.30 pm

Prayers—read by the Lord Bishop of Lincoln.

Health: Hydrotherapy

Question

2.36 pm

Asked By ***Baroness Thomas of Winchester***

To ask Her Majesty's Government whether they have commissioned any research into the benefits of hydrotherapy for people with progressive conditions.

Baroness Northover: The health technology assessment programme has published research on the effectiveness of hydrotherapy for lower-limb osteoarthritis and for juvenile idiopathic arthritis.

Baroness Thomas of Winchester: I thank my noble friend for that Answer, which seemed rather brief and limited in its scope. I would like the Minister's advice about how those concerned with this question could persuade the National Health Service of the benefits of ongoing hydrotherapy for people with progressive conditions who will never fulfil the criterion of a positive outcome that one might have with a broken leg. I am thinking in particular of boys with Duchenne muscular dystrophy. The sad truth is that hydrotherapy in this country is better known as a treatment for horses and dogs than for people.

Baroness Northover: Surely not. My noble friend has done a great deal herself to promote the potential psychological and physical benefits of hydrotherapy, and I am sure that she will continue to do so. Following her conversations with me over the past week or so, and at her request, I have sought for her and for other noble Lords with an interest in this area a meeting with the relevant Minister in the Department of Health, my honourable friend Anne Milton. That has been agreed and therefore I hope that the noble Baroness and others will be able to take this further forward.

Lord Walton of Detchant: My Lords, is the noble Baroness aware that the All-Party Parliamentary Group on Muscular Dystrophy last year carried out a major survey of facilities across the UK for patients with Duchenne muscular dystrophy—to which the noble Baroness referred—and discovered that boys with that very serious progressive disease who live in places like Newcastle, Oxford, London around Queen Square, and Oswestry, survive into their 30s and sometimes even their 40s, whereas in other parts of the UK they still die in their teens? There is evidence that in the rehabilitation of these patients, hydrotherapy plays an extremely important role. What efforts are the Government making to make certain that this form of treatment, which is invaluable, becomes more widely available across the United Kingdom?

Baroness Northover: My Lords, I am well aware of the report in the name of the noble Lord, Lord Walton. It is a most impressive report that had an effect on the then Government. We are doing our best to take that forward. One thing that struck me when I looked at the research in this area was its paucity. The Department of Health can do so much, but clinicians can do a lot more. It is worth bearing in mind that the use of hydrotherapy is a matter for clinical judgment. By and large, clinicians and patients must take this forward. Therefore, it is very important that clinicians undertake research with larger groups of patients than has been the case heretofore. Anything that the noble Lord can do to promote that would be extremely welcome.

Baroness Thornton: My Lords, I say to the Minister that this is also a matter of resources. Is she aware of the potential benefits of hydrotherapy for people with long-term conditions, such as stroke, Parkinson's disease and multiple sclerosis? How will she ensure that hydrotherapy treatment is both continued and expanded for key groups when funding is transferred from PCTs to GPs, and how will the Government support GPs in the effective commissioning of these expensive rehabilitation and reablement treatments for people with these long-term and progressive conditions?

Baroness Northover: As the noble Baroness will recognise, the provision of this treatment up and down the country has been an ongoing problem. It is something that the previous Government tried to tackle, and the emphasis then, as now, was very much on local decision-making. However, the national commissioning board will be looking at the provision of specialised services and will try to ensure that, where there is this kind of need for a small group of patients, provision is catered for. At the moment, as the noble Baroness knows, the Department of Health is assessing the results of the consultation on the White Paper, which has just closed, and proposals on specialist commissioning will be brought forward. However, it is extremely important to recognise that this is not a new problem and it is not an outcome of the proposed changes.

Lord Campbell of Alloway: My Lords, perhaps I may ask a very simple question. Are no steps to be taken until we have a report from various quarters? What is the position? We have heard a lot but I cannot understand what is to be done.

Baroness Northover: I apologise if I have not been clear, and I shall try to be clearer. PCTs currently commission locally for hydrotherapy. Physiotherapists decide whether their patients need hydrotherapy and, if they or clinicians recommend that that is what the patients need—and in many cases it is not advised because there could be infection, balance or other problems, so it is not ideal for all patients—the PCT commissions the treatment locally. That will continue to be the case, as it will under GP consortia but with the umbrella protection of ensuring with the commissioning board that specialist care is not squeezed out by an emphasis on what the majority need locally.

Baroness Finlay of Llandaff: My Lords, as the Government are establishing an outcomes framework for the delivery of treatments, are they looking specifically to have a very flexible and alternative model for those with long-term conditions which takes account of the benefits in terms of both quality of life and welfare, and which also takes account of the avoidance of problems such as the earlier onset of contractures in those with neuromuscular disorders or neurological damage?

Baroness Northover: I thank the noble Baroness for that question as it enables me to point out, as she will know, that one element of the proposed NHS outcomes framework is enhancing the quality of life of people with long-term conditions. That is relevant here—it is not just a matter of seeing whether someone's leg mends after it has been broken. I heard from my noble friend about the experience of the noble Baroness, Lady Campbell, and about the psychological benefit to her of having hydrotherapy. It is not simply a matter of physical benefit; there is also a psychological benefit.

Sport: Rugby League World Cup 2013

Question

2.44 pm

Asked By ***Lord Hoyle***

To ask Her Majesty's Government what financial contribution they will make to the Rugby Football League in respect of the Rugby League World Cup 2013.

Lord Hoyle: My Lords, I seek permission to ask the Question standing in my name on the Order Paper. In doing so, I declare an interest as president of Warrington Wolves Rugby League Club, winners of the Rugby League Cup at Wembley in 2009 and 2010.

Baroness Garden of Frognal: My Lords, the Government are committed to staging the greatest sporting events in the world and the Rugby League World Cup is among them. The coalition agreement makes clear our commitment to the success of the Rugby League World Cup and we are working with the Rugby Football League to that end. Our proposals include financial underwriting comparable to that offered to the Rugby Football Union for its 2015 World Cup.

Lord Hoyle: My Lords, I thank the Minister for that constructive reply. Will the Government underwrite the Rugby League World Cup to the extent that it was underwritten by the regional development agencies under the previous Government; namely, to the sum of at least £1.5 million?

Baroness Garden of Frognal: My Lords, I pay tribute to the noble Lord for his expertise and his longstanding support for Rugby League, as he has already demonstrated to the House. He refers to a letter from my honourable friend Hugh Robertson. In fact, the Northwest Regional Development Agency contracted with the RFL to provide £1 million to support staging the event in exchange for a specified number of games taking place in its region. Due to the abolition of the RDAs, that position is under review. The RDAs have not yet operated their break clause, so the expectation is that at least £500,000 will be honoured, and potentially the full amount. That will be in addition to the Government's offer of support. In the interests of brevity, I shall not go into the details of that at this stage.

Lord Prescott: My Lords, what is the thinking that justifies 40 times the amount of money for a Rugby Union Cup Final as opposed to a Rugby League Cup Final and World Cup Final? The RDAs were offering £1 million, but the Government are now abolishing them. Is not the reality that the noble Baroness belongs to a department that does not have an elected northern member in it, so reflecting the north-south issue, with, once again, disadvantage to the north?

Baroness Garden of Frognal: My Lords, I thank the noble Lord. As the daughter of a Lancastrian and a Durham mother, I may possibly stand for the north, but that is perhaps a little far-fetched. The noble Lord mentions the difference between the two fees. The tournament fee for the Rugby Union World Cup was part of the commitment demanded in the bidding process, but there was no such tournament fee for the Rugby League World Cup. In the interest of fair treatment, the Government have said that the underwriting should be pro-rata, with a provision of up to £625,000 should the event not make the projected £2 million profit. That has been agreed with the Treasury and needs to be formally agreed by Parliament. The Rugby League Board is still considering the proposals made by the Government and we await its response, probably early in December.

Lord Mawhinney: My Lords, as regards world sporting events, I declare an interest as deputy chairman of England's 28-team World Cup bid. I thank my noble friend and, through her, the coalition Government, for their willingness to support the guarantees which FIFA required and to which, in all fairness, the previous Government also signed up, to enable our bid to be made. I also thank the Prime Minister for the very active and personal support which he is giving to the bid, the decision on which will be made next week.

Baroness Garden of Frognal: My Lords, I thank my noble friend for that very constructive and helpful question. I assure him that the Government remain fully behind England's 2018 bid and will continue to support the bid in any way possible in the build up to FIFA's decision on 2 December.

Baroness Billingham: My Lords, perhaps I may press the Minister further on this matter. We have listened with great interest to her thoughtful replies. Is there not a moral obligation here? We have a situation in which the Rugby League organised sponsorship of £1 million from the RDA and then the RDA is swept away and it is left without support. In those circumstances, I should have thought that the Government, as perpetrator of the sweeping-away, would immediately step in and say, "We will fully underwrite it"—not half of it. I think the Minister must take this back to the DCMS and press much more firmly for fair treatment for a very important sport.

Baroness Garden of Frognal: My Lords, at the risk of incurring the wrath of noble Lords opposite, I repeat that we are not in such pleasant financial circumstances that we can honour all sorts of commitments across the board. The noble Baroness comes up again with the parity of treatment. We recognise that Rugby League and Rugby Union are two different codes of the sport. We are aware that they have some common interests and indeed they have swapped players, although not always highly successfully. The coalition agreement explicitly commits to parity to ensure that the 2013 Rugby League World Cup and the 2015 Rugby Union World Cup are successful.

Lord Addington: My Lords, does my noble friend agree that to say that it is a north-south divide is flying in the face of the work of the Rugby League, which has spent god knows how many years trying to penetrate the south to get a participation base? Should it not be encouraged to continue doing so and should not people be encouraged to get out of their laagers?

Baroness Garden of Frognal: I thank my noble friend for that—in rather more robust language than I would have used. Indeed, Rugby League has a tremendous lot to commend it as a sport. It would be ideal if it could penetrate the south of the country as much as the north. It is a parallel sport, if you like, to Rugby Union, and both codes of the sport should be equally supported and have equal merit.

Lord Brooke of Alverthorpe: Would the Minister confirm—I welcome this—that £25 million of underwriting is going into Rugby Union but that for Rugby League the amount is only £625,000, which is substantially less than the amount of money that it sought from the RDAs to put in its bid for the 2013 Rugby League World Cup? Will she say why there is such a wide variation? She used the phrase "parity of treatment". Will she define what the parity of treatment is because, prima facie, it does not look like fair treatment, especially given that the £25 million underwriting for Rugby Union has not changed, yet that for Rugby League has?

Baroness Garden of Frognal: The noble Lord will be aware that the systems for putting in bids for Rugby Union and Rugby League are different and the government response is in proportion to the requirements for both those bids.

Lord Glentoran: Does my noble friend agree that sport across the kingdom and school sport are being seriously cut? Why are these large sums being put forward for very rich and popular sports?

Baroness Garden of Frognal: My Lords, school sport funding is a debate for a different occasion. However, I assure noble Lords that this Government are fully committed to sport in schools.

Noble Lords: No!

Baroness Garden of Frognal: I assure noble Lords that we are, and when the detail of the proposals that are being put forward for sport in schools comes out, I hope noble Lords will agree that there will be all sorts of opportunities for young people across the country to participate in competitive sport.

Immigration: Home Office Procedures

Question

2.52 pm

Asked By ***Baroness Gardner of Parkes***

To ask Her Majesty's Government whether they will review the procedures and paperwork required by the Home Office from applicants for immigration or residential status.

The Minister of State, Home Office (Baroness Neville-Jones): My Lords, online forms containing guidance have already been introduced on the UK Border Agency website to make things easier for applicants. Next year, tier 4 student applicants, which comprise the largest category, will be able to create their own customer account to assist them to complete their online application, pay for it and view its progress. All immigration application forms will be available online by 2015, and the aim is to simplify and clarify application procedures in all categories.

Baroness Gardner of Parkes: I thank the Minister for that reply. My question relates to long-term residency in the UK, and I declare an interest in that I have had the right of abode for many years and have been here for 50 years. Why were new regulations introduced in 2006 requiring everyone to resubmit documents? In 1985 I had a letter saying that no repeat would ever be required, but in 2009 I was told that I must resubmit all originals. I am getting the same complaint from many people. Will the Minister also comment on the Canadian lady who, just this week, after 60 years in the UK, was stopped at the airport as an illegal immigrant?

Baroness Neville-Jones: My Lords, the aim of the 2006 regulations, which were brought into effect by our predecessors, appears to have been to cut down on fraudulent claims to the right of abode by ensuring that the validity of the certificate of entitlement which applicants have to have was limited to the lifetime of the passport to which it was attached. Requiring new certificates of entitlement enables a further check on the genuineness of the eligibility to take place. As regards the Canadian lady, on the basis of the press reports—and I have no other information—it would appear that this lady, who was allowed into the country, will be able to claim her right of citizenship through descent. I think that she will have no problem in doing that, and of course she will not have to pay.

Lord Avebury: My Lords, will my noble friend put copies of all the paperwork in the case of Anwar and Adjo in the Library, including the judgment of Lord Justice Sedley in which he said that "a shameful decision" had been made—the effective criminalising and enforced removal of an innocent person without either worthwhile evidence or the opportunity to answer? Lord Justice Sedley went on to request that the misuse of the powers of one of the great offices of state should be drawn to the attention of the Home Secretary. Has that been done, and what remedies is the Home Secretary providing for this misuse of powers?

Baroness Neville-Jones: My Lords, I am afraid that I am not familiar with this case, which obviously the noble Lord is interested in, in detail. I will write to him.

Lord Pearson of Rannoch: My Lords, have the new Government amended the guidelines which the last Government gave to immigration officers instructing them to allow the second, third and fourth wives of Muslim men, together with their attendant children, to live in this country,

"even if that sets up a polygamous marriage in the United Kingdom"?

Baroness Neville-Jones: My Lords, I am afraid that I am not familiar with that provision. I understand why the noble Lord is asking the question; I fear that I will have to look into the matter and perhaps write to him.

Lord Hylton: My Lords, as regards asylum applicants—which is a part of this larger question—is the noble Baroness aware that the UK borders authority operates a dispersal programme and system? Will she encourage it by all possible means also to disperse its centralised Croydon office to the regions so that applicants do not have to travel huge distances at great inconvenience for their principal interviews?

Baroness Neville-Jones: My Lords, is this in relation to passport applications? Is that the question the noble Lord is asking?

Lord Hylton: No. It is to do with asylum applications.

Baroness Neville-Jones: My Lords, I will have to see what can be done. This seems rather distant from the original Question.

Lord Hunt of Kings Heath: My Lords, can the noble Baroness answer this one? She will be aware that, a few months ago, the previous Government published a draft Bill on simplifying the immigration law. Contained within it was a proposal on information, to bring together piecemeal powers to require and supply information through specific gateways. Will the Government be taking that forward?

Baroness Neville-Jones: My Lords, I am afraid that I do not know. You will have to wait and see.

Lord Phillips of Sudbury: My Lords, I express an interest as a lawyer whose firm does a lot of immigration and asylum work, and I preface my question by saying that what I have to ask has no effect on the numbers coming in. As my noble friend the Minister will know, the previous Government tried their best to simplify the procedure for those applying for immigration and asylum and to move to a points-based system. The situation now, however, is that the questionnaire that applicants have to fill in is 60 pages of technical, concentrated stuff. If they get any aspect of it wrong, they fail. Legal aid is being withdrawn for asylum. Will my noble friend at least review the questionnaire process in order to simplify and clarify it?

Baroness Neville-Jones: My Lords, we should try to make these procedures as comprehensible, simple and clear as we can, consistent with having to acquire the correct information. We will see what we can do.

Abattoirs: CCTV

Question

2.59 pm

Asked By ***Lord Greaves***

To ask Her Majesty's Government whether they will encourage or require the installation of closed circuit television cameras in abattoirs.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): My Lords, we recognise that CCTV can play a role in helping slaughterhouse operators monitor welfare and we welcome recent industry-led initiatives to install CCTV on a voluntary basis. We have no powers to require CCTV installation in abattoirs.

Lord Greaves: My Lords, I thank the noble Lord for that half-helpful Answer. Has he seen the appalling CCTV images which have been put on to the internet by the charity Animal Aid, and does he agree with Tim Smith, chief executive of the Food Standards Agency, that they are,

"sickening … It doesn't really matter how this footage was obtained or how it came into our presence"?

He went on to make it clear that what is important is that something should be done about it. Will the Minister join me in congratulating Morrisons on agreeing to install CCTV in the three abattoirs it owns and controls, including the Woodhead Bros abattoir, which is a major employer in the Lancashire town of Colne where I live.

Lord Henley: My Lords, obviously I offer my congratulations to Morrisons because we would encourage all owners of abattoirs to install CCTV if that is necessary. However, I stress to my noble friend that although I have not seen the film, we do not condone animal cruelty of any sort. We will ensure that all allegations of the ill treatment of animals are fully investigated and, where necessary, prosecutions are made.

Lord Pearson of Rannoch: My Lords, if that is so, should not those of us of the Christian culture, with our attendant laws for animal welfare, understand the practice of halal slaughter, and also be told when we may be eating that meat and therefore supporting the practice?

Lord Henley: My Lords, I believe that that is another Question, but I can say that we have no plans whatever to make the practice of halal or kosher killing illegal. However, we think that it is worth considering the appropriate labelling of all meat so that people know exactly what it is that they are eating and how the meat has been killed.

Baroness Parminter: My Lords, given that Defra recently refused to prosecute practices which seemed to be contrary to the law on the grounds that the evidence had been illegally obtained, can the Minister inform the House how, without mandatory CCTV, slaughterhouse enforcement can be improved?

Lord Henley: My Lords, there are many factors other than compulsory CCTV; it is important to have vets working in all abattoirs and for inspections to

take place at an appropriate level. I can assure my noble friend that any decision on whether to prosecute will be taken by independent prosecution lawyers; Ministers have no say in it. In the case that my noble friend refers to, the independent prosecution lawyer took into account previous court decisions which make it clear that evidence which has been unlawfully obtained cannot be used and will be excluded in such cases.

Baroness Quin: My Lords, given the alarming footage referred to by the noble Lord, Lord Greaves, and the disturbing report in the *Independent* last Friday, can we have an assurance that despite the decision made on court proceedings, not only will Defra's commitment to animal welfare be reinforced rather than weakened, but the cuts imposed by the Department for Communities and Local Government will not impact on the ability of local authorities to carry out their important animal welfare role in monitoring abattoirs and markets?

Lord Henley: My Lords, of course they will not affect the role of local authorities in that regard. What is important is that Defra, through the Food Standards Agency, will continue to make sure that abattoirs are operating carefully, and we will make sure that appropriate funds are available for that. We are also going to consult on whether we should look to a full costs recovery scheme for the costs of monitoring what goes on in abattoirs, but obviously that is something which has to be discussed with the industry.

Lord Palmer: My Lords, given that the coalition Government have made it quite clear that the noble Lord's department in particular wishes to cut red tape, insisting that every abattoir has CCTV would surely go against its principles.

Lord Henley: My Lords, we have no power to insist that every abattoir should have CCTV, and that will be made even clearer when the latest EU regulation, Regulation 1099/2009, comes into effect. We will continue to encourage all abattoirs to install CCTV, but that is only one method of ensuring that appropriate monitoring takes place. There are other tools that can be used.

Lord Mackenzie of Framwellgate: My Lords, given the evidence that CCTV prevents and detects crime on the streets, can the Minister explain why the coalition intends to reduce coverage on the streets by CCTV?

Lord Henley: My Lords, that is a completely different question from the one on the Order Paper and has nothing whatever to do with slaughterhouses.

Lord Tebbit: Can my noble friend tell me whether the European Union has power to enforce CCTV in abattoirs?

Lord Henley: My Lords, my understanding is that the new regulation to which I referred—EU Regulation 1099/2009, which was agreed under the previous Government's administration and came into force in 2009—constrains the use of national rules and would prohibit government action to require compulsory installation of CCTV in the future.

Lord Dykes: Can the Minister enlighten the House by saying how many prosecutions of abattoir operators there have been in the past five years?

Lord Henley: I cannot give a precise figure. However, I can assure my noble friend that there have been prosecutions since the current Government came into office.

Arrangement of Business

Announcement

3.06 pm

Baroness Anelay of St Johns: My Lords, immediately after the debate on the second group of amendments of the Public Bodies Bill, my noble friend Lady Neville-Jones will repeat a Statement on controlling migration.

Lord Bassam of Brighton: My Lords, in connection with the business of the day announcement which the noble Baroness, Lady Anelay, has just made on the Statement on immigration, I bring to the attention of the House what we believe to be a serious matter in relation to the Savings Accounts and Health in Pregnancy Grant Bill and the role of your Lordships' House as a revising Chamber. We understand that an announcement is to be made shortly on this Bill, setting out that the Commons has passed the Bill and presenting it for its First Reading here in your Lordships' House. The *Companion* makes clear that the First Reading of a Bill is agreed without dissent or debate, and I fully intend to stand by that provision if, as we expect, the Bill is presented for First Reading. However, we understand that the Speaker in another place has declared that the Bill is a money Bill and is therefore covered by Commons financial privilege. The net effect of this is that this House will be unable to consider and debate the Bill and propose any amendments to it in its normal role as a revising Chamber.

The three provisions that the Bill seeks to modify were fully and properly considered in primary legislation in both Houses of Parliament, and we consider it a constitutional outrage for this House to be so prevented from considering the subsequent Bill, which will cut these payments now. If such a Bill is declared a money Bill then any such legislation can be designated in this way, again thereby attacking the role of this House as a revising Chamber and an important part of the checks and balances of our constitutional arrangements. In seeking to bring this important matter to the attention of the House we give notice that we will oppose this Bill at Second Reading and its declaration as a money Bill. Again, I believe that the Government are not conducting legislation in an entirely proper way.

Baroness Anelay of St Johns: My Lords, I hope the noble Lord, Lord Bassam, will consider and reflect carefully on the latter part of his choice of words.

I remind the House of the guidance in the *Companion*. Paragraph 8.196 states:

"A money bill is a bill endorsed with a signed certificate of the Speaker of the House of Commons that it is a money bill because in the Speaker's opinion it contains only provisions dealing with national, but not local, taxation, public money or loans or their management. The certificate of the Speaker is conclusive for all purposes".

[Baroness Anelay of St Johns]

In addition, the *Companion* is clear that criticism of rulings of the Commons Speaker is out of order. Paragraph 4.44 states:

"Criticism of proceedings in the House of Commons or of Commons Speaker's rulings is out of order, but criticism may be made of the institutional structure of Parliament or the role and function of the House of Commons".

That debate is better had at Second Reading within that context.

Lord Bassam of Brighton: My Lords, I am sure that that is entirely right. We will of course abide by those provisions and raise these matters at Second Reading, but, I repeat, all three of these issues were properly and fully considered by this House at all stages of those pieces of legislation. That is a record of which we should be proud.

Savings Accounts and Health in Pregnancy Grant Bill

First Reading

3.10 pm

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

Apportionment of Money in the National Lottery Distribution Fund Order 2010

Motion to Approve

3.11 pm

Moved by ***Baroness Garden of Frognal***

That the draft order laid before the House on 14 October be approved.

Relevant document: 4th report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 17 November.

Motion agreed.

Official Statistics Order 2010

Motion to Approve

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

That the draft order laid before the House on 13 October be approved.

Relevant document: 4th report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 17 November.

Motion approved.

Public Bodies Bill [HL]

Committee (1st Day)

Relevant documents: 5th and 6th reports from the Delegated Powers Committee.

3.12 pm

Clause 1 : Power to abolish

Amendment 1

Moved by ***Lord Lester of Herne Hill***

1: Clause 1, page 1, line 3, at beginning insert "Subject to section (Restrictions on ministerial powers),"

Lord Lester of Herne Hill: My Lords, the amendment stands in my name and that of the noble Lord, Lord Pannick. I shall speak also to some other amendments in my name and that of others that are in this group.

In his reply to the Second Reading debate on 9 November, the Minister responded positively to the serious concerns raised across the House and undertook to meet them by devising a parliamentary procedure that would,

"ensure proper public consultation and enhanced parliamentary scrutiny … We will also seek to amend the Bill to include safeguards to give independence to public bodies against unnecessary ministerial interference when performing technical functions, and when their activities require political impartiality and the need to act independently to establish facts".

The Minister also undertook to see whether some of the bodies needed to be removed entirely from Schedule 7, and to address concerns,

"about bodies that deal with matters relating to the judiciary or otherwise to the administration of justice".—[*Official Report*, 9/11/10; Col. 184.]

The Minister explained that the detailed and expert scrutiny by the Delegated Powers and Regulatory Reform Committee and the Joint Committee on Human Rights, as well as the Constitution Committee, would all need to be taken into account. The Joint Committee on Human Rights, on which I serve, has just met. It is awaiting a human rights memorandum from the Cabinet Office and hopes to report before Report.

The Minister's positive response was welcome. He and his advisers have been generous in meeting noble Lords for further discussions. The Delegated Powers and Regulatory Reform Committee published its report on the Bill three days later on 12 November.

Amendment 1 is important because it would pave the way for the proposed new clause to place restrictions on the powers conferred by the Act to act by way of delegated rather than primary legislation whenever Ministers intend to abolish or interfere with the constitutional arrangements, funding or management of the many disparate public bodies within the Bill's reach. It is more than just a paving amendment since it is linked with the proposed new clause in Amendment 175, which would set clear limits on the exercise of the wide powers delegated to Ministers by the Bill. Taken together, Amendments 1 and 175 would perform the essential purpose of making Ministers accountable to the courts for breaches of well-known standards of public administration. I hope that the Minister will accept Amendment 1, or its effect, thereby leaving himself time before Amendment 175 is reached to modify his position on the further safeguards and restrictions that are needed. Amendment 1 would leave the door ajar, but it is the key that opens the door.

Our amendments, which have support from all sides of the House, need to be viewed in the context of the other amendments on public consultation and parliamentary scrutiny and approval that will together create an appropriate framework for the exercise of these wide powers. They seek to make the Bill accord with constitutional standards and good practice, respecting the different institutional competence and separation of powers between the Executive and Parliament, and between those branches of government and the independent judiciary. Taken as a whole, they seek to secure democratic accountability to Parliament and the citizen, as well as to the courts in accordance with the rule of law. Like the Delegated Powers and Regulatory Reform Committee, I believe that consultation should include public consultation.

If the House can agree on such a framework at an early stage in our debates, full arguments about whether particular orders should be made for this or that public body will be able to be made at the proper time by those affected and by each House of Parliament as and when a Minister finds it expedient to invoke the powers conferred by the Bill. The chilling effect on the independence and proper functioning of the bodies that need to operate independently of unnecessary ministerial interference will be greatly reduced, because Ministers will not be able to use the powers conferred by the Bill in the manner of Henry VIII and Thomas Cromwell. Parliament will require them to be accountable to the courts, to the public and to each House before they may do so. That is the necessary price they must pay for seeking powers of this magnitude.

There are four restrictions in Amendment 175. They seek to protect judicial independence, respect for human rights, a sense of proportion, and the independence and impartiality of bodies whose activities require them to act independently and impartially without unreasonable ministerial interference or direction.

Subsection (1)(a) of the new clause that would be inserted by Amendment 175 would protect the independence and impartiality of the judiciary and other public bodies or officeholders who perform judicial functions. The proposed provision embodies the principles of the rule of law and judicial independence that are set out in the Constitutional Reform Act 2005, but it goes further by referring, as does the Equality Act 2010, to those who perform judicial functions even though they are not courts or tribunals. That also accords with the Minister's assurance at Second Reading that he would address concerns,

"about bodies that deal with matters relating to the judiciary or otherwise to the administration of justice".—[*Official Report*, 9/11/10; col. 184.]

I hope and expect that no Minister would wish to do otherwise.

Government Amendment 112 is narrower than Amendment 175, as it refers only to the independence of the judiciary. I hope the Minister will accept that, in principle, what he said at Second Reading needs to be reflected in the Bill on Report.

The activities of several public bodies within the Bill's reach have been designed to promote or protect human rights. Those bodies include the Equality and Human Rights Commission, the Children's Commissioner, Her Majesty's Chief Inspector of Prisons, the Criminal Cases Review Commission, the BBC, Channel Four Television Corporation, the Human Fertilisation and Embryology Authority, the Independent Police Complaints Commission, the Legal Services Board, the Parole Board, the Sentencing Council for England and Wales and others. If Ministers were to act in a way that undermined the capacity of such bodies to promote or protect human rights, they would not, as the Explanatory Notes to the Bill explain, directly engage the convention rights but they would undoubtedly engage the convention rights indirectly. Many of those bodies have a strong case for being removed from Schedule 7 altogether, as some of the bodies have to act judicially even though they are not courts in the classic sense.

I accept that it would not normally be necessary to make express provision to compel Ministers to act in a way that is in accordance with the convention rights because that is done in Section 6 of the Human Rights Act 1998, but subsection (1)(b) of the new clause that would be inserted by Amendment 175 includes such a provision for the avoidance of doubt. The proposed provision would include the rights protected,

"by common law or equity",

lest it be thought that such rights were abridged or reduced by the general powers conferred by the Bill. We look forward to the Minister's response on that issue.

The formula used in Clauses 8(2)(a) and 8(2)(b) is taken from Section 3 of the Legislative and Regulatory Reform Act 2006, so it provides that Ministers may not,

"remove any necessary protection, and … prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise".

Those provisions are vague, and the Explanatory Notes on the Bill are, if I may say so, opaque and much less illuminating than the Explanatory Notes that were provided for the 2006 Act. Therefore, I ask the Minister to confirm that the notion of "necessary protection" includes, as is the case in Section 3(2)(d) of the 2006 Act according to the Explanatory Notes on that provision, matters such as,

"economic protection, health and safety protection, and the protection of civil liberties, the environment and national heritage".

I also ask the Minister to confirm that Clause 8(2)(b) is intended to include both convention and common law rights, including legitimate expectations.

The third restriction, in subsection (1)(c) of the new clause that would be inserted by Amendment 175, would require the use of,

"proportionate means to attain the objectives prescribed by section 8(1)".

Paragraph 20 of the Delegated Powers and Regulatory Reform Committee's report draws attention to the fact that the Bill as it stands draws on the language of Section 3(2) of the 2006 Act, but that,

"significantly, the Bill does not import the other tests in section 3(2) of the 2006 Act: that the effect of the order is proportionate to the policy objective; that it strikes a fair balance; and that it is not constitutionally significant".

The need to strike a fair balance is, I am sure the Minister will confirm, already included in the concept of proportionality, so there is no need to mention that

[Lord Lester of Herne Hill]
in Amendment 175. It is also doubtful that there is any need to include a reference to what is or is not constitutionally significant, since the central purpose of Amendment 175 is to delineate the constitutional contours in the Bill. However, it is essential to include the requirement for the looser of the powers conferred to be proportionate to the legitimate aims prescribed by Clause 8(1).

The concept of proportionality is as English as apple pie, or as Scottish as haggis. The decision-maker must not use a sledgehammer to crack a nut and must not use lawful powers excessively or in a way that results in overkill. That is the basic principle used by both European courts and our own courts in giving effect to EU and convention law, and in applying the common law whereby the courts have said there is little difference between rationality and proportionality. In any assessment of proportionality, the courts leave a proper margin of discretion to the decision-maker, but it is essential to make it clear in the Bill that the powers that are delegated must be applied with a sense of proportion.

In his letter to my noble friend Lady Thomas of Winchester of 19 November, in response to her committee's report, the Minister accepted that considerations of proportionality are clearly an aspect of Ministers' considerations when having regard to the objective of securing increased efficiency, effectiveness and economy in the exercise of public functions, but he did not explain why the Bill should be weaker in that respect than the 2006 Act. The subject matter of the two measures is different, but the principle of proportionality should surely apply to the exercise of Ministers' powers under both measures as a matter of legal obligation.

The Minister's letter to the noble Baroness, Lady Jay, in response to the report from her Constitution Committee, also seeks to justify the Government's reluctance to include the requirement of proportionality in the Bill, as the previous Government did in the 2006 Act and in other legislation, including the Equality Act 2010, as the noble Baroness, Lady Royall, will recall. Yet the Minister acknowledges that:

"A decision which was not proportionate, or was irrational, could of course be challenged in the Courts in the normal way".

Quite apart from the fact that the principle of proportionality has yet to be fully recognised by our courts as a general principle of administrative law, there is no justification in that letter—or, I submit, otherwise—for failing to include the same protection against the excessive use of Ministers' powers in this Bill as in the 2006 Act. I know that the noble Lord, Lord Pannick, who can be said to be a rather greater authority than I could ever be in administrative law, will want to explain further the importance of the principle of proportionality in the context of this Bill.

Our Amendment 175 also requires:

"Where the nature and activities of a public body or office require the establishing of facts or the giving of expert advice independently and impartially, the powers conferred by the Act must be exercised in a way which ensures that the public body or office remains able to act in accordance with those requirements".

The Delegated Powers and Regulatory Reform Committee refers to this important issue in paragraph 38 of its first report. The Government's amendment to Clause 8 is better expressed than our amendment, but it leaves the matter to relevant consideration by the Minister and is therefore weaker.

Amendment 106 is included to ensure that the matters to be considered in Clause 8(1) apply to the exercise of the powers conferred by Clause 11 to amend Schedules 1 to 6. Amendment 109 is designed to make the protection in Clause 8(2) objective rather than subject to the Minister's discretion. Amendment 110 would make it necessary for the Minister to act reasonably, but those amendments will probably be unnecessary if, as we hope, the principle of proportionality is included in the Bill as an objective requirement. I beg to move.

3.30 pm

Lord Campbell of Alloway: I support the noble Lord's Amendments 1 and 175. What he said was wholly consistent with the acknowledged function of this House to protect the constitution and to amend the Bill as it goes through, to delay it and afford the other place an opportunity to reconsider or, indeed, to compromise. What the noble Lord said is wholly consistent with that. What the Opposition will say in a moment is not, so I am not speaking about the Opposition. This is a sound approach for the reasons that I have given and it was very well presented.

Lord Pannick: I have added my name to the amendments tabled by the noble Lord, Lord Lester of Herne Hill, for a simple reason: this is a bad Bill. It confers excessive power on the Executive. It is of fundamental importance to include in the Bill as many protective provisions as possible.

Amendment 1, read with Amendment 175, has a simple purpose. It would restrict ministerial powers so that they can only be exercised in a way that is compatible with judicial independence and human rights and freedoms; is used proportionately; and does not prevent a public body performing its functions to establish facts or to give expert advice independently and impartially. I cannot imagine that the Minister could possibly disagree with any of those well established principles. I suspect he might say that he is doubtful that such principles need to be expressed in the Bill. However, he does then need to explain to the Committee why such principles were expressly included in the 2006 Act. He also needs not merely to explain this question of precedent but to address the question of principle.

Given the breadth of the powers that the Minister seeks in the context of the Bill; given the concerns that were expressed about the scope of those powers by your Lordships' Committee on the Constitution, of which I am a member, and your Lordships' Delegated Powers and Regulatory Reform Committee; and given the concerns expressed by many of your Lordships at Second Reading, it is of vital importance to identify in the Bill important constraints on the exercise of these powers. It is important for two reasons. It is important to ensure that future Ministers are as careful in their use of the powers as I am sure the Minister will be. It is

also important to reassure public bodies and members of the public that we in Parliament have not lightly conferred such powers on Ministers, but rather that we have been anxious to emphasise in the Bill that there are important limits on what Parliament is willing to authorise Ministers to do.

The importance of Amendment 1, read with Amendment 175, is confirmed by the much weaker protection that the Minister is inviting the Committee to add to the Bill in his amendments. The Government's amendments, although a welcome improvement on the original Bill, are insufficient. They simply require the Minister to consider defined matters before exercising powers. They do not—as they should—prevent the Minister making an order if and to the extent that it would interfere with the independence of the judiciary, or concern functions which require to be exercised independently of Ministers as they involve giving impartial advice or the scrutiny of Ministers' actions. For example, government Amendment 108, which we are considering in this group, will require the Minister to consider only the extent to which the functions affected by the order need to be exercised independently of Ministers. If the functions do indeed relate to such matters, primary legislation should be required to ensure proper parliamentary scrutiny. Amendment 109, in the name of the noble Lord, Lord Lester of Herne Hill, would remove from Clause 8(2) "the Minister considers that" in relation to necessary protections.

It should not be simply a matter of the Minister forming an opinion on these matters; the Bill must provide that he or she cannot make an order if it would remove necessary protections, such as interfering with the independence of the judiciary. That would ensure—

Lord Phillips of Sudbury: I am grateful to the noble Lord for giving way. I am entirely sympathetic to what he and my noble friend Lord Lester are saying but I hope that he can help me and, I think, the House by answering the following question. I think he said that the provisions in paragraphs (a), (b) and (c) in the proposed new Subsection (1) in Amendment 175 are implied by law and therefore do not need to be expressed in the statute. My noble friend Lord Lester wonders about proportionality, but by inserting existing powers in this Bill, are we in danger of shackling future legislation where those provisions are not inserted in the relevant Bill, and perhaps therefore getting into an argument that, as they are not there, they are not considered part of the Bill? I hope that I have expressed myself clearly.

Lord Pannick: I am grateful to the noble Lord. Of course, that is precisely what Parliament did in the 2006 Act. As I have sought to explain, the reason it did it in that legislation, and the reason it should do it in this legislation is because this Bill is so exceptional—it seeks to give a degree of power to Ministers which requires that the constraints are set out in the Bill in the clearest possible way in order to give confidence to those public bodies which may be the subject of orders made in the future. Regrettably, there is still doubt about whether proportionality is a general legal principle that applies to the exercise of all administrative functions.

I was dealing with the Minister's amendment, which accepts that necessary protection includes the independence of the judiciary within the meaning of Section 3 of the Constitutional Reform Act 2005, and that is very welcome. However, Section 3 of that Act states that all Ministers of the Crown,

"must uphold the continued independence of the judiciary".

It does not merely say that Ministers must consider upholding the independence of the judiciary, or that Ministers must not take any action which they consider would conflict with the independence of the judiciary. This is important because the constitutional principle is that it is the duty of Ministers, and all others concerned with the administration of justice, to observe the independence of the judiciary.

As so many of your Lordships explained on Second Reading, particularly the noble and learned Lord, Lord Woolf, if Ministers are to be granted those broad powers to make orders—a matter to which I am sure that we will return later in Committee—it is vital that those powers are as circumscribed as possible. They must not trespass on the independence of the judiciary and on other fundamental principles, or undermine the functions of bodies whose task is to scrutinise government conduct and give impartial advice to the Government.

I very much hope that the Minister will feel able to accept Amendment 1. If not, I very much hope that the noble Lord, Lord Lester of Herne Hill, will regard this as a matter of considerable importance as we begin Committee and will seek the opinion of the House.

Lord Clinton-Davis: If the Government were to prevail so far as the amendment was concerned, could the issue be raised again in the courts? I think it could.

Lord Pannick: I am sure that there would be ample room for argument in the courts. I am concerned that we do not leave matters of this importance, in relation to a Bill that confers such exceptional powers on the Executive, to legal argument for the future. It is our task and our responsibility to ensure that these matters are clearly stated in the legislation that we are considering.

Baroness Hayter of Kentish Town: My Lords, I endorse the words of both noble Lords, Lord Lester of Herne Hill and Lord Pannick. I urge the Minister and the Committee to do the same.

Amendments 14 and 107 seek to ensure that, in any move to abolish, merge or alter the various organisations listed in the various schedules, the Minister must have regard to the original powers or objectives laid down in law for those bodies. It would therefore not be enough to say simply, "We can save money by these changes", although I always agree with saving money. The amendments would make it necessary to consider more than just the need for specialist and technical expertise, much though I also support that; and more than simply independence from government, as has been spoken of, much as I also concur with that.

Parliament needs to be satisfied that the raison d'être of each body—its objective, as set down in statute—will be protected and continued under whichever body takes over from the abolished, reformed or merged organisation. I would like to give four brief examples listed in the schedules where legislation has been passed,

[Baroness Hayter of Kentish Town]

including through this House, to give powers or duties to those organisations. We need assurance that, in any change to their status, the very purpose and duties for which they were set up should be retained, even if carried out in a more resource-efficient way.

I start with the Legal Services Board; I declare an interest as chair of the Legal Services Consumer Panel, which is funded by the Legal Services Board. The Legal Services Act 2007 requires the establishment of the board, and says that it,

"must … act in a way … compatible with the",

Act's "regulatory objectives", which are about,

"protecting and promoting the public interest … supporting the constitutional principle of the rule of law … improving access to justice … promoting competition in the provision of services",

and,

"encouraging an independent, strong, diverse and effective legal profession".

The Act also demands that the board promotes adherence to the professional principles of lawyers, which are to,

"act with independence and integrity … act in the best interests of their clients",

and,

"comply with their duty to the court to act with independence in the interests of justice".

This goes further than judicial independence—important though that is; those objectives would need to be retained. My amendment would ensure that those objectives were still met if there were any alteration to the board's set-up. They are absolutely central to the administration of justice.

3.45 pm

My second example is Consumer Focus and the National Consumer Council. Many years ago, I was on its board, although I am there no longer. Under the Consumers, Estate Agents and Redress Act 2007, various things are required of Consumer Focus; for example, it must have a Scottish, Welsh and Northern Irish arm, it must have regard to the interests of consumers in different areas, and to the interests of consumers who are disabled or chronically sick, pensioners on low incomes, or who live in rural areas. One of the core functions of the NCC under that Act is to set out powers of investigation, especially on behalf of vulnerable consumers. Again, the purpose of my amendments is to make sure that those duties, particularly those about vulnerable consumers, are retained with the same force of law as those under the 2007 Act.

The third example is NEST, the National Employment Savings Trust, of which I used to be a member. This was created under the Pensions Act 2008. It is, indeed, a pension scheme established to be treated for all purposes as an irrevocable trust. The Secretary of State must require trustees to make arrangements for consulting members of the pension scheme and their employers, and establish a members' panel and employers' panel. Whenever the Secretary of State makes decisions by order, it must be with the consent of the trustees, and they must consult with the members' panel and the employers' panel. This trustee corporation, NEST, which is listed in Schedule 7, is a body corporate and is, under the 2008 Act,

"not to be regarded as the servant or agent of the Crown".

The Act specifically states:

"Property held by the corporation is not to be regarded as property of, or property held on behalf of, the Crown".

Indeed, the resources that it looks after belong, of course, to the members of the pension scheme. So the functions of NEST are to act as trustee of the pension scheme and to provide pensions to its members. My amendment would ensure that if there were any move under the powers of the Bill to change the NEST corporation, its duties would be retained, whatever the alteration to its status.

Lastly, the powers of the Rail Passengers Council—or Passenger Focus, as it is probably better known—include the ability to investigate any matter relating to rail passenger services or stations, because either it considers that it is fit to do so or because passengers or users bring an issue to its attention. It has an ongoing role as a watchdog to review the provision of railway services in the interests of the public. Similar powers relate to road transport.

Lord Lester of Herne Hill: The noble Baroness makes a powerful case, but can she help me? The powers in the Bill are wide enough to deal with bodies that have outlived their useful life or are in need of substantial and radical reform. My idea is that it would be a sensible way forward to hedge the powers with sufficient safeguards. What about the noble Baroness's approach? What happens if Ministers rationally and proportionately decide that body X has outlived its useful purpose or needs radical reform? Would not her Amendment 107 produce a situation of fossilisation?

Baroness Hayter of Kentish Town: The idea is that they should have regard to those objectives. If the objectives are no longer required, or if they could be dealt with in a different way by a different body, that would be one thing. My concern is that if we look only at the issue of independence—which I spoke about, and stressed the importance of, at Second Reading—this will not be sufficient if the power given by the Bill to a body to make sure something happens is still needed. There is nothing else in the Bill as it stands—and even with the other amendments—to make sure that those duties, for example to look after the interests of consumers in rural areas, or of vulnerable consumers, are still carried out. They must have regard to those interests, but my concern is that the purpose for which primary legislation set up these bodies, and the duties which it gave them, should be considered by the Minister before he exercises his power. In passing the Bill, Parliament must be confident that where the functions are still needed, they will still exist under the new body, which will have the same strength to safeguard whichever group of users or vulnerable people or pension members whose interests are covered by the 150 groups listed in Schedule 7. Therefore, the amendments in this group seek to ensure not only that the new bodies are independent, but that the purposes for which Parliament set up the old bodies, if they are still needed, will be retained by the new bodies, which will have the relevant powers.

Lord Lloyd of Berwick: My Lords, I am sorry to invite the Committee to listen to another lawyer quite so soon. I regret very much that, as I was abroad, I

could not be present for Second Reading. However, I express my complete and respectful agreement with the speeches of the noble and learned Lords, Lord Woolf and Lord Mayhew, the noble Baroness, Lady Andrews, and indeed of many others. As a result of second Reading, we now have before us very elaborate amendments covering the question of proper consultation and procedure. The amendments were pioneered by the noble Lords, Lord Lester and Lord Pannick, who were followed by Her Majesty's Loyal Opposition and then by the Government. I will certainly vote for one of the amendments, and all three if necessary.

However, welcome though the amendments are, they do not hide the remaining glaring deformities of the Bill. In particular, I will concentrate on government Amendment 108 in this group, which has been referred to already by the noble Lord, Lord Pannick. Clause 8 establishes the two main objectives of the Bill: to bring about greater efficiency and accountability. The clause is said to be the great safeguard in the Bill. However, the moment I read about greater accountability to Ministers, I hear a warning signal. We should read carefully Amendment 108 to Clause 8. It states:

"For the purposes of the objective referred to in subsection (1)(b)"—

that is the accountability objective—

"the Minister must consider the extent to which functions affected by the order need to be exercised independently of Ministers—(a) because they require the exercise of professional or specialist expertise, or the making of decisions or giving of advice, by a person who is impartial as respects Ministers' policy".

I shall leave for the moment proposed new paragraph (b).

The moment I read that amendment to Clause 8, I began to feel that we were verging on a contradiction in terms. The whole objective, it is said, is to lead to greater accountability, yet at the same time it is said that the Minister is to take into account matters which emphasise the bodies' independence of Ministers. I find it very difficult to see how these two apparently contradictory objectives can be reconciled. Exactly the same applies—perhaps even more so—to paragraph (b) in Amendment 108, which says,

"because they involve establishing facts in relation to, or oversight or scrutiny of, Ministers' actions".

It seems to me that, once the facts in relation to that are established regarding any of the bodies in Schedules 1 to 6, it must no longer be a matter for the Minister's consideration—a point made effectively by the noble Lord, Lord Pannick. Once it is established that that is the purpose of the body in question, then surely it is not a matter for the Minister's consideration; at that point, the body must be taken out of Schedules 1 to 6 altogether and left to primary legislation.

Either this amendment means nothing at all or, if it means anything, it is contradictory to the main objective and is therefore likely to lead to a great deal of litigation in the future, which one can easily envisage. In the mean time, however, if the relevant facts in relation to any particular body are established, then the only solution, with great respect, is to take that body out of Schedules 1 to 6 altogether.

Lord Soley: We have just heard four very powerful speeches, which I hope will influence the Government. I shall try not to repeat the various points that have been made but I agree with them. My noble friend Lady Hayter made a very good point when she talked about the Legal Services Board and the Legal Services Commission, because these bodies need to be seen to be independent.

I am disappointed by the Government's amendments for two reasons. First, I think that there is very wide agreement, both in this House and indeed in the House of Commons, with what the Government want to achieve. There is no argument about the need to find new and better ways of ending, changing or winding up quangos, and there is a wonderful opportunity here for all-party agreement in both Houses about improving the way in which we set up these bodies and change them.

The second reason I am disappointed is that at Second Reading I listened very carefully to the noble Lord, Lord Taylor of Holbeach, who I thought—indeed, I said it to many people—made a very powerful and thoughtful speech. He seemed to have grasped the acute anxiety felt across this House about the extent of the power being given to Ministers over Parliament. That is what triggers so much of the concern and it follows on from the amendment of the noble Lord, Lord Lester, which focuses very much on the critical issue of the judiciary.

The Government still do not understand that this is a question of how much power a Minister has to override Parliament—that is what it boils down to and I say it deliberately and distinctly. As has already been stated, government Amendments 167, 168 and 108, which I am sure the noble Lord will speak to in due course, require the Minister to consider. That is a very small step forward but it does not address the fact that, once the Minister has considered, he can still go ahead and carry out the actions that he was thinking of taking with or without any changes, regardless of what Parliament may have said or done. Parliament cannot make amendments, as was originally the case when the primary legislation went through.

4 pm

I am a member of the Delegated Powers and Regulatory Reform Committee which, as the House would expect, gave very careful consideration to this, all the way through. I do not want to go into detail about what the committee said—these views are obviously my own—but concern was expressed, reflecting what was happening in this House, that Ministers were being given excessive powers and that Parliament was being sidelined. That is the core of the issue.

It is very difficult to amend the Bill in a way which addresses those points satisfactorily. There were more opportunities than the Government availed themselves of with the amendments that they have tabled to date and that is why I strongly support the amendment in the name of the noble Lord, Lord Lester, as I think it is very important. If the Government take the view that their main aim is to allow Ministers to change, to wind up or whatever, these bodies, they have to ask themselves how on earth they can deal with the independence issue and the fact that primary legislation is being overturned without a vote in Parliament. This is essentially about the power of Parliament versus the power of government. As someone who has experience of many Governments I know that, at times, all

[LORD SOLEY]

Governments get carried away by the power of government but, frankly, most Governments take some years to reach that stage. With this Bill, the Government have reached it at a much earlier stage. Even if I were sitting on the Conservative Benches, I would be worried about an overpowerful Government. That is why some of the Minister's Back-benchers are worried. I know that is true. They have said it in a debate and in other circumstances. There is genuine concern about this and I do not think it is satisfactory.

Perhaps I may quote from the fifth report of the Public Bodies Bill, which is not the report that was in the Public Bill Office today. I get the feeling that the Minister might think that he has met some of the concerns expressed in the fifth report. I can see that he has tried. It is paragraph 35 and subsequent ones. He seems to take the view that if he does some of those things, somehow that makes the Bill all right. Paragraph 42 is the key bit. It also refers to the 2006 Act. I shall quote the whole passage, which is fairly long, so I hope the Committee will bear with me:

"During the passage of the Legislative and Regulatory Reform Bill the government made a commitment"—

I stress "a commitment"—

"that they would not use the process for highly controversial measures, and would not force through orders in the face of opposition from the parliamentary committees … This Committee"—

the Delegated Powers and Regulatory Reform Committee—

"has emphasized before that 'the insertion of a super-affirmative procedure cannot bring a misconceived delegated power within the bounds of acceptability'".

That is a key part of that report. Simply by trying to bring in some of these lesser safeguards, like considering matters or like the super-affirmative procedure, does not alter the fact that to give power to Ministers which marginalises the power of Parliament to alter Acts of Parliament which are reasonably made by primary legislation cannot be right and cannot be desirable.

I end where I started. The opportunities for all-party agreement in both Houses are very great. An imaginative approach would be to say that we all want to deal with quangos more effectively than we have been, so let us find that way and there will not be great difficulty on that. I think the Minister would find a lot of people in agreement with him. However, he cannot allow this to go through as it is and threaten the independence, as in the case of Amendment 1 now before us, of the judiciary and other legal bodies, as my noble friend pointed out. We cannot go through with that and allow Ministers to have the extensive power which is taken in this Bill. The powers are excessive and are a threat to the parliamentary sovereignty issue. At the end of the day, Parliament has the right to control government and not the other way around. These are classic Henry VIII powers. It is Henry VIII saying, "I will listen", or in the words of the Minister's Amendments 167, 168 and 108, "I will consider the matter". Then, of course, he can come back and do exactly what he said he would do anyway. That is the real example of a Henry VIII power. That cannot be allowed and we should not allow that; Parliament comes first, not government.

Lord Renton of Mount Harry: Like the noble Lord, Lord Pannick, I served on the Constitution Committee that produced the first report on the Public Bodies Bill. As the noble Lord will remember, I shared his horror—that is perhaps the appropriate word—when we first read this Bill and studied it. Listening to what has been said, particularly by the noble Lord, Lord Soley, I feel a great need to hear what the Minister has to say to us before taking a final decision. I have talked to the Minister, as have others, in recent days and in talking to us he was very well aware of the need to bring in procedures that would involve public consultation, parliamentary consultation and, indeed, the ability of Parliament to say no, if it wants to.

Listening is very important, but one also has to consider not just the law on this but the situation that the Government found, which they wish to tidy up. There are, I think, something like 500 public bodies mentioned in the Bill. Some of them have never worked at all, some duplicate the work of others and some would run better twinned with others. That, one knows, was the basis for bringing in the Bill in the first place, along with the Government's wish to try to reduce the cost of quangos as one step in reducing the amount of public money spent in this country. I approach it from that angle, rather than from the legal angle.

I expect that we all know bodies on this list that we have worked with. Sometimes we have got frustrated, and other times we have been very satisfied. I declare a particular interest in the national parks, because I have been involved in the South Downs for a long time. We are about to become part of the new national park, and I am very interested to know just how the laws, the custom, of the national parks are going to affect inhabitants of Lewes and Sussex, such as myself. However, I realise that even with as big a body as the national parks, we all have to look at the possibility of pruning and streamlining and spending less public money. For me, that is the spirit behind the Bill.

In other amendments—for example, Amendments 114 and 118—your Lordships will see the very definite wish of the Government, through my noble friend Lord Taylor, to have procedures and consultation that are widespread but much more effective. That is the positive side of what is being looked at today, and it is for that reason that I will in the end, I hope, vote with the Government because this tidying up is very much needed and we are taking a step in the right direction.

Lord Woolf: My Lords, if what we were embarked on in this Bill was tidying up and that was the exercise to which we were limited, I would have no trouble with this Bill. However, it is my belief that the Bill goes miles beyond such an exercise. As a result, notwithstanding the fact that I agree with virtually everything that has been said about amendments to this Bill, I need add virtually nothing.

If I should add something, it would be to this effect. I admire the ingenuity and the skill with which the noble Lords, Lord Lester and Lord Pannick, have found ways to curtail the extraordinarily wide powers that this Bill gives. But, even with those provisions, which are very welcome, the fact remains that things

are being done by this Bill which are just inappropriate. That is why I am troubling to take up your Lordships' time.

The bodies referred to in Schedule 7 are not the sort of bodies which, because of their very nature and their importance, should be abolished, amended or modified in accordance with the scheme of this Bill. It is almost an insult to the constitutional principles involved in dealing with bodies of that nature, which should be shown care and respect, to treat them in this cavalier way. Each of the bodies in Schedule 7 can say, "We are the sort of bodies that if we are going to be changed have to be changed by primary legislation so that we cannot only consider what will happen if we are moved to another schedule, but what will be put in our place if we no longer perform the functions which Parliament has in most cases entrusted to us? We would refer those responsible for the administration of justice to the manner in which we can protect the improper interests of the administration of justice".

While that is true and self-evident in the case of Schedule 7 bodies, it is also, to a substantial extent, true in the case of some of the bodies—I emphasise the word "some"—in Schedule 1. I draw attention especially to the first and the last bodies mentioned in Schedule 1. However, I know that these matters will be dealt with later, particularly by the noble Lord, Lord Borrie, as regards the Administrative Justice and Tribunals Council. It used to be called the Council of Tribunals, which played a significant part in the development of administrative principles of good practice in this country. The bodies subject to the supervision and guidance of the council are bodies which provide for the great bulk of the citizens in this country the only way in which they can obtain justice in regard to matters that may, in the scale of some of the matters that come before the courts, seem modest, but which are very important to the individual citizen.

If you are seeking a benefit or you say, "I have been deprived of a benefit to which I am entitled", you go to one of the tribunals supervised by this body. If you are complaining about your tax, you go to the tribunals dealing with revenue issues. These bodies affect, from time to time, most citizens in this country. They need the watchdog which the council provided. The watchdog was there, not to protect the rights of the tribunal or the Executive, but to act on behalf of the public as their watchdog to ensure that the bodies are meeting the standards that are required of bodies of the nature to which I have referred. You cannot remove the dangers created in this Bill by putting such bodies in Schedule 1. The council to which I have just referred can be removed by order in circumstances where there will be no proper consideration of how the body operates as a whole.

I turn to the Youth Justice Board for England and Wales, which is the last of the bodies referred to in Schedule 1. There may be controversy as to the role the board has played in assisting the way in which we deal with the very significant problem of misbehaviour and crimes committed by the young, but if we take the Youth Justice Board away, as Schedule 1 presupposes, we have to think about what should be put in its place. This Bill is not the proper machinery in which to consider an issue of that sort. It can be considered properly only in the context of an examination of how we approach the criminal conduct of youths subject to the board. I should tell the Minister that a great many of those intimately involved in the criminal justice system think that the Youth Justice Board has been a positive move and that in certain periods during its life it has improved the manner in which we handle the difficult problem of how to treat youngsters involved in these unfortunate matters.

I was impressed by the open-mindedness with which the noble Lord, Lord Taylor, considered what was submitted to him in the debate on Second Reading. I hope that he will also consider what has been said in the course of this debate because it is important and deals with principles of long standing.

4.15 pm

Lord Lester of Herne Hill: My Lords, may I respectfully ask the noble and learned Lord a question? By implication, I think he is suggesting that I am slightly too moderate, which may be the case. But if one takes as an example the Judicial Appointments Commission and assumes that some minor but necessary changes need to be made to its structure or administration, one has the ironclad and objective safeguards of independence as well as the other safeguard written in of objective standards. One has also the safeguards of public consultation and the need for the Minister to come before each House to justify the order on the facts, with reasons given. Is the position of the noble and learned Lord that, even with all those safeguards, nothing can be done in relation to that body except by primary legislation? If that is his position, with great respect, it seems disproportionate.

Lord Woolf: My Lords, as always the noble Lord, Lord Lester, has made a good point. But the fact of the matter is this: is the procedure set out in this Bill the appropriate way of dealing with the minor amendments to which he has referred? He has taken as an example the body which, ironically, was designed to achieve the independence of the judiciary from the Executive by ensuring that the way in which judges are appointed is separated from the Executive. What the Bill will do is say that if we want to amend or abolish that body, we will go through a two-stage process. First, we will move it to another schedule, and possibly discuss that in this House. We will then go through another process to achieve the desired amendment. If it is wrong in principle, as I submit it is, to treat a body of this sort by placing it in Schedule 7, then the fact that one day some minor amendment might need to be made to that body does not justify the treatment being proposed. The Judicial Appointments Commission justifies proper consideration because even minor amendments can affect such a body in ways that caused this House to look so carefully, in the Constitutional Reform Act 2005, at how in the future we would appoint our judges.

Baroness Butler-Sloss: My Lords, I hope the Committee will forgive me for not being present throughout the debate on this first amendment but I have been at a Select Committee.

[Baroness Butler-Sloss]

I rise for two reasons: first, respectfully to agree with everything that the noble and learned Lord, Lord Woolf, has said; and, secondly, to point out four particular examples in Schedule 7 which are subject to the power to add to other schedules. I cannot see how the examples I am going to give could be added to other schedules. First, where would the Royal Botanic Gardens go to? Secondly, the Children and Family Court Advisory and Support Service had a very unhappy gestation but has now become relatively effective; to interfere with it would be a disaster for children in this country. I know something about the third example, the Family Procedure Rule Committee, because I used to be its chairman. Where do you put that? My last example is the Gangmasters Licensing Authority. The Committee will remember the Chinese cockle pickers and why we established the Gangmasters Licensing Authority. How on earth can it be added to another schedule?

Lord Newton of Braintree: My Lords, I rise, first, because I want to get a word in edgeways as a non-lawyer; and, secondly, because it seems appropriate that I should follow part of what the noble and learned Lord, Lord Woolf, said—prefacing it by declaring a now historic interest as the person who chaired the Council on Tribunals and its successor body, the Administrative Justice and Tribunals Council, for no less than 10 years from 1999 until last year. My name is not attached to the amendment of the noble Lord, Lord Borrie, and I shall speak to the AJTC later, but I appreciate and agree with what the noble and learned Lord, Lord Woolf, has said.

As I was not able to be here for Second Reading, I shall not make the Second Reading speech I might have made, deeply unhelpful as the Government would have regarded it. However, I wish to make three points. First, I welcome, as did the noble and learned Lord, Lord Woolf, the spirit in which my noble friend Lord Taylor of Holbeach has responded to the criticisms at Second Reading. Whether or not it goes far enough we shall discover in the course of our debates, but it has been a remarkable exercise in rewriting the Bill as it goes along. It must have taken him quite a lot of work to persuade his colleagues to make such changes. I congratulate him and I do not want to make his life any more difficult.

Secondly, albeit as a non-lawyer and without going over all the speeches, I could not find a word uttered by the original proponent, the noble Lord, Lord Lester, or his seconder, as it were, the noble Lord, Lord Pannick, with which I disagree, and there are probably quite a few noble Lords on this side of the Committee who share that view.

Thirdly, I say to my noble friend—as I am happy to call him—Lord Phillips, a former constituent, and to the Minister that I spent five years as Leader of the House of Commons—I was more or less in charge of the Government's programme in those days—listening to Ministers trying to say that you did not need to put stuff in a Bill because it was implicit and impaling themselves on a ludicrous argument that something that did not make any difference was worth dying in a ditch over. I hope the Minister is not going to do it again.

Baroness Andrews: My Lords, it is a great honour to follow the noble and learned Lord, Lord Woolf. I shall refer to inappropriate use of delegated legislation. I should declare an interest as a member of the Delegated Powers and Regulatory Reform Committee. It may be helpful to Members who have not had an opportunity to see our sixth report to tell them in brief what it says.

In its fifth report, the committee strongly expressed the view that the Bill provided Ministers with unacceptable discretion to rewrite the statute book with inadequate parliamentary scrutiny and control of the process. It found that the Bill was almost "wholly enabling" and granted Ministers enormous discretion to use delegated powers to abolish or restructure a large number of public bodies and offices. I echo what has already been said around the House about the response of the Minister in trying to address some of the fundamental issues that were raised at Second Reading, and we are grateful for that, but the committee concluded in its report, published this morning, that the concerns had not been resolved and that,

"the powers themselves are not … appropriate delegations of legislative power".

That brings me to the speech just made by my noble friend Lord Soley. While the Minister has tried in his Amendment 108 and those that follow to address some of the concerns through a form of affirmative procedure, it is simply not adequate to deal with the fundamental problems identified with such eloquence by the noble and learned Lord, Lord Woolf, and other Members of this House.

I have some problems with the amendment put forward by the noble Lord, Lord Lester, in the context of the comparison rightly made between this Bill and the Legislative and Regulatory Reform Act 2006. The Government introduce in Amendment 118 a new procedure for orders. It is a form of super-affirmative order. Unfortunately, the Government's argument as to why it is sufficient is disingenuous.

The Minister argued in his letter to the Delegated Powers and Regulatory Reform Committee that the Bill is narrower than the Legislative and Regulatory Reform 2006 because that Act applied to policies at large and that the range of protections in it was therefore not appropriate for this Bill. The fact is that this Bill is wider than the Legislative and Regulatory Reform Act 2006. Although the 2006 Act is wider in scope, in the sense that it can involve any public policy or legislation, its effect is narrower, because it is strictly limited to making processes more transparent, accountable, proportionate and consistent. Those are very specific requirements. This Bill is narrow only in the sense that it deals with public bodies, but the powers that it has taken, described by the noble and learned Lord, Lord Woolf, are enormous. What is more, in Schedule 7, we do not know even what those powers will be or what they will be used for. That is what exercises this Committee and it should exercise the Government.

Even more important, Section 2 of the 2006 Act cannot be used to abolish or confer any new regulatory functions, but Clauses 1, 2 and 5 of this Act expressly provide for the abolition and the creation of regulatory functions. If the Minister were to take my point and

say that he would come forward with an amendment which imported all the relevant procedures of the 2006 Act into this Bill, the House would have this additional capacity: it would take only a recommendation, not a resolution, of a committee of either House to require the Government to have regard to representations, resolutions and recommendations.

4.30 pm

More importantly still, the committee of either House could veto further proceedings until such time as the House rejects the committee's position. A Minister who wanted to push on with an order unaltered after having been required to have regard to the representations will have to lay a Statement before Parliament giving details of any representations received. That seems to me the minimum that we should expect on this Bill.

I have left the most serious charge until last. The majority of speakers at Second Reading were very clear about the way that they viewed the toxicity in Schedule 7, which has become known as death row. The large number of amendments on Schedule 7 speaks for itself. Clause 11 and Schedule 7 exemplify the toxic nature of the Bill. This was only too clearly exposed in the Minister's letter to the DPRRC in which he said, again disingenuously, that to enact the series of changes needed for a diverse range of public bodies through primary legislation,

"would involve a bill or bills the size of which would be undeliverable, or waiting, over a number of sessions, for suitable legislative vehicles".

He said that owing to other pressures on Parliament and the fact that some departments often do not have a legislative vehicle in a particular session,

"the use of primary legislation would cause severe delays to the proposed reform package."

Is that not the point? Ministers come to this House with legislation properly prepared and appropriate to its use of powers; Ministers wait for a legislative opportunity. This Bill would give any Minister an opportunity to put forward to this House a raft of proposals completely unconsidered by this House, bypassing primary legislation and using the excuse of secondary legislation because he was in a hurry; because there was no slot available on the parliamentary timetable; because Government were simply too busy to allow Parliament to undertake its proper scrutiny.

I do not know where we are going on this Bill but I advise the Minister, good man that he is, to think extremely seriously about what is being said about the fundamental principle.

Lord Ramsbotham: My Lords, I make a very brief point to support my noble and learned friend Lord Woolf in his support for the general principle behind the Bill and also in his concerns. I refer to one document that has not so far been mentioned—the impact assessment. We have heard enough already around this House to realise that there is something wrong in an impact assessment that can say that the Bill has no direct impact on human rights or the justice system. It suggests to me that those who drew up that impact assessment cannot have thought through what they were actually including in this Bill. I hope very much that the Minister will be able to repudiate that impact assessment.

Lord Elystan-Morgan: My Lords, may I mention two matters very briefly? The first is the matter that was dealt with so magnificently by my noble and learned friend Lord Woolf. It seems to me that only an insensitive Government would even contemplate putting in any one of those schedules quasi-judicial bodies that are so central in their very existence and purpose to the administration of justice. There is no justification whatever for allowing them to remain in that particular jeopardy; they should be inviolate; they should be free from any prospect of ministerial diktat.

The second matter is the wider point of the issue that is before the Committee. Many people will say that they think the issue is whether Ministers should have the right and power to deal in such a savagely surgical way with 481 public bodies. No, that is not the issue. The issue is not the question of the conflict between Ministers and those bodies but that between the Executive and the sovereignty of Parliament. The question is whether those Ministers should have the power to strike down all those masses of legislative developments that have led to the very creation of those bodies in the first place. That is the issue. If I may make a biblical reference, I would say that the proposal is almost an Armageddon issue.

Henry VIII clauses are nothing new. About 80 years ago, Sir Gordon Hewart, a former Attorney-General who later became Lord Chief Justice, wrote a book called *The New Despotism*, whose title refers to the use of such clauses. Over the past 80 years, there has been a massive growth in the use of Henry VIII clauses such that we have now reached the point at which Parliament must either say no and call a halt to their use or allow the situation to develop ever further and thereby corrupt even the existence of Parliament.

Lord Clinton-Davis: I would like to say a few words, so I propose to speak for about two minutes.

I think that the indictment that the noble Lords, Lord Lester and Lord Pannick, have mounted today is worthy not only of the agreement of the noble Lord, Lord Taylor, to their amendments but of his agreement to the withdrawal of the Bill. We have been especially fortunate to hear the noble and learned Lord, Lord Woolf, give a devastating denunciation of the Bill today that ought to be heard by those on the government Benches.

We all have a great affection for the noble Lord, Lord Taylor, who has done an enormous amount to try to improve the unimprovable. The Minister has made some gallant efforts, but the best thing that he could do, in my view, is to withdraw the Bill and enable the House to consider afresh what ought to be done.

I simply want to underline my concerns as a solicitor. Amendment 175 interprets some crucial and important points that the Government have neglected. To confer upon Ministers the powers that the Government currently contemplate in the Bill is unworthy. The limitations that are provided for in the amendment are really crucial, so I hope that the Government will take those into account properly in their consideration of what has been said.

Baroness O'Loan: My Lords, I declare an interest as a member of the Delegated Powers and Regulatory Reform Committee, although I speak not for the committee but in a personal capacity.

There is no doubt that it is sensible to review the activities of public bodies—the House is agreed on that—but there are already processes within most pieces of legislation to provide for that. Quinquennial and other reviews, which are a factor of the corporate life of most public bodies, provide regular opportunities for consideration of all the issues such as functions, powers and budgets that are referred to in the Bill. The use of such reviews could provide a starting point from which there could be a coherent review of individual bodies that might, or might not, lead to the need for primary legislation.

Given the importance—indeed, the essential nature—of the work of some of the bodies included in the Bill that the noble and learned Lord, Lord Woolf, and other noble Peers have highlighted, I wish to address whether the Bill includes adequate provision to ensure proper parliamentary control. The problem of course, as noble Lords have all agreed, is that the Bill itself is fundamentally flawed. It is the prerogative of Parliament to make laws, and that prerogative has been exercised on numerous occasions to enable the creation of many of the bodies that are referred to in the Bill, although others were created by royal charter. On each occasion, the passing of the legislation was designed to address a lacuna in current provision and, in many cases, to provide protection in accordance with such fundamentals as the principles of natural justice and human rights. The noble Lord, Lord Ramsbotham, has already referred to the peculiar nature of the impact assessment that has been produced for the Bill.

The Bill seeks to delegate powers to Ministers to abolish, merge or modify the bodies listed in the schedules to the Bill. Noble Lords have already pointed to the significance of the individual statutory duty on many of those bodies. The Constitution Committee has declared that, in the cases that it examined, the question was whether Ministers should have the power to change the statute book for the specific purposes provided for in the Bill and, if so, whether there are adequate procedural safeguards. The committee stated:

"In our view, the Public Bodies Bill … fails both tests".

As the noble Baroness, Lady Andrews, says, the Delegated Powers and Regulatory Reform Committee, which is representative of all parties, unanimously agreed that,

"the powers contained in clauses 1 to 5 and 11 as they are currently drafted are not appropriate delegations of legislative power. They would grant to Ministers unacceptable discretion to rewrite the statute book, with inadequate parliamentary scrutiny of, and control over, the process".

There has been no change to the essential nature of Clauses 1 to 5 and Clause 11 in the amendments presented by the noble Lord, Lord Taylor. As the noble Lords, Lord Pannick and Lord Lester, have said, when there is a delegation of a legislative power, it must be accompanied by adequate powers of parliamentary control and scrutiny. Whether delegation itself is inappropriate and unconstitutional to the extent that the delegation proposed in this Bill has been declared to be, there can be no adequate powers of parliamentary control and scrutiny to redress the mischief clearly contained in the Bill.

The Government have argued that there are time pressures which mean that the legislation must be presented in this form rather than through primary legislation. I suggest—and, indeed, submit—that the effect of this legislation, if passed, would be to lead to very extensive and expensive litigation, some of which would probably end up in the highest courts, both here and in Europe. Even if this Bill were passed, it would become necessary to engage in a long and exhaustive process of consultation for each body. While in some cases the outcome might be simple, in others it clearly would not be the case. Huge concern has been articulated in the public domain.

This Bill, which places in peril the ongoing existence and functions of fundamentally important bodies such as the Office of the Director of Public Prosecutions, the Equality and Human Rights Commission, the Criminal Cases Review Commission, the Independent Police Complaints Commission and the Chief Coroner's Office, cannot be subjected to sufficient parliamentary control by virtue of the provisions for control of the delegated legislative powers tabled by the noble Lord, Lord Taylor. I support the noble Baroness, Lady Andrews, in this respect. The impact of this legislation and the extent to which attempts have been made in the House to control the exercise of legislative powers do not address the issue.

Lord Phillips of Sudbury: Did the committee of which the noble Baroness is a member conclude that the powers in this Bill are unprecedented in terms of delegation?

Baroness O'Loan: I would not wish to speak of the committee without referring back to the report, but we did conclude that the delegation of these powers was inappropriate. We also concluded that, unless there were changes to the legislation, Clause 11 and Schedule 7 should be removed from the Bill.

Lord Hunt of Kings Heath: I rise to speak to my Amendment 175 and to support the amendments in the names of the noble Lords, Lord Lester and Lord Pannick, and my noble friend Lady Hayter. At Second Reading we made it clear that our concerns with the Bill were not with the principle of a regular review of public bodies or—I say this to the noble Lord, Lord Renton—with the tidying-up process. Our overriding concern is with the draconian powers that could be available to Ministers. I am the first to acknowledge that the noble Lord, Lord Taylor, has introduced a series of amendments and I am grateful to him for so doing, but I simply do not think that they go far enough. The Government have underestimated the concerns of noble Lords. My noble friend Lord Soley was surely right that the amendments are surprising in view of the trenchant criticism made of the Bill by two committees of your Lordships' House. The Constitution Committee said that the Bill,

"strikes at the very heart of our constitutional system",

while the Delegated Powers and Regulatory Reform Committee said that it considered,

"the powers contained in clauses 1 to 5 and 11 as they are currently drafted are not appropriate delegations of legislative power. They would grant to Ministers unacceptable discretion to rewrite the statute book, with inadequate parliamentary scrutiny of, and control over, the process".

That is the context in which we consider this group of amendments. The noble Lord, Lord Elystan-Morgan, said that it is not really about the 450 bodies listed in the Bill; it is about the relationship between the Executive and Parliament. He is absolutely right.

4.45 pm

None the less, being listed in the Bill has a chilling effect on every body so listed. I understand what the noble Lord, Lord Renton, said about the need for pruning and streamlining. The problem is that the Bill could allow Ministers to go further. I ask the Minister to reflect on an organisation listed in Schedule 7, or "death row" as my noble friend Lady Andrews described it. Under Clause 11 a Minister may, by order, add any of the bodies listed under Schedule 7 to one of the principal schedules to the Bill—Schedules 1 to 6. For instance, if a Minister wants to abolish a body, he first moves it, by order, to Schedule 1. He then produces another order to abolish it. In his letter to the Delegated Powers Committee the noble Lord, Lord Taylor, is reassuring in asserting that this will be a two-stage process. However, he then gives the game away by going on to say that it may be appropriate—and would assist Parliament—for the two orders to be debated together. The first order would move a body from Schedule 7 to Schedule 1, in the case of abolition, and the second would be for abolition. I am not sure about Parliament but I can certainly see that it would assist the Executive if it were able to adopt what is, essentially, a one-stop shop approach to abolition.

The impact on all those bodies in Schedule 7 is clear. They will be cowed and become the malleable creatures of the Executive. Any idea of independence of thought by these bodies—any possibility of criticism of government—can be ruled out. It would take just one or two words of caution from the Minister or his officials, or any implied threat to move one of these bodies to Schedule 4, say, for a potential reduction in its finances; or to Schedule 3, which gives Ministers power to sweep away the governing bodies of those organisations and replace them with other people; or to Schedule 1 for outright abolition. Just one or two such hints and most of those bodies listed in Schedule 7 would be expected to fall into line immediately. Already I have been told of bodies listed in the Bill that have been warned by officials against making representations to parliamentarians on the Bill. It is remarkable, given the number of organisations listed, how few have written to us. The chilling effect is already in place.

The constraints that we can place on the Executive in the Bill are crucial. The noble Lord has tabled several amendments, which I welcome. The noble Lord, Lord Taylor, is well known as a Minister who understands this House. The problem is that the amendments still leave us with the huge discretion that is being given to Ministers. Take the Minister's amendments, particularly to Clause 1. As the noble Lord, Lord Pannick, has suggested, the Minister can go through the process but then decide, presumably in the case of each of the organisations so listed, that those functions do not need to be exercised independently of Ministers. That would be it; the Minister would have done what the Bill requires of him. In its report today, the Delegated Powers Committee puts it rather more eloquently than I can. It says:

"But it remains the case that the Minister need only 'have regard to' the objective of securing appropriate accountability to Ministers: the Minister remains entitled to consider the need for independence to be outweighed by other factors".

The noble and learned Lord, Lord Lloyd of Berwick, made a very interesting intervention on Amendment 108 to Clause 8, which he thought was a contradiction in terms given that the objective is to seek greater accountability of Ministers, whereas the amendment in the name of the noble Lord, Lord Taylor, refers to functions that,

"need to be exercised independently".

The noble and learned Lord said that either the amendment means nothing at all or the Government will end up in the courts rather frequently. Like the noble Baroness, Lady Andrews, I am disappointed that the model in the Legislative and Regulatory Reform Act 2006 was not used. That Act provides a parallel. It gives enormous powers to Ministers to remove regulatory boundaries in primary legislation. However, that Act provides many safeguards, including the principles to which the noble Lord, Lord Pannick, referred. Section 3 of that Act contains the preconditions that Ministers must meet before they can make an order—the principles which the noble Lord described. The provisions in Section 3 of that Act are stronger than the measures in this Bill, even with the amendment of the noble Lord, Lord Taylor.

I know the Minister believes that this Bill differs from the Legislative and Regulatory Reform Act in a number of respects. He explained in his letter to the Delegated Powers and Regulatory Reform Committee that that is because this Bill has different subject matter and a narrower scope of powers than the 2006 Act. However, noble Lords who have read the Delegated Powers and Regulatory Reform Committee's report that was published this morning will note that the committee states:

"It is true that the powers in the Bill can apply only to the 200+ bodies listed in it. But section 2 of the 2006 Act seems to the Committee narrower in at least two respects than the powers in the Bill. First, it limits the extent of Ministerial powers by specifying that the power may only be exercised with a particular purpose in mind … Secondly, the power in section 2 of the 2006 Act cannot be used to abolish any regulatory function or confer any new regulatory function".

The committee points out that:

"Clauses 1, 2 and 5 of the present Bill contain no such limitation".

Therefore, even with the amendments by the noble Lord, Lord Taylor, we need to constrain ministerial powers in the way suggested by the noble Lord, Lord Lester. In his opening remarks the noble Lord described his Amendment 1 as keeping the door open to later amendments. That is indeed what his amendment does. I hope that he will keep the door open, have the courage of his conviction and press his amendment. I hope that he will allow the House to vote on it today.

Lord Taylor of Holbeach: My Lords, I rise to speak to the Government's amendments in this grouping. I am delighted to have the chance to debate these amendments which, as my noble friend Lord Lester has pointed out, are crucial to maintaining Parliament's confidence that these powers will be used effectively and appropriately. I am encouraged by the level of consensus on the objectives of these amendments, along with those in subsequent groups that have been tabled with the aim of strengthening the framework in which these powers will operate.

I am determined to knock this Bill into shape. We have heard a number of contributions that could be considered to be Second Reading speeches, and we have had to go over ground covered at Second Reading. I do not hesitate to revisit this matter because it is important to reassure the Committee that one cannot sit in this House without being aware of the need to get the balance right between Parliament and government.

I thank my noble friend Lord Renton of Mount Harry for his contribution. He recognised that the Government needed to tackle this problem of public bodies efficiently and effectively because the public expect that of Parliament. However, I understand that Parliament itself, having set up bodies by primary legislation, feels that it needs its say in the process of reorganising public bodies, in specifics and in general.

My noble friend Lord Newton asked that I recognised the difference between explicit and implicit wording in the legislation. I understand that; it is a valuable point and I am grateful to him for making it.

I cannot go all the way suggested by the noble Lord, Lord Clinton-Davis, who asked me to withdraw the Bill. That is a big ask, if I might say so, and I hope that he will understand that I might not be able to meet it. I have to be honest; I do not think that I will be able to meet all the views expressed in this debate. The noble Baroness, Lady O'Loan—she is not in her place at the moment, unfortunately—took a fundamentalist view of the use of legislation of this type to try to deal with this matter. However, from the contributions of the noble Baroness, Lady Andrews, and the noble Lord, Lord Soley, I felt that they wanted some success out of the Bill. It would be wrong of me not to say that I listened to their contributions with great interest, as I did at Second Reading. I noted, too, the contribution of the noble and learned Lord, Lord Lloyd of Berwick. I will refer to the contribution made by the noble and learned Lord, Lord Woolf, and to other contributions on particular aspects of the subject where I am grateful for the elucidation that we received.

I said at Second Reading that I would seek to amend the Bill to safeguard the independence of public bodies in exercising certain functions. Government Amendment 108 does just that by amending Clause 8 to ensure that Ministers consider the need for functions to be exercised independently because they require professional or specialist expertise or impartial advice in respect of Ministers' policy, or because they involve establishing facts in relation to scrutiny of Ministers' actions. That set of amendments goes back to the Statement that I repeated in this House—if I remember correctly, it was 14 October—made by my right honourable friend Mr Francis Maude, as to the tests applied to public bodies. That must be placed on the face of the Bill, so that it is clear what test the Government apply in determining the validity of the independence of public bodies because of their functions.

The Delegated Powers and Regulatory Reform Committee's report on the Government's amendments states that the additional safeguards in Amendment 108 are still too limited. We take the report seriously and thank the committee again for its continued contribution to the debate on the Bill. On the important subject of safeguards, our amendments represent a proportionate response to the committee's original concerns. We will of course consider further the detailed points raised in the committee's second report and work with Peers to meet their concerns. On regulatory functions, the Government have already made it clear that they will not use the powers conferred by the Bill to make changes to network regulatory functions, and that such an exclusion is not necessary in the Bill.

In response to concerns raised on Second Reading, I have also tabled government amendments to make it clear that the necessary protections which the Minister must consider to be satisfied include the independence of the judiciary. I would like to make it clear that the principle of judicial independence, as guaranteed by the Constitutional Reform Act, is not altered or weakened in any way by the Bill. However, given the concerns raised, I have included a specific reference to that principle.

5 pm

My noble friend Lord Lester's amendment, as he outlined, states that the powers in the Bill must be used in a way that is compatible with judicial independence and the exercise of judicial functions. My noble friend refers to my reference at Second Reading to the administration of justice and asks whether I will accept that this also needs to be reflected in the Bill. Again, the Bill does not amend or alter the independence of the administration of justice. I will, however, take away his concerns and reflect on whether this can also be reflected so that it is explicit, rather than implicit, in the Bill.

Given the particular concern of noble Lords, I undertook to look again at the inclusion of those bodies with a judicial function in Schedule 7. The whole House will remember the distinguished contribution at Second Reading of the noble and learned Lord, Lord Woolf, on this matter. We were fortunate again to hear his contribution today. I reassure noble Lords that I will, following further discussions, bring forward amendments in relation to those bodies for debate on that schedule later in Committee.

My noble friend Lord Lester also raises the issue of making an express provision to compel Ministers to act in accordance with the European Convention on Human Rights. This is unnecessary because, as he points out, the necessity for Ministers to act in accordance with those rights is protected by the Human Rights Act. The Bill does not and cannot amend those rights.

My noble friend made an important point about the notion of "necessary protection" in the Bill. I can confirm that this could extend to economic protection, health and safety protection, the protection of civil liberties, the environment and national heritage.

On the issue of proportionality that my noble friend raises, I do not disagree that Ministers, in exercising their powers, should always aspire to be proportionate. Indeed, I do not think that the objectives to which the Minister must have regard in Clause 8 and to which my noble friend's amendment refers are likely to be achieved without it. Given that, and in consideration of the necessary protections in Clause 8(2), I am still inclined to think that the inclusion of a specific reference in the Bill to the need to use proportionate means to achieve these objectives is unnecessary. However, I understand that noble Lords are particularly concerned about this. The noble Lord, Lord Pannick, made an eloquent speech on this subject, and my noble friend Lord Campbell of Alloway also spoke on it. I understand the concern of noble Lords and others who have argued powerfully for the inclusion of the specific reference. I will therefore take this matter away and think further about it with a view to bringing forward amendments, if necessary.

My noble friend Lord Lester's Amendment 106 would apply the matters to be considered in Clause 8 to the powers in Clause 11. Orders made under those powers would move a public body from Schedule 7 to one of Schedules 1 to 6. In order for any changes then to be made under the provisions in Clauses 1 to 6, a second order, to which the requirements in Clause 8 would apply, would have to be made. The matters to be considered would therefore have to be applied before reforms could be made to bodies using the powers in Clause 11. For that reason, Clause 8 has not been applied to orders made under Clause 11. However, I will look again at whether there would be any benefit in extending Clause 8 to apply to the powers in Clause 11.

My noble friend Lord Lester tabled Amendments 109 and 110, which would amend the matters to be considered in Clause 8(2). This would take away the Minister's consideraton in determining whether an order removes necessary protections and replace it with a requirement that the Minister may make an order only if those conditions are "reasonably" met. The Government have also tabled an amendment to Clause 8(2) that ensures that a Minister may make an order only if they consider that the conditions that the order does not remove any necessary protections are satisfied. The Minister's consideration in determining whether the conditions are satisfied is important. The Minister is responsible and accountable for orders, and must justify how those conditions are met when laying a draft before Parliament. The Government's amendment strengthens the requirements in Clause 8(2) and strikes the right balance. The Delegated Powers and Regulatory Reform Committee's suggestion that this consideration should be for Parliament would not strike the right balance. It would remove the emphasis from Ministers, who should rightly ensure that their orders meet all relevant safeguards before they are introduced.

Amendments 14 and 107, in the name of the noble Baroness, Lady Hayter, would require Ministers, before bringing forward an order under Clauses 1 to 6, to have regard to the aims, objectives or functions of the body in question where they are specified in legislation. I agree with her objective of ensuring that the independence of a number of bodies is not undermined by the Government's approach to delivering important reforms in a timely and proportionate manner. The Government's amendments to Clause 8 substantively improve the Bill and require a much wider set of considerations for Ministers when bringing forward orders to effect change. They require them to consider not only the efficiency, effectiveness and economy of the exercise of public functions, but the importance of independence for particular functions and the protection of the independence of the judiciary. I hope that our proposed new protection for independence, in particular, will help to allay the noble Baroness's concerns.

I thank all noble Lords for their contributions to the debate. I thank my noble friend Lord Lester for his continued engagement on the Bill and in particular for his work on safeguards. He has been constructive in his approach and in his work with my officials to help make improvements to the framework in which these powers will operate. I want to continue working in a collaborative way and will reflect further on proportionality and the independence of the administration of justice. I ask my noble friend to withdraw his amendment.

Lord Lester of Herne Hill: My Lords, this has been a remarkable debate, with more than 20 speeches that will be read long after we are all dead, because the importance of this constitutional issue transcends anything that we are considering today. I am grateful to all noble Lords and to the Minister for their contributions. I will make no attempt to summarise or reply to the more than 20 speeches, although I will say that I find myself agreeing with almost everything in all of them.

Before I explain what I think is the right approach, I will respond to what the Minister has just said by noting the gains that we have made and those that we still need to make. I think that that is the most practical way of proceeding and I shall, I hope, do it quickly.

The Minister's first point was that he wants, through government Amendment 108, to amend the Bill to safeguard the independence of public bodies in exercising certain functions by amending Clause 8 to ensure that Ministers consider, and so on. The problem with that amendment, as several noble Lords have said, is that it relies on the subjective consideration of the Minister, and that, I think, is something to which we shall have to return.

The report of the Delegated Powers and Regulatory Reform Committee says that the additional safeguards in Amendment 108 are still too limited. The Minister helpfully explained that the Government take the report very seriously and that they are going to consider it and further detailed points, which is most welcome. He then made clear the necessary protections which the Minister must consider to be satisfied, including the independence of the judiciary. He explained that he wants to make it clear that the principle of judicial independence, as guaranteed by the Constitutional Reform Act, is not altered or weakened in any way by the Bill. That, of course, is the reassurance that one would hope for.

The Minister then dealt with my amendment which says that the powers must be exercised in a way that is compatible with judicial independence and the exercise of judicial functions. He indicated that he will take

[Lord Lester of Herne Hill]
away my concerns and think about whether that can be reflected in the Bill. That is most welcome and I am grateful.

He then said that, given the concern expressed by noble Lords, he will look again at the inclusion of bodies with a judicial function in Schedule 7. He reassured us that he will bring forward amendments in relation to those bodies for a debate on the schedule later in Committee. Again, I think that the Committee will find that most welcome.

The Minister then mentioned human rights, pointing out that there is no need to refer to the convention rights in the Bill. However, that does not deal with the problem of rights going beyond the convention in common law and equity. That may be something that one needs to think about hereafter.

He then turned to the notion of necessary protection in the Bill, confirming that it extends to economic protection, health and safety, and the protection of civil liberties and the environment. That, again, is welcomed. He then turned to the important question of proportionality and said that he is still inclined to think that a specific reference to it is not needed in the Bill. I strongly disagree with that—a view that I think was expressed by several noble Lords.

The Minister dealt with the orders under Clause 11 and said that he would look again at whether there was any benefit in extending Clause 8 to apply to the powers in Clause 11. I think that most noble Lords hope that that will be done.

He then dealt again with the phrase "if the Minister considers". However, most noble Lords have indicated that that is not good enough. The Minister said that he thought the Government's amendment strengthening the requirements in Clause 8(2) struck the right balance, whereas he believed that the regulatory reform committee's suggestion that it should be for Parliament would not strike the right balance. That is clearly a matter for future debate.

The Minister then turned to the interesting points made by the noble Baroness, Lady Hayter, concerning her amendments. I think that the Minister may have misunderstood the noble Baroness's point. It is not about independence at all. She submitted that one needs to make sure that Ministers understand the core functions and raisons d'être of a particular organisation before they even think of exercising ministerial powers. That is something that the Minister may therefore want to consider.

I come to what is called the courage of my convictions. I do not need any instruction on the courage of my convictions, but I am a practical fellow and trying to think about what is the most sensible way forward. We all know that it is the practice of this House not to make amendments in Committee unless there is an extremely good reason for doing so. In this case, I want to leave breathing space between now and further proceedings in Committee—not between now and Report—to give the Government the opportunity to do the sort of things that the Minister has indicated today and which noble Lords around the Committee have also indicated. Having heard noble Lords speak, I do not think that Amendment 175 goes far enough. If I divide the Committee, I will probably win on Amendment 1, but it will serve no practical purpose unless a clear series of safeguards follows.

5.15 pm

Lord Pannick: After a two-hour debate on matters of fundamental importance, does the noble Lord accept that it would be of value for the Committee's opinion to be tested so that the Minister—whose open attitude is much admired by all noble Lords—and the Government generally are left in no doubt of the Committee's views on the need for further essential safeguards to be written into the Bill?

Lord Lester of Herne Hill: I am grateful to the noble Lord for asking a question which I am trying to answer as I speak. The Minister will have heard everyone around the Committee. I am sure that some of us recall what was once said by Archbishop William Temple in a famous lecture: "Whenever I travel on the Underground I always intend to buy a ticket, but the fact that there is a ticket collector at the other end just clinches it". The Minister has heard the voice of a united Committee, and I am going to be pusillanimous and much criticised for my moderation in not dividing it. However, I do so as a friend and supporter of the coalition. Unless we get the amendments that have been asked for on all sides of the Committee, this Committee will act as the ticket collector rather than myself. If we are trying to achieve a constitutional Bill that we can pass, the right way to do that is not by flexing our muscles on Amendment 1 and proceeding on that basis.

Baroness Hayter of Kentish Town: Can the noble Lord explain the difference between the strength of feeling at Second Reading—which we agreed was very strong and very united, but not tested because of the protocols of this House—and the strength of feeling today? If I understand him, he feels that he has not yet been heard properly by the Government. Why does he think that the strength of feeling today is different from that on the previous occasion and, therefore, that it will be heeded on this occasion?

Lord Lester of Herne Hill: I do not think that it is different. If anything, it is stronger; but it is certainly as strong as it was on Second Reading. I am trying to consider how best to persuade the coalition Government, whom I support, to make these changes. I believe that we will have more influence by not dividing the Committee. Having said what I have said, I hope that noble Lords, except those who are dying to win a vote, will hold off for now so that we can come back quite strongly—

The Countess of Mar: Does the noble Lord appreciate that he might withdraw his amendment, but that the Committee might not agree that the amendment can be withdrawn when it is called?

Lord Lester of Herne Hill: I appreciate that. I ask noble Lords to consider that, if there were a vote, I would not be able to support it; and on that basis, I think it would be quite likely that, if my noble friends

agreed with me, the vote would be lost. That would be a misfortune. I think it is much better that we stay united and that the Government listen to the Committee as a whole rather than that we play games at this time in the afternoon.

Lord Soley: I understand the noble Lord's dilemma as we have discussed it before. If I were asked whether the Minister will try to help the Committee, I would answer yes, because I think that he really wants to. However, I do not think that that is the problem. I think the problem is that the Government have got themselves locked into a position where this Bill in its present form is necessary to them. I would like to lend strength to the argument of the noble Lord, Lord Taylor, and winning a vote would do that.

Lord Lester of Herne Hill: I am grateful to the noble Lord, but in the end I have to form a judgment about how we as creditors, coming to the aid of the Government who need our support, can best produce a stabilisation grant that will enable them to do so at a time where there is this great difficulty. My judgment is that by being moderate today, we will have more credit for the future. If I am mistaken, I promise Members of the Committee that I shall not be able to be as loyal as I am today to the discipline imposed on us. Having said all that—and it is not a threat, simply a promise—I beg leave to withdraw the amendment.

Noble Lords: No!

5.21 pm

Division on Amendment 1

Contents 235; Not-Contents 201.

Amendment 1 agreed.

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5.36 pm

Amendment 2

Moved by ***Baroness Royall of Blaisdon***

2: Clause 1, page 1, line 3, at beginning insert "Subject to the provisions of section (Duration of this Act),"

Baroness Royall of Blaisdon: In moving Amendment 2, I shall speak also to Amendment 181. These amendments would introduce a sunset clause to the Act, which would mean that it will automatically expire five years after coming into force. As a natural consequence, the powers of Ministers to make orders abolishing or fundamentally changing these bodies will also expire at this time. It was the Second Reading speeches of the noble Lords, Lord Norton of Louth and Lord Kirkwood of Kirkhope, and of the noble Viscount, Lord Eccles, that made me reflect further on the wisdom of a sunset clause for the Bill, as did the first report of the Delegated Powers and Regulatory Reform Committee. The effect of a sunset clause is to set a deadline for the end of this legislation in the event that Parliament decides to enact it into law. It is a prudent step in relation to this Bill.

My reasons for tabling the amendments are twofold. First, like noble Lords on all sides of the Chamber, we agree that many arm's-length bodies play an important part in our public governance and public life. However, they must be effective and efficient and they must not be set in aspic. We must be able to improve and streamline them, as the noble Lord, Lord Renton of Mount Harry, said in our earlier debate. There needs to be a sensible alternative to the status quo, which is what the Labour Government were developing in our March White Paper. When we were in office we managed to cut the bodies which had come to the end of their usefulness—to which my noble friend Lord Warner can give testament—and we recognise that there must be a means by which this can be done. We do not agree with the Bill in its present form, but if we are able to amend it in an acceptable way, then, like the noble Lord, Lord Norton, and others, we believe that it would be appropriate to consider a Public Bodies Bill in each Parliament to enable tangible proposals to be put forward and properly scrutinised by both Houses. In this way, we will continue to recognise the importance of bodies being accountable not to the Government or the Minister of the day but to Parliament.

Secondly, I reiterate the sentiments of my noble friend Lady Andrews which she expressed so cogently during the debate on Second Reading. She said:

"We have a Bill that brings with it a threat of future changes that are as yet unknown either to the institutions identified or to the Ministers in place".—[*Official Report*, 9/11/10; col. 86.]

The noble Baroness, Lady O'Loan, observed earlier that this Bill places many organisations in peril. It is not appropriate to continue an indefinite threat to the bodies listed in any of the schedules to the Bill, and Clause 11 and Schedule 7 are particularly insidious. They are a feature of the Bill that noble Lords have quite appropriately labelled as "pernicious", a "zombie list" and a "death row for quangos". The noble and learned Lord, Lord Woolf, made another powerful speech today, as did the noble and learned Baroness, Lady Butler-Sloss. How can a body such as the Gangmasters Licensing Authority be on Schedule 7?

The Minister was asked repeatedly during the Second Reading debate what bodies were included in Schedule 7, what the rationale was and what the Government's criteria were for establishing that status. The Minister did not answer the points during the debate but, understandably, he promised to come back at the Committee stage with amendments to address the concerns expressed. He has indeed tabled amendments, but none of them addresses the underlying concerns about why bodies are included in Schedule 7, or why they, their staff and the people they serve are made to live with constant insecurity. If the Minister was serious about the concerns—as I believe he was—he would have recognised more fully that the only way of addressing them is to table an amendment to delete Clause 11 and Schedule 7. He has not done this and the safest way to proceed is with a sunset clause, even if, as I hope, later in the proceedings the Minister either accepts the amendments to Clause 11 and Schedule 7 or the clause and the schedule are defeated.

It is not right and proper that the powers granted by the other schedules are left unchecked for Parliament after Parliament. The noble Viscount, Lord Eccles, said at Second Reading that a sunset clause would hold the Government's feet to the fire and ensure that they acted. I am sure that this is correct. It would also ensure that in each Parliament specific organisations are considered. I would hope that this would follow consultation and would not be out of the blue, but there would be an opportunity in that case for proper parliamentary scrutiny and debate, something which we are denied by this Bill.

I also wonder what consideration is being given to the many new quangos which have already been announced by the coalition Government. It may be that this Government or some future Government would wish to consider their viability in the long term, and it may be that a Public Bodies Bill in each Parliament would enable Parliament to address the viability of the bodies which are now being created.

I learned the value of sunset clauses from the Constitution Committee of your Lordships' House in discussions before, during and after publication of its excellent report, *Fast-track Legislation: Constitutional Implications and Safeguards*. It took me a while, but I got there in the end and fully accepted what the Constitution Committee was wisely telling us. One of the reasons for a sunset clause in expedited legislation is that such legislation is, by necessity, hastily drafted. There is no necessity here for hasty drafting. The Government have given no clear reason why we are being asked to consider a Bill that has been so hastily drafted. Indeed, the Minister seems to have tabled an almost unprecedented number of stand-part interventions to oppose clauses of his own Bill. We all agree that a great deal of change needs to be made to the Bill and we shall be testing the strength and coherence of those amendments during the course of the debate, as we shall with our amendments and those of other noble Lords.

As has been said repeatedly today, the Bill fundamentally alters the balance of power between the Executive and Parliament with its "misconceived delegated powers". It is sidelining Parliament by legislation. I recommend Amendments 2 and 181 as both reasonable and necessary so that we strike the right balance between accountability to Parliament and an ongoing public bodies review regime. I think the vast majority of noble Lords believe that it is right and proper to keep these bodies under review. I beg to move.

5.45 pm

Lord Taylor of Holbeach: My Lords, these amendments of the noble Baroness, Lady Royall, and the noble Lord, Lord Hunt, would have the effect of time-limiting the Bill for a period of five years following Royal Assent. After this time the Bill would expire and Ministers would no longer be able to make use of the order-making powers within it to make changes to public bodies. I recognise, as the noble Baroness did when presenting them to the Committee, that these amendments have their origins in the Second Reading debate and the contributions of a number of my noble friends explaining why they thought that a sunset clause might be a good idea. The Constitution Committee also suggested that in its report, as well as suggesting that the Bill's order-making powers are broad and not balanced by appropriate safeguards and parliamentary scrutiny. That was its position.

[Lord Taylor of Holbeach]

The government amendments address these concerns. They protect the independent exercise of important public functions and give Parliament an enhanced role in scrutinising orders made using the Bill. In doing so, they provide great reassurance that both this and future Governments will use the Bill's powers in the responsible and considered manner that I know your Lordships would expect.

By sunsetting the Bill as the amendments propose, Parliament would be denying the opportunity to use the Bill to make changes to public bodies following the five-year period. This seems to me a disproportionate response. I recognise noble Lords' concerns about the Bill—and we have acted to address those concerns—but I also recognise the wide support for the policy intent not only in Parliament and among the general public but, indeed, on the Benches opposite, as the noble Baroness, Lady Royall, said in her remarks about the need to review public bodies.

The Government's preferred approach is to pass a Bill which allows the flexibility to make changes to public bodies quickly when it is in the public interest, but which also ensures the protection of important public functions and allows for full consultation and parliamentary scrutiny. However, there is a strength of feeling in the Committee that the Bill and the powers in relation to the relevant schedules should not be open-ended, and I must take account of that.

We could sunset in relation to the bodies in Schedules 1 to 6 at five years, as these relate to agreed proposals which will be implemented within that timeframe or, in the majority of cases, much sooner. However we accept that that is not noble Lords' main concern, and that we therefore have to look again at the powers in Clause 11, which relate to Schedule 7. If it is not possible to provide the reassurances needed, we will have to look to the possibility of further primary legislation in five years' time to effect any future reforms—and I am sure that noble Lords would look forward to the prospect of another Public Bodies Bill with great anticipation. I therefore ask the noble Baroness to withdraw her amendment so that we can consider my suggestions.

Lord Soley: The Minister now understands clearly—and probably has done from the beginning—that there is acute concern about the Bill. He also understands, which perhaps other people do not immediately understand, that there is a great deal of support for some structure or agreement on how we can reform these bodies. Is it not possible to perhaps come back to the House on the sunset clause and, in the mean time, talks could take place between the parties and the Cross-Benches on what would be a good model to bring before the House in five years' time? We could end up with better legislation, even if it takes five years to get it.

Lord Taylor of Holbeach: I thank the noble Lord, Lord Soley, for that suggestion. It is well intentioned and reflects a course of action which is open to the Government. At the moment, I believe there are ways of sunsetting within the Bill as it currently stands which might be used positively to enable the Bill to be used to better effect. I should like to use the time between now and Report to be able to discuss that, which is why I am asking the noble Baroness to withdraw her amendment. This matter has been raised in our discussions outside the Chamber.

Lord Adonis: Did I understand the Minister to say that the further conversations he would undertake with my noble friend would concern the possible sunsetting of the entire Bill? He elided his comments about some sections of the Bill with a comment that he would be prepared to discuss the sunsetting of Clause 11. I think that my noble friend's concern goes considerably wider than Clause 11. Could he clarify what he is prepared to consider sunsetting?

Lord Taylor of Holbeach: I am prepared to consider everything. I do not rule anything out, because that is the wrong way to approach discussions. I gave an indication, however, of the implications of different sunsetting. Sunsetting the whole Bill would mean that we would need another Bill in five years, if it was determined that that was necessary. Sunsetting clauses of the Bill is a different approach. I have also made it clear in my response to the amendment that the Government are looking at the interaction of Clause 11 and Schedule 7, and at whether sunsetting might help relieve some of the anxieties, well expressed across the Chamber, about those sections. I hope that I have been pretty open about where we are looking at sunsetting. I assure the noble Baroness that, should she withdraw her amendment, we would enjoy discussing this matter with her and other Members of the House who have expressed an interest.

Baroness Royall of Blaisdon: My Lords, I am grateful to the Minister for his response to my amendments. I think that he has said that he is willing to consider sunsetting the whole Bill as well as specific clauses within it. He is nodding his head, so I take it that that is so. I shall therefore not press my amendments. I look forward to discussions with the Minister and the Bill team. My noble friend Lord Soley suggested that we might try to do this on a whole-House basis. I realise that one does not have representatives from the Cross-Benches, but if we can ensure that someone from those Benches who is particularly concerned about this aspect of the Bill is present, together with somebody from the Liberal Democrats and the Conservatives—because they would perhaps have different views—I shall willingly withdraw my amendment.

Amendment 2 withdrawn.

House resumed.

Controlling Migration

Statement

5.54 pm

The Minister of State, Home Office (Baroness Neville-Jones): My Lords, with the leave of the House, I should like to repeat a Statement made in the other place.

"With permission, Mr Speaker, I would like to make a Statement on immigration.

Controlled migration has benefited the UK economically, socially and culturally, but when immigration gets out of control, it places great pressure on our society, economy and public services. In the 1990s, net migration to Britain was consistently in the tens of thousands each year, but, under Labour, it was close to 200,000 per year for most years since 2000. As a result, during Labour's time in office, net migration totalled more than 2.2 million people, which is more than double the population of Birmingham. We can't go on like this.

It is our aim to reduce net migration from the hundreds of thousands back down to the tens of thousands. To achieve this, we have to take action across all routes to entry— work visas, student visas, family visas—and to break the link between temporary routes and permanent settlement.

On the work routes, all the evidence shows that it is possible to reduce numbers while promoting growth and underlining the message that Britain is open for business. After consulting widely with business and with the Migration Advisory Committee, I have decided to reduce economic migration through tiers 1 and 2 from 28,000 to 21,700. This would mean a fall of more than a fifth compared with last year in the number of economic migrants coming through tiers 1 and 2, excluding intra-company transfers.

Business groups have told us that skilled migrants with job offers, tier 2, should have priority over those admitted without a job offer, tier 1. I have therefore set the tier 1 limit at 1,000, a reduction of more than 13,000 on last year's number. Such a sharp reduction has enabled me to set the tier 2 limit at 20,700, an increase of nearly 7,000 on last year's number.

The old tier 1, which was supposedly the route for the best and the brightest, has not attracted highly skilled workers. At least 30 per cent of tier 1 migrants work in low-skilled occupations such as stacking shelves, driving taxis or working as security guards, and some do not have a job at all. So we will close the tier 1 general route.

Instead, I want to use tier 1 to attract more investors, entrepreneurs and people of exceptional talent. Last year, investors and entrepreneurs accounted for fewer than 300 people. That is not enough. So I will make the application process quicker and more user-friendly, and I will not limit the number of those wealth creators who can come to Britain.

There are also some truly exceptional people who should not need sponsorship from an employer and whom we would welcome to Britain. I will therefore introduce a new route within tier 1 for people of exceptional talent—the scientists, academics and artists—who have achieved international recognition or are likely to do so. The number will be limited to 1,000 per year.

Tier 2 has also been abused and misused. Last year, more than 1,600 certificates were issued for care assistants to come to the UK. At the same time, more than 33,000 care assistants who are already here were claiming jobseeker's allowance. I shall restrict tier 2 to graduate-level jobs.

On intra-company transfers, we have listened to business and will therefore keep those transfers outside the limit. However, we will set a new salary threshold of £40,000 for any intra-company transfers of longer than 12 months—recent figures show that 50 per cent of intra-company transfers meet those criteria. This measure will ensure that those coming are only the senior managers and key specialists that international companies need to move within their organisations.

I thank the Migration Advisory Committee for its advice and recommendations. Next year, I will ask the committee to review the limit in order to set new arrangements for 2012-13.

However, the majority of non-EU migrants are students. They represent almost two-thirds of non-EU migrants entering the UK each year, and we cannot reduce net migration significantly without reforming student visas. Honourable Members might imagine that by 'students' we mean people who come here for a few years to study at university and then go home. But nearly half of all students who come here from abroad come to study a course below degree level, and abuse is particularly common at these lower levels. A recent check of students studying at private institutions below degree level showed that a quarter could not be accounted for. Too many students at these lower levels have come here with a view to living and working rather than studying. We need to stop that abuse. Therefore, as with economic migration, we will refocus student visas on those areas which add the greatest value, and where evidence of abuse is limited.

I will shortly be launching a public consultation on student visas. I will propose to restrict entry to only those studying at degree level, but with some flexibility for highly trusted sponsors to offer courses at a lower level. I will also propose to close the post-study route, which last year allowed some 38,000 foreign graduates to enter the UK labour market at a time when one in 10 UK graduates were unemployed.

Last year, the family route accounted for nearly 20 per cent of non-EU immigration. Clearly, British nationals must be able to marry the person of their choice but those who come to the UK must be able to participate in society. From next week we will require all those applying for marriage visas to demonstrate a minimum standard of English. We will also be cracking down on sham marriages and will consult on extending the probationary period of settlement for spouses beyond the current two years.

Finally, we need to restrict settlement. It cannot be right that people coming to fill temporary skills gaps have an open access to permanent settlement. Last year, 62,000 people settled in the UK on that basis. Settling in Britain should be a privilege to be earned, not an automatic add-on to a temporary way in. So we will end the link between temporary and permanent migration.

I intend to introduce these changes to the work route and some of the settlement changes from April 2011. I will bring forward other changes soon after. This is a comprehensive package that will help us to meet our goal of reducing net migration at the same time as attracting the brightest and the best and those with the skills our country needs. This package will serve the

[Baroness Neville-Jones]
needs of British business. It will respond to the wishes of the British public. It will give us the sustainable immigration system that we so badly need".

My Lords, that concludes the Statement.

6.02 pm

Lord Hunt of Kings Heath: My Lords, I thank the Minister for repeating the Statement and for clarifying the confusion caused by the misleading leak of the contents of the Statement to the BBC this morning—not the first time that that has happened.

I am sure that the Home Secretary is right to say that migration has made, and continues to make, a significant contribution to the economic vibrancy, business strength and social vitality of our country. She is also right to say that it is essential that migration is properly controlled for reasons of both economic well-being and social cohesion. The question is: how does one achieve that? Over the past few years, the Labour Government put in place transitional controls on EU migration, a suspension of unskilled work permits, a tough but flexible points system to manage skilled migration, tighter regulation of overseas students leading to the closure of 140 bogus colleges, and new earned citizenship requirements for those seeking settlement.

At the general election, the leader of the Conservative Party proposed to go further in two key respects. First, he proposed a new target, reaffirmed in last week's debate in the other place by the Parliamentary Under-Secretary, to reduce net migration to tens of thousands by 2015. To meet that target, he pledged a cap on immigration which he said would be tougher than the points system. At the time, the leader of the Liberal Democrats said that they did not come up with promises like caps which did not work; he then agreed to the cap in the coalition agreement.

Since then the Government have been in wholesale retreat and today they are in some confusion. The CBI, the chambers of commerce, universities, Nobel prize winners, UK and foreign companies—large and small—have all highlighted the huge damage the Government's proposals mean for business investment, research and job creation.

The Home Affairs Select Committee in the other place, and the Migration Advisory Committee, have highlighted that the proposed cap not only excludes EU migration but covers only 20 per cent of non-EU migration, with overseas students and family members being outside the cap entirely. At the weekend, the business editor of the *Sunday Telegraph* wrote that the Government's "ill considered immigration cap" has had,

"the bizarre result of causing substantial problems for Britain's leading businesses whilst at the same time having only the most minor of impacts on the number of people actually coming to the UK".

We have had the sight of the Prime Minister hinting at concession after concession in the face, we read, of opposition from the Home Secretary. But, then again, thanks to the excellent public lobbying and guerrilla tactics of the Business Secretary, the Home Secretary has now come to the other place to confirm the details of that retreat.

While we will need to keep a close eye on how our proposals will affect business and science, we certainly join business representatives in welcoming the decision to exempt intra-company transfers of workers. What has caused the confusion is this morning's briefing to the BBC that the total cap would be 42,700 work permits. I understand that mid-morning the Home Secretary's officials had to clarify to the Press Association that there is no such cap on that scale. My understanding from the Statement, as the noble Baroness has repeated, is that the Home Secretary will allow 21,700 tier 1 and 2 work permits, but with no cap on migration due to intra-company transfers. I ask the noble Baroness what the overall reduction will be as a result of the so-called cap announced today. If the number of intra-company transfers goes up, can the noble Baroness tell the House whether she will then put in place an offsetting cut in tier 1 and 2 permits? If not—and I know business representatives will very much hope that the answer is not—can she confirm that the supposed cap is in fact just a guess; a fig-leaf and no cap at all? This is a policy designed for an election campaign, but not suited to the reality of Government or the actual long-term interests of the UK.

Given her Permanent Secretary's revelation this morning that her department will lose 9,000 jobs—the bulk of which will be in the UK Border Agency—is the Minister confident that she will have enough resources to enforce her migration policy and keep our borders secure?

On family reunification, the Statement had nothing new to say. No estimate was given to the House of how many fewer visas she will need to grant by 2015 to meet the Prime Minister's target. On overseas students, we are promised another consultation and, again, with no estimates. Why is that? Could it be that the Prime Minister is simultaneously travelling to countries of the world, inviting students to come to Britain to study and the Business Secretary is telling our universities that they can live with an 80 per cent cut in teaching budgets because they can mitigate the loss with fees from overseas students? Is that the position?

I would also like to ask the noble Baroness whether it is still the objective of the Prime Minister and the Government to cut net migration to the tens of thousands by 2015. I notice that in the Statement the goal was repeated but we no longer get the date of 2015. Can the noble Baroness reaffirm that the 2015 promise still stands? It is a simple question: is the tens of thousands pledge still binding by 2015?

Baroness Neville-Jones: My Lords, I, too, listened to the debate in the Commons and I note that the Speaker did not admit the proposition that there had been a leak from the Home Office. I do not believe that there was a leak from the Home Office. This is not an instance that can be cited in that direction.

The noble Lord asked a number of questions—

Lord Myners: My Lords—

Noble Lords: Order!

Baroness Neville-Jones: I am glad that the noble Lord agrees with the proposition that migration needs to be controlled. I will deal with his points about targets. We do indeed stand by the target of cutting migration to tens of thousands by the end of this Parliament, and we believe that the UK Border Agency will have the resources to ensure that it plays its part in bringing about that conclusion.

As for whether the limits serve the economic interests of the country, I note that the *Daily Telegraph* wrote its article before the Statement was made. Since my right honourable friend made the Statement—which, I might say, is the outcome of consulting, not of confusion—the CBI has expressed its satisfaction with the new system, which it believes will serve the economic interests of the country. Therefore, I believe that neither the charge that we are not listening nor the charge that we are confused stands examination.

On the question of intra-company transfers, our objective is to ensure that companies can transfer the people whom they need. That is why we have not put a limit on intra-company transfers. We will monitor intra-company transfers and look at how the process for that particular category of people goes. For instance, if need be, we will look at whether qualifications such as the level of salary are needed for intra-company transfers. However, we do not intend to relate that particular tier to other tiers. It is clear that we take the view that, after consultation with industry, it is important that companies have that flexibility. That means that, in other areas, we will also look at the limits that have been set for the time being, as indicated in the Statement.

6.11 pm

Baroness Hamwee: My Lords, I ask the Minister to clarify a couple of issues regarding the paragraph about family members. The Statement says that from next week—although we are told at the end of the Statement that most of the changes will come in next April or soon after that—those who apply for a marriage visa will be required to demonstrate a minimum standard of English. Can she confirm whether that is about providing evidence that the marriage is not a sham marriage, or is that a completely separate matter? Does the Minister agree that English is best learnt in the country where it is spoken?

Secondly, does the Minister agree that there is a need for proper training and skills provision for some of those whom we may find it difficult to identify in future? The Migration Advisory Committee's report rightly talks about the need for employers to provide training, but it also states:

"Some priority may also be required for limited migration into vital public services such as … social care."

In the context of the reference to the care assistants who are already here, does the Minister accept that those who work in the social care sector need not just technical but—if I may put it this way—cultural skills as well? I say that having talked at the weekend to a trustee of a care home who tells me that Filipino care assistants have a much better idea of how to look after elderly people than, I am afraid, British people seem to have.

Baroness Neville-Jones: On family migration and language, I entirely agree with my noble friend that you best learn the language when you are in the country. We are not demanding anything more than the lowest possible level of competence by way of an entry requirement, but we believe that it is necessary to insist that integration and the ability to participate in society are objectives that everyone who comes to this country should share. We believe that the capacity to communicate in the language is an absolutely fundamental requirement.

On the question of carers and skills, we will monitor the whole issue of skills shortages. Clearly, it does not make sense for us to impose limits in areas where there are skills shortages. However, as I said in the Statement, caring is not currently an area where a skills shortage arises. Nevertheless, my noble friend makes a good point that, if there is a lack of specialist skills within the caring profession, those could fall to be considered under a skills shortage category.

Lord Tomlinson: My Lords, I declare an interest as chairman of the advisory board of the London School of Commerce, which is a private sector college with highly trusted sponsorship status. I also declare my position as vice-chairman of the board of Anglia Ruskin University, which is a state university.

I broadly welcome the part of the Statement that deals with students because it avoids the major elephant trap, which has been around for quite a long time in higher education, of merely reiterating the mantra, "Public sector good, private sector bad". That is wrong on both sides of the equation. Some of our universities are not particularly good, and some of our private colleges are extremely good. I think that the Statement more or less strikes the right balance, so I welcome it on those grounds.

The Minister is right to identify the number of students who come here to study at below degree level as a major problem, but what plans do the Government have to copy the best of the private sector in monitoring the continuous attendance of students at courses? At our college, we have brought to the attention of Home Office officials—we have invited them to come and visit—our system of digital identification, which gives us a link with students that means that it is not a surprise to find that all students are in attendance and we can be aware of their non-attendance within days rather than weeks.

Finally, given that the Minister's department has been in consultation with the sector almost continuously for the past five or six years, does she agree that the consultation should now be concluded fairly quickly? What is needed in both the public and the private sector is a period of stability in higher education, so that institutions can recruit students in the knowledge that the students will be able to attend. The modern practice of public and private working in partnership should surely be able to continue unabated by fears about the ability to get visas.

Baroness Neville-Jones: I am grateful for the noble Lord's welcome of the general proposition that we have laid out.

[Baroness Neville-Jones]

On the noble Lord's first point about the monitoring of educational establishments, including those that are in the category of highly trusted sponsor, there will indeed be monitoring. I think that monitoring is already in place for many schools that have had to register in order to be providers of English language teaching. The monitoring of attendance, of the qualifications awarded and of the compliance of the institution in meeting its obligations under its sponsorship arrangements will indeed be carried out and spot checks may occur. I think that all institutions will be on notice that their obligations need to be taken seriously. Of course, if institutions do not take those seriously, they will lose their sponsorship status.

On the noble Lord's second point, we entirely accept that those who want to bring people into this country, whether for study or for employment, need to know where they stand. My right honourable friend the Home Secretary has made it clear that she wants to get through the next stage—clearly, a big block of migrant movement is by students, who are, at something like 51 per cent, by far the biggest category of migrants—as soon as possible. Progress must, if I may say so, be consistent with having a proper consultation on how to do that, but the object will be to conclude that consultation so that we can put in place a system—and a level—that is reasonable and that serves the interests of this country.

Lord Lucas: My Lords—

Lord Maclennan of Rogart: My Lords—

Earl Attlee: My Lords, we have not heard from a Conservative yet.

Lord Myners: You are all in it together!

Earl Attlee: There is plenty of time. Let us have a Conservative and then a Liberal Democrat.

Lord Lucas: My Lords, I am grateful. I am delighted that there is to be a consultation on students and I hope that the noble Baroness will feel able to include me in that consultation as editor of the *Good Schools Guide* and let me know who else is being consulted. I very much hope that it will include all further education institutions, private and public. I regret the derogatory tone taken about that sector in the Statement; many good-quality institutions provide excellent courses below degree level, which are in great demand throughout the world. We should export a strong and large export industry employing many people in this country. I agree that it should have quality controls and that the previous Government were remiss in completely failing to install the sort of system that has just been talked about, but we should be positive about the sector and support it as there is a great deal of good there and a great deal of employment.

Baroness Neville-Jones: My Lords, I think that that sentiment would be widely shared in the House. It is certainly shared in the Government. If the consultation that has just been conducted on the employment sector is anything to go by, the House can be confident that this consultation will also be wide-ranging and thorough. In this particular consultation with business, we talked to something like 30,000 individuals and had something like 3,000 responses, which I understand was a record for this kind of consultation, speaking to upwards of 1,000 employers. I lay that on the line because it indicates that we have been a listening Government and far from a confused one. We will do the same in other sectors.

Lord Judd: Does the Minister agree that we should not simply acknowledge the contribution made by migration to this country but, across the political divide, warmly thank migrants for the tremendous contribution that they have made to the well-being and health of this country? Would she agree, too, that some pretty crude contradictions are inevitable in an immigration policy? On one hand, we are committed to the principles of a global market and encourage the free movement of goods and capital and the rest; on the other hand, there is no free movement of labour. That is a fundamental contradiction in the theory of the market. Does that not make it essential that we consult across government with all relevant departments about the compensatory measures needed in development policy, international financial policy and international economic policy for this distortion in the market? While doing that, how far do the Ministers with immediate responsibility discuss with colleagues in DfID the implications of a policy that seems to give priority to those who arguably are the people most needed in their own countries to build up their countries' economy and provide employment opportunities for a wider cross-section of their populations?

Baroness Neville-Jones: My Lords, it is historically well based to assert that migration has been extraordinarily beneficial to this country. We have had immense advantage out of being an open society. The noble Lord asks whether we could be behaving in ways that disadvantage countries that need to retain their own talent. That is a perfectly fair point that goes to the core of successful development policies—because we do not have successful development in developing countries in the absence of the talent that they need to lead. That is one of the many reasons why we need to break the link between allowing or inviting people to come here and benefit from our education system and possibly taking subsequent employment without using this as a route to settle down here and leave their own countries, where they might benefit their own communities. I take the point absolutely. The policy that we are trying to pursue and that will draw some in—and we wish to see them here—is not designed to deprive countries permanently of their leadership talent.

Lord Maclennan of Rogart: My Lords, in the light of the Minister's indication that there would be a limit of 1,000 people from scientific, academic and artistic communities and in view of the fact that this country has a high reputation in these fields, is it not a little unwise to announce an inflexible figure? Can she indicate how many people falling into that category have been applying for permits to come into the country? What consultation will she make in future to ensure that the number is sufficient to enable us to maintain our reputation in these fields?

Baroness Neville-Jones: I am trying to find the figure. I think that I am right and, if I am not, I shall correct myself on the record later and write to the noble Lord. My understanding is that 700 are being issued in that category, so the figure of 1,000 is not an unreasonable estimate of what is likely to be needed in this category. Of course, it is entirely without the complication of sponsorship or other qualification. We have sought to respond to the points that were made about our need for great talent to come here, but also to the desire of those who wish to come and work in our global-quality institutions. We will monitor all these figures and, if they turn out to be wrong, I am sure that the Government will want to change the limits. The last thing that this country needs is to impose an immigration policy on itself that does not meet its social and economic needs and benefit the population of the country.

Lord Anderson of Swansea: The proposal on marriage is fine in principle, but my experience is that so often sham marriages can proceed and succeed because there is no check at the end of the period as to whether they are subsisting. What assurance can the Minister give on the rigour of the checks carried out at the end of the two-year period? Otherwise, sham marriages will continue and proliferate.

Baroness Neville-Jones: The noble Lord is right that there is a problem here. We are looking at a possible extension of the period during which a marriage would have to subsist for it to be demonstrated not to be sham. That means that we will have to monitor that to be the case. The announcements being made in context form part of a wider view of how we monitor those who are let into the country and their compliance with the conditions under which they were permitted to enter. In a different context, I recall announcing how we were going to monitor English language schools. That undoubtedly imposes on the immigration system an extra duty when ensuring that terms are being met. However, it will be made very clear to those involved that the penalties for failure to comply are very high.

Viscount Waverley: Could systems be put in place to record those departing UK shores? If not, when might that happen?

Baroness Neville-Jones: That is something that we are working on, but I cannot give the noble Viscount a date because I am not informed of the timetable, but it is certainly a UKBA objective that we record the outward journey.

Lord Clinton-Davis: My Lords—

Earl Attlee: There has been only one Conservative question.

Lord Brooke of Sutton Mandeville: My Lords, can my noble friend expand a little on the reference to Highly Trusted Sponsors, who might be allowed to offer courses at a lower level—"Highly Trusted Sponsors" having an upper-case H, T and S?

Baroness Neville-Jones: My Lords, I fear we have another abbreviation. I am unable to give my noble friend a great deal of information, but two things are clear. There are already some institutions of extremely good standing that will, by definition, be given such a status and earn this soubriquet. Other institutions will be given time to qualify on the basis of their meeting the conditions of being a trusted sponsor. This involves being part of a reputable institution and having a record both of complying with the terms of the conditions and of being in a proper financial relationship when it comes to paying the necessary amounts for the sponsorship and visas of the individuals involved.

Lord Clinton-Davis: The noble Baroness said that too many students have been coming here to live rather than to study. Will she kindly say on what evidence she formed that view? In particular, could she indicate how many students of that character are doing that? Would she also outline the organisations or persons who have opposed or have reservations about the new regime?

Baroness Neville-Jones: My Lords, I am afraid that I cannot answer the third of those points. I will endeavour to investigate and see whether I can enlighten the noble Lord. I will write to him if that is the case. The abuse of study rights is pretty well documented. There were several cases last summer of organisations and institutions that were, frankly, bogus. They were offering places on non-existent courses to people who had come here with the objective of clearing off and getting employment. We know about this both in the educational context and in one or two terrorist cases. This is not a fiction.

There is also the question of those who may come here, first, as bona fide students but who then stay on and simply become part of the workforce. That is an abuse. On that score, something like 20 per cent of the students who entered in 2008 are still here. That was not the intention and should not be the outcome. Clearly this is neither a mythical nor particularly small category of individuals, and it needs to be controlled.

Public Bodies Bill [HL]

Committee (1st Day) (Continued)

6.33 pm

Amendment 3 not moved.

Amendment 3A

Moved by ***Lord Hunt of Kings Heath***

3A: Page 1, line 3, at beginning insert "Subject to section (Consultation)"

Lord Hunt of Kings Heath: My Lords, for the convenience of the House, I should explain that today we split my original Amendment 3 into two. The reason for doing so is so that we can discuss the question of

[LORD HUNT OF KINGS HEATH]
consultation separately from that of parliamentary scrutiny. In moving Amendment 3A I will also speak to Amendment 123.

I think we agree that consultation has to be a very important part of the process of dealing with the order-making powers that the Bill provides to Ministers. The noble Lord, Lord Taylor, has graciously acknowledged the concerns over the enormous discretion that the Bill seeks to give Ministers. The debate on consultation goes to one of the most important parts of the Bill. The amendments that the Minister proposes to move—and to which I am sure he will speak in this group—are very welcome as far as they go. They provide for statutory consultation and stipulate that certain interested parties must be consulted before a Minister can proceed with an order. The Minister must also consult any such persons considered appropriate, allowing for a wide and full public consultation or a more targeted approach, depending on the order.

As I have said, that is welcome as far as it goes in relation to Clauses 1 to 6. The problem is that it still leaves an awful lot of ministerial discretion in deciding whether there should be a full public consultation, and by what criteria a Minister should so decide. The Minister was very sympathetic to the last group of amendments in relation to the sunset clause. I hope he will also give my amendment sympathetic consideration. We are talking about an extraordinary range of powers being given to Ministers. We are also, in the list of organisations in each schedule to the Bill, talking about responsibilities of bodies that are extensive and, in many cases, impact widely on the general public. For that reason, there should be a clear principle in the Bill that, whenever an order is proposed by a Minister, the public should always be consulted. I hope the noble Lord will be sympathetic to that point of view.

I also ask the Minister to clarify one point in regard to his own amendments. In the helpful note of explanation that we received from his department in relation to his amendments, the point is made that there will be at least 12 weeks for consultation. I would be grateful if the Minister could confirm that and give a little more detail. In particular, will the 12 weeks encompass just the time for interested parties to comment, or could they also embrace the time taken for a Minister to respond to submissions or consultations? I would very much welcome clarification on that.

Baroness Andrews: My Lords, I support the amendment in the name of my noble friend. I very much welcome the Minister's amendment but it is extraordinary that it was not included in the Bill initially. That reflects what has gone on in the review of public bodies. I declare an interest as chair of English Heritage and vice-president of the National Parks Association. In the time available there was not much opportunity for a public body to have a considered, sensible dialogue with Ministers. Many of the bodies that passed the three tests of independence, expertise and accountability are in Schedule 7 and do not know why that is or what will happen to them. It should be an absolute precondition that they, and the bodies identified in other parts of the Bill, are consulted about their future and the extent of the options being discussed.

In the course of the afternoon, noble Lords have raised their concerns in many different ways but the business of consultation goes far wider than that. It is a matter of basic courtesy that these bodies should be consulted, and that is what the Minister's amendment provides for. However, as has been said, it is extremely important that people who are affected by the Bill and are nervous about the future of public bodies should have the opportunity to be consulted. I think, for example, of the National Parks Association and the national parks themselves which command such enormous popular support and are so important to many different communities, both regionally and nationally. They are in Schedule 7. If it was decided to move them into another schedule, the number of people affected by that decision would be legion. It would be a gross discourtesy not to give people an opportunity to be consulted. Many of the bodies in Schedule 7 are membership bodies and would want to take the views of their members into account. Indeed, their members would have very strong views. Therefore, there is a real issue here about the nature of the consultation, its extent and the certainties that we can count on in terms of public responsibility and consultation.

I very much echo what the noble Lord, Lord Hunt of Kings Heath, has just said about the need to be absolutely clear. The Cabinet Office guidance on consultation is very clear—12 weeks is the standard recommended time. Consultation in itself does not allow a huge amount of scope to discuss such serious matters, especially if it is held over a summer, as it often is. We need to be given guarantees that full and proper consultation will be carried out that is not compromised by a Minister saying that he will respond in due course. I am anxious that we should be given those assurances this evening.

Lord Maclennan of Rogart: My Lords, I should like to begin by expressing my appreciation to the Minister for having brought forward the new clause on consultation, which flowed directly from the debate that we had at Second Reading, in which concern was expressed about it. The Minister told my noble friend Lord Lester earlier that there would be further discussion on this matter at later stages of the Bill. Amendment 114 goes a long way to meeting the general requirement of public consultation. It would be helpful, and would attract the consent of noble Lords on all sides of the House, if we were given somewhat more specific indications about the time involved, although there are further provisions on that in Amendment 118. However, there remains an issue about the nature of public consultation. That matter was addressed by my noble friend Lord Lester in his earlier remarks and I was glad to hear the Minister respond positively to it. I note that an amendment in the name of my noble friend Lord Greaves, which has not yet been moved, contains specific proposals on how the Minister might indicate that he is seeking consultation and on the use of a government website. All these matters merit serious consideration. We should not regard provisions that are put forward as tokenism, and I do not for one minute imagine that that is the Government's view.

6.45 pm

Lord Clark of Windermere: My Lords, I should like to press the Minister a little on the Government's new clause in Amendment 114, with specific reference to consultation on matters which might be devolved or partly devolved, particularly forestry. I take this opportunity to thank the Minister for the way in which he responded to my request regarding how the Forestry Commission might communicate with Members of this House on factual matters. Through his offices and those of the noble Lord, Lord Henley, we have found a means of communication through the all-party group on forestry. Unlike most of the other bodies that we are discussing, the Forestry Commission is accountable to the Crown as opposed to the legislature, which creates a problem. The Bill does not refer to the Forestry Commission but, rightly, to the forestry commissioners. As I explained at Second Reading, the 1999 Act devolved certain aspects of forestry which are planned to revert to central control, and this creates a very complicated body.

The Minister made the point that if matters pertained to Scotland or Wales, there would be a duty to consult with Scottish Ministers or Welsh Assembly Ministers. Should we consult Scottish Ministers or Welsh Assembly Ministers as opposed to the Scottish Parliament or the Welsh Assembly given that we might have to find a statutory mechanism pertaining to the Scottish Parliament or the Welsh Assembly to enable us to communicate with those bodies? I should like the Minister to give me an assurance—I am sure that he will give it to me if he can—that a mechanism will be found to enable us to communicate with the Scottish Parliament or the Welsh Assembly.

Lord Greaves: My Lords, I have a number of amendments in this group—Amendments 115 to 117, 128, 129 and 170 to 172. They are all amendments to the three government amendments that have been put forward. Noble Lords know what those amendments say and can judge my amendments accordingly. The amendments that I have put down are very much along the lines of the amendments that I usually put down on consultation. I listened—as, no doubt, did many other noble Lords—with great admiration to all the detailed legal analysis on Amendment 1. I congratulate the Minister on understanding it all. We are dealing with something much more basic now that I do understand and in which I have been involved all my life—that is, public consultation.

As my noble friend Lord Maclennan said, these amendments put more detail on to the principles set out in amendments tabled by my noble friend Lord Lester of Herne Hill and the noble Lord, Lord Hunt of Kings Heath. The former states that,

"the Minister must conduct a public consultation",

and the latter states that,

"the Minister must consult the public".

That fundamental principle has to appear in the Bill. It is absolutely right that consultation should be with all the appropriate organisations, interests and individuals that the Government can identify. In addition to that, consultation has to be open and transparent. That means that anyone who wants to be consulted should have the right to be consulted. In other words, the definition of who is interested ought to be made by the people concerned.

The Government can never know who wishes to contribute in total and which contributions might be useful to them in improving what they propose, or in coming to the view that it is right or wrong. That principle is accepted in many areas, such as consultation over planning applications to a local authority. Local authorities all have a list of the people whom they automatically and systematically consult, such as neighbours—depending on what the proposed development is, people living within a certain radius of the proposed development or perhaps just people living adjacent to it. A whole series of organisations—some national, some local—also automatically get consulted. There is no problem about that; it is the kind of consultation the Government are talking about in the Bill. In addition, there is an open consultation. Traditionally, a site notice might be posted so that people who walk past can have a look and see that the application has been made. There may be newspaper advertisements in certain cases where the application is thought to be particularly important, or is specialist—applications for listed buildings, for example.

Probably universally now, an open invitation is put on the council's website for people to put their views forward, and an increasing proportion of people do so that way. That is an open consultation—it is open to anybody to take part and the council has to consider those representations. It does not mean that the whole basis of local government collapses; it is just a normal part of the process. There is no reason whatever why the Government cannot accept that principle on the kind of proposals in the Bill, which are often far reaching. In many cases, the Government act in this way; they may have a specific obligation to consult certain people and bodies, but in addition they put things on websites and take account of what people say. However, that is fairly ad hoc at the moment; whether it is done depends on the people involved. The principle ought to be in legislation. The internet makes the whole process far easier. The idea of advertising in national newspapers, the *London Gazette* or whatever—nobody ever sees it—has been superseded completely. All the information can now be put on the internet via the Government's websites and people can respond in that way, or write in if they wish to respond in that way. There is no reason why that should not happen.

My amendment is the standard one that I table whenever this kind of thing comes up in your Lordships' House. I tabled it on the Academies Bill; we got a weak concession from the Government on consultation by school governing bodies proposing to become academies, which has turned out to be pretty feeble in practice. Consultation is not an option. It is essential and should be entrenched in the legislation. I can remember banging away on the same issue on the Marine and Coastal Access Bill and various local government Bills.

Lord Hunt of Kings Heath: The noble Lord has brought up a Bill of blessed memory to many noble Lords, including of course the noble Lord, Lord Taylor. Will the noble Lord, Lord Greaves, contrast the

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submissions that we received on the marine and coastal access path from organisations, including bodies listed in this Bill, with the position now? We have been overwhelmed with silence from those bodies. He may well share my concern about that. Officials in departments have clearly given the message to those bodies that they are not to say anything. The more I think about it, the more concerned I am about it.

Lord Greaves: My Lords, I heard the comments made to that effect by the noble Lord, Lord Hunt, on a previous amendment. He is right; it is the only explanation I can find for the devastating silence. In some cases I have gone out of my way to try to get information out of various bodies that may be affected by the Bill; no doubt other noble Lords have too. It has been like getting blood out of cheese on one hand, and on the other there have been subterfuge-type conversations: "I'll have the conversation with you, but don't tell anybody, will you?". That is not satisfactory. It would help if the Minister could give us all an assurance that any such instructions that have been sent down the line will be countermanded immediately, so that those of us who are interested in these organisations can get the information that we legitimately need for when we get on to the detailed amendments and discussions that we shall have on the schedules, quite apart from the debate on this amendment.

Lord Hunt of Kings Heath: I doubt that the noble Lord will find any written instruction, but you do not need written instructions—you just need indications from officials that organisations that make trouble will find themselves in some difficulty. It is absolutely clear that that is the message that they have. I am pursuing this because it shows the chilling impact of the Bill. Any organisation listed knows that there will be repercussions if it makes trouble, and the Bill allows that. I hope that the noble Lord, Lord Taylor, will give a firm indication from the Front Bench that the organisations listed are free and open to provide their views. I will make it my business to contact some of the organisations, and if I find that they are not prepared to give views to the Official Opposition I will take that up with the Government, because I regard that almost as contempt for Parliament.

Lord Berkeley: My Lords, can I come in on the same issue? I have already been in contact with three organisations about which I have tabled amendments for later in Committee, to ask their views on being in Schedule 1, 2, 3 or whatever. Universally they have said to me, as they have to my noble friend, "We can give you our views, but for goodness' sake don't quote us, because that's more than our life's worth". This is important, and I shall continue to ask in regard to my amendments. I share my noble friend's view that, if we do not see a change before they are debated, it will be very serious.

Lord Greaves: My Lords, Her Majesty's loyal and Official Opposition may be having trouble, but all Members of this House need to be able to get information. I go back to the point made by the noble Lord, Lord Clark of Windermere. This is partly about whether people can freely give their opinions, but far more fundamental is having access to information. We have to have it, and it would be quite wrong if we are denied it in relation to any of the organisations that are, or might be, included.

The noble Lord, Lord Hunt, has taken me up a branch line on my amendments. The noble Lord, Lord Berkeley, has just been talking, and I therefore automatically start thinking about railways.

7 pm

The principles behind my amendments are as follows: if a major proposal is put forward on which consultation should take place, whether it is major or not, the Government should say, first, what is being proposed; secondly, they should tell people how to make representations, should they wish to do so; and thirdly, at some stage, the Government should publish their views on the consultation and summarise the responses received on it. Those are the fundamental principles behind open and transparent consultation. That supplements the basic point made in the amendments of my noble friend and the noble Lord, Lord Hunt, that consultation should be completely open to anyone who wants to take part. Those are the fundamental principles, and it would be good if the Minister confirmed that that is the view of the Government and perhaps give a hint at a further stage that the principle—if not all the detail that I have proposed—of consultation with the public as a whole and individuals can be written into the Bill.

Viscount Eccles: My Lords, I wish to make a brief comment on bodies not being brave enough to comment on what is in front of them. We have had some discussion of the Administrative Justice and Tribunals Council. If your Lordships look at its website, you will see a printed comment by the chairman stating that he is very disappointed in this development. He goes on to say why he is disappointed and how he is going to behave in the interim—although he accepts that policy is a matter for the Government. While I take the points being made in various parts of the Committee, I hope we do not overstate this situation.

I am wearing my Royal Botanic Gardens, Kew, tie, and I was happy to hear a comment from that organisation earlier this afternoon. There is a long way to go with the Bill. It is dangerous to say that the board of the Royal Botanic Gardens, Kew, will not answer a question. I suspect that it does not believe that it will be in Schedule 7 by the end of these debates.

Lord Newton of Braintree: My Lords, I am tempted, once again, by a reference to the Administrative Justice and Tribunals Council. I referred earlier to my historic interest in it. I take my noble friend's point. I had been wondering whether to make the same point, but the Committee ought to be aware that the Administrative Justice and Tribunals Council is not in the same position as the organisations listed in Schedule 7—it is for the chop. Therefore, any uncertainty or question of avoiding the chop later does not arise. I personally think that serious issues still need to be considered in respect of the AJTC, as I indicated earlier, which will be the subject of a later amendment. However, to put it bluntly, as things stand, the AJTC has nothing to lose.

Baroness Andrews: My Lords, one of the concerns that is so blindingly obvious—and this refers as much to Kew as to any other body on Schedule 7—is that the bodies listed on the schedule have no idea why they are on it. One of the reasons for their diffidence is simply that there is nothing for them to say, other than to open an opportunity for the Government to explore further action which may not be necessary, appropriate or positive, or in any way in the interests of the organisation. That is the real problem and why people are so inhibited about coming forward in relation to the Bill.

Lord Taylor of Holbeach: My Lords, I speak to the Government's amendments as well as the other amendments in this group. The amendments are all concerned with the mechanisms by which the Bill enables the Government to make changes to public bodies through secondary legislation.

The group includes Amendment 121, tabled by my noble friend Lord Lester and the noble Lord, Lord Pannick, and Amendments 3A and 123, tabled by the noble Lord, Lord Hunt of Kings Heath, and the noble Baroness, Lady Royall. In addition, it includes a number of government amendments and consequential amendments tabled by the noble Lord, Lord Greaves, to which he spoke with his usual eloquence. These amendments reflect the commitments that I made at the end of the Second Reading debate on 9 November with regard to consultation and parliamentary scrutiny.

In this debate, I will discuss in particular government Amendment 114, which relates to orders made under the powers in Clauses 1 to 6. Amendment 127 replicates this amendment in relation to orders made under Clause 11, and Amendment 169 has the same effect in relation to an order made under Clauses 17 or 18, to which the noble Lord, Lord Clark of Windermere, referred. We also intend to create similar provisions in relation to the powers conferred on Welsh Ministers by Clause 13, and we are in discussions with the Welsh Assembly Government about how best to achieve this.

I am extremely encouraged by the level of consensus that has emerged across the Committee. We are clearly more united than divided on what needs to be done to improve the Bill, and I hope to continue in that spirit through this debate. During Second Reading, the House clearly expressed its feeling that the types of change that the Bill would enable should be subject to a period of consultation with interested parties outside Parliament. In many cases, departments have already undertaken, or are undertaking, such consultation—including the Defra consultation on governance arrangements in English national park authorities and the Broads Authority. That consultation runs for 12 weeks, as of 9 November. Sometimes there is independent review, such as the Dunford review of the Children's Commissioner. There are many such plans. However, in addition, we are happy to place in the Bill a requirement to consult.

Perhaps I may comment on the points made by the noble Lord, Lord Clark of Windermere. The forestry clauses relate only to England, so the issue of the devolved Administrations, Ministers or Parliaments does not arise. However, I guess that the reason why in many cases references are to Ministers rather than to Parliaments is that Ministers are in turn accountable to their Parliaments. This would be the normal way in which Ministers talk to Ministers, rather than Parliaments to Parliaments. I hope the noble Lord is reassured as regards the Forestry Commission.

Lord Clark of Windermere: On that specific point, the commissioners are appointed at a GB level. The Minister is quite right on that. However, once appointed, they then take over devolved responsibilities as chairs of the national committees of Wales, Scotland and England. Although the Bill applies only to England, I am a bit perplexed, because none of the commissioners is appointed specifically to look after England. There is a lot of work to be done in teasing out how we deal with this aspect.

Lord Taylor of Holbeach: I hope that when we come to those clauses of the Bill, we will be able to discuss this and make it clear. I am sure that that is what the Committee would wish. We will have an opportunity to go through this.

The question was raised about the timing of the consultation period. I reassure noble Lords that the 12-week period is a 12-week period of consultation. Amendment 118 covers the process after consultation and states:

> "The Minister may not act under subsection (1) before the end of the period of twelve weeks beginning with the day on which the consultation began".

That means that he cannot present a summary of representations received in the consultation before the 12-week period is over. I hope that noble Lords are reassured on that point.

We want to make the consultation effective. I hope that I can reassure my noble friend Lord Greaves on that. The Government have nothing to fear from being open on the matter. The noble Lord, Lord Hunt, went rather over the top with his allegation of a climate of fear across government. I would be prepared to take up any evidence on this that he presented to me. The probable reason that a number of bodies listed in Schedule 7 are not commenting on the Bill is that it is not necessarily the case that anything is going to happen to them. Within departments, any decisions will involve discussions before the public consultation period takes place. The precipitousness that the Opposition ascribe to the decision-making process does not give credit to the way in which the Government perform their public business. I am sorry that the noble Lord has not had critical comments from people in public bodies.

Lord Hunt of Kings Heath: It is not that I have not had critical comments: I have not had any comments.

Lord Taylor of Holbeach: That rather proves my point.

Baroness Andrews: If it is the case that nothing will happen to many or some of the bodies on the list, why are they on the list? Why is there a list at all?

Lord Taylor of Holbeach: That comes back to the process. Schedule 7 lists those bodies. The review initiated by my right honourable friend Francis Maude, which was the subject of a Statement in the House

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that I repeated, placed these public bodies on the list because they were considered to be subject to a review process. They have been subject to a review process and will continue to be subject to reviews at three-year intervals. The justification for them being on the list is that they are not exempted from being on it by the special criteria laid before the House.

Baroness Andrews: I am grateful to the noble Lord giving way. It is very important that we have clarification. The bodies that went through the public review process were cleared as being independent, expert and accountable, yet they are in Schedule 7. The Minister has referred to a triennial review. This can take place automatically; in fact, I understand that those bodies have been informed that there will be a triennial review. The bodies in the schedule are not necessarily subject to triennial review; they could be reviewed for any purpose whatever. There is a distinction here and we need clarification.

Lord Taylor of Holbeach: Of course, it is intended that departments will review the bodies that are listed in Schedule 7; that is perfectly correct. However, they will do so through a process of discussion with those bodies. The noble Baroness is involved in a body that appears in Schedule 7. I trust that she is sufficiently confident in her own position and that of her organisation not to feel in any way intimidated. Certainly she has been particularly eloquent—and justifiably so—in many of the things that she has said in debate in the House. What I was saying to the noble Lord, Lord Hunt, was that he had overreacted—which was uncharacteristic because he is a pretty phlegmatic fellow—by suggesting that there was widespread intimidation across Whitehall on account of the Bill. I do not believe that that is the case. I would go so far as to say that most people involved in public bodies want to co-operate with the Government in building a more accountable public sector.

7.15 pm

Lord Hunt of Kings Heath: I am grateful to the noble Lord for giving way. I am also grateful for his suggestion that I am usually very calm. However, I have been concerned because I have made contact with a number of organisations, and while informally I can be told what their views are, they are clear that they do not want to make any formal representations. In the case of some departments, officials have made it clear that the department does not expect the organisation to make any public statement. I am concerned about that. I do not think I have gone over the top. It is very different from the normal process of legislation. We are all used to being inundated—sometimes it is overwhelming—by comments from stakeholders on pieces of legislation. The noble Lord has said that he will seek to investigate individual matters. If I can bring him cases, I will. However, the issue is that when organisations are concerned, they will simply clam up, and I am not in the business of fingering civil servants. That is not something that I would ever do. However, there is a clear view that departments have made it absolutely plain to the organisations listed that they are not to make representations. I express very great concern about that. The Minister may be prepared to reflect on it. It would be very helpful if it was known throughout Whitehall that these organisations were perfectly free to make their views known, and that there would be no recriminations if they did.

Lord Taylor of Holbeach: It is quite difficult for government bodies to speak out against government policy. The noble Lord has been in government. I suppose that he is suffering from the realisation that in opposition things are a bit different.

Lord Hunt of Kings Heath: With great respect, perhaps we may go back to the Marine and Coastal Access Bill. We spent six happy months debating it. In that time, representations were received from a considerable number of public bodies. I am not sure if the noble Lord is right to describe them as government bodies; we should call them public bodies. Yes, it irritated me enormously—how I wished for something like this Bill, because then I could have shut them up. However, I could not, it was right that I could not and it was right that those bodies expressed their views. This matter cannot simply be dismissed. This is a very serious matter of constitutional practice. There is clearly a feeling throughout the public Bills land that people are not able to express their views publicly. That is a matter of legitimate concern.

Lord Taylor of Holbeach: The noble Lord has expressed his point of view and I have given him the point of view from the Dispatch Box. It would be useful if he were able to provide instances that he feels show an abuse of government. I would be grateful to receive them.

Lord Greaves: I am grateful to the Minister for giving way. I previously backed up what the noble Lord, Lord Hunt, said, albeit in perhaps a slightly less dramatic way, but there is certainly some reluctance there. Is the Minister saying that if we meet that reluctance in the coming weeks, when inevitably we will want to get factual information out of organisations, we can say to people, "The Minister in the Lords, Lord Taylor of Holbeach, says that it's okay for you to talk to us"? Can we use the Minister's name in that way?

Lord Taylor of Holbeach: Heavens above, my Lords, I do not think that I can really be such a door-opener. What might we find? I say to all noble Lords that we have access to public bodies. Whether we are on the Front or the Back Benches in this House, we are capable of tabling Questions and we can find out facts. It is quite proper to do so if things are in the public domain. The Library is there to help us and, if we seek opinions, no doubt we all have contacts that we are able to use. I do not want this debate on the Bill to be stifled by ignorance but here we are talking about the consultation process that we are seeking to bring in through the Bill, once enacted.

Lord Liddle: One welcomes the steps that the Government are taking in the Bill to ensure that there is wider consultation, and the noble Lord's Amendment 114 refers to the consultation that is

necessary for the bodies listed in Schedules 1 to 6. Of course one welcomes this consultation, but with regard to the area with which I am particularly concerned—that of economic development—what sort of consultation will now occur on the Government's policy of abolishing the regional development agencies, which are referred to in Schedule 1 to the Bill? To my knowledge, there was no consultation of any kind on that policy—indeed, rather the reverse.

Soon after the general election, we were told that the Secretary of State for Business, Innovation and Skills thought that the regional development agencies should be saved, and there was a tremendous sense of relief about that in the regions, particularly in the north. Indeed, I am told that the Secretary of State said that to the chairman and chief executive of one of the leading regional development agencies in the north. Then, a few weeks later, it was suddenly announced in the Budget that these bodies were to be abolished. A few days later, a joint paper appeared in the names of the Secretary of State for Business, Innovation and Skills and the Secretary of State for Communities and Local Government saying that the Government had decided to abolish them altogether and were now going to set up local economic partnerships. However, what consultation has occurred, and how is consultation now to take place in the light of the proposed new clause in Amendment 114 that the Minister intends to introduce? I should be very interested to hear his reply.

Lord Taylor of Holbeach: We are in effect debating all these bodies, as the noble Lord knows, and when we come to Schedule 1 there are amendments tabled—indeed, there is one in the name of the noble Lord, Lord Liddle—relating to the north-west, if I remember rightly. I notice that the Opposition have populated these amendments with suitable spokesmen for the regions. We will be debating that. Indeed, noble Lords should not forget that we will be debating it in the course of a piece of primary legislation. The political decision has in fact been made on the RDAs. Parliament has to agree to it but the political decision has been made. We are now talking about the process that will apply to future decisions.

Lord Liddle: I am sorry but that is not what the noble Lord's Amendment 114 says. He is talking about a consultation process that applies to all the bodies listed in Schedules 1 to 6. Of course, I hope that during the course of our debates the regional development agencies—particularly those in the north of England—will be removed from Schedule 1, but there will still be no process of wider consultation, and we are going to be taking this decision with none of the normal consultation processes that one would expect when such a matter is before us. Therefore, I am still a bit mystified.

Lord Taylor of Holbeach: I have been passed a very helpful brief by my noble friend the Minister with responsibility for these matters, who happens, by chance, to be here at my side. She reminds me that the decision to close RDAs was in the coalition agreement; proposals for local enterprise partnerships to replace the RDAs were invited in June 2010 and a White Paper on sub-national growth—in other words, growth at a regional or local level—was published in October this year. Therefore, so far as concerns White Paper consultations, we are indeed in a period of consultation at this moment, and I suggest that the noble Lord gets about consulting it. Perhaps I can return to my comments on—

Lord Clark of Windermere: Perhaps I may try to clarify the position—and for once I am not talking about forestry or the Forestry Commission. The assertion was made by my noble friend Lord Hunt that certain public bodies—I emphasise "public bodies", not government departments—have felt inhibited about expressing their views on this Bill. Is the Minister saying that if public bodies wish to make observations about the Bill, the Government are quite happy for them so to do?

Lord Taylor of Holbeach: I am not in a position to say that because I do not believe that that is what public bodies exist to do. They do not have a brief to comment on government legislation. However, they do have a brief to comment on anything that might affect them in particular, and that is why they are perfectly entitled to be involved in a consultation process on matters that may affect them during enactment of the Bill and during the presentation of a statutory instrument to change their position within the schedules, which is what the consultative process identified in Amendment 114 is all about. I should like to be able to talk more about that. The government amendment—

Baroness O'Loan: My Lords, I am still having some difficulty in understanding the Government's position and in knowing exactly to which policy the noble Lord is referring in this context. We all know from long experience that there are many ways of influencing public bodies, and one of them, notwithstanding this legislation, is to make budgetary decisions that impact adversely on them. The comprehensive spending review has led many bodies to anticipate budgetary changes which may well be adverse for them. In those circumstances, and given the determination of this House to ensure effective and proper consultation at every stage of legislation, would it not be helpful, speaking as a fundamentalist, if the noble Lord were to declare that public bodies do have the right to comment on matters affecting them and that inclusion in any schedule is a matter that affects a public body and may well impact on the discharge of its statutory functions?

Lord Taylor of Holbeach: I am sorry but I am not prepared to concede that. I think that it would take public bodies into the role of advocacy and campaigning, which is not really their function. It is up to Governments to make decisions about these matters, followed by a process of consultation, and to make quite clear that all public bodies are affected.

Lord Whitty: I declare an interest as the chair of Consumer Focus for a few more days. Does the noble Lord not realise that some bodies on the list were established in order to give their opinion to government and more widely, and that their future, or the future of the role that they currently undertake, is therefore of vital importance to government? What the Minister

[LORD WHITTY]
seems to be saying is pretty appalling stuff: that the injunction on public bodies not to commentate extends not just to them talking to newspapers or lobbying Members of Parliament but even to talking to Ministers and responding to public consultation about their own future. That seems to me to be pretty draconian. If that is the Government's position, frankly, it is shocking.

7.30 pm

Lord Taylor of Holbeach: I think the noble Lord has got it totally wrong. I made it quite clear that any discussions concerning public bodies are a matter of consultation within departments and between departments and those public bodies. There is no question of inhibiting bodies in performing their proper function in relation to government, giving the advice which, by statute or by request, they are required to give to government. We shall be working closely with all public bodies in respect of these reforms. They affect people and their livelihoods and it has been beneficial for the Government to work with organisations. It is not the job of public bodies to lobby in relation to government policy.

Lord Whitty: My Lords, if that is where the line is, we understand it. Public bodies were set up primarily to administer policies which have been established by Parliament. Therefore, I still think that their inability to comment on policies pursued by government and others, or to inform Members of this House or another place of their opinion of the Government's approach in this Bill, is a very severe inhibition of democracy. I think that is what the noble Lord is now saying. I understand that they can talk to their own departments and that they can respond in those areas, but if they cannot even inform Members of Parliament of their views, I think that is a restriction on the ability of Parliament to make a judgment.

Viscount Eccles: My Lords, it would help me if the noble Lord, Lord Whitty, would tell the House how he could be prevented from making his opinions known if he wished to make them known to anyone?

Lord Whitty: My Lords, as a Member of this House, I can say what I like. As an officer of one of the bodies covered by the Bill, the injunction is that I shall not inform or campaign, or lobby Members of Parliament about a view which that organisation has and, in this context, a view which it has over its own future. I think that is a pretty severe restriction and it is something to which this House may wish to return. I do not want to pursue it further, but I put down a marker now that this seems to be quite an interference of the normal process of parliamentary government.

Viscount Eccles: My Lords, perhaps I may have one more go at this. The noble Lord, Lord Whitty, and I have held positions in public bodies in our careers. If someone sent me that injunction, I would pay no attention to it.

Lord Clark of Windermere: My Lords, perhaps I can give an example of the Information Commissioner listed in Schedule 7. One of his specific tasks is to adjudicate on the actions of government in withholding or providing information. Therefore, he is independent. Is the Minister saying that if a Member of this House made an inquiry of the Office of the Information Commissioner or any other public body it would not be right for the Information Commissioner or the other body not to provide the factual information to Members of this House?

Lord Taylor of Holbeach: I am not saying that at all. I do not suppose that any Member of this House will be able to say that they have had difficulty in getting that sort factual information from public bodies or from government departments because that is a prerequisite of parliamentary responsibility, and I accept that. I think I should have made it quite clear that we recognise that it is beneficial for government to work with organisations and public bodies but it is not the job of public bodies to lobby in relation to government policy. I think that is a fair position to state and I think that is where the Government stand on this matter. If noble Lords disagree with it, fine, but that is the position that the Government take at the moment.

Government Amendment 114 echoes many of the proposals of my noble friend Lord Lester and the noble Lord, Lord Pannick, and of the Opposition Front Bench, but we believe that it goes further in some regards: for example, by stipulating a requirement for a 12-week consultation period, and by requiring Ministers to consult the Lord Chief Justice where a proposal relates to the administration of justice. I am pleased to note that paragraph 2 of yesterday's report of the Delegated Powers Committee has welcomed this amendment.

I note the emphasis of my noble friend Lord Lester on the role of the public in any consultation process. In the same spirit, I note my noble friend Lord Greaves's amendments to the government amendments on consultation, which would require that the Government publish a notice of the proposal to make an order under the Bill on the Government's website and other places considered appropriate by a Minister, and to publish a summary of responses and the Minister's response to them in a similar fashion.

I fully appreciate that in some circumstances, a public, properly publicised consultation in accordance with the Government's existing code of practice will be appropriate. However, I also believe that there is a need for some flexibility here; it is important that the Government should be able to carry out proportionate, value-for-money consultations that minimise the burden on those consulted as well as on the Government. Indeed, such a consideration forms criterion 5 of the current code of practice on consultation, which was produced under the previous Administration.

Therefore, although I agree with the intent behind these amendments, in appropriate cases, I do not believe that they should be placed on the face of the Bill. The requirements in our proposed amendments mirror those in other legislation and do not preclude a public consultation in accordance with the Government's code, if appropriate. It should be for Ministers to decide how to consult and for Parliament to hold them to account in this regard.

I hope, therefore, that noble Lords across the House will feel able to support government Amendments 114, 127 and 169, which create a parallel procedure for the other order-making powers in the Bill. I hope that, in the light of my comments, the noble Lord will feel able to withdraw his amendment and to support the Government's proposals when they come forward.

Lord Hunt of Kings Heath: My Lords, I thank the noble Lord, Lord Taylor, for his extensive response to the points raised in the debate. On the general point, I think the question still arises as to whether it would give comfort if the words "public consultation" appeared in the Bill. I believe, and I would pray in aid the noble Lords, Lord Greaves and Lord Maclennan, that it would give reassurance if we could see in the Bill when it eventually leaves your Lordships' House some reference to public consultation. I am sure that we shall return to this on Report. I certainly acknowledge that the government amendments move us into a better situation. I am also very grateful to him for the point he raised in response to my noble friend Lady Andrews about the 12-week period, which encompasses the actual consultation with outside bodies and organisations. That is very reassuring.

On what public bodies can and cannot do, clearly I shall not be able to bring to him any evidence that officials have acted improperly because it is quite clear that what officials have been doing in departments is simply enunciating the policy that the Minister has laid down tonight which is, very simply, that public bodies should not comment on public legislation. I am gobsmacked because, frequently in debate, noble Lords opposite, when in Opposition, commented and quoted public bodies which have commented on legislation. Looking at the list, I can pick out organisations with which I have had some dealings: the Committee on Climate Change is not able to comment or the Environment Agency, or Ofgem, or the Health and Safety Executive or Natural England. Goodness me, how I wish Natural England—

Lord Taylor of Holbeach: Natural England has been very keen to comment at certain stages of the legislation and the noble Lord is quite right to single it out. What I said was "comment on legislation"; I did not say that they were not in a position to comment on those areas of their responsibility. Of course, Governments set these bodies up with the idea of seeking their advice on these matters, but Governments have to have the responsibility for bringing legislation before the House and it is for Parliament to advise the Government through its procedures on what it thinks of the Government's legislation.

Lord Hunt of Kings Heath: My Lords, in my remarks I very advisedly quoted public legislation. I think it is a very rum do indeed that the organisations listed are clearly not being permitted to comment on this legislation. This raises huge matters of concern. In fact, looking at noble Lords, it adds to the concern that we feel about this legislation. Clearly, we will return. I am grateful to the Minister for the amendments that he will move. I beg leave to withdraw the amendment.

Amendment 3A withdrawn.

Baroness Rawlings: My Lords, I think this might be the moment for the Committee to break. I beg to move that the House be now resumed and that Committee stage begin again not before 8.45 pm.

House resumed. Committee to begin again not before 8.45 pm.

Medical Profession (Responsible Officers) Regulations 2010

Motion to Approve

7.41 pm

Moved By ***Earl Howe***

That the draft regulations laid before the House on 26 July be approved.

Relevant documents: 3rd Report from the Joint Committee on Statutory Instruments, 7th Report from the Merits Committee.

Earl Howe: My Lords, the purpose of the draft Medical Profession (Responsible Officers) Regulations 2010 is to protect patients and to support doctors to improve the quality of care they give. They require certain designated organisations in England, Wales and Scotland to nominate or appoint responsible officers and to support those responsible officers in carrying out their statutory functions. They give responsible officers statutory functions relating to the evaluation of a doctor's fitness to practise. In England only, responsible officers will be given additional functions relating to monitoring the conduct and performance of doctors. The regulations set out the connections between doctors and the designated organisation relevant for them.

Under the regulations, responsible officers will have to be licensed medical practitioners with at least five years' experience. However, this is a statutory minimum. In practice, organisations will want to appoint senior doctors with experience of the management of other doctors as their responsible officers. The responsibilities of responsible officers relating to the evaluation of fitness to practise include ensuring that the designated body carries out regular appraisals, establishing and implementing procedures to investigate concerns and, where appropriate, referring the doctor to the General Medical Council.

Under their duties to evaluate fitness to practise, responsible officers will make recommendations on individual doctors to the General Medical Council. The responsible officer will have to make a recommendation as the basis for revalidation when it is introduced. This will normally be every five years. In England, their additional responsibilities will include identifying any issues arising from information about conduct and performance and ensuring that the designated body takes steps to address any such issues. These functions will enable responsible officers to support doctors to improve the care they give at the earliest opportunity.

[Earl Howe]

Most of the statutory functions are activities already undertaken by medical directors and staff. These regulations do not specify who will take on the role of responsible officer; rather they allow organisations to determine how the functions may best be carried out. In the NHS and independent providers, it is likely to be existing medical directors. Except perhaps in the smallest organisations, we would not expect responsible officers to undertake the tasks, such as appraisals and investigations, personally, but they will be responsible for ensuring that they are carried out appropriately. This will involve ensuring that their designated body has sufficient staff who are appropriately trained, whether in undertaking appraisals or in investigating concerns. The regulations also make provision for the appointment of an additional responsible officer where there is a conflict of interest or appearance of bias between a doctor and the responsible officer.

The Merits of Statutory Instruments Committee has drawn these regulations to the attention of the House and I have no doubt that in the light of the Motion she has tabled, the noble Baroness, Lady Thornton, will wish to raise certain issues and concerns. I stand ready to address them, but in the mean time, I beg to move.

Amendment to the Motion

Moved by ***Baroness Thornton***

As an amendment to the above Motion, at end to insert "but this House regrets that the draft regulations may imperfectly achieve the policy objective of the introduction of a revalidation scheme in light of the Government's proposed changes to the NHS administrative structure which will affect the operation of the revalidation scheme in general, and these regulations in particular".

Baroness Thornton: My Lords, as the Minister quite rightly suspects, it was a combination of the report of the Merits of Statutory Instruments Committee on 7 October and my concerns that some aspects of the statutory instrument as drafted need further explanation that caused me to put down this amendment to the Motion this evening. I think it is important to say from the outset that as one of the Ministers who guided the Health and Social Care Act 2008 through your Lordships' House with my noble friend Lord Darzi, I am very pleased that this Government are showing determination to push ahead with this agenda because at the heart of this legislation are patient safety and ensuring that all clinical professionals deliver high quality, effective and safe care to their patients.

I fully appreciate that responsible officers are integral to improving care, and the development of their role seeks to raise the already high standards of the overwhelming majority of professionals, but their job is to identify and swiftly deal with the small number of staff who are not able to meet those standards. The public, professionals and the NHS have a right to be assured that licensed doctors are fit to practice.

I have absolutely no desire to delay the important matter of implementing this legislation. However, I think that it is important that the secondary legislation does the job that the original legislation intended. The report by the Merits Committee raises some important questions in this regard, as do some of the important bodies whose membership will, as it were, be on the receiving end of the instruments.

I think that the regulations do a very good job of describing the duties of the responsible officer and, indeed, the connection between responsible officers and designated bodies and medical practitioners, and this leads me to my first set of questions. Part 1 of the schedule contains a list of designated bodies that includes at least two organisations that the Government intend to abolish: strategic health authorities and primary care trusts. I join the Merits Committee in its recommendation that the House seeks clarification on how the Government's proposed changes to the NHS structure will affect the revalidation scheme in general and these regulations in particular.

Since the 2008 Act, the UK Revalidation Programme Board—hosted by the GMC, which I thank for its briefing and comment on this matter—has been rolling out the reform in phased stages, including a number of pilot exercises which aim to produce a well informed and robust system. Can the Minister tell the House how the changes that have been proposed will affect the pilots and their results? For example, the published guidance says that the responsible officers themselves will be assessed by the responsible officer in the strategic health authority, so what will happen now? How will the Government overcome this problem? I anticipate that we can expect some further orders and, if so, when and will they too be piloted? If nothing exists in the structure of the newly reformed NHS between groups of commissioning doctors at local level and the NHS Board at national level who or what will perform this function?

At the time of the original legislation, we had considerable discussion about the GMC and its role in this matter and about not conflating its particular and important role as the independent regulator for doctors in the UK or, indeed, creating conflicts of interest. At the moment, it seems to me that the only body that would appear to have a structure between the very local GP consortia and the national board is the GMC. What is the Minister's view of this? How will revalidation work under those circumstances?

I thank the Minister for forwarding to me the letter that his honourable colleague Anne Milton sent to members of the Delegated Legislation Committee in another place. In this letter, she addressed the changes of architecture to the NHS. However, I am afraid that I did not find her explanation very comforting. She says:

"The Government's proposed changes to the structure of the NHS set out in the White Paper '*Equity and Excellence: Liberating the NHS*', in particular the abolition of PCTs and SHAs, will not affect the majority of organisations designated under Regulations, including NHS and independent hospitals. These organisations need to start putting the systems in place that support doctors, and provide the information that demonstrates the quality of care they provide. Without this, there is a danger that doctors will be inadequately supported for the introduction of medical revalidation in 2012. I believe that the medical leadership and stability provided by having responsible officers in place will also be important during this period of change".

Well, quite: the two bodies that can provide that leadership are being abolished.

I turn now to concerns that have been expressed by professional organisations, which particularly led the Merits Committee to say that,

"these regulations are drawn to the special attention of the House on the grounds that they imperfectly achieve the policy objective".

When I was a Minister, I would have regarded that as the parliamentary equivalent of being put on the naughty step and given a detention at the same time. I think that the Minister needs to give some thought to this matter and to put his responses on the record.

The British Medical Association has said that the laying of the order is "premature". Although I am not one for delaying these matters, the Minister needs to address its concerns. The Royal College of Surgeons has expressed disappointment that many of its concerns were not addressed in the regulation. It raised the issue of potential conflicts of interest to arise from the installation of responsible officers with simultaneous corporate board responsibilities—for example, medical directors.

The RCS seems to think that such officers might be torn between trust obligations and the professional role of the responsible officer. I am sure that the Minister will be familiar with the examples that these organisations have raised. How do the Government intend to avoid the revalidation recommendations becoming the tools of managers and trust management agendas, rather than matters relating to the compliance of GMC and Royal College standards? Will the Minister confirm that it is the responsible officer's responsibility to examine the doctor's clinical ability and professional conduct, not his contribution to the meeting of trust budgets or targets? On this matter the regulations appear to be silent. Perhaps the Minister will expand. The RCS has expressed particular concern about the failure to incorporate whole practice appraisal in these provisions. I think that the Minister needs to give the House an explanation and reassurance about the need for the comprehensive protection to which patients are entitled.

On indemnity, will the Minister confirm how the Government will approach the issue of the potential increase in contributions for medical directors who take on the role of the responsible officer?

Finally, the GMC has expressed concern about appeals and that there is a significant omission of local appeals systems. The GMC fitness to practise processes should not be both the first and the last resort for appeal. There should be a viable appeals structure that flows up to fitness to practise. The British Medical Association says that in some organisations progress has been slow in demonstrating the capability to pull together the necessary data to actualise the new system. It says that appraisal has been patchy and disjointed in many organisations, and that that is quite aside from getting around to supporting any appeals system that may arise. I have raised several issues and I suspect that other noble Lords will seek clarification on the various other issues. I look forward to the Minister's response.

Baroness Finlay of Llandaff: My Lords, we all know the sad history of this, through Shipman, which has led us to where we are today. I do not want to block these reforms because they will improve medicine for patients and for clinicians. But there are some questions which need to be sorted out urgently. One question is the role of the responsible officer in relation to doctors in primary care, particularly with the reorganisation.

In his opening remarks, the Minister spoke about trusts, but I would suggest that hospital practice is very much the easy end of it. The difficulty is where will doctors in primary care sit? How will the responsible officer work in relation to them? Where will academics sit and who will be the responsible officer, because there is sometimes a conflict, as has been pointed out, between academic priorities and the clinical priorities of a trust where that doctor may have an honorary contract? Even more, what about locums? What about the doctors who are constantly moving around? How will they be captured in the system? How will they be adequately and appropriately revalidated? Even with what used to be called 360 degree appraisal—that is, getting opinions from a lot of people—with locums there is a real danger that they will only spot their friends to fill out the forms because they may have had lots of contacts. Those concerns may never be sufficiently in the system to be raised before such a doctor moves on.

There is also a difficulty for those who raise problems. It may be that the doctor who is seen as the sand in the shoe of the trust, the difficult person, is raising real concerns about the way in which management is conducted, which is impeding good patient care. We know that one of the biggest problems is attitude. Often, the biggest problem encountered is not about the ins and outs of technique, because you can retrain on that quite quickly, but is about someone's attitude. Someone who is whistleblowing, someone who works in the same organisation—I hate to use the term "whistleblowing", because it is a sad reflection of the NHS as it is today that that term is around—and raises concerns should not in any way potentially be penalised for doing so. We would just go backwards and not forwards if that is the case.

Given that the majority of doctors are doing a really good job and are very flexible and going through changes, the system that comes in must not be too onerous. It must not be just a tick-box exercise. It has to be subtle enough to pick up real issues around performance and attitude. It has to pick up qualitative feedback, so that a bad attitude is detected, including a bad attitude towards patients.

As regards the responsible officer, I am afraid to say that I am sufficiently old-fashioned to think that I would prefer the minimum time after qualification to be a bit longer. It is not until someone has been practising for about 15 years that they really have accrued enough wisdom to be able to take on what will be a very onerous and potentially important role in relation to their colleagues. We need them to have a degree of wisdom. The appeals system is absolutely crucial if this is to work well and fairly. I hope that the Minister will give us a full reply in his response.

We also must be clear that the system will not pick up another Shipman. This is a clinical system and not a criminal justice system, so no one should be fooled into thinking that it will. Dame Janet Smith pointed out two things. First, the most important information about patient safety is doctors watching other doctors.

[Baroness Finlay of Llandaff]
They have to be able to raise concerns easily. Secondly, a good clinical governance system is a system in which questions can be raised at an earlier stage and more readily. So it is the whole system of the NHS with good clinical governance that will make this work. I hope no one thinks that just having responsible officers putting in appraisals will do the job because that will be a wallpapering exercise.

However, my main concern relates to primary care and to financial conflicts. In a privately managed organisation there may well be a conflict between what is actually in the patient's best interest and what is being put forward as the protocol in that managed care programme. It may well be that the doctor is working in the patient's best interests, but not in those of the organisation. Again, there has to be a degree of neutrality among the responsible officers. I hope that the Minister will be able to give replies to all these concerns, and like other noble Lords, I look forward to his response.

8 pm

Lord Walton of Detchant: My Lords, I declare an interest as having been president of the General Medical Council from 1982 to 1989. I know that the GMC is particularly anxious to see these regulations go ahead because the whole question has been smouldering away for very many years. Even during my presidency, we were aware that many doctors who came before the conduct committee of the council, or before that the disciplinary committee, were not so much erring or wicked as actually not practising, in some respects, to a standard of competency appropriate to today's world. For that reason, we tried very hard to set up a mechanism within the GMC to establish what we called at first a competence committee. However, it was not successful because we could not persuade the profession and other bodies to approve some of the recommendations that we tried to put forward.

Subsequently, the GMC embarked on a programme of performance review. Mechanisms were established to identify doctors who were not performing to an adequate standard in the health service and other bodies, but that programme too did not succeed as well as it might. It was perfectly clear that it was crucial to the interests of the public at large and of patients themselves that there was a mechanism whereby doctors would be required every five years to subject their clinical performance and performance in their appointment to a process of validation. Revalidation then became one of the essential priorities for the General Medical Council. As the noble Earl said in his introduction, the GMC believes that implementing this process of revalidation is an essential step in advancing the quality of medical regulation, improving patient safety and providing patients with greater assurance that doctors are meeting the standards that we set for the medical profession.

I appreciate to the full some of the anxieties expressed by the noble Baroness. She has criticised the nature and content of these regulations. However, as I have said, this mechanism has been smouldering away for over 20 years and it is time to make progress. The statutory basis for the responsible officer is set out in the Health and Social Care Act 2008, which amends the Medical Act 1983. The GMC is now committed to the introduction of revalidation for doctors in order to change the way in which all doctors in the UK are regulated. Under this process, to retain their licence to practise, doctors need to demonstrate to the GMC every five years that they still meet the appropriate professional standards and are continuing to develop their skills and knowledge.

The responsible officer will be the link between the local healthcare organisation, whatever it is, and the GMC, and as such will be an essential component of implementing revalidation. The responsible officer will usually be based in and employed by the organisation for which the doctor works, or with which the doctor is contracted to provide services. The GMC will need to be confident that the recommendations it receives are robust, fair and consistent, but that the process leading to the recommendations and the recommendations themselves will be subject to quality assurance and to audit. The GMC will develop guidance to assist responsible officers in carrying out their role in relation to revalidation.

We have reached a stage at which it is crucial that responsible officers are in place before the rollout of full revalidation commences. This will have the advantage of enabling the GMC to identify gaps in the coverage of responsible officers, particularly of doctors working outside the National Health Service, and to make provision for them. In its response to the government White Paper, *Equity and Excellence: Liberating the NHS*, the GMC comments that the abolition of PCTs and strategic health authorities, which is not expected until 2013, leaves it unclear as to where the responsible officer role in primary care and sometimes in specialist care will sit, and how the role and functions of the medical directors will be exercised. As the noble Baroness said, this matter needs to be resolved, but it must not be a reason to delay the passage of these long-awaited regulations or to stall preparations more generally. The GMC has confirmed that it will work with the Department of Health to resolve this and other issues so that it can continue to make progress towards the implementation of revalidation. I trust that the regulations will be approved.

Lord Patel: My Lords, I concur with the comments of my noble friend Lord Walton of Detchant. It is important that we allow these regulations to pass. As he has said, the issue of revalidation has been smouldering away, to use his words, for many years. I recall from when I served on the GMC over eight years ago that the revalidation issue predates Shipman and has nothing to do with that issue. As my noble friend has said, this is a process and it is important that the regulations should be passed because we need the responsible officers to be appointed pretty soon so that the GMC can train them up and identify any issues before the process of revalidation begins. I understand that all the devolved Administrations have agreed that it should start by autumn 2012. If that deadline is to be met, we need the responsible officers long before that.

My conversations with officers of the GMC suggest that the council is well aware of the concerns raised. They know that when the legislation to reform the

NHS is brought forward, the issue of what happens in primary care with doctors working as commissioners, and how they are to be revalidated, will have to be addressed. They are confident that they will be able to do so.

As for the other professional organisations that have also commented and to which the noble Baroness referred, it is interesting that only one has raised concerns; the others have not. All the other royal colleges have been involved in working with the GMC to identify how revalidation will be carried out in their own specialties and they are satisfied with the mechanisms that will be used. They are also satisfied that the pilots that are now being carried out will identify the issues.

It is important that we now approve these regulations and allow the responsible officers to be appointed. We will have other opportunities to debate the matter again during the next stages.

Lord Alderdice: My Lords, it is always difficult when new Governments come into place and want to make important and sometimes radical changes to structures and arrangements while, at the same time, valuing some of the work that had been begun but not completed by a previous Government. As other noble Lords have said, the previous Government, and perhaps even an earlier one, moved towards revalidating doctors. This is a very complicated and difficult issue, but the Government moved in that direction; timetables were set but became a little delayed. However, if the Secretary of State in this new Government were to take the advice that has been proffered—that until PCTs and strategic health authorities are set aside and the new arrangements are in place we should not move to the appointment of responsible officers—we would be looking at 2014 or 2015, or after the next general election, before we could move forward. It is understandable that people should quite reasonably say that there is a dilemma here, but we must try to keep up the momentum, which is the point that the GMC has made.

It is perfectly correct that a number of matters are not yet clear and resolved. Some affect me, and I shall advert to them in a moment. The proposals for the reform of the NHS have not worked through the process—they have been announced but are not yet through Parliament—and it is not only possible but almost certain that there will be significant changes and developments. I hope my noble friend will be able to clarify some of the issues, but it would be expecting rather a lot for him not only to clarify how matters stand at the moment but to predict how they might stand further down the line when some things may have changed.

In the present situation, in most cases but not all, appraisal processes are already going on. Up until earlier this year, every year I produced a huge lever arch file containing details of all the things that I had been through. So the process is already in place and it is the responsibility of medical directors in trusts to make sure that it is in place. However, they cannot possibly carry it through themselves because so many need to be appraised. They therefore have to devolve the responsibility for the detail and the face-to-face work to someone else. Exactly the same thing will happen to the responsible officer.

Are there potential conflicts of interests? There already are because those who are responsible for the appraisals are also responsible for clinical merit awards of various kinds, for the recognition of a person's work and for the creation or demolition of their clinics. All these conflicts are already there. That is not to set them aside and say they are unimportant—they are very important and very difficult—but we are facing something that is not in itself radically new but a problem with which we have been struggling for quite some time. Further orders may well come subsequent to this that will help to take the matter forward, but that does not mean that we should delay the current regulations.

Let me put to my noble friend a dilemma of my own on which he may or may not be able to help. What will happen to those who do not necessarily operate all the time only in the NHS in England, Scotland and Wales? I note that Northern Ireland is not included in this and, of course, the movement backward and forward between this part of the world and the Republic of Ireland is substantial. What happens if a doctor qualifies and works here for a while, then goes to work for three or four years in the Republic of Ireland and then comes back to work in the United Kingdom but the process of validation has not operated in quite the same way? Of course, we have free movement not only in these islands but throughout the European Union. What happens to those who have operated outside the UK? These are real dilemmas that have to be dealt with.

We have often heard it said that it is better to start, pilot and work your way through than to produce something that has not been tested out but is a fiat—a fait accompli. My noble colleagues on the Cross-Benches have expressed reasonable concerns and a determination to keep up the momentum for revalidation. In supporting these regulations, that is also very much my mindset, and I hope to see further developments over the next year or two.

Lord Rea: My Lords, I simply report that the two professional organisations to which I belong, the Royal College of General Practitioners and the BMA, basically support the regulations. That is in spite of some doubts about the timing and some of the other points that noble Lords have raised today. It is good that responsible officers will be appointed before the detailed work of setting up the revalidation process is completed. They will play an important formative role before later acting as scrutineers or umpires—I hope not inquisitors—in the revalidation process. I shall be interested to hear the Minister's response to the cogent questions that my noble friend and almost all other noble Lords have raised.

8.15 pm

Lord Kakkar: My Lords, we have heard that the key priority of the General Medical Council for patient safety and ensuring continuing standards and confidence of the public in regulation is the process of revalidation. We have heard in the Chamber today very strong support for the regulations.

The early appointment of responsible officers is critical. It will ensure that the system can be tested. The noble Baroness, Lady Thornton, was absolutely right to raise the structure in which responsible officers

[Lord Kakkar]
in the area of primary care will eventually be able to operate, but this matter can be dealt with when the health Bill is laid before Parliament and the primary care structures in it can be appropriately scrutinised.

As we have heard, if the regulations are in any way derailed at this stage, there is a danger that the whole momentum of revalidation will be disrupted. It could cause anxiety in the profession and lead to unhelpful pockets of resistance. There is now an ideal opportunity for a mechanism and the early appointment of responsible officers to test potential systems and determine where the weaknesses are. This will occur before revalidation comes into force in its fullest form, and will therefore allow the General Medical Council to respond appropriately. I add my voice to those of many noble Lords in supporting the regulations.

Lord Colwyn: My Lords, although the principles behind revalidation, which aims to raise confidence in clinical standards, are welcomed, there are concerns over the ways in which the Department of Health plans to implement the process through the responsible officer regulations. There is also concern about the new regulations coming into force in January 2011, given the proposals in the recent health White Paper to abolish structures that were intended to support the role.

I agree with the noble Baroness, Lady Finlay, that the demands of the role outlined in the proposals will require a person of quite exceptional skills and competences. It is assumed that many medical directors will become responsible officers, which will significantly extend their role by extending their responsibility, powers and workload.

There is already a marked variation in the abilities of medical directors to investigate performance concerns and implement local disciplinary procedures. The additional duties are likely to be onerous. It is not certain that senior doctors with the necessary professional standing will be willing to take them on, or that it will be possible to find senior doctors with the necessary standing and experience to succeed in this role.

It is essential that adequate resource is allocated to support responsible officers and that they are appropriately equipped to carry out their responsibilities. The guidance to the draft regulations emphasises that there must be a "robust" medical management infrastructure to support the responsible officer and sufficient delegation of duties to enable the role to be delivered to a high standard. How will this work in practice and how will it be resourced?

The draft regulations do not reflect the changes proposed in the White Paper. Reference is made throughout to "designated bodies". These include PCTs and SHAs, which are to be abolished by 2013. There is no detail on what structures will support responsible officers, revalidation and other aspects of performance management in primary care after 2013. This makes the decision to press ahead and appoint 975 responsible officers to strengthen systems in structures that are to be abolished difficult to understand. Surely, given the decision to delay revalidation and the uncertainty around the structures that will support performance management, more time is needed to pilot and evaluate the responsible officer system effectively before bringing these measures into force in January.

Earl Howe: My Lords, I thank all noble Lords who have spoken. In particular, I welcome the positive comments made about the regulations and the rationale for them. I am grateful especially to the noble Lords, Lord Walton, Lord Patel and Lord Kakkar, and my noble friend Lord Alderdice for their strong support and very helpful comments, and indeed to the noble Lord, Lord Rea, for what he said. A number of questions have been asked and perhaps I could begin by addressing the timing of these regulations.

First, I know that medical revalidation was a concern of the Merits Committee, reflecting in turn the concerns raised by the BMA and the Royal College of Surgeons. Noble Lords who are medically qualified will be aware, and other noble Lords may well be aware, that the piloting period for revalidation has been extended for a further year. This will allow time for a better understanding of the costs, benefits and practicalities of implementation and to enable full engagement with the profession, the service and the public. Despite there being issues which the extended period of piloting will help us address, one thing remains clear; recommendations on an individual's revalidation can be based only on substantiated information. That information will come from doctors themselves, supplemented by information from an organisation's clinical governance systems. The responsible officers' roles, in other words, are wider than the process of revalidation. It is important that we have those officers in place to implement improved systems of clinical governance and to ensure that organisations are prepared and doctors are supported, ready for revalidation.

The noble Lord, Lord Rea, was right; having responsible officers in place would help to ensure that doctors are appraised and that systems are in place that will enable the information to be collected and shared as appropriate, such as when doctors move to a new organisation. Where there are concerns, their duties will ensure that the appropriate action is taken, and will continue to be taken, so that patients are protected. The noble Baroness, Lady Thornton, also argued that the regulations had been overtaken by the Government's proposed reforms of the NHS. It is worth re-emphasising what my honourable friend Anne Milton said in her letter: that the majority of organisations designated under the regulations will not be directly affected by the removal of primary care trusts and strategic health authorities, which of course has not yet happened and is still some distance away. Clinical governance systems are needed regardless of the White Paper proposals.

Now is precisely the right time to introduce the role of responsible officer. I simply repeat that medical leadership and stability are needed if organisations and their doctors are going to be ready for revalidation when it starts.

Of course the regulations will in due course need to reflect the changes in NHS architecture, should those be agreed by Parliament. We are currently exploring options for this and I can repeat the assurances given by my honourable friend Anne Milton in another place. To answer in particular the concern of the noble Baroness, Lady Finlay, about primary care, we will consult on options for responsible officers within primary

care as we move to a system of commissioning consortia, and on identifying a responsible officer's own responsible officer, who in England currently sits within the strategic health authority, as the noble Baroness, Lady Thornton, rightly pointed out.

The noble Baroness also reflected professional concerns about conflicts of interest between a responsible officer's statutory duties and their duty to their organisation. All doctors who have a management or supervisory role for other doctors already manage on a day-to-day basis any tensions that may arise between the need to ensure high professional standards and values on one hand and the needs of employers and service provision on the other. Medical directors already address concerns about doctors in their organisations, whether through local performance management, disciplinary systems or referrals to the GMC. The Government believe that, in the vast majority of cases, medical directors will be guided by their professional values to manage such issues fairly and in the best interests of patients. The alternative—an entirely independent structure of responsible offices in every healthcare organisation in the United Kingdom—would replicate the system of GMC affiliates, which was proposed, as noble Lords may remember, in 2007, and which professional bodies rejected during consultation as being disproportionate, impracticable and unaffordable.

I also draw the House's attention to the evidence given to the Health Select Committee on 4 November 2010 by Professor Peter Furness, who is president of the Royal College of Pathologists and revalidation lead for the Academy of Medical Royal Colleges. Professor Furness acknowledged the potential for a conflict of interest, but he also said that the view that medical directors should not be responsible officers was held by "a minority" of medical royal colleges. He observed that the potential for conflict could be balanced by the fact that medical directors are best placed to resolve any problems that might arise. He also thought that the potential for conflict needs to be addressed by "open processes" to ensure that it does not cause problems.

We must also remember—this is a fundamental point—that responsible officers can make recommendations only about a doctor's fitness to practise; they do not have the power to remove a doctor's licence to practise. Their recommendations must be based on evidence, and it should be clear immediately if that is not the case. Further, if responsible officers make recommendations that are not based on evidence, they may be failing in their duties under good medical practice, which requires that doctors must,

"be honest and open and act with integrity".

In that case, responsible officers could even bring their own fitness to practise into question. These are very serious issues for any responsible officer.

The Merits Committee's concern that the regulations provide for no process of appeal against the recommendation of a responsible officer has also been raised by noble Lords. First, let me stress that the regulations will result in no change to the current situation, in which every doctor, including the medical director, has a professional duty to report serious concerns about another doctor to the GMC. Under the regulations, the responsible officer will be required to decide what recommendation to make to the GMC about an individual doctor's fitness to practise. However, the GMC would then need to go through its own processes, which provide the doctor with an opportunity to defend allegations—including through an appeals mechanism—before the doctor can be considered unfit to practise. Under the regulations, local procedures to investigate concerns must provide for a doctor's comments to be sought and taken into account.

In England, as part of the responsible officer's role in dealing with concerns about a doctor's conduct or performance, the responsible officer will also be able to recommend suspension to the designated body. However, the decision on suspension is for the designated body and should engage that organisation's performance management and grievance procedures. I think that sufficient mechanisms are already in place that protect the doctor's interests without the need to create an additional bureaucratic structure to allow doctors to appeal against what are, after all, simply recommendations.

Two further issues were raised by, I think, the noble Baronesses, Lady Thornton and Lady Finlay. The first relates to a failure to specify that appraisal should encompass the whole of a doctor's practice. That is in fact provided for in Regulation 11(3), which states:

"The responsible officer must ensure that appraisals … involve obtaining and taking account of all available information relating to the medical practitioner's fitness to practise in the work carried out by the practitioner for the designated body, and for any other body, during the appraisal period".

Nevertheless, I repeat the assurances given in another place that we will consider whether we can strengthen the guidance to make it clearer that appraisals must address the whole of a doctor's professional practice.

The second issue relates to indemnity and, in particular, to the fact that organisations should provide indemnity for responsible officers. Indemnity payments are already calculated on the basis of a shared risk. At this stage, we understand from the medical defence organisations that there is no suggestion that the contributions from those who take on the responsible officer role would need to rise. However, we are told that the medical defence organisations will keep the situation under review. I assure noble Lords that, if we find contributions rising as a result of these regulations, we will review the position.

8.30 pm

The noble Baroness, Lady Finlay, suggested that responsible officers should have a minimum of 15 years' practice after qualification before being appointed to the role. The functions of the responsible officer will require the post to be a senior medical role within the designated organisation, and each such organisation will need to determine for itself, taking account of the regulations and guidance, whether a candidate is capable of carrying out the role. That is the first issue. The requirement for the responsible officer to have been a qualified doctor for five years, as the regulations specify, is a minimum requirement.

The noble Baroness also referred to a number of doctors who serve in roles that do not appear to be covered by the regulations, which connect the vast majority of doctors, including all those in healthcare

[Earl Howe]
delivery, to a designated body. Because of the variety of settings in which licensed doctors work, it is not practicable or cost-effective to prescribe a link for every doctor who may wish to hold a licence to practise. Licensed doctors are employed in sectors as diverse as human resources, consultancy, journalism and the law. Broadly, the regulations designate organisations that deliver healthcare and those with a role in setting policy and standards for the delivery of healthcare.

In its response to its consultation on revalidation, the GMC found that more detail was needed about how doctors in non-mainstream roles will revalidate. On that particular issue, we will, of course, work with the GMC to ensure that all licensed doctors can revalidate on an equitable basis. The noble Baroness referred in particular to academic doctors who are employed by universities but who hold an honorary contract with a national health organisation. In fact, the regulations cover academics who are doctors on honorary contracts. Their contract will be an employment contract, and the regulations provide for a connection between designated organisations and employed doctors under Regulation 10(1)(c).

With those reassurances, I believe that I have covered all the questions raised by noble Lords. I therefore commend the draft regulations to the House.

Baroness Finlay of Llandaff: Will the Minister clarify that the way in which the regulations are written is sufficiently flexible to allow a doctor to take a career break, to move into a different area or to take a break from clinical practice as it currently stands? Are they also sufficiently flexible to allow the responsible officer role not to be tied to the medical director of a trust, but if the medical director of a trust resigns from that post but is very suitable to remain the responsible officer, they can remain the responsible officer and the medical director can be someone else? Furthermore, are they sufficiently flexible to allow you to be able to get rid of a responsible officer if it turns out that they are not being wise enough?

Although this is slightly irregular, I should point out for clarification that I am not against these regulations at all—I think that they need to go through. My concern about five years is that most doctors are still in training at that stage.

Earl Howe: My Lords, the answer to the first question of the noble Baroness, about career breaks and so on, is yes, the regulations allow for that. In answer to her second question, we are not specifying that responsible officers have to be medical directors. As she knows, we are leaving it up to the organisations to decide that. Therefore, she can be reassured on her other questions.

Baroness Thornton: My Lords, I thank all noble Lords for contributing to this debate, particularly the noble Baroness, Lady Finlay, the noble Lord, Lord Colwyn, and my noble friend Lord Rea. I also thank the Minister for his comprehensive answer. Noble Lords will have heard me say from the outset that I did not intend to delay the implementation of the regulations. However, noble Lords should also acknowledge that if we ignored the reservations expressed by the Merits Committee and various medical organisations, and did not to pay heed to what they had to say about this, we would not be carrying out our duty of scrutiny. I thought that the most important thing was to get on record the answers to the very questions that we have raised.

I thank the Minister for his usual comprehensive and competent answer, which helpfully addressed many concerns. The abolition of PCTs and strategic health authorities is on the "wait and see" bit of this agenda. We can take it that the Department of Health has not yet worked out what it is going to do. I take some comfort from the fact that this, like much else, is in the melting pot of what is becoming the NHS at the moment; it is work in progress. With that and with thanks, again, to the Minister, I beg leave to withdraw the amendment to the Motion.

Amendment to the Motion withdrawn.

Motion agreed.

8.37 pm

Sitting suspended.

Public Bodies Bill [HL]

Committee (1st Day) (Continued)

8.45 pm

Amendment 3B

Moved by ***Lord Hunt of Kings Heath***

3B: Page 1, line 3, at beginning insert "Subject to sections (*Procedure: introductory*), (*Information to be provided to Parliament*) and (*Super-affirmative resolution procedure and amendments*),"

Lord Hunt of Kings Heath: My Lords, we are very much making progress as we reach Amendment 3B at quarter to nine tonight. This is an important amendment, and with it I speak to my Amendments 120, 124 and 125.

In view of all our discussions I think that noble Lords will agree that, when it comes to a Minister deciding to bring an order before Parliament, the information made available to Parliament and the parliamentary scrutiny procedure assume great importance. My Amendment 124 seeks to ensure that sufficient information is provided to Parliament. In it, I propose five new subsections that would ensure that Parliament would be able to have a sufficient explanation, an explanation of the consultation, information about representations, and the kind of information that is important when it comes to dealing with an order. Perhaps more importantly, my Amendment 125 seeks to put in place an appropriate parliamentary procedure for scrutiny. My amendment is broadly based on the Legislative and Regulatory Reform Act 2006 and what is described as a super-affirmative procedure in it. I do not want to repeat what has been said before but that Act is highly relevant to our discussions on this Bill, because it gives extensive powers to Ministers to remove or reduce burdens resulting from legislation, including primary legislation.

I agree with the report of the Delegated Powers Committee when it said that,

"the insertion of a super-affirmative procedure cannot bring a misconceived delegated power within the bounds of acceptability".

It went on to say:

"A single stage of consultation is clearly no substitute for the detailed scrutiny afforded by the use of a bill (the process by which the functions of many of the bodies listed in this Bill were debated and decided)".

If we were to continue with the use of this Bill, the committee suggests that,

"the government, not Parliament, would retain the sole ability to make amendments to orders",

although my noble friend Lord Dubs has tabled an amendment that seeks to create a procedure whereby orders can be amended. I agree with the committee that, if the legislation is rotten to its core, the insertion of a super-affirmative procedure cannot bring it,

"within the bounds of acceptability".

However, we are trying to solve the conundrum of ensuring that these bodies are reviewed on a regular basis, which we all want. The noble Lord, Lord Renton, talked earlier about the need for a process whereby there can be minor changes; again, that seems eminently sensible. A super-affirmative procedure may be one way in which one can make the Bill more acceptable and certainly give more effective parliamentary scrutiny.

The LRR Act allows for a more extensive parliamentary scrutiny process. Section 12 sets out procedural requirements for making orders. The Minister has to consult on the order, and then lay a draft order and explanatory document before Parliament. The order's procedure can be a choice of negative, affirmative or super-affirmative. Essentially, the Minister has to recommend, in an explanatory document accompanying the draft order, which parliamentary procedure should apply and his or her reasoning for that. The level of scrutiny recommended should depend on the views of the Minister on the complexity and impact of the order. That may be informed by representations on the proposals received during the consultation process, and the Minister's recommendation on whether a procedure should be negative, affirmative or super-affirmative shall apply, unless either House of Parliament requires a more onerous procedure.

The key importance of the LRR Act is in the nature of the super-affirmative procedure, because that Act provides for a committee of either House, charged with reporting on the draft order, to recommend that no further proceedings be taken in relation to the draft order, unless that recommendation is rejected by a resolution of the House. It is sometimes known as the veto procedure, although it is clearly not an absolute veto. None the less, it is a pretty powerful mechanism for scrutinising such orders. I should have thought that any Government who were faced with a view of a committee charged with considering the order that it should not go ahead would have to think very seriously about whether they wished to go forward with that order.

My amendment builds on the super-affirmative procedure and gives a number of options for a committee of either House to recommend to either House that the order be approved in its current form, or that it be amended, or that no further proceedings should be taken in relation to the draft order, or that it is more appropriate that it be progressed through primary legislation. My amendment specifies that unless the recommendation is that the order to be approved, it cannot be progressed unless the recommendation is rejected by a resolution of the House. If the recommendation is that the order be amended, it may not proceed unless the recommendation is rejected or the House approves the order, as revised by the committee.

I have sought to build on the super-affirmative procedure and include some more flexibility in it. This is one of the key planks to reaching a consensual agreement on the Bill in your Lordships' House. I know that the noble Lord, Lord Taylor, is bringing some amendments, but they do not go as far as mine. It would be well worth thinking about whether a kind of super-affirmative procedure—if not with my amendment, then, I am sure, in a later amendment—can be provided for. However, the key principle here is that a Select Committee of either House should be able to take an order away, and if that committee decides that it is not appropriate for the order to go forward and that primary legislation might be more appropriate, although it is not an absolute veto, a measure such as this would provide great reassurance to your Lordships' House.

Baroness Thomas of Winchester: My Lords, I am taking the highly unusual step of intervening briefly at this stage as chair of the Delegated Powers and Regulatory Reform Committee. Our latest report on the government amendments, because of the lateness of their tabling, was placed in the Printed Paper Office only this morning. I am grateful to the staff for preparing the document so quickly after our second meeting on the Bill yesterday.

If ever the committee was set up for a Bill, this was the Bill because of its skeletal nature. In our report, our view—as has been stated many times today—was unequivocal: the powers contained in Clauses 1 to 5 and 11 are not appropriate delegations of legislative power, as they would give Ministers of this and future Governments unacceptable discretion to rewrite the statute book, with inadequate parliamentary scrutiny of, and control over, the process. The committee's original report was careful not to recommend any particular course of action for the Government to take to amend the Bill to strengthen parliamentary control—contrary to what the Minister said in his letter to us. However, we set out a range of options, which were to be seen not necessarily as alternatives, as we believed that one or more might prove necessary. One option was for a form of the super-affirmative procedure that has already been enshrined—as we have also heard many times today—in the Legislative and Regulatory Reform Act 2006. The Government have now tabled a form of this procedure. My purpose in speaking now is to address their amendments.

In our report published this morning, we welcomed the government amendments as a step in the right direction, because they enhance parliamentary scrutiny. However, they do not address the fundamental problem that, in the committee's view, the delegated powers in the Bill—the purposes of which are not specified or limited—are not appropriate delegations of legislative

[Baroness Thomas of Winchester]
power. In other words, although Ministers of this or any future Government must "have regard" to certain matters, they are not constrained by any legislative provisions. This makes the super-affirmative procedure in these amendments very different from the procedure in the Legislative and Regulatory Reform Act 2006—as other noble Lords pointed out in the earlier debate. In that Act, parliamentary scrutiny is much more effective. For example, if a committee of either House recommends that no further proceedings should be taken on a draft order, any such proceedings are automatically stopped—as the noble Lord, Lord Hunt of Kings Heath, said—until and unless the recommendations are rejected by the House itself in a procedure commonly called the veto. In the super-affirmative procedure of Amendment 118, which the Government are proposing, the Minister need only have regard to any resolution of either House—a very different matter.

I will not list all the differences between the procedures in the 2006 Act and those in the Bill, as they are set out in our sixth report. Of course, there are differences in the two procedures for orders in the Bill, in Clauses 1 to 6 and in Clause 11. I will give one example to illustrate why there could be a problem with the second lot of procedures. Under Clause 11, the Minister may wish to make an order containing proposals for several bodies to be transferred from Schedule 7 to Schedule 1. During consultation, many representations may be made about one body. The Minister may be urged to amend the draft order, but to do so he must go through the whole 30, 40 or 60-day procedure again. This is unlike the procedure for earlier clauses. Rather than holding up the fate of the other bodies in the order for another two or three months, he may decide that, although he has had regard to all the contributions that he has heard, considerations of time override all representations and so he may decide to make the original order after all. It is clear from the Minister's letter to the committee that time is the crucial factor in the way that the Bill has been drafted. I understand that, having announced that there is to be a bonfire of the quangos, the Government want to light the bonfire as soon as possible. However, it is the duty of the committee of which I am chair to make sure that the match is not lit before Parliament has more effective control over the whole process.

9 pm

Lord Adonis: My Lords, the noble Baroness has made an immensely powerful case and the House is deeply indebted to her and her committee for the work that they have done. Essentially what is being introduced here is what on the continent would be called a decree-making power. There is now a capacity well beyond the usual use of ministerial orders for the Government to legislate by decree. One needs only to look at the scope of the Bill and the headings of Clauses 1 to 6 to see how significant this is. Clause 1 is entitled "Power to abolish"—that is, to abolish wholesale a whole string of organisations listed in the Bill which have been established under a proper statutory procedure. Clause 2 is headed "Power to merge"; Clause 3, "Power to modify constitutional arrangements"; Clause 4, "Power to modify funding arrangements; Clause 5, "Power to modify or transfer functions"; and Clause 6, "Power to authorise delegation". This is essentially a wide-ranging, decree-making power which, if the Bill is passed in its current form, Parliament will be conferring on the Executive. This has very significant constitutional implications, and the seriousness with which the House has been addressing the Bill is well merited in this case.

My noble friend's amendment looks to me to be the minimum necessary to ensure that this decree-making power—because that is what it is—is kept within proper bounds and that there is proper parliamentary scrutiny, including a requirement in each case for the Government not simply to explain their reasons but to explain why they are seeking to reject the expert opinion of a committee of both Houses expressed upon proposals put forward by the Government. It seems to me that this is exceptionally important. The amendment of my noble friend Lord Hunt would require the Government to explain why they are not prepared to accept the reasoning of a committee of either House and, where that committee recommends for good and sufficient reasons that proceedings on an order should not take place, it requires the authority of the two Houses for proceedings then to take place. It is called a super-affirmative procedure and, as always when we are discussing new things, it appears to be a significant enhancement of parliamentary authority. However, looked at another way, conceptually this is putting a proper curb on a decree-making power, which in the opinion of the noble Baroness and her committee is probably one that should in any event be vested in the normal legislative process.

In order to see that the Bill is kept within proper constitutional bounds, I believe that the prerogatives of your Lordships should be respected. A move of this kind is essential or we will be faced with claims that we, as a House, have given the Government a power to legislate by decree without even the capacity for the recommendations of committees of our own House to be properly debated before the Government proceed.

Lord Norton of Louth: My Lords, I shall be brief because the noble Baroness, Lady Thomas of Winchester, has said everything that I would have wished to say. I welcome the fact that the Government clearly heard what was said at Second Reading and have taken on board the comments concerning the need for the procedure to be changed so that there is a greater role for Parliament in the process. Therefore, although the Minister has heard, perhaps the problem was that we were not shouting loud enough. I welcome the moves in the right direction and the fact that we now have Amendment 118, but it raises the question of why it was not in the Bill in the first place. However, the amendment goes only so far, for the reasons that we have heard. When one contrasts Amendment 118 with the super-affirmative resolution procedure, it is clear that Amendment 118 diminishes the role of Parliament relative to the super-affirmative resolution procedure, for the reasons that the noble Baroness mentioned. Therefore, I think that the Government should take away this new clause and come back with something that builds in the role of Parliament, akin to the super-affirmative resolution procedure, so that we play the role that we should be playing.

Lord Clark of Windermere: My Lords, I wish to follow the noble Lord, Lord Norton, because his point about the role of Parliament is absolutely critical. In a sense, we heard the legal expert, the former Law Lord, discussing earlier today in a learned way the basic thrust of what the noble Lord, Lord Norton, and I are saying. Ultimately, we are talking about the power of the legislature and the power of the Executive, and it is very important that we pursue the lines set out by the noble Lord, Lord Norton, and the noble Baroness, Lady Thomas, who explained the matter expertly and lucidly.

I very much welcome government Amendments 173 and 174 because they elaborate and outline in much more detail the orders which follow Clauses 17 and 18, which specifically relate to the forestry commissioners—the individuals. Of course, under these powers the Bill says that the constitutional arrangements of the commissioners can be changed by ministerial edict. That raises an important point because I think we will find that at least one of the commissioners is appointed by Her Majesty. It is interesting to see whether Ministers can take this power simply by an order. I put that in a positive way for Ministers to have a look at.

I am also interested in Amendment 174 because, as I understand it, it inserts a new clause after Clause 18. I seek information from the Minister: does this mean that Clause 19 becomes redundant? Does the second part of government Amendment 174 become the new Clause 19? That appears to be the case, but I would welcome guidance on that. I shall not detain the House any longer.

Lord Taylor of Holbeach: My Lords, this group of amendments concerns the central question of parliamentary scrutiny and procedure in relation to the order-making powers in the Bill. This group includes government Amendments 118, 126, 130, 173, 174 and 179. Perhaps I can reassure the noble Lord, Lord Clark of Windermere, that that is exactly what happens. It institutes a parallel framework for those sections of the Bill dealing with the Forestry Commission. The numerical sequence is exactly as he described. Amendment 122, in the name of my noble friend Lord Lester, and Amendments 3B, 120, 124, and 125 in the names of the noble Baroness, Lady Royall, and the noble Lord, Lord Hunt, are also in this group. In this debate, I will discuss in particular government Amendment 118, which relates to orders made under the powers in Clauses 1 to 6. Amendment 130 replicates this amendment in relation to orders made under Clause 11, and Amendments 173 and 174 make a similar provision in relation to the forestry provisions in the Bill.

We also intend to create similar provisions in relation to the powers conferred on Welsh Ministers by Clause 13, and are in discussions with the Welsh Assembly Government about how best to achieve this. As part of this process, I give notice of my intention to oppose the Question that Clauses 10, 12 and 19 stand part, as they are now replaced by the government amendments.

Government Amendment 126 specifies that an order made under Clause 11 may not be included in the same instrument as another order made under the Bill. Government Amendment 179 is a consequential amendment to Clause 28, which defines references to various periods of scrutiny used in earlier government amendments.

In the previous group, I noted the high level of consensus which had emerged regarding the requirement to consult in relation to the powers in this Bill. Similarly, there is much consensus around the idea that Ministers should ensure that Parliament is properly informed about the content and background of orders, through the laying of a draft order accompanied by an explanatory document, detailing the reasoning for the order and including the results of the external consultation which preceded it. In addition, government Amendment 118 requires this document explicitly to address how the matters in Clause 8 had been addressed.

I note that Amendment 124, which is tabled in the names of the noble Lord, Lord Hunt of Kings Heath, and the noble Baroness, Lady Royall of Blaisdon, specifies that the explanatory document should include a regulatory impact assessment, and I appreciate the intent behind this addition. The use of impact assessments is set out by the Better Regulation Executive in the Department for Business, Innovation and Skills. Departments are required to assess any policy of a regulatory nature that would affect the private sector, the third sector or public services against the impact assessment framework and are required to publish that assessment when the proposal enters Parliament. On this basis, I do not believe it is necessary to repeat this requirement in the Bill. Similarly, I do not believe it to be appropriate to set out in statute that Ministers should provide other information which they consider will be of assistance to Parliament given the difficulties in definition and the potential breadth of information that that would involve. However, these reservations notwithstanding, I hope that the noble Lords opposite will recognise the shared intent behind our amendments in this area and feel able to support the government amendments in question.

I now turn to the question of parliamentary procedure for orders made under this Bill as discussed, in particular, in Amendment 125 and in government Amendments 118, 130 and 174. At Second Reading, I made a commitment to noble Lords that the Government would produce a parliamentary procedure that will ensure enhanced parliamentary scrutiny. The government amendments I have tabled meet this commitment by giving Parliament the opportunity, within 30 days of the laying of a draft order, to require that an enhanced procedure is required for approval of the order. Parliament will make that decision. This enhanced procedure would require a 60-day period of consideration, rather than the standard 40 days for the affirmative procedure, and for the Minister to have regard to any representations, resolution or recommendation from Parliament in relation to the draft order before seeking approval by a resolution of both Houses. This procedure would give both Houses of Parliament an extended opportunity to scrutinise and comment on these orders, and I hope it provides the reassurance the House is seeking.

Amendment 125, which is tabled in the names of the noble Lord, Lord Hunt of Kings Heath, and the noble Baroness, Lady Royall of Blaisdon, would introduce a new parliamentary procedure for these orders, going

[Lord Taylor of Holbeach]
beyond the extensive super-affirmative procedure described in the Legislative and Regulatory Reform Act 2006 by giving a Committee of either House the opportunity not only to reject an order, but to amend it or to recommend that the proposals be taken forward only through primary legislation. I recognise the sentiment from which this amendment springs, but I cannot support it for a number of reasons.

First, it is my belief that the parliamentary procedure it proposes fundamentally changes the role of Parliament, and of this House in particular, in dealing with secondary legislation. This may be something that many noble Lords would welcome, but it is surely not a debate which should be resolved within the confines of deliberation on the Public Bodies Bill. In this regard, I wish to draw the House's attention to the initial report on the Bill by the Delegated Powers Committee published on 12 November. The report described the suggestion that orders might be amended as "virtually unprecedented" and highlighted the difficulties inherent in seeking to produce a workable procedure of this nature, particularly in the event that the two Houses disagreed on the content of an order.

Secondly, a comparison to the Legislative and Regulatory Reform Act 2006 is telling. The order-making powers in that Act are far broader in scope than those in this Bill, which are restricted not only to a particular branch of statute—that relating to public bodies—but also to the specific bodies defined in each schedule. Perhaps I may say that I am very grateful for the intervention of the chairman of the Delegated Powers Committee, my noble friend Lady Thomas of Winchester, and for her contribution to this debate. It has been useful to have direct input from that committee—hot off the press, one might say—and it reinforces the importance of our debate about this procedure. I am also grateful for the acknowledgement that the Government have sought to address the Delegated Powers Committee's concerns. The DPC's second report suggests that the inclusion of the super-affirmative procedure in the 2006 Act, and the degree to which Section 2 of that Act is comparable to this Bill, provides a justification for the more restrictive parliamentary procedure. However, given that the super-affirmative procedure in the 2006 Act are designed to apply in general to the much wider powers in that Act, I maintain that this would not be a proportionate procedure for the Public Bodies Bill.

To suggest that this Bill requires a more restrictive scrutiny procedure than the Legislative and Regulatory Reform Act therefore seems to me to be a somewhat disproportionate response, particularly in the light of the additional safeguards that we have sought to introduce. However, I acknowledge the differing position of the Delegated Powers Committee in this regard. I have listened carefully to the contributions made by the noble Lord, Lord Adonis, and my noble friend Lord Norton of Louth, which rather backed up the arguments presented by the committee. I acknowledge the differing position of the Delegated Powers Committee in this regard and will consider this matter further.

The question of disproportionality is none the less raised again by the fact that, under Amendment 125, the proposed procedure would apply to each and every order made under this Bill. As was stated repeatedly at Second Reading, and has continued to be stated to me by many noble Lords since, there is broad agreement for many of the reforms in this Bill. The application of the procedure proposed by the Opposition, particularly in such an inflexible manner, would constitute an excessive hindrance on the reform programme of the Government, as well as requiring significant parliamentary time. Our approach, however, gives Parliament the flexibility to select an enhanced procedure, while maintaining for government the reasonable ability to act to implement its programme.

I finally wish to address the question of this House's ability to veto statutory instruments made by affirmative procedure. By convention, we do not vote such instruments down, and I know that this is a source of concern from noble Lords who believe that this Bill excludes them from the decision-making process. I can assure the House that this is not the case. The enhanced procedure we have proposed, in conjunction with the additional safeguards and the requirement for consultation, would significantly strengthen the scrutiny of orders under this Bill both inside and outside Parliament. In addition, I would make this point: no body can be subject to the powers under this Bill unless Parliament gives its approval to its inclusion in the schedules.

Many noble Lords have already taken the opportunity, by amendment, to exercise their right to debate the inclusion of particular bodies, and the Government will be held to account in this fashion. Similarly, any new body created following the passage, subject to the will of Parliament, of the Bill could itself only be added to the schedules via primary legislation. The Government are taking the opportunity, in primary legislation, to seek approval from Parliament to make a specific set of bodies subject to a specific set of powers. I believe that the approach we have proposed through the government amendments in the group is both sensible and proportionate, striking a balance between Parliament's ability to scrutinise and the Executive's ability to take forward its programme for government. In the light of these comments and in the context of my previously stated commitment to further consider the comments of the Delegated Powers and Scrutiny Committee on matters of procedure, I would ask the noble Lord to consider withdrawing his amendment.

Lord Adonis: The Committee will be extremely grateful to the noble Lord for indicating that he will consider this matter further and we applaud the degree of consultation that he is affording noble Lords. However, when he says that Clauses 1 to 6 confer specific powers on Ministers in respect of specific bodies, while he is clearly right in respect of the specific bodies because they are listed in the schedules, it is very debatable whether the powers are specific. For example, in Clause 3 the power is "to modify constitutional arrangements". It states:

"A Minister may by order modify the constitutional arrangements of a body or office specified in Schedule 3".

The clause is not at all specific as to what powers the Government will seek to take. That, it seems to me, is the whole point at stake in this debate. The powers given in Clauses 1 to 6 are extremely wide-ranging;

they are not specific. If they were specific, your Lordships would be able to debate them and seek to amend them. So it is precisely for that reason that the fifth report of the Delegated Powers and Regulatory Reform Committee states in its opening paragraph:

"The Committee considers that the powers contained in clauses 1 to 5 and 11 as they are currently drafted are not appropriate delegations of legislative power. They would grant to Ministers unacceptable discretion to rewrite the statute book, with inadequate parliamentary scrutiny of, and control over, the process".

That seems to justify entirely the further look at these wide-ranging powers that the noble Lord has promised us, as well as at the case which has been made by many noble Lords for an exceptional parliamentary procedure to deal with an exceptional delegation of power, which this Bill proposes to give to Ministers.

Lord Taylor of Holbeach: Perhaps I may respond to the noble Lord. I am grateful to him for making the point, which is perfectly valid. It is true that the powers are general in their scope within the context of a constitutional arrangement. It may well be that it will concern changes in governance and so on of a body, or its representation in the case of a body listed in Schedule 3—that is, how the governing bodies are appointed. There could be a number of different aspects. I agree that they will differ and, by necessity, that is why this has been put in the most general of terms.

We would argue that we are indeed trying to construct a special form of scrutiny for the orders that will be tabled under this Bill, and that is what our amendments seek to address. I have accepted that the comments of the Delegated Powers and Regulatory Reform Committee published this morning mean that we need to look at this again because we want to try to do this within the context of parliamentary accountability. That is the purpose of seeking to reconsider this matter. I think that I have set out the arguments for why we are where we are and what we are seeking to do with our enhanced procedure for parliamentary scrutiny. However, it is important that whatever we determine here has to be compatible with the procedures of the other House because we would not want ping-pong on statutory instruments. That would be pretty difficult, so we need a process which is capable of operating across Parliament. That is an important consideration of which we are mindful.

Lord Hunt of Kings Heath: My Lords, I join with other noble Lords in thanking the noble Lord, Lord Taylor, for his response and for his willingness to have a look at this in the light of our debate. That is very encouraging. I am also grateful to him for the government amendments he has just spoken to, which are an advance on what is currently in the Bill. Again, that is encouraging.

However, the giveaway line in the government amendments is where it is stated that if within 30 days either House decides the order requires further scrutiny, the order cannot be proceeded with until a period of 60 days has elapsed. During that time the Minister "must have regard to" any representations—which, in the end, means that the Minister can disregard as much as he regards. The problem we have is that the government amendments do not go anywhere near the scale of scrutiny we believe is required or as the noble Baroness, Lady Thomas of Winchester, clearly expressed. Crucially, they do not contain the veto option which exists in the Legislative and Regulatory Reform Act 2006, as my noble friend Lord Adonis made clear, and it is that option that immeasurably strengthens parliamentary authority.

I know that the noble Lord, Lord Taylor, said in his letter to the Delegated Powers and Regulatory Reform Committee that he believes there is a difference between this Bill and the LRR Act because of what he describes as the more restrictive matter of the Public Bodies Bill. However, as he knows, the Delegated Powers and Regulatory Reform Committee has analysed this and believes that the 2006 Act is narrower in at least two respects when compared with the powers contained in the Bill. In his further discussions the Minister might wish to reflect on his and the Select Committee's views on that.

The Minister also said that my amendment would change the role of Parliament and he prays in aid the first report of the Delegated Powers and Regulatory Reform Committee published on 12 November. The Select Committee is well able to respond to that but I believe it is a misinterpretation of what the Select Committee report is saying. My reading of it is that after expressing concern about the lack of scrutiny, the Select Committee puts forward a number of ideas for how Parliament might enhance that scrutiny, one of which is the super-affirmative procedure; another is a procedure which would allow Parliament to amend proposed orders under the Bill; and another is a sunset clause. The noble Lord is guilty of putting together the super-affirmative suggestion and the procedure to allow amendments and to pray them in aid in saying that my amendment falls because it would allow for amendments. I am not aware of any wording in my amendment which states that the House can amend the orders. I have built on the super-affirmative procedure contained in the Legislative and Regulatory Reform Act. That is why I do not think I am guilty of advancing the powers of Parliament in the way the Minister suggests.

The noble Lord raised the important question of the powers of this House in relation to secondary legislation. He said that, by convention, this House does not vote down statutory instruments. I dispute that interpretation. I refer him to paragraph 10.02 of the *Companion* which states clearly:

"The House of Lords has only occasionally rejected delegated legislation".

It then goes on to say:

"The House has resolved 'That this House affirms its unfettered freedom to vote on any subordinate legislation submitted for its consideration'".

The Minister may be aware that there has been an interesting discussion between the noble Lord, Lord Strathclyde, the Leader of the House, and the Select Committee on the Merits of Statutory Instruments on this very matter.

The question is the extent to which the Leader now accepts the recommendations of the Joint Committee on Conventions chaired by my noble friend Lord Cunningham, which were accepted by your Lordships' House after debate. That committee's report made it

[LORD HUNT OF KINGS HEATH]
very clear that there were circumstances in which it was perfectly proper for this House to seek to defeat secondary legislation; for example, in relation to a skeletal Bill. I am convinced that it is perfectly proper for this House to seek to defeat any order under this Bill as it is now written.

9.30 pm

Lord Taylor of Holbeach: Perhaps I may take the noble Lord back to that section of my speech which addressed this issue. I was merely making a point of observation. I think that the only statutory instrument to have been voted down in my time in this House was the casinos order. I think that it is reasonable to say that we do not do it. Whether we should is a different issue altogether. My point was that many noble Lords might welcome a debate about that, but it is surely not a question that should be resolved within the confines of deliberation on the Public Bodies Bill. The right place is in the sort of discussions to which the noble Lord referred; it is not this Bill.

Lord Norton of Louth: My Lords, I do not want to digress too much into academic discussion on conventions, but the fact that we have not done it does not necessarily make it a convention. For many years, MPs did not defeat the Government in the House of Commons, but it was not a convention that MPs did not vote against the Government. Just because we have not gone through with doing this—I have never accepted that there has been a convention—it does not mean that this House is not perfectly free if it wishes to reject secondary legislation. It is not, as is sometimes claimed, a nuclear option; it is a popgun option. It is perfectly open for the Government to come back with a fresh order, so I see no reason why we should not exercise our due powers.

Lord Hunt of Kings Heath: My Lords, that is a very helpful intervention. The Minister said "by convention". I am afraid that I interpret that to mean that it is a convention of this House that we do not vote down statutory instruments, which I must refute.

Lord Taylor of Holbeach: I think that I might change my wording to "custom".

Lord Greaves: Perhaps the noble Lord, Lord Hunt, might consider that the relevant statistic is the number of occasions on which the House divides on such instruments rather than the number of occasions on which the Division results in their being voted down. It is clear that the House divides on instruments rather more often than it votes them down, largely as a result of this Liberal Democrat group putting matters to the vote in the previous Parliament. The number of such Divisions is not huge, but there has been a handful of them in my recollection rather than none at all. If the House accepts that it can divide, it must accept that it is capable of voting instruments down.

Lord Hunt of Kings Heath: I have certainly noticed the reluctance of the Liberal Democrat Benches to put things to the vote; sometimes, they have to be encouraged to do so, as the noble Lord, Lord Lester, found out earlier today.

The noble Lord, Lord Greaves, is right that a number of developments have occurred in secondary legislation. Noble Lords have been encouraged sometimes to put down non-fatal Motions, which has been very helpful. Equally, there have been votes on some orders which have been lost. However, I accept what the Minister has said—that is, it is more the custom than the convention.

Notwithstanding the seeming withdrawal of the noble Lord, Lord Strathclyde, from what we thought was a consensual agreement in relation to Cunningham, I am clear that this House has every right to vote down an order. I am absolutely certain that, unless this Bill is heavily amended, there will be a series of votes on each organisation and the Government will find themselves in very great difficulty. We agree with the principle, which is why it would have been much better if this Bill had been sent to a Select Committee. Well, we did not win the vote. It would be much better for the Government if they were to accept a super-affirmative procedure along the lines suggested in my amendment. They will find, in the end, that that will be a much more satisfactory way of dealing with these matters than with the implied possibility of each individual order having extensive debate and votes at the end of it.

The Minister has very kindly said that he will consider very carefully the report of the Delegated Powers and Regulatory Reform Committee and the debate that we have heard tonight. I believe this to be one of the most important debates in the whole Bill until we get to Schedule 7, Clause 11. That debate clearly ought to be in prime time and it would be right for me to withdraw the amendment; I am sure that we can have good constructive discussions between now and Report. I beg leave to withdraw the amendment.

Amendment 3B withdrawn.

Amendment 4

Moved by ***Lord Rosser***

4: Clause 1, page 1, line 3, at beginning insert "Subject to the provisions of section (Commencement),"

Lord Rosser: My Lords, this is a Bill that lacks detail and it lacks background information. As we heard at Second Reading and again today, this Bill falls into the surprising category, bearing in mind what it seeks to do, of being a framework Bill. It is through this barebones framework that Parliament is asked, in effect, not to insist on its function of scrutinising amendments to primary legislation. The amendment I am moving on behalf of my noble friends suggests that more information is required before such a move can be contemplated. This is a probing amendment and its purpose, and that of Amendment 180, is to ask the Government to explain what their intentions are about providing necessary information. Our view is that this information should be provided before the Act, and any powers granted under it, come into force. Our Amendment 180 would change the commencement date of the Bill to a date determined in an order made by the Minister, but the amendment also provides that such an order,

"cannot be made unless, at least one month before making the order the Minister has laid before Parliament a statement outlining

… how and by whom the functions of the bodies listed in Schedules 1 to 6 are to be carried out in future; and … the expected costs and liabilities associated with the proposed changes to the bodies listed in Schedules 1 to 6".

Clause 30 in the Bill as drafted states that the Bill comes into force,

"at the end of the period of two months beginning with the day on which it is passed".

It is unclear why two months are required and again no information has been provided on this point. The amendment we propose provides a flexible timespan so should not present an issue. Such a statement, as called for in the amendment, and provided at least a month before the commencement order, will enable Parliament to consider the issues around the proposed arm's-length body reform agenda of the Government, and it will provide a much more effective scrutiny role of the actions and decisions of the Executive than is currently provided in the Bill. To put in plainly, it will answer questions about who will be doing what and how; how much is it going to cost; and what will fall through the cracks. Such transparency will benefit both your Lordships' House and the other place—most particularly in the light of the Minister's edict earlier this evening that the public bodies in the schedules could not express a view about the impact of the Bill on their functions and activities. It will also increase the understanding of affected persons and the public at large about the Government's intentions for these bodies, the thinking behind those intentions, and what the impact will be on people's lives. How else can the Government be held to account without this information?

A further advantage of providing a statement to Parliament covering the issues referred to in Amendment 180 is that such a requirement would help to ensure that Ministers exercise their very considerable powers under the Bill in a responsible and considered way. After all, Ministers should not be tempted to take advantage of the opportunity to make an order under the Bill without first having set out well beforehand the changes and impacts resulting from the decision and the associated liabilities. Ministers should be under no illusion that the powers vested in them through the Bill are to be treated responsibly and should be exercised openly rather than from behind semi-closed doors.

The Government need to be clear about and understand the implications of their public bodies reform agenda, whereas this House needs to be able to test that Ministers have made clear and logical decisions about which functions a body need, or need no longer, carry out. We need to be reassured and satisfied that no functions that are currently being carried out have been overlooked and not considered. Where functions are to be transferred, we need to be satisfied that no conflicts of interest would be created and that the body or person to whom the functions are to be transferred has the competence and the knowledge to undertake that role.

We also need to be sure that a proper and realistic assessment has been made of the costs, savings and liabilities associated with any intended changes to bodies in order to be satisfied that all costs and potential costs, as well as quality-of-service and provision issues, have been properly addressed and assessed. That is particularly relevant where, for example, some 65 per cent of the costs of a non-departmental public body relates to grants that are passed on to other organisations to fund universities, scientific research, skills training, legal aid and other core government functions.

Amendments 4 and 180 would help us to achieve those necessary and important objectives—I stress the word "help"—but they should not be seen in isolation. The Constitution Committee's report on the Bill states that,

"the Bill vastly extends Ministers' powers to amend primary legislation by order. Such powers … must be clearly limited, exercisable only for specific purposes, and subject to adequate parliamentary oversight".

In the view of the committee, the Bill does not meet those tests. As a responsible Opposition who believe in open and accountable government, we have tabled several amendments designed to strengthen the procedure to which the draft orders made under the Bill will be subject before they become law. Those amendments include our proposal for a super-affirmative resolution process and provision for an explanatory note to accompany a draft order when it is laid before Parliament. We foresee that such notes would include more detailed regulatory impact information about the particular proposal, whereas the information in the statement proposed under Amendment 180 would provide a high-level assessment.

The Minister for the Cabinet Office, Mr Francis Maude, has spoken about the need for greater accountability and transparency in public bodies. He has noted that the existence of what he described as "too many bodies" has,

"meant that elected politicians have been able to avoid making difficult and tough decisions. This is a direct challenge to accountability and is contrary to openness and transparency in public services that this Government seek to achieve".—[*Official Report*, Commons, 14/10/10; col. *WS 49*.]

In the light of that Statement, do the Government really intend, as they could under the Bill, to abolish bodies such as Consumer Focus, the Youth Justice Board for England and Wales, the Administrative Justice and Tribunals Council or the office of the Chief Coroner without a statutory requirement to provide the basis on which the decision has been made? That certainly does not sit well with the words of the Minister for the Cabinet Office about the Government's goals of greater accountability, transparency and openness.

We agree that transparency and accountability to the public are important, but transparency and accountability should apply not just to arm's-length bodies but to Ministers and Governments. That will be provided not by Ministers quietly changing functions and operations of public bodies under the current terms of the Bill but by their providing the information that is necessary for the proper scrutiny of those decisions. I hope that, when the Minister responds, he will set out in some detail what information in line with our amendments the Government intend to provide to Parliament to enable it to carry out its role of scrutinising the actions and intentions of the Government that are exercised under the terms of the Bill. I beg to move.

9.45 pm

Lord Greaves: I give general support to the general idea behind the amendment. The details of the amendment are probably impractical, but the underlying purpose of moving it as a probing amendment is absolutely vital. It goes to the very heart of why many of us are unhappy about this Bill as it stands at the moment. There has been a lot of talk about procedures and super-affirmatives and all that kind of thing, but the basic problem at the heart of the Bill is that it proposes to put on the statute book a list of organisations which the appropriate Minister will have the power to abolish or merge, or the power to modify their constitutional or funding arrangements, to modify or transfer their functions or to authorise delegation. In some cases, organisations appear on more than one of these lists. That happens in Clauses 1 to 6. I shall ignore Clause 11 and Schedule 7 at the moment, as they give rise to a different issue altogether—a list of organisations that may or may not be added to these other lists in due course. What is to happen to those is all up in the air and all rather a mess.

Clauses 1 to 6 set out the Government's clear and stated wish to abolish all the organisations in Schedule 1, for example. That is government policy, as we have it so far. If the Government have a policy to abolish this long list of organisations—and I, for one, do not disagree with the abolition of quite a few of them, although I would argue about some of them—there is not just the question of the abolition of the organisation. Abolishing an organisation is a mechanical thing; you close it down and no one is employed by it. The crucial thing that this amendment gets to the very heart of is what will happen to the functions of those organisations. In my judgment, it is far more important that the Government tell us what is to happen to the multifarious functions of those organisations than it is to say that they wish to close them down as bodies or structures. The functions are absolutely crucial.

That is information that in some cases we are being provided with outside the confines of the Bill. We have some ideas about what will happen to the functions of the regional development agencies. We know that some of those functions are being ended and that their planning functions are being closed down altogether; in fact, they have been closed down in most cases already. Some functions will be transferred to local enterprise partnerships if and when they exist everywhere, although they do not yet exist everywhere. Even the regional development agencies have functions that we do not know who will carry out. There is the whole question of rural development and its funding, and two or three weeks ago I put down a Written Question on that matter. The answer, in effect, was that it had not been sorted out yet, that for the time being it would continue to happen through the RDAs but that sooner or later it would be transferred to someone else. The assumption is that it will be transferred to someone at the centre, but no one really knows. Even with bodies like RDAs, where quite a lot of work has been done and documents and White Papers have been published, we still do not know at all what will happen to the functions. With many organisations, we do not have a clue. It seems that this is the fundamental problem that the Government have with the Bill.

Later we will discuss amendments that would delete almost every organisation in Schedules 1 and 2, right through to Schedule 6 and the infamous Schedule 7. It will take a huge amount of this Committee's time to go through these and try to prise out of the Government what they propose to do. I suspect that many of these amendments have been tabled not to delete the organisation from the list but to find out what the Government's intentions are for the existing functions of each of those bodies. Which are to be closed down, which are to be transferred to other outside bodies and which are to be brought in-house within departments? Who knows what will happen to some of them? That is the crucial thing. It is what these bodies do that matters, not their structure, unless you work there and your job is on the line.

Therefore, this amendment is fundamental in that it gets to the very heart of one of the main problems with the Bill. We simply have not been provided with information by the Government as to what is to happen to each of these bodies. As I say, the time to provide that information is not, as set out in the Bill, after Royal Assent and before commencement. The time to provide that information is now, to this House and then to the House of Commons, so that we can be absolutely certain when we consent—if that is what we do—to the different organisations being in one or more of these lists of how the services and functions that they provide will continue.

Lord Maclennan of Rogart: My Lords, I very much agree with the purpose of Amendment 180. It is of fundamental importance that the purposes of the making of the order are fully understood in respect of the transfer of functions. It is more than desirable; it is inevitable and necessary that if the changes are being made to procure efficiency, economy or accountability, it should be possible to judge whether those goals are being achieved by the transfer of authority or the winding up of the body. I know that, in respect of the regional development agencies—notwithstanding the announcement of the LEPs—there is a great deal of uncertainty, for example in respect of the distribution of the European rural development fund, which has not been resolved. It has been suggested that this may be transferred to another body. It has been suggested that it might be transferred to a privatised body, perhaps even consisting of existing members of the RDAs, which have been responsible for this for some time. We have no idea how this will be handled. That is not satisfactory. It is a reasonable objective that the Bill should make this clear, for the reasons already given in this debate. The language of the amendment might not be absolutely suited to bringing this out; none the less, I hope the Minister will give serious thought to that requirement of transparency.

Lord Liddle: My Lords, I support this amendment and I agree very much with the comments of the noble Lords, Lord Greaves and Lord Maclennan. Amendment 180 is much needed if we are to have a rational and sensible process for deciding how we deal with public bodies. I return to the example of economic development. This is a classic case of a decision to abolish a body being taken without anyone thinking about what to do with its functions, what the costs and economic disbenefits are likely to be, and what will happen to the liabilities and assets.

The fact is that none of these questions was answered before the Government announced this decision. They are trying to make it up as they go along. That is not satisfactory. I know about this because of my interest as chair of Cumbria Vision. It is a very sad thing to see because the rhetoric is all about localism and setting up local economic partnerships that are supposed to be more local than the regional development agencies but the Government are devolving very few, if any, functions to the local economic partnerships. What is actually happening is that most of the things that were done in the regions are being centralised into government departments. Is that really sensible public policy-making? Should not the Government have been subject to the discipline embodied in this amendment in terms of explaining clearly what they were doing when they announced this decision?

As regards expected costs and their impact, I put down a Written Question to the noble Baroness, Lady Wilcox, in which I asked for information on costs, how many people were likely to lose their job and what the impact on this, that and the other would be. I received the Answer that no such information was available or was being sought, or something like that. That is not a satisfactory due process. The Government must do better than that as regards other bodies. That is why these amendments being put forward from this side of the House are so important. I hope that they will draw support from all sides of the House.

Lord Taylor of Holbeach: My Lords, Amendments 4 and 180 in the names of the noble Lord, Lord Hunt, and the noble Baroness, Lady Royall, which were introduced by the noble Lord, Lord Rosser, seek to introduce a requirement for the Secretary of State to make a statement to Parliament setting out how the functions of all the bodies listed in Schedules 1 to 6 would be carried out in the future, and the expected costs and liabilities associated with the proposed changes to bodies listed in those schedules. This statement could then be followed, after one month, with a statutory instrument that would commence the Act.

It is right and proper that, before approving a specific change to a particular body or office, the House should have access to appropriate information on that change, including information relating to functions and costs. I support the spirit in which I believe this amendment is tabled. However, I do not believe that it is required. As has been discussed at length in earlier debates today, it is a shared intention of the Committee that, when laying a draft order under the powers in the Bill, Ministers will publish an explanatory document setting out the reasons for making the order. Indeed, one glance at government Amendment 118 makes clear the detail that will be required to accompany a draft order. Orders at this stage will also have gone through the impact assessment process, and this impact assessment will be published at the time the order enters Parliament, in line with existing practice. I am therefore confident that existing requirements will ensure that Parliament is fully informed on the content and implications of orders before being asked to approve them.

I do not believe it to be appropriate to amend the Bill in this fashion; I believe that it would add limited value to the process and would, in so doing, risk an unnecessary delay to the reform programme that the Bill seeks to enable. Therefore, while I appreciate the intention of the amendment, I hope that the noble Lord will feel able to withdraw it.

Lord Maclennan of Rogart: I wonder whether my noble friend would consider the possibility, if not of accepting the amendment in this form, of some expansion of Amendment 118, to which he specifically referred, to enable the matters under discussion to be considered as part of the explanatory documents. Explanatory documents have always varied in quality and content, and it makes sense that these specific pieces of information should be given and that there is a standard for performance in respect to that.

10 pm

Lord Taylor of Holbeach: As noble Lords will know, an amendment follows on from this that concerns functions—not this evening, I hasten to add; this is just a trailer for Monday—so we will look at another amendment that reinforces the message of this amendment and the intervention by my noble friend Lord Maclennan.

We do not intend to hide anything but there is a difference between presenting a statement covering the whole Bill before the Bill is implemented, and explanatory documents giving full information each time a statutory instrument is laid. The Government take the view that that is the focus that Parliament requires, and that to seek to provide a comprehensive review of all reforms in the Bill before it can be enacted would be an unnecessary delay, and not necessarily a particularly precise operation. That is why I suggested to the noble Lord, Lord Rosser, that he withdraw his amendment.

Lord Rosser: My Lords, I thank the Minister for his response, and other noble Lords who have participated in this brief debate. During it, reference was made to difficulties in obtaining the kind of information sought under the terms of the amendment. Yet that is presumably information that the Government have already, or how were decisions made on which bodies it would be advantageous to place in Schedules 1 to 6 if some decisions had not already been made as to whether their functions needed to be continued in future, or whether their functions could be placed better elsewhere and what the costs would be? There is some difficulty in accepting that the Government do not already have the information sought in the amendment.

One argument that the Minister just put forward was that there would be delay to the programme, but surely that should not be the primary consideration. The primary consideration should be providing the information necessary for this House to make decisions on what the Government intend to do, to scrutinise those actions and to query them. In the light of what the Minister said, it is clear that his motive is not to provide this House with sufficient information in good time to make reasoned judgments; his only consideration appears to be to get through his programme as quickly as possible. An open, transparent and accountable Government need to declare their hand, thinking and reasoning before the Bill comes into force, to ensure proper time for debate based on considered statements by the Government setting out which functions of

[LORD ROSSER]
which bodies will go, which functions will be transferred and to whom, how they will be carried out in future and the costs involved.

I am sorry that the Minister has not been prepared to go further. As I said, I believe that the Government already have much of this information, and the concern is that when the information is provided it will not be in sufficient time for proper debate and consideration before the Government seek to push the order through Parliament. I am disappointed with the Minister's reply. He could have gone further; he has been urged to. I hope that he will reflect on the matter; I certainly will. In the mean time, I beg leave to withdraw my amendment.

Amendment 4 withdrawn.

House resumed.

House adjourned at 10.05 pm.

Written Statements

Tuesday 23 November 2010

Attorney-General's Office: Winter Supplementary Estimates

Statement

The Advocate-General for Scotland (Lord Wallace of Tankerness): My right honourable friend the Attorney-General has made the following Written Ministerial Statement.

Subject to parliamentary approval of any necessary supplementary estimate, the Attorney-General's total DEL will be increased by £10,977,000 from £686,875,000 to £697,852,000. Within the total DEL change, the impact on resources and capital are set out in the following table:

(£,000)	*Change*		*New DEL*		
	Voted	*Non-voted*	*Voted*	*Non-voted*	*Total*
Resource DEL	10,977	-	659,077	36,182	695,259
of which:					
Administration budget	-	-	60,948	-	60,948
Capital DEL †	-	-	11,840	-	11,840
Less depreciation ††	-	-	-9,247	-	-9,247
Total DEL	10,977	-	661,670	36,182	697,852

† Capital DEL includes items treated as resource in Estimates and accounts but which are treated as Capital DEL in budgets.

†† Depreciation, which forms part of resource DEL, is excluded from total DEL since capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

The Crown Prosecution Service's (CPS) element of the Attorney General's total DEL will be increased by £8,185,000 from £633,242,000 to £641,427,000.

The change in Resource DEL arises from budgetary transfers totalling £8,185,000 from the Ministry of Justice consisting of:

£4,300,000 to help fund the Compass Case Management System

£2,600,000 from Victim Surcharge collections

£785,000 to provide support for the Local Criminal Justice Boards

£500,000 to help fund the delivery of the Corporate Manslaughter Act 2007

The Serious Fraud Office's (SFO) element of the Attorney General's total DEL will be increased by £2,792,000 from £38,754,000 to £41,546,000.

The change in Resource DEL arises from the take up of £2,792,000 in blockbuster funding relating to UN Oil for Food cases to enable the SFO to continue with the investigation and prosecution of outstanding cases in 2010-11.

Cabinet Office: Directgov Review

Statement

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

I invited Martha Lane Fox, the Government's Digital Champion, to undertake a strategic review of Directgov which was completed on 14 October 2010. This supported the work that the Efficiency and Reform Board had undertaken on Channel Shift and the opportunity for digital channels to support delivery of the Spending Review. The Chief Secretary to the Treasury and I wrote to departments in September outlining our commitment to improving services and driving efficiencies by making digital the default channel for government information and transactional services.

Martha Lane Fox submitted her report *Directgov 2010 and beyond: revolution not evolution*, to me in October. The report places Directgov in the context of how Government should use the internet both to communicate and interact better with citizens and to deliver significant efficiency savings from making digital the default delivery channel for government information and services.

I have written to Martha Lane Fox today thanking her for her report and saying that I am minded to accept her proposals in full, but that I will need to consult with colleagues before making any final decisions about how to take them forward. I have placed Martha Lane Fox's report and my response in the Library. Both documents are also available on the Cabinet Office website (www.cabinetoffice.gov.uk).

I expect quick and broad agreement on some of Martha Lane Fox's proposals where we can make rapid progress and that in some areas, such as moving to a single domain for government, I will have to work with departments to test different approaches and work through the details and timescales. It is important to set a clear direction of travel and that is what I have done in my reply as the initial government response to Martha Lane Fox's proposals.

Cabinet Office: Winter Supplementary Estimates

Statement

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

Subject to Parliamentary approval of the Winter Supplementary Estimate 2010-11, the Cabinet Office total Departmental Expenditure Limit (DEL) will be increased by £229,588,000 from £329,499,000 to £559,087,000. The impact on resources and capital is set out in the following table:

(£,000)	Main Estimate DEL			Changes			Winter Supplementary Estimate New DEL		
	Voted	Non Voted	Total	Voted	Non Voted	Total	Voted	Non Voted	Total
Resource DEL	259,942	49,196	309,138	+105,452	+100,985	+206,437	365,394	150,181	515,575
of which:									
Administration Budget	171,459	10,400	181,859	+53,858	-	+53,858	225,317	10,400	235,717
Capital DEL**	45,887	2,000	47,887	+23,250	-	+23,250	69,137	2,000	71,137
Depreciation*	-27,526	-	-27,526	-99	-	-99	-27,625	-	-27,625
Total DEL	278,303	51,196	329,499	+128,603	+100,985	+229,588	406,906	152,181	559,087
AME									

*Depreciation, which forms part of resource DEL, is excluded from the total DEL since capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

**Capital DEL includes items treated as resource in Estimates and accounts but which are treated as Capital DEL in budgets.

Summary of Changes in Departmental Expenditure Limit (DEL)

The change in the resource element of DEL is an increase of £206.437 million which comprises £163.636 million for x3 Machinery of Government transfers in from other government departments, £47.303 million agreed claims on the Reserve, £4.290 million budget cover transfers to other government departments and a reduction of £0.900 million for dividends receivable from Buying Solutions and an increase of £0.688 million for purchase of goods and services relating to the Office of Government Commerce, both excluded from the Machinery of Government transfer.

The change in the capital element of DEL is an increase of £23.250 million which comprises £21.750 million Capital DEL End Year Flexibility drawdown and a claim on the Reserve for £1.500 million.

Changes in Resource DEL (RDEL)

The changes which result in a net increase in Resource DEL (RDEL) of £206,437,000 are as follows:

Agreed Claims on the Reserve £47,303,000

A Claim on the Reserve for Grassroots Grants increases Resource DEL, Net Resource and Net Cash Requirement by £18,000,000.

A Claim on the Reserve for v Match Funding increases Resource DEL, Net Resource and Net Cash Requirement by £8,828,000.

A Claim on the Reserve from the Modernisation Fund to cover estate rationalisation and early departures increases Resource DEL, Net Resource and Net Cash Requirement by £10,475,000.

A Claim on the Reserve from the Transition Fund to support civil society organisations in adapting to a changing funding environment increases Resource DEL, Net Resource and Net Cash Requirement by £10,000,000.

Machinery of Government Transfers £163,636,000

The transfer of Directgov from the Department for Work and Pensions (DWP) to the Cabinet Office increases Resource DEL and Net Resource Requirement by £28,985,000 and Net Cash Requirement by £28,886,000.

The transfer of the Office of Government Commerce and its executive agency, Buying Solutions, from HM Treasury to the Cabinet Office increases Resource DEL and Net Cash Requirement by £20,657,000, increases Resource AME by £529,000 and increases Net Resource Requirement by £21,186,000.

The transfer of responsibility for political and constitutional reform from the Ministry of Justice to the Cabinet Office increases voted Resource DEL, Net Resource and Net Cash Requirement by £11,794,000. A transfer relating to the costs of the General Election 2010 increases non-voted Resource DEL by £102,200,000.

Other changes outside Machinery of Government transfer £212,000

Dividends receivable from Buying Solutions of £900,000 and an increase of £688,000 for purchase of goods and services relating to the Office of Government Commerce. These adjustments are in addition to the Machinery of Government transfer. These changes decrease Resource DEL, Net Resource and Net Cash Requirement by £212,000.

Budget Cover Transfers to other Government Departments £4,290,000

A budgetary cover transfer from the Office for Civil Society to the Department for Communities and Local Government to cover the costs of the Government Office Network reduces Resource DEL, Net Resource and Net Cash Requirement by £290,000.

A budgetary cover transfer to the Security and Intelligence Agencies (SIA) for Information Assurance reduces Resource DEL, Net Resource and Net Cash Requirement by £4,000,000.

Transfer from non-voted to voted within Resource DEL

A switch within Resource DEL of £1,700,000 from non-voted to voted programme reflects savings made by executive NDPBs and reduces the Grant-in-Aid to eNDPBs and their non-voted expenditure and increases Office for Civil Society voted grants. The impact on Net Resource and Net Cash Requirement and Resource DEL is neutral.

Other neutral adjustments within Resource DEL

A switch within RDEL from Administration to Programme to cover costs of additional programme expenditure of £14,000,000.

A switch from Office for Civil Society resource grants to core Cabinet Office programme expenditure to re-profile the budget cuts reflected in the Main Estimate 2010-11 of £11,000,000.

Programme income has been reduced by £29,000,000 offset by a reduction in expenditure due to various programmes coming to an end.

An increase in Administration income by £4,800,000 offset by Administration expenditure on wages and salaries relating to the Office of Government Commerce; this adjustment is in addition to the Machinery of Government transfer.

A virement of £485,000 from Independent Offices - Civil Service Commissioners administration expenditure to the newly created executive Non-Departmental Public Body — Civil Service Commission — programme expenditure. The impact on Net Resource and Net Cash Requirement and Resource DEL is neutral. Non-Budget expenditure outside DEL has increased by £485,000.

A virement of £126,000 from Independent Offices – Civil Service Commissioners administration expenditure to core Cabinet Office. The impact on Net Resource Requirement, Net Cash Requirement and Resource DEL is neutral.

Changes in Capital DEL (CDEL)

The changes which result in a net increase in Capital DEL (CDEL) of £23,250,000 are as follows:

End Year Flexibility / Claim on the Reserve

A drawdown to cover Capital Grants Programmes run by the Office for Civil Society (OCS) increases Capital DEL and Net Cash Requirement by £21,750,000.

A drawdown on the Reserve from the Modernisation Fund to cover the costs of estate rationalisation increases Capital DEL and Net Cash Requirement by £1,500,000.

Neutral adjustment within Capital DEL

A switch within Capital DEL from Office for Civil Society capital grants to core Cabinet Office non-current assets to re-profile the budget cuts reflected in the Main Estimate 2010-11 has a neutral impact on Capital DEL and Net Cash Requirement, whereas Net Resource Requirement decreases by £2,500,000 and Net Voted Capital increases by the same amount.

Crime: Serious Further Offence

Statement

The Minister of State, Ministry of Justice (Lord McNally): My right honourable friend the Lord Chancellor and Secretary of State for Justice (Kenneth Clarke) has made the following Written Ministerial Statement.

Following the recall to custody and subsequent conviction of Jon Venables for the possession of indecent images of children, I commissioned Sir David Omand GCB to undertake an independent review of the post-release period of the case, covering Jon Venables' supervision from release on life licence in June 2001 until 24 February 2010, when he was recalled to custody.

The review has encompassed the general principles of a serious further offence (SFO) review but has also considered the wider lessons to be learnt for the future management of this and similar cases.

The terms of reference of the review were:

to review the supervision of the subject, from his release on life licence until his recall to custody, in order to establish whether he was effectively supervised, having regard to national standards and guidance and to the particular circumstances/challenges of his case;

in doing so, to consider the actions of his offender managers, their supervisors, the local police, the local MAPPA meetings and the role of the National Management Board; and

to establish whether everything was done which might reasonably have been expected of all agencies involved in supervising the subject to monitor his compliance with his licence conditions and to assess and manage any risk of harm which he presented.

Sir David Omand has completed the review and submitted his report to me.

I have placed in the Libraries of both Houses a copy of his report, which has been redacted in a few places to comply with the terms of the injunction amended in the High Court on 23 July 2010 (commonly known as the Butler-Sloss injunction), to take account of data protection and other confidentiality laws and to protect very sensitive operational policing information.

Sir David has concluded that Jon Venables was effectively and properly supervised at an appropriate level and frequency of contact, having regard to the particular circumstances of his case. Sir David also concludes that no reasonable supervisory regime would have been expected to detect his use of the computer to download indecent images.

I have accepted the review's recommendations, which will be taken forward by officials in the National Offender Management Service. Officials will provide me with an update on the implementation of the recommendations in due course.

Department for Business, Innovation and Skills: Winter Supplementary Estimates

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 Written Ministerial Statement.

Subject to Parliamentary approval of the necessary Supplementary Estimate, the Department for Business, Innovation and Skills's DEL will be reduced by £3,796,000 from £20,805,607,000 to £20,801,811,000 and the Administration budget will be increased by £2,300,000 from £321,187,000 to £323,487,000.

Within the DEL change, the impact on Resources and Capital is as set out in the following table:

(£,000)	*Change*		*New DEL*		
	Voted	*Non-Voted*	*Voted*	*Non-Voted*	*Total*
Resource	(220,865)	217,069	7,772,927	11,263,059	19,035,986
of which:					
Administration* budget	2,300	0	319,843	3,644	323,487

(£,000)	Change	New DEL			
	Voted	Non-Voted	Voted	Non-Voted	Total
Near cash in Resource DEL**	(220,965)	217,169	6,210,394	11,094,742	17,305,136
Capital	(27,085)	27,085	699,571	1,302,762	2,002,333
Less Depreciation***	(100)	100	(68,191)	(168,317)	(236,508)
Total	(248,050)	244,254	8,404,307	12,397,504	20,801,811

*The total of the 'Administration Budget' and 'Near Cash in Resource DEL' figures may well be greater than total Resource DEL, due to the definitions overlapping.

**Capital DEL includes items treated as Resource in Estimates and Accounts, but which are treated as Capital DEL in Budgets.

***Depreciation, which forms part of Resource DEL, is excluded from the total DEL since Capital DEL includes Capital spending and to include depreciation of those assets would lead to double counting.

The change in the resource element of the DEL arises from:

RfR1

i) An increase in voted receipts from the Department for Work and Pensions of £6,179,000 and an increase of non-voted expenditure by the Regional Development Agencies in respect of self-employment programmes;

ii) A budget transfer from the Department for Work and Pensions of £413,000 of non-voted expenditure for the Regional Development Agencies in respect of the School Gates initiative;

iii) An increase in voted receipts from the Department for Transport of £228,000 and an increase of non-voted expenditure by the Regional Development Agencies in respect of delivering a sustainable transport system;

iv) A virement of £535,000 from voted expenditure to non-voted expenditure by the Regional Development Agencies in relation to National Business Link marketing;

v) Virements from voted expenditure by the Strategic Investment Fund to non-voted expenditure by the Technology Strategy Board for the establishment of the UK Life Sciences Super Cluster initiative (£595,000), to advance new 'prize' funds in emerging technologies (£5,000,000), the Composites Challenge Fund (£6,000,000), and the Industrial Biotechnical Demonstrator Fund (£2,555,000);

vi) A virement from the Strategic Investment Fund to the Skills Funding Agency (RfR3) of £3,700,000 for the automotive industry;

vii) A virement of £97,000 from the Skills Funding Agency (RfR3) to non-voted expenditure by the Regional Development Agencies for Train to Gain;

viii) A virement of £350,000 from Higher Education participation programmes (RfR3) for joint BIS funding of the National Council for Graduate Entrepreneurship;

ix) A virement of £20,000,000 from the non-voted Departmental Unallocated Provision to non-voted expenditure by the Higher Education Funding Council for England (RfR3);

x) A virement of £496,000 from Science and Society (RfR2) to corporate services;

xi) A virement of £2,533,000 from the non-voted Departmental Unallocated Provision for voted expenditure on research and analytical services (RfR3);

xii) A virement of £25,000 from the non-voted Departmental Unallocated Provision for voted expenditure on Government Skills (RfR3);

xiii) A virement of £3,102,000 consultancy savings (RfR3) to the non-voted Departmental Unallocated Provision;

xiv) A virement of £60,000 from Premature Retirement Compensation and Voluntary Colleges (RfR3) to the non-voted Departmental Unallocated Provision;

RfR2

i) A virement of £13,000 from voted Research-Based Initiatives to the non-voted Departmental Unallocated Provision for Science;

ii) A virement of £496,000 from Science and Society to corporate services (RfR1);

RfR3

i) A virement from voted expenditure to non-voted expenditure by the Higher Education Funding Council for England of Higher Education Shared Services (£20,000,000), the Higher Education Modernisation Fund (£133,000,000), Higher Education participation programmes (£10,500,000) and Annual Population Survey (£140,000);

ii) A virement of £14,000,000 from voted expenditure by the Skills Funding Agency to non-voted expenditure by the Higher Education Funding Council for England;

iii) A transfer of £1,990,000 from the Department for Education to non-voted expenditure by the UK Commission for Employment and Skills for the National Vocational Qualifications Levy;

iv) A transfer of £4,280,000 from the Department for Communities and Local Government for the Migration Impact Fund;

v) A transfer of £9,521,000 from the Ministry of Justice for Offender Learning;

vi) A transfer of £20,000,000 from the Skills Funding Agency to the Department for Education for Learners with Learning Difficulties and/or Disabilities;

vii) A virement of £2,533,000 from the non-voted Departmental Unallocated Provision (RfR1) for voted expenditure on research and analytical services;

viii) A virement of £25,000 from the non-voted Departmental Unallocated Provision (RfR1) for voted expenditure on Government Skills;

ix) A virement of £60,000 from Premature Retirement Compensation and Voluntary Colleges to the non-voted Departmental Unallocated Provision (RfR1);

x) A virement of £3,102,000 consultancy savings to the non-voted Departmental Unallocated Provision (RfR1);

xi) An increase of £4,176,000 in non-voted expenditure by the UK Commission for Employment and Skills, and increased voted contributions from other Departments;

xii) A virement from the Strategic Investment Fund (RfR1) to the Skills Funding Agency of £3,700,000 for the Automotive Industry;

xiii) A virement of £97,000 from the Skills Funding Agency to non-voted expenditure by the Regional Development Agencies (RfR1) for Train to Gain;

xiv) A virement of £350,000 from Higher Education participation programmes to RfR1 for joint BIS funding of the National Council for Graduate Entrepreneurship;

xv) An increase in voted receipts of £823,000 from the Department for Education for 'Routes into Languages' funding to be distributed as non-voted expenditure by the Higher Education Funding Council for England;

xvi) An increase in voted receipts of £299,000 from the Department for Education for Repayment of Teacher Loan work to be undertaken by the non-voted Student Loans Company;

xvii) A virement of £930,000 to voted Higher Education Student Support from non-voted expenditure by the Higher Education Funding Council for England;

xviii) A virement of £6,048,000 from voted Higher Education Student Support to non-voted expenditure by the UK Commission for Employment and Skills;

xix) A virement of £4,904,000 from voted Higher Education Student Support to non-voted expenditure by the Student Loans Company;

xx) A virement of £100,000 from non-voted expenditure by the UK Commission for Employment and Skills to Adult Skills and Learner Support;

xxi) A virement of £20,000,000 from the non-voted Departmental Unallocated Provision (RfR1) to non-voted expenditure by the Higher Education Funding Council for England;

Also within the change to resource DEL, the changes to the Administration budget are (RfR1):

i) A virement of £2,300,000 from programme to administration using the Digital Switchover helpscheme underspend to fund broadband expansion;

The change in the Capital element of the DEL arises from:

RfR1

i) A virement of £10,000,000 from voted expenditure by the London Development Agency to the non-voted Departmental Unallocated Provision;

ii) A virement of £5,000,000 from voted expenditure of the Strategic Investment Fund to non-voted expenditure of the Technology Strategy Board for Competition IV – Low Carbon vehicle supply chains;

iii) An increase of £32,400,000 in voted receipts from the Department for Transport and an increase in non-voted expenditure by the Regional Development Agencies in respect of regional infrastructure funds;

iv) A virement of £5,000,000 from non-voted expenditure by the Higher Education Funding Council for England (RfR3) to voted expenditure by British Shipbuilders;

v) A virement of £1,860,000 from non-voted expenditure by the Higher Education Funding Council for England (RfR3) to the non-voted Departmental Unallocated Provision;

vi) A virement of £13,140,000 from non-voted expenditure by the Higher Education Funding Council for England (RfR3) to non-voted Launch Investment Receipts;

RfR2

i) A virement of £1,300,000 from non-voted expenditure by the Research Councils to the Research Capital Investment Fund;

RfR3

i) A virement of £15,000 from non-voted to voted capital in relation to the UK Commission for Employment and Skills;

vii) A virement of £14,000,000 from non-voted expenditure by the Higher Education Funding Council for England to voted expenditure by the Skills Funding Agency;

viii) A virement of £5,000,000 from non-voted expenditure by the Higher Education Funding Council for England to voted expenditure by British Shipbuilders (RfR1);

ix) A virement of £1,860,000 from non-voted expenditure by the Higher Education Funding Council for England to the non-voted Departmental Unallocated Provision (RfR1);

x) A virement of £13,140,000 from non-voted expenditure by the Higher Education Funding Council for England to non-voted Launch Investment Receipts (RfR1).

Department for Culture, Media and Sport: Winter Supplementary Estimates

Statement

Baroness Rawlings: My right honourable friend the Secretary of State for Culture, Olympics, Media and Sport (Jeremy Hunt) has made the following Written Ministerial Statement.

Subject to parliamentary approval, the Department for Culture Media and Sport's Departmental Expenditure Limit (DEL) will be increased by £39,700,000 from £1,957,263,000 to £1,996,963,000 and the administration budget will increase by £7,200,000 from £44,288,000 to £51,488,000. Within the DEL change, the impact on resource and capital are set out in the following table:

Departmental Expenditure Limits and Administration Budgets

(£,000)	*Change*		*New DEL*		
	Voted	*Non-voted*	*Voted*	*Non-voted*	*Total*
Resource DEL	4,396	5,244	90,863	1,460,220	1,551,083
of which:					
Administration budget	7,200	-	51,488	-	51,488
Capital†	11,901	18,159	-643,406	1,217,392	573,986
Less Depreciation††	-	-	-7,500	-120,606	-128,106
Total	16,297	23,403	-560,043	2,557,006	1,996,963

† Capital DEL includes items treated as resource in Estimates and accounts but which are treated as Capital DEL in budgets.

†† Depreciation, which forms part of resource DEL, is excluded from total DEL since capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

The change in the Resource element of the DEL arises from:

Take-up of £9,700,000 end-year flexibility comprising: (£4,000,000) UK Film; (£2,000,000) Museums and Galleries; and £3,700,000 Administration budget, and a transfer of £60,000 from Resource to Capital DEL for the Poetry Archive.

The administration budget has increased by £7,200,000 from £44,288,000 to £51,488,000. This is as a result of take up of £3,700,000 administration end-year flexibility and an agreed transfer of £3,500,000 from programme to administration costs.

The Capital element of the DEL has increased by £30,060,000 as a result of:

The drawdown of £30,000,000 end-year flexibility (EYF) to meet agreed spending plans and a transfer of £60,000 to Capital from Resource DEL for the Poetry Archive.

Department for Education: Winter Supplementary Estimates

Statement

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): My honourable friend the Secretary of State for Education (Michael Gove) made the following Written Ministerial Statement.

Subject to parliamentary approval of any necessary Supplementary Estimate, the Department for Education (DfE) Departmental Expenditure Limit (DEL) will be increased by £580,339,000 from £57,318,757,000 to £57,899,096,000; the administration cost budget will increase by £1,500,000 from £180,503,000 to £182,003,000. The Office for Standards in Education, Children's Services and Skills (OFSTED) which has a separate Estimate and DEL, will remain at £190,196,000 with the administration cost budget remaining at £27,337,000. The Office of Qualifications and Examination Regulation (OFQUAL) which has a separate Estimate and DEL, will remain at £23,400,000.

Within the DEL change, the impact on resources and capital are as set out in the following table:

DfE (£,000)	*Resources*				*Capital***			
	Change	*New DEL*	*Of which:*		*Change*	*New DEL*	*Of which:*	
			Voted	*Non-voted*			*Voted*	*Non- voted*
RfR 1	623,339	49,683,740	41,290,026	8,393,714	-43,000	6,297,547	242,474	6,055,073
RfR 2	0	1,602,784	1,602,784	0	0	315,025	315,025	0
DfE Total	623,339	51,286,524	42,892,810	8,393,714	-43,000	6,612,572	557,499	6,055,073
OFSTED	0	190,196	185,852	4,344	0	0	0	0
OFQUAL	0	17,900	17,300	600	0	5,500	5,500	0
Sub-total	623,339	51,494,620	43,095,962	8,398,658	-43,000	6,618,072	562,999	6,055,073
Of which Admin Budget	1,500	209,340	204,872	4,468	0	0	0	0
Depreciation*	-1,500	-17,137	-14,107	-3,030	0	0	0	0
Total	621,839	51,477,483	43,081,855	8,395,628	-43,000	6,618,072	562,999	6,055,073

* Depreciation, which forms part of resource DEL, is excluded from the total DEL, in the table above, since capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

** Capital DEL includes items treated as resource in Estimates and accounts but which are treated as Capital DEL in budgets.

Department for Education

Resource DEL

The increase in the resource element of the DEL of £623,339,000 arises from a decrease in the voted element of the resource DEL of £9,089,000 and an increase of £632,428,000 in the non-voted element of resource DEL, mainly in the department's non-departmental public bodies.

Voted Resource DEL

The £9,089,000 decrease in the voted element of the resource DEL arises from:

RFR1

A transfer from the Department for Work and Pensions for £4,183,000 in respect of their agreed share of the costs associated with the Child Poverty Innovation fund.

A transfer from the Department for Business, Innovation and Skills of £20,000,000 in respect of Higher Discretionary Support for 19-24 year olds.

A Machinery of Government transfer to the Ministry of Justice of £43,811,000 in respect of the Joint Youth Justice Unit. This was a joint project between the Department for Education and the Ministry of Justice. Responsibility for this has been moved entirely to the Ministry of Justice.

A transfer to the Foreign and Commonwealth Office of £1,850,000 to cover the departments' contribution to the educational objective of the jointly funded Papal Visit.

A transfer from Qualifications and Curriculum Development Agency (QCDA) to the Department for Business, Innovation and Skills of £1,990,000 in respect of National Vocational Qualifications income received by QCDA that fund UK Commission for Employment and Skills expenditure.

A transfer to the Department for Communities and Local Government of £1,980,000 for the Migration Impact Fund.

A transfer to the Scottish Government of £213,000 for Child Trust Funds top ups.

A switch of £33,000,000 from Capital Grants to Resource spending for Schools and Teachers to re-profile budgets affected as part of the department's 2010 Emergency Budget savings of £670 million.

Take up of departmental end year flexibility of £606,000,000 to increase provision for sixth forms delivered through the Young People's Learning Agency.

A movement of £626,928,000 to non-voted resource DEL to support the department's non-departmental public bodies.

A movement of £4,500,000 from non-voted spending to re-profile provision usage no longer required and relieve pressures on the depreciation budgets caused by the recent clear line of sight adjustments.

Non-voted resource DEL

The £632,428,000 increase in Non-voted resource DEL arises from:

RFR1

A movement of £10,000,000 from non-voted Capital switched to resource to re-profile budgets affected as part of the department's 2010 Emergency Budget savings of £670 million.

A movement of £626,928,000 from voted resource to support the department's non-departmental public bodies.

A movement of £4,500,000 from non-voted resource DEL to support the department's Administration expenditure.

Capital DEL

The decrease in the capital element of the DEL of £43,000,000 arises from a decrease in the non-voted element of capital DEL.

Non-voted Capital DEL

The £43,000,000 decrease in the non-voted element of capital DEL arises from:

A switch of £43,000,000 from non-voted capital into voted and non-voted resource to re-profile budgets affected as part of the department's 2010 Emergency Budget savings of £670 million.

Office for Standards in Education, Children's Services and Skills

There has been no change in overall DEL limits within the Winter Supplementary.

Office of Qualifications and Examination Regulation

There has been no change in overall DEL limits within the Winter Supplementary.

Department for International Development: Winter Supplementary Estimates

Statement

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

Subject to parliamentary approval of the necessary Supplementary Estimate, the Department for International Development's departmental expenditure limit (DEL) will be reduced by £74,465,000 from £7,618,569,000 to £7,544,104,000.

Within the DEL change, the impact on resources and capital are as set out in the following table:

(£,000)	*Change*		*New DEL*		
	Voted	*Non-voted*	*Voted*	*Non-voted*	*Total*
Resource DEL	6,642	-81,372	5,023,211	985,628	6,008,839
of which:					
Administration budget	-	-	154,644	3,000	157,644
Capital DEL*	203,001	-202,736	1,737,001	-180,736	1,556,265
Less Depreciation**	-	-	-21,000	-	-21,000
Total DEL	209,643	-284,108	6,739,212	804,892	7,544,104

* Capital DEL includes items treated as resource in Estimates and Accounts but which are treated as Capital DEL in budgets.

** Depreciation, which forms part of the resource DEL, is excluded from the total DEL, since capital DEL includes capital spending and to include depreciation of these assets would lead to double counting.

The change in the Resource element of DEL arises from:

Non-voted

Transfers out to other government departments -£74,730,000:

-£40,000,000 transferred to the Foreign & Commonwealth Office in respect of support for British Council Official Development Assistance (ODA).

-£16,467,000 transferred to the Foreign & Commonwealth Office in respect of the Conflict Prevention Pool.

-£16,033,000 transferred to the Ministry of Defence in respect of the Conflict Prevention Pool.

-£1,850,000 transferred to the Foreign & Commonwealth Office in respect of the papal visit.

-£200,000 transferred to the Foreign and Commonwealth Office in respect of police training in Tanzania.

-£180,000 transferred to the Foreign and Commonwealth Office in respect of visas for Chernobyl victims.

Use of Departmental Unallocated Provision -£6,642,000

Subtotal non-voted: -£81,372,000

Voted

Use of Departmental Unallocated Provision £6,642,000

Subtotal voted: £6,642,000

Total reductions in RDEL: -£74,730,000

The change in the Capital element of DEL arises from:

Non-voted

Transfers in from other government departments £265,000

£265,000 transferred from Foreign & Commonwealth Office in respect of the new Juba office build.

Income from Global Trade Liquidity loan to be paid into the Consolidated Fund (CFER) since it exceeds voted capital expenditure -£200,000,000

Use of Departmental Unallocated Provision -£3,001,000

Subtotal non-voted: -£202,736,000

Voted

IDA replenishment on resource side of the Estimate £200,000,000

Use of Departmental Unallocated Provision £3,001,000

Subtotal voted: £203,001,000

Total increases in CDEL: £265,000.

Department for Work and Pensions: Winter Supplementary Estimates

Statement

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): My right honourable friend the Secretary of State for Work and Pensions (Iain Duncan Smith) has made the following Written Ministerial Statement.

Subject to parliamentary approval of the necessary Supplementary Estimate, the Department for Work and Pensions Resource Departmental Expenditure Limit will decrease by £35,781,000 to £8,730,218,000 and the Capital Departmental Expenditure Limit will remain unchanged at £243,052,000. The Administration budget will decrease by £31,185,000 to £6,076,705,000.

(£,000)	*Change*			*New Departmental Expenditure Limit*		
	Voted	*Non-voted*	*Total*	*Voted*	*Non-voted*	*Total*
Resource	-58,183	22,402	-35,781	5,599,225	3,130,993	8,730,218
of which:						
Administration	-31,185	-	-31,185	4,543,556	1,533,149	6,076,705
Capital	18,496	-18,496	-	191,224	51,828	243,052
Depreciation[1]	919	-1,018	-99	-254,880	-834	-255,714
Total DEL	-40,606	4,924	-35,682	5,535,569	3,181,987	8,717,556

[1] Depreciation, which forms part of the resource Departmental Expenditure Limit, is excluded from the total Departmental Expenditure Limit since the capital Departmental Expenditure Limit includes capital spending and to include depreciation of those assets would lead to double counting.

Resource Departmental Expenditure Limit

The change in the resource element of the Departmental Expenditure Limit arises from:

Movements in Voted Expenditure

Request for Resources 2

i. A budget transfer of £4,183,000 to the Department for Education to meet the department's agreed share of the costs associated with the Child Poverty Innovation fund for 2010-11.

ii. A budget transfer of £413,000 to the Department for Business, Innovation and Skills for Regional Development Agency payments in relation to the School Gates project.

Request for Resources 3

iii. A budget transfer of £1,200,000 to the Paydays and Periodicity for Pension benefits. Small up front cost of £1.2 million required to be transferred to Non-Voted AME.

iv. A transfer from Request for Resources 5 of £1,000,000 to cover the costs of Information Assurance for 2010-11.

v. A budget transfer of £1,000,000 to the Cabinet Office for the department's contribution to Information Assurance for 2010-11.

Request for Resources 5

vi. A Machinery of Government change of £28,985,000 to the Cabinet Office. This is to bring together and consolidate in the Cabinet Office all the various strands of work on transparency, open data, government websites and digital engagement.

vii. A transfer to Request for Resources 3 of £1,000,000 to cover the costs of Information Assurance for 2010-11.

Movements in Non-Voted Expenditure

viii. A decrease in non-voted expenditure of £16,000 offset by an increase in voted expenditure of £16,000 relating to decreased spend of the Independent Living Fund.

ix. A decrease in non-voted expenditure of £14,495,000 offset by an increase in voted expenditure of £14,495,000 relating to decreased spend of the Pensions Regulator.

x. A decrease in non-voted expenditure of £226,000 offset by an increase in voted expenditure of £226,000 relating to decreased spend of the Pensions Advisory Service.

xi. A decrease in non-voted expenditure of £75,000 offset by an increase in voted expenditure of £75,000 relating to decreased spend of the Office of the Pensions Ombudsman.

xii. An increase in non-voted expenditure of £37,214,000 offset by an increase in voted income of £37,214,000 relating to the increase of income for administering National Insurance Benefits.

Capital Departmental Expenditure Limit

The net nil movement in the capital element of the Departmental Expenditure Limit arises from:

Movements in Non-Voted Expenditure

xiii. A decrease in non-voted capital expenditure of £18,508,000 offset by an increase in voted capital expenditure of £18,508.000 relating to decreased spend of the Pensions Regulator.

xiv. An increase in non-voted capital expenditure of £12,000 offset by an decrease in voted capital expenditure of £12,000 relating to increased spend of the Pensions Advisory Service.

Administration Costs

The movement in the Administration Cost limit arises from the changes to the Resource Departmental Expenditure Limit as noted in items iii to vii.

Department of Energy and Climate Change: Winter Supplementary Estimates

Statement

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Lord Marland): My right honourable friend the Secretary of State for the Department of Energy and Climate Change (Chris Huhne) has made the following Written Ministerial Statement.

Subject to parliamentary approval of any necessary Supplementary Estimate, the Department of Energy and Climate Change Departmental Expenditure Limit (DEL) will increase by £650,000 from £3,111,948,000 to £3,112,598,000.

Within the DEL change, the impact on resources and capital are as set out in the following table:

(£,000)	*Change*		*New DEL*		
	Voted	*Non-Voted*	*Voted*	*Non-Voted*	*Total*
Resource DEL	943,776	-924,801	407,198	810,364	1,217,562
of which:					
Administration Budget	-	-	108,084	-	108,084
Capital DEL†	3,262	-21,587	725,519	1,178,182	1,903,701
Less Depreciation††	-	-	-2,987	-5,678	-8,665
Total DEL	947,038	-946,388	1,129,730	1,982,868	3,112,598

† Capital DEL includes items treated as resource in Estimates and accounts but which are treated as Capital DEL in budgets.

†† Depreciation, which forms part of Resource DEL, is excluded from the total DEL in the table above, since Capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

Resource DEL

The increase in the Resource element of the DEL of £18,975,000 arises from an increase in the voted element of Resource DEL of £943,776,000 offset by a decrease of £924,801,000 in the non-voted element of Resource DEL.

Voted Resource DEL

The £943,776,000 increase in the voted element of Resource DEL arises from:

A decrease of £923,000,000 in Nuclear Decommissioning Authority operating appropriations-in-aid.

A transfer from non-voted Capital DEL of £18,325,000, reflecting the revision of the Capital/Resource split of the £85 million DECC contribution to the £6.2 billion savings announced on 24 May 2010.

A transfer from non-voted Resource DEL of £1,801,000.

A transfer from the Department for Communities and Local Government of £2,500,000 for Low Carbon Framework pilot programmes.

A transfer to the Foreign and Commonwealth Office of £1,850,000 towards the costs of the Papal visit.

Non-voted Resource DEL

The £924,801,000 decrease in non-voted Resource DEL arises from:

A decrease of £923,000,000 in Nuclear Decommissioning Authority DEL reflecting the revised scoring of their income as non-voted in DEL terms, offsetting the reduction in appropriations-in-aid.

A transfer to voted Resource DEL of £1,801,000.

Capital DEL

The decrease in the Capital element of the DEL of £18,325,000 arises from an increase in the voted element of Capital DEL of £3,262,000 and a decrease of £21,587,000 in the non-voted element of Capital DEL.

Voted Capital DEL

The £3,262,000 increase in the voted element of Capital DEL arises from: A transfer from non-voted Capita! DEL of £3,262,000.

Non-voted Capital DEL

The £21,587,000 decrease in the non-voted element of Capital DEL arises from: A transfer to voted Capital DEL of £3,262,000

A transfer to voted Resource DEL of £18,325,000, reflecting the revision of the Capital/Resource split of the £85 million DECC contribution to the £6.2 billion savings announced on 24 May 2010.

Department of Health: Winter Supplementary Estimates

Statement

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My honourable friend the Minister of State, Department of Health (Simon Burns) has made the following Written Ministerial Statement.

Subject to the necessary Supplementary Estimates, the Department of Health's element of the Departmental Expenditure Limit (DEL) will increase by £20,860,000 from £106,260,372,000 to £106,281,232,000. The Administration Cost Limit has increased by £4,201,000 from £211,079,000 to £215,280,000. The Food Standards Agency DEL decreases by £16,059,000 from £130,989,000 to £114,930,000. The Administration Cost Limit will reduce by £5,389,000 from £56,299,000 to £50,910,000. The overall DEL including the Food Standards Agency will increase by £4,801,000 from £106,391,361,000 to £106,396,162,000. The impact on resource and capital are set out in the following table:

(£,000,000)	*Change*		*New DEL*		
	Voted	*Non-voted*	*Voted*	*Non-voted*	*Total*
Department of Health					
Resource DEL, of which	467.860	-447.000	101,141.041	243.339	101,384.380

(£,000,000)	Change		New DEL		
	Voted	Non-voted	Voted	Non-voted	Total
Administration Budget	4.201	-	210.280	5.000	215.280
Capital DEL*	-	-	2,150.189	2,746.663	4,896.852
Total Department of Health DEL	467.860	-447.000	103,291.230	2,990.002	106,281.232
Depreciation**	-	-	-1,119.419	-	-1,119.419
Total Department of Health spending (after adjustment)	467.860	-447.000	102,171.811	2,990.002	105,161.813
Food Standards Agency					
Resource DEL, of which	-16.059	-	114.329	-	114.329
Administration Budget	-5.389	-	50.910	-	50.910
Capital DEL*	-	-	0.601	-	0.601
Total Food Standards Agency DEL	-16.059	-	114.930	-	114.930
Depreciation**	-	-	-1.861	-	-1.861
Total Food Standards Agency spending (after adjustment)	-16.059	-	113.069	-	113.069

* Capital DEL includes items treated as Resource in Estimates and accounts but which are treated as Capital DEL in budgets.

** Depreciation, which forms part of resource DEL, is excluded from the total DEL since the capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

The Department of Health DEL has increased by £20,860,000 made up of:

an increase of £14,327,000 (£4,201,000 administration costs) as a result of a Machinery of Government change with nutrition policy moving from the Food Standards Agency;

a transfer of £10,513,000 from the Ministry of Justice mainly for prison healthcare services;

a transfer of £-2,000,000 to the Cabinet Office as the Department's share of a contribution to information assurance strategy; and

a transfer of £-1,980,000 to the Department of Communities and Local Government towards the migrant impact fund.

The Department of Health's administration cost limit has increased as a result of the Machinery of Government change detailed above.

The change of £16,059,000 to the Food Standards Agency element of the DEL is due to:

a reduction in DEL of £14,327,000 (£4,201,000 administration costs) for the transfer of nutrition responsibilities to the Department of Health. It was announced on the 20 July the Department of Health would become responsible for nutrition policy in England; and

a reduction in DEL of £1,732,000 (£1,188,000 administration costs) for the transfer of labelling responsibilities. It was announced on the 20 July that the Department for Environment, Food and Rural Affairs will become responsible for country of origin labelling and various other types of labelling not related to food safety, and food composition policies in England.

Disabled People: Work Capability Assessments

Statement

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

The Government are pleased to announce the publication of Professor Malcolm Harrington's Independent Review of the Work Capability Assessment (WCA). This is a substantial and thorough review of the WCA which the Government fully endorses. Alongside the review, the Government are publishing their response which sets out how we will implement the review's recommendations.

A central part of the Government's plans to reform the welfare state involves action to tackle incapacity benefit dependency. More than 2.2 million people in Britain today are on incapacity benefits and many have been abandoned, with little or no contact from the welfare state for as long as a decade or more.

Through the WCA we seek to change this, and to try to find a better way forward for those people. From April 2011 we will put 1.6 million people, all of those on incapacity benefits who are not close to retirement, through an independent medical assessment, the WCA. Those found fit for work or with the potential to return to work will be given support to help them do so; those who are deemed unable to work will continue to receive full support.

We believe that the principles of the WCA are right but we are clear that the process of assessment must be fair and honest about people's potential. We do not wish to see people who are genuinely unable to work put in a position where they are expected to do so.

Professor Harrington's review sets out how we can refine the system and significantly improve the process so that it continues to be fit for purpose. We intend to implement these changes as quickly as possible. Many will be put in place in time for the first assessments from the national migration in April 2011.

We will continue to review the WCA and to make further changes where necessary. We have invited Professor Harrington to continue in his current role as independent reviewer for another year and to make further recommendations to us as appropriate.

Copies of both documents are available in the Vote Office.

Foreign and Commonwealth Office: Winter Supplementary Estimates

Statement

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): My right honourable friend the Secretary of State for Foreign and Commonwealth Affairs (William Hague) has made the following Written Ministerial Statement.

Subject to parliamentary approval of any necessary Supplementary Estimate, the Foreign and Commonwealth Office Departmental Expenditure Limit (DEL) will be increased by £95,878,000 from £2,127,148,000 to £2,223,026,000. The administration budget will be increased by £64,250,000 from £420,448,000 to £484,698,000. Within the DEL change, the impact on resources and capital are as set out in the following table:

(£,000)	*Change*		*New DEL*		
	Voted	*Non-Voted*	*Voted*	*Non-Voted*	*Total*
Resource	138,143	-17,000	2,124,381	29,000	2,153,381
of which:					
Administration budget	81,250	-17,000	468,068	16,630	484,698
Capital*	-25,265	-	168,695	-	168,695
Depreciation°	-	-	-99,050	-	-99,050
Total	112,878	-17,000	2,194,026	29,000	2,223,026

* Capital DEL includes items treated as resource in Estimates and accounts but which are treated as Capital DEL in budgets.

° Depreciation, which forms part of resource DEL, is excluded from the total DEL since capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

The change in the resource element of the DEL arises from:

Request for Resources 1

Administration

Take up of £15,000,000 Administration EYF in respect of modernisation of the core FCO.

A claim on the Reserve of £15,000,000 Administration costs in respect of Corporate Services modernisation.

Transfer of £1,850,000 administration from the Department for Education in respect of the Papal visit.

Transfer of £1,850,000 administration from the Department for International Development in respect of the Papal visit.

Transfer of £1,850,000 administration from the Department of Energy and Climate Change in respect of the Papal visit.

Transfer of £1,850,000 administration from the Department for Environment, Food and Rural Affairs in respect of the Papal visit.

Transfer of £1,850,000 administration from the Department for Communities and Local Government in respect of the Papal visit.

Transfer of £180,000 administration from the Department for International Development in respect of the gratis visa operation in Chernobyl.

Capital to Administration switch of £25,000,000 in respect of exchange rate pressures.

Programme

Transfer of £100,000 programme from the Department for International Development in respect of the Strategic and Bilateral fund work in the Democratic Republic of Congo.

Transfer of £40,000,000 programme from the Department for International Development in respect of support for British Council Official Development Assistance (ODA).

Transfer of £200,000 programme from the Department of International Development in respect of Tanzania Police Training Project.

Capital

Capital to administration switch of £25,000,000 in respect of exchange rate pressures.

Capital transfer of £265,000 from FCO to DfID as a contribution towards building a new office in Juba, Sudan.

Request for Resources 2

Programme

Transfer of £16,467,000 grants from DfID in respect of conflict prevention and discretionary Peacekeeping funds.

Transfer of £54,000 grants to the Security Intelligence Agencies for expansion and capability.

HM Revenue and Customs; Winter Supplementary Estimates

Statement

The Commercial Secretary to the Treasury (Lord Sassoon): My honourable friend the Exchequer Secretary to the Treasury (David Gauke) has today made the following Written Ministerial Statement.

Subject to parliamentary approval of the Supplementary Estimate, the HM Revenue and Customs total DEL will be decreased by £500,000 from £3,706,842,000 to £3,706,342,000. Within the total DEL change, the impact on resources and capital are as set out in the following table:

(£,000)	Change		New DEL		
	Voted	Non-Voted	Voted	Non-Voted	Total
Resource DEL	37,771	-38,271	3,311,284	425,976	3,737,260
of which:					
Administration Budget †	37,771	38,271	3,586,418	79,437	3,665,855
Capital	2,415	-2,415	211,549	-	211,549
Less Depreciation ††	-	-	-242,467	-242,467	
Total DEL	40,186	-40,686	3,280,366	425,976	3,706,342

† The total of Administration Budget figures may well be greater than total resource DEL, due to the definitions overlapping.

†† Depreciation, which forms part of resource DEL, is excluded from total DEL since capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

The change in the resource element of DEL arises from:

A transfer of £500,000 administration costs to the Cabinet Office Security and Intelligence Agencies, as HMRC's share of funding Information Assurance Activities.

The take-up of £38,335,000 non-voted Departmental Unallocated Provision as voted administration costs to facilitate improvements to key operational activities (DEL-neutral).

A decrease in voted DEL of £64,000 with respect to administration cash leasing costs under International Financial Reporting Standards, which transfer to non-voted DEL (DEL-neutral).

The change in the administration budget arises from the specific administration items detailed in the resource element above.

The change in the capital element of DEL arises from:

The take-up of £2,415,000 non-voted Departmental Unallocated Provision as voted capital costs to facilitate improvements to key operational activities (DEL-neutral).

HM Treasury: Winter Supplementary Estimates

Statement

The Commercial Secretary to the Treasury (Lord Sassoon): My honourable friend the Economic Secretary to the Treasury (Justine Greening) has today made the following Written Ministerial Statement.

Subject to parliamentary approval of the Winter Supplementary Estimate, HM Treasury's Resource DEL will be decreased by £20,657,000 from £206,740,000 to £186,083,000. The Administration Budget will be decreased by £21,957,000 from £159,551,000 to £137,594,000. The impact on resources, including the administration budget, is set out in the following table:

(£,000)	Change		New DEL		
	Voted	Non-voted	Voted	Non-voted	Total
Resource	-20,657	-	152,359	33,724	186,083
of which:					
Administration budget	-21,957	-	126,485	11,109	137,594
Capital*	-	-	45,300	3,400	48,700
Less Depreciation**	-	-	-6,725	-	-6,725
Total	-20,657	-	190,934	37,124	228,058

* Capital DEL includes items treated as Resource in Estimates and accounts but which are treated as Capital DEL in budgets.

** Depreciation, which forms part of Resource DEL, is excluded from Total DEL since Capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

The net reductions in resource DEL of £20,657,000 and Administration Budget of £21,957,000 are the net effect of the transfer of responsibility for the Office of Government Commerce to the Cabinet Office following the Machinery of Government transfer announced on 15 June 2010.

Ministry of Defence: Winter Supplementary Estimates

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): My right honourable friend the Secretary of State for Defence (the right honourable Dr Liam Fox) has made the following Written Ministerial Statement.

Subject to Parliamentary approval of the necessary Supplementary Estimate, the Ministry of Defence Departmental Expenditure Limits (DEL) will be increased by £102,744,000 (Voted and Non-Voted) from £37,219,510,000 to £37,322,254,000. Within the DEL change, the impact on Resources and Capital are as set out in the following table:

(£,000)	Change		New DEL		
	Voted	Non-Voted	Voted	Non-voted	Total
Resource	102,744	-	35,454,550	603,460	36,058,010
of which:					
Administration Budget	-	-	2,182,586	-	2,182,586
Capital	-	-	10,070,208	851	10,071,059
Depreciation*	-	-	-8,797,259	-9,556	-8,806,815
Total	102,744	-	36,727,499	594,755	37,322,254

* Depreciation, which forms part of Resource DEL, is excluded from the total DEL since capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

The changes to the resource and capital elements of the DEL arise from:

Voted Resource DEL increase £102,744,000.

RfR1:

(1) An increase of £88,000,000 in Resource DEL to bring it into line with the audited outturn for 2009-10, updating the provisional adjustment made at Main Estimate, as agreed with the Treasury from the Reserve.

(2) To increase the net Non-Budget Grant funding of £1,289,000 by reducing Resource DEL by £28,000 for the Council of Reserve Forces and Cadets Association, £600,000 for the National Army Museum, £871,000 for the Royal Hospital Chelsea, and £315,000 for the Cadets and Sea Scouts Association; and increasing Resource DEL by reducing the Royal Navy National Museum Non Budget grant of £525,000.

RfR2:

(1) A transfer in of £16,033,000 from the Department for International Development being their contribution to the Conflict Pool.

The changes to Resource DEL and Capital DEL will lead to an increased net cash requirement of £104,033,000.

National Savings and Investments: Winter Supplementary Estimates

Statement

The Commercial Secretary to the Treasury (Lord Sassoon): My honourable friend the Financial Secretary to the Treasury (Mark Hoban) has today made the following Written Ministerial Statement.

Subject to parliamentary approval of any necessary Supplementary Estimate, National Savings and Investments (NS&I) Departmental Expenditure Limit (DEL) will be increased by £15,994,000 to £168,402,000. Within the DEL change, the impact on resources and capital are set out in the following table:

(£,000)	*Change*		*New DEL*		
	Voted	*Non-voted*	*Voted*	*Non-Voted*	*Total*
Resource DEL	15,994	-4,994	168,402	-	168,402
of which:					
Administration budget:	15,994	-4,994	168,402	-	168,402
Near cash in RDEL:	15,994	-4,994	164,769	-	164,769
Capital	-	-	464	-	464
Depreciation*	-	-	-2,983	-	-2,983
Total	15,994	-4,994	165,883	-	165,883

* Depreciation, which forms part of resource DEL, is excluded from the total DEL since capital DEL includes capital spending and to include depreciation of those assets would lead to double counting.

The change in the resource element of DEL (£15,994,000) is required to continue the delivery of NS&I's adding value strategy for both the modernisation and simplification of infrastructure and products. To facilitate this, NS&I has included the following items in its Winter Supplementary estimate:

Resource DEL end year flexibility (£6.0 million);

DEL Reserve claim (£5.0 million); and

Departmental Unallocated Provision (£4.994 million).

Northern Ireland Office: Winter Supplementary Estimates

Statement

Lord Shutt of Greetland: My right honourable friend the Secretary of State for Northern Ireland (Owen Paterson) has made the following Ministerial Statement.

Subject to parliamentary approval the Northern Ireland Office (NIO) will be taking a 2010-11 Winter Supplementary Estimate. The effect this will have is to decrease the NIO's Total DEL (excluding depreciation) by £1,169,047,000 from £1,203,205,000 to £34,158,000.

(£,000)	*Change*		*New DEL*		
	Voted	*Non-Voted*	*Voted*	*Non-voted*	*Total*
Resource	(293,444)	(869,832)	34,174	1,702	35,876
Admin Budget	(51,813)	-	16,751	-	16,751
Capital	(35,387)	(36,076)	440	-	440
Depreciation	24,797	40,895	(2,100)	(58)	(2,158)
Total (excl. depreciation)	(304,034)	(865,013)	32,514	1,644	34,158

The change in Total DEL of £1,169,047,000 relates to the devolution of policing and justice to the Northern Ireland Executive on 12 April 2010.

NI Consolidated Fund – Request for Resources (RfR) 2

The Northern Ireland Executive DEL is increased by £1,310,609,000 from £9,515,937,000 to £10,826,546,000. Within the total DEL change, the impact on resources and capital is set out in the following table:

(£,000)	*Change*	*New DEL*
Resource DEL	1,307,846	9,931,705
Capital DEL	80,263	1,222,906
Resource DEL + Capital DEL	1,388,109	11,154,611
Less Depreciation	77,500	328,065
Total DEL net of depreciation	1,310,609	10,826,546

This increase takes account of the machinery of government change that devolved policing and justice from the Northern Ireland Office and the Northern Ireland Courts Service to the Northern Ireland Executive on 12 April 2010.

Older People: Active at 60 Community Agents

Statement

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

Today, I am pleased to announce that the Government are providing £1 million to help older people keep active and make the most of their later lives. This money is available for local community groups or organisations within 30 selected areas[1] to bid for small grants of between £250-£3,000.

Each local community group within the selected areas will recruit at least one Active at 60 Community Agent who will volunteer their time to help motivate, encourage and organise people within their own communities to become more active, physically, socially and mentally. Active at 60 Community Agents will be from the communities they are helping, and will have the flexibility to design innovative ways of encouraging and inspiring activity to help improve people's later lives.

Through the Active at 60 Community Agent initiative those people who are more at risk of social isolation in their later lives will be supported in becoming more active, independent and positively engaged with society. Active at 60 Community Agents will help people within their communities to:

take the first step in trying something new;

understand the benefits they can get from being more active, engaged and contributing to their communities; and

build social contacts to help make being active part of their routine.

This project is part of the Government's ambition to build a Big Society in which power is transferred from Whitehall to local communities, and organisations and voluntary groups play a far greater role in their community.

[1] The following areas have been selected on the basis of level of deprivation and age structure, whilst ensuring a broad split across the English regions, encompassing both rural and urban areas:

Liverpool, Middlesbrough, Hackney, Sandwell, Kingston Upon Hull, Nottingham, Bournemouth, Southend-on-Sea, Brighton and Hove, Redcar and Cleveland, Wirral, Doncaster, Cornwall and The Isles of Scilly, East Sussex, Norfolk, Herefordshire, County of, Lincolnshire, Enfield, Knowsley, Blackpool, Manchester, Stoke-on-Trent, Birmingham, Salford, Hartlepool, Tower Hamlets, Wolverhampton, South Tyneside, Rochdale, Sunderland

Scotland Office: Winter Supplementary Estimates

Statement

The Advocate-General for Scotland (Lord Wallace of Tankerness): Subject to parliamentary approval of the necessary Supplementary Estimates, the Departmental Expenditure Limit (DEL) for Scottish Government will be increased by £302,413,000 from £28,401,374,000 to £28,703.787,000. Within the total DEL change, the impact on resources and capital is set out in the following table:

(£,000)	*Change*	*New DEL*
Resource DEL	158,993	25,857,454
of which:		
Non Ring-Fenced	125,993	25,243,842
Capital DEL	149,621	3,388,567
Resource DEL + Capital DEL	308,614	29,246,021
Less Depreciation	6,201	542,234
Total DEL	302,413	28,703,787

DEL provision for the Scotland Office will remain unchanged.

The increase in the Scotland DEL takes account of the following adjustments to the Scottish Government provision:

the take-up of End Year Flexibility (EYF) by the Scottish Government amounting to £302,621,000 (including £6,201,000 for depreciation and impairments); and

clear line of sight classification changes—student loans of £4,500,000.

The DEL increase also includes the following changes:

a transfer of £1,180,000 from the Home Office in respect of the Migration Impact Fund;

a transfer of £100,000 from the Department for Environment Food and Rural Affairs (DEFRA) to Marine Scotland in respect of marine protected areas; and

a transfer of £213,000 from the Department for Children, Schools and Families in respect of the Child Trust Fund.

Annex A

Changes to DEL

Scotland Office DEL

The Scotland Office DEL will remain unchanged.

Scotland DEL

Take up of EYF by the Scottish Government of £302,621,000 (£153,000,000 near cash, £33,000,000 non-cash and £149,621,000 capital).

Clear Line of Sight classification changes amounting to £4,500,000.

Other transfers of £1,493,000 as follows:

a transfer of £1,180,000 from the Home Office in respect of the Migration Impact Fund;

a transfer of £100,000 from the Department for Environment Food and Rural Affairs (DEFRA) to Marine Scotland in respect of marine protected areas; and

a transfer of £213,000 from the Department for Children, Schools and Families in respect of the Child Trust Fund.

In addition, provision for depreciation increases by £6,201,000.

Within the total DEL change, the impact on resources and capital is set out in the following table:

(£,000)	*Change*	*New DEL*
Resource DEL	158,993	25,857,454
of which:		
Non Ring-Fenced	125,993	25,243,842

(£,000)	Change	New DEL
Capital DEL	149,621	3,388,567
Resource DEL + Capital DEL	308,614	29,246,021
Less Depreciation/ Impairments	6,201	542,234
Total DEL	302,413	28,703,787

Changes to AME

an increase in provision of £2,686,000 for NHS Pensions (Scotland);

an increase in provision of £40,293,000 for Teachers Pensions (Scotland);

an increase in provision of £20,000,000 for NHS impairments;

a reduction in provision of £5,258,000 for Student Loans; and

a reduction in provision of £4,500,000 for Clear Line of Sight classification changes—Student Loans.

Changes to Non-Budget

a reduction of £177,737,000 for changes in cash to accrual adjustments.

There is an increase in the grant payable to the Scottish Consolidated Fund of £539,572,000 from £26,609,096,000 to £27,148,668,000.

Terrorist Asset-Freezing etc. Bill [HL]

Statement

The Commercial Secretary to the Treasury (Lord Sassoon): My honourable friend the Exchequer Secretary to the Treasury (David Gauke) has made the following Written Ministerial Statement.

On 15 November the Financial Secretary to the Treasury reported to Parliament on the operation of the UK's counter-terrorist asset-freezing regime for the period July to September 2010.

During the Second Reading of the Terrorist Asset-Freezing etc. Bill, I responded to the honourable Member for Leicester East about figures published in the report. My response appears at *Official Report*, 15 November 2010, col. 708.

The explanation I gave of the figures was incorrect. For the purpose of transparency and to ensure the report is correctly interpreted in the future I would like to clarify that explanation.

As of 30 September 2010, a total of 205 accounts containing just under £290,000 of suspected terrorist funds were frozen in the UK.

Of that £290,000, approximately £140,000 was frozen under the UK's domestic terrorist asset-freezing regime, which is mandated by UNSCR 1373 and implemented by the legislation that the Bill is intended to replace. The remaining £150,000 was frozen under the UN al-Qaeda and Taliban asset-freezing regime.

Written Answers

Tuesday 23 November 2010

Armed Forces: Specialist Brigades

Question

Asked by ***Lord Moonie***

To ask Her Majesty's Government whether they have considered creating a single high-readiness light assault force by combining 16 Air Assault Brigade and 3 Commando Brigade. [HL3981]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): A large number of possible force structure adjustments were considered in the Strategic Defence and Security Review, including options for the specialist brigades. We concluded that there was a continued requirement for 3 Commando Brigade and 16 Air Assault Brigade as separate entities.

Bailiffs

Question

Asked by ***Lord Lucas***

To ask Her Majesty's Government whether the Deputy Prime Minister's review of constitutional reform will include a review of the powers of bailiffs acting on behalf of central and local government and the courts to ensure that their regulation and powers, particularly their powers of entry into people's homes, do not give the state an advantage over other creditors in pursuing debt. [HL4018]

The Minister of State, Ministry of Justice (Lord McNally): We have given a commitment to provide more protection against aggressive bailiffs. The Ministry of Justice business plan 2011-15, published on 8 November 2010, states that we will develop options for public consultation on how we will provide more protection and to encourage more flexibility in bailiff collections by the end of December 2010. Better regulation and powers of entry are two key strands that need to be considered.

Channel Tunnel: Governance

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government whether they are considering any changes to the contents of the intergovernmental agreement with France on the future governance of the Channel Tunnel. [HL4140]

Earl Attlee: No. The Government are not considering any changes to the contents of the intergovernmental agreement with France on the governance of the Channel Tunnel.

Charities

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what is their assessment of the impact of the local budget cuts on charities. [HL3896]

Lord Taylor of Holbeach: The big society presents a great opportunity for charities as we open up public services and devolve power. However, we fully recognise that in the short-term many organisations may be concerned about potential budget cuts. It is currently too early to assess the impact of local budget cuts on charities, but we are working closely with partners in the voluntary sector and across Government to mitigate the impact of any spending reductions and support the sector through this transitional period. This includes:

a £100 million Transition Fund to help organisations with shortfalls in short-term;

publishing evidence and best practice to help Government at all levels make cuts wisely and in partnership with the sector; and

setting out policy measures to help the sector maximise new opportunities in the strategy document *Building a Stronger Civil Society*.

Children: Childminders

Question

Asked by ***Lord Northbourne***

To ask Her Majesty's Government what increase or decrease there has been in the number of children cared for by registered childminders since the Early Years Foundation Stage Regulations became law. [HL2618]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): The 2009 Childcare and Early Years Providers Survey collects information on registered working childminders. The Early Years Foundations Stage (EYFS) became statutory from September 2008. Figures have been presented for 2007 to 2009; data from 2010 are not yet available.

Table 1: Number of children receiving childcare from childminders

Number of children attending		
2007	*2008*	*2009*
278,500	294,200	276,600

Table 2: Percentage change in the number of children receiving childcare from childminders

% change in number of children attending	
From 2007 to 2009	*From 2008 to 2009*
-1%	-6%

China

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what were the objectives of the Prime Minister's visit to China; and whether those objectives were achieved. [HL3897]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): My right honourable friend the Prime Minister's objectives for the visit to China were to demonstrate our commitment to developing our relationship with China; to pursue our commercial interests; to build people-to-people links; to collaborate more closely on global issues; and to raise the role of civil society and human rights in China's development. This visit has cemented our relationship with China and will contribute to UK prosperity and security.

My right honourable friend the Prime Minister and Ministers established constructive relationships with China's current and future leaders during the visit, building the foundation for UK/China relations for the next five years. The visit delivered over 40 agreements across the whole range of the bilateral relationship, from trade to low carbon growth to cultural and education initiatives. Most encouragingly of all, the Chinese publicly endorsed Partners for Growth, a proposal to deliver an enhanced bilateral relationship, aimed at maintaining the benefits of globalisation for both our countries.

Civil Service: Staff

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government when the monitoring of the socio-economic background of civil service applicants and appointees will begin; what are the criteria for determining such backgrounds; and what level of differing backgrounds for applicants and appointees would be assessed as reasonable. [HL4231]

Lord Taylor of Holbeach: The Government collected and published socioeconomic data for the Senior Civil Service (SCS) at director general grades and above in January 2010 and now collects data for new entrants into the SCS. Monitoring of the socioeconomic background of fast-stream applicants will begin with effect from the 2011 entry.

The Civil Service uses three measures of socio-economic background: educational history, parental education history, and parental employment history.

There are no plans to introduce a wider requirement for Civil Service departments to monitor the socio-economic backgrounds of all applicants and appointees. There are no targets for achieving a particular proportion of employees from different socioeconomic backgrounds.

Crime: Fraud

Question

Asked by ***Lord Sheikh***

To ask Her Majesty's Government what steps they are taking to address the rise in fraudulent insurance claims. [HL3819]

To ask Her Majesty's Government what measures they will put in place to tackle fraudulent insurance claims. [HL3820]

To ask Her Majesty's Government what mechanisms they will put in place to give companies additional support in detecting cases of insurance fraud. [HL3821]

To ask Her Majesty's Government what action they are taking to prevent insurance fraud. [HL3822]

To ask Her Majesty's Government what action they will take to address the rising cost of undetected fraudulent general insurance claims. [HL3823]

The Advocate-General for Scotland (Lord Wallace of Tankerness): Due to improved measurement, prevention/detection capability and consistently raising the profile of insurance fraud both within the industry and in the public domain, the insurance industry has reported an increase in the number of fraudulent insurance claims that are being detected by insurers and through reports from the public who are increasingly playing a role in helping to identify insurance fraud.

The use of specialised software by the Insurance Fraud Bureau (IFB) since 2006 has helped to identify more fraudulent activity in particular areas of the industry, particularly in relation to crash for cash frauds and the involvement of professional enablers, which remains a core focus of attention for the IFB and industry in general.

The insurance industry is an important partner of the National Fraud Authority (NFA) which co-ordinates the implementation of the National Fraud Strategy with partners in Government, law enforcement, the third sector and industry.

As part of this, the NFA works with partners to develop improved information sharing to enable the prevention and disruption of fraudulent activity. The insurance industry is represented by the IFB on a NFA Taskforce to prevent fraud by improving the sharing of information about incidences of fraud across sectors of the economy.

The IFB also shares intelligence and data with, for example, the National Fraud Intelligence Bureau—operated by the City of London Police—the Solicitors Regulation Authority and the Ministry of Justice. Since its formation, the IFB has helped the police make over 426 arrests in connection with organised insurance fraud, resulting in almost 100 convictions to date.

Working with its membership and with the police in joint investigations, the bureau has successfully disrupted actions of criminal gangs concerning crash for cash frauds.

Action Fraud, the national fraud reporting centre run by the NFA, refers individuals and businesses with concerns about insurance fraud directly to the insurance industry's confidential Cheatline, managed by the IFB.

As part of the insurance industry's continued commitment to reduce fraud, the operational capacity of the Cheatline was increased in September 2010 and the improvements provide a more enhanced facility to deal with the increase in reports being made, which are complemented by online Cheatline reporting.

Crime: Joint Enterprise

Question

Asked by ***Lord Ouseley***

To ask Her Majesty's Government what representations they have received about the fairness of joint enterprise prosecutions; and what responses they have made. [HL4145]

To ask Her Majesty's Government how many individuals have been imprisoned over the past five years having been convicted as guilty under the law of joint enterprise in relation to crimes which they denied committing at the time of trial and subsequently. [HL4146]

The Minister of State, Ministry of Justice (Lord McNally): The law on joint enterprise forms part of the law on secondary liability, which treats as criminal the activities of those who aid, abet, counsel or procure others to commit crimes. Where a crime is committed by two or more people, each may play a different part but if they are in it together as part of a joint plan or agreement, they are each guilty.

Although the Ministry of Justice's court proceedings database holds data on the total number of convictions for offences in England and Wales, it does not hold information on whether those offences were committed as part of a joint enterprise; or whether any of the offenders convicted for their part in a joint enterprise denied wrongdoing at the time of the trial or subsequently.

We are aware that some concerns have been raised about joint enterprise law, particularly in response to the Your Freedom consultation and in correspondence. The majority of these appear to be based on a misunderstanding of the law and have expressed concern that innocent bystanders may be convicted unfairly.

A small number have been raised by the friends or families of gang members who consider that their involvement in the gang's criminal activities was not significant enough to warrant conviction for the offences in question. Ultimately, it is for the jury to decide on the scope of the joint enterprise and the mind of the parties to it in each case, taking account of all the evidence heard at the trial.

Crime: Universal Jurisdiction

Question

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what assessment they have made of the implications of a change in the law on Universal Jurisdiction on human rights. [HL3902]

The Minister of State, Ministry of Justice (Lord McNally): The proposed change relates not to the law on universal jurisdiction itself but to the procedure for issuing an arrest warrant to a private prosecutor in respect of an offence of universal jurisdiction alleged to have been committed outside the United Kingdom. It would require the consent of the Director of Public Prosecutions before an arrest warrant could be issued in such circumstances. The change would apply only to a small number of offences, most of which already require the consent of the Attorney General for the institution of proceedings, and it would have no implications for human rights.

Cyprus

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what assessment they have made, as one of the guarantor countries, of the prospects for direct trade relations developing between the Republic of Cyprus and the Turkish Republic of Northern Cyprus. [HL4142]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Direct trade does take place between the Republic of Cyprus and northern Cyprus, as provided for by the EU green line regulation. This regulation defines the terms under which the provisions of the EU law apply to the movement of persons, goods and services crossing over the line between the Republic of Cyprus and the northern part of the island. The total value of reported trade across the green line from May 2009 to April 2010 was €5,232,328.

The European Commission's most recent report on implementation of the regulation is summarised in the Foreign and Commonwealth Office's Explanatory Memorandum to Parliament of 8 October 2010. A further report is expected from the European Commission in 2011.

Diplomatic Missions: State Recognition

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what qualifications a state requires in order for them to recognise it. [HL3975]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The normal criteria that we apply for recognition of a state remain as described in the Written Answer by the then Parliamentary Under-Secretary for Foreign and Commonwealth Affairs, Mr Sainsbury (*Official Report*, Commons, 16/11/89, col. 494). The previous response is copied below for ease of reference:

The normal criteria that we apply for recognition as a state are that it should have, and seem likely to continue to have, a clearly defined territory with a population, a Government who are able of themselves to exercise effective control of that territory, and independence in their external relations. Other factors, including some United Nations resolutions, may also be relevant.

Asked by ***Lord Laird***

To ask Her Majesty's Government what qualifications a state requires in order for them to establish an embassy in it. [HL3976]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Diplomatic relations are conducted on the basis of mutual consent of both sending and receiving States, and in accordance with international law, notably the Vienna convention on diplomatic relations.

Embryology

Question

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

To ask Her Majesty's Government, further to the Written Answers by Baroness Thornton on 6 April (*WA 406*) and by Earl Howe on 19 July (*WA 162*), what is the evidence that deriving insulin-producing pancreatic cells from embryonic stem cells that are a genetic match for a patient with type 1 diabetes could improve treatment of such an autoimmune disease; and how the steps that would need to be taken to counteract the autoimmune response have been detailed in (a) any related applications for research submitted to the Human Fertilisation and Embryology Authority (HFEA), and (b) peer-reviewed published research. [HL3890]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The Human Fertilisation and Embryology Authority (HFEA) has advised that the steps to be taken to counteract the autoimmune response have not been detailed in any relevant research application submitted to the HFEA. The steps needed to counteract the autoimmune response would not have been required in order to satisfy the HFEA licence committee that the statutory criteria were met.

Information on peer-reviewed research is not collected centrally.

EU: Presidential Accommodation

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government on what basis they intend to contribute £25 million towards the cost of the President of the European Union Council's new accommodation. [HL3790]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The European Union agreed in 2006 that the Council needed additional accommodation because of the accession of further member states to the European Union, and in order to provide a permanent, secure and purpose built venue for European Council meetings. The new building will also provide office accommodation, including for the President of the European Council and his staff.

The Council's new accommodation will be paid for over several years from the annual EU budget. The UK's contribution to the building will be in proportion to our net overall contribution to the EU budget.

European Commission: Motor Cycles

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government what assessment they have made of proposals by the European Commission concerning motor cycles, including roadside spot checks, insurance and an overhaul of MoT test procedure. [HL4157]

Earl Attlee: The European Commission has not made any proposals of this nature.

European Union Bill

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government whether the European Union Bill will have an impact on the United Kingdom's foreign policy. [HL4072]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The Government remain committed to playing a strong, positive and active role in the European Union. We want an open external market. We want to strengthen and expand the single market, including the energy market, in order to deliver growth. We want to promote a resource efficient, low-carbon EU economy. And we want to work through the EU to achieve our international objectives. The EU Bill does not alter this commitment, but it will give people more control over decisions made by the Government in the EU in their name. Many people in Britain feel disconnected with how the EU has developed, and by rolling out control on these decisions to the people, the Government believe we can help rebuild trust and reconnect people to these EU decisions.

Father James Chesney

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what assessment they have made of the findings of the Northern Ireland Police Ombudsman in his report on the Claudy bombing that "the actions of the senior RUC Officers, in seeking and accepting the Government's assistance in dealing with the problem that Father Chesney's alleged wrongdoing presented, was by definition a collusive act"; whether they were party to that collusive act; and what is their working definition of collusion. [HL3834]

Lord Shutt of Greetland: The Secretary of State for Northern Ireland, on behalf of the Government, made a Statement following publication of the report of the Northern Ireland Police Ombudsman, conveying his profound sorrow that Father Chesney was not properly investigated for his suspected involvement in this hideous crime, and that the victims and their families have

been denied justice. A copy of this Statement was placed in the Library of the House. This Statement was also repeated by the Deputy Prime Minister.

The Government have not defined collusion for themselves; rather, they have relied on the definitions used by those independent figures carrying out relevant reviews and inquiries.

Food: Pork and Bacon

Question

Asked by ***Lord Hoyle***

To ask Her Majesty's Government, further to the Written Answer by Lord Henley on 9 November (*WA 54–5*), why the Foreign and Commonwealth Office purchases no British bacon. [HL3884]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The Foreign and Commonwealth Office is committed to providing best value for money for the UK taxpayer. The Foreign and Commonwealth Office's contracted catering service sources its bacon commercially from within the EU, based on value for money, quality, and commitment to animal welfare.

Freedom Bill

Question

Asked by ***Lord Grocott***

To ask Her Majesty's Government, further to the Written Answer by Baroness Verma on 28 October (*WA 336*), how they will communicate to the public the way in which the ideas posted on the Your Freedom website have been used to inform the drafting on the draft Freedom Bill. [HL4172]

Lord Taylor of Holbeach: The Government will ensure a clear communication of how the public's ideas have contributed to the Freedom Bill when the Bill is introduced.

Government Departments: Staff

Question

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government how many staff have been employed on temporary or short-term contracts since 12 May to support the Attorney General; what are the names of those employed; at what grade and what level of remuneration they were employed; and what selection criteria were used to determine their suitability for the post. [HL3731]

The Advocate-General for Scotland (Lord Wallace of Tankerness): The Attorney-General's Office (AGO) has not employed any new staff on temporary or short-term contracts since 12 May 2010.

As at 12 May 2010 the AGO employed one temporary member of staff (agency) up until 30 July 2010, and one person on a fixed term contract, who is still employed under that contract. The AGO measures suitability for posts by assessing applicants against a role specific competency framework which details skills and experience needed for the role.

Before May 2010 the AGO occasionally employed agency workers to cover short term administrative needs, and such workers were appointed following an assessment of applicable skills.

Information such as name, grade and remuneration for both posts cannot be disclosed on grounds of staff confidentiality.

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government how many staff have been employed on temporary or short-term contracts since 12 May to support the Secretary of State for Communities and Local Government; what are the names of those employed; at what grade and what level of remuneration they were employed; and what selection criteria were used to determine their suitability for the post. [HL3733]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Since 12 May 2010, no staff have been employed on temporary or short-term contracts to support the Secretary of State for the Department for Communities and Local Government.

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government how many staff have been employed on temporary or short-term contracts since 12 May to support the Secretary of State for Foreign and Commonwealth Affairs; what are the names of those employed; at what grade and what level of remuneration they were employed; and what selection criteria were used to determine their suitability for the post. [HL3782]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Since 12 May 2010 the Foreign and Commonwealth Office has employed seven UK-based staff on temporary or short term contracts ranging from 26 days to two years. These include:

SMS3 x 1 (Civil Service equivalent of SCS Level 3)

D7 x 1 (Civil Service Equivalent Grade 6)

D6 x 2 (Civil Service Equivalent Grade 7)

C5 x 1 (Civil Service Equivalent Senior Executive Officer)

B3 x 2 (Civil Service Equivalent Executive Officer)

FCO pay band ranges for the above grades are:

SMS3 £101,500-£208,200

D7 £54,340-£67,861

D6 £43,084-£55,782

C5 £32,748-£40,500

B3 £21,432-£27,385

The more detailed information about the employment details of individuals is not normally disclosed.

Separately, since 12 May 2010 the Foreign and Commonwealth Office has offered 50 internships on short-term training contracts.

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government how many staff have been employed on temporary or short-term contracts since 12 May to support the Secretary of State for Justice; what are the names of those employed; at what grade and what level of remuneration they were employed; and what selection criteria were used to determine their suitability for the post. [HL3849]

The Minister of State, Ministry of Justice (Lord McNally): The information in the table below provides details of the 187 staff employed by the Ministry of Justice (including the National Offender Management Service) on temporary or short-term contracts between 12 May and 30 June 2010 (the date of the latest published data).

I am unable to supply the names of those employed on temporary or short-term contracts as this may go beyond their expectations of how their personal data would be processed by the Ministry of Justice and disclosure may expose them to unexpected and unwarranted attention.

Candidates were appointed on the basis of their meeting the competencies, and demonstrating any qualifications and/or experience, required for the post.

Table 1—Breakdown of staff employed on a temporary or short term contract between 12 May-30 June 2010

Treasury Grade Equivalent	*Total*	*Min National Salary @ Aug 10*	*Max Inner London Salary @ Aug 10*
Grade 6/7	3	£42,034	£67,969
SEO	2	£29,634	£44,964
HEO	1	£21,096	£36,061
EO	13	£17,513	£28,000
AO	85	£15,935	£22,250
AA	83	£13,894	£18,700
TOTAL	187		

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government how many staff have been employed on temporary or short-term contracts since 12 May to support the Secretary of State for Northern Ireland; what are the names of those employed; at what grade and what level of remuneration they were employed; and what selection criteria were used to determine their suitability for the post. [HL3850]

Lord Shutt of Greetland: The Northern Ireland Office (NIO) has not employed any staff on temporary or short-term contracts since 12 May.

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government what are the names of all unpaid advisers to Ministers in the Attorney General's Office. [HL4077]

The Advocate-General for Scotland (Lord Wallace of Tankerness): There are no unpaid advisers to Ministers in the Attorney General's Office.

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Lord Taylor of Holbeach on 11 November (*WA 121*), what were the names and employing departments of those special advisers who received severance payments after the general election; and which ministers did not claim severance payments. [HL4087]

Lord Taylor of Holbeach: Please refer to the written response given in the *Official Report* on 21 October 2010 (col. *WA 193*). Please also refer to the Prime Minister's Written Statement concerning special advisers given in the *Official Report* on 28 October 2010 (col. *WS 18*). We do not hold centrally details of former Ministers who did not claim their severance payments.

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government what are the names of all unpaid advisers to Ministers in the Department for Environment, Food and Rural Affairs. [HL4176]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): There are no unpaid advisers to Defra Ministers.

Higher Education: Bologna Process

Question

Asked by ***Lord Boswell of Aynho***

To ask Her Majesty's Government what progress has been made by national governments and higher education institutions in implementing the Bologna process. [HL4147]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): Ministers responsible for higher education in the countries participating in the Bologna process met in Budapest and Vienna earlier this year to launch the European Higher Education Area (EHEA) as envisaged in the 1999 Bologna Declaration. In their communiqué, issued on 12 March 2010, the Ministers said that good progress had been made by national Governments and higher education institutions in implementing the Bologna reforms over the previous decade. In particular, all countries have moved to a system of Bachelors and Masters degrees and an agreed set of standards and guidelines for quality assurance have been adopted. They did note that in some areas, such as curriculum reform, mobility and the recognition of qualifications, more remains to be done. Ministers will meet again in Bucharest in April 2012 to review progress and decide future priorities.

Higher Education: Funding

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government whether they plan to review their proposals for higher education funding in light of the National Union of Students protest in London on 10 November. [HL3966]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): The coalition Government are committed to delivering a high-quality university sector that is more responsive to the needs of students and is based on a progressive graduate contribution system. We have taken account of a range of views in developing our proposals, including those of students. We announced our proposals on 3 November and the changes will be brought before Parliament in due course. We believe our proposals are fair for students, graduates and the taxpayer and do not intend to review them because of the protests on 10 November.

Higher Education: Student Loans

Question

Asked by ***Lord Myners***

To ask Her Majesty's Government why they have proposed that the interest rate on student loans should be set by reference to the retail prices index but adjustment in future welfare and pension payments will be based on the consumer prices index. [HL3994]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): We have always taken the view that there is no single measure of inflation that is appropriate for all purposes. However, RPI has always been used for calculating interest on student loans and is a widely recognised and consistent measure of inflation.

Higher Education: Tuition Fees

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government whether they have plans to increase the cap on university fees above £9,000. [HL4075]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): The Government are proposing a basic threshold of £6,000 per annum and an upper limit of £9,000 per annum. In order to charge more than £6,000, universities will have to work with the Office for Fair Access to agree what progress they will commit to on fair access and widening participation. The Government propose to introduce these arrangements for students starting university in academic year 2012-13. There are no plans to increase the upper limit above £9,000.

Holy See

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they have received any reports from the United Kingdom Ambassador to the Holy See regarding the human rights of those who live in the Holy See. [HL3977]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The Government has an ongoing dialogue with the Holy See on a wide range of human rights and development issues. The nature of diplomacy means that these discussions are held in confidence between representatives of the British Government and the Holy See. Like any diplomatic relationship there are areas of co-operation and areas where interests diverge. Our ambassador to the Holy See has not reported on the human rights of those people residing on the territory of the Vatican City State, nor has he been requested to do so.

House of Commons: Members

Question

Asked by ***Lord Campbell-Savours***

To ask Her Majesty's Government what modelling of the effect on, or implications for, political parties or regions of the United Kingdom of the reduction in the number of members of Parliament has been undertaken by (a) Ministers, (b) Civil Servants, and (c) special advisers. [HL4191]

The Minister of State, Ministry of Justice (Lord McNally): No modelling of the effect on, or implications for, political parties of the reduction in the number of seats in the House of Commons has been undertaken by Ministers, civil servants or special advisers. In framing the provisions of the Parliamentary Voting System and Constituencies Bill, officials calculated the number of seats that might be apportioned to each of the four parts of the UK using the electoral register as of 1 December 2009. Consideration was also given in framing the Bill to the amount of time that parties might require to select candidates for election.

House of Lords: Catering

Question

Asked by ***Lord Willis of Knaresborough***

To ask the Chairman of Committees what was the total net cost of the operation of House of Lords catering and banqueting services for each of the past three years; and what is the projected profit or loss for 2010–11. [HL4066]

The Chairman of Committees (Lord Brabazon of Tara): The catering and retail subsidy for the past three financial years was as follows:

2007-08	£1,989,064
2008-09	£1,620,397
2009-10	£1,547,185

The subsidy forecast for the current and next two financial years is as follows:

2010-11	£1,388,202
2011-12	£1,206,107
2012-13	£1,140,290

Catering and Retail Services (CRS) has responsibility for the provision of catering facilities to Members, their staff and guests, staff of the House and other visitors. The unique nature of the House makes an operating loss, and therefore a subsidy, unavoidable. In particular, trading in Members' dining and bar outlets is limited to the sitting periods of the House, while the other outlets trade for 46 weeks in the year on Mondays to Fridays only. Moreover, the unpredictable nature of the business of the House during sitting weeks requires a flexible catering service which involves higher levels of labour resource than industry norms. Finally, in line with many government departments and external organisations, prices in some of the catering outlets are lower than average high street levels, although many of these prices will be rising from 1 January 2011.

It is worth emphasising that the banqueting service and the gift shop are both profitable, which helps to lower the overall subsidy level.

In summary, the subsidy has reduced significantly in recent years thanks to the hard work of CRS staff, and it will decrease yet further over the next two financial years.

House of Lords: Leave of Absence

Question

Asked by ***Lord Bassam of Brighton***

To ask the Chairman of Committees what is the average direct cost of supporting a member of the House of Lords who is not disqualified or on Leave of Absence. [HL4080]

The Chairman of Committees (Lord Brabazon of Tara): It is very difficult to calculate the figure requested. The most helpful method is perhaps to focus on the costs incurred on average by a new Member which would clearly not have been incurred had the Member never been appointed. The table below sets out those figures. It must be borne in mind that the average disguises a wide variation in the real costs incurred by different Members; and that the Members' reimbursement scheme figures are calculated using claims under the old system rather than the new one, which has been running for less than two months.

Product or service	*Average annual cost per Member*
Members' Reimbursement Scheme*	£25,000
Travel expenses*	£3,000
IT equipment, papers, consumables, postage	£2,000
Total	£30,000

* Average over the past three financial years

These figures exclude all indirect costs, such as staff salaries, upkeep of the Parliamentary Estate and other expenditure which does not necessarily increase as the membership grows.

Asked by ***Lord Bassam of Brighton***

To ask the Chairman of Committees what is the overall cost of the House of Lords per member who is not disqualified or on Leave of Absence. [HL4081]

The Chairman of Committees (Lord Brabazon of Tara): The overall cost of the House of Lords per Member who is not disqualified or on leave of absence is £156,000. This is an average of the figures from the last three financial years. The figure for each year was obtained by dividing the total annual net resource costs of the House by the number of Members on the last day of that financial year. It would be unwise to read too much into these figures because a large proportion of the House's costs consist of fixed overheads, such as the costs of maintaining the parliamentary estate, which do not necessarily increase when the membership increases.

Housing

Question

Asked by ***Lord German***

To ask Her Majesty's Government whether they plan to incorporate housing costs into the consumer prices index measure of inflation. [HL4025]

The Commercial Secretary to the Treasury (Lord Sassoon): The Chancellor has asked the Governor of the Bank of England for his views on how the work to incorporate housing costs into the Consumer Prices Index (CPI) can be accelerated. The Office for National Statistics, along with the national statistical offices of other European member states, is working with Eurostat, the statistical office of the European Communities, to assess the most appropriate approach for including an index of owner-occupier housing costs in the CPI in the future.

Human Rights Act 1998

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government whether they will review the operation of the Human Rights Act 1998. [HL4166]

The Minister of State, Ministry of Justice (Lord McNally): In their Programme for Government, the Government committed to establishing a commission to investigate the creation of a Bill of Rights. The Government will make a statement to Parliament on the terms of reference of the commission in due course.

Institute of Transport Studies

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government how many of the projects they have commissioned from the Institute of Transport Studies at Leeds University have been completed in the past 12 months; and what is (a) the subject, and (b) the cost, of each project. [HL3995]

Earl Attlee: From the information readily available, the Institute of Transport Studies at Leeds University contributed to 10 research projects, listed below, which were commissioned by the Department for Transport for completion within the past 12 months.

Project name:	*Cost (£)*
Value for Money of Small Transport Schemes Phase 1	24,762
Value for Money of Small Transport Schemes Phase 2	26,618
Local and Regional Climate Change Research	5,184.
Design and Implementation of Support Tools for Integrated Local Land use	105,000
Reimbursement Factors	8,354
Bus Profitability	14,588
Updating Appraisal values for Travel Time Savings and Reliability Phase 1	75,000
Concessionary Fares	248,163
Offenders & Post-court Disposal Courses	59,167
Highways Agency Energy Solutions programme	10,000

Israel

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what action they and the quartet on the Middle East are taking to protect the Bedouin living in 45 unrecognised villages of the Negev in Israel, and in particular the town of Rahat and the village of Araqeet; and how they will ensure their access to education and health services. [HL4008]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): We are aware of the demolition of a mosque in the Bedouin town of Rahat on 7 November 2010. More widely, we are concerned by the treatment of Arab minorities in Israel. Our ambassador to Israel has raised this with the Israeli authorities on several occasions; we will continue to do so as necessary.

Legal Aid

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what is their assessment of the impact of cuts on legal aid for civil causes. [HL4126]

The Minister of State, Ministry of Justice (Lord McNally): On 15 November the Justice Secretary announced the publication of a consultation on a package of proposals for the reform of legal aid. Impact assessments are published alongside the consultation document on the Ministry of Justice website at http://www.justice.gov.uk!consultations/legal-aid-reform-151110.htm.

In relation to areas of civil and family law proposed for exclusion from the scope of the legal aid scheme, we estimate that approximately 500,000 cases might no longer fall within the scope of legal aid funding. This is approximately £279 million worth of legal services funded by the legal aid budget, per annum, once all the proposals have been fully implemented.

Local Economic Partnerships

Question

Asked by ***Lord Greaves***

To ask Her Majesty's Government whether they plan to establish local economic partnerships in each part of England. [HL4031]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Local enterprise partnerships are voluntary partnerships and as such it is for local authorities and businesses to decide whether or not they want to develop a proposal. However, on 6 September we received 56 local enterprise partnership proposals in response to the invitational letter of the 29 June. These proposals covered the whole of England.

The first 24 local enterprise partnerships to go forward were announced in the Government's local growth White Paper on 28 October 2010. These partnerships were given the go-ahead to establish their boards and begin dialogue with central Government on how we can help them realise the ambitions set out in their proposals. The local growth White Paper is available in both House Libraries.

Where proposals have not met the Government's expectations regarding economic geography, business support, local authority buy-in or ambition and added value, partnerships have been invited to resubmit their proposals to address the Government's concerns. No deadlines have been set for resubmission of proposals.

London Underground

Question

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

To ask Her Majesty's Government what discussions they have had with the Mayor of London regarding the London Underground. [HL4050]

Earl Attlee: The Mayor and the Secretary of State for Transport had frequent discussions regarding Transport for London and London Underground in the run-up to Spending Review 2010, the outcomes of which are set out in the Secretary of State's letter to the mayor dated 20 October 2010, published on the Department for Transport's website at http://www.dft.gov.uk/about/spendingreview.

Medical Practitioners: Non-EU Nationals

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 12 November (*WA 146*), how many medical practitioners were admitted to the United Kingdom from European Economic Areas countries in 2009 and registered with the General Medical Council. [HL4232]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): We do not collect this information centrally; however, the General Medical Council has provided data which suggests that 2,797 doctors were granted registration through the European Economic Areas route in 2009.

Middle East Peace Process

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government when they last held talks with Senator George Mitchell to discuss Middle East peace efforts; and what themes were broached in those talks. [HL3974]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): My right honourable friend the Foreign Secretary last spoke to Senator Mitchell and Hilary Clinton during his recent visit to Washington on 16-17 November. They discussed the way forward on the Middle East peace process, including the need for a renewal of the settlement moratorium.

NHS: Oxygen Supplies

Question

Asked by ***Lord Campbell-Savours***

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 8 November (*WA 30*), what was the price submitted at Framework stage for the supply of oxygen to the National Health Service by (a) Air Liquids, (b) Air Products, and (c) BOC Ltd. [HL3936]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): This information is commercial-in-confidence and its disclosure would prejudice commercial interest until the full re-procurement of Home Oxygen Service has been completed.

Asked by ***Lord Campbell-Savours***

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 8 November (*WA 30*), what are the charge categories fixed for each Home Oxygen Service supplier. [HL3938]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): There are 56 charge categories, fixed as follows:

Cost categories

1a
2a
2b
3a
4a
4b
4c
4d
4e
4f
4g
4h
4i
4j
4k
4l
4m
4n
4o
4p
4q
4r
4s
4t
4u
4v
4w
4x
4y
5a
5b
5c
5d
5e
5f
5g
5h
5i
5j
5k
5l
5m
5n
5o
5p
5q
5r
5s
5t
5u
5v
5w
5x
5y
6a
7a

Asked by ***Lord Campbell-Savours***

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 8 November (*WA 30*), what is the minimum cost per claim to the National Health Service of oxygen supplies to an individual prescribed oxygen under Home Oxygen supply contracts in each strategic health authority area. [HL3939]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The minimum cost per claim of oxygen supplies to an individual would be that which corresponds to one day's supply and would vary by the supply prescribed to the individual, the charge category into which the individual's prescription fell and the unit price per charge category negotiated with a supplier by each strategic health authority.

NHS: Targets

Question

Asked by ***Lord Wills***

To ask Her Majesty's Government how many NHS targets they have abolished since May 2010. [HL4234]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The department published the *Revision to the Operating Framework for the NHS in England 2010-11*, a copy of which has already been placed in the Library, on 21 June 2010, removing three targets and lowering the threshold on a fourth. In addition, the publication signalled our intention to review all indicators for the 2011-12 NHS operating framework for clinical relevance.

NHS: Tariffs

Question

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government why the tariff for a clinical procedure received by NHS children's hospitals has been reduced. [HL3914]

To ask Her Majesty's Government what assessment they have made of the impact on NHS children's hospitals of the reduction in the tariff for clinical procedures. [HL3915]

To ask Her Majesty's Government what response they have given to those NHS children's trusts who have expressed concern about the reduction in the tariff for clinical procedures. [HL3916]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The department is engaging constructively with the specialist children's hospitals to understand the impact of the proposed tariff for 2011-12 and the costs incurred in providing specialist children's services. The outcome of this work will help inform the tariff for 2011-12 and beyond.

Northern Ireland

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they will publish their reply to a letter dated 12 October from Congressman Joseph Crowley, co-chair of the Ad-Hoc Committee on Irish Affairs in the United States House of Representatives, on the Northern Ireland Human Rights Commission's advice on a possible bill of rights. [HL3768]

Lord Shutt of Greetland: A reply to Congressman Crowley's letter was issued on 22 November 2010. A copy of the reply will be placed in the House Library.

Northern Ireland Office: Staff

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they will provide a list of all the members of the political division of the Northern Ireland Office with their rank and responsibilities. [HL3951]

Lord Shutt of Greetland: I refer to my previous Answer of 26 October 2010 (*Official Report*, col. *WA 272*). The current divisions of the Northern Ireland Office (NIO) are:

Political Liaison and Protocol Division;

Security and Protection Division;

Inquiries and Corporate Services Division;

Constitutional, Policy and Liaison Division; and

Rights, Elections and Legacy Division.

Asked by ***Lord Laird***

To ask Her Majesty's Government how many taxis were used by staff of the Northern Ireland Office on Thursday 28 October; by whom; from what locations; to what destinations; and at what cost. [HL3952]

Lord Shutt of Greetland: The details of taxi bookings made for official departmental business on 28 October 2010 are as follows:

Belfast (residential address) to Stormont House, Belfast;

Windsor House, Belfast to Belfast (residential address);

Belfast (residential address) to Windsor House, Belfast; and

Belfast City Airport to Belfast (residential address).

The total cost for these taxis was £32.30.

Northern Ireland: Cars

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Lord Shutt of Greetland on 9 November (*WA 56*), whether they will place in the Library of the House details of the 31 times since 12 April when staff of the Northern Ireland Office have used the Government car pool. [HL3950]

Lord Shutt of Greetland: Further to my Answer of 9 November (*Official Report*, col. *WA 56*), I have made arrangements to place the details of the Government car service bookings in the Library. The majority of these journeys were to transfer sensitive information as required under Cabinet Office Guidance.

Northern Ireland: Human Rights Commission

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether, in considering appointments to the Northern Ireland Human Rights Commission, they consider the applicants' approval of individual or collective rights. [HL3978]

Lord Shutt of Greetland: As previously stated in the Answer given on 10 November (*Official Report*, col. *WA 89*), all appointments to the Northern Ireland Human Rights Commission are on merit and take place via open competition, regulated by the Office of the Commissioner for Public Appointments. Applicants' approval of individual or collective rights is not among the skills and experience criteria explored during the appointment of individuals to the Northern Ireland Human Rights Commission.

Asked by ***Lord Laird***

To ask Her Majesty's Government what steps they will take, when making appointments to the Northern Ireland Human Rights Commission, to ensure that the commission members have the approval of the majority of people in Northern Ireland. [HL3979]

Lord Shutt of Greetland: Appointments to the Northern Ireland Human Rights Commission are made on merit and via open competition, regulated by the Office of the Commissioner for Public Appointments. Under the Northern Ireland Act 1998 the Secretary of State is obliged to ensure, so far as practicable, that the commissioners as a group are representative of the community in Northern Ireland.

Office for Budget Responsibility

Question

Asked by ***Lord Myners***

To ask Her Majesty's Government whether they will mandate the Office for Budget Responsibility to produce a report on whether the United Kingdom economy was on the brink of bankruptcy in the second quarter of 2010. [HL3989]

To ask Her Majesty's Government how the Chancellor formed the opinion that the United Kingdom was on the brink of bankruptcy and what assessment they have made of the closeness and consequences of such a bankruptcy. [HL4101]

To ask Her Majesty's Government whether at any time this year they were in, or close to, a position where the United Kingdom could not repay its debts. [HL4104]

The Commercial Secretary to the Treasury (Lord Sassoon): For the information sought on bankruptcy and repayment of debt, I refer the noble Lord to the Answer I gave to Lord Barnett on 9 November (*Official Report*, col. *WA 69*).

The Office for Budget Responsibility's (OBR) remit is determined by its terms of reference (ToR) which state that,

"The OBR will make independent assessments of the economy, public finances and fiscal sustainability".

The ToR task the OBR with producing an updated official economic and fiscal forecast before the end of this year, which the Chancellor has asked the OBR to publish on Monday 29 November. The OBR will also produce the official economic and fiscal forecast for Budget 2011 on Wednesday 23 March 2011.

Office of International Treasury Control

Question

Asked by ***Lord Myners***

To ask Her Majesty's Government whether ministers have any contact with the organisation calling itself the Office of International Treasury Control. [HL3816]

The Commercial Secretary to the Treasury (Lord Sassoon): The Treasury has had no contact with an organisation calling itself the Office of International Treasury Control.

Pensions

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Lord Sassoon on 8 November (*WA 31–2*), what is the employee superannuation contribution rate for judges; why it is necessary for the equivalent employer contribution rate to be 32.2 per cent; and what is the latest annual cost of judicial pension payments and contributions. [HL3836]

The Minister of State, Ministry of Justice (Lord McNally): Members of the Judicial Pension Scheme make no contribution towards their personal pension benefits. However, they do pay a contribution towards the contingent pension benefits for their spouse or civil partner and any dependant children. The contribution rate for members of the 1981 scheme is 2.4 per cent (for those in the 15-year scheme) or 1.8 per cent (for those in the 20-year scheme) of gross salary. The contribution rate for members of the 1993 scheme is 1.8 per cent of gross salary up to the pension cap.

The Judicial Pension Scheme is an unfunded scheme to which the employer makes contributions known as accruing superannuation liability charges (ASLCs). ASLCs are assessed by the Government Actuary to be broadly consistent with the level of contributions that might have applied to meet the scheme's current and on-going future liability, had the scheme been funded on an approved or registered basis. The Government Actuary reviews the contribution rates following a full scheme valuation at least every four years.

The annual total of judicial pension payments for 2009-10 was £76.458 million. The total of employer's contributions for 2009-10 was £83.941 million and £4.315 million for member's contributions.

Pitcairn Islands: Sovereignty

Question

Asked by ***Lord Ashcroft***

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 27 October (*WA 297*), why consideration was given to the possibility of relinquishing sovereignty over Pitcairn. [HL4006]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Pitcairn faces many challenges and it is normal that officials regularly review all policy options in such circumstances. Pitcairn depends heavily on New Zealand for the provision of a wide range of administrative and professional services, and in this context officials are in regular discussion with officials of the Government of New Zealand about the territory. But this Government remain committed to Pitcairn, as they remain committed to all of the Overseas Territories. And we respect the principle of self-determination for the people of Pitcairn, as we respect it for all peoples of the Overseas Territories. Any possible change in sovereignty would therefore be for the Pitcairners to consider.

Police Commissioners

Question

Asked by ***Lord Boston of Faversham***

To ask Her Majesty's Government, further to the Written Answer by Baroness Neville-Jones on 19 October (*WA 162*), why the head of the Metropolitan Police is referred to as the Commissioner of the Metropolitan Police Service instead of the Commissioner of Police for the Metropolis as was previously used; and why and when that change in the title was made. [HL3205]

The Minister of State, Home Office (Baroness Neville-Jones): The commissioner's formal title remains Commissioner of Police for the Metropolis. Commissioner of the Metropolitan Police Service is simply an informal variant of this title.

Public Bodies

Question

Asked by ***Lord Selsdon***

To ask Her Majesty's Government what was the total expenditure of non-departmental public bodies for the year ended 31 March 2010. [HL3871]

To ask Her Majesty's Government what is the total budgeted expenditure on non-departmental public bodies for the year ended 31 March 2011. [HL3872]

Lord Taylor of Holbeach: Information on total expenditure by non-departmental public bodies (NDPBs) in 2009-10 will be published shortly. Information on spend to date over £25,000 was published on 19 November 2010, and full-year spend will be published in the next set of accounts.

Questions for Written Answer

Question

Asked by ***Lord Rosser***

To ask Her Majesty's Government what impact the proposed reductions in the number of civil servants employed in the Department for Transport will have on the time taken by that department to respond to Questions for Written Answer from Members of the House of Lords. [HL4175]

Earl Attlee: It is too early to say. We are currently considering how we design a department that meets our target to reduce administration costs by 33 per cent by 2014-15. As part of that we are assessing carefully how we deliver our core business alongside other priorities.

Railways: Capacity

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what plans they have to increase capacity on the rail network. [HL3826]

Earl Attlee: A number of network capacity enhancements schemes will be delivered over the coming years. Network Rail is committed to a series of capacity enhancement schemes before 2014. These enhancements will allow operators to run longer trains reducing crowding levels. Details of the specific plans are available from the Network Rail website (www.networkrail.co.uk).

The Department for Transport has already entered into agreements with the following operators to enhance the size of their fleets and operate longer trains: Southern; Southeastern; National Express East Anglia; First Capital Connect; London Midland; Northern; First Great Western; and East Midlands Trains. Additional carriages have also been ordered for West Coast main line services. An announcement on any further schemes will be made in due course.

Alongside this the Government is committed to implementing the Crossrail project, which will significantly increase rail capacity in and through London. And we remain committed to the High Speed 2 Project to Birmingham and beyond. This will reduce journey times, provide more capacity and relieve existing lines.

Railways: Engineering Work

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government what forecast they have made of (a) the total cost, (b) the cost of the engineering work required, and (c) the cost of the compensation payable to the train operating company for interruption to the service, as a result of doubling the Swindon–Kemble railway line. [HL3996]

Earl Attlee: The most recent estimate of the total cost for the work was £52.4 million, of which £39.6 million was the cost of engineering work and £2.5 million was compensation to train operators. This estimate was provided by Network Rail in 2009. A more detailed estimate is expected at the end of this year. Unfortunately, the need to address the deficit means that we are not able to commit government funding to this project in the current Spending Review period, but it remains our aspiration to take it forward. This is the type of project that will be considered for funding in the next railway control period.

Schools: GCSEs

Question

Asked by ***Lord Quirk***

To ask Her Majesty's Government, further to the Written Answer by Lord Hill of Oareford on 1 November (*WA 367–8*), how they propose to respond to the decline in the number of pupils entered for (a) geography, and (b) history, GCSE examinations in English schools throughout the period 1995–2009. [HL3927]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): History and geography are vital parts of children's education. We have made clear that we intend to review the national curriculum. Our intention in doing this is to restore it to its original purpose—a core national entitlement organised around subject disciplines. We will be announcing details of the review later in the year.

The Government want to encourage children to study history and geography beyond the age of 14. One of the options we are presently exploring is to give special recognition to pupils studying a broad range of academic subjects, including English, maths, science, a modern or ancient language and a humanity, such as history or geography. Our proposals for an "English Baccalaureate" along these lines would provide schools and students with the incentive to follow the courses that best equip them to succeed, and would help ensure that all young people had the chance to study a balanced range of GCSE subjects.

The number of pupils who were entered for these subjects between 1995 and 2010 is set out below.

Pupils Entered for Geography GCSE 1995-2010

			Achieved A*-C	
Year	*Attempted*	*Percentage of cohort*	*of those attempting*	*of the cohort*
1995	259,291	45%	50%	23%
1996	270,091	46%	53%	24%
1997	259,809	44%	54%	24%
1998	235,908	41%	55%	23%
1999	229,802	40%	57%	22%
2000	217,087	37%	58%	22%
2001	220,378	37%	60%	22%
2002	208,274	34%	60%	21%
2003	200,127	32%	61%	20%
2004	197,123	31%	62%	19%
2005	188,600	30%	64%	19%
2006	186,800	29%	66%	19%
2007	185,000	28%	67%	19%
2008	177,400	27%	69%	19%
2009	170,900	27%	69%	19%
2010	169,200	26%	70%	18%

Pupils Entered for History GCSE 1995-2010

			Achieved A*-C	
Year	*Attempted*	*Percentage of cohort*	*of those attempting*	*of the cohort*
1995	223,357	39%	54%	21%
1996	212,407	36%	56%	20%
1997	207,486	35%	57%	20%
1998	189,070	33%	58%	19%
1999	188,934	33%	60%	20%
2000	190,279	33%	61%	20%
2001	195,231	32%	61%	20%
2002	193,945	32%	62%	20%
2003	194,801	31%	64%	20%
2004	205,539	32%	64%	21%
2005	204,300	32%	66%	21%
2006	208,100	32%	66%	21%
2007	204,300	31%	67%	21%
2008	204,000	31%	68%	21%
2009	197,800	31%	69%	22%
2010	198,200	31%	70%	22%

* Figures for 2004 and earlier for pupils aged 15. For 2005 onwards figures are for pupils at the end of Key Stage 4.

** 2010 figures are provisional

Schools: National Curriculum

Question

Asked by ***Lord Willis of Knaresborough***

To ask Her Majesty's Government which subjects are compulsory in the secondary national curriculum; and which will be compulsory in 2011–12. [HL3926]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): The compulsory subjects in key stage 3 of the secondary national curriculum are: English, mathematics, science, information and communication technology (ICT), physical education (PE), music, art and design, history, geography, citizenship, design and technology, and modern foreign languages.

At key stage 4 the following subjects are compulsory: English, mathematics, science, ICT, PE, and citizenship.

In addition to the national curriculum subjects above, religious education (RE) is compulsory during all four key stages, though parents have the right to withdraw their children. The content of the RE curriculum is decided locally rather than nationally.

These subjects will remain compulsory in 2011/12. We will, however, be announcing plans for a review of the national curriculum before the end of the year, with a view to introducing a revised national curriculum from September 2013.

Schools: Teachers

Question

Asked by ***Lord Willis of Knaresborough***

To ask Her Majesty's Government, in schools in England, how many children at (a) key stage 3, and (b) key stage 4, are currently taught physics, chemistry, biology or maths by a teacher without a graduate qualification. [HL3925]

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): The information requested is not held centrally as the data available does not link pupils to their teachers.

The most relevant data available are taken from the Secondary Schools Curriculum and Staffing survey (SSCSS) in 2007 and are provided in the table below. This gives the percentage of periods taught to years 7 to 13 by teachers' type of qualification. In future more complete information will be available centrally from the new School Workforce Census. The census will collect annual information on the qualifications of all teachers in maintained secondary schools in England and the subjects that they are teaching. The first full collection of the census is scheduled for November 2010 and the findings are due to be published in April 2011.

Periods[1] taught[2] to years 7 to 13 by post A-level qualifications[3] of full-time equivalent teachers in 2007

Coverage: England

	Highest post A-level qualification						
	Degree[4] (%)	*BEd (%)*	*PGCE (%)*	*Cert. Ed (%)*	*Other qual. (%)*	*No qual. (%)*	*Total of periods (000s)*
Mathematics	54	10	16	2	3	16	722.5
Combined/General science[5]	50	4	22	1	2	21	527.8
Biology[5]	88	3	4	1	1	3	103.6
Chemistry[5]	84	3	8	0	1	4	98.5
Physics[5]	74	6	9	0	2	9	87.9

Source: Secondary Schools Curriculum and Staffing Survey 2007

Base: 1,540,300 periods

1. The number of periods in one complete timetable cycle standardised to a one 40 period week timetable.

2. Where a teacher has more than one post A level qualification in the same subject, the qualification level is determined by the highest level reading from left (Degree) to right (Other Qua!). For example, teachers show n under PGCE have a PGCE but not a degree or BEd in the subject, while those with a PGCE and a degree are show n only under degree.

3. Teachers were counted once against each subject which they are teaching.

4. Includes higher degrees but excludes BEds.

5. Teachers qualified in combined/general science are treated as qualified to teach biology, chemistry, or physics. Teachers qualified in biology, chemistry or physics are treated as qualified to teach combined/general science.

Spending Review 2010

Question

Asked by ***Lord Barnett***

To ask Her Majesty's Government, further to the statement by Lord Sassoon on 20 October (HL Deb, col. 832), what is their definition of the "structural deficit". [HL3860]

The Commercial Secretary to the Treasury (Lord Sassoon): The structural deficit is a measure of borrowing that aims to isolate the permanent, or structural, element of the deficit from borrowing which is a result of temporary factors. The structural deficit can be approximated using estimates for cyclically adjusted net borrowing. Cyclically adjusted net borrowing is an estimate of the level of the deficit allowing for the temporary effects of the economic cycle.

More information on cyclically adjusted fiscal aggregates can be found in *Public Finances and the Cycle*, Treasury Economic Working Paper No. 05, published in November 2008.

http://webarchive.nationalarchives.gov.uk/20100407010852

http://www.hm-treasury.gov.uk/d/pbr08_publicfinances_444.pdf

Asked by ***Lord Barnett***

To ask Her Majesty's Government, further to the statement by Lord Sassoon on 20 October (HL Deb, col. 831), what is their definition of "the financial danger zone". [HL3861]

The Commercial Secretary to the Treasury (Lord Sassoon): Public sector net borrowing in 2009-10 was £156 billion, or 11.1 per cent of gross domestic product, the highest level in UK post-war history. The Government were borrowing one pound for every four they spent.

Asked by ***Lord Barnett***

To ask Her Majesty's Government, further to the statement by Lord Sassoon on 20 October (HL Deb, col. 831), what is their definition of "sovereign debt storm". [HL3862]

The Commercial Secretary to the Treasury (Lord Sassoon): Public sector net borrowing in 2009-10 was £156 billion or 11.1 per cent of gross domestic product, the highest level in UK post-war history. The Government were borrowing one pound for every four they spent. Public sector net debt doubled over the decade from 2000-01 to this year. In the context of on-going concern over weak fiscal positions in the UK and elsewhere, the Government set out a plan at the June Budget to restore the public finances to a sustainable position and greatly reduce the risk of a costly loss of confidence in fiscal sustainability.

Asked by ***Lord Barnett***

To ask Her Majesty's Government, further to the statement by Lord Sassoon on 20 October (HL Deb, col. 831), what is their definition of "financial credibility" as it affects the United Kingdom. [HL3863]

The Commercial Secretary to the Treasury (Lord Sassoon): At the June Budget the Government set out a credible plan to accelerate the reduction in the structural deficit and restore the public finances to a sustainable position.

Asked by ***Lord Smith of Leigh***

To ask Her Majesty's Government what is the range of reductions in funding to individual councils following Spending Review 2010; and whether they intend to apply damping to improve fairness. [HL4271]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): We will announce our proposals for the local government finance settlement in the usual manner in due course.

Sri Lanka

Question

Asked by ***Lord Patten***

To ask Her Majesty's Government, further to the Written Answer by Lord Astor of Hever on 27 September (*WA 423*), what information they now have on the whereabouts and welfare of Prageeth Ehneligoda following meetings with the Government of Sir Lanka. [HL4238]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): My right honourable friend the Foreign Secretary recently raised with the Sri Lankan Foreign Minister the need for Sri Lanka to show clear commitment to freedom of the press. Our High Commissioner in Colombo regularly raises cases concerning media freedom with the Government, including urging them to investigate the disappearance and location of journalist Prageeth Ekneligoda. We regret that Mr Ekneligoda's whereabouts are still not known.

Taxation

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what is their assessment of the impact of the recent tax reform on low-income families. [HL3965]

The Commercial Secretary to the Treasury (Lord Sassoon): The Government have taken steps to help those on lower incomes through the tax system by, for example, increasing the personal allowance for under-65s by £1,000 to £7,475 in 2011-12. This will remove 880,000 people from income tax altogether, and 23 million taxpayers will benefit by up to £170 per year. Benefits from this change are restricted to basic-rate taxpayers.

Also in line with our commitment to transparency, this Government have taken the unprecedented step of publishing detailed distributional analysis of the impacts of our reforms. Chart B.6 in Annex B of the Spending Review sets out the impacts of fiscal consolidation as a whole, separating out changes to tax, tax credits and benefits, and departmental resources expenditure by income quintile. This shows that the top 20 per cent contribute most to the consolidation as a percentage of net income and benefits-in-kind.

Traffic Fines

Question

Asked by ***Lord Lucas***

To ask Her Majesty's Government whether they will take steps to ensure that, where a local authority has used an incorrect address or an incomplete address that omits the house number and/or postcode (or any other significant detail) to serve the documents in the process that leads to the registration of a penalty charge notice at the Traffic Enforcement Centre, the registration and any subsequent warrant of execution should be revoked. [HL4017]

The Minister of State, Ministry of Justice (Lord McNally): Her Majesty's Courts Service will remind local authorities of the requirements of the Civil Procedure Rules that they must provide a complete address and this must include a full postcode, unless the court orders otherwise. Failure to comply with the rules will result in the registration of a penalty charge notice being revoked.

Turkey

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what representations they have made to the government of Turkey about the 158 journalists alleged to be in prison; and whether freedom of expression and the media are among the criteria for accession to the European Union. [HL4067]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Our embassy in Ankara regularly raises issues relating to freedom of expression, including the imprisonment of journalists, in the context of wider discussions on human rights with its Turkish counterparts.

Freedom of expression and of the media remain key areas for reform in Turkey with regard to the EU accession process. The EU progress report for 2010 addresses this issue, and makes clear that while there have been some positive developments, there is still much work to be done before Turkey fulfils the EU criteria on respect for freedom of expression and the media.

Universities: Intellectual Property

Question

Asked by ***Lord Hodgson of Astley Abbotts***

To ask Her Majesty's Government what guidance they give to universities on the protection of intellectual property arising from their scientific or other research. [HL4255]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): In 2003, the Intellectual Property Office (IPO) with partner organisations produced a resource entitled *A Guide to Managing Intellectual Property: Strategic Decision-Making in Universities*. The IPO currently has a corporate plan commitment to publish an updated version of this guidance in 2011.

The IPO supports and hosts the Lambert website. The Lambert toolkit comprises a set of model agreements and guidance resources to facilitate negotiations involving IP in research collaborations between the public and private sector. This toolkit was produced by the Lambert IP Group, following the Lambert review of business-university collaboration in 2003. The IPO also provides a range of general guidance about the protection, management and use of IP.

The research councils in most cases advise grant recipients and research organisations to take responsibility for the ownership and exploitation of intellectual property arising from funded research.

Vehicles: Electric

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what assessment they have made of progress being made in the public and private sectors to develop fuel cell electric vehicles; and how many such vehicles they anticipate will be in production by 2014. [HL3800]

Earl Attlee: The UK automotive industry has developed an industry consensus view of the technology roadmap towards the decarbonisation of the transport sector. Fuel cell electric vehicles are identified within this as one of the range of technology options required, with introduction to the general market forecast from the latter half of this decade. The ongoing work required on low-carbon technology road mapping, including the identification of areas of growth opportunities for the UK industry, is being carried out through the Automotive Council, which is proving to be an excellent example of joint industry and government working.

At present, production of fuel cell vehicles is primarily at a research, development and demonstration phase, and in the short term, volumes are therefore likely to remain limited to low numbers of niche vehicles and demonstrator programmes. However, some vehicle manufacturers have suggested that fuel cell vehicles may be commercially available earlier than previously forecast, perhaps starting to be seen from as early as 2015.

The Technology Strategy Board's Low Carbon Vehicles Innovation Platform is currently delivering over 340 ultra low-carbon vehicles in a demonstration programme. This includes a hydrogen-powered city prototype vehicle and a converted hydrogen fuel cell black cab. Continual monitoring is being undertaken throughout the programme with an assessment at the end of the trial.

Asked by ***Lord Dykes***

To ask Her Majesty's Government how many electric vehicle charging posts they estimate will be installed in the United Kingdom by the end of 2014. [HL3801]

Earl Attlee: The Government do not hold an estimate of the number of charging posts that will be in the United Kingdom by the end of 2014. Such an estimate would be very difficult to generate as the electric vehicle market is at a formative stage. There is a lack of empirical evidence about the number of charge points required to sustain a set number of electric vehicles or where people will choose to charge their vehicles in the future—at home or at public charge points. Depending on how people choose to charge their vehicles, the number of public charge points required will vary widely, making any estimates at this point unreliable.

Following the Spending Review, the coalition Government are providing up to an additional £20 million to the Plugged-In Places scheme to support a small number of places to install a critical mass of charging infrastructure in their areas. This scheme will help the Government understand the future infrastructure requirements for electric vehicles and contribute to meeting the coalition agreement commitment to mandate a national network of charging infrastructure.

Asked by ***Lord Dykes***

To ask Her Majesty's Government what forecast they have made of an increase in the production of plug-in hybrid vehicles by the end of 2014. [HL3802]

Earl Attlee: In 2008, the Government commissioned research to assess the scope of the transport sector to switch to electric and plug-in hybrid vehicles. Under

the report's mid-range scenario, it was estimated that 9,000 plug-in hybrids could be on the road in the UK by 2014.

In the intervening period, the Department for Transport has maintained a dialogue with relevant manufacturers about the production of electric and plug-in hybrid vehicles and supply levels for the UK. Plug-in hybrids are not likely to become available in significant numbers until 2012, two years later than the date of introduction forecast in the 2008 research. The uptake trajectory could therefore be somewhat slower.

More detailed information from manufacturers about numbers of vehicles in production and supply to the UK has been provided on a commercially confidential basis, and I regret that I am therefore unable to disclose this.

Your Freedom Website

Question

Asked by ***Lord Grocott***

To ask Her Majesty's Government, further to the Written Answer by Baroness Verma on 28 October (*WA 336*), how many ideas have been posted on the Your Freedom website in the last month for which figures are available. [HL4173]

Lord Taylor of Holbeach: No ideas have been posted on the Your Freedom website in the last month as the site closed to comments and ideas on Friday 10 September 2010.

Youth Justice Board

Question

Asked by ***Lord Warner***

To ask Her Majesty's Government whether they will publish their response to the review of the Youth Justice Board by Dame Sue Street; whether they will indicate their reasons for abolishing the board; and, if so, when. [HL4151]

The Minister of State, Ministry of Justice (Lord McNally): The coalition Government have undertaken a review of all arm's-length bodies as part of their pledge to reduce their number and cost and to increase accountability. As a non-departmental public body the Youth Justice Board was included in the scope of this review.

The review sought to determine which functions should continue—and specifically which should continue to be delivered by arm's-length bodies. Three tests were applied to all bodies:

does it perform a technical function?

does it perform a function that needs to be politically impartial?

does it need to act independently to establish the facts?

Following the application of these tests, and taking into account the *Safeguarding the Future* report produced by Dame Sue Street and Frances Done, it was concluded that youth justice functions should be directly accountable to ministers. Therefore the board is to be abolished and its functions brought into the Ministry of Justice.

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