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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
Con Ind	Conservative Independent
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Lab	Labour
Lab Ind	Labour Independent
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Friday, 24 January 2014.

10 am

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

European Union (Referendum) Bill

Committee (1st Day)

10.06 am

Clause 1: Referendum on the United Kingdom's membership of the European Union

Amendment 1

Moved by ***Lord Armstrong of Ilminster***

1: Clause 1, page 1, line 2, leave out subsection (1) and insert—

"(1) A referendum is to be held with the question—

"Should the United Kingdom remain a member of the European Union or leave the European Union?"

appearing on the ballot papers."

Lord Armstrong of Ilminster (CB): My Lords, I hope that I can be reasonably brief in moving the amendment. We have a long day ahead of us.

The amendment does not bear on the issue of whether a referendum on United Kingdom membership of the European Union should be held. Nor does it bear on the date at which or by which such a referendum should be held. Thus it does not call into question the principal purposes of the Bill. It is intended to ensure that when a referendum is held, the right question is put to the electorate.

I and other noble Lords who have put their names to the amendment consider that the question proposed in Clause 1(4) of the Bill is inappropriate, confusing and potentially misleading. The wording might be appropriate if the United Kingdom was not a member of the Union but was now proposing to apply for membership, or if we had applied for membership and the Government and Parliament wanted to ascertain whether the electorate would support a proposal to join the Union on terms that would have been negotiated with the existing membership. Then the question for the electorate would be whether they thought that we should forgo whatever might be the advantages and disadvantages of not being members of the Union in order to enjoy whatever might be the benefits and privileges of membership, and incur whatever might be the liabilities and obligations of becoming members.

However, that is not the situation. We are, and have been for more than 40 years, members of the European Union. Therefore, when a referendum is called, the question we should be asking the electorate to consider is whether we should forgo the benefits and privileges we now enjoy, and be relieved of the liabilities and obligations we now incur as members of the European Union, in order to enjoy whatever might be the benefits and advantages and incur whatever might be the costs and liabilities of ceasing to be members. The question put to the electorate should be clear beyond a peradventure that that is the choice on which they are being asked to vote. The question proposed in Clause 1(4) of the Bill as drafted fails to make clear the nature of the choice. It could thus be confusing, and potentially misleading, to some voters.

The question proposed in the amendment is not designed by me or by other noble Lords who have put their names to it. It has been designed by the Electoral Commission, the business of which is to advise the Government and Parliament on such matters. I cannot see why it should be thought to be necessary or right to second-guess the Electoral Commission on this matter. Only that it might sound disrespectful of the commission, which I do not wish to be, I remind your Lordships of the old adage that a man who keeps a dog does not need to bark himself.

The form of words which the Electoral Commission has recommended, and which is proposed in the amendment, provides a question which defines correctly, clearly and unambiguously the nature of the choice which the voters will be asked to make in the referendum proposed in the Bill. I beg to move.

The Lord Speaker (Baroness D'Souza): I remind your Lordships that, if the amendment is agreed to, I cannot call Amendments 2 to 7 by reason of pre-emption.

Lord Foulkes of Cumnock (Lab): As some commentators have noted, I have tabled one or two amendments, and one or two are included in the first grouping. However, I say first of all that, like the noble Lord, Lord Armstrong, I intend to be brief. This Bill is a disgrace; it is not fit for purpose. A senior official of the Law Society of Scotland told me that he had never seen such a badly drafted Bill. It has been hastily got together, and it shows. For example, it has none of the schedules necessary for such a major constitutional Bill. That is why it is only three pages long. We have been accused of having tabled lots of amendments for what is only a three-page Bill, but a normal constitutional Bill would have schedules outlining how the referendum would be conducted and the rules of the referendum. None of that is included in this Bill. It is a government Bill trying to patch over divisions in the Tory party and trying to outflank the UK Independence Party—which deserves to be outflanked, by the way.

Lord Forsyth of Drumlean (Con): If the Bill is so bad and such a shambles, why did not the noble Lord's colleagues in the House of Commons vote it down?

Lord Foulkes of Cumnock: Presumably they thought that there was a greater intellect here to be able to examine it in more detail, with such people as the noble Lords, Lord Armstrong and Lord Kerr, and a whole range of people like that. I am sure that they will welcome all the suggestions from this House, as well as the wisdom that we are about to receive.

Lord Cormack (Con): I am grateful, but the noble Lord knows only too well that the other place had neither the stamina to talk the Bill out nor the courage

[LORD CORMACK]
to go into the Lobbies in any numbers from either his party or the Liberal Democrats. All the Divisions had huge majorities, where the negative vote was derisory. He knows full well that the question asked by my noble friend Lord Forsyth comes to the heart of the matter. We are being used.

Lord Foulkes of Cumnock: Maybe the noble Lord does not realise that those Divisions in the House of Commons were artificially constructed. The Conservatives put in the Tellers on both sides; they manufactured those Divisions deliberately.

Lord Cormack: In other words, it was unanimous in the other House.

Lord Foulkes of Cumnock: Everyone knows that this is a Tory party Bill masquerading as a Private Member's Bill. Today it is also a disgrace that we are discussing it because the coalition government Chief Whip, the noble Baroness, Lady Anelay, has used her position, I think improperly, to put it ahead of all other Private Members' Bills. There are 23 Private Members' Bills waiting to be discussed—

10.15 am

Baroness Anelay of St Johns (Con): The noble Lord is inviting others to intervene. I know that when he impugns my integrity I need to come to the Dispatch Box to explain that I have followed precisely the same procedure in all these matters as my predecessors in a Labour Government. I am aware that the noble Lord, Lord Bassam, has exchanged with the *Telegraph* online the contents of a private letter that I sent to him in the usual channels. I will give the noble Lord the opportunity to respond, but may I just complete saying that I have absolutely followed every rule? If the noble Lord, Lord Bassam, says that he did not discuss the terms of that letter and that the *Telegraph* obtained it by other means, I will welcome his assurance on that matter.

Lord Bassam of Brighton (Lab): The noble Baroness, for whom I have the greatest respect, makes a number of allegations, which are completely unfounded. Nobody could have been more surprised than I to receive a telephone call from the *Telegraph*, which I referred to our communications adviser, yesterday afternoon. I was extraordinarily disappointed to hear about what I had assumed was confidential correspondence, seeking simply two things—a clarification of the Chief Whip's role in the business of the House today but, more importantly, some idea of when the business of the House might conclude. I had hoped that we would have a reasonable time put before your Lordships' House this morning for business to be conducted within. I am appalled that that correspondence was leaked; it is not my practice to leak correspondence. I genuinely believed when I wrote that letter that it was a letter written in confidence and I would appreciate an apology on this point.

Baroness Anelay of St Johns: My Lords, I am very glad to hear that the noble Lord did not leak that. I certainly could come to only one conclusion. I am very disappointed that anybody should leak private information, because I always value my exchanges with the noble Lord, Lord Bassam. We have worked together well and we will continue to do so. All I can say is that anybody who has revealed that information has acted improperly. I know that this House wishes to proceed in a proper manner and I assure the noble Lord, Lord Foulkes, that I have followed every single procedure of every previous government Chief Whip.

A noble Lord: Apology!

Baroness Anelay of St Johns: The apology should be from those who leaked the information. I am saying that I am deeply sorry that I saw the information online and that somebody has leaked it. I am deeply grateful that the noble Lord, Lord Bassam, has made it clear to the House that it was not he.

Baroness Farrington of Ribbleton (Lab): Did the noble Baroness, the Chief Whip, apologise to my noble friend Lord Bassam for repeating something that she believed to be true which my noble friend has denied?

Baroness Anelay of St Johns: My Lords, I have made it clear that there would be an apology from me if I had uttered an untruth. I have not uttered an untruth. What I have said is that I am deeply disappointed that anybody should have leaked that letter. The noble Lord, Lord Bassam, has been able to make it clear that it was not he. I am grateful for that because our relationship has been a proper one in the usual channels and will continue to be so.

Lord Anderson of Swansea (Lab): My Lords—

Baroness Quin (Lab): My Lords—

Baroness Anelay of St Johns: My Lords, we began today with the noble Lord, Lord Armstrong, making it clear that he wishes a proper process on this Bill. I know from Peers who have come to see me who are against the Bill that they want to proceed. I suggest that we do so in the normal manner, but I would be grateful if the noble Lord, Lord Foulkes, did not impugn my motives or actions as government Chief Whip. I answered all those matters to the noble Lord, Lord Bassam, in that private letter, which will clearly remain private as far as the noble Lord, Lord Bassam, and I are concerned.

Baroness Quin: My Lords, this is important because the Chief Whip said that she acted in accordance with the actions of previous Chief Whips. However, this situation is unprecedented as only one part of the Government is imposing business on us in this way. She is not acting in accordance with the actions of previous Chief Whips because she acting only as part of the Government and not the whole Government. That is a very big difference from what has happened before.

Lord Foulkes of Cumnock: I am grateful for those interesting interventions, which clarified quite a lot. As my noble friend Lady Quin rightly said, it is

unprecedented for a Tory Chief Whip to use her position as a government Whip to put Tory party Bills high up the agenda. Perhaps she can give me an example of where a particular Private Member's Bill has been given precedence over every other Private Member's Bill. All the others have been kicked to the sidelines. I understand that she is making promises to promoters of Private Members' Bills that their Bills will be given priority next year because they have been kicked out in the current Session.

The other outrageous matter is that because of the procedure here and in the other place, and because this is a Private Member's Bill, not a government Bill, we are told that we cannot discuss it in the detail that we should discuss it in and we cannot scrutinise it in the way that we should scrutinise it. An artificial deadline has been imposed on us that we have to finish it by a particular time. This is no way to treat a major constitutional issue.

That brings me to the first group of amendments. My amendments, like others, say that the key issue of the question on the ballot paper should be based on the impartial advice of the Electoral Commission. We have set up the Electoral Commission to give advice on these questions. The Scottish Government have accepted the Electoral Commission's advice regarding the question in the Scottish referendum. This Government should do the same and accept the advice of the impartial Electoral Commission.

I say to the noble Lord, Lord Dobbs, who is today a proxy for the Government—that is what he is; he is a government stooge—that if he refuses to accept this amendment, it will be clear confirmation that this Bill is a party political ploy and not a serious attempt to legitimise and legislate for a fair and genuine referendum.

Lord Quirk (CB): My Lords, I have put down my name to two of the amendments in this group but I shall be brief—pedantic, but brief. Our verb "to be" is highly irregular, drawing strands of form and meaning from four different roots. They are represented in today's English by, for example, "is", "are", "was" and "be" itself. I put this list before the House because "be" is, as your Lordships know, always tinged with the future. Indeed, as your Lordships will also know, "be" is actually cognate with the word "future" itself. When somebody calls out, "Please remain seated", we know that she accepts that we are all seated. By contrast, the injunction, "Please be seated", acknowledges that most of us are not. So it was that when, as the noble Lord, Lord Foulkes, has just reminded us, the Electoral Commission was advising on this year's referendum in Scotland, it did not suggest that Scotland should remain an independent country because, of course, it is not. Instead, it recommended the wording, "Should Scotland be an independent country?". The Scottish Government sensibly accepted this advice.

When this same Electoral Commission advised the promoters of the Bill before us today, it saw, of course, that the boot was on the other foot. In this case, it favoured the wording, "Should the UK remain in the European Union?", because we already are, and stoutly rejected the wording, "Should the UK be a member?" because this might imply to voters that we were not. It may seem absurd to suggest that, after 40 years, any British voter might not know that we were a member of the European Union. However, let us remember that we have a hostile press and that successive semi-hostile, or at least semi-detached, Governments have belittled, demonised or at any rate done their best to ignore the EU and its relevance to British lives. It is not just the EU itself, of course. Think how much better our school system would have been if Governments over the past 40 or 50 years had bothered to notice how much better they do things on the other side of the North Sea.

But back to the present: at Second Reading, the noble Baroness, Lady Farrington of Ribbleton, supplied telling examples of public ignorance of trans-Channel institutions. For example, she referred to people confusing the EU with the Council of Europe. She might well have added that since 2000 there has been an even more dangerous source of confusion—the existence of the eurozone. How many British voters faced with the question in this Bill might interpret it as asking, "Should the UK be a member of the eurozone?".

It beggars belief that one with such a command of subtle nuance as the noble Lord, Lord Dobbs, could possibly be unaware of all this. But he is a busy man. Now that he most certainly has had dispelled for him any cloud of unknowing that has interposed, I have no doubt that he will be on his feet and, through grateful tears, hasten to accept these amendments.

Lord Lipsey (Lab): My Lords, I regret that I was not able to participate in the Second Reading of this Bill, but I want to make one very short preliminary point, coming to what I hope is a speech of substance. I hope that all the speeches we will hear today will be speeches of substance because we are not about some political game here. We have a piece of legislation before us. It is our duty as a House to scrutinise it and, if possible, improve it, and that is what we are doing. We are not trying to overrule the House of Commons. Of course, it can restore its Bill in its original format, as its procedures allow. We are going through a process of scrutiny.

I want to make the preliminary point that I do not do so as a Euroenthusiast or Eurofanatic, as some of us have been branded in the press. As a matter of fact, I voted no in the 1975 referendum and I would expect—although I do not make that final judgment now—to vote no in the referendum proposed under either this Bill or more sensible legislation. I may well change my mind and, in any case, it is unlikely to affect the result because Renwick's rule, named after Dr Alan Renwick of Reading University, shows clearly that during a referendum campaign opinion in virtually every country in the world and in virtually every case moves towards a no vote. The fact that polls now suggest that people will vote to get out is no indication of the likely result. So I would expect a no vote, but I may be in the minority. I hope that noble Lords will feel that it is acceptable to say that because I do not want us to be characterised in a way that does not fit.

10.30 am

My concern is with the substance of the Bill and the substance of the question. First, questions really matter. I say that from a certain basis of experience:

[Lord Lipsey]
I was adviser to a Prime Minister on polls; I used to commission polls for the *Sunday Times*; I was on the advisory committee of the National Centre for Social Research, which is the outstanding opinion research body in the country; and I chair the All-Party Parliamentary Group on Statistics. Results matter. I could give all sorts of examples: polls on Europe are all over the place and polls on the future of this House differ quite considerably. It is difficult to follow exactly what the people of Scotland are saying in polls on Scottish independence because different questions elicit different answers. However, I want to give just one example.

Two polls were conducted at roughly the same time on people's views on taxes and public spending. The first, by YouGov, was conducted for the Taxpayers' Alliance. The other, for the Fabian Society, was also conducted by YouGov. However, the answers could not have been more different. In the first poll, the question was: "Do you think the Government spends too much and therefore taxes us too much, or is the balance about right, or does it spend too little?". The result was: 50% said the Government tax too much; 16% said that the balance was about right; 12% said they tax us too little. That seems to be pretty decisive, until you read the Fabian Society poll, which listed services. It asked: "Would you prefer tax rates and the level of provision for each of the following services to rise or fall; or is the balance right?", and then listed the services. Nearly 60% said more should be spent on elderly care, even if it meant higher taxes. The figure for the National Health Service was 50%, and on no service listed was the majority in favour of tax cuts. That just shows that the question you ask can matter. That is not a very subtle example, but I could, if the House wanted to listen to me for ever—which I suspect it does not—cite a lot more examples in which subtle changes in wording can change the outcome.

We come to the question in the Bill and the question recommended by the Electoral Commission. If I were sponsoring the Bill, I would take comfort from the fact that the commission had put forward its preferred question. For the life of me, I cannot understand why the Bill has not been amended to include that preferred question, but that is a matter for the mover, not for me. The commission said that it found no evidence that its suggested question resulted in research participants changing their vote in any way. The wording used in this case was not shown to change the result. I do not wish to criticise the Electoral Commission in any way for this extremely difficult research, but I have examined it. It was essentially based on focus groups and interviews with individual, small groups of people who were asked to analyse the question. With respect—and everyone in this House who knows about market research and polling will agree with this proposition—you simply cannot, must not, draw quantitative conclusions from qualitative research. One does not follow the other.

There is only one way in which to do a piece of research that might answer the question before us, and that is to take two samples—one asking the question put in the Bill of the noble Lord, Lord Dobbs, the other asking the Electoral Commission's question—and see whether the results are the same. You probably would have to do this at least two or three times because of sampling error and so on. Then you would know whether the wording of the question made a difference. We do not know whether the Electoral Commission's wording would produce a different result from the question of the noble Lord—it might or it might not. What we do know is that between a question drafted by the Electoral Commission, which deals with these matters very frequently and is used to finding out the nuance of questions, and a question put together by the tyros in Conservative Central Office who drafted the Bill, there should be no choice for this House. The Electoral Commission is the referee, and to begin the passage of the Bill by rejecting the decision of the referee in favour of your personal whim is a disgraceful way to legislate. I support these amendments.

Lord Phillips of Sudbury (LD): My Lords, whatever our views about this potential referendum, I am sure that everyone in the House is united in the view that if there is to be a referendum, we must ensure that a success is made of it. Success does not mean yes or no, it means the number of our fellow countrymen who vote in that referendum. That will depend, first, upon the number who register under the new registration procedures that are coming in shortly and, secondly, upon the number who turn out to vote on the day.

I want to make only one point. I speak in support of Amendments 1, 11 and 32, all of which, in different ways, want the question to be put to be reworded. I should declare an interest as the founder and president of the Citizenship Foundation, which was established nearly 25 years ago when the understanding then, particularly by young citizens, of what was going on in our complicated democracy was patently inadequate for an engaged citizenry. I think that most will agree that things have become worse in the interim. For a variety of reasons, there is today a low adhesion to the political process by so-called ordinary men and women. I desperately hope that everything we say and do in relation to the Bill will be centred on that one residual need, which is to maximise the number of people who turn out on the day, if there is to be a referendum day.

I will not go into the difference between Amendments 1, 11 and 32. I will merely say to the noble Lord, Lord Dobbs, that the question in the Bill does not have the optimum wording. It can and should be clearer. I do not particularly mind which of the amendments we adopt. The question certainly needs to be clearer for the sake of the public.

Lord Grenfell (Lab): My Lords, I support these amendments very strongly indeed. I find it curious that, so far, not one word has been spoken from the Benches opposite in defence of their wording. That is rather curious, until you look at why the Bill is before us. Let me remind noble Lords of what the commission concluded. It said that the question,

"should be amended to make it more direct and to the point, and to improve clarity and understanding".

Nothing could be clearer and more easily understood than that. However, it appears to all of us on these Benches that we are being asked to forget what it said and to go along, without question, with the wording proposed by Conservative Central Office, if that is where it emanated from.

Why do we have to do that? The noble Lord, Lord Cormack, for whom I have great respect and affection, who knows this House well and, in fact, is a very sane voice on all matters to do with House of Lords reform, astonished me with the attitude he has taken towards the Bill. He said at Second Reading:

"Let us say that this Bill is imperfect and has got here by a most peculiar route"—

that is somewhat at odds with what the Government Chief Whip has said—

"but let us speed it on its way so that those outside this House cannot say that the House of Lords stood between them and having their say on perhaps the most important international issue of modern times".—[*Official Report*, 10/1/14; col. 1808.]

We are not saying that they will not have a say. You will not find anywhere in our amendments a clause saying that there will be no referendum on the EU. It is a complete canard to go on suggesting that this is what we on these Benches are saying. I want to make it perfectly clear that the reason why one can support these—

Lord Cormack: I never said such a thing. I said what I said in the context of the other place having not opposed this Bill. The noble Lord, Lord Foulkes, this morning said that the Divisions were contrived. That confirms my case rather than confounding it. The other place has sent this Bill here when it would have been quite within the capacities of the noble Lord's party and the Liberal Democrats either to have talked it out or to have amended it in the other place. They chose not to do so and therefore we face a Bill that was almost unanimously supported in the House of Commons and we have to look at it in that context.

Lord Grenfell: I am sorry to disagree with the noble Lord but I was quoting directly from *Hansard*. That is exactly what he said:

"Let us say that this Bill is imperfect and has got here by a most peculiar route".—[*Official Report*, 10/1/14; col. 1808.]

It could not be clearer. In whatever context you wish to put that, it is pretty plain language. It is the sort of language one is used to hearing from the noble Lord, Lord Cormack. In this case, I do not quite understand his response.

Finally, in support of these amendments, please let us scrutinise this Bill properly. We have a right and a duty to do so. We must not just wave it through, as some would have us do, because that is not what our function is here. This first group of amendments is a very good test for this House. What we are proposing is not party political—it could not be further from party politics. These amendments seek to bring clarity to the people when they have a referendum. I repeat, let us not hear more, please, from the opposite Benches saying that, on our side, this is all a conspiracy to prevent the British people having a referendum. It is not.

Lord Forsyth of Drumlean: My Lords, it strikes me as quite extraordinary, following up on the speech from the noble Lord, Lord Quirk, where he talked to us about the verb "to be"; the question here is, "To be or not to be" because if this Bill is amended or talked out there will not be a referendum. If the Bill is amended it is going to go back to the House of Commons and it is going to run out of time. Let us be clear what is going on here. All this self-righteous talk about how we have a duty to consider this Bill—

Lord Grenfell: My Lords—

Lord Forsyth of Drumlean: I will give way to the noble Lord in a moment. The consequence of all this self-righteous talk about how we have a duty to consider this Bill properly will be that the British people will not be guaranteed a say before 2017 on whether they wish to be members of the European Union.

It seems it was not five minutes ago that this House was subject to an attack with it being suggested that we become an elected House. We fought off that battle on the basis that the other place was supreme; that the will of the other House should always be carried forward. The clearly expressed will of the other House was that this Bill should reach the statute book, otherwise it would not have come here. This House has to recognise that of course we have powers and duties—we could exercise our powers and duties in ways that frustrate lots of Bills—but in the end we look down the Corridor and we look at what the intention of the House of Commons was. It may be that this Bill came to this House because the parties opposite did not have the courage to kill it there but the fact is that it has been passed by the House of Commons and the noble Lord, in criticising us for not speaking and for trying to speed its passage, is making the case for frustrating the will of the House of Commons. Even worse, he is denying the British people the opportunity to be sure at the next election that, whatever happens, there will be provision on the statute book for them to have their say on the most important question facing our country's future.

Lord Grenfell: My Lords, if the noble Lord is claiming that if we passed amendments there would never be a referendum for the British people on the EU, are we changing the whole concept of parliamentary democracy? Are we saying that no Government could ever introduce a Bill for a referendum? No. It is untrue. We are saying that this Bill is a wretched Bill. It is not the proper basis on which to have a referendum. That is all we are saying. It must be changed.

Lord Forsyth of Drumlean: The noble Lord knows perfectly well that we are not having an academic discussion here about whether the British people will have a referendum. What is being considered here is a Bill which—if it is passed unamended by this House and reflects the will of the House of Commons—will result in a referendum. The noble Lord's views on Europe are perfectly clear and it is no good trying to pretend that the consequences of our actions, if we amend or delay this Bill, will be to deny the people a guarantee that they will get a referendum at the next election. I think that will have very damaging consequences for this House. People will say, "What on earth are these unelected people doing preventing us having our say?". I have some sympathy with the noble Lord's amendment—after all I made exactly the same case on the Scottish referendum—but I am not going to vote for it because I do not think that as an unelected Peer I

[Lord Forsyth of Drumlean]
have the right to prevent the House of Commons delivering to the British people the opportunity to have their say in a referendum.

10.45 am

Lord Radice (Lab): All the noble Lord is saying would be true but this Bill refers to a referendum in 2017. It is not talking about a referendum in this Parliament. As we know—and the noble Lord knows—we cannot bind our successors. What the noble Lord is saying does not actually apply.

Lord Forsyth of Drumlean: If the noble Lord read the Bill—it is not a very complicated one—he would find that it says that the referendum must be held before 31 December 2017 and if the House of Commons had thought that it was not appropriate to set a date for a referendum after the date of the general election then it would have voted the Bill down.

Lord Anderson of Swansea: My Lords—

Lord Forsyth of Drumlean: I am not going to give way again—I intended to interrupt only briefly. The noble Lord was long enough in the other place to understand what is happening here. Liberal and Labour Party supporters do not have the guts to face up to the British people and say, "We want to stop you having a referendum," and therefore they have dumped this here. Members opposite who vote for amendments—

Baroness Butler-Sloss (CB): My Lords, we have had 40 minutes on this. It is an important amendment. I respectfully say to the House that it would be helpful to hear speeches on the amendment and then have a vote.

Lord Forsyth of Drumlean: My Lords, I entirely acknowledge what the noble Baroness says but, of course, if noble Lords vote to amend the Bill they should recognise that they are denying the British people their say in a referendum.

Lord Giddens (Lab): My Lords, I follow up on the comment that the noble and learned Baroness has just made. I speak in this debate as an academic more than as a Labour Party member. If the UK were to leave the European Union, it would be a really wrenching process of readjustment. When a country is contemplating such a profound and consequential decision, it is crucial that the question chosen in the referendum should be as clear and impartial as possible. For that reason I think we should have some academic discussion of it, because, as has been said, questions are crucial in a referendum.

The report of the Electoral Commission is sound, sensible and well researched. For maximum clarity it makes absolute sense to have the formula proposed in this amendment, which is endorsed by the commission. Contrary to all kinds of political babble, I would hope that most Members of the House will support the amendment because it is in the interests of the country. It is not a party-political issue. It is in the interests of the country, if we have a referendum on a decision crucial to the future of the country, that the question asked is impartial and proper.

Lord Kerr of Kinlochard (CB): My Lords, I speak in support of the amendment in the name of the noble Lord, Lord Armstrong. I have a dog point—but the noble Lord, Lord Armstrong, made it himself. I would put it in a slightly different form. I would say, "Why have a watchdog and ignore its barking?".

I also have a tartan point—but the noble Lord, Lord Forsyth of Drumlean, made it himself. When Mr Salmond put forward his question for the Scottish referendum, loud were our complaints and strong were our strictures, particularly from the former Secretaries of State for Scotland. Their wizened locks shook. In the case of the noble Lord, Lord Forsyth, his head shook. Loud was our condemnation of Mr Salmond for ignoring the advice of the Electoral Commission. What happened? He listened to us, or he listened to the Electoral Commission, and he changed his question. He did as the House of Lords encouraged him to do. That seems to be quite a relevant precedent.

My third point you could call cui bono. I disagree with the noble Lords, Lord Grenfell and Lord Lipsey. They say that the question in the Bill—the slanted question—was written by Conservative Central Office. However, we know from the Second Reading debate that that is not true, because we were told then that the form of the question that the Tea Party in the other place has chosen to put in the Bill was not the one it was given by the Conservative Party hierarchy. The Conservative Party hierarchy provided a question very like the one proposed by my noble friend Lord Armstrong of Ilminster in the amendment before the House.

You have to say, "cui bono". There will be people in this House who think that it is a very good idea to have a slanted question because they are not seeking a referendum; they are seeking a referendum that says we leave the European Union. Those on the other side who are thinking of opposing the amendment of my noble friend Lord Armstrong—and I hope they are very few—should reflect that this is not what the Conservative Party sought. This is a question that is not accidentally defective but deliberately defective. I support my noble friend's amendment.

Baroness Falkner of Margravine (LD): My Lords, I apologise on behalf of my noble friend Lord Lester of Herne Hill, whose name is added to Amendment 1 and the other amendments in this group, spoken to by the noble Lord, Lord Armstrong. My noble friend is unable to be in the House this morning because he has a medical appointment.

I agree with Amendments 1, 28 and 31, in the name of the noble Lord, Lord Armstrong, and with Amendment 32, and I want to speak briefly to them—but, before doing so, I want to take on what the noble Lord, Lord Forsyth of Drumlean, said. I tend not to tangle with the noble Lord—normally he is far too ferocious for me to lift my head above the parapet—but I remind him that it was Mr David Cameron, the Prime Minister, who undertook in a speech in

January 2013, famously known as the Bloomberg speech, to negotiate a new settlement with our European partners. He said that once the settlement had been negotiated, there would be an "in or out" referendum in which the British people would choose to stay in the EU on these new terms or come out altogether. He undertook that this would be done in the first half of the next Parliament. He said:

"Legislation will be drafted before the next election. And if a Conservative Government is elected we will introduce the enabling legislation immediately and pass it by the end of that year".

In fact, what has happened is that the Bill before us is the enabling legislation. It should not be before us in this Parliament; it should come as enabling legislation after the next general election.

I will now speak to the amendment. I note that I am the first member of this House's Constitution Committee to so do and I regret that our chairman, the noble Baroness, Lady Jay, is unable to be here now. However, I draw the House's attention to the Constitution Committee's report on the Bill. The report is brief but clear. It clearly sets out that the Electoral Commission has, in Section 104, a duty,

"to 'consider the wording' of a referendum question and to report on its 'intelligibility'. In doing so the Electoral Commission considers whether the question presents the options to voters 'clearly, simply and neutrally'".

It recommends that the question be amended from the question in the Bill, which is:

"Do you think that the United Kingdom should be a member of the European Union?",

to one of two alternatives. One is:

"Should the United Kingdom remain a member of the European Union?",

and several noble Lords have spoken to that, and the other is:

"Should the United Kingdom remain a member of the European Union or leave the European Union?",

with the possible answers to the second option being, instead of yes or no, remain or leave. We should discuss both options.

My personal preference is not, as this group of amendments recommends, that the question should require a yes or no answer but that it should ask whether the UK should remain a member of the EU or leave the EU, with a "remain or leave" option clearly put to the electorate. The reason I say that is that when the Electoral Commission conducted its research—in the way that the noble Lord, Lipsey, might have found flawed, although I will not address his concerns at this point—it discovered that significant numbers of the public were confused as to whether we were members of the EU or members of the eurozone, and indeed there were people who did not know that we were members of the European Union. In the light of that, the committee certainly suggests that the House should carefully consider whether it is satisfied with the question and that it should do so in the spirit of its obligation to carry out scrutiny and revision.

Lord Soley (Lab): My Lords, I want to make two or three short points. They will be short because, at least in large part, the noble Lord, Lord Kerr, has made one of the most important points—that when the SNP drew up the question, we all, rightly, said no. We have the Electoral Commission to do this and it must set the question. Notwithstanding some of the points made by the noble Lord, Lord Forsyth, and others about views within and between political parties, the principle of having an independent body to draw up the question is an important one. Personally, I am not fond of referendums at the best of times. They are usually invented in order to help political parties get out of difficult situations. However, if we are to have them—and I accept that they are now part of the furniture of politics—it is very important that the question should be drawn up independently. That is why, whichever question is acceptable, it must be agreed or approved by the Electoral Commission.

My second point concerns the wording. That is particularly important, as was pointed out in an earlier intervention. The question in the Bill is:

"Do you think that the United Kingdom should be a member of the European Union?".

I liked the use made by the noble Lord, Lord Quirk, of the "To be or not to be" approach. My knowledge of English grammar is terrible. I seem to be able to use it all right, but I have never understood it. However, what I can say with some conviction is that in another part of "Hamlet" it is said that he ought to be sent to England because we are all mad here—so perhaps there was more logic to it than I realised.

My point is that, if you put it in those terms, you must also look at the context, which I think my noble friend Lord Lipsey put his finger on—that is, the importance of the question to the whole population. As has just been said, the reality is that a minority—it is a significant, although not huge, minority—do not know whether we are a member of the European Union. They are uncertain about that, and they often confuse membership of the EU with membership of the eurozone.

If a question is put to them in the format that appears in the Bill, the tendency is, as the Liberal party discovered when it proposed the amendment on voting systems, that people will tend to vote no if they think that by doing so they will preserve the status quo. In other words, a no vote is saying, "I don't want change". However, by voting no to this—I am sure that the noble Lord, Lord Dobbs, knows this, having written "House of Cards" so well; knowledge of the Whips' Office is always a useful experience, not to mention knowledge of No. 10—you will change things, but a significant minority, although by no means the majority, of people will believe that they are maintaining the status quo.

I like the wording in the amendment of the noble Lord, Lord Armstrong, because it clearly presents the issue, which we have never resolved in this country. It says quite clearly:

"Should the United Kingdom remain a member of the European Union or leave the European Union?".

It is a statement of a factual situation and it gives a choice. Given that one of the arguments about a referendum has always been that the people must choose but must be informed by the discussion that runs up to the referendum, it is very important that that discussion takes place in the context of a question that says, "Your two alternatives are either to leave, which has big implications, or to stay in, which also

[Lord Soley]
has big implications, and you must make the choice". If we do that, at least we will be open and honest with the electorate and challenge them to think about it.

If we surrender to the people as a whole our right to be the representatives in a democracy who decide these issues and then put ourselves before the electorate—this is one of the reasons why I do not like referendums—we must ensure that the people as a whole are presented with the arguments. The wording of the amendment of the noble Lord, Lord Armstrong, does that and enables the debate to take place.

My other big concern about referendums of course is that, as with the one in 1975, they do not solve the matter; people are still uncertain. I suspect that in 25 years' time you might find people arguing for another referendum. I can think of at least one person in this House who will be happy to come back next year with a referendum if necessary.

Even if noble Lords do not accept this amendment, they should accept one that will enable the Electoral Commission to deliver the referendum question in a way that enables the British people to make a proper choice.

11 am

Lord Hannay of Chiswick (CB): My Lords, I support the amendment in the name of the noble Lord, Lord Armstrong of Ilminster. I am all the more willing to do so because, in its four proposers, it has support from all the main parties in the House and from the Cross Benches. In a debate which has already shown a tendency to become partisan, it is important to move ahead on that kind of cross-party basis.

I support the amendment because if and when there is a referendum, there will be a huge amount of partisan speaking, writing and so on—and quite right, too—on both sides and there will be much that is confusing. However, surely we all ought to be able to agree that the question on the paper we vote on should be a genuinely level playing field. That is critical. Everything else about the campaign will not be a level playing field—and that is right because we live in a democracy—but the question should be.

We have before us two questions. The one in the Bill of the noble Lord, Lord Dobbs, has been considered by the body set up under Parliament's authority to give advice on these matters and found to be defective. We have heard why it is defective. I will be interested to hear from the noble Lord, Lord Dobbs, when he replies to this debate, why he thinks that, despite it being defective, it should be persevered with. I hope that he will not persevere with it; I hope he will accept the amendment.

The other question, which has been put forward by the Electoral Commission and which we are now considering, is, as has been said by everyone who has spoken today, a genuinely level playing field. It is important that if and when this referendum takes place it is perceived to be on a question that everyone can recognise as being a level playing field. How on earth are they going to think that if the Electoral Commission's advice has been junked on a form of words whose origin appears to be obscure at the moment? Perhaps the noble Lord, Lord Dobbs, can tell us whom Mr Wharton consulted before he put this on the Order Paper. Whose opinion did he take? He is, after all, a freshman Member and I doubt that he has done a great deal of drafting of referendum questions in his life. Whom did he consult?

I hope that the noble Lord, Lord Dobbs, will surprise us all by accepting the amendment, because the issue of a level playing field in the question to be asked is absolutely fundamental.

Lord Mackay of Clashfern (Con): My Lords, your Lordships will not be surprised that I am extremely concerned about this Bill, its implications and the time at which it has reached your Lordships' House.

As I understand the Bill, it does nothing more than confer on the electorate of this country the right to an "in or out" referendum on our membership of the European Union—nothing more and nothing less. Further action is required from the Government and both House of Parliament before a referendum can take place under the Bill. It is clear from the present situation that no referendum is likely to take place before the next general election, the date of which we know—or at least at the moment we know—because of the excellent system of fixed Parliaments that has now been put in place.

It is clear that action by the incoming Government will certainly be required. I have reached the conclusion that any incoming Government holding a referendum during their term of office will wish to be in charge of all the details of that referendum and will put them in place through a public general statute. This will be put in place by the Government and run by the Government, with both Houses of Parliament—I hope more or less in their present forms—having a full opportunity to consider the details.

I am not a prophet—I do not know how many of us are—and I do not know exactly what the conditions will be in 2016-17. For all I know, the eurozone may be a distinct body from the European Union and a change of name may occur—as, for example, happened in connection with Maastricht when the name changed from the European Economic Community to the European Union. So the question will have to be decided ultimately in the light of the circumstances prevailing at the time of the referendum. That is absolutely essential.

Lord Giddens: Would not that also apply to the date of the referendum? Should not that be decided in the light of what is happening in the European Union at a particular point because it is becoming so transformed?

Lord Mackay of Clashfern: Exactly. Every part of this Bill can be altered by general legislation after the general election, including the date. However, the need for the date now is to give an entitlement to a referendum. If you do not put in a date, it will be in never-never land so it has to have a date now, but that date, like every other detail in this Bill, is subject to alteration.

Therefore, the extent to which we need to trouble about the detail is a substantial question. We do not know the circumstances of the referendum—at least I do not know—and therefore it will need to be adjusted in the light of the circumstances at the time. That will have to happen through a Bill authorised, put forward

and promoted by the Government of the day. This Bill is not promoted by the Government of the day but by, essentially, the Member of the House of Commons who put it forward. He is a member of the Conservative Party and I know that the Bill is substantially supported by a good number of its members, but not all.

I am a strong believer in the European Union and our membership of it and have been for many years. I survived in government during the Maastricht debate, which would have been an experience for anyone, and there were demands then for a referendum on the Maastricht treaty. I have always found referenda difficult, but it is particularly difficult to have a referendum on a treaty because the chance that those people who vote have even read it—indeed, this may sometimes even apply to the legislators—is rather small. A referendum on a treaty is therefore difficult. At one time it was proposed to hold a referendum on the constitution of the EU, but that was equally difficult.

However, the question of whether, either now or in the future, you should be in or out is relatively simple. Just as it is in the Scottish referendum, it is a suitable question for a referendum. What this Bill does is give the British electorate the entitlement to have a referendum. As I said in response to the noble Lord, Lord Giddens, the date has to be put in, as otherwise there is no enforceable entitlement, but the actual date for the referendum needs to be fixed by Government action along with action by both Houses of Parliament.

I am anxious about this because of what has been said by the Constitution Committee. I shall read out what the committee said because it is important:

"Three further private members' Fridays are scheduled in the House of Commons this session: on Fridays 17 January, 24 January and 28 February 2014. So if the Lords were to pass any amendments to the bill, in order for it to become law in this session it would have to return to the Commons in time for the Lords amendments to be considered on Friday 28 February 2014. The requirement in the House of Lords for minimum intervals between stages of a bill may make it unlikely that the bill would finish the Lords in time for any amendments passed by the Lords to be considered by the Commons on Friday 28 February 2014".

I would like to know what the proposers of this amendment have to say in relation to that.

The danger I see is that by exercising our undoubted responsibility for scrutiny, and given that scrutiny is supposed to improve a Bill, we will improve it in such a way as to kill it. This troubles me a great deal, not so much from the point of this House and its position in relation to the Commons, but I consider it to be important in terms of the position of the country in relation to the European Union.

Lord Anderson of Swansea: Surely the pressure on time that the noble and learned Lord has explained is wholly arbitrary. It is not something which has been decided by this House; it has been forced upon this House. It is no fault of this House that there is such pressure of time. The implication of what the noble and learned Lord is saying is that even if the Bill is thoroughly flawed and thoroughly bad, we should just wave it on.

Lord Mackay of Clashfern: I did not say it was our fault—certainly not. The Bill started off as early as possible in the other place. It took some time because there was a lot of discussion. Members of the House of Commons considered it without a guillotine and it arrived here, I think, in early December. I remember well the Clerk reading out the fact that it had appeared.

Lord Radice: Should such an important issue as a referendum be introduced in the form of a Private Member's Bill? Is not the reason we are in such trouble because it has been introduced under the wrong heading and in the wrong way?

Lord Mackay of Clashfern: There is no option. If the Government do not want to give the people an entitlement to a referendum, then unless your Lordships can enlighten me, there is no other option that I know of by which that can be made a statutory entitlement. Of course, your Lordships may wonder why they should have bothered, and I hope to come to that briefly—usually when you say "briefly" it makes your speech longer, but I hope that it does not do that to mine.

The point I want to make is this. UKIP, which is a recognised political party in our country and is represented here by the noble Lord, Lord Pearson of Rannoch, and others, has two issues. The first is that the people of this country should have a referendum. The second is that the people of this country, if granted a referendum, should vote to come out of the European Union. On the first question, UKIP appears to have a very considerable amount of public support, and indeed that was recognised in the debate on Second Reading.

But what about the parties simply putting a promise in their manifestos? The difficulty is that in recent years, all the parties which have been in government have promised a referendum, and yet no referendum has taken place. The result is that all the parties are being accused of making false promises that cannot be trusted. The noble Lord, Lord Owen, made this point very forcefully at Second Reading, and it strikes me as an extremely important one. If the small print of those promises were to be examined, I think it would be seen that there were no real false promises. However, from what I have seen over the years, any discussion of the small print does not form an important part of political propaganda, so the business of the false promise allegation has therefore gained a good deal of strength.

I know of no better assurance that anyone could give to the British people that they will have a referendum other than an entitlement to one in a Bill. However, the Bill, although it provides for the entitlement, need not and does not of itself actually produce a referendum. Before a referendum can take place under this Bill, action by the Government and by both Houses of Parliament is necessary.

11.15 am

Lord Anderson of Swansea: The promise is not bankable on the principle that no Parliament can bind their successor.

Lord Mackay of Clashfern: Exactly, and this Bill does not bind anyone—except that if it remains on the statute book, it will entitle the British people to a referendum.

Baroness Quin: From what the noble and learned Lord is saying, it seems that the Bill has no purpose whatever. Moreover, on his earlier point about timing, is it not the case that if we pass amendments to this Bill, it will be up to the House of Commons, if it decides that it wants to allocate more time, to do so? That could be done via the usual channels.

Lord Mackay of Clashfern: I have not myself been a Member of the House of Commons, but as I understand it our Constitution Committee, which knows much more about these matters than I do, has said that it is likely that if we pass amendments, this Bill will fall. That is a fact as stated by the committee. The noble Baroness has said that I am saying that the Bill has no purpose at all. I do not say that for a moment. The purpose of the Bill is that it gives the best assurance to the British people that they will get an "in or out" referendum in due course. However, it is only an entitlement and the full—

Lord Quirk: If the importance of this Bill is to guarantee the great British people a referendum, can the noble and learned Lord explain why its devisers have gone out of their way to put down the question in such a tendentious form—a form that actually goes against the advice of the Electoral Commission?

Lord Mackay of Clashfern: First, as I said, the Electoral Commission's advice so far is provisional. Like me, it realises that the actual question will depend to some extent on the circumstances that obtain at the date of the referendum. I do not regard the question as particularly tendentious. The idea that those who are going to vote will not know, at the end of a referendum campaign, whether we are in the Union or out, is perhaps not the most—

Baroness Farrington of Ribbleton: Did the noble and learned Lord support Alex Salmond on changing the question for the Scottish people? I have listened very carefully, and with respect, to the noble and learned Lord. He appears not to particularly like the question, not to accept the date and not to accept that this is binding on a future Government. I have two questions for him. If he wishes the British people to take on good faith what emerges from here and from Parliament as a whole, surely he would support a better question? Secondly, why is the date in the Bill not during the lifetime of the next Government, given all that has been said about the large amount of work that the Prime Minister says has to be done before the people know the circumstances in which any question would be put?

Lord Mackay of Clashfern: As I said, the only purpose of the Bill, as I see it, is to provide the British people with an assurance that they will have an "in or out" referendum. Indeed, I think my noble friend said that was the principle of the Bill at the beginning. I have very little difficulty with the question as formulated by the noble Lord, Lord Armstrong, and would be perfectly happy with it. However, I do not think it is a really definitive question for the referendum itself because that would be much better looked at when, finally, the referendum actually takes place.

Lord Giddens: Is not the inference from what the noble and learned Lord says that anything could be in the Bill and it would not matter as long as it goes through? That, surely, is an absurd position. It is up to us in the House of Lords to make sure that the Bill is sensible and well reasoned and, especially, that the question asked is fair and impartial. That is absolutely central to any referendum, as any country anywhere around the world with experience of this shows. The question has to be clear, fair and impartial and it has to be the core of what determines the future of the country. It does not make any sense to say that it does not matter and we will come back to it later.

Lord Mackay of Clashfern: I do not say that the question does not matter—not at all. I perfectly understand that the question at the time the referendum is taken has to be fair, excellent and take full account of the circumstances. In response to the second question asked by the noble Baroness, there is quite a lot of work to be done, but I know of no way other than this Bill that gives an assurance to the British people, going into the next election, that they will have an "in or out" referendum.

Lord Hannay of Chiswick: Would I be wrong in saying that the whole trend of the noble and learned Lord's reasoning, which I have been following with great care, is that the wording for the referendum should not be in the Bill at all but should be determined by statute in the new Parliament? If that is the case, would it not be better to at least follow the amendment of the noble Lord, Lord Armstrong, and have a decent wording in the Bill? There is of course no Motion on the Order Paper to dispense totally with the wording.

Lord Mackay of Clashfern: My Lords, in order to have an enforceable entitlement, it is essential, as I see it, to have a question that is related to the issue that you want to raise. Essentially, the Bill is legislating to say, "There shall be a referendum". However, in order to be enforceable and to create a real entitlement, it has to state the time within which the referendum must happen, the question that must be raised, the mechanisms by which a system can be set and who the electorate are. That is all necessary in order to create an entitlement, but the entitlement does not mean that the referendum is going to take place only in accordance with the Bill. There is no question that this Bill binds any other Parliament any more than any other Bill with a sunset clause in it. This Bill does nothing except give that entitlement to the British people. If the Bill passes, I shall be interested in the number of manifestos that contain an undertaking to repeal it.

Baroness Falkner of Margravine: The noble and learned Lord has set out his position repeatedly and carefully but there is one point where I am unclear on it. Is he not aware that there is an entitlement, called the European Union Act 2011, which creates a steadfast, watertight provision that there will be a referendum should there be any change and transfer of powers from the United Kingdom to the EU? It does not even limit us to having that referendum by 2017. Should that happen before 2017, we would be required to have a referendum before 2017.

Lord Mackay of Clashfern: The noble Baroness can be assured that I know of that Act. Indeed, I took part in proposing an amendment to the then Bill which ultimately was accepted, after negotiation and with modifications, in the House of Commons. I do know about that, but the trouble is that it applies only when there is a transfer of power to the European Union. This is why it is so important that this is an "in or out" referendum.

This is what UKIP wants. I am trying to get round to saying that a terrible shadow is cast on the second question that UKIP is posing by the attitude to the first question. An important point for noble Lords to consider in relation to the Bill is that UKIP, as I understand it, is saying that the reason there has been no referendum, in spite of so many promises, is that those who are in favour of the referendum do not think that they will get the right answer in it. I do not believe that for a minute. If the British people had a referendum on this subject at more or less any time, but particularly after the next election, I think there would be a resounding yes to staying in the European Union. I am a very firm believer in the European Union, for reasons which I have given, including the one that I was glad to hear the noble Lord, Lord Giddens, mention at Second Reading—the peace that the arrangement has brought to our continent since its inception. I used to hear that a lot from senior Members of the House when I was first here. It is vitally important and I was so glad to hear the noble Lord, Lord Giddens, put it first.

The trouble is that if the Bill does not pass, for whatever reason, it gives the best propaganda yet to the view that we do not want to give the people a referendum because those of us who are in favour of the European Union think we would lose that referendum. The failure to grant a referendum fuels the second aspect of UKIP's claims. I am very much in favour of the European Union, as I have said. I fear that if we take any action which causes the Bill to fail—particularly those of us who are in favour of the European Union—it will give people the best propaganda yet to say that the reason for refusal in the first issue is the fear of those who support the Union that the referendum will go against them. This has never been a real issue in elections to date because all the main parties have been agreed in relation to the European Union.

11.30 am

The noble Lord, Lord Grenfell, was surprised that there had been no speech on this side—well, he has one now.

Noble Lords: Oh!

Lord Mackay of Clashfern: I thought it was the courtesy of this House to give the signatories to an amendment the right to speak first after it has been moved. Sadly, earlier in the debate, that system seemed to have been departed from, but I did not come forward quite as early as I might have done on that ground. Anyway, I am here now.

The ordinary, straightforward way to kill this Bill would be to refuse it a Second Reading in this House. But, having granted it a Second Reading, if the Bill is instead killed by the use of a procedure that is intended to improve it, that is a very powerful point that will affect the political debate on this issue until the next general election.

Lord Hurd of Westwell (Con): My Lords, I am following my noble and learned friend's argument with care. I do not understand, however, quite how those of us who are in favour of Britain remaining in the European Union might be damaged by the acceptance of something on the lines of the amendment. I cannot see why that would be the result of accepting the amendments before us, which simply give guidance and lay down how this House, at this time—the end of January—should give our view on how such a referendum could be phrased. I cannot see how the consequence that my noble and learned friend fears could derive from accepting something like this amendment.

Lord Mackay of Clashfern: That fear arises because of what we have been told by the Constitution Committee of this House: that if the Bill is amended it will probably not reach the statute book. That is a very important issue for me. I am sorry about it and, as the noble Lord, Lord Anderson of Swansea, said, it is not our fault; we did not take all this time to consider the Bill but it came to us at the beginning of December and we are trying to get on with it as quickly as possible. I am sorry to have spoken for so long.

Baroness Boothroyd (CB): My Lords, of course it is right for the Constitution Committee to advise this House on what it believes is correct in relation to Private Members' Bills. But if we amend the Bill in this House and it goes back to the House of Commons, it is certainly for the Government—as the people who determine the business, along with the usual channels—to determine what time should be given to these amendments in the House of Commons. Therefore, we can amend the Bill. That is our job if we wish to do so.

Lord Mackay of Clashfern: My Lords, I do not know whether that is an intervention. The trouble with that is that this is not a government Bill. We are in a situation of coalition and the other party in the coalition does not want this, so there is no question of the Government being able to arrange matters in the House of Commons. I defer, of course, to the noble Baroness's knowledge of the procedure.

Lord Forsyth of Drumlean: Before my noble and learned friend sits down, it is very important that we clear this up. Of course, the noble Baroness, Lady Boothroyd, is absolutely right. The problem here is that the Government cannot do that because the Liberals are refusing to allow government time. So it is the case that if the Bill is amended, it will be lost.

Lord Elystan-Morgan (CB): My Lords, the issue immediately before the House is very direct and very simple. It is a choice between the version of wording for the referendum preferred by the Electoral Commission or the one that is contained in the draft. Even if the

[Lord Elystan-Morgan]
Electoral Commission had in no way opined on this matter, I would urge the House to accept the version that is in the amendment, for two reasons.

First, it is founded on a factual matrix; in other words, the fact of our current membership of the European Union. Secondly, it shows clearly and concisely what the effect of a negative vote would be. Nothing could be fairer and I suspect that almost any intelligent schoolboy or schoolgirl in this land would say, "Yes, that version is preferable in so far as it is more likely to lead to a clear, understandable and final result in this matter".

In addition, of course, there is the question of parentage. It comes from the Electoral Commission. It therefore has a quasi-judicial status—I appreciate that one is extending that somewhat but it is a neutral status of high standing. That, I think, makes it all the more obvious that not only would justice be done but would be manifestly seen to be done.

Turning for a moment to the noble Lord, Lord Forsyth, and the noble and learned Lord, Lord Mackay, there is no such animal in the constitutional field as an unamendable Bill so far as this House is concerned. There can be no question at all about that. The argument that is put forward is this: were the House of Lords to intervene, it would do so at its peril. Some persons use that in a blackmailing way—I absolve completely the noble Lord, Lord Forsyth, and the noble and learned Lord, Lord Mackay, from such an argument, but certain persons put it forward in terrorem. Whether it be in terrorem or as a completely neutral commentary on the situation, of the two circumstances, I would rather belong to a House that risks its own end by doing that which is right and proper than to run away from what is a clear responsibility and right in this matter.

Baroness Butler-Sloss: My Lords, there is a very short and simple answer: because almost everybody in this House so far has supported the amendment of the noble Lord, Lord Armstrong, why on earth does not the mover of the Bill accept this amendment? There is no problem in the Commons.

Lord Richard (Lab): My Lords, I will deal first with the so-called constitutional argument that seems to have emerged in the past three-quarters of an hour or so, which is that somehow or other this House should not seek to scrutinise this Bill too closely, it should not seek to amend it and it should certainly not seek to do anything that sent it back to the House of Commons in a different form from that in which it arrived here.

Over the past two years I have listened ad nauseam to Members of this House, particularly some of those who have spoken today. I am thinking notably of the noble Lord, Lord Cormack, who lectured me continually on the virtues of the nominated House as we have it and the iniquities of possibly having an elected House and told me—as I say, very frequently and very loudly—that the function of this House was that we should scrutinise a Bill, we should revise a Bill, we should examine it in detail, we should send it back to the House of Commons if we thought it was right, and we should amend it. The phrase that I heard so often was that the main function of this House was to ask the House of Commons to think again.

I do not detect any dissent from the other side so I was rather disappointed when the noble Lord, Lord Cormack, at Second Reading and indeed today, repeated the argument that somehow or other this Bill is so special and so unique that we should not consider it, we should not try to amend it, we should certainly not succeed in amending it and we should certainly not ask the House of Commons to think again about what it has sent here. That is a nonsense: it is a constitutional nonsense; it is a political nonsense; and it makes absolute nonsense of the functions of this House.

We do have those duties. They are not just rights but duties. If proposed legislation comes before House of Lords, the House of Lords has a duty to scrutinise it, particularly if it has not been done properly in the other place. The short answer to this issue and this amendment is very simple: it is that the Electoral Commission, an independent body, has looked at this issue and had some research done. It may be imperfect, as the noble Lord, Lord Lipsey, told us, but the general effect of all that work by the Electoral Commission is that it has come up with a proposal for a question that should be put in the referendum. It is a question which on the Electoral Commission's analysis is clear, unambiguous, neutral and fair, and it should therefore be one which this House should be prepared to include in the Bill.

For the life of me, I do not understand the attitude on the other side. The noble and learned Lord, Lord Mackay, said that, somehow or other, we would be strengthening the UKIP argument that the United Kingdom should withdraw from the European Union. If the noble and learned Lord had looked in the rows behind him at the moment that he said that he was against that, he would have seen the faces of those whose predominant passion as far as Europe is concerned seems to be that we should withdraw. It is quite extraordinary that the people who are most vociferous in support of this legislation are not the democrats in the Conservative Party but are, as somebody has christened them, the Tea Party.

So be it. That is what we are faced with. For the House of Lords not to accept that that is what we are faced with and for the House of Lords not to do its duty in relation to this Bill would be a derogation of its duties. I hope therefore that the House will vote strongly in favour of the amendment.

Lord Davies of Stamford: My Lords, I have great respect and regard for the noble and learned Lord, Lord Mackay—

Lord Wigley (PC): My Lords, as someone who has put his name to two of the amendments grouped with the lead amendment, I am very happy to support the amendment put forward by the noble Lord, Lord Armstrong. As a relatively new Member of this House—it is three years ago this week that I took my place in this Chamber—I am acutely aware that I had to be conscious then of the role of this House as a revising Chamber

but a Chamber, of course, which always gives way to the democratically expressed wish in the House of Commons.

At the Second Reading of this Bill, I was flabbergasted to hear the suggestion that we as a House of Lords should not consider amending this Bill in any shape or form even if there was a glaring weakness in it and that we should return it unamended to the House of Commons for reasons that I do not understand. I know from having spent 27 years in the House of Commons that it has the capability of creating the time, certainly if it is the Government's wish to do so. If there is the extent of consensus in the House of Commons that has been suggested in this debate, surely that consensus would allow that time to be made available for it—or perhaps the consensus does not exist to the extent that has been suggested in this debate.

Be that as it may, I believe that the amendment before us is a vital one. It is one which I am conscious of in the context of the debate that we had some months ago on the position in Scotland. My good friend, Mr Alex Salmond, who has been roundly rubbished for suggesting a question other than the question being put forward by the Electoral Commission, had the good sense to accept the Electoral Commission's suggestion. I believe that we should have the good sense to accept the words proposed in Amendment 1 that would provide for that to take place.

I invite the noble Lord, Lord Dobbs, who is in charge of this Bill, to do what would be the sensible thing and accept the amendment. That would curtail the time that is being used and give an indication that this House still has a role on important legislation such as this. In doing so, he would change the tone of the whole debate from hereon in.

11.45 am

Lord Lea of Crondall (Lab): My Lords—

Lord Davies of Stamford: I have given way already on two or three occasions. I think that I have shown considerable courtesy in giving way several times before speaking. I say with the greatest sincerity that I have nothing but the greatest admiration for the noble and learned Lord, Lord Mackay. Anybody who knows him knows that he is a man of the greatest integrity, and he was undoubtedly an extremely distinguished Lord Chancellor. But I was really quite shocked by something that he said this morning and I feel that, for once, he has allowed party loyalty to override his general judgment.

He seemed to suggest—I wish I could believe that I had misheard him—that we should allow in this place any kind of rubbish to become the law of the land simply on grounds of political expediency, as a substitute for party manifestos as a declaration of future intent or something of that sort. That seemed to me an extraordinary thing for any Member of this House to say, particularly a former Lord Chancellor.

We have a duty, which it is perhaps not an exaggeration to call a sacred duty, to make sure that anything that goes forward from this place on to the statute book has been thoroughly examined. If we see something coming from the House of Commons which we believe to be anomalous or improper, or not up to the highest standards of a democratic legislature or false in any way, we must do everything possible to modify and improve the text before it leaves this House.

Equally, there is really no doubt that there is something very false about the text of this Bill. There is something very artificial about the language of the question. We all in this House think that we understand the English language. We think that we understand the difference between the verb "to be" and the verb "to remain". We know perfectly well in any context, be it a newspaper or a novel, that if we changed every use of the verb "to remain" to "to be", we would fundamentally change the meaning and produce complete chaos and nonsense in many cases.

If I were to say to a friend of mine, "Do you think that I should be a member of a trade union?" or "Do you think that I should be a member of my local rotary?" or "Do you think that I should be a member of the Mormon church?", and if, subsequent to the conversation he discovered that I was already a member of a trade union or a member of the local rotary or a member of the Mormon church, I think that he could come to only two conclusions. One would be that I was going slightly mad, perhaps showing the advanced symptoms of Alzheimer's; I can see some noble Lords who have felt for years that I have had that. Alternatively, he would feel, with reason, that I was being very disingenuous and slippery and that he needed in future to be very cautious in his understanding of everything that I had said. That, I am afraid, is the position of the Government, or the position of the Tory party, or the position of the proposers of this Bill. They have subscribed to a use of language which is clearly very slippery and disingenuous, and we have to ask why they have done it.

I have no doubt that they have done it because the spin doctors have said that people confronted with a question will be inclined to vote for the status quo, particularly if it is a matter not of immediate concern to themselves or their families—we know that Europe is not a matter of immediate concern to most people and their families—and particularly if it is a slightly complicated matter. That is the easy option—some people would say the lazy option—so that, if you want to get an answer against membership of the European Union, you imply, although it would be quite false to do it, that our membership of the European Union is something new and is not the status quo. We all know that that is the game that they are playing. The question is whether the Government, or the Tory party more precisely, should be allowed to get away with that or whether the House of Lords should feel it wants the Government of the day to get away with that. That is the question that we have to weigh very carefully, because on that depends the integrity to a very large extent of our processes here.

If it becomes known in the country that the Government of the day can get away in a referendum with posing an obviously slightly bogus and biased question, what does that say for the integrity of our democracy? What does that say for people's confidence in our political processes? There is already enough cynicism in this country about politics without adding to it in this fashion.

[Lord Davies of Stamford]

Even if there was no such thing as an Electoral Commission in this country, quite openly and straightforwardly on the basis of the two texts we are comparing this morning, the one put forward by the noble Lord, Lord Armstrong, is undoubtedly the one we should go for. However, there is an Electoral Commission. We have established it as an umpire to deal with precisely these matters, to give better confidence to the British people that politicians cannot get away with dirty tricks. Here, the sponsors and supporters of the Bill propose that we should simply override the views of the Electoral Commission—the umpire. Two things follow from that. First, it would be quite clear that there is no point at all in having an Electoral Commission. Why are we spending public money on an Electoral Commission if the Government of the day—or anybody who can get a majority in the two Houses—can always override its views? There would be complete cynicism about the Electoral Commission. Secondly, there would be even greater cynicism about all our political processes. I have my name to several amendments in this group but I am delighted to support the amendment put forward by the noble Lord, Lord Armstrong.

Lord Pearson of Rannoch (UKIP): My Lords, I do not know if others of your Lordships are in the same position as me in that I remain confused about procedure between your Lordships' House and the House of Commons on this Private Member's Bill. I am fairly sure that very large numbers of the British public would be similarly confused having listened to this debate so far. I refer here particularly to the helpful interventions from the noble Lords, Lord Forsyth and Lord Elystan-Morgan, and the noble and learned Lord, Lord Mackay of Clashfern.

I will not make more of a speech on the Bill itself except to remind your Lordships, yet again, that the Bill passed through the House of Commons unopposed and is on a subject upon which a very large majority of the British people say they want a referendum. Of course, it would be a very foolhardy Government in future who dared to repeal this Bill if we passed it.

I still have a question on which we need an authoritative answer from the government Front Bench. I regret that the noble Baroness the Chief Whip is not in her place but the noble Lord the Leader of the House is—or perhaps it is the duty of the noble Lord, Lord Dobbs, to answer this. The question is, quite simply: what happens if we pass any amendment to this Private Member's Bill? Will there be time in the Commons to consider it and get it back to us, or will we in effect kill the Bill? What are the prospects of a similar Bill in the next Session and before the general election? Even if the wording in the proposed question may not be perfect, are we in effect killing this Bill if we vote through this or any other amendment? We should be very clear about that before we vote.

Lord Anderson of Swansea: My Lords, a spectre haunts the Conservative Party—the spectre of UKIP. The noble Lord, Lord Pearson of Rannoch, must glow with pride about that. He may have heard—as the noble Baroness, Lady Falkner, said—the speech of the Prime Minister at Bloomberg. That was a damascene conversion. I invite Members of your Lordships' House to listen to or read the speeches made by the Prime Minister and Foreign Secretary, extremely eloquently, rejecting an "in or out" referendum prior to that Bloomberg speech. Indeed, the Foreign Secretary used phrases, which I will not quote now, saying what a disaster it would be in trade terms. Of course, that sentiment is echoed now by the CBI, the Japanese Government and a whole series of businesses—many Japanese, German and others—that recognise that there would be considerable uncertainty between now and 2017 if this Bill was passed.

The noble and learned Lord, Lord Mackay, gave as justification for his stance that to pass this Bill would give an assurance to the British public, but an assurance of what? We have said on many occasions that the constitutional principle is clear: no Parliament can bind its successors. Will there be a clear assurance that there will be a referendum before 2017? We know for example that the Prime Minister has said very clearly that he would not intend to start negotiations with our European partners until after the next general election. Anyone who knows anything about the European Union knows that its wheels grind very slowly and there will be long and tortuous negotiations. Some countries that we believe now to be allies may no longer be—for example, the Czech Republic. Its Government have claimed for some time that they would be an ally in terms of reforming the European Union but it recently had a change of Government. The old, very Eurosceptic Government have changed to one far warmer towards Europe and so unlikely to be an ally. Poland, Bulgaria and Romania are, after the recent utterances of the Prime Minister, hardly likely to be particularly supportive. One could go on.

Lord Trefgarne (Con): I wonder if the noble Lord would refresh his memory with paragraph 4.25 of the *Companion*, which appears on page 65. It says:

"Debate must be relevant to the Question before the House".

Lord Anderson of Swansea: I invite the noble Lord to read what I am saying. I am replying to points made by other Members of your Lordships' House during the debate, so if I am not being relevant, nor were they.

As I am sure everyone recognises, the truth is that this would involve a great constitutional change. As a Welshman, I have considerable experience of referenda. The first referendum I was involved in was on Sunday opening in Wales. I went from London, where I was then working, to Wales and voted against Sunday opening. I have campaigned in many referenda since and have reached the conclusion that the result of a referendum depends, first, on who poses the question and whether the Government are popular at the time. Secondly, it depends on when the question is posed. Thirdly, it depends on the question. I end on this point: in my judgment, the noble Lord, Lord Armstrong, made a highly succinct and powerful speech, inviting us not to allow the Tea Party to—we have used a lot of dog analogies—be the tail wagging the dog, but to follow the body set up specifically for this purpose, namely the Electoral Commission.

Lord Wright of Richmond (CB): My Lords, I raise two very short points. First, I support the amendment of the noble Lord, Lord Armstrong of Ilminster. Like many Members of this House, I look forward to hearing the views of the noble Lord, Lord Dobbs.

Baroness Symons of Vernham Dean (Lab): My Lords, I would like to ask the noble Lord, Lord Dobbs, a question that I do not think has been put so far. Does he not feel a little uneasy about bringing forward this enormously important Bill in full knowledge that by doing so at this time this House would be unable to do its constitutional duty—its foremost and most important one—which is to suggest amendments to legislation without our being accused of killing the Bill or frustrating the Commons? Why did the noble Lord not bring forward his Bill earlier in the Session, when this House could do its duty to suggest amendments in full knowledge that the other place could do its duty and consider our suggested amendments before taking its decision?

Noon

Lord Triesman (Lab): My Lords, this is a vital issue and I am very grateful to the noble Lord, Lord Armstrong, and others for introducing the amendment. So that there is no doubt about it, let me start by saying that I fully support the amendment. I think it would produce a question that is far fairer. As the noble Lord, Lord Hannay, described it, it would produce a level playing field. That is extremely important, given the significance of the decision that we are being asked to take.

I received a letter from a sixth-former complaining about the speech that I made at Second Reading. She said that there was no point in us rehearsing the different arguments for and against the European Union, as that was something that would come out in a referendum, and that the real issue, as some noble Lords have characterised it on Second Reading and today, is about democracy itself, the chance for the people to have their say. The noble Lord, Lord Armstrong, made the point at the very beginning that his amendment would have no impact on that democratic intention.

The fact that we need to address, if I may say so, is what we really mean by "democracy". It is not just a word, it is a process which we intend to serve—a better and higher purpose than any autocracy could achieve. It is about how we do things to get a result; it is a process that should lead to a decision. That requires clarity on the issue to be decided. The issue should be capable of being decided beyond doubt and beyond ambiguity, and this decision is a very profound one, so we had better make sure that when the country is invited to take the decision, it can get it right.

I do not believe that there is ever a Bill that is so unimpeachable that it cannot or should not be changed. The noble Lord, Lord Wigley, made the same point a few moments ago. It is not an appeal to democracy to say that we should not try to change the Bill; indeed, I think that that would be a rather disrespectful silence, as far as the people of the United Kingdom are concerned. The role of this House, as several noble Lords have said, is not to embrace expediency in these circumstances but to ensure that we have got the ethics right in providing the people of this country with the decision. It is true that we are not elected, but that does not in these circumstances mean that we are not relevant. I invite the House to embrace its relevance.

In May 2015, any party can say in its manifesto and put it to the people that there will be a referendum in 2017, should it wish. The mechanism to get that legislation through can unquestionably be achieved between May 2015 and 2017, quite aside from the possibility that noble Lords have canvassed of the Government, or at least a part of the Government, making time in the House of Commons to reconsider any amendment that comes from this House. It is very important that there should be a reconsideration, because it is conceivable—just out of prudence, I do not rule out the possibility—that somebody may conclude that it is important to have the referendum well before 2017. A bad set of results this May, with UKIP apparently doing better, may very well persuade a Prime Minister who has regarded this as a moving target all the time, to move the target again, if he believes that it is politically the right thing to do. I understand that these political pressures come on people.

It would be quite wrong for this House not to challenge the Bill. It would be quite wrong because it is not a party point; it is a point about the interests of the people of the United Kingdom being served fully and properly. The eminence of those who have tabled the amendment shows just how significant and broadly spread the support is. It is sometimes a courtesy to refer to colleagues in this House as being very eminent, conjuring that up as a turn of phrase, but if we look at the genuine experience of those who have tabled the amendment and the significance of the roles that they have played in this country, we can see just how important it is to take their views with the greatest seriousness. It is the basis of the Electoral Commission's view. It is the basis on which the Select Committee on the Constitution has given advice. I know that I have only been here about 10 years, but I cannot recall circumstances in which all the advice of that kind has simply been ignored.

The fact that the Electoral Commission made two suggestions is not a reflection of its inability to decide, but an observation that either would be far better than the proposal in front of us. It invites us to do what we are supposed to do in political life: to take a decision. The one thing that is not in the Electoral Commission's mind is to fall back on the worst of all the possible solutions, rather than to choose one of the better ones, as the noble Lord, Lord Armstrong, to the great help of this House, has done. Indeed, the Electoral Commission is not entirely disregarded in the Bill. When it is useful to refer to it, in Clause 3(1), lines 6 to 7, and Clause 3(3), lines 14 to 15, those supporting the Bill find it very convenient to rely on the Electoral Commission. Let us rely on it properly for all the advice it gives, if we may.

I will mention Scotland briefly—but not, curiously, in the context of the referendum to be held on a far more sensible question than the one that Alex Salmond originally proposed. I will briefly mention the referendum which led to devolution in Scotland. It was a very big process. There was a constitutional conference, a major campaign and a fair question. It took a long time and

[Lord Triesman]
it was done very thoroughly. We should reflect for a moment on the reason that was so. I recall the words repeated time and again during that process, because I believe that they are central to a decision as large as the one that this House is being invited to take. What was aimed for was that the people of Scotland should come to what was called a determination of their settled will. They were going to make a change where it was critical that they had fully explored and understood the whole of it and had settled on another solution for the politics of Scotland which would not be challenged or pulled apart in a matter of weeks, after people had decided that it might not have been the right thing to do.

The noble Lord, Lord Phillips, made the point about encouraging a larger number of people to vote, and I share that view, but even more important—I hope that he will not feel that I am making a contrast here, because I am not trying to—was the fact that the people of Scotland would know precisely what they had decided and whether they wanted to live with it. That was what was most important. This is a fundamental constitutional change and also needs certainty.

A number of comments have been made about the confusing nature of the words, the fact that they are tilted and the fact that they are ambiguous. I will not repeat those arguments; that would be tedious for the House and inappropriate. I know this: often, people ask me whether I think that something is the case. I may think it, but it does not always give rise to a purposive decision to change it. We go through all sorts of ambiguities in the cognitive process before we conclude that something has to be changed in a particular way. This question really will not do in arriving at a settled view. I ask those on the Conservative Benches to think again and to accept the amendment. It is always painful to change a position in politics, but it may none the less be right to change position on this occasion.

Finally, of course, the House of Commons will get its way. The Conservative Party, which is dominant in the House of Commons in this respect, can most certainly make the time for everybody to think again.

Lord Forsyth of Drumlean: When the noble Lord says that the House of Commons can act accordingly, can he give us an assurance that if the Bill is amended and goes to the House of Commons, the Labour Party in the House of Commons will be pressing for more time to consider the Bill?

Lord Triesman: My Lords, any time that I have control over the affairs of the House of Commons would probably be regarded—

Noble Lords: Oh!

Lord Triesman: My Lords, I am not sidestepping the question. The number of times that noble Lords on all sides of the House have said that the affairs of the House of Commons are determined by the House of Commons, and that we are not the right people to try to do it, is a statement about the proper constitutional relationship that we have with them. That is not a trivial point; I would not presume to do that with the elected House.

I wanted to say that the pressures to act precipitately and move repeatedly, as I think Mr Cameron has, are not the right way. We will have to live with this Bill and it had better be the right Bill. I believe that this change will give it at least a chance of being the right Bill.

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): My Lords, the House has now been sitting for more than two hours and I will therefore try to deal with the amendments in this group with some general summing-up statements. A number of issues were raised today about the question in the Bill, and whether it is one which the public will understand and which will allow the people to have a say—an opportunity to decide and to reconnect with politics, as my noble friend Lord Phillips said.

Lord Lipsey: Before the Minister proceeds to address the amendments, will she please inform the House whether she is speaking as a government Minister or a spokesman for the Conservative Party—or in what other capacity she is addressing us?

Baroness Warsi: My Lords, it is as spokesman for the Conservative Party. The Bill's wording of the question—

Baroness Royall of Blaisdon (Lab): My Lords, this is a Private Member's Bill and in the usual circumstances it is normal for the Minister to give just a general view. It is not for the noble Baroness to give the Conservative Party's view on each of the amendments. That would be entirely improper, in my view.

Baroness Warsi: My Lords, I was not proposing to give the Conservative view on each of the amendments. I was going to make some general points. The Bill's wording of the question is, I submit, fair and clear. It is the right question to put to the British people.

Lord Lea of Crondall: We have been going for more than two hours, as the Minister said, yet in one sentence she has just said that she will not respond to the point about why the question is the wrong one and why the Electoral Commission's is the right one. How is that, unless there is no answer to the question—in which case she should accept the amendment? What is the justification for not accepting the question put by the Electoral Commission? That has not been answered from those Benches.

Baroness Warsi: My Lords, clearly the House wants to hear from the noble Lord, Lord Dobbs, so in those circumstances I will simply finish by saying that the Electoral Commission's key finding was that the question in the Bill did not lead voters to favour one answer or the other. Its concern was that some voters who do not know whether we are currently in the EU would be

confused. However, we feel that following a full referendum campaign, the number of people this would affect would either be very few or none.

Baroness Royall of Blaisdon: My Lords, I am terribly sorry, as I know that the noble Baroness has a job to do, but when she says things like, "We believe", that is extremely difficult. I know that the noble Baroness is in a difficult position. I do not know whether she is there as a government Minister or as a Conservative, but great care has to be taken.

Baroness Warsi: My Lords, the Bill is about the British people having their say on the UK's membership of the EU. That is what they want to decide upon and this is a simple binary choice: in or out. I will leave the noble Lord, Lord Dobbs, to respond.

Lord Hannay of Chiswick: Before the noble Baroness sits down—

Noble Lords: Dobbs.

12.15 pm

Lord Dobbs (Con): My Lords, thank you. I have listened carefully to this debate and have given this particular issue a great deal of thought over recent weeks. I have also taken note of the fact that 81 amendments have been put down so far to the Bill. This is but the first group of amendments and we have already taken well over two hours in discussing it—which is why, at the risk of seeming discourteous to the House, I do not intend to take any interventions. I want to get on with this. Although I simply do not have time—

Noble Lords: Oh!

Lord Dobbs: Well, we have just seen five interventions on the noble Baroness in three minutes.

Baroness Royall of Blaisdon: My Lords—

Lord Dobbs: No, I am sorry, I am not going to take—

Baroness Royall of Blaisdon: My Lords, I am Leader of Her Majesty's Opposition and I would like to be heard. The difference between the noble Lord who has sponsored the Bill and the Minister is that it is the noble Lord's Bill. It is a Private Member's Bill. I think that the whole House would therefore expect the noble Lord to answer the questions that have been put to him—and if noble Lords who have intervened previously in this debate feel that there are additional questions to be answered, that is entirely appropriate. I think the House would find it appropriate if the noble Lord answered those questions.

Lord Dobbs: If I may be allowed to make progress, I will do my best to do precisely that and to answer the questions that have been raised. They are about the questions in the amendment which the noble Lord, Lord Armstrong, tabled. I am afraid that I simply do not have time to acknowledge all those who have spoken, although I thank noble Lords for their, by and large, reasoned and reasonable contributions, and in particular for the elegant way in which the noble Lord, Lord Armstrong, introduced his amendment.

I am not entirely unsympathetic to what has been said. As I said at Second Reading, the case about the question is arguable but not overwhelming. Although some noble Lords have implied that we are standing at the gates of hell, and that almost any question would be better than this one, it is worth remembering that the Electoral Commission did not condemn out of hand the question that stands in the Bill. Some of the references to the commission's findings that were made during this debate were hugely exaggerated. I have its findings here and have read every word. The commission said:

"We found that the wording of the question itself"—

the question contained in the Bill—

"is brief, uses straightforward language, and is easy to understand and answer",

not that it was confusing and misleading, as the noble Lord, Lord Armstrong, suggested. The Electoral Commission had its reservations, of course—

Lord Kinnock (Lab): Since the noble Lord is quoting from the Electoral Commission's report, his quotation, in order to be accurate, should be precise. Exactly after the phrase which he has quoted, the words of the Electoral Commission are,

"however … the phrase 'be a member of the European Union' to describe the referendum choice is not sufficiently clear to ensure a full understanding of the referendum as a whole … The question wording does not make it clear for some people what the current status of the UK is within the EU, and the referendum choice as expressed in the question is likely to lead to confusion".

If that is not a clear dismissal of the version of the question that the noble Lord is offering, I do not know what is.

Lord Dobbs: I thank the noble Lord. That is precisely why I do not wish to take too many interventions.

Noble Lords: Oh!

Lord Dobbs: It is precisely that point which I am about to address. If noble Lords would do me the courtesy of listening, they might actually learn a little about what I feel about this, rather than what the noble Lord, Lord Kinnock, feels about it. That is more time wasted. I will get on to the time-wasting in just a minute, if noble Lords will allow me.

As I was about to say, the Electoral Commission had its reservations, of course, and we have already heard much of that from noble Lords. However, I believe that the commission's concern that some voters might be confused, because they are unaware that we are already members of the European Union, is a little oversensitive. Yet the role of the commission is to be cautious, and I do not criticise it for that. I understand that in the past we have made a habit of accepting the commission's recommendations about any referendum question, but it is worth remembering that its role in this matter is entirely advisory. It is not an umpire or a judge but, as the noble Lord, Lord Triesman, has just pointed out, a source of advice. At the end of the day,

[Lord Dobbs]
it is up to us. The other place debated almost this exact same amendment as we are dealing with here and, after a lengthy debate, rejected it by a majority of 241.

It is also worth remembering that the commission was not able to offer a clear single alternative question. It is hugely significant that this amendment, which mirrors the second alternative suggested by the commission's report, has not been properly tested by the commission; it clearly states in its report that it did not have time. So it is entirely possible that if I accepted this amendment, the commission might come back at a later stage and tell us that this wording was not good enough either. That would put us in a most awkward position and embarrass so much of what has already been said here today.

At Second Reading I mentioned other potential weaknesses in the commission's report. I do not want to go back over too much of that ground but many noble Lords have expressed their concerns today. It is perhaps a pity—I put it as no more than that—that not a single Member of this House expressed any concern while the Electoral Commission was undertaking consultation at a stage that might have avoided the need for this amendment in the first place. Indeed, only 19 individuals and organisations offered any comment whatever. If this is a serious issue, it has been a long time coming.

It is also a fact of life that currently 81 amendments have been tabled to this short Bill. We know that some of the Bill's opponents are determined to use any means to kill it. While I want to make progress, I hope that the House will allow me a moment to deal with that central issue because it gives a context to all else that we do here. Right from the start, the moment that the Bill came to this House, it has been true that, as the noble Lord, Lord Tyler, who sadly I do not see in his seat, told the BBC—and I am grateful for his frankness about this—that the opponents will use every trick in the book to derail it. It was put to him in an interview by Mr Mark D'Arcy that the aim would be to keep this Bill running in one form or another pretty much right up to the election. The noble Lord replied: "What they do not want to do, I do not think anyone wants to do, is to have their fingerprints on the dagger that kills it". There we have it—death by a thousand cuts, or at least by 81 amendments, and that is what undermines the rights of this House.

I hasten to add that I am not accusing the sponsors of this amendment of any hint of deviousness. Many of them have made their points with charm and eloquence, as we would expect them to. However, we all know what is going on. We cannot deny the presence of an elephant in the room, a very large and unreasonable elephant—those who have no intention whatever of working to improve the Bill but who are solely intent on trying to kill it. They claim to be trying to improve the question but in fact are trying to ensure that no question is ever put.

We all know that if the Bill is to survive—if we are to give people the referendum they want—we have to get the Bill through this House in reasonable shape and in very short time. That timetable is not mine; it is simply another fact of life. It is a further fact that after six days of detailed consideration, the Bill went through the other place at every stage with a huge majority or no opposition whatever. We could all speculate why Labour and Liberal Democrat MPs ran for cover, but the fact is that they did. So, in the belief that what was good enough for Labour and Liberal Democrat geese down the other end of the Palace must surely be more than enough to satisfy their noble ganders, I ask the noble Lord, who is not party to any of these games, to withdraw his amendment.

Lord Armstrong of Ilminster: My Lords, my modest, innocent little amendment has given rise to a long, interesting and wide-ranging debate, and after more than two hours I do not propose to try to deal with every point. We are being told that the Bill must pass unamended to go back to the House of Commons in order to be concluded in time to be passed into legislation in this Session. As to that, although I am not an expert in procedure, it seems that if the House of Commons is sufficiently keen to see the Bill passed, it can change its procedure as a matter of exception in order to deal with it. I therefore hope that your Lordships will not be put off by that threat.

We are told that the Bill is a necessity as a guarantee or, as the noble and learned Lord, Lord Mackay, said, an assurance that there will an "in or out" referendum about our membership of the European Union in 2017. With the greatest respect to those who are saying so, I cannot see it. It is impossible for this Parliament to give a cast-iron guarantee or assurance about something that is going to happen after the next election. Suppose that in May 2015, after the next election, there were to be a change of Government and the new Government decided that there should not be a referendum on this matter. The new Government would be free to introduce legislation in the House of Commons to give effect to that decision; the House of Commons would pass it; and then it would come back to this House, and no doubt we should be told that an unelected House ought not to challenge the view of the House of Commons.

I am with those who feel that we should not shirk our duty to scrutinise the Bill and, if we can, improve it, and that, with the greatest respect to the House of Commons, if that House feels that the Bill is so important, it should then adjust its procedures in order to deal with it. I do not think that the Bill provides the kind of guarantee or assurance that we shall have a referendum, because no one can know what will happen in 2015. If it is a guarantee at all, it is so only until May of that year. In fact, the best assurance that the people of Britain can have that there should be a referendum will be the commitment by the present Prime Minister to hold a referendum in 2017. As I said at Second Reading, that is a commitment that he can enshrine in a manifesto. No doubt the manifesto does not have the force of a statute, but at least its shadow stretches beyond the next election and would govern what the new Parliament did. I might almost argue, if I allowed myself to be political, that if the British people thought it so vital to have a referendum, as I am sure they do, their best means of assuring themselves of getting it would be to return Mr Cameron, who has given them this commitment.

The time has come for us to take a decision on this matter. I am afraid that I am not persuaded by the procedural arguments that have been deployed from the Benches here, and I think there is a strong measure of support for the amendment that I have proposed. Without any further ado, I should like to test the opinion of the House.

12.30 pm

Division on Amendment 1

Contents 245; Not-Contents 158.

Amendment 1 agreed.

Division No. 1

CONTENTS

Adams of Craigielea, B.
Addington, L.
Ahmed, L.
Alli, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Ilminster, L. [Teller]
Ashdown of Norton-sub-Hamdon, L.
Avebury, L.
Bach, L.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Benjamin, B.
Berkeley of Knighton, L.
Best, L.
Bonham-Carter of Yarnbury, B.
Boothroyd, B.
Bowness, L.
Bragg, L.
Brennan, L.
Brooke of Alverthorpe, L.
Brookman, L.
Brown of Eaton-under-Heywood, L.
Browne of Ladyton, L.
Butler of Brockwell, L.
Campbell-Savours, L.
Carter of Coles, L.
Chandos, V.
Chidgey, L.
Christopher, L.
Clancarty, E.
Clarke of Hampstead, L.
Clement-Jones, L.
Clinton-Davis, L.
Collins of Highbury, L.
Craig of Radley, L.
Crawley, B.
Davies of Coity, L.
Davies of Oldham, L.
Davies of Stamford, L.
Desai, L.
Dholakia, L.
Donaghy, B.
Doocey, B.
Drake, B.
Drayson, L.
Dubs, L.
Dykes, L.
Elder, L.
Elystan-Morgan, L.
Erroll, E.
Evans of Temple Guiting, L.
Falkland, V.
Falkner of Margravine, B.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Fellowes, L.
Ford, B.
Foulkes of Cumnock, L.
Gale, B.
Garden of Frognal, B.
German, L.
Gibson of Market Rasen, B.
Giddens, L.
Glasman, L.
Golding, B.
Goudie, B.
Gould of Potternewton, B.
Graham of Edmonton, L.
Grantchester, L.
Greaves, L.
Grender, B.
Grenfell, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harrison, L.
Hart of Chilton, L.
Hattersley, L.
Haworth, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hennessy of Nympsfield, L.
Hilton of Eggardon, B.
Hollis of Heigham, B.
Howarth of Newport, L.
Howe of Idlicote, B.
Howells of St Davids, B.
Howie of Troon, L.
Hoyle, L.
Hughes of Woodside, L.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Inglewood, L.
Irvine of Lairg, L.
Jolly, B.
Jones of Cheltenham, L.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L. [Teller]
King of Bow, B.
Kinnock of Holyhead, B.
Kinnock, L.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Kramer, B.
Lea of Crondall, L.
Leitch, L.
Lester of Herne Hill, L.
Liddle, L.
Lipsey, L.
Loomba, L.
Low of Dalston, L.
McAvoy, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Manzoor, B.
Massey of Darwen, B.
Mawson, L.
Maxton, L.
Mendelsohn, L.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Morgan of Drefelin, B.
Morgan of Ely, B.
Morgan of Huyton, B.
Morgan, L.
Morris of Handsworth, L.
Newby, L.
Nicholson of Winterbourne, B.
Noon, L.
Northover, B.
Nye, B.
Oakeshott of Seagrove Bay, L.
O'Neill of Clackmannan, L.
Ouseley, L.
Paddick, L.
Palmer of Childs Hill, L.
Palumbo of Southwark, L.
Parekh, L.
Paul, L.
Pendry, L.
Peston, L.
Phillips of Sudbury, L.
Plant of Highfield, L.
Ponsonby of Shulbrede, L.
Prescott, L.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Quirk, L.
Radice, L.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Razzall, L.
Rea, L.
Redesdale, L.
Reid of Cardowan, L.
Rendell of Babergh, B.
Richard, L.
Rodgers of Quarry Bank, L.
Rogers of Riverside, L.
Roper, L.
Rosser, L.
Royall of Blaisdon, B.
Sawyer, L.
Scotland of Asthal, B.
Scott of Needham Market, B.
Sharkey, L.
Sharp of Guildford, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Slim, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Snape, L.
Soley, L.
Steel of Aikwood, L.
Stephen, L.
Stern, B.
Stevenson of Balmacara, L.
Stirrup, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Suttie, B.
Symons of Vernham Dean, B.
Taverne, L.
Taylor of Blackburn, L.
Temple-Morris, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornton, B.
Tomlinson, L.
Tope, L.
Triesman, L.
Truscott, L.
Tugendhat, L.
Tunnicliffe, L.
Turnberg, L.
Turnbull, L.
Turner of Camden, B.
Uddin, B.
Wall of New Barnet, B.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warnock, B.
Watson of Invergowrie, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilkins, B.
Williams of Crosby, B.
Williams of Elvel, L.
Willis of Knaresborough, L.
Wills, L.
Winston, L.
Wood of Anfield, L.
Woolmer of Leeds, L.
Worthington, B.
Wright of Richmond, L.
Young of Hornsey, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Anelay of St Johns, B.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Astor, V.

Attlee, E.
Baker of Dorking, L.
Balfe, L.
Bamford, L.
Bates, L.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Brabazon of Tara, L.
Bridgeman, V.
Brooke of Sutton Mandeville, L.
Brougham and Vaux, L.
Browning, B.
Buscombe, B.
Caithness, E.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Coe, L.
Colwyn, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E. [Teller]
Crickhowell, L.
De Mauley, L.
Deighton, L.
Dixon-Smith, L.
Dobbs, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Eden of Winton, L.
Edmiston, L.
Elton, L.
Empey, L.
Faulks, L.
Fink, L.
Finkelstein, L.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Geddes, L.
Gold, L.
Goodlad, L.
Goschen, V.
Hamilton of Epsom, L.
Hanham, B.
Henley, L.
Heyhoe Flint, B.
Higgins, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Horam, L.
Howard of Rising, L.
Howe, E.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jenkin of Roding, L.
Jones of Birmingham, L.
Jopling, L.
Kalms, L.
Kilclooney, L.
King of Bridgwater, L.
Kirkham, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Leigh of Hurley, L.
Lexden, L.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lucas, L.
Lyell, L.
MacGregor of Pulham Market, L.
Mackay of Clashfern, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marlesford, L.
Mawhinney, L.
Mayhew of Twysden, L.
Miller of Hendon, B.
Montrose, D.
Moonie, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
Pearson of Rannoch, L.
Perry of Southwark, B. [Teller]
Popat, L.
Powell of Bayswater, L.
Rawlings, B.
Renfrew of Kaimsthorn, L.
Renton of Mount Harry, L.
Ridley, V.
Risby, L.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharples, B.
Shaw of Northstead, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shrewsbury, E.
Skelmersdale, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stevens of Ludgate, L.
Stewartby, L.
Stoddart of Swindon, L.
Stowell of Beeston, B.
Strathclyde, L.
Swinfen, L.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
Trumpington, B.
Verma, B.
Waddington, L.
Wakeham, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Willoughby de Broke, L.
Wolfson of Aspley Guise, L.
Younger of Leckie, V.

12.44 pm

Amendment 8

Moved by ***Lord Wigley***

8: Clause 1, page 1, line 3, at end insert—

"( ) The referendum shall not be held before 1 October 2014."

Lord Wigley: My Lords, Amendment 8 has appeared rather more quickly than noble Lords perhaps expected. I make it clear from the outset that Amendment 8 is purely a probing amendment and, if noble Lords have not realised the significance of the date in the amendment—

"The referendum shall not be held before 1 October 2014"—

it is to ensure that the referendum does not take place before the outcome of the referendum on Scottish independence has been determined.

Clearly, if the Scottish people were to vote for independence, there would be a significant impact on the Bill. As far as I can see, no provision has been made in the Bill to deal with that matter, to which we shall no doubt return in debate on other amendments which impinge on that question. We do not know what the outcome of the referendum in Scotland will be. Therefore, in passing legislation to deal with the period through to the end of 2017, which is not only after the Scottish referendum but, if there were a yes vote, also after the fulfilment of independence for Scotland, it would mean that the United Kingdom was a very different entity from the one it is now. That must surely be taken on board in the Bill.

I am not opposed to a referendum in all circumstances. I have no doubt that there are circumstances when a referendum is needed. If a referendum is going to be meaningful, clearly the definition of the units—of the people who are taking part—has to be clear; it has to be determined. Therefore, I hope that the noble Lord, Lord Dobbs, who is in charge of the Bill, will be able to tell the House how it would respond to the possibility of a yes vote in Scotland.

It may well be that the opinion polls at present say that it is likely to be a no vote, and I think we all recognise that. However, I think we also recognise that a week is a long time in politics. One cannot rule out the possibility of a yes vote. Therefore, we need to have some provision that deals with it. There are implications in terms of the voting and negotiations that may need to take place between the United Kingdom and the European Union for any new deal that may be the basis of a referendum in 2017, and that has to be thought through. I get the impression that the drafters of the Bill just have not thought of the implications of the Scottish referendum result. For that reason, I beg to move.

Lord Anderson of Swansea: My Lords, the noble Lord, Lord Wigley, and I go back a long way. We are of different parties and we come from different parts of Wales, but on this as on most things he speaks eminent sense. There is an elephant in the room, the elephant being the Scottish referendum. We do not know what the result of that referendum will be but, if it be for independence, it will clearly have profound

implications for this Bill generally and for a number of facets of the Bill. Therefore, I am pleased to follow his wise words.

Lord Foulkes of Cumnock: My Lords, I, too, express my support for the noble Lord, Lord Wigley. The Bill as drafted has not taken account of the Scottish referendum in any way whatever. That is why there are other amendments in my name in relation to eligibility to vote for 16 and 17 year-olds and in relation to the count, and a number of other matters.

I take the opportunity to say now to the noble Lord, Lord Dobbs, because I did not want to interrupt his fine reply to the previous amendment, that at the same stage in the consideration of the Equality (Titles) Bill, proposed by the noble Lord, Lord Lucas, nearly 90 amendments were tabled, and in exactly the same stage of the passage of the Bill proposed by the noble Lord, Lord Steel, to further reform the House of Lords, 160 amendments were tabled. Therefore, 80 amendments is not an excessive number, and it ill behoves him and others to criticise Members of the House of Lords for tabling amendments that seek to improve a very bad Bill, as the noble Lord, Lord Wigley, has done and I have done.

Lord Triesman: My Lords, this is a helpful amendment, and I have only one very brief comment to make. We have had a number of proposals coming through this and the other House over a period of time that have changed our unwritten constitution in quite significant ways. It is very difficult to know how they all mesh together, because they are almost never spoken of in terms of taking a helicopter view of the whole set of proposals. That probably leads towards the laws of unintended consequences on occasions because we do not have a holistic view. It would be incredibly hard before the Scottish referendum, allowing for one of the possible outcomes of that referendum, to make any intelligent decisions in this area. I do not think that we would be thanked by the people of Scotland, as it might very well be that they would feel that it took an element of their choice away from them, in the full sense of a choice about their future in Europe, in relation to the currency, and so on. It is a very sensible proposal, and I hope that the House will give it proper consideration.

Lord Dobbs: My Lords, dates are very difficult, are they not? We have this particular amendment, which talks about October 2014, and other amendments that suggest 2020. We have talked about the Scottish referendum, yet at other times in debates on the Bill we have heard that we cannot have this or that date because of what is going on in Germany, Brussels, and so forth. Dates are difficult, and I acknowledge that. There is no ideal date; it is a bit like trying to find the right time to suggest that your wife should start a diet. There is never going to be a right time for that, which is why—

Lord Radice: Then why is there a date in this Bill at all?

Lord Dobbs: It is very simple, and I was about to get on to that. That is why the date in this Bill is very flexible. The Bill says that the referendum must be held any time up until the last day of 2017. As the noble and learned Lord, Lord Mackay, has spent so much time instructing us, this is not the last time that this Bill and the measures for this referendum will come back to this House.

Dates are difficult, which is why the Bill has a very flexible date contained in it. However, I believe that, to put it this way, while many people might understand why the House took the view that it did on the previous amendment, I suspect very few would understand why we would twist and turn the Bill around to pass this amendment. It is unnecessary and perhaps misguided.

Lord Wigley: I am grateful to the noble Lord for giving away, and I understand part of what he is saying. However, were Scotland to vote yes, although that may be an unlikely outcome as things stand, would he accept that for the period after the referendum, perhaps even up to 2016, when independence would become a fact, it would be difficult to hold the referendum on the EU?

Lord Dobbs: I like to deal with the practical world, rather than hypotheses, and the Prime Minister has already said that he needs this time to undertake the fundamental renegotiation that is behind all this. That is why he is going to campaign at that referendum on the basis of staying in, not getting out. He has already started that process of renegotiation, which will take time. There is no chance, in the practical, real world, that we could encounter a situation in which this referendum would be begun before the date that the noble Lord suggests. So this is really an unnecessary amendment, and I ask the noble Lord to consider withdrawing it.

Lord Wigley: My Lords, I am grateful for the opportunity of having at least put the point on the record that there is an issue here to which we may well return on later amendments, as the noble Lord, Lord Foulkes, indicated. I am grateful to noble Lords who have participated in this short debate. I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Amendment 9

Moved by ***Lord Roper***

9: Clause 1, page 1, line 3, at end insert—

"( ) The holding of a referendum under subsection (1) is subject to the condition set out in section (referendum condition) below being met."

Lord Roper (LD): My Lords, Amendment 9 is included in the group we are discussing, along with Amendment 74, and is not part of the second group headed by Amendment 2 as it appears in the groupings list, because Amendment 2 was pre-empted by your Lordships' decision on the previous amendment.

Amendment 9, together with Amendment 74, has the same effect as Amendment 2 would have done. As the noble Lord, Lord Armstrong, said of the amendment he moved some time ago, this amendment in no way

[Lord Roper]
goes against the principle or the objectives of the Bill—nor does it have any effect on the date—it merely tries to ensure that if a referendum takes place, it will be more satisfactory.

The two amendments in this group in my name and those of the noble Baroness, Lady Quin, and the noble Lords, Lord Hannay and Lord Anderson, seek to ensure that effective impact assessments are undertaken of the effect of the United Kingdom ceasing to be a member of the European Union. Throughout our discussion on the previous amendment and on Second Reading, everyone was clear about the importance of the decision which the British people would be taking in such a referendum. If the British people are to take such a decision, they need to take it with the necessary knowledge before them. Therefore, Amendment 74 suggests that the Government should publish such information and lay it before Parliament.

However, unlike what is suggested in a subsequent amendment, the Government are not necessarily expected to prepare the reports on the impact assessment. They may ask other bodies to do that, such as the Office for Budget Responsibility or the National Institute of Economic and Social Research. We are anxious that objective information should be made available to the public so that serious discussion of the impact of the UK ceasing to be a member can take place.

Lord Foulkes of Cumnock: I think that the noble Lord was referring to my Amendments 5, 6 and 7 in relation to the renegotiation, the balance of competences and the transfer of powers, where the Secretary of State will have to report, which we will come to later. I hope he is not saying that he thinks those are unnecessary, and that he is saying that the impact assessment would be in addition to the reports by the Secretary of State.

Lord Roper: My Lords, the noble Lord is right. We will come to his amendments with their new numbers, which I think are 42A and 43A. I was going to refer to them a little later—Amendments 5, 6 and 7, like my Amendment 2, having been pre-empted. Those amendments refer to reports being prepared by the Government, and the amendment of the noble Lord, Lord Turnbull, refers to an assessment being prepared by the Secretary of State.

Amendment 74 suggests that it is necessary to provide the electorate with information on four matters, the first being an assessment of the impact on the UK economy of the UK ceasing to be a member. I was encouraged to read in the press this morning of the speech which the Permanent Secretary to the Treasury, Sir Nicholas Macpherson, made to the Mile End Group earlier this week, in which he pointed out that the Treasury would certainly provide information on what it considered to be the negative impact of the UK leaving the European Union. In recent weeks we have seen the information which bodies such as the British Bankers' Association and other banks based in the United Kingdom have submitted to the Treasury as part of the balance of competences study. It is important that this information is brought together so that people know what the effect of our ceasing to be a member would be.

Secondly, we believe that a report ought to be produced showing the impact of the UK leaving the European Union on the rights of individuals within the United Kingdom. Individuals, our fellow citizens, at the moment have various rights as part of our membership of the European Union, including—as has been discussed recently—the right to free movement of labour, as well as other rights. Those, again, would be affected by our ceasing to be a member. It is important that people should be aware of the implications.

1 pm

Thirdly, what would be the impact of our leaving the European Union on the rights of citizens of other member states of the EU who live in the United Kingdom? Again, there is a strong case for information to be obtained and put forward on an objective basis before the referendum, so that this matter can be clear.

In the fourth category, we believe there is also the impact on our fellow citizens who live elsewhere in the European Union. This matter came up in several speeches at Second Reading, including in relation to the impact on the variation of pensions for British pensioners living elsewhere in the EU, when compared with the pensions of British citizens living elsewhere in the world. It is important that we have information put before the electorate on the impact that our leaving the EU would have on this group of citizens.

I hope that our debate on this subject will not necessarily be as long as our previous debate, and I have tried to set out the major points that need to be covered in these reports. We will also, at some stage, need to consider the best way in which such information can be made available to the public. I beg to move.

Baroness Quin: My Lords, as a signatory to the amendment, which has been so well moved by the noble Lord, Lord Roper, I should like to say a few words in support of it.

Given that the House has just decided to amend the Bill, I hope that this amendment in particular will be looked at very sympathetically because it is designed to improve the circumstances surrounding the referendum for the benefit of Parliament and our citizens, if that referendum takes place. The amendment would ensure that Parliament and the public get the best possible amount of information about the consequences of their vote either for or against. It is a principle on which we should all be able to unite, and I am glad that the amendment has attracted support from around the House.

As the noble Lord, Lord Roper, has said, the amendment relates to getting information to Parliament and the public on a variety of issues that will be crucial during the referendum campaign. The first relates to the possible effects on the economy of staying in or withdrawing from the European Union, and we know that there is a good deal of discussion about this issue. We all know that businesses have expressed a great deal of concern about the prospects of withdrawal from the EU. I was interested to see only yesterday, for example, it was reported in the newspapers that concerns had been expressed by JP Morgan, BAE Systems, the British Bankers' Association and Unilever, which is quite a cross-section of economic interests.

Concerns on economic grounds have been expressed in many parts of the country, including the City of London. I am sure that the noble Lord, Lord Dobbs, is very much aware of City publications expressing concern about the uncertainty surrounding Britain's future membership of the EU. Concerns have also been expressed in my part of the country, the north-east, where, as I mentioned in previous debates, we have large, successful firms such as Nissan exporting to the EU. The people who work in those firms will be concerned to make sure that their future will be as guaranteed as much as it can be, following any referendum. I think economic information is going to be vital for those reasons.

The noble Lord, Lord Roper, also mentioned—and indeed the amendments contain—references to other aspects of our membership of the European Union where we need to be fully informed about the consequences of either staying in or withdrawing. That is particularly vital for citizens' rights. The noble Lord, Lord Roper, quite rightly mentioned the freedom of movement provisions, which many citizens in the UK benefit from on a day-to-day basis. Indeed, it is interesting that in consideration of this Bill I, and I am sure other Members of the House, have been lobbied a great deal by European Union citizens living in Britain and also British citizens living in other parts of the European Union wondering if they are going to be able to take part in this vote and what the future means for them and their rights as citizens. These are important matters that we need to take into account.

We know that the rights of citizens and, indeed, the rights of people in employment have been affected very considerably by membership of the European Union. A large number of European directives have been brought in to guarantee, for example, paid holidays, increased maternity benefits, paternity leave and so forth. People will want to know what the future holds on those issues following a referendum vote.

Although this is a straightforward amendment and is reasonable in asking for full information before such an important decision is made, it actually says a lot. Indeed, we could have days of debate on each of the matters mentioned in the amendment, but that is not what we are trying to do today. We are trying to make progress with the scrutiny of this Bill. I hope that my few comments have explained why I so strongly support what I believe is a very reasonable and sensible amendment to the Bill.

Lord Taverne (LD): My Lords, I support the amendment for slightly different reasons. If there is to be a meaningful decision, the choice must be clear. Unfortunately, I think it is extremely likely that if the 2017 date survives in this Bill the choice will be anything but clear because, for reasons that I shall advance later when we come to Amendment 10, it is extremely unlikely that the negotiations that Mr Cameron wishes to enter on, which he has not entered on so far, will be concluded by 2017. There are many reasons why fixing a date is the last way of getting effective negotiations.

What could be the result? We do not know. We will not know in 2017 what kind of choice we are facing. What sort of Europe will we be invited to stay in or to leave? What sort of eurozone will there be? Personally, I believe the eurozone will survive but this is by no means certain. However, suppose it does survive, how big will the eurozone be? How tightly knit will it be? What will be the relations between that eurozone and the single market? There may be several countries which do not wish to support the British expansion of the single market.

There may also be several countries in the eurozone which may not wish to come to an agreement that will be favourable to the City. Certain forces in Germany would like Frankfurt to be the financial centre of the eurozone while others in France will want Paris to be it. All sorts of problems will exist and we will need some sort of knowledge about the assessment. There is a great danger that the City would be sidelined and that is something to which the impact assessment would have to draw attention.

What would happen if, as seems possible but not certain, the banking union will then be complete? What will be the relations between the banking union and British banks? I certainly get the impression that there is a growing movement among bankers that they would rather like to join the banking union. They are not as afraid of the new regulations because our regulations are tighter than theirs and they fear being excluded from these vital decisions.

I think that we will face a very difficult decision if we have a referendum in 2017. Negotiations should take place first and then there should be a referendum, rather than facing a decision at a time when it is very unlikely that negotiations will be complete. The whole question of whether to stay in or leave will need a very careful impact assessment, certainly if the date of 2017 is preserved.

Lord Hannay of Chiswick: My Lords, I add my support for the amendment moved by the noble Lord, Lord Roper. My name is added to the amendment and I want to explain briefly why I think that it makes very good sense, both for those who are extremely keen to see this legislation on the statute book and for those who are less keen to do so. I think that both should be united.

I doubt whether anyone in this House would assert that the information provided in the press and on television and so on about the European Union is very satisfactory. It is highly partisan in many cases and I fear that in the context of a referendum, if and when one takes place, that will continue to be the case. I may deplore that but, as an absolutely fundamental believer in a free press, I am certainly not going to go around saying that something should be done to stop that.

This amendment seeks to ensure that there is available to the voters objective information about the consequences of a no vote in a referendum. The consequences of a yes vote are less problematic because our membership would be entrenched further and we would, I hope, move on. I support the Prime Minister's wish to see a reformed European Union and I hope that we would carry on in a reformed European Union. However, I suggest that the electorate—our fellow citizens—should be given a lot of basic facts about the consequences of a no vote.

[Lord Hannay of Chiswick]

The reports that we are suggesting should, in my view, under no circumstances be government policy; they should be produced by an objective body or bodies capable of assessing these things. No attempt is made in the amendments to suggest which they should be—that would be far too prescriptive—but a body such as the OBR could produce some of the information. I do not know; it would be for the Government to organise that in the context of a referendum but not to produce it themselves. There is a case for the kind of information on the four or five issues that we have suggested should be set out in this Bill, and there should be an obligation on the Government of the day, if and when a referendum is called, to organise that and to make sure that it is available to the electorate.

We have now crossed a watershed—perhaps not as determinant as the noble Lord, Lord Dobbs, told us a few minutes ago it would be; nevertheless, it is a watershed—and I hope very much that the noble Lord will see that, as the Bill is being improved by this House, this is an amendment that he can accept. It does not cross any watersheds and it does not seek to do anything that those on his side of the House who have spoken very strongly in favour of a referendum should be in any dispute over. They surely want this objective information to be available to the electorate, and this is the best way to ensure that it is, although of course I am not suggesting that at this stage we should write out what that information would be.

Lord Inglewood (Con): My Lords, I support the amendment of my noble friend Lord Roper, which is entirely sensible.

I have fought European elections as a candidate. One of the characteristics of that experience was that most of the electorate have a vague idea of the actual issues as opposed to the emotional issues. On something as important as the country's future membership of the European Union, whether you are in favour of it or opposed to it, there is a great need to ensure that the decision, whatever it might be, is taken on the basis of an understanding and knowledge of the real issues.

I am quite sure that during the campaign exaggerated claims will be made by both the proponents of staying in and the proponents of leaving. It is important that there is a datum point of accurate information and an understanding of the implications, to enable the wider public to make the decision they will have to face.

1.15 pm

Lord Anderson of Swansea: My Lords, I pose a simple question: who can be against an informed electorate in a democracy? The danger now is that people obtain their views of the European Union from elements of the press which have a clear line. It would be helpful to find, as far as is possible, objective individuals to provide an assessment that can form a basis for an informed electorate.

I can add to the list provided by my noble friend Lady Quin of those who have already expressed a view. The CBI, for example, concluded in a recent report that while the UK could certainly survive outside the European Union none of the alternatives suggested either a clear path to improvement, advantages/disadvantages or greater influence.

There is clearly a danger of both sides exaggerating the consequences of being in or out. The Rhine will not overflow. Armageddon will not come whether we are in or out. It is a question of the balance of advantages and disadvantages, and what can better inform us of that than an independent assessment with which to inform the electorate?

Apart from the CBI, a number of major firms have also expressed a view. They are concerned about the effect on them, on their employment prospects and on further investment in the UK if there were to be a period of uncertainty. These include, for example, easyJet, Nissan, Toyota, Hyundai, and even the Japanese Government. I recall how often Wales has looked to Japan for increased investment and has done fairly well out of it in the past. It is unusual for a Government to express a view on a matter affecting another Government, but the Japanese Government have said that the UK has several advantages as a gateway for the European market and considerable Japanese investment. Japan, effectively, if I may paraphrase, expects this to continue.

Obviously we need to have an informed electorate. There will be consequences whether we remain in or come out but, as a number of noble Lords have said, who knows what developments there will be within the European Union between now and the time of a referendum? Some countries—there has been speculation about Greece in the past—may no longer be members. There may well be, although I think it unlikely, an acceleration of membership and an agreement on migration, and the question of the banking system might change, as the noble Lord, Lord Taverne, has said.

We have impact assessments for a series of other matters: the effect on public expenditure and so on. Certainly in the past when constitutional changes have been made affecting local and regional government, there have been learned commissions to look at them. In my judgment these matters are vital to us—for the UK economy, for European citizens within the UK and for our own citizens outside.

The methodology is available. The Government will be well aware that the Norwegian Government commissioned Professor Fredrik Sejersted to carry out a survey in Norway on the effects, and he was called in to our Foreign Office to advise on the methodology. At the moment it may well be that Mr Murdoch will have a far greater impact on voting intentions and ordinary citizens like ourselves will at least be allowed our say, but in my judgment it is not Mr Murdoch, his press and others who should prevail. The public should be well informed on the consequences for or against before they make the great leap.

Lord Turnbull (CB): My Lords, in the event of a no vote, there will not be a clean break with the rest of the European Union because Europe will still begin 21 miles away. We will be enmeshed in it in hundreds of ways. Just as there is a relationship between Canada and the US, we will have to find a new relationship. In order

for someone to carry out this impact study, people will want to know what the Government will try to retain of the existing relationship, to modify and to drop. Where a change is made, the Government will need to set out their ideas for whatever they think should be the successor regime. Without that information, an impact study cannot be made and people will not be able to assess how it will apply to them.

Amendment 72, tabled in my name, comes right at the end of the Marshalled List. It asks the Government to do what only the Government can do, and that is to set out how they think these various regimes will be modified, and from that the impact assessment can be made. The two really go together, but because of the groupings, they will be considered separately. I support this amendment and I hope that in due course noble Lords will support Amendment 72, which is a partner to it.

Lord Radice: I rise very briefly to support the amendment in the name of the noble Lord, Lord Roper, and other noble friends. I think that we have moved on now. A very large majority have voted not just in favour of the question, but in favour of the principle of amendment. That is because, of course, the only argument put by the other side was not against the last amendment—or only a very weak argument was made against it—but that we must not amend the Bill. The fact is that it has been amended, so now we can look seriously at it and try to improve it. This is one area in which we can make a useful contribution, and I congratulate the noble Lord, Lord Roper.

I remember very well that before the 1975 referendum complaints were made by both sides, particularly by the no side, that all the information had been supplied by the Government and that that was unfair. There is a case to be made for some kind of hard-headed and objective assessment on which we can make our choice about whether to stay in or come out. I rather agreed with the noble Lord, Lord Roper, when he said that the assessment should not necessarily be done by the Government themselves because that was precisely the argument in 1975: the information was not to be trusted because the Government were pro-European and therefore it should have been provided by someone else. The suggestion that the Office for Budget Responsibility might be the body to do the work is a good one. I therefore support the noble Lord, Lord Roper, who I hope I can call my noble friend, which he certainly is because I have known him for 50 years, and I hope that in doing so I have done my duty to him and, indeed, to the argument for improving this Bill.

Lord Wigley: My Lords, I will speak briefly to support the amendment put forward by the noble Lord, Lord Roper. I believe that the provisions of this pair of amendments are absolutely fundamental to holding any meaningful referendum. Unless the implications of a change—and, indeed, the implications of staying in—are spelt out quite clearly, how are the public to be in a position to make an informed judgment? If we believe in referenda—I indicated earlier that there are circumstances in which I do—it is absolutely essential that we have this sort of provision. We have had a number of referenda in Wales; the noble Lord, Lord Anderson, referred a moment ago to the referendum on opening or closing pubs on Sundays. There was also the 1979 referendum, which the noble Lord, Lord Kinnock, will remember very well as he left me with some bloody noses on that occasion. There was one in 1997 and a subsequent one in 2011. In each, it was necessary to spell out the implications of what was taking place. As far as we in Wales are concerned, there would be far-reaching effects, on two sectors in particular.

The noble Lord, Lord Anderson, referred to the importance of the Japanese manufacturing sector in Wales and the excellent work that was undertaken by the Welsh Development Agency in attracting more than 50 Japanese companies to Wales. Companies in Japan and Wales have indicated their concern if their strategy of locating their manufacturing capacity in the UK in order to sell to the European market was to be undermined by a change of this sort. The implications of pulling out of the European Union certainly need to be spelt out in those terms. In Wales, we have one very significant manufacturer, Toyota, on Deeside. If anything was to undermine that, it would be a body blow. We also have British Aerospace on Deeside, which works very closely with European partners. There would be immensely damaging implications for the company and the 7,000 or 8,000 jobs in north-east Wales. That needs to be spelt out so voters in the area know.

The other sector that would be affected is the agricultural sector, where up to 80% of income is now related to activity on which the European Union has a bearing. My friends in rural Wales in the farming fraternity most certainly have great fears—those, too, need to be spelt out for residents in rural Wales who may not be farmers themselves but will need to know the effect on their community if the main industry in the area is undermined. For those reasons I support the amendment.

Lord Foulkes of Cumnock: My Lords, I will say a very few words in support of the excellent amendment of the noble Lord, Lord Roper. First, I underline what my noble friend Lady Quin said at the start and what was repeated by the noble Lord, Lord Hannay, and my noble friend Lord Radice. The noble Lord, Lord Dobbs, finds himself in new territory now, which I am sure he will welcome. The fact that one amendment has been passed means that he is free, at last, to exercise the discretion that I know he has. If I may say so modestly, I think that he would increase his stature greatly if he now exercised that discretion from time to time. It will not delay the Bill any further, undermine it in any way or create problems with the House of Commons—it is not going to create any problems. Knowing him well, admiring him and respecting him, and having had a number of conversations with him, I hope that he will see himself as free to accept this amendment and, perhaps, some later amendments. That would go a long way to legitimising his position, and that of the Bill.

I was very pleased that the noble Lord, Lord Roper, said that his amendment was complementary to those of mine that are now numbered as Amendments 42C, 42D and 42E, which relate to reports by the Secretary

[Lord Foulkes of Cumnock]
of State on the transfer of powers, the negotiations and the competencies. It is also complementary to the excellent amendment that my noble friend Lord Lipsey put forward and which I have had the pleasure of adding my name to, Amendment 69, on the public information office. That, too, would be complementary and helpful.

I have two substantial points to make. One is to compare this with the Scottish referendum. Those of us from Scotland are beginning to think that it has been going on for ever, and we still have a long way to go—but the one thing we cannot say in relation to the Scottish referendum is that we have not been provided with information. We have had assessment after assessment by each of the departments of the United Kingdom Government, and there are more to come; we have had the so-called White Paper, *Scotland's Future*, from the Scottish Government; we have had the no campaign arguing its case, Better Together; we have had think-tanks galore; and there will be more over the next few months until 18 September. If and when it comes, this European Union referendum will be no less momentous than the Scottish referendum.

1.30 pm

Finally, a number of Members have made the point about the effect on industry. My noble friend Lord Wigley mentioned agriculture. I also hope that the impact assessment will look at the environment and environmental legislation. So many environmental matters deal with Europe and, as we have heard so many times, there are no boundaries to pollution. There are problems in relation to the environment that the EU deals with that we should have a report on. There is also the social chapter: so much in terms of health and safety, workers' rights and everything else that concerns me and my party so greatly has been a matter of discussion, debate and improvement within and by the European Union. I hope that the report will cover that as well.

For all those reasons, I strongly support the amendment moved by the noble Lord, Lord Roper, and I hope that the noble Lord, Lord Dobbs, will give very serious consideration to accepting it.

Lord Kerr of Kinlochard: I, too, support the amendment moved by the noble Lord, Lord Roper. The analogy with 1975 is interesting. As the noble Lord, Lord Dobbs, has reminded us again and again, the House of Lords passed without difficulty the Bill for the referendum. Of course, the difference was that the governing party had had in its election manifesto a commitment to having a referendum, and the renegotiation was taking place; it had taken place by the end. It was not a future renegotiation and a referendum in another Parliament; it was a referendum in the here and now. It was completely uncontroversial as a Bill, the question was in no way slanted and it went through like a dose of salts.

That was a totally different situation from the one we face with the Bill in the name of the noble Lord, Lord Dobbs. In 1975 there was a public information campaign in a very narrow sense. There was in Whitehall a referendum information unit, staffed partly from public service, partly from outside, which provided—genuinely impartially—information to the two campaigns, and the campaigns made what use they wished of it. There was very little direct communication by the Government with the elector.

The requirement then was not nearly as great. It was not long that we had been in the European Union. People could remember what it was like to be outside the European Union. There had been huge debate about Mr Heath's application. There had then been an election, which was fought on a number of issues but that was one of them. The public were pretty familiar with the issues. People who have for a generation and a half assumed that the rights they acquire by being members of the European Union are permanent rights, people who live in Spain or Italy or Ireland, and enterprises that have made their decisions about investment on the assumption that our membership of the European Union single market is permanent are going to have to think about how these things would change.

The noble Lord, Lord Turnbull, got it exactly right and I agree with everything he said. The noble Lord, Lord Hannay, was correct to say that the four assessments called for in this amendment would have to be genuinely factual, impartial and independently produced. It is a serious requirement which should be in the Bill. I agreed with the noble Lord, Lord Liddle, when he said at Second Reading that it was a principal defect of the Bill that there was nothing in it about facilitating unbiased debate before the referendum was held. This amendment would correct that defect, and I support it.

Lord Kinnock: I support the amendment. If I can be biblical for a moment, I shall take as my text what no less a person than the Prime Minister said in his Bloomberg speech. He said:

> "If we left the European Union, it would be a one-way ticket, not a return".

There can be few bigger questions ever to present themselves to the British people in this or any other age, certainly in peacetime—questions about war, of course, are characteristically not put to the British people. If that is the dimension of the decision, it is very clear that it must be subject to a full assessment, not as an addendum or an afterthought but as a basic prerequisite of conducting a referendum and a meaningful vote in it.

The reason for that is very straightforward: there is no commercial organisation of any dimension, even quite small concerns, which would begin to undertake any significant shift in its product range, in its marketing, in its location and in a proportionately big investment decision without undertaking a full evidence-based assessment of the impact of taking that decision. It would be an assessment of the impact not just on the firm and its labour force but perhaps on the locality, the environment and on transport needs. Anyone who has been part of such decision-making, as many people in this House, including me, have been, is familiar with the very refined techniques that now exist for undertaking comprehensive and thorough impact assessments. That is what the whole of commerce does. Indeed, it is what the whole of local government does. There can be no significant decision facing any council in this whole country that has any kind of recognisable implication

for the community, the budget of the council or the well-being of the citizens that is not subject to rigorous impact assessment, particularly risk assessment. Useful techniques exist for undertaking those exercises in ways that are comprehensible to the citizens of the locality as well as to the decision-makers, executive and elected, in the council.

If we are faced as a country before 2017, or maybe after it under the terms of European Union Act 2011, with this monumental choice whether to book a one-way ticket, not a return—in the words of the Prime Minister—an assessment of impact that is comprehensive, thorough and communicated in understandable language would be a basic, vital requirement.

To the list that exists in the proposed "Referendum condition" clause, which is commendable and touches on most of the issues that would be of significance to people, we could add some more words from the Prime Minister. He said that we would have to think about,

"the impact on our influence at the top table of international affairs … That matters for British jobs and British security".

It is not a detached, academic consideration of whether we have lost an empire and still seek a role, or anything esoteric at all. He said, rightly, that it matters for British jobs and British security.

We could add that question to the list: can we realise the Prime Minister's and the Chancellor's ambition of remaining in the single market, whatever happens to our membership of the European Union? The Prime Minister said that that is the most important single reason for us belonging to the European Union. If that is the case, surely the issue must be examined with great rigour. What would be the impact, that we could assess, on our participation in the single market? The results of that assessment should of course be available to the British people for prolonged discussion and comprehension before they come to casting the fateful vote.

Lord Anderson of Swansea: My Lords, I suspect that there is one other potential impact of deep concern to my noble friend, the noble Lord, Lord Wigley, and myself: the danger that there will be differential social, economic and environmental effects within different parts of the United Kingdom, irrespective of the Scottish dimension. I hope he would agree that that matter should also be canvassed so that those who live on the periphery of the UK can also be aware of what their vote would mean.

Lord Kinnock: I am grateful to my noble friend. We could add a number of matters that absolutely, legitimately and centrally would determine attitudes in any referendum—as I said, whether it is held under the terms of this Bill, the one that succeeds it because this Parliament cannot dictate to the succeeding Parliament, or the terms of the 2011 Act. Of course, as my noble friend said, that is absolutely central.

As the noble Lord, Lord Wigley, and my noble friend Lord Anderson will know, I am not in any sense or form a secessionist or nationalist—quite the contrary, I am a unionist in more senses than one. But the fact is that if we were to have a referendum it would be entirely sensible for us to make an arrangement that ensured that its results were acknowledged according to England, Wales, Northern Ireland and Scotland—if it is still part of the United Kingdom, which I dearly hope it will be. That is not in order to create trouble within this United Kingdom but, quite the contrary, so that people could signify their comprehension of the detail of the impact assessment and their calculation of what the real effects of departure could be for the part of the country in which they live and work and which they hold most dear.

I do not want to tire the House with a list of the various concerns that would have to be subject to impact assessment. I simply use what I have said and the illustration provided by my noble friend to further illuminate the argument supporting this amendment. I appeal to the noble Lord, Lord Dobbs, to give full recognition to the force of this argument because I know, whatever his enthusiasms about a referendum or our participation in the European Union in future, he would not want Britain to go gentle into what could be a very dark night. He will want to ensure that the British people are in possession of dispassionate analysis and very thorough assessment of what the effect would be of departure from the European Union in order that their vote in a referendum was one of maximum information and, one hopes, wisdom.

That being the case, and respecting the noble Lord, as I do, I hope that he will accept the intellectual, constitutional and political rationale put to him by me and my noble friends in the course of this fairly short debate and be willing to embrace the amendment.

1.45 pm

Lord Liddle (Lab): My Lords, on this side of the House, we regard this as a significant amendment. Given that the House has decided by an overwhelming majority that the Bill is amendable, we very much hope that the noble Lord, Lord Dobbs, will consider it favourably. It is a serious attempt on our side to improve the referendum proposal and make an independent impact assessment a vital condition before a referendum can properly proceed. We want rational, independent consideration of the costs and benefits of our EU membership and of the alternatives to it. The amendment is, we hope, a way to facilitate that rational consideration of the issues at stake.

Why is it important to look at alternatives? Those of us who have spent a lot of our lives in politics know that opinion polls do not always give a very accurate reading of what is likely to happen at a general election. You can often be miles ahead, but the result at a general election can be very different. Why is that? It is a point of key relevance to the Europe debate. It is because, in the mid-term of any Government, people are simply thinking about what they think of the Government. It is only when they get to the election that they start thinking about it as a choice between the Government of the day and the Opposition. If we are to have a sensible debate about the European Union, it is vital that people do not just see it as expressing an opinion in a poll in a TV reality show about what they think of Brussels, the Commission, the European Parliament and all the rest, where we know what the result would be, but that they think

[Lord Liddle]
about what are the alternatives to our present EU membership. They need to be explored independently and objectively.

A recent attempt to do this was in the CBI's report, *Our Global Future*. That is on the economics. The CBI came to the conclusion that no alternative option to full EU membership can combine all the benefits of EU membership with none of the costs. I shall not risk being accused of wasting the House's time by reading out the report, but it went through in meticulous detail all the different options, such as the so-called WTO option, becoming a member of the EEA, the Swiss option, or having some kind of free trade agreement with the European Union. It went through all the options. Those options need to be explored properly. That was the point that the noble Lord, Lord Turnbull, was driving at. We cannot have a sensible discussion in a referendum on our EU membership without the Government saying what they would do if the people voted to come out, because it is only in those circumstances that people can make a proper choice. That is one of the reasons why we support this.

It is important to emphasise that this is not only a matter of economic and social costs and benefits. It is also about the rights of citizens, particularly our citizens living presently in other member states of the European Union, and how a withdrawal would affect their position. It is also about our security. The present Government have just been through a huge exercise on the JHA opt-out and have decided that it is essential to Britain's security that we opt in to certain of these measures. They know that if we were not part of those measures, senior figures in the police force and in the intelligence services would have very serious doubts about government policy. We need to look at the whole range of issues to do with our EU membership.

This has to be done objectively and properly. If we are to have a fair debate, that is absolutely essential. We all know that large sections of the press are going to argue for Britain to withdraw. There is no fairness in the British press on this issue, where you have the *Mail*, the *Express* and the *Sun*, and to a lesser extent the *Telegraph* and the *Times*, united in their view against membership of the European Union. However, we also have a lot of misinformation now in social media. If we believe in democracy, it is the proper duty of the Government to ensure that the public are properly informed of all the options through a proper, independent analysis.

As my noble friends Lord Kinnock and Lord Giddens said in the earlier discussion, whether we are in the European Union or not is a fundamental choice for the future of this country. The debate about it must not be treated as some way of papering over the cracks in one of our political parties. It has to be treated as one of the most fundamental decisions that, in our lifetimes, we will ever take.

Baroness Warsi: My Lords, perhaps I may briefly refer back to what I said at Second Reading. I said that the Bill was not about being pro-European or anti-European but about being pro-democracy. The noble Lord raised a number of issues about the people being informed and I agree with him. One of the positions that the Government have taken in relation to the balance of competences review has been on having an independent review of each individual area, where organisations and individuals are given the opportunity to give evidence, and for those reports to be presented in an independent way so that people can see where the European Union helps and where it hinders.

Such a referendum will generate a huge amount of interest and a great deal of campaigning. I think of my own experience of campaigning during the AV referendum. It becomes apparent as the referendum date comes nearer that the campaign steps up and a huge amount of discussion takes place. Members of this House and of the other House will have the opportunity to have their say. Business will have its say, NGOs will have their say and both sides of the case will be put. I am convinced that when this referendum is eventually held, the yes campaign and the no campaign will have long and detailed campaigns which will allow the British public to hear both the case for and the case against. This is an opportunity to allow that debate and those campaigns to start, and to allow the British people to have their say. There is overwhelming evidence that a referendum is what the people of this country—

Lord Hannay of Chiswick: My Lords, I thought that with the Minister's reference to the balance of competences in her opening remarks, she was about to turn and recommend to her noble friend that they should accept the amendment. Is that the case? If not, why not? She is in government; if there were a referendum tomorrow, would the Government ensure that the sort of information called for in the amendment was provided? I hope that the answer is yes, and if it is then I hope that she will recommend this amendment to her noble friend.

Baroness Warsi: As the noble Lord is aware, the balance of competences review is to be done over four terms. The first set of papers has already been published and the second is being published as we speak. It is important that there is a timeframe within which this proper process is allowed to take place, and that is why the date as set in this Bill is not before the end of 2017. In those circumstances, I would say that the overwhelming feeling of the British people is to allow the referendum to happen.

Lord Dobbs: My Lords, someone has just passed me a note to remind me that today is the anniversary of when the Emperor Caligula was deserted by his noble friends in 41 AD and came to a sticky end. I am not quite sure what they meant by that.

Another amendment, another hour, so I will be brief. I thank the noble Lord, Lord Roper, for the dignified way in which he has introduced the amendment. I also thank the noble Lord, Lord Foulkes; I hope that it will not embarrass him if I confirm that we have extremely cordial personal relations outside this Chamber, but I assure noble Lords that that has never done anything to undermine the asperity of our politics.

Once again, this is a specific matter that was debated in the other place at some length and was turned down by a resounding margin. I understand why. The

amendment could be taken as implying a lack of belief in our democratic process and the ability and capacity of people to come to a sensible conclusion. Of course they should be fully informed. That is the basis of our democracy; it is what election and referendum campaigns are all about. We have the most mature democracy in the world. The people are more than capable of understanding that the press often talks complete nonsense, as do the political parties and even perhaps the CBI. We have heard a lot about the CBI on this particular amendment; I understand that the noble Lord, Lord Liddle, and others would like the CBI to have a role in this independent, objective and dispassionate—to use the word of the noble Lord, Lord Kinnock—assessment. Is that the same CBI that a few years ago was chiding the then Labour Government to get off the fence and join the euro? You see, it is not quite as simple as—

Baroness Quin: I take the point that the noble Lord is making, but actually the CBI had conducted a survey and what it was doing was reflecting the views of its companies up and down the country and the people who worked for them.

Lord Dobbs: Many of those companies have changed their mind. The noble Baroness is simply confirming the point that I want to make: these objective assessments are terribly difficult, and not simply obtained by the movement of a pen.

Lord Radice: A number of us have argued for using the Office for Budget Responsibility. Is the noble Lord seriously saying that that is not a reputable and objective body? If so, he is of course undermining the whole basis of his Government's economic policy.

Lord Dobbs: The noble Lord fully understands that that is not at all what I am saying. I am simply suggesting that this is not only a difficult issue but an important one. Of course we want people to make up their minds, and in order for them to do that they need information. Above all, though, what they need first and foremost is a vote—the first vote that they will have had in 40 years.

Lord Anderson of Swansea: My Lords—

Lord Dobbs: I am coming almost to the end. If the noble Lord insists, then of course I will give way.

Lord Anderson of Swansea: Why should the vote be first and foremost? Should not an evidence-based assessment be first and foremost?

Lord Dobbs: My Lords, nothing in the Bill prevents a future Parliament, before a referendum, from asking for just such an independent assessment in the circumstances of the time. Nothing in this Bill says that that is not going to happen. It is simply that this Bill is not required to do that in order for that to be achieved. The people will get their information—they will probably start complaining that they have had too much information—but they do not need this amendment in order to get it.

Having listened to the noble Lord's argument and not disagreeing with his fundamental approach that the people of course need the right information to make up their minds, given that it is not necessary for this amendment to be passed in order for them to get that information, I respectfully ask him to withdraw his amendment.

Lord Roper: My Lords, I am extraordinarily grateful for the support from all parts of the House for this cross-party Back-Bench amendment asking for the Bill to include an obligation to provide objective information on these critical matters. Given the time, I hope noble Lords will forgive me if I do not go into detail on all the points raised, although I think that the agenda which the noble Lord, Lord Kinnock, proposed is probably rather more than the one which I was thinking of, but there are obviously other ways in which these other matters can be dealt with.

I also felt that the point made by the noble Lord, Lord Foulkes, on environmental matters and the social chapter spelled out some of the things which were already included. I hope that the House understands very clearly the distinction between the objective analysis which we are putting forward in this set of amendments and the other matters which are put forward in other amendments to which we will be returning later.

In view of the support from all parts of the House, I was very disappointed that the noble Lord, Lord Dobbs, the promoter of this Bill, having said that he agrees with it, feels that it is not necessary to have it in the Bill. That is an argument one often gets as far as amendments are concerned. It is, of course, no longer possible to say that we must not have any amendments because we already have one, and having got one, the arguments against this one seem much reduced. On that basis, I wish to test the opinion of the House.

2.02 pm

Division on Amendment 9

Contents 183; Not-Contents 157.

Amendment 9 agreed.

Division No. 2

CONTENTS

Adams of Craigielea, B.
Addington, L.
Adonis, L.
Alli, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Ilminster, L.
Bach, L.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Bassam of Brighton, L.
Benjamin, B.
Blackstone, B.
Bonham-Carter of Yarnbury, B.
Boothroyd, B.
Bowness, L.
Brennan, L.
Brooke of Alverthorpe, L.
Brookman, L.
Browne of Ladyton, L.
Campbell-Savours, L.
Carter of Coles, L.
Chandos, V.
Chidgey, L.
Christopher, L.
Clarke of Hampstead, L.
Clement-Jones, L.
Clinton-Davis, L.
Collins of Highbury, L.
Craig of Radley, L.
Crawley, B.
Davies of Coity, L.

Davies of Oldham, L.
Davies of Stamford, L.
Desai, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Drayson, L.
Dubs, L.
Elder, L.
Erroll, E.
Evans of Temple Guiting, L.
Falkner of Margravine, B.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Foulkes of Cumnock, L.
Gale, B.
Garden of Frognal, B.
German, L.
Gibson of Market Rasen, B.
Giddens, L.
Golding, B.
Goudie, B.
Gould of Potternewton, B.
Greaves, L.
Grender, B.
Grenfell, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Hart of Chilton, L.
Hattersley, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hilton of Eggardon, B.
Howells of St Davids, B.
Howie of Troon, L.
Hoyle, L.
Hughes of Woodside, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Inglewood, L.
Irvine of Lairg, L.
Jolly, B.
Jones of Cheltenham, L.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Southwark, L.
Kerr of Kinlochard, L.
King of Bow, B.
Kinnock of Holyhead, B.
Kinnock, L.
Kirkhill, L.
Knight of Weymouth, L.
Kramer, B.
Lea of Crondall, L.
Leitch, L.
Lester of Herne Hill, L.
Liddle, L.
Lipsey, L.
Low of Dalston, L.
McAvoy, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
McNally, L.
Manzoor, B.
Massey of Darwen, B.
Maxton, L.
Mendelsohn, L.
Mitchell, L.
Monks, L.
Morgan of Drefelin, B.
Morgan of Ely, B.
Morgan of Huyton, B.
Morgan, L.
Morris of Handsworth, L.
Newby, L.
Northover, B.
Nye, B.
Oakeshott of Seagrove Bay, L.
O'Neill of Clackmannan, L.
Ouseley, L.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parekh, L.
Pendry, L.
Ponsonby of Shulbrede, L.
Prosser, B.
Quin, B. [Teller]
Quirk, L.
Radice, L.
Randerson, B.
Rea, L.
Redesdale, L.
Reid of Cardowan, L.
Rendell of Babergh, B.
Richard, L.
Rodgers of Quarry Bank, L.
Roper, L. [Teller]
Rosser, L.
Royall of Blaisdon, B.
Sawyer, L.
Scotland of Asthal, B.
Sherlock, B.
Shipley, L.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Snape, L.
Soley, L.
Stephen, L.
Stern, B.
Stevenson of Balmacara, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Suttie, B.
Symons of Vernham Dean, B.
Taverne, L.
Taylor of Blackburn, L.
Thomas of Gresford, L.
Thornton, B.
Tomlinson, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Turnberg, L.
Turnbull, L.
Turner of Camden, B.
Uddin, B.
Wall of New Barnet, B.
Wallace of Saltaire, L.
Walmsley, B.
Watson of Invergowrie, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilkins, B.
Williams of Crosby, B.
Williams of Elvel, L.
Willis of Knaresborough, L.
Wills, L.
Winston, L.
Wood of Anfield, L.
Woolmer of Leeds, L.

NOT CONTENTS

Ahmad of Wimbledon, L.
Anelay of St Johns, B.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Astor, V.
Attlee, E.
Baker of Dorking, L.
Balfe, L.
Bamford, L.
Bates, L.
Berridge, B.
Black of Brentwood, L.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Brabazon of Tara, L.
Bridgeman, V.
Brooke of Sutton Mandeville, L.
Brougham and Vaux, L.
Brown of Eaton-under-Heywood, L.
Browning, B.
Buscombe, B.
Caithness, E.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Coe, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E. [Teller]
Crickhowell, L.
De Mauley, L.
Deighton, L.
Dixon-Smith, L.
Dobbs, L.
Dykes, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Eden of Winton, L.
Edmiston, L.
Elton, L.
Empey, L.
Faulks, L.
Feldman of Elstree, L.
Fink, L.
Finkelstein, L.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Geddes, L.
Gold, L.
Goodlad, L.
Goschen, V.
Hamilton of Epsom, L.
Hanham, B.
Henley, L.
Heyhoe Flint, B.
Higgins, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hooper, B.
Horam, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jenkin of Roding, L.
Jopling, L.
Kalms, L.
Kilclooney, L.
King of Bridgwater, L.
Kirkham, L.
Kirkwood of Kirkhope, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Leigh of Hurley, L.
Lexden, L.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lucas, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
Mackay of Clashfern, L.
Mancroft, L.
Marlesford, L.
Mawhinney, L.
Mayhew of Twysden, L.
Miller of Hendon, B.
Montrose, D.
Morris of Bolton, B.
Moynihan, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
Pearson of Rannoch, L.
Perry of Southwark, B. [Teller]
Popat, L.
Renfrew of Kaimsthorn, L.
Renton of Mount Harry, L.
Ridley, V.
Risby, L.
Sassoon, L.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharples, B.
Shaw of Northstead, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shrewsbury, E.
Skelmersdale, L.
Spicer, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stevens of Ludgate, L.
Stirrup, L.
Stoddart of Swindon, L.
Stowell of Beeston, B.
Swinfen, L.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
Trumpington, B.
Verma, B.
Waddington, L.
Wakeham, L.

Warsi, B.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Willoughby de Broke, L.
Wolfson of Aspley Guise, L.
Younger of Leckie, V.

2.14 pm

Amendment 10

Moved by ***Lord Kerr of Kinlochard***

10: Clause 1, page 1, line 4, leave out subsection (2)

Lord Kerr of Kinlochard: My Lords, the amendment would remove the specific 2017 date from the Bill; it would not, of course, remove the insistence in Clause 1(1) that there should be a referendum but would merely leave open the date.

At Second Reading, in my usual low-key, modest, respectable, Cross-Bencher way, I touched on the reasons why I, as a negotiator, thought it unwise to put our negotiators in the forthcoming renegotiation under time pressure by locking them into a 2017 requirement for the successful completion of a renegotiation, which it seems that we will not start until 2015. Reading *Hansard* and seeing what I said at Second Reading, I am reminded of Warren Hastings in Westminster Hall at his impeachment, standing amazed at his own moderation.

I am struck by the fact that we do not know what it is that we will be renegotiating. We do not know what we want. The noble Lord, Lord Owen, had a point at Second Reading when he suggested that we should start now trying to win friends and influence people on whatever it is we want to achieve. I rather agree, but we do not know what we want to achieve. We have seen three or four hints in recent weeks. We have been told that we may want to scrap free movement of persons, in Article 3 of the treaty, or to have the EU drop its Charter of Fundamental Rights, in Article 6 of the treaty, and resile from the European Convention on Human Rights.

We may want to roll back EU competence in labour and social law and change the single market rules to give Whitehall a veto on EU laws on financial services. Indeed, on that, we have been told that the message for the foreigners is, "Reform or we leave". All that sounds quite big stuff, involving fairly fundamental issues. Putting it as mildly as I can, I warn the House that all that would take time. Perhaps I should touch very briefly on the timetable for treaty revision.

Baroness Farrington of Ribbleton: My Lords, will the noble Lord please explain to me—if he is able to—when he uses the term "we may", which "we" is he talking about? Is he talking about "we" meaning the country, "we" meaning the Government or "we" meaning part of the Government?

Lord Kerr of Kinlochard: I am sorry; I spoke loosely. I was talking about the Government of the day in the United Kingdom seeking treaty renegotiation.

There are four stages to treaty amendment, and the Conservative Party has argued that renegotiation will end in treaty amendment. It has defined success as treaty amendment. Stage one is that one has to find 14 other member state Governments who agree that one's proposals for change make sense, or at least that they are worth considering in a convention. You have to have a simple majority.

The second stage would be a convention in which the national Parliaments, the European Parliament, the Commission—

Lord Cormack: I just want to say that many of us cannot hear the noble Lord. There must be something wrong with the loudspeakers.

Lord Kerr of Kinlochard: I hate to deprive the noble Lord, Lord Cormack, of my wisdom, and he has been far too polite in the past.

The second stage of the process of amending the treaty is the calling of a convention. The last and only convention so far lasted for just over 18 months. The convention has to end up with consensus. The next stage is an intergovernmental conference in which one needs the unanimous agreement of every other member state to one's propositions. Nothing is agreed until everything is agreed. The final stage would be ratification of the outcome. If it involved treaty amendment, the changed treaties would require new national ratification in every member state's capital. I assume that before we have the referendum, we would want to know, and be able to tell the country, whether the renegotiation deal had stuck and had been accepted in other member states. A very awkward and complex situation would arise if you had a referendum on the assumption that the renegotiation deal would be ratified everywhere, and that turned out not to be the case.

We do not begin those four stages until after an election in 2015. It does not add up. The first stage, the bilateral diplomacy, we do not appear to be doing. We do not appear to be collecting the 14 friends to get past the first hurdle. As to the second stage, the convention, I do not know how long it would take. It might take much less than the 18 months taken last time, but it is a finite hurdle to get over and it will take time. As to the third stage, the intergovernmental conference, Maastricht took a year. This one might take less but, on the other hand, it sounds as if the propositions that the Conservative Party envisages bringing forward are rather fundamental. Finally, as to ratification in 2017, one would be asking the French and the Germans in their election years to agree with the British on, say, restraining free movement of persons, taking human rights out of the treaty, exempting the British from social law or giving them a veto on financial law. You would be seeking agreement on that in the year in which a French Socialist President was seeking re-election, and a German Government who strongly believe in human rights would be facing the polls.

Lord Deben (Con): The noble Lord has not mentioned the danger that ratification would not have taken place. If the British had a referendum and wished to remain in the EU, but ratification did not take place after that decision was made, that would put us in a constitutional position of great severity.

Lord Kerr of Kinlochard: I entirely agree with the noble Lord. The point that I am trying to make is: because the renegotiation is envisaged to take place before the referendum, the date set for the referendum in 2017 cannot be right. It does not work.

Lord Forsyth of Drumlean: I am struggling with this argument because we are going to have a referendum in September on whether Scotland should remain part of the United Kingdom. The proposition then is that the referendum should be held before the negotiation. I did not think that the noble Lord had any difficulty with the idea of that referendum.

Lord Kerr of Kinlochard: It depends on where you are starting from. It is not an easy position, but if the position of the noble Lord, Lord Forsyth, is that he wants to get us out anyway and we should not bother with renegotiation, that is fine. Why not? However, the Conservative Party's position, as clearly explained in the Prime Minister's Bloomberg speech—in which, by the way, he was speaking explicitly as leader of the Conservative Party, not as Prime Minister—was that he hoped to renegotiate a different relationship with Europe, put it to a referendum and recommend that we stay in the European Union. I am just saying that that timetable does not work. It does not add up.

At Second Reading, a lot of noble Lords commented on the date. A lot of noble Lords made the point—better than I am making it—of the unwisdom of locking the negotiators' feet in concrete and putting them under time pressure. That is not a wise idea. The noble Baroness, Lady Falkner of Margravine, said the date was arbitrarily picked out of the air. We have not been told in this debate why it has to be 2017, other than that was the date in the Bloomberg speech.

Lord Spicer (Con): The noble Lord makes some very interesting points but are they not rather academic in view of the votes that have now taken place and that the House to some extent has already passed wrecking amendments?

Noble Lords: Oh!

Lord Spicer: That is the likelihood. This House has been so careful of the interests of the British public against the shenanigans of the other place that it is going to deny them any voice at all.

Lord Kerr of Kinlochard: Nothing in this referendum in any way affects the first line of this Bill that says that there shall be a referendum. This amendment concerns only whether it is wise to set in the Bill the end date by which time the referendum must have been held. That is my sole point. I have heard no rationale for the 2017 date. I look forward to the explanation of his rationale from the noble Lord, Lord Dobbs. It will not be sufficient for me to hear that the Prime Minister said in the Bloomberg speech that it would be by the end of 2017. He said the first half of the Parliament. That would not be a sufficient rationale for me because it was not put in advance through the political process and raised in Parliament and is not, as I understand it, government policy. It is the policy of the Conservative Party, just as the Bloomberg speech was the policy of the Conservative Party. If we have to have a date in the Bill and it has to be the end of 2017, please tell us why. I can think of only one reason and I am not of a suspicious mind. If you wanted a referendum to produce the result that the UK leaves the European Union, you could not pick a better time. You are saying that the Government must bring their renegotiation to a head in what must be, because of the French and German elections, absolutely the worst year to do it. You are saying that they have to try to cut corners and accelerate the timetable, which the European Union will want to follow. You are maximising the chances that they lose friends, fail to influence people and do not get the renegotiation objectives they have in mind—

Lord Anderson of Swansea: Clearly the date chosen—before 2017—appears to be the worst possible time, as the noble Lord properly points out. It is also during the UK presidency and it will prove extraordinarily difficult for the UK objectively to be chairing the European Union as president and at the same time be pursuing objectives the purpose of which we do not yet know.

Lord Kerr of Kinlochard: I agree. Again it is the cui bono question. Why would you want to set this timing unless your aim is to get us out? I look forward to hearing an alternative, more encouraging explanation of the rationale from the noble Lord, Lord Dobbs, and until I do, I think that we should take this date out of the Bill.

I am very uneasy about the whole renegotiation process. I am very uneasy that we are raising public expectations in this country by saying week after week, issue after issue, "Yes, we will sort that out in the renegotiation". Everybody agrees that the EU needs reform but reform is an amorphous, amoeba-like creature, and it seems to go off in different directions depending on whatever the *Daily Mail* says this week. We are always told, "Don't worry, it'll be dealt with in the renegotiation".

I think that there are issues that can be renegotiated, and I am absolutely not, in principle, against renegotiation. However, one has to be clear with the country, preferably before the election, about precisely what kind of European Union one is trying to create and whether it is going to work—how many friends you have and how negotiable are your aims—and one needs to be honest about it.

If your Lordships want a renegotiation and they want it to succeed, Amendment 10 deserves their support, because a successful renegotiation is incompatible with a 2017 deadline.

2.30 pm

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): I should advise the Committee that if Amendment 10 is agreed, I cannot call Amendments 12 to 15 by reason of pre-emption.

Lord Foulkes of Cumnock: My Lords, I want to say a few words on the amendments in my name and those of my noble friends Lord Anderson and Lord Davies

of Stamford. I hope that the noble Lord, Lord Cormack, can hear me, although whether he wants to or not is another matter.

I, along with my colleagues, have tabled about 10 amendments in this group. Some commentators outside this House have said that this is a disgrace and really dreadful. I see some nodding across the House—I presume in agreement with those commentators. It is our right and privilege to put down amendments and we should consider them carefully. I tabled a large number on this issue so as to give various options for the date—that is all. Some other commentators outside have said that the amendments are completely contradictory because they give different dates, but that misunderstands the purpose of Committee stage. As I understand it, the Committee stage of a Bill is for examining various options, and I have put down options for before the general election, after the general election and, as it happens, at the general election.

Some people argue—I know that the noble Lord, Lord Forsyth, might do it from his own perspective—that there should be an "in or out" referendum as soon as possible. Some pro-Europeans also argue that—in other words, in order to clear up the matter for another generation, just as we supposedly did in 1975, let us have an "in or out" referendum. If we are going to do that—forget about the renegotiation; this is just about whether we think that the principle of the European Union is right—then the early dates we have suggested in Amendments 13 and 14 of 22 May 2014 and 15 May 2015 would be ideal. One is the date of the European election and the other is the date of the general election. If you wanted to carry out a referendum, you could do it on the same day as either the European election or the general election. That would be quite possible, and those dates are just put forward as options for consideration.

The other option is 2020. Again, if you want to have a proper, thorough and widespread renegotiation, then the more time you have to do it, the better. As others said earlier, we still do not know exactly what the Prime Minister wants to renegotiate. When he was interviewed on the Andrew Marr programme, he did not seem to know which areas he wanted to renegotiate. We do not have the details of all the areas, so perhaps more time is necessary.

Amendments 16 to 20 would provide the opportunity for Ministers to decide the date depending on the outcome of the renegotiation. They would provide sensible flexibility in relation to the decision on the date and that might be better. Amendment 21 would insert,

"after consultation with the First Ministers of the devolved administrations".

A journalist writing for the *Daily Telegraph* said that that would give Alex Salmond a veto.

As the noble Lord, Lord Forsyth, knows, I am the last person—perhaps the second last person; he is the last person—who would want to give Alex Salmond a veto on anything at all. It does not provide a veto: it is just a consultation with the First Ministers of Scotland, Wales and Northern Ireland about the date.

The noble Baroness opposite agreed with my critics but I hope she will agree with me now that these amendments provide the options for consideration by this Committee, which is its purpose. No doubt when we get to Report we will have firmed up the dates and will be clearer of what the desirable date should be.

Lord Wigley: On the point of consultation with the First Minister of Wales, for example, will he bear it in mind that in the period 2014-20 we are in receipt of structural funds? If we pull out half way through that period there will be considerable uncertainty and therefore his input would be significant.

Lord Foulkes of Cumnock: I am grateful to the noble Lord, Lord Wigley, because that is exactly the kind of thing that the First Ministers of the devolved Administrations could put into the debate. It is not a veto. It simply provides an opportunity for them to say, "Look, if you do it on this particular date it is going to be unhelpful and difficult because of certain circumstances". For example, we are having the Commonwealth Games in Scotland and there may be other events in the future during which it would be undesirable to have a referendum, or before or after. The amendment will give the devolved Administrations the opportunity to consult.

This group of amendments provides the opportunity for Euroenthusiasts to have an early date if they want to settle matters once and for all; equally Eurosceptics or Europhobes will have the same opportunity—and here is a Europhobe just to prove it.

Lord Forsyth of Drumlean: My Lords, from listening to the noble Lord it is obvious that the purpose of his amendments is to give him an opportunity to make a long speech. For example, Amendment 13 suggests that we should have the referendum on 22 May of this year. The Bill will have hardly received Royal Assent. How can that possibly be a realistic expectation? This is a good old-fashioned filibuster for which he is famous.

Lord Foulkes of Cumnock: That is an absolute calumny. [*Interruption.*] The noble Lord, Lord Trimble, is known for his acerbity on these matters. I have been going for six minutes; when did we last take six minutes on a filibuster? In my main speech earlier in the day I was less than 10 minutes whereas the noble and learned Lord, Lord Mackay, rambled on for nearly 30 minutes. He was the one doing the filibustering, not me.

Lord Dobbs: At the risk of wasting any more time, dare I suggest that it is not a filibuster but a "Milibuster", something designed by the Labour Party to cause so much delay and confusion that we will all have forgotten where we started from?

Lord Foulkes of Cumnock: The noble Lord, Lord Dobbs, has read the people's tweets. They coined the word "Milibuster" and he is using it. The interesting, remarkable and ironic thing is that if the noble Lords, Lord Forsyth and Lord Dobbs, had not intervened, I would have sat down two minutes ago.

Lord Bowness (Con): My Lords, I have put my name to Amendments 10, 23 and 24 in this group. Sitting on the Conservative Benches in your Lordships' House, I should perhaps explain why I have done so. I did so because I believe that it is in the interests of not only the United Kingdom and the European Union but also of the Conservative Party to ensure that my right honourable friend the Prime Minister, if he is the Prime Minister after the next election—on these Benches we hope that he is—is not placed in a straitjacket into which we are in danger of tying him if the provision in this Bill is not amended as suggested by the noble Lord, Lord Kerr of Kinlochard.

Can I just take a moment to remind the House of the history of this matter? We as a party have moved from a position of total rejection of a referendum to the promise of one in the next Parliament to the acceptance of a Bill in this Parliament and, sadly, to the inadequate Bill that now is before us.

The noble Lord, Lord Kerr of Kinlochard, has gone through in considerable detail the necessary steps which have to be taken to achieve an amendment of the treaties. I will not weary your Lordships by reading out or referring to Article 48 of the Treaty on European Union. Suffice it to say that it encapsulates all those steps. Suffice it to say also that this is not the first time that I have asked in your Lordships' House this question of my noble friends on the Front Bench: how is it envisaged that you can negotiate meaningful, serious and significant changes within the period 2015 to 2017, given the provisions of the treaty by which we are bound? The answer cannot be that there is a fast-track procedure, because that is for small matters. If we are talking about only small matters, why are we going through this agony here today?

I suggest that the date is not practical. It is possible to envisage a situation where negotiations are not completed before the deadline is reached. What happens then? Do we have a referendum on incomplete negotiation? What will be the position of the hoped-for Conservative Government and the hoped-for Conservative Prime Minister then? What recommendation will he or she make to the country? The Prime Minister has said that he wants to campaign enthusiastically, post negotiations, for the United Kingdom's continued membership of the European Union. I therefore address my remarks particularly to my noble friends on this side of the Committee. If we support him in that statement of policy, let us ensure that he has the space to do the job he has told us he wants to do, and if we do, that we will support the amendment moved by the noble Lord, Lord Kerr of Kinlochard.

Lord Anderson of Swansea: My Lords, the noble Lord, Lord Bowness, has made a brave speech and, dare I say, a consistent speech because the position he has outlined is that which was taken by the Prime Minister and the Foreign Secretary in 2011. He is therefore being consistent, and one could well ask why there has been a change to what he referred to as the downward slope. Historically I could make the same point over a rather longer period.

When as a young man I joined the Foreign Office in 1960 and was doing some work for Mr Edward Heath, at that time the Conservative Party was enthusiastically in favour of Europe. I concede that in 1983 there was an appalling manifesto from my party—the death warrant. Then there was a reversal of the parties. Mr Major had a torrid time with people whose paternity he doubted, but the problem is that the people whose paternity he doubted are now in the driving seat of the Conservative Party. Mr Major has made very clear his own position: he does not support Mr Wharton's Bill, which is masquerading as a Private Member's Bill.

It is clear that the date is crucial, so why was it chosen? I picture a little conference in the darkness of the night in Downing Street, with a large bran tub with a series of dates in it. Someone pulls a date out of the tub and says, "Why not 2017?". It appears to be as arbitrary as that. We have been given no serious explanation of why it should be the date, but we have been given a very good explanation by the noble Lord, Lord Kerr, as to why it should not be used. We have the good fortune to have in this House the noble Lord, Lord Kerr, who has immense experience of negotiating with our European partners. We also have the benefit of the noble Lord, Lord Hannay. Having been our ambassador in UKRep in Brussels, he knows where the bodies are buried, how negotiations are carried out, and about the need to build up a team in support of the position one wishes to favour. That is the real battle.

2.45 pm

I will not repeat what the noble Lord, Lord Kerr, said, based on his own experience, about the unreality of the date. For referenda, the key determinants are who asks the question and, if it is the Government, in part, on their popularity at the time. In Wales in 1979, the devolution package was voted down massively by the people, four to one, because it was put forward by a highly unpopular Labour Government at the fag-end of their period. By contrast, the devolution referendum in 1997 was passed, just, after being put forward by a very popular Labour Government which had a substantial mandate. It depends who puts forward the question and when. The people of Sweden, for example, were consistently against joining the European Union, but a very small window of opportunity opened, which happened to coincide with when the referendum took place, and the people of Sweden chose, then, to enter the European Union. It is very much a hit-or-miss matter.

My starting proposition is that this is an arbitrary date. In fact, as the noble Lord, Lord Kerr, said, there could probably not have been a worse date in terms of the concerns of the chief negotiating partners—the French and, at that stage, the Germans—along with the added complexity of the British six-month presidency in the latter half of that year. There can be no serious rationale for that particular date. It is most unlikely that any time before that date will be suitable, for the reasons which the noble Lord, Lord Kerr, has set out: the complexity of the negotiations and the crabbed way in which the European Union sets about negotiations. If it is unlikely that one will reach a determination by 2017, why the hurry? One is bound to ask what their motive is.

I recall that, at Second Reading, I probably made a mistake historically when I attributed a particular good story, which I have lived on for 10 years, to

Metternich—the noble Lord, Lord Dobbs, very properly, corrected me and said it was Talleyrand who made that particular point. I defer to his historical knowledge on that, but will pose another historical analogy. Just prior to the French Revolution, a very acute observer, looking at the French liberal aristocrats who were flirting with revolution just before 1789, said, "Those who are blowing upon the flames will one day be consumed by them". My noble friend Lord Pearson is no longer in his place, but it is he and his party who may well be benefiting from what the Prime Minister is doing.

I commend to the House an interesting article in the *Financial Times* of 14 January by Mr Janan Ganesh, who is normally a Conservative supporter. He said that there were three motives behind the timing in the current referendum Bill: first, that it would placate Tory Members of Parliament; secondly, that it would help with UKIP; and thirdly, that it would put the European question "to sleep" until after the general election. He went on to argue that they had massively failed in every one of these objectives and that there was no way in which the Tory right—the Tea Party tendency—had been placated.

Indeed, 100 Conservative Members of Parliament signed that letter to the Prime Minister, saying, "More, more", as if he were a penguin-house keeper, throwing fish to the penguins in the hope that they would say, "That's enough"; but no, they swallow them down and ask for more. They have exposed their real motives. He has not put off UKIP, which seems to be doing pretty well in the polls. He has not put the European question to sleep until the general election—far from it. Through this debate and what will follow, we are continuing to keep the European Union very much on the agenda.

I feel rather like Mr McEnroe: are they serious? What is the reason for choosing that arbitrary date? We do not even know what the objectives of the Conservative part of the Government are in pursuing those negotiations. We know that they have made the position more difficult for themselves by alienating some of their best potential friends: the Romanians and the Bulgarians; the Czechs, who have now changed their position; and the Germans, who do not have any treaty change within the coalition agreement that was recently hammered out. Far from building a consensus with like-minded countries, they have put them off. We know that, but what is their motive? Certainly the Back-Benchers are incensed and I will not go over what the noble Lord, Lord Kerr, has said from his own experience about the length of their position.

What will happen if we set into the terms of the Bill this date of 2017? If it is the case, as we have heard from the noble Lord, Lord Kerr, that there is no way in which negotiations can be concluded by that arbitrary date, what then happens? Because we will be bound to have a referendum, will the question be perhaps not the one we have just agreed but something along these lines: "You will be aware that"—if the Conservative Party is then in power—"the Prime Minister has pursued negotiations with our European partners. There has been no finality. Do you wish him to continue—yes or no?". Perhaps that is the only question that can plausibly be put forward at that arbitrary date of 2017.

The negotiations are highly unlikely to be completed by that time. We do not know the objectives. We do not know the timetable. Therefore, we do not know whether or not the Government will succeed. Will they just make up the objectives after they have reached a certain determination? Either way, this date is wholly unrealistic and it should be rejected.

Lord Grenfell: My Lords, I promise I will be brief and I will try not to repeat what others have said. If I made the speech that I really wanted to make, when noble Lords read it in *Hansard* tomorrow they would probably all accuse me of plagiarising the noble Lord, Lord Kerr, because I agree with every word that he said—it could not be said better.

I would just like to make two points. Of course, I am concentrating strictly on the question of the date. We do not hear so much nowadays about repatriation of powers. The game has changed. It is now all about reform of the European Union. I give credit to the Prime Minister for having picked up on that. He now speaks about us being part of the reform of the European Union. The problem that arises, as far as renegotiation is concerned—to repatriate powers or whatever else the Conservatives would like to see happen—is that our European partners do not see that as a priority. They are interested in the reform of the European Union.

There will be a new Parliament shortly; there will be, I hope, a refreshed Commission and a reinvigorated Council. As we get closer to 2017, there will be new political leaders in Europe. They are looking at European reform and what they want—and they really do want it—is for Britain to be part of the process of reforming the European Union. If the aim of the Conservative part of the Government is to clog up the works, which is what the effect will be, with a long string of requests for repatriation of powers, we will have a very poor reception and they will not be so interested in us taking part in the reform of the European Union. It is extremely important that we focus on reform of the European Union and a little bit less on what might please the Back-Benchers at the other end of the Palace.

The noble Lords, Lord Kerr and Lord Bowness, and others have made the point that we do not know the purpose behind choosing 2017, although we have our suspicions, which have been mentioned. We just do not know. The Conservative Party owes us an explanation as to why it chose 2017. Surely it must have known about the elections in Europe; surely it must be aware of our presidency; surely it must be aware of how long it takes to negotiate. Why then did the Prime Minister decide to pin himself down to 2017?

The Prime Minister seems to have assumed a new role: that of Harry Houdini, binding himself in chains. Because Harry Houdini was a very clever man, he managed to get himself out and then hand the hat around to collect some dosh. Well, David Cameron is no Harry Houdini. He will not be able to get out of that bind if he binds himself to 2017. All the problems that have been adumbrated by the noble Lord, Lord Kerr, and others, he will have to face if he is still Prime Minister.

[Lord Grenfell]

We need a clear answer from the noble Lord, Lord Dobbs: why 2017? If the date is to be 2017, how does he see that it could possibly be of assistance to a Conservative Government and, more importantly, to the nation as a whole?

Baroness Boothroyd: My Lords, I share the concern expressed by the noble Lord, Lord Kerr, who spoke with authority and considerable experience in moving this amendment. I believe that the statutory imposition of a 2017 deadline threatens our entire strategy for securing Britain's future in a reformed European Union. Moreover, this part of the Bill as it now stands undermines and contradicts some of the assurances given by the Prime Minister and the Foreign Secretary in previous statements. Not long ago, both those Ministers argued the case for realism, but, regrettably to me, they have played politics with it ever since. Yet theirs was the correct strategy before they wilted under fire. This amendment restores their original logic. More importantly for me, it restores Britain's chances of winning the long struggle that lies ahead of us.

Clause 1(2) of the Bill propagates the facile belief that this country's 27 partners in the European Union will allow us to reshape Britain's role in it according to our own arbitrary deadline. I support the amendment because it removes that barrier, allows for proper negotiation and provides us with a good chance of success. Do the Bill's supporters really believe that a binding commitment to hold a referendum before the end of 2017 will persuade others in Europe to comply with our proposals and at the speed we dictate? The Germans have a term for what is needed now: Realpolitik—let's get real.

The Prime Minister and the Foreign Secretary profess to be reformers and not quitters. That stance I admire. Answering a question during this Bill's Second Reading in the Commons on 5 July last year, Mr Hague made his position clear. He said:

"The Prime Minister and I are in exactly the same position. Of course we will vote to stay in a successfully reformed European Union".—[*Official Report*, Commons, 5/7/13; col. 1190.]

Clearly, he did not envisage the referendum taking place in a diplomatic void or during negotiations. Neither, although we can only assume it, did Mr Cameron. The Prime Minister in that major speech on 23 January last year said:

"And when we have negotiated that new settlement, we will give the British people a referendum with a very simple in or out choice. To stay in the EU on these new terms; or come out altogether".

In other words, a new deal for Britain was the priority, followed by a referendum. He said:

"It is wrong to ask people whether to stay or go before we have had a chance to put the relationship right".

He was correct. Alas, I am afraid that the Prime Minister has boxed himself into a corner from which he must be extricated—I was going to say "extradited", but "extricated" is a better word. His original judgment is still valid, but a rigid deadline would impede a satisfactory renegotiation.

3 pm

Whitehall must know that the Government's consultations with industry, commerce and other vital interests are pivotal to a robust negotiating position for us. We need the support of all those interests, but consultations have not yet even begun. This amendment gives the next Government, whatever its colour, room for manoeuvre and a chance of success. That is why it should be supported by the House today.

Earlier in this debate, our critics said that we would cause problems for the Commons if we amended the Bill and would face the wrath of the people if it was amended and not accepted by this House as it stands. That assertion has been made bunkum of. We may have many blemishes on our society, but one thing that we have is a very full-blooded and strong parliamentary democracy. Part of that parliamentary system is our job, which is to scrutinise, ask awkward questions, speak out about double-talk and double standards, and amend legislation where we feel it necessary. Private Member's Bill or not, too much is at stake now to take this Bill at face value. If we fail because of our own obduracy, Britain will be humiliated and our chances of ever reforming the EU will be severely damaged. This amendment is in the interest of our country. That is why it has my support. I hope that it has the support of many Members on all sides of this House this afternoon.

Lord Tugendhat (Con): My Lords, I agree with every word that the noble Baroness, Lady Boothroyd, said and therefore will not waste the time of the House by going over the points in detail. That was admirably done by my noble friend Lord Bowness and the noble Lord, Lord Grenfell, in their speeches. I just want to make one particular point: both at Second Reading and in our debates today, I have heard it alleged that those of us wishing to amend the Bill are trying to sabotage the principle of a referendum and that there is some deep-laid plot to deny the British people the right to a referendum. The reverse is true.

As I said at Second Reading, I support the position set out by the Prime Minister in his Bloomberg speech. I shall campaign for a Conservative Government and when one is elected I shall campaign for a yes vote in the referendum when it occurs. But because I take that referendum very seriously, I am anxious that it should be held on the best possible basis: the details should have been fully thought through; it should be designed to provide the British people with the most objective possible choice and all the information that they require; and, before the referendum takes place, the British Government should have the best possible chance of achieving their objectives. I supported an earlier amendment and shall support this one, not because I wish to cut across the House of Commons or deny the British people the vote but because I wish to see the referendum carried out on the best possible basis and designed to achieve the result that the Prime Minister said that he wants to see.

Lord Kinnock: My Lords, the only reason we have the Bill, and certainly the only reason that we have a Bill with a deadline, is the repeated failed attempts by the Prime Minister to mollify and pacify the euro-secessionists within the Conservative Party. Because of the risks, speculation and difficulty to which it subjects our country unnecessarily, I think that it is the most fruitless and most dangerous appeasement since Danegeld.

What is the Prime Minister seeking to negotiate? That is central to the Bill. He was good enough to tell us in his Bloomberg speech that he wanted to negotiate a new settlement with our European partners in the next Parliament,

"a new settlement in which Britain shapes and respects the rules of the single market but is protected by fair safeguards, and free of the spurious regulation which damages Europe's competitiveness".

He does not go into more detail about that; I suppose that we will have to wait for it. He calls for a proper and reasoned debate and then says:

"I say to our European partners, frustrated as some of them no doubt are by Britain's attitude: work with us on this".

I use those quotations to illustrate the complexity and the need for co-operation with European partners to make any significant progress on the kind of negotiation that the Prime Minister and the Chancellor of the Exchequer envisage: to negotiate a new settlement, which has at its centre powerful and influential participation in the single market but with our obligation shorn of any of the duties and contributions to which we object.

I think that that summarises fairly the approach to be taken in the event of the Prime Minister being engaged in that new settlement. That would make the whole process very fragile. The date, which is the subject of our debate now, makes it even more fragile. Why is that? Because the specification of the date of December 2017 means that the furthest possible realistic date to honour the undertakings of the Bill, by which negotiations would have to be concluded, would be, let us say, October 2017, 17 months after a general election in which the Conservative Party hopes to be victorious. It gets even more complex because, just underneath the provision relating to 31 December 2017 is the date of 31 December 2016 as the date by which the date for the referendum must be appointed by the Government.

Do people really believe that after the date of the referendum has been specified in December 2016, we can expect our partners in Europe—despite their distractions, which the noble Lord, Lord Kerr, has properly pointed out, with their acute domestic questions relating to their general elections—to whom the Prime Minister has appealed for patience, to stick with us when they know very well that we are facing a deadline of a maximum of 12 months, during which time the referendum must be held after the date has been appointed?

That brings me to my final point. I think that noble Lords will recognise it to be a practical point because, with the galaxy and diversity of talents and experience in this place, there is any amount of acquaintance with negotiation. Probably everyone in this House has done it, in one way or another, whether as a trade unionist, an employer, a politician, a civil servant, a manager or a parent. We have all engaged in negotiations and I suppose that there are a couple of basic golden rules about them.

The first rule is that you signify a deadline for the conclusion of negotiations only if that deadline can be one of your weapons—for example, "If we do not finish this deal by next Tuesday night, the deal's off the table", or, "If you don't make the deal by next Tuesday night, we're having a ballot and going out on strike". So you use a deadline to influence the negotiations themselves, but only when you are a participant in negotiations and have sanctions. You can negotiate with your children, if you have a more democratic parental relationship than my children tell me I had in their upbringing, because there can be a withdrawal of privileges and a denial of this, that and the other, simply because they have not kept to their side of the bargain. That is part of growing up and of being a parent. You can do the same thing as an employer or a trade unionist, or any form of negotiator using sanctions to try to uphold the deadline and secure your objective.

What sanctions are in the hand or pocket, or the red box, of any member or putative member of a future British Government who have set themselves a deadline to negotiate a complex and comprehensive new settlement with the rest of the European Union, a prominent feature of which is our implacable right to continue to operate with full privileges and obligations in the single market, if we expect them to be willing to endorse that and give us our way in the name of reform? The reform objective is decent and very supportable. I have been working and campaigning on reform of the European Union in a variety of ways for a very long time past, so I support the objective of reform. However, what reforms can you undertake while ensuring that they are copper-bottomed, secured in negotiation and adopted as policy, or even as treaty amendments, if you are working against a deadline? In this case, there are no realistic sanctions to be employed against those who will not bear with us, negotiate in good part and come to a conclusion according to the timetable set down in the Bill.

The reality—is it not?—is that you never set a deadline unless you can enforce it and use it as a weapon of negotiation. If you make a deadline in any other circumstances, the calendar and the clock will do your opponents' work for them—or at least, not your opponents but your partners in negotiation. It is easy to make the error sometimes and I have been known to slip into it very occasionally myself. I ask the noble Lord, Lord Dobbs, to consider whether even his objective of securing this legislation to facilitate a referendum is really served by having an explicit deadline in the Bill. It is a deadline that takes no notice of the objective realities of our politics and other peoples' politics, as the noble Lord, Lord Kerr, so forcefully pointed out. That is evidenced by any knowledge at all of the conduct of political and constitutional affairs in the European Union. A deadline takes no account of the even more basic realities of the biology and psychology of negotiation.

3.15 pm

Lord Spicer: I am sorry to interrupt the noble Lord, Lord Kinnock, but I am worried that he is getting so carried away that he might hit his neighbour in the face. I can see that from here but he probably cannot.

Lord Kinnock: That is the last thing I would do to my noble friend Lady Quin. I would never take on a Geordie lass in that or any respect. I am very grateful to the noble Lord for permitting me what I hope is a courteous way to conclude my speech.

[Lord Kinnock]

I sincerely hope that the noble Lord, Lord Dobbs, thinks in these practical terms because he is sincere in his objective, but if we in this House are not to make fools of ourselves we simply cannot allow, on a gigantic issue of this kind, a deadline to be set for the conclusion of immensely complex negotiations that will affect the destiny of our country.

Lord Maclennan of Rogart (LD): My Lords, I ask that the seriousness of the Bill be taken into consideration in determining when a referendum should be held. It is not about effecting changes or reforms only for the benefit of the United Kingdom. If that process has to be postponed until after the election, as has been said, we have a very short time in which to achieve those changes. The terminal date for the referendum seems not even to allow for that possibility to be achieved.

I think that our ambition should be greater. I served in the Convention on the Future of Europe in 2002, and it was noticeable at the time that many countries came to that operation without a clear view of how they would wish to see the EU reformed, but gradually, and very largely due to the skills of the noble Lord, Lord Kerr, a consensus was reached. There were certainly some exceptions—people like David Heathcoat-Amory, who did not agree with the end results—but the reality was that substantial steps were taken to improve the operation of the EU.

In 40 years the EU has transformed the history of Europe. It has made it a place where justice, democracy and peace can reign, and that is something from which we should not back off. We should accept that we can improve the methods of enhancing those goals. I think that for Britain to stand apart and say, "We want certain changes for us alone", is designed to create a hostile reaction, whereas we should go into this process of reform saying, "We recognise that there are other countries that wish to see change, that wish to see the institutions more democratised, that wish to see not just a single market but one that embraces services and that wish to see not just economic change but security changes to see how we can co-ordinate our defence and security policy and make it more effective—not just an alliance between France and Britain, but something involving other countries as well".

As we witness China growing in importance and its GDP rapidly rising, and as we see India and the BRICs growing in strength, it becomes more important from a global point of view that the European Union is stronger and is recognised by all its citizens to be a vehicle for influencing the better outcomes that we all seek to achieve. That cannot be done with a deadline of December 2017. It requires us to recognise that if we are going to have 28 countries working together to improve the operation of the Union—and we have seen it improve—we require longer to bring together the consensus which we need.

Last week, I was with the Select Committee in Brussels and Paris and what probably struck me most was the disparity of views about how to achieve these goals. For example, the European Parliament needs to have some right of initiative, as do national Parliaments, in indicating the direction of policy, but that has not clearly come on to the agenda yet. Although as a result of the convention and the Lisbon treaty the European Parliament has now has a right of co-decision and much greater authority and consequently greater democracy, we need to ensure that the voice of the European Parliament has greater influence on events.

I believe that the time is ripe for another Convention on the Future of Europe to enable member countries in all their governmental forms to come together collectively and work out a consensus. We need it to enable us to have the evidence of the citizenry presented, not just matters decided by conclaves of Governments who say that they are looking after their own. We need to have a full, open, transparent discussion about the limitations of the European Union, its achievements and its possibilities.

To set a date like this is to threaten the other member countries of the European Union with the possibility that Britain, one of the most influential countries, one of the most respected democracies in western Europe and, indeed, in Europe, might back out. That would be, frankly, a historical disaster, not just for this country, but for the European Union and for global governance, so let us not decide to set a limit to the decision-making of a referendum in this country. Let us amend this proposal. That does not mean that we need to be against referendums entirely, but let us be realistic about the time it takes to change the ways we do things. Let us endeavour to do it properly, systematically and thoroughly. Therefore, I support the amendment.

Lord Inglewood: My Lords, I ask my noble friend a point of clarification. I am not clear about the relationship between the negotiations and the date of any referendum in December 2017. Earlier in the debate, my noble and learned friend Lord Mackay of Clashfern said that there was every likelihood that, if something became problematic it was always open to a successor Parliament to amend the legislation. In the case of the negotiations not being concluded in time for a referendum at the end of 2017, would it be the policy of the Prime Minister to follow the line of action advocated by my noble and learned friend Lord Mackay of Clashfern, or would it be his policy to proceed with the referendum regardless?

Lord Lea of Crondall: My Lords, I hope that the noble Lord replies to that because the noble Lord, Lord Inglewood, has given the game away. There is, as the noble Lord, Lord Armstrong of Ilminster, said earlier, there is no point to having this date if noble Lords want to have this flexibility. I therefore add a question to the noble Lord, Lord Dobbs. In one minute it is seen as a bilateral negotiation by Britain and in the next minute it is clear, as has been said by many speakers, that it is a multilateral negotiation. It cannot be both at the same time. The first would be narrow, and I do not think it would get very far. If it is the latter, a multilateral poker game, it certainly cannot be time constrained in advance. When he replies, I ask the noble Lord, Lord Dobbs: which is it?

Lord Higgins (Con): My Lords, I make a rather simple point. When we began our proceedings today, there was a widespread view that if any amendment

were carried, it might endanger the future of the Bill. There was therefore a great inhibition against voting for any amendment. I do not believe that was wholly true because, as was pointed out in earlier debates, it would be possible for the other place to allow enough time for the Bill to proceed and for the amendments to be considered.

At all events, we are now in a situation where an amendment has been carried; it makes little difference whether one amendment has been carried or a number. It is therefore extremely important, if the Bill is to have a future, as I believe it should, that we make it as good as we can by carrying out our duty of amending it in a sensible way. I find it quite difficult to think of any amendment which has been proposed more sensibly that that of the noble Lord, Lord Kerr, this afternoon.

It seems to me that if we are really in favour of a genuine referendum on the substance of the issue, following a serious negotiation—which I believe is what the Prime Minister intends—then there really is a very strong case for the amendment. Therefore, whatever my noble friend on the Front Bench's brief may originally have said, I hope that she will consider the point which I have just made and, more particularly, that my noble friend Lord Dobbs would also consider it. It seems quite clear that the Bill would be better it we accepted the amendment.

3.30 pm

Lord Davies of Stamford: My Lords, each of the last three speakers has put very significant questions to the noble Lord, Lord Dobbs, and we all look forward to his response. The House will have listened with particular attention to the comments of the noble Lord, Lord Higgins, as he has long experience of public life and the logic of his intervention seems to me very compelling.

I very much enjoyed the speech of the noble Lord, Lord Maclennan. I agreed with every word of it. He and I have had pretty much the same views on this subject during the 25 years we have known each other. I am as confident as I ever was that the judgment that we have taken on these matters over the years will be vindicated by history.

The noble Lord, Lord Kinnock, said some very wise things that I hope have been taken good note of. It will have struck the House—and I trust that it will strike the public—that we have heard in the course of the past two or three hours from the four Members of the House who have the greatest experience of dealing with the European Union and European Union affairs—that is, the noble Lords, Lord Kinnock, Lord Tugendhat, Lord Hannay and Lord Kerr, coming from the two major parties and from no party. All that they said and the advice they gave to the Government, which I think was very sound, was strikingly in harmony. That is probably a very significant point.

I put my name to several amendments in this group, a number of which—Amendments 13, 14 and 15—I saw, and continue to see, essentially as probing amendments designed to illuminate the issue and clarify the options. In that respect, as I shall explain in a moment, my expectations have been more than fulfilled. However, if we want to make the Bill a little more viable and a little less absurd, the right agenda for the House now is to agree Amendment 10 of the noble Lord, Lord Kerr, and Amendment 16 of the noble Lord, Lord Foulkes, to which I put my name. That would produce a coherent solution to the problem the House now faces.

There has been a lot of comment in the course of these debates to the effect that what we are faced with in the Bill is a series of absurdities. It is absurd to have a referendum that is supposed to take place up to four years after the decision to hold it is taken. I do not think that in the whole history of referenda, which as far as I can recall started with Napoleon I's plebiscites, anybody has ever had such a ridiculous notion before. How could the Government possibly have come up with such an extraordinary notion? The whole thing looks suspect from the start.

What also looks very suspect from the start is the fact that the Prime Minister, the Chancellor, the Foreign Secretary and the other Conservative members of the Government have all apparently had this damascene conversion over the past year and a half in favour of having a referendum Bill when a short time ago they opposed it, using very much the arguments that we continue to use quite genuinely against the whole idea.

It is also very suspect that intelligent men—they are intelligent men; they are not fools—cannot have worked out for themselves the compelling logic set out by the noble Lord, Lord Kerr, which makes this date an absurdity if there is to be a renegotiation or some sort of change in our relationship with the European Union as a result of the initiatives launched by this Government. I think that the noble Lord, Lord Kerr, has persuaded everybody, including—this is the point that I am coming to—those who have brought forward the Bill, have pushed for it and have forced the Prime Minister to go along with this initiative: that is, the people who have been described in this House several times already today as the Tea Party.

The most eloquent spokesman I know of the so-called Tea Party—the noble Lord, Lord Forsyth—appears to have accepted the logic of the noble Lord, Lord Kerr. I noted that in his intervention, which was a dramatically important one, he said that the referendum might take place before the renegotiation. He had obviously abandoned the idea of making anybody believe that there was a reasonable chance of concluding the negotiation before the referendum, so he decided to switch it round and say that the referendum might take place first. I think what has happened this afternoon is that one more cat has been let out of the Tea Party's bag, because a referendum which took place before the negotiation would make our leaving the European Union almost inevitable. Why? Because, in having a referendum, the Government would have to get a mandate for a particular negotiating agenda. They would have to say, "We are going to change this, change that, demand this and demand that", and that would be the agenda that the public would then endorse.

Unless the Tea Party believes, rather like Napoleon I, that we could proceed in our European policy on the basis of diktat and simply lay down to 27 other nations exactly, in the finest detail, what they will and will not do, and what they will and will not subscribe to, there is no way in hell, if I may say so, that we

[Lord Davies of Stamford]
would ever end up with a final agreement that corresponded exactly with the negotiating mandate that the Government had obtained the consent of the British people to pursue. In other words, such a referendum would be doomed to certain disaster. It could not possibly lead to a successful conclusion or any position other than there being a gap between what had been promised at the time of the referendum—and the deal that the British people had presumably endorsed if they had accepted the referendum and supported the Government's negotiating agenda—and what emerged from that negotiation.

This is another example of the cat being let out of the bag. These are people who are devising methods, fair or foul, to ensure that, whatever happens, we come out of the European Union. Another cat was let out of the bag last week. A letter from 95 or, as some people said, 100 members of the Tory Party told the Prime Minister that the Government should introduce a Bill that would give the British Parliament the right, whenever it wished, not to fulfil but to derogate from any rule, directive or resolution of the European Union.

Again, these are not stupid people. They knew what they were doing. What would happen if we were to pass such a Bill in this Parliament? De facto, we would have left the European Union, because immediately we would be in breach of the treaty of accession. De facto, we would be out, but without a referendum. We would be out without the British people having realised what the process was that was leading to our inevitably having to get out. Unfortunately, they still have not woken up to that.

So much for democracy and for the idea that you cannot make such a move without the consent of the British people. We must be quite clear what the agenda of members of the Tea Party is in taking over the Conservative Party in this way, which they have done so successfully—to get us out of the European Union by hook or by crook. It is therefore important that in our debates we throw light on that and open up the truth, because it is a terrible truth, about which the British public should be in no doubt.

Lord Cormack: My Lords, I do not think that the noble Lord, Lord Davies of Stamford, could accuse me of being a member of any Tea Party. I well remember when he was a Conservative and enthusiastically cheered on the party, sitting by my side in another place. He has had a dramatic conversion, but I do not want to talk about that.

Lord Davies of Stamford: I have to ask the noble Lord to let me intervene because he said something about me that I cannot accept. Of course I have never suggested that the noble Lord is a member of the Tea Party, and I do not know why he supposed that I was saying that or could draw any such imputation. He has indeed known me for a long time in two parties; he reminds me of an embarrassing part of my past. However, I hope he will acknowledge that I have never changed my views on this subject, and I am glad to say that many other Members of this House here, including on this side of the House, will vouch for that. I have not moved on that question, and any imputation to the contrary—the idea that I was cheering a contrary view at some point—is utterly wrong, and I hope that he withdraws it.

Lord Cormack: I did not suggest any such thing. The noble Lord should keep his cool. He may always have supported Britain's membership of the European Union, and so have I. I made it plain at Second Reading that I had advocated an "in or out" referendum since the Maastricht negotiations. I felt that the boil needed lancing. I also made it plain that in any such referendum I would campaign enthusiastically for our continued membership. If I had to give a single reason for that, it is that I was in the House of Commons long before he was. I remember when Romania, Bulgaria, Poland and all those Eastern bloc countries were in the Soviet bloc and under the grip of the Soviet Union. I rejoice that they are members of the European Union today. That alone is a reason for keeping the European Union in being.

I have been somewhat chided today by the noble Lords, Lord Grenfell and Lord Richard, for what I said at Second Reading. I take it in good part, as they meant it in good part. However, in my speech I sought to put a case for giving the Bill a fair wind. I think it was a reasonable case and anyone reading the whole of the speech, and not merely quoting selectively from it, could come to only that conclusion.

I wanted to intervene at this point today because we are now in a rather different place. The advice that I gave was certainly not heeded. It was comprehensively unheeded in the first vote. I say to my noble friend Lord Dobbs—whom I have been very glad to support and will continue to support and who has been doing a valiant and very difficult job—that the Bill has not been ruined by the two amendments that have been passed, and it is now up to the House of Commons to grasp that fact. When the Bill goes before another place on 28 February, all it has to do is to accept our amendments and the Bill will pass into law. I hope that that counsel of pragmatism will prevail and that is what will happen.

Lord Forsyth of Drumlean: My Lords—

Lord Cormack: Perhaps I may just finish and then I will give way. I hope that we will complete Committee stage here today. I hope that we will not have a contentious Report stage. I hope the Bill will go to another place on 28 February, suitably amended and improved, and then it will indeed pass into law.

Lord Forsyth of Drumlean: I am most grateful to my noble friend, who was a Member of the House of Commons for rather longer than I was—I was a Member for only 14 years. As he said, the Bill has been amended, and my noble friend Lord Higgins argued that we can just add more amendments, but that will require time. I do not understand his point when he says that this can be dealt with by the House of Commons. The reason that we are dealing with a Private Member's Bill and not a government Bill is because the other half of the coalition—the Liberals—refused to give the Bill time. In the absence of a commitment from the Liberals to do so, and indeed

from the Front Bench of the Labour Party, how is it conceivable that this Bill can get through? Is my noble friend not kidding himself?

Lord Cormack: No, I do not think so, and I will point out that today I have voted, with a certain lack of enthusiasm I have to admit, in the government Lobby and will continue to do so.

Noble Lords: Conservative Lobby.

Lord Cormack: I would say to my noble friend, in answer to his perfectly reasonable question, that just as we are sitting beyond our normal hours today, it is entirely up to the House of Commons to sit beyond its normal hours on 28 February—and if there is a strong and passionate feeling that the Bill should become an Act and go on to the statute book, then it can have a very long Friday and do that. Of course, constraints are called for, and the more amendments that are passed, the more difficult it will become. I absolutely accept that. My reference was in particular to the amendments that have already been passed, which could be incorporated without any great difficulty.

Lord Deben: I hope my noble friend will agree that those who say that the House of Lords should not have debated this Bill and tried to improve it because somehow or other it was trying to destroy it, have got entirely the wrong end of the stick. We are trying to make this Bill passable: therefore, it is up to the House of Commons to accept a better Bill from us, which is what our job is, and then pass it. To say that we cannot deal with it because somehow or other we are being disloyal seems to me to be entirely wrong, and a media invention.

Lord Cormack: We are not going to redebate the Second Reading. I agree with much of what my noble friend Lord Deben has just said. At Second Reading I believed there was a case for giving this Bill, imperfect as it—I made it plain that I would not have started from here and that I did not like the Bill very much—a fair wind. I tried to make that case as effectively as I could but it was not accepted. I was merely pointing out that we are now in a different position. Amendments have been passed. It is indeed, as he and I have just said, up to the other place. The principle of the referendum remains. In spite of what my noble friend Lord Spicer said, these are not wrecking amendments. If the other place will give itself sufficient time on the last day of February, it will be perfectly possible for this Bill to become an Act of Parliament, suitably improved.

Lord Giddens: My Lords, I have the aim of supporting the amendment with the briefest speech ever given in the House of Lords. There has to be flexibility in the date because, for the Prime Minister's position to be feasible, there almost certainly has to be treaty change. Treaty change cannot be achieved within two years, and therefore there must be flexibility.

3.45 pm

Lord Triesman: My Lords, I start by thanking the noble Lord, Lord Kerr, my noble friend Lord Grenfell, and the noble Lords, Lord Roper and Lord Bowness, for tabling this amendment. As things stand today, I think that the noble Lord, Lord Kerr, and others know that I believe the amendment is absolutely right.

During the earlier debate, the noble and learned Lord, Lord Mackay, made what I thought to be a very significant speech. He said that, in determining the date, the reality of politics was that it ought to be shaped by the circumstances that obtain at the time. I did not agree with his conclusion, as he will be aware, but the case that he put was very strong and I suspect that it will be understood much more widely than perhaps some in the House have suggested.

Your Lordships' House has said that the general public will not understand it if we do not move with electrifying speed to a conclusion. I think that people understand that there is a significant job to be done, that it has to be done, that corners will not be cut—they will not thank us for cutting corners—and that it will happen overnight. If we are really serious about the relationships that we have in Europe in relation to our economy and so on, there will be serious work to be done. That can be said very reasonably to people. My experience is that, although some people will feel that it is irritating to have to wait, broadly speaking the people of the United Kingdom understand the seriousness of the issue and will provide the time for proper work to be done. I think that we should start from that point.

The noble and learned Lord, Lord Mackay, said that this issue will be shaped by real circumstances. We know some of the circumstances quite well but we know almost nothing of others. I should like to set out the balance of the two, but because a number of other noble Lords have done so and it does not need a lot of repetition, I shall do so quickly. These two sets of circumstances need some analysis. Over time, and perhaps at subsequent stages of the Bill, working out what those balances are may very well lead us to further conclusions about the timing, but I started by saying that this is a good and sensible resolution and I repeat that.

What do we know? First, as a number of noble Lords have said, we will hold the presidency in 2017. That is precisely when we would want the United Kingdom to lead European Union debates, and I think that we will be in a very difficult position in trying to do that. There will be any number of significant debates at that time: debates about the completion of the market provisions in services; debates about the EU budget; and debates about what I hope will emerge as the agreements on trade with North America and with the MINT countries—Mexico, Indonesia, Nigeria and Turkey. All those will be in play.

There will be a significant series of debates. Anybody who has been a Minister and has had to handle the relationship with Europe during a presidency will know that those are occasions when you want the deepest and most genuine support from your colleagues in carrying things forward. I do not want to plead any special link because there are many around this Chamber with much more experience but they will also know that you have not only to talk to others but to talk for others, and they must trust you. That was the case in the discussions that Europe had on some of the worst internal wars in Africa, on the aid programme, on the

[Lord Triesman]
difficulties with Iran and on the stimulus to new trade agreements with South America, which ended up with President Lula's state visit and a significant change in the trading relationships with a number of South American countries. In all those areas, the European nations need to feel that the nation holding the presidency is with them, not conflicted with them, and that it is eager to deliver some of the fundamental outcomes.

Secondly—I shall not repeat this point at any length—there will be major elections in the core European nations of Germany and France. There are probably elections in other countries as well but those in Germany and France will be very significant. It is unlikely that either will focus on the issues that we are raising with the attention that we would want—the French most certainly will not. The objective circumstances in France and the character of the French economy at this time will tell you what that election is going to be about and how it is going to be fought. I am not saying anything that reveals an unusual political point: we know what the French election will be fought over and what it will be like, and it will not be about its negotiations with us.

We are about half way through the process of reforming the Central Bank: gathering core sums to sustain it and making arrangements on sovereign debt, which still remains a significant problem. These are monumental tasks and their outcomes may well provide circumstances in which our own Referendum Act 2011 will require us to take decisions about those outcomes. That possibility may not be avoided. We cannot run all these processes at the same time.

We are not in the euro and have no wish to join it, but the Chancellor has been right to say that we do not and should not take a split second of comfort from any continuing fragility in the currency used by many of our major trading partners—and, indeed, on the island of Ireland, by one which has a common land border with us and with which we have significant trade.

There is no way around the known fact that more and more businesses thinking of investing in the United Kingdom are asking due diligence questions about it. That pressure is building up in business. People have told me about the inward flows of capital denying it, but I am not talking about capital inflows to take over large volumes of super prime property in the centre of London or some of its trophy assets—that is not the point. There is of course a big inflow because London is so attractive for those reasons, but we are talking about people who are investing in or starting up operational businesses, which is what we will need if we are to sustain the economy, see it grow and see more people in employment, and that looks like it has been moving in a helpful direction.

Those are the things we know but there are a number of things we cannot and do not know. We do not know at what stage the repair of the United Kingdom economy and its banks and their balance sheets will be in 2017 and it will alarm people with a wide variety of political perspectives to understand where we will be at that point. Many people will feel that it is a lottery, and they are probably right objectively.

We will not know at that stage how negotiations have gone. As noble Lords have said, the process started late and there is no clarity at the moment on our objectives. Of course, the objectives could be listed: I tried to list some of them at Second Reading because they include a number of serious matters, and many people, including my noble friend Lord Kinnock, have made that point. It has been said in the debate, and it is true, that the four-part process towards a treaty means that everyone must agree, and everyone else must agree everything. We do not know how the process will play out on these significant matters.

Any agreements are unlikely to have been ratified elsewhere, another point that has been made. A promise of change is not the same as having made a change, and if there is a treaty—and it is almost inevitable that the negotiations, if they are successful, will end up in a treaty—it will provide for referenda in a number of other countries such as France, Ireland and elsewhere. A multilateral outcome with 27 starting positions will have to be brought to one on all substantive questions, and that proposition cannot be entertained on the timescale suggested.

We will not know the outcome of the election in France; Germany has a coalition Government and there may or may not be a continuing coalition or a different coalition. We will be asked, therefore, before we know the outcomes—as the noble Lord, Lord Forsyth, hinted—what we should do. I do not think that the people of the United Kingdom will readily consent to being asked for a conditional decision which, if everything goes pear-shaped, they will be asked to reverse.

Even if a treaty is negotiated in time, it is not clear that there will be no movement forwards and backwards on competences because, after all, it is a negotiation. People will be asking us for things in the same way that we will be asking them for things. In those circumstances, we come back to the fundamental point about the 2011 Act. The Labour Party supported that Act. On a point of clarity for the House: we supported it, we continue to support it and, should those provisions be needed, which I think is very likely, we would continue to do so.

On balance, if you had to pick the optimal bad date, you would pick 2017. If you looked at two decades and tried really hard, you would pick 2017. It is not a date that commends itself on any grounds. For a negotiator for the United Kingdom, it is the equivalent of what is known in football, where I have spent a little of my life, as a hospital pass. Everyone knows you are not going to get the ball, you have lost the initiative, and you will probably get your leg broken. It really is not in any circumstances an approach that makes sense. As my noble friend Lord Kinnock said, it is a weapon in the negotiation, but we have to ask this: who is the weapon pointed at and where will the munitions strike? The answer is: probably us.

At Second Reading the noble Lord, Lord Dobbs, asked, "If not now, when?" It is a fair question, as I thought on the day. But in the interests of the United Kingdom, whatever the outcome—in or out of the European Union—one answer is clear. Whatever the date is, it really ought not to be 2017. It is a "leave the EU" date. That, I am afraid, is all it is.

I want to tidy up very briefly on one or two amendments in the group. I do not think that Amendments 13 and 14 are possible because they are simply testing provisions, but I want to comment on Amendment 17. I do not think that it can be a Secretary of State. If this is a decision that has to be taken for the whole of the United Kingdom, it must be taken by the Prime Minister as the Minister with supreme authority for the whole country. But what if there is another coalition? By 31 December 2016—it is important to reflect on that date—it may be that the Prime Minister is the leader of the largest party in the House of Commons, but is not the leader of a Government that altogether are prepared to consent to the date. That is another really large unknown which cannot be resolved in this House today. I do not know who will win that election. Of course it has to be possible that we will not, but I do not concede that point today. It may well be that no one wins it outright and that there is another coalition. I could then assume—I am sure I am quite wrong in doing so—that a Conservative Government would find themselves saying the same things that the noble Lord, Lord Forsyth, has been saying today: that they cannot get their way because the party with which they are in coalition, for some reason or other although it seems perfectly intelligible to me, will not co-operate.

In all of this, the reality is that the wrong date has been picked. I do not play the lottery, but when I watch people playing it they look in despair at the numbers they chose which do not turn out to be the winning numbers. That is how we will look at 2017.

Baroness Royall of Blaisdon: My Lords, before the noble Baroness, Lady Warsi, gets up to speak, perhaps I may say one thing. I will be brief. The noble Baroness knows that I have the highest possible regard for her, but she is playing a very sticky wicket today. I do not want to make her life more difficult, but I say for future amendments that it is extremely difficult for there to be a Government position on this Bill. If there is a Conservative position, the Conservative Benches are behind the government Front Bench—unless, as in the Leveson debate, we might have two views on every group of amendments. That is what coalition is all about. If there are not two views, I think it is more appropriate for the views of the Conservatives to be given from the Conservative Back Benches. However, that has nothing to do with the noble Baroness.

Baroness Warsi: My Lords, perhaps I should just repeat what I said in the debate on Second Reading, which is that of course I speak only for the Conservative part of the Government. I have absolutely no objection to, and in fact would be delighted to hear from, the noble Lord, Lord Wallace, if he were to give a Front Bench view of what the Liberal Democrats think.

I want to raise one issue in relation to reform. A number of noble Lords asked how much reform could be achieved or what the Prime Minister saw as constituting reform of the EU. On a number of occasions at the Dispatch Box, I have said what the Prime Minister's vision is, and he referred to it in his Bloomberg speech. He has talked about a Europe which is more competitive, more flexible and more democratically accountable. I have spoken at the Dispatch Box as to what I mean by that. The Prime Minister laid it out in his Bloomberg speech: a more competitive Europe, with further completion of the single market in, for example, services, energy and digital; a more flexible Europe, where powers actually flow both ways; and a more democratically accountable Europe to deal with the worrying disconnect between the EU and its people. Another element of that is, for example, more parliamentary scrutiny, which we are already looking at.

We are making progress. A number of noble Lords asked what can be achieved. Of course reform can be achieved. We delivered the first ever cut in the EU budget—something we were told could not be achieved and, indeed, was not achieved by those on the Benches opposite when they were in government—working with Germany, the Netherlands, Sweden and Denmark. Many lamented that fish discards could not be dealt with, but we worked with other states in dealing with that.

4 pm

Lord Davies of Stamford: Why is the noble Baroness continuing to use "we", referring to the Government, when she says that she speaks merely on behalf of the Conservative Party? The list of so-called achievements she has just reeled off are—if they are achievements—achievements of the Government as a whole.

Baroness Warsi: They are—and that Government are headed by a Conservative Prime Minister and a Conservative Foreign Secretary, who have led on these matters in the negotiations.

Baroness Falkner of Margravine: The noble Baroness suggested that, if the Liberal Democrats had a different position, perhaps my noble friend Lord Wallace would be welcome to come and speak from the Dispatch Box. I remind her, and clarify for the House, that my noble friend Lord Wallace of Saltaire is a government Whip. If there is anything analogous to a Liberal Democrat Front Bench, I believe it is represented by me, who am chairman of the House of Lords parliamentary policy committee on foreign affairs.

Baroness Warsi: It is good to hear that we have consistently heard from the Liberal Democrat Front Bench. There should therefore be no concerns in your Lordships' House.

I will just end by making the point that, for some, there will never be the right time for a referendum; others, I know, hold sincere views as to why a certain time is not the right one. However, the British people are deeply sceptical about the status quo—they want to know that they will have a say and when.

Lord Hannay of Chiswick: I really would ask the Minister to perhaps have a word with her noble friend Lord Trefgarne, who is sitting there with a copy of the *Companion* on his lap. It would be really useful if he gave the noble Baroness the advice he gave another noble Lord earlier about speaking to the amendments.

Baroness Warsi: My Lords, a number of noble Lords have raised the issue. The amendment is specifically about the date and that is what I am referring to. It is important that we let the British people have their say by allowing the Bill to proceed as it stands. The noble Lord, Lord Triesman, called 2017 the "leave the EU date". We must not let today become the "never give the people a choice date".

Baroness Royall of Blaisdon: My Lords—

Noble Lords: Dobbs.

Baroness Royall of Blaisdon: I agree that we need to hear from the noble Lord, Lord Dobbs. I understand what the noble Baroness is saying but I would ask for an undertaking that, in future, the speeches will be made from the Back Bench.

Baroness Boothroyd: I have been a Member of Parliament for more than 40 years. In my experience, I have never yet seen either the Opposition or the Government speak from the Dispatch Box and have two views, one from the Dispatch Box and one from the Back Benches. I have never known this situation before—it ought to have been sorted out right at the very beginning. The noble Baroness speaks for the Conservative Party and the noble Lord, Lord Dobbs, speaks for the Conservative Party. We are having two wind-ups from the Conservative Party.

Baroness Warsi: My Lords, I have huge regard for the noble Baroness. There are clearly strongly held views on this matter so I will take advice and ensure that matters are clarified.

Lord Dobbs: My Lords, this has been a very serious and significant debate. It is the sort of debate that we should have had on this Bill. I thank the noble Lord, Lord Kerr, for the dignified and detailed way in which he introduced his amendment. If I may be forgiven, because it is a very significant amendment, I will take a little time in dealing with it.

I see the logic of so much of what the noble Lord, Lord Kerr, and others have said. I take a different logic, and I need to explain that. This amendment goes right to the heart of why I got involved with this Bill in the first place. I do not want to destroy—far from it, I want to build, and I want to build trust. I do not want to fan any flames; I want to put them out once and for all. I have heard a lot during this debate about our relationship with our European partners, but I think that we should show at least as much if not more concern for the feelings of our own people.

Why do we need a date, or at least a timeframe, because that is what it is? The noble Lord, Lord Kerr, explained with great eloquence and experience how complicated these things are, and he is right. That is why, despite all the promises that have been made, all the forests that have been felled in order to print political manifestos, nothing has been done. That is the cause of the distrust. People have been promised a referendum and have been denied it, time and again. Those are the flames of discontent that I wish to put out. We need a timeframe in order to stop that further decay of trust. Less than 10% of this House would have been too young to vote in the referendum in 1975, but more than 70% of the population of our country fall into that category. We are not representative of the country, least of all in its desire for a referendum.

Let us suppose that the referendum is held in October 2017. Of course, there will be shopping lists of what we have got right, what we have got wrong, where we have failed, where we will gain and where we will lose. But the job will not be finished then. These relationships are never once-and-for-all matters, whether we are in or out of the EU. We will have to deal with it and our relationship will carry on developing. Of course, there will be more to be done. It will not all be finished by October 2017. There is always more to be done. We will not be saying that the job is over once and for all but we will be asking the people if they are willing to support a future in the European Union or outside it.

Why 2017? It is because we as politicians have consistently failed. We have talked the talk but never walked the walk. We have never provided the referendum that we all have talked about at various times. The people want something more solid than yet more broken promises. The question I asked at Second Reading, which the noble Lord, Lord Triesman, was kind enough to acknowledge, was: if not 2017, when? Answer comes there none.

Let us go back eight years. During the past eight years, when would we have said that it was a good time for a referendum? I cannot think of one. There are always reasons not to do something.

Baroness Falkner of Margravine: The noble Lord will surely recall that in 2008, on the Lisbon treaty, the Liberal Democrats proposed a referendum on this very question of "in or out".

Lord Dobbs: The noble Baroness will understand that I could spend a great deal of time with a great deal of joy talking about the Liberal Democrat position on referendums and I would happily do that in public, but, if I may, I will pass over that and get on with the points that I want to make. There is always a reason for not doing something. We must be wary in this House of falling into the trap of implying, as several noble Lords have done, that there will never be a good time for such a vote. That is how many people will interpret much of what has been said here today: that too many people feel that there is a never a time to trust them.

This process of negotiation has effectively already begun, with changes to the budget, the common fisheries policy and other things, but I shall not go into the detail of that—now is not the time. Those negotiations will make more progress between now and the referendum, and I believe that we will make more progress after a referendum—that is what a relationship is all about. That brings me to the one hugely significant point that has been mentioned here time and again: that we are binding a future Parliament.

We are no more binding a future Parliament than we did when we passed the Fixed-term Parliaments Act, which said that the election of the next Parliament

but one will be held in May 2020. Exactly the same point applies for the date that is in this Bill. Let me pursue that analogy a little further.

If the next Parliament were to decide that the circumstances of the date of that election, in May 2020, were unacceptable for whatever reason, it would change it. If that next Parliament were to decide that the circumstances of the date of this referendum were not acceptable—that it had become fatally flawed perhaps by change in circumstance—it would change that, too. It would need a darned good reason to change it, one that people would find acceptable—not another game that we politicians keep playing with them over this. The people would have to be taken into their confidence, persuaded of any need for a change. However, if we keep putting off the date of this referendum, we will find that that distrust, the poison that Sir John Major said had entered the system—

Lord Hannay of Chiswick: Does the noble Lord realise that the analogy that he draws with fixed-term Parliaments is not very apt? This Parliament has changed the periodicity of general elections quite often in the past. The party to which he belongs used to be in favour of annual Parliaments in the early 1700s, which I do not imagine it would come back to now. That has been done, and it has nothing whatever to do with what is being proposed here. What is being proposed here is a Bill whose sole purpose is to bind the hands of a future Parliament; it has no other purpose whatever. That is surely a germane point.

The other point to which the noble Lord could perhaps reply is his suggestion that the amendment would somehow mean endless prevarication. A party which has in its manifesto at the 2015 election the holding of a referendum will have the Salisbury convention on its side to pass legislation necessary to hold the referendum when it decides to do so. If it has any sense, it will not this time put the cart before the horse and decide the date of the referendum before it has had the negotiation.

Lord Dobbs: My Lords, the noble Lord makes a good point: if it had any sense. I must remind the noble Lord that the Liberal Democrats had in their previous election manifesto a commitment to an "in or out" referendum, and where are they today? I mentioned at Second Reading that I do not want to make a party-political—

Baroness Falkner of Margravine: My Lords—

Noble Lords: Order!

Lord Dobbs: May I just finish the point? I do not particularly want to make a party-political point of this, because, as I said at Second Reading, all parties are guilty of having changed their stance on this. That is why the people no longer trust us.

Baroness Falkner of Margravine: My Lords, would the noble Lord like to tell me on which page of our 2010 manifesto he believes it states we do not have a commitment to a referendum should there be any treaty change or transfer of competencies? Let me update him on Liberal Democrat policy if he wants further assurance—he clearly does. Our commitment is, as passed in September at the Liberal Democrats' party conference, to have an "in or out" referendum, not just on the basis of treaty change but should there be any transfer or powers or further treaty in future. That is slightly further than the noble Lord's own party has gone in terms of its last conference.

4.15 pm

Lord Dobbs: I will happily debate this with my noble friend at another time, but remind her of the situation in 2008 in another place where the Liberal Democrats fell apart on precisely this point about an "in or out" referendum. Please, if I may, I will make progress. I still hear no alternative date being offered. If we keep putting off the date of this referendum, we will find more of the distrust and poison that Sir John Major mentioned—

Noble Lords: My Lords—

Lord Dobbs: May I please just finish this point? The noble Lord, Lord Anderson, mentioned Sir John Major. Sir John is entirely in support of this referendum. He says it is the only way that we can rid the poison of the European issue from the distrust of the people.

Lord Anderson of Swansea: We may have to disagree about Sir John Major. I have a quotation from him here saying that he would not support the Wharton Bill. Give me 10 minutes and I will find it but I am afraid I do not have it to hand.

Baroness Symons of Vernham Dean: My Lords, the noble Lord has twice made the point with a great rhetorical flourish that he hears no other date being mentioned. However, he is the sponsor of the Bill that specifies the date and so far I have not heard a single reason why 2017 is the right one. I heard the noble Lord, Lord Kerr of Kinlochard, give a series of reasons why it is the wrong one. My noble friend Lord Triesman told the House that the noble Lord, Lords Dobbs, could not have chosen a worse date but so far the noble Lord has simply relied on saying, "Well, you find another date". No: it is the noble Lord's responsibility to defend his Bill and his date. I look forward to him doing so specifically.

Lord Grenfell: I add one point to that. It would be wholly inconsistent for us on these Benches to propose another date when the whole point of what we are trying to get across is that we want to give a future Government flexibility.

Lord Dobbs: If I can lean on the noble Baroness's patience, I suggested at the start that I needed a little time to cover these issues and I will—precisely, right now—get to the very point that she raised. We need a date. Why do we need one? For the people. We do not need more empty promises. We need a date not as a straitjacket but as a sensible commitment to the people, one they will trust and that will rebind us in their trust

[Lord Dobbs]
because we have failed them. We need a mechanism for this country to be able to move forward. Simply saying that we will have a referendum at some point is not good enough. Why 2017? It is a specific date. Without a specific date, the mistrust that has built up will never be swept away. I already explained that it is not a straitjacket. It has all sorts of flexibility to it but it is an ambition, target and objective that we can all work towards.

Lord Kinnock: Can the noble Lord enlighten us? The undertaking to have a referendum by 31 December 2017 arises precisely out of that given by the Prime Minister in his speech from January last year in saying that it had to be in the first half of the next Parliament. Does the noble Lord realise that he is now trying to argue that we must still have the referendum before 31 December, regardless of whether the absolutely vital negotiations have been completed, the achievements —let us call them that—have been agreed to and all the other processes in the European Union have reached conclusion? We have heard about the implausibility of that kind of time schedule. In other words, he would rather stick to the date than employ any common sense whatever.

Lord Dobbs: I beg the noble Lord's pardon, but I do not think that he heard what I said. I said that the date could be changed, but it would have to be for a darned good reason, a reason that the people would accept.

Baroness Farrington of Ribbleton: My Lords—

Lord Dobbs: We have made a great deal of progress today in this House, and perhaps I could express the serious wish that we should set the objective of getting through Committee today, which would be hugely helpful. That means that I am reluctant to take any more interventions because I am so very close to concluding my remarks on this point. If the noble Baroness insists, of course I will give way.

Baroness Farrington of Ribbleton: My Lords, the noble Lord said that in order to vary the date from before the end of 2017, there would have to be a good reason. I have listened very carefully and have not heard from the noble Lord one very good reason why that particular date has been chosen. While I am on my feet, I ask the noble Lord not to misrepresent those of us who are committed pro-European Union Members who believe that people should, at the appropriate time, be given a chance to express their point of view in a referendum, by sweeping us all aside as people who do not want to listen to the public.

Lord Dobbs: Again, if I have given that impression to the noble Baroness, I apologise, but that has never been my intent in this. We know that some in this House have been playing games about this Bill, and I have gone a long way in accepting that the debate we have just had has been serious, sensible and one that I welcome.

Lord Anderson of Swansea: My Lords—

Lord Dobbs: No, my Lords, I really wish to stand my ground.

Lord Anderson of Swansea: My Lords, we had a certain difference about what Sir John Major had said. I now have the quotation. John Major was quoted as saying that the Bill was not worthy of his support and that leaving the European Union would be "folly beyond belief".

Lord Dobbs: I could dig out another quote, but that would take another five minutes, and I think that this debate has gone on long enough and I wish to conclude.

In conclusion, I thank the noble Lord, Lord Kerr, for the positive engagement that he has encouraged between us outside the Chamber on the issues; it has been very helpful to me. Of course, we disagree about this matter across the Floor of the House, and I think that it is now time for us to decide. With great respect, I ask the noble Lord to withdraw his amendment.

Lord Kerr of Kinlochard: My Lords,

"Half a league, half a league,
Half a league onward,
All in the valley of Death
Rode the six hundred".

—or 158, I think.

I have great respect for the noble Lord, Lord Dobbs, and the Earl of Cardigan was not responsible for the loss of the Light Brigade, although he was the commander. Missing was the Earl of Lucan—he is in Davos, I think—and the Earl of Raglan, the commanders of the Army. It has been a very gallant charge and it was probably the case that halfway down the valley of death, the Earl of Cardigan turned to the chap on his left and said, "We have made a lot of very good progress today".

It is very difficult to answer this debate, because I am supposed to deal with the objections to my amendment; I am still waiting. The most interesting suggestion, which I am rather inclined to follow, was in the speech of the noble Lord, Lord Higgins. Act I of the play was quite nasty, with a lot of talk about people misbehaving—hijacking was a word used from the Front Bench—and plotting. In my view, that was not worthy of the House. Act I is over. As the noble Lords, Lord Higgins, Lord Cormack and Lord Deben pointed out, we are now in Act II and our job is to try to turn the Bill, which a lot of us think is a rather bad Bill, into a good Bill. We need to amend and improve it.

I do not know why the date is here. I thought that I had argued, with a degree of support from around the House, that it does not make sense, because the renegotiation cannot be completed. The noble Lord, Lord Dobbs, says that we could change the date, but we would need a darn good reason. I thought that we had given two hours and 10 minutes of darn good reasons. However, I think that the noble Lord, Lord Higgins, is right: in Act II one ought to try to be a bit co-operative. There is a point knocking around here which I have not quite grasped. It is not the point of the noble Lord, Lord Dobbs, about distrust, but the

point of the noble and learned Lord, Lord Mackay of Clashfern, about an enforceable undertaking. Although I do not agree with that point, one needs to think about it because it seems a solid point.

The provision does not need the date of 2017; I am not even sure that it needs a date. Perhaps it should be something about "the term of the next Parliament", and it may be that an amendment could emerge from the Earl of Raglan and be voiced by the Earl of Cardigan. The question that the noble Lord keeps asking us—if not then, when?—is a question that we are entitled to ask him.

Lord Spicer: The noble Lord talks about Act II. How long is he going to go on with these acts—until Act X? Will he give a date for that, and will that be somewhere in the middle of summer?

Lord Kerr of Kinlochard: My amendment would remove any date. That seems clean and surgical and would leave the options open to the Government of the day. However, I accept that it does not meet the point of the noble and learned Lord, Lord Mackay of Clashfern. It would still be a Bill to have a referendum, and Clause 1(1) would still say, "There shall be a referendum". The noble and learned Lord believes that there ought to be some time factor in there and he may be right. I do not know, but I am inclined to act now, on the advice of the noble Lord, Lord Higgins, and withdraw my amendment at this stage, while asking the noble Lord, Lord Dobbs, to consult with his friends and the commanding officers when they come back. If there is no satisfactory amendment proposed by the proposers of the Bill, I will revert to Amendment 10 on Report.

Amendment 10 withdrawn.

Amendment 11

Tabled by ***Lord Foulkes of Cumnock***

11: Clause 1, page 1, line 4, leave out subsections (2) to (4) and insert—

"(2) The Electoral Commission shall publish a report setting out its recommendations for the terms of the referendum, including proposing a suitable question and date.

(3) Before the referendum can take place, the Electoral Commission's recommendations shall be subject to a vote in both Houses of Parliament."

Lord Foulkes of Cumnock: I was expecting to be called for Amendment 12. However, the noble Lord, Lord Trefgarne, has a book on his knee, and if the noble Lord, Lord Geddes, and the noble Countess, Lady Mar, were here they would also refer to the *Companion*, which says that on a Friday this House normally rises at 3 pm. Since we are constantly asked by those on the other side—the noble Lords, Lord Trefgarne and Lord Geddes, and others, and by the Government—to abide by the *Companion* and not to walk in front of certain parts of the House or get up and about when a Motion is being called, surely we should abide by this part of the *Companion* as well. I wonder what is going to happen. Are we not going to pay any attention to the *Companion* whatever?

4.30 pm

Lord Popat (Con): My Lords, the Chief Whip explained this last Friday. Although the *Companion* says that the House should rise at 3 pm, precedent has been set in the past that on a Private Member's Bill the House has continued until 5 pm to 5.30 pm, so we propose that the House will continue till about 5.30 pm.

Lord Richard: My Lords, I am sorry to pursue this point but I was slightly involved in it last week. May I take it that the view now from the business managers on the other side of the House is that proceedings on this Bill will be adjourned in about an hour? Is that right?

A noble Lord: Yes, that is what he said.

Lord Richard: That is what he said?

Lord Popat: Yes, my Lords.

Lord Richard: Thank you.

Lord Foulkes of Cumnock: I think that the Lord Speaker asked about Amendment 11. That was taken along with Amendment 1 and we have already debated it.

Amendment 11 not moved.

Amendment 12

Tabled by ***Lord Foulkes of Cumnock***

12: Clause 1, page 1, line 4, leave out "must" and insert "may"

Lord Foulkes of Cumnock: I am really being very co-operative today. Amendment 12 is not moved either.

Amendment 12 not moved.

Amendment 13

Tabled by ***Lord Foulkes of Cumnock***

13: Clause 1, page 1, line 4, leave out "31 December 2017" and insert "22 May 2014"

Lord Foulkes of Cumnock: I hope that the noble Lord, Lord Forsyth, People's Pledge and all the other critics are keeping a note of this: I shall not be moving this or the following amendments.

Amendment 13 not moved.

Amendments 14 to 24 not moved.

Amendment 25

Moved by ***Lord Anderson of Swansea***

25: Clause 1, page 1, line 6, at end insert—

"( ) No order shall be made under subsection (3) until the Secretary of State has reported to Parliament for its approval on recommendations made by an independent commission which

[Lord Anderson of Swansea]
shall be established for the purpose of considering and reporting on the United Kingdom's alternatives to membership of the European Union."

Lord Anderson of Swansea: My Lords, the two amendments in my name are supported by the noble Lord, Lord Foulkes of Cumnock, and my noble friend Lord Wigley. They are reporting amendments, and I shall give the details of them in a moment. I am aware of the time, and I am also aware that the substance of these matters comes up elsewhere, so I can be very brief.

I turn to what the amendments are about. The first of these reporting amendments says that there shall be a report for approval on recommendations made by an independent commission that shall be established for the purpose of considering and reporting on the UK's alternatives to membership of the EU.

My broad submission is this: the real choice for our people is not in or out but in or what? They could be myriad alternatives that our people are concerned about as to what they would prefer to have in place of the EU. I will not go into detail on this because I propose to do so on Amendments 33 to 39 in my name, which would give in the referendum itself the opportunity for the electorate to say, "Well, if we wish to leave the EU, we would prefer to be like Norway; we would prefer to be like Switzerland; we would prefer to have a closer relationship with the United States, and perhaps with Canada, in a North American free trade association". It may be that the electorate will say, "We want to develop a closer relationship with the Commonwealth". What I am saying is this: if we are serious about ascertaining the views of the people, we should give them a series of alternatives. In so doing, we, with this independent commission, should also set out the advantages and disadvantages of each possible course. That is the reporting as it refers to Amendment 25.

Amendment 26 is again a reporting amendment, saying that no order should be made until the Secretary of State has reported to Parliament for its approval on the negotiations between the UK and other EU member states concerning our relationship with the EU. We covered this to some extent in the previous debates, and I look forward to resuming this debate on Report. However, at some stage there clearly has to be a report from the negotiators and the Prime Minister on whether the criteria that he has set have or have not been achieved.

The noble Baroness, who admitted to speaking only for the Conservative Party, set out various criteria which it would want to be achieved. I suspect she needs to go much further than that so that we have various targets against which we can measure whether the negotiators have succeeded in achieving their aims. We know the position in various international matters where you retreat and call it victory. I suspect there is a great deal of mistrust not only on the part of the electorate in politicians generally but among Conservative Party members in respect of their Prime Minister—as we know the Prime Minister travels fairly lightly on Europe, as he does on most things. It is clear that the referendum Bill would not be necessary if the Conservative Party had total trust in its Prime Minister. The whole point of trying to tie him down to get what the Germans call a "book with seven seals"—that is, to have a copper-bottomed guarantee—is that they do not trust the word of the Prime Minister that he wants to have a referendum and wants to have it after the next election. They are trying to tie him down. That is the essence of this.

Therefore the second amendment is a reporting amendment and states that, whatever may be the negotiating stance or the criteria, benchmarks and targets which the Prime Minister has set, he will report to Parliament for its approval of the negotiations and say where we stand.

These are two brief amendments, both on reporting. I hope that it will objectively be agreed by Members of your Lordships' House that the alternatives to our membership of the European Union are very important, and if the public are to be seriously consulted—I shall come on to this in later amendments so shall not go on extensively now—they will need to have a very clear idea of the advantages and disadvantages of the various alternatives as well as a negotiating report, as in the second amendment. I beg to move.

Lord Wigley: My Lords, I have put my name to both amendments in this group. I thank the noble Lord, Lord Anderson, for moving them briefly. I shall speak very briefly indeed, as he indicated that he will want to come back to certain aspects of these issues on Report.

It is vital that we nail the idea now that there must be clarity with regard to the alternatives to membership before the referendum takes place. The worst possible outcome of a referendum would be if it were voted on in a nihilistic atmosphere and with a nihilistic attitude and people were just saying no to something without having the faintest idea what was going to happen. If that were to be the case, and we were to pull out of the European Union on that basis, and if things then started to unravel, there would be immense bitterness, and I am not sure where that would take us politically. There needs to be a mechanism for spelling out what the alternatives are, and that mechanism has to go beyond the daily or weekly press. There needs to be some objective assessment of those alternatives, and people have to know what those assessments add up to. Therefore, in whatever way we try adding this to the Bill, I hope that that issue, that dimension, will be taken on board.

Lord Hannay of Chiswick: My Lords, there is another amendment on the Order Paper, Amendment 72—which we are not within miles of reaching and will obviously not reach in the next 50 minutes—which covers very much this ground. It is down in the name of the noble Lord, Lord Turnbull, and would basically put a requirement on the Government to state before the referendum took place what alternative relationship Britain should seek to have with the European Union without Britain in it, if there were a no vote. I agree absolutely with what the noble Lords, Lord Wigley and Lord Anderson, said. It is essential that before the electorate cast their vote they should be told what the consequences in terms of Britain's relationship with

the truncated European Union would be in the event of a no vote. It would be too late to say what the Government are going to do after the vote; they must say so up front, before the vote.

However, that will come up in the later amendment as well. At the moment, the important thing is to note that this is a serious issue which will have to be addressed on Report, or in Committee when we get to Amendment 72. I hope that by the time we get there, the noble Lord, Lord Dobbs, refreshed by a certain period of repose after his exertions today, will see the sense of this as one of the amendments which basically strengthens the Bill. It does not weaken it; it does not make a referendum less likely; it does not prejudge the outcome of the referendum or anything like that. It just means that if and when the referendum comes, there will be before the British people a clear idea of what the alternative is if, in their majority, they vote no.

Lord Anderson of Swansea: There is a considerable difference between this amendment and Amendment 72, tabled by the noble Lord, Lord Turnbull. His amendment relates only to the intended relationship with what the noble Lord, Lord Hannay, called the truncated European Union, whereas this amendment relates to the whole panoply of possible alternatives. I gave some of those as examples: a relationship like that of Norway or Switzerland, the Commonwealth, the EEA or EFTA—one could go on. Both are important matters and should be discussed.

Lord Hannay of Chiswick: I do not want to disagree totally with the noble Lord, Lord Anderson, but, quite frankly, if you look at Amendment 72 of the noble Lord, Lord Turnbull, it is clear that, under it, the Government of the day would have to say, "If you vote no, we will try to get an agreement to join the EEA", for example; or, "We would like to have a series of agreements like the Swiss"—there are 30 or 50 of them; or, "We would have none of the above and would rely simply on our World Trade Organisation membership". All the things that the noble Lord, Lord Anderson, has discussed in his amendment are actually also covered in Amendment 72. I am saying merely that we will come to that later, on another day.

Lord Liddle: Briefly, the Opposition attach a lot of importance to this consideration of alternatives. We would hope that there would be some kind of agreed amendment between my noble friend Lord Anderson and the noble Lords, Lord Wigley and Lord Turnbull, which we might consider on Report.

Lord Dobbs: My Lords, I, too, will be brief. I entirely endorse the sentiment behind these amendments. Of course the alternatives must be spelled out. This historic decision which we wish to put to the people should never be taken blind. It is, however, a question of the best mechanism for those alternatives to be spelled out. We hope that they would be taken care of simply by what is called democracy: by a referendum campaign that would be long, arduous and very detailed. I think the people would demand to know from those who were suggesting that we should not stay within the European Union precisely what the alternative was. If that alternative were not offered, they would come to their own conclusions.

It is also, however, a matter that can be dealt with under the terms of the Bill after it has been passed. It does not need to be—

Lord Hannay of Chiswick: The noble Lord is most kind to give way but, quite honestly, what he just said does not address the problem. The leaders of the no campaign will not be the Government on the day after they win a referendum: there will still be a British Government, which will not be them. We are now talking about what the Government tell the electorate they would do if the electorate voted no, not what the no campaign would do. If the no campaign is led by the noble Lord, Lord Pearson, heaven knows what he would do, but he will not be the Government. I am sorry; the noble Lord, Lord Dobbs, does not address the point completely.

Lord Dobbs: As I mentioned during the last debate, this is not a black and white, a cut-off, a once-and-for-all decision. This will be a judgment made at the time, on the circumstances—and who can tell what those circumstances will be? People will inevitably have to take into account the fact that tomorrow is another day, and it might be a different day from yesterday, but nothing is going to happen overnight. These things will all have to be dealt with and talked through, both before the referendum campaign and after it. I am entirely in sympathy with the instincts behind this amendment, but it does not need to be in the Bill to get that certainty. The issue could be dealt with at a later stage—in the next Parliament, depending on the circumstances of the day. On those grounds, and for all the other grounds that I pointed out, I request that the noble Lord withdraws his amendment.

4.45 pm

Lord Anderson of Swansea: I, too, hope that we return to this matter at a later stage, but not in the next Parliament. This is an important matter, and every Member of your Lordships' House who has spoken has agreed that it is an important matter, so in my judgment it should be addressed on Report. The noble Lord, Lord Dobbs, said that there would be alternatives pursued, but the alternatives are not within the power of the Government before the referendum, because who knows whether the European Union would be willing to enter into an agreement analogous with that reached with Switzerland, for example? There are great problems with that; it is said by those who are experts in the field that there is no way in which the European Union would replicate the agreement that has been reached with Switzerland. So it is not within the power of any Government to say that they will conclude an agreement of that particular nature.

Quite properly, the noble Lord, Lord Dobbs, has said that we are not blind. I agree with him that the public, if they so decide, should not step from the European Union into a void. This is an important matter—I tabled it and the noble Lord, Lord Hannay,

[Lord Anderson of Swansea]
agreed that it was for debate. Until that future debate, which I hope will come at Report, I am pleased to withdraw the amendment.

Amendment 25 withdrawn.

Amendment 26 not moved.

Amendment 27

Tabled by ***Lord Greaves***

27: Clause 1, page 1, line 6, at end insert—

"(3A) The referendum shall be held on one of the following days—

(a) 7 May 2015,

(b) 5 May 2016, or

(c) 4 May 2017.

(3B) If the ordinary local elections in England are not held on the appropriate date in subsection (3A), the Secretary of State shall by order appoint the date on which the referendum is to be held as the date of those elections in that year."

Lord Greaves (LD): My Lords, there has been a lot of talk this afternoon about the Tea Party, whatever that may be. I think that it is time that we all went and had our tea. In the interests of being as helpful as the noble Lord, Lord Foulkes, I shall not move my amendment.

Amendment 27 not moved.

Amendment 28

Moved by ***Lord Armstrong of Ilminster***

28: Clause 1, page 1, line 7, leave out subsection (4)

Lord Armstrong of Ilminster: This amendment is moved as a consequence of the passage of Amendment 1. If this amendment is accepted, Amendment 31 falls and I should not move it.

Amendment 28 agreed.

Amendments 29 and 30 not moved.

The Deputy Chairman of Committees (Viscount Simon) (Lab): My Lords, Amendments 31 to 39 are pre-empted. I now call Amendment 40 in the name of the noble Lord, Lord Foulkes of Cumnock.

Amendments 31 to 39 not moved.

Amendment 40

Moved by ***Lord Foulkes of Cumnock***

40: Clause 1, page 1, line 9, at end insert—

"( ) If the turnout for the referendum is less than 25 per cent of those eligible to vote, the referendum shall be considered invalid."

Lord Foulkes of Cumnock: My Lords—

Lord Wigley: My Lords, I am under the impression that, following Amendment 31, the group of amendments starting with Amendment 33 will be the next group to be dealt with, before we deal with Amendment 40. Am I mistaken in that and is it not down to the noble Lord, Lord Anderson, to move Amendment 33 at this point?

Lord Higgins: My Lords, I think that is correct. I think that the noble Lord, Lord Anderson, should now move Amendment 33.

Lord Foulkes of Cumnock: My Lords, there is a problem here. I am ready to move Amendment 40, but no explanation has been given to my noble friends Lord Anderson and Lord Wigley on why their amendments have been pre-empted. With respect, either the Chairman, the Clerk, the Government or the mover of the Motion—there is an option; all four of them—should let the noble Lords, Lord Anderson and Lord Wigley, know why their amendments have been pre-empted. If they have, I am ready to move Amendment 40. If they have not, the noble Lord, Lord Anderson, is ready to move Amendment 33.

Lord Gardiner of Kimble (Con): My Lords, it may be helpful if I read from the brief, which suggests that, if Amendment 28 is agreed to, we cannot call Amendments 31 to 39 inclusive because of pre-emption. That is the reason why we are moving to Amendment 40.

Lord Anderson of Swansea: Confusion now has sown its masterpiece. I do not understand on what basis my amendment was pre-empted, and, on a matter of courtesy, no one has told me that this was so. We have not debated these matters which, in my judgment, are important. That is why I limited my speech on the report in relation to alternatives to a very brief statement so that I could develop my points in relation to Amendments 33 to 39.

Lord Gardiner of Kimble: My Lords, I apologise but my understanding is that the relevant text in the Bill has been removed. Amendments 31 to 39 have fallen, as it were, because of the pre-emption. That provision has gone.

Lord Greaves: Perhaps I can help the noble Lord, Lord Anderson, and the House. This is getting into such a mess that I think we should adjourn now, but that is a different issue. The amendment that has been carried removes subsection (4). All these other amendments seek to insert text on completely different issues after subsection (4). I do not think that the removal of subsection (4) pre-empts text on completely different issues that is sought to be inserted after that subsection. I hesitate to say this when the Clerk is jumping up and down, but just because the relevant measure refers to line 9, and line 9 has been removed, it clearly now refers to where line 9 would have been previously.

Lord Trefgarne: My Lords, I am afraid that I think the noble Lord, Lord Greaves, is wrong. The plain fact is that these amendments are now pre-empted. That is the advice of the Clerks, and that is that.

Lord Roper: My Lords, perhaps I can help the House. This morning, when we carried Amendment 1, Amendments 2 to 7 were pre-empted on the same basis, because they would have been introduced into the Bill at the place where subsection (1) was previously. The same thing has now occurred because of the success that the noble Lord, Lord Armstrong, has had with his second amendment today. By removing subsection (4), the place where the amendments which the noble Lord, Lord Anderson, would like to move would have been inserted has disappeared. In so far as Amendments 2 to 7 were pre-empted, and the House accepted that earlier today, it seems to me that the same logic applies with these further amendments.

Lord Anderson of Swansea: That sounds fairly plausible, but it is the time of day when even plausibility might not be such. We are probably at the point, dare I say, when one might consider drawing stumps. After all, it has been a fairly long day in the field.

Lord Gardiner of Kimble: My Lords, I rather think that the noble Lord, Lord Foulkes, was already wanting to speak on the group beginning Amendment 40 and that your Lordships would rather like to hear from the noble Lord.

Lord Wigley: My Lords, I support the noble Lord, Lord Anderson, in what he was saying. When he spoke to the earlier bank of amendments, Amendment 28 had not been passed. He therefore had every expectation to be coming to the bank of amendments standing in his name and mine. He said specifically that he would be speaking to them in more detail. It is totally unreasonable that they should be taken out. Can we have an assurance that we can return to all these matters on Report?

Lord Higgins: My Lords, the point, in answer to the noble Lord, Lord Anderson, is this: he is seeking to amend a part of the Bill which no longer exists. With great respect, I do not think he can do that.

Lord Foulkes of Cumnock: All I said earlier, with respect, was that I was ready to move Amendment 40, but if the Whip wants to move the adjournment, I shall give way to him. I see that he is indicating dissent, so we have 35 minutes left.

Amendments 40, 41 and 47, and Amendment 49, which is in the name of my noble friend Lady Quin, are all grouped. Again to be as helpful as possible to the House, I shall deal with all of them together. Amendment 40 states:

"If the turnout for the referendum is less than 25 per cent"—

all these amendments deal with the legitimacy of the referendum—

"the referendum shall be considered invalid".

Where one sets the percentage is open for discussion, but I should have thought that there is no doubt whatever that if the turnout is less than 25% the referendum should be invalid.

Amendment 41 is somewhat different, in that it sets a higher threshold in two ways. It states that the Secretary of State shall,

"lay before Parliament the draft of an order for the repeal of this Act",

if two conditions are not met—if less than half the votes have been yes, or if the turnout is less than 40% of those registered to vote. A similar provision was included in the first Scottish referendum through an amendment proposed by the then Member of Parliament, George Cunningham, known as the Cunningham amendment. So there are two thresholds in order for the referendum to be successful. First, it has to get half plus one of those who vote—that is obvious—and the other is that 40% of those eligible to vote, those people on the register, would have to have voted. If the referendum does not pass both thresholds, it should not pass.

The third amendment in my name and those of the noble Lords, Lord Anderson and Lord Wigley, deals with each part of the United Kingdom, and states:

"The referendum may not result"—

in other words, it will not be legitimate or take effect—

"unless there is … a simple majority and",

again,

"40 per cent of those registered to vote in every component part of the United Kingdom in which the count is taken separately".

I have a later amendment that states that the count should be held separately in each of England, Wales, Scotland and Northern Ireland.

Let me put the reasoning behind those requirements in turn. The result of any referendum on Britain's membership of the EU must, in order to maintain legitimacy, have the backing of all four nations of the United Kingdom, not just the United Kingdom as a whole. Given the momentous nature of such a referendum, I fear that national discrepancies in outlook may cast doubt on the final outcome. I therefore believe that an issue of such importance deserves the legitimacy bestowed upon it by the requirement of national electoral consensus.

5 pm

Without this, what is to stop, for the sake of argument, the First Minister of Scotland calling for another independence referendum—assuming that the initial referendum results in a victory for the no campaign and the following one on Europe results in Britain, but not Scotland, voting to leave the European Union? That gives him an immediate peg on which to hang a call for a new Scottish referendum—heaven forbid. Such a split decision, as it were, may threaten the very integrity of our own United Kingdom. I think on all sides of the House we would be worried about this because we all here—maybe with the exception of my noble friend Lord Wigley—are fighting to uphold it on 18 September. The question of Britain's relationship with the EU cannot be allowed to lead to the break-up of Britain and I am sure that all the Conservative colleagues opposite would agree with that.

The second requirement outlined in this amendment concerns turnout—requiring at least 40% in all of the component nations. The move would again help to ensure the absolute validity of any referendum, leaving its outcome beyond any doubt. As I said, a similar yardstick was used in the 1979 Scottish devolution referendum. Both the measures in this amendment would function as an effective double lock ensuring,

[Lord Foulkes of Cumnock]
I hope, a definitive answer on the topic of Europe for a generation at least. I hope Members on all sides of the House will support these amendments. I therefore move Amendment 40.

Baroness Quin: My Lords, I shall speak to the amendments standing in my name and the names of the noble Lords, Lord Roper, Lord Bowness and Lord Kerr of Kinlochard. We have tabled an amendment that says that the referendum may not result in the United Kingdom's withdrawal from the European Union unless at least half of those eligible to vote have voted. This is very much a probing amendment at this stage, given that there are various ideas around this Chamber about thresholds or indeed whether any threshold should exist at all. Certainly, looking at the history of debates on referendums in both Houses over many years, I do not think that there has ever been a proposal for a referendum without someone putting forward the notion of some kind of threshold.

Lord Foulkes of Cumnock: I am really sorry to interrupt, having just spoken. I should have said—and I forgot because of all the other things going on with the amendment from the noble Lord, Lord Anderson—that my amendments are probing amendments as well.

Baroness Quin: I am grateful to my noble friend for clarifying that. It would be good to look before Report at the different views expressed on thresholds to see how the matter might be taken forward at a later stage, if indeed there is a feeling that it ought to be pursued.

Quite understandably in all the various debates about thresholds the concern has been that on issues of major importance people feel uncomfortable if the vote is decided by a very tiny margin on a very low turnout. That, of course, explains why there have been so many initiatives in the past about having thresholds in such legislation. Looking through the history of this I cannot discern any particular party affiliation to any one notion about any particular threshold. Looking at the amendments tabled in the past on referendums legislation, some have been tabled by Conservative Members in the other place, some by Labour Members and some by Liberal Democrat Members and, as I say, these issues have come up on practically all issues where a referendum has been proposed. In a way, we need to bear all this in mind when deciding how to move forward.

I was helped in my own thoughts about it by an excellent research note prepared by the House of Commons on thresholds in referendums, which gives a lot of food for thought. It could be food for thought that we ourselves could have before Report. I should say too that how we are looking at this issue is also very much part and parcel of political debate about referendums in other countries. The very good research note from the House of Commons looks at countries around the world—not only in the European Union but in Australia, for example, and in non-EU member states such as Switzerland—and it looks at the various requirements in those countries for thresholds in referendums.

At this stage, this is very much an opinion-gathering exercise in order that I and my fellow signatories may decide how we might pursue this issue later in our proceedings.

Lord Wigley: My Lords, my name is added to some, but not all, of these amendments. It appears that two important aspects are covered in different ways. The first is whether a threshold should be required for the outcome to have credibility. There are arguments both ways on that, and there are dangers. I do not need to remind my noble friend Lord Foulkes that in 1979 Scotland voted by a majority in favour of having a Scottish Parliament—or Assembly, as it was then called—with 33% voting yes and 31% voting no. However, because of the 40% threshold rule, it did not happen. My noble friend will be very aware of the consternation that that caused, with the feeling that a majority had been in favour.

It is very important to set a threshold at a level that is acceptable and which does not appear to be loaded one way or another. I suppose that a 25% threshold is an absolute minimum, but I should be very interested in hearing the response of the noble Lord, Lord Dobbs, on this. Depending on what is said between now and Report, we will no doubt need to come back to refine these thoughts further.

The other element built into these amendments—which, grouped together, bring in different aspects—is the question of the results from the four nations of the United Kingdom. The noble Lord, Lord Kinnock, touched on this in an earlier debate. I put it to the Committee that there is a strong argument for each of the four constituent nations of the United Kingdom to know how they have voted. If they do not, assumptions will be made, and those assumptions may be the cause of much more political rancour than dealing with the reality of the situation. If Scotland votes yes and England votes no and the English vote dominates the rest of the United Kingdom, there will undoubtedly be pressures in Scotland, as my noble friend Lord Foulkes rightly said, to reopen the whole question of the independence referendum, assuming that it is not carried the first time round. We know what happened in Quebec when there was a rerun of a referendum: it came very much closer than had been the case on the first occasion. Therefore, these issues need to be thought about very carefully.

I come from a different viewpoint from virtually everybody else in the House with regard to the Scottish referendum but I recognise that, whichever point of view you come from, the outcome needs to be logical, transparent and acceptable, and I hope that we will work towards that in the context of these amendments.

Lord Anderson of Swansea: I want to make a few points. First, I think that my noble friend Lord Foulkes is following a pipe dream if he thinks that there will be a definitive decision. I concede that if there were a substantial majority one way or the other, that would be a definitive decision, but we should remember not just the precedent of the Cunningham amendment but the precedent of 1975, when there was a very clear decision by the electorate to remain within the EEC.

However, people such as Tony Benn and others were very quick not to accept the result and they lobbied against it.

In US politics there is a story—probably apocryphal—of a decision which was made by a drunken member of the public who, a minute or so before the polls closed, staggered into a polling station and fell on to a voting machine. His vote was the decisive one on that occasion. That sounds rather absurd but there was a film on that same theme in a key state in a presidential election.

Given the importance of the decision that the electorate will be making in the referendum, if it goes ahead, it is important that we seriously consider a threshold, not at this stage but on Report.

Baroness Anelay of St Johns: My Lords, I am not seeking to interrupt for bad reasons the progress of the Bill or to prevent the next Peer speaking on the amendment. For the last hour or so, Members of the House have been asking what happens next. When my noble friend Lord Popat was challenged about rising times, he was unaware that amicable discussions were going ahead between myself and the Opposition Chief Whip with regard to today's business.

The expectation of the Opposition Chief Whip and myself is that the House will rise after the conclusion of Amendment 48, which is shortly ahead of us now. I am saying this now so that those who wish to speak to the amendment after Amendment 48 but may not be involved in the rest of today's business will have a better certainty about the planes and trains they need to catch.

There is an agreement that we should conclude today's business at the end of Amendment 48 and I shall not seek to prolong the Committee stage beyond that. At that stage I shall seek to resume the House and shortly after that I shall adjourn the House. I will, in the normal way, as a courtesy to the House indicate formally—I am doing it informally now—that we will continue the Committee stage of this Bill next Friday, 31 January at 10 o'clock. My expectation is that the Committee stage will conclude on that day and, given the progress today, I believe that is a reasonable assumption.

I hope that that is helpful to all concerned who, in different ways, have been working hard on this Bill and for different reasons. I now invite those noble Lords who are taking part in the debate on Amendment 40 to continue to do so. I am grateful to the noble Lord, Lord Bassam, for the helpful discussions we have had today.

Lord Kerr of Kinlochard: I have added my name to probing Amendment 49, to which the noble Baroness, Lady Quin, has just spoken.

The credibility and authority of the result of a referendum is very important. I do not buy the argument that a referendum will lance the boil. The 1975 referendum singularly failed to lance the boil given the positions adopted by the Labour Party within a few years afterwards. Lancing the boil is not a good argument.

However, if you are seriously contemplating leaving the European Union, you should not do that unless you have a clear majority in favour of doing so. This is a very conservative argument which I put forward for the delectation of the noble Lord, Lord Dobbs, and his colleagues. The status quo should be changed only if a majority of the country want the change. That is why I support the threshold amendment proposed by the noble Baroness, Lady Quin.

However, I, too, do not wish to press the amendment now. I hope, following the suggestions of the noble Lord, Lord Higgins, today, that when we come back on Report, when we will be in Act 3 of the play, there will be a different spirit about, the question of thresholds will be approached in an apolitical way and people will be presenting constitutional arguments rather than party politics. On that basis, like the noble Baroness, Lady Quin, I shall be happy not to press Amendment 49 at the moment.

5.15 pm

Lord Triesman: My Lords, when we debated earlier the level of confidence that people would have in the outcome of any referendum, I took the liberty of reminding the Committee of the kind of terminology that was used during the original Scottish referendum and, indeed, the whole process that led up to it. The idea of the settled will of any people must depend on it being a will that is expressed by an appreciable proportion of those people. There must be any number of us who have been involved in decisions where a very small number of people have taken them, often in gatherings called at inconvenient times and in inconvenient places, and have not felt even at that micro level that it was a reasonable way of proceeding. For those reasons, a threshold amendment has a great deal of merit. The biggest advantage is that in the following years people will draw the conclusion that it was an expression of views which commanded a significant number of people to take part and a significant proportion to vote in favour. It is a matter of confidence.

I suspect that noble Lords would not want to come back to the issue of the European Union again and again were it to be the case that the people of the United Kingdom decided that they wished to continue membership. Nothing is for ever, but we would want to feel that the matter had been settled for at least the period that it had been settled for in the past. No one could involve themselves in serious business plans or make plans about where they were going to live and draw their pensions in the character of the broader community in which they were going to do so. I therefore ask the House in a spirit that I hope will not be regarded as wrecking anything, but which is about securing the future in a more stable and happy frame of mind, to try to ensure that everyone who looks at the results says that a significant proportion of the population took part and a significant proportion of those who took part made the decision. That is where our confidence lies.

Baroness Warsi: My Lords, I speak as a government Minister and, as always, as a member of the Conservative Party. Perhaps I may express the Government's view in relation to referendums. Their view is that referendum results should be determined by a simple majority, and we do not believe that thresholds apply. This is the approach taken in the Parliamentary Voting System

[Baroness Warsi]
and Constituencies Act 2011 and follows the recommendation of the House of Lords Select Committee on the Constitution in its 2010 report, *Referendums in the United Kingdom*.

Lord Dobbs: My Lords, you wait for one amendment tabled by the noble Lord, Lord Foulkes, to come along and then three or four arrive at the same time. I am grateful to him. This is clearly a serious issue and the points that have been made are well taken. Personally, I cannot conceive of circumstances in which, for instance, Amendment 40, which requires a 25% turnout, would ever arise. This is far too important a decision, which I am sure the British people would acknowledge and do justice to. The noble Lord, Lord Wigley, correctly pointed out the difficulties around setting a threshold. We would all like a very clear decision in a referendum, and there are dangers in being too prescriptive about the form that that decision should take: turnouts, majorities and so forth.

There is what I think is an important safety valve in the Bill. We are not talking about a binding referendum. It is not like, for instance, the AV referendum we had recently; it is a consultative referendum. Parliament would have to deal with the consequences of an out vote. How they would deal with the difficulties and uncertainties that might then arise would depend entirely upon the circumstances of the time.

Lord Higgins: I am very heartened by what my noble friend has just said about this being a consultative referendum, but I am having difficulty in finding where it states that in the Bill.

Lord Dobbs: My Lords, I believe that the convention is that if it is not a consultative referendum, it is an obligatory referendum, as was the AV referendum. It is not necessary to put in the fact that it is consultative because it is consultative unless we say otherwise. That, I believe, is the convention.

Lord Hannay of Chiswick: Following up the point made by the noble Lord, Lord Higgins, I am sure that the noble Lord has taken advice and that what he said is correct. But how many of his fellow citizens are going to understand that? If you read the daily press, you would believe that they think that the Bill is going to provide for a mandatory referendum. They think that the outcome of the Bill will be binding on the Government and on Parliament. If that is not the case, the noble Lord should consider very carefully—in the interests, quite rightly, of this being clear and transparent, and so that people know what they are letting themselves in for beforehand and what they are getting afterwards—whether that needs to be made clear in the Bill in some way or another, whether it is by the tense of the verbs used or something like that. Frankly, I do not believe that we can just sail through this process on the advice that he has been given and that the rest of our countrymen will understand that.

Lord Foulkes of Cumnock: My Lords, with respect, the noble Lords, Lord Hannay and Lord Dobbs, seem to have overlooked the fact that we are about to move on to Amendment 42A, which deals with precisely this point.

Lord Dobbs: My Lords, I believe that the Bill is phrased in the traditional and correct way. Of course, there may be other views and I will listen to those very carefully. It is certainly my understanding that, if the Bill goes through, Parliament will have the final say. That is a very important safety valve and deals with many of the issues and thresholds which we have, quite rightly and sensibly, discussed. I believe these amendments to be unnecessary for that reason. Although the noble Lord, Lord Foulkes, has sent along many of these buses, I do not think it is necessary to climb on any of them and hope he would be so kind as to withdraw his amendment.

Lord Foulkes of Cumnock: My Lords, I did say that they were probing amendments and, in the light of what the noble Lord has said, I unhesitatingly agree to withdraw this one.

Amendment 40 withdrawn.

Amendments 41 and 42 not moved.

Amendment 42A

Moved by ***Lord Foulkes of Cumnock***

42A: Clause 1, page 1, line 9, at end insert—

"( ) Any referendum held under subsection (1) shall be consultative."

Lord Foulkes of Cumnock: Amendment 42A puts in the word "consultative". This is the point I made earlier. The noble Lord, Lord Dobbs, said that it is implicit in the Bill; this would make it explicit. Why do I want to do that? All referenda that we have had in Britain have been, by nature, consultative, and Parliament has chosen to comply with the will of the people as expressed through referenda. In other countries, such as Italy, France and Turkey, legislative assemblies have no choice but to accept them as binding referenda. Because it happens in other countries, some people have come round to the view that referenda can be binding. There is a fairly widespread—although incorrect—feeling that they are binding. If referenda are consultative by constitutional design, Parliament will surely, as always, go along with the choice of the majority in any future referendum. However, I want to guard against the possibility of a disputed result, numerous varieties of which may call for a second referendum.

For example, there might be a low turnout or perhaps, as with the AV referendum, there might some allegations of dirty tactics. Equally there might be an incredibly close result. As my noble friend Lord Anderson said, it was not close in 1975, it was a very clear result, but a referendum might be incredibly close, by one or two percentage points. In all those scenarios, a rerun may be the only way to definitely resolve the question. However, a rerun may also frustrate and alienate many voters who have assumed that referenda are binding. In order to avoid any feelings of betrayal or anger, we must make clear that it is a consultative referendum and that Parliament is sovereign at the end of the day and could, if it wished, ignore or repeal a referendum, should circumstances demand it.

The 1979 referendum was mentioned earlier. It would have been open to the Government, if they had been a Labour Government after 1979, to accept the result of the referendum, notwithstanding the 40% rule. However, because they were a Conservative Government, they decided to abandon devolution.

Lord Cormack: My Lords, the noble Lord will acknowledge that it was an amendment tabled by a Labour Member of Parliament, George Cunningham, that led to the threshold.

Lord Foulkes of Cumnock: Indeed. Perhaps the noble Lord was out having his tea earlier when I said precisely that in a previous speech.

The noble Lord, Lord Dobbs, has said that trust in politics and politicians is very low. Therefore, we must not allow the fact that it is a consultative referendum to remain unclear; otherwise, what he said earlier will apply a fortiori—we will be deceiving the people. The people deserve not only a say, which is their democratic right—I hope that the people's choice organisation is listening to me—but full disclosure. I hope that we will therefore clarify the situation and put in the word "consultative".

We have already had two amendments agreed. This would clarify things. It is a very simple thing, putting in just one word. I say to the noble Lord, Lord Dobbs, that he should not feel inhibited by the procession of Tory Whips I have seen whispering in his ear. He should have the courage to say, for once, "That is a good amendment even though it is proposed by the noble Lord, Lord Foulkes, so I will accept it". I hope he will.

Lord Higgins: My Lords, I am rather heartened by the exchanges we have had in the past few minutes. I sat through the whole of the Second Reading debate. I did not take part because it seemed that everyone would say everything that needed to be said—a great many times over. Strangely enough, as far as I can recall, and I was here for almost the entire proceedings, no one raised this issue, which is the most important amendment on the Marshalled List.

Throughout my 33 years in the other place, I always told my constituents very strongly that I supported the view of Edmund Burke that Members of Parliament were representatives not delegates. I explained that, often at great length. Whether this explains why my majority over the period fell from 32,500 to less than 18,000, I am not sure. But I believe they accepted that even if I had had a machine that would tell me exactly the opinion in my constituency, I would not feel it right or necessary to take that as decisive. I strongly believed that one would take the views of one's constituents into account every Friday evening and by correspondence and so on, but at the end of the day a Member of Parliament has to take into account all the other representations he has received, all the research he has done and so on, and make up his mind on the basis of that.

I have always been totally opposed to the idea of a referendum that was mandatory. I used to be totally opposed to referendums in all shapes or forms. I have come round slightly from that view, but I certainly maintain the view that I have just expressed. It would be appalling for us to agree with a referendum which would then impose on the House of Commons a particular decision where it had not been able to take the action that I believe is a fundamental feature of our democratic system in this country.

I very much welcome the noble Lord's amendment. It is important that it is made clear. I equally welcome my noble friend the proposer of the Bill's view that it is anyway covered by convention. But I entirely agree with those who have said that it needs to be in the Bill. Therefore, I hope very much that my noble friend whose Bill it is, in responding to this debate, will make it absolutely clear that he accepts this amendment, and then we will know where we stand; otherwise, there is a grave danger that there will be uncertainty about this, which will cause great confusion in the future.

5.30 pm

Lord Cormack: My Lords, briefly, I support what my noble friend said. I very much adhere to the Burkean view that the Member of Parliament owes his constituents his initiative, industry and judgment. However, there is something that we need to take very carefully into account. My noble friend Lord Dobbs has several times in speaking on this Bill referred to the sense of disappointment people felt when successive Governments appeared to promise a referendum and then did not deliver on that promise. That disappointment would pale into insignificance by comparison with the ignoring of the verdict on a national referendum. That is why we will have to look very carefully at the threshold problem, because this addresses that in an indirect way. I was one of those who supported George Cunningham and Tam Dalyell when they campaigned in 1978 as that Bill went through another place. We will have to come back to this at some stage. The noble Lord, Lord Foulkes, has done the House a service in moving this amendment. Surely it can be accepted. If my noble friend Lord Dobbs says that it is implicit anyhow, let us put it beyond any shadow of doubt and make it explicit.

Lord Wigley: My Lords, I do not want to introduce a slightly discordant note on this but we must be very careful if we go down the road of saying that the vote of the people might be overturned. Considerable cynicism could arise from that. I accept entirely that if it is a consultative referendum that should be in the Bill and beyond any misunderstanding. I agree wholeheartedly with the noble Lord, Lord Higgins, on the fact that we have a representative democracy and do not send every issue back for a referendum or plebiscite, or weigh how many letters we have had in or all the rest. We must make a judgment on things. In the House of Commons they make a judgment and here in this House we must, too. If we say that the matter is one that we, as representatives of Parliament, cannot come to a conclusion on and give it back to the people, we would seem to cause enormous potential for discord if we then said, once the people had taken that decision, "We don't like it and will ignore it altogether".

In the context of Scotland, the noble Lord, Lord Foulkes, referred to what might have happened had there been a Labour Government in 1979. In 1997 in

[Lord Wigley]
Wales, there was a very tight result but there was no question of the incoming new Labour Government not accepting it. It had been on a relatively small turnout of about half the people and there was about a 1% majority within that, but accepting that result defused the issue and when the subsequent referendum came on having greater powers there was a 2:1 majority. Even if people did not accept the principle of devolution in the first place they came to accept it because that was the will of the people. All I counsel is that we should be very careful indeed if we set up a mechanism that ignores the will of the people, whatever that will is.

Lord Forsyth of Drumlean: My Lords, would it not be extraordinary if we had a referendum on whether we should break up the United Kingdom—which is, as I understand it, a binding referendum, not a consultative one—but did something completely different in respect of our membership of the European Union? Why would there be one rule for deciding the composition of the United Kingdom—

Lord Foulkes of Cumnock: On what basis does the noble Lord say that the Scottish referendum is binding? My own understanding is that because the Prime Minister has signed the Edinburgh agreement, he has said that he will implement it. However, that does not mean that it is necessarily binding on Parliament. It is still technically a consultative referendum. If there were a yes vote, before it could be implemented there would have to be legislation through this Parliament to do so.

Lord Forsyth of Drumlean: Of course there would have to be legislation through Parliament. The noble Lord is normally very careful in his words but I suggest that he should be careful about what he says here. If he gave the impression in Scotland that the results of the referendum would not be absolutely binding when the Prime Minister has called for a clear question and decision which would be a one-off, he would get into difficulty. This would not be the first time I had rescued him.

Lord Foulkes of Cumnock: I am grateful; it is a technicality, but because the Government have said that they will accept the result of the referendum, it is de facto binding, if not de jure.

Lord Forsyth of Drumlean: I do not want to detain the House, but the position is quite clear in Scotland. If the Scots vote to leave the United Kingdom, that is that and the Government will get on with it, whoever the Government are, because that has been the clear understanding. We very much hope that that will not happen. It would be extraordinary to amend my noble friend's Bill to say that it is only consultative, because those people who want to have their say will say, "Why is it one rule for the Scots and another for the rest of the United Kingdom?". The noble Lord is on very dangerous ground.

Lord Hannay of Chiswick: The noble Lord, Lord Forsyth, has got the balance a little wrong. The noble Lord, Lord Dobbs, said that this is a consultative referendum. The question is whether the Bill should say that, to avoid any misunderstanding. If the noble Lord, Lord Forsyth, wishes to make it mandatory, my understanding, from what the noble Lord, Lord Dobbs, said, is that he must move an amendment. There is no amendment on the amendment paper to say that it is mandatory.

We should stick to where we are, which is the debate about whether the amendment of the noble Lord, Lord Foulkes, should be made to the Bill to remove beyond peradventure any misunderstanding.

Lord Forsyth of Drumlean: I am most grateful to the noble Lord, but I am sure that what my noble friend meant when he said that it was consultative was that we were consulting the people to get their opinion. When I read the Bill, it seemed quite clear to me that if there was a referendum and people decided to leave or to remain in the European Union, that would be that. If the Bill is amended to say that the referendum is consultative, that is another matter. I am sure that my noble friend Lord Dobbs would also point to the fact that at the end of the day, this will require legislation in Parliament and Parliament will have the last say—of course it will—but I find it difficult to imagine that any Parliament faced with a referendum—

Lord Higgins: Will the noble Lord give way?

Lord Forsyth of Drumlean: In a second, although actually, the noble Lord did not give way to me. I find it difficult to imagine that any Parliament faced with a referendum made on the basis that it was not consultative would not respect the will of the people. I give way to my noble friend.

Lord Higgins: I will give way to my noble friend at Question Time next time.

The fact is that we cannot have the matter left in the dark. My noble friend the proposer of the Bill is clear that it is intended to be a consultative referendum. That being so, I think it is right that we should state that in the Bill. It is not a good idea to leave anyone in any doubt of that. As for subsequent legislation, of course, whichever way the referendum goes, it is likely that the House of Commons and this House will have to legislate, but it is important that they do not find themselves in a position where they have no option but to go along with the decision of the referendum.

Lord Forsyth of Drumlean: I hesitate to disagree with my noble friend; I will sit down having done so. If I may say so, his position is ridiculous. We have spent the whole day arguing that it is necessary to have the Bill so that the people have the assurance that the promise will be carried forward. If you amend the Bill to say that it is consultative, and we will decide what to do then, you have blown up the whole thing—which may be my noble friend's attention, I do not know. I certainly think that the Bill ought to be, as it states, an opportunity before 2017 for the British people to have a say, for their say to be implemented and for us to be freed of this wretched debate.

Lord Kerr of Kinlochard: This debate is in danger of being hijacked by a filibustering gang of Montagnards opposite—the Robespierre and the Danton, the noble Lords, Lord Cormack and Lord Higgins. They are behaving disgracefully, leading us away down these alleyways. We are talking about how many angels dance on the head of a pin. Whatever the referendum is called, consultative or mandatory, it will be decisive. There is no doubt that if the country voted to leave the European Union, the Government of the day would have to start the Article 50 procedures laid down in the treaty for secession. There is absolutely no doubt about that.

The question is simply, as the noble Lord, Lord Foulkes, says, should the Bill be honest and say that the people are being consulted? The noble Lord, Lord Dobbs, says that there is no need to do so because that is all it is: a consultative referendum. I have no idea who is right but if the noble Lord, Lord Dobbs, is correct that it is a consultative referendum, then I agree with the noble Lords, Lord Hannay and Lord Foulkes, that it should say so. But it should also be clear—and we should be in no doubt—that once the people have been consulted and have spoken, that is it.

Lord Dobbs: My Lords, would it help us if I made this suggestion? I agree with the passion that the noble Lord, Lord Foulkes, puts forward on this and with so many comments that have been made by my noble friends. If it is consultative, it is perhaps up to me to find a way to make sure that it is unambiguously consultative. If the noble Lord, Lord Foulkes, will allow me to engage in some conversation with him at a little later date, I will see what I can do. Certainly, my heart is entirely in line with his on this issue and on that basis, I beg him to withdraw the amendment.

Lord Foulkes of Cumnock: On that very helpful basis—this deadline is working well, as my noble friend Lord Kinnock said earlier on—I very much agree to withdraw it.

Amendment 42A withdrawn.

Amendment 42B

Tabled by ***Lord Foulkes of Cumnock***

42B: Clause 1, page 1, line 9, at end insert—

"( ) A referendum under subsection (1) shall only be held if 1 million members of the electorate submit a petition to Parliament to that effect."

Lord Foulkes of Cumnock: I—

The Deputy Chairman of Committees (Baroness Andrews) (Lab): My Lords, I should point out that this amendment was in a previous group. Amendments 42B and 42C to 42E have been grouped previously and should have been debated.

Lord Foulkes of Cumnock: I do not think that they were.

The Deputy Chairman of Committees: Yes, Amendment 42B was grouped with the fourth group, with Amendment 4, and Amendments 42C to 42E were grouped in the fifth group.

Lord Foulkes of Cumnock: Then that is absolutely right.

Amendment 42B not moved

Amendments 42C to 42E not moved.

Amendment 43

Moved by ***Lord Foulkes of Cumnock***

43: Clause 1, page 1, line 10, leave out subsection (5) and insert—

"( ) In Wales, a Welsh version of the question is also to appear on the ballot papers; in Northern Ireland, an Irish and an Ulster Scots version of the question is also to appear on the ballot papers; and in Scotland, a Scots Gaelic version of the question is also to appear on the ballot papers."

Lord Foulkes of Cumnock: We are getting near the end; this is wonderful. This amendment relates to language. In areas of the United Kingdom where other languages are spoken, surely it is right that the question should be in that language as well. It is incontrovertible that in Wales the question should be in Welsh. I also absolutely agree, and I am sure that my noble friends from north of the border would agree, that in the parts of Scotland where Gaelic is spoken it should also be in Gaelic. That means that there would be no doubt for those who are Welsh speakers or native Gaelic speakers, and they would know exactly what the question was. I do not think that there is any difficulty and I hope that some agreement could be reached on that.

I had tabled some amendments in relation to Cornish and Doric, which got some commentators a wee bit annoyed. If I can be permitted to speak a wee bit in Doric, and say what my granny would have said to them: "Dinna fash yersel', ye daft wee loonies and quinies". Not many people will understand that but one or two Scots do. In other words, "Don't get bothered, young men and women". It was just to enable discussion to take place but I withdrew those amendments just to keep those daft wee loonies and quinies happy. However, as far as Gaelic and Welsh are concerned the arguments are incontrovertible.

Lord Wigley: My Lords, my name is appended to this amendment and Amendment 45, which is grouped with it, stands in my name and makes express provision for the wording that would be put to the people of Wales in the Welsh language to be in the Bill. I do not need to tell noble Lords that the Welsh language has had official status in Wales for two or three years now and that it would therefore be expected that any such provisions would be in both languages. However, as the legislation enacting this comes from Westminster, we feel that if the English version is on the face of the Bill, the Welsh version should be as well. The translation I have of it here is one that I checked out with a person who had been translating for the National Assembly. It is in order as far as that is concerned, but it may need to be checked.

5.45 pm

Lord Davies of Stamford: Since it is not easy to know what the pronunciation is of Welsh, it would be an awful pity not to have this passage in *Hansard*. Would the noble Lord like to read out in the Welsh language the text of the question that he has drafted?

Lord Wigley: I am more than delighted to do so. I think that it will be in *Hansard* anyway as it is an amendment, but it says:

"A ddylai'r Deyrnas Unedig barhau yn aelod o'r Undeb Ewropeaidd neu adael yr Undeb Ewropeaidd?",

which says exactly the same as the English version.

Lord Trefgarne: My Lords, I am ashamed to say that although I have Welsh parents and was born in the Principality, I do not speak Welsh. Can the noble Lord confirm that the words in Welsh on the Order Paper are the same as the words in English elsewhere in the Bill?

Lord Wigley: Yes, the words are the same as the amendment that is linked with this so that the two versions would be the same. I realise that at this stage of the Bill this is no doubt seen as a probing amendment, and it is a matter of how it should be taken on board. I do not think that this is a controversial issue—it certainly would not be in Wales—and I support the initiative with regard to the Gaelic language in Scotland.

Lord Crickhowell (Con): My Lords, I have not spoken at all today. Having played a considerable part in strengthening and supporting the position of the Welsh language in Wales, of course I agree that both the English and Welsh versions should have an equal place on the referendum papers. However, that seems to be perfectly adequately covered in the Bill as it stands because the order has to come before both Houses of Parliament for approval, covering this very point. Although I share the view of what the endgame has to be, that seems to be adequately provided for in the Bill.

Lord Wigley: I am grateful to the noble Lord, Lord Crickhowell, for his comments. I acknowledge immediately that during his time in office progress was made with regard to the Welsh language, and incidentally the late Wyn Roberts also played a significant part in that. However, the point is that in most legislation of this sort these words would be in a schedule, but there is no schedule here. We have the English version in the Bill, which is why there is an amendment to have a Welsh version as well. That would at least get the balance right. It may well be that between now and Report an amendment needs to be drafted saying that both should be treated with equality in this Chamber as they would be in Wales.

Lord Anderson of Swansea: My Lords, my name also appears on the amendments. I have one little concern regarding my noble friend Lord Foulkes's comments: he said that the Gaelic version should appear only in the parts of Scotland that speak Gaelic. If one were to transpose that to Wales, some might argue that in Monmouthshire, for example, where very little Welsh is spoken, at least on the eastern side in the border area, there should be a different ballot paper. In my judgment, if there is to be a Gaelic version it should be throughout Scotland, otherwise there will be enormous problems regarding where to draw the line. To follow up what the noble Lord, Lord Crickhowell said, there is, happily, a consensus in Wales in respect of the language. We have managed to avoid the language divisions that have rent Belgium over the years, and that in large part is because of the work by the noble Lord but particularly of Lord Roberts of Conwy. The Welsh Language Act and the equal validity principle are a memoriam to the work that he did.

Lord Armstrong of Ilminster: My Lords, my knowledge of the Welsh language is even more spectacularly uncertain than that of the noble Lord, Lord Trefgarne. Is the language in Amendment 45 a precise translation of the amended version of the question?

Lord Wigley: Yes.

Lord Richard: My Lords, my name appears on the amendments. Obviously, I very much support the amendment tabled by my noble friend Lord Wigley. This is an important issue in Wales. The language is a strong issue. It could be a divisive one but it is not at the moment, or not greatly so, because by and large English and Welsh are treated increasingly on a basis of equality. If we have the English version in the Bill, it seems only right that we should have the Welsh version too. I say to my noble friend that as a south Waleian, I did not entirely understand his pure accent as he comes from north Wales. Doing the best that I can with the Welsh language, which is not a great deal but is something, it seems to me to be a totally accurate translation.

Lord Skelmersdale (Con): My Lords, it occurs to me that the words "a Welsh version" have been used many times, and Clause 1(5) states:

"In Wales, a Welsh version of the question is also to appear on the ballot papers, as provided by order".

The other point that I will make briefly is that I wonder what noble Lords think the language generally spoken in Northern Ireland is because that is referred to in the amendment we are discussing.

Lord Kilclooney (CB): My Lords, I can certainly answer that. I have been listening with interest, and Northern Ireland had not been mentioned until just now. I was wondering why our Scottish and Welsh colleagues were ignoring Northern Ireland in this context. However, I can confirm that the foreign language most spoken on a daily basis in Northern Ireland is Mandarin.

Lord Triesman: My Lords, my grasp of Mandarin is as extensive as my grasp of Welsh—I am very sorry to have to admit it. There are some languages I can do, but neither of those. The parity of value expressed by doing it in different languages seems an unanswerable objective. I suggest that the translations, which most

of us can only accept on the face of it because we do not speak the languages, are provided by an authorised body, such as the Electoral Commission. In that way, the exactness of what is said is as reliable as it can be for everybody who does not speak the language because it has the assent of a completely outside body rather than one of us trying to translate. I could probably have a go at one or two translations—not of these languages—only to give rise to considerable confusion about my conjugation of German or French.

Lord Dobbs: My Lords, I thank noble Lords for that brief but culturally colourful debate. I wonder what my Welsh great-great-great-grandfather, who was a coal higgler, would have felt about what we are saying here today. Actually, he would have been astonished, because in those days his language would not have been given any consideration. I wish to confirm that it is absolutely not the intention in this Bill to treat Wales in anything like an inferior or secondary fashion. As my noble friend Lord Skelmersdale pointed out, Clause 1(5) makes provisions for a question in Welsh, and other provisions very clearly state that the job of making sure that the ballot paper is fair and valid is down to the Electoral Commission.

On that basis, and given the time that we are here, I entirely endorse the spirit of this amendment, but I do not think that it is necessary. I really think that the Bill already has enough provision to satisfy the main requirements, which are, of course, about Welsh, rather than Doric or the other languages that the noble Lord, Lord Foulkes, has been talking about recently. As it relates to Wales, the Bill has enough in it to satisfy all those legitimate demands. On that basis, I ask him, particularly because of the late hour, to accept my apologies for a short summation and to withdraw his amendment.

Lord Foulkes of Cumnock: I am not sure that the Bill does actually do what the noble Lord says. It is a very skeletal Bill, as I said at the beginning of the debate this morning. It is a Bill done for a purpose. However, we have time between now and Report to have a look at the questions in relation to Gaelic and Welsh. I hope that that will be done. On that basis, I beg leave to withdraw the amendment.

Amendment 43 withdrawn.

Amendments 44 to 47 not moved.

Amendment 48

Tabled by ***Lord Foulkes of Cumnock***

48: Clause 1, page 1, line 11, at end insert—

"( ) The referendum shall also be held in Gibraltar."

Lord Foulkes of Cumnock: My noble friend Lady Quin has asked me not to move the amendment and to wish all noble Lords, on her behalf, a very good weekend—something with which I completely concur.

Amendment 48 not moved.

House resumed.

Leasehold Reform (Amendment) Bill

First Reading

5.55 pm

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

Deep Sea Mining Bill

First Reading

5.55 pm

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

House adjourned at 5.56 pm.

Written Statements

Friday 24 January 2014

Energy: Oil and Gas Licences

Statement

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): My right honourable friend the Minister of State for Energy (Michael Fallon MP) has made the following Written Ministerial Statement.

I am pleased to inform the House that I am today inviting applications for petroleum licences for unlicensed seaward blocks, in the 28th new round of offshore petroleum licensing.

The UK oil and gas sector plays a vital role in the UK economy, supporting around 350,000 jobs and with record capital expenditure in 2013 of around £14 billion, and in meeting our energy needs. Indigenous oil and gas production supplies the equivalent of about half of the UK's primary energy demand. It is vital that we continue to do all we can to maximise economic recovery of indigenous hydrocarbon reserves. The licensing of new areas forms an essential part of our long term economic plan by enabling the exploration necessary to ensure we fully realise our remaining reserves which could be as much as another 20 billion barrels. This will boost growth, energy security, and jobs.

DECC's plan to offer licences for offshore oil and gas exploration and production through further licensing rounds was the subject of a Strategic Environmental Assessment (SEA) completed in 2011 and the Environmental Report can be viewed via the following link -

https://www.gov.uk/offshore-energy-strategic-environmental-assessment-sea-an-overview-of-the-sea-process

The SEA includes commissioned reports on various components of the natural environment and effects of previous activities.

Following consultation, DECC considered all responses and a post consultation report for the latest SEA was published. The report can be viewed here -

https://www.gov.uk/government/consultations/uk-offshore-energy-strategic-environmental-assessment-2-oesea2

In deciding to proceed with a 28th offshore licensing round, DECC has had regard to the conclusions and recommendations of the Environmental Report and consultation feedback. As a result, blocks in the deepest waters of the South West approaches are currently not being offered as part of the 28th round because of inadequacy of data including potentially vulnerable components of the marine environment.

A number of blocks excluded from earlier licensing rounds on the basis of recommendations of previous SEAs are currently not being offered as part of the 28th round of offshore petroleum licensing. This includes the blocks in or overlapping with the boundaries of the Moray Firth and Cardigan Bay Special Area of Conservation.

In addition some blocks are currently withheld from this round of offshore petroleum licensing at the request of The Crown Estate as they overlie the Cleveland potash mine, and some at the request of the Ministry of Defence due to their use for intense military testing and training.

Licensing of the blocks not currently included in this round may be revisited in the future as more information on those blocks becomes available.

In addition, a number of blocks may be licensed but with conditions attached restricting or prohibiting certain marine activities. It should be noted that the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended) and the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (as amended) variously require that all major activities undertaken in connection with UK offshore hydrocarbon exploration and production are subject to environmental assessment before consent can be given for these activities.

Before any licence awards are made, DECC will assess whether the grant of licences applied for is likely to have a significant effect on the management of any protected conservation sites. Where such effects cannot be excluded in respect of any proposed award, a further detailed assessment will be needed to determine whether there are any adverse effects on the integrity of these protected conservation sites. This is required under Council Directive 92/43/EEC on "the conservation of natural habitats and wild fauna and flora", and the UK implementing regulations.

Applications in the Round will need to be submitted by 25th April 2014.

Planning

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston): My right hon Friend the Secretary of State for Communities and Local Government (Eric Pickles) has made the following Written Ministerial Statement.

In 2010, the Coalition Government cancelled the Labour Government's top-down eco-towns programme, as part of our commitment to localism and to supporting locally-led development.

Despite a pledge of ten new towns by Labour Ministers, the eco-towns programme built nothing but resentment. The initiative was a total shambles, with developers abandoning the process, application for judicial review, the timetable being extended over and over, and local opposition growing to the then Government's unsustainable and environmentally damaging proposals. The last Administration's own assessments admitted that only three of its original proposals were viable without public subsidy. Merely one of the eco-town proposals were considered environmentally-friendly based on their assessments.

As the programme became ever more bizarre – from the then Health Secretary wanting to turn them into "fit towns", to proposals for compulsory fortnightly bin collections or bin taxes in the new developments. No gimmick was left unturned.

Labour's eco-towns were to be imposed from above, with the locations determined by a national planning statement issued by Whitehall. This planning statement is still technically in force (DCLG, Planning Policy Statement: eco-towns: A supplement to Planning Policy Statement 1, July 2009).

The Coalition Government has undertaken a comprehensive programme to streamline and remove unnecessary Whitehall planning guidance to help streamline the planning system and make it more accessible to local firms and local residents.

The publication of the National Planning Policy Framework in 2012 cut over 1,300 pages of policy guidance down to less than 50 pages. We have revoked Labour's volumes of Regional Strategies which added complexity and confusion to the planning system, and which suppressed local decision-making. The new planning practice guidance website, currently in draft, is replacing 8,000 pages of impenetrable guidance documents with one simple, concise and accessible online resource.

In the context of the cancellation of the programme and the consolidation of planning policy and guidance, we are therefore proposing to cancel the 2009 eco-towns planning policy statement and will undertake a Strategic Environmental Assessment to comply with the EU law on this issue.

We are minded to save, for now, the policies for North West Bicester until Cherwell District Council has an up to date Local Plan in place. This is because, since May 2010, the council has made good progress with its plans for large-scale, locally-supported development. This local work shows that a top-down process is not needed.

As the Housing Minister (Kris Hopkins) outlined in his recent answer of 17 January 2014, Official Report, Column 694W, we are opposed to top-down Whitehall planning and do not support the central imposition of new towns, however they are branded.

It is the Coalition Government's policy to support communities with their ambitions to deliver large scale local development. So far, our Local Infrastructure Fund has unlocked locally-led large housing schemes capable of delivering over 69,000 new homes, and we are working to finalise investment deals for a further 10 stalled schemes capable of delivering up to 35,000 more homes – over 100,000 in total. A prospectus on bids for that fund was published in February 2013. The Autumn Statement committed a further £1 billion of funding to unlock locally-led housing schemes capable of delivering up to a further 250,000 new homes. A further prospectus inviting bids to this fund will be issued this spring.

In short, this is a further step in removing Whitehall red tape, abolishing top-down planning, and working with local communities to build locally-supported homes and safeguard our local environment and countryside.

Written Answers

Friday 24 January 2014

Bangladesh

Question

Asked by ***Lord Carlile of Berriew***

To ask Her Majesty's Government whether they have made an assessment of the effect of Baroness Warsi's official presence in Bangladesh in December 2013 on the political and electoral situation in that country. [HL4654]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): During my visit, I urged the Prime Minister and Begum Zia to take note of the negative effects on Bangladesh's image both domestically and internationally of the continued violence, confrontational politics and elections that fall short of delivering a credible, sustainable outcome. It was highly disappointing that many people were unable to take part in Bangladesh's democratic process, and I now urge the political parties to work together to strengthen democratic accountability and to build the willingness and capacity to hold future participatory elections without the fear of intimidation or reprisals.

Courts: Jurors

Question

Asked by ***Baroness Byford***

To ask Her Majesty's Government, further to the Written Statement by Lord McNally on 23 September 2013 (WS 169–170), whether jurors from rural areas and no longer in employment are able to claim expenses for mileage and parking for using their own vehicles, or taxis where they cannot use their own vehicles; and whether hotel expenses are met when the court is a lengthy journey away. [HL4417]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): HMCTS will reimburse jurors for the actual costs of public transport between their home and court and in certain limited circumstances, with the advance permission of the court, HMCTS will pay a mileage rate for travelling by car and reimburse reasonable costs of parking or cover taxi fares. Jurors are summonsed from within the community that is served by the courts and therefore should not generally require a lengthy journey to court. Jurors may apply to be excused from jury service if doing jury service would cause significant hardship.

The table of juror allowances can be found at the following link:

https://www.gov.uk/jury-service/what-you-can-claim

Cremation Regulations 2008

Question

Asked by ***Lord Wigley***

To ask Her Majesty's Government what representations they have received from the Welsh Government concerning the amendment of the Cremation Regulations 2008 in order to provide for the use of bilingual Welsh and English forms in crematoria. [HL4544]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): The Government has not received any representations from the Welsh Government on the use of bilingual cremation forms.

Driving Tests

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether they have considered whether the driving test should include a night driving element. [HL4722]

The Minister of State, Department for Transport (Baroness Kramer) (LD): Improving the safety and ability of young drivers is a key priority for the Government which is why we have made the driving test more realistic. The Department for Transport is considering several options to ensure that young people are properly prepared and drive safely. It may be practically difficult for the test to include a night time element but we would encourage all learner drivers to have lessons and practise driving after dark.

Embryology

Question

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

To ask Her Majesty's Government, further to the Written Answers by Earl Howe on 18 July 2013 (WA 141) and 29 August 2013 (WA 315–16), what actions the Human Fertilisation and Embryology Authority (HFEA) intends to take in the light of the findings described in PLoS ONE 9(1): e80398 (doi:10.1371/journal.pone.0080398) and pursuant to the recommendations set out in the independent review carried out by Dr Justin McCracken. [HL4534]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): There is nothing further I can add to the Written Answer I gave to the noble Lord on 18 July 2013, Official Report, col. WA 141. The Human Fertilisation and Embryology Authority (HFEA) regularly considers research about the health impacts of in vitro fertilisation (IVF). The Human Fertilisation and Embryology Act 1990, as amended, requires that patients are provided with full information about the nature of the treatment they are proposing to undergo, including any potential risks and possible side effects associated with the treatment.

The HFEA has advised that, at its meeting on 11 September 2013, the Authority agreed an action plan in response to the McCracken Report recommendations, which is available on the Authority's website at:

www.hfea.gov.uk/Authority-September-2013.html

Energy: Charges and Prices

Question

Asked by ***Lord German***

To ask Her Majesty's Government what are the intergovernmental arrangements for the management, charging regime and pricing policies of all existing and proposed energy interconnectors between Great Britain, the Republic of Ireland and Northern Ireland. [HL4703]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): Matters relating to the management, charging regime and pricing policies of existing and proposed electricity and gas interconnectors between Great Britain, the Republic of Ireland and Northern Ireland are the responsibility of the relevant regulators.

There are two existing electricity interconnectors between the Great British electricity market and the Irish single electricity market: the East West Interconnector and the Moyle Interconnector. The regulation of revenues on these interconnectors is a matter for the Irish regulatory authorities. These Irish regulatory authorities and the GB regulator, Ofgem, are required to approve the capacity charging and access rules for both interconnectors on an annual basis.

In respect of proposed electricity generation projects in the Republic of Ireland that would involve electric lines conveying electricity to Great Britain, Ofgem has recently consulted on how these links might be regulated: https://www.ofgem.gov.uk/publications-and-updates/regulation-transmission-connecting-non-gb-generation-gb-transmission-system

Matters relating to the on-going management, charging regime and pricing policies of gas interconnectors are the responsibility of the relevant regulators, but arrangements for Interconnector 1, Interconnector 2, and the SNIP are put in place with reference to two intergovernmental treaties:

"Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Republic of Ireland relating to the Transmission of Natural Gas by Pipeline between the United Kingdom of Great Britain and Northern Ireland and the Republic of Ireland" (Treaty Series No.73 (1993)); and

"Agreement relating to the Transmission of Natural Gas through a Second Pipeline between the United Kingdom of Great Britain and Northern Ireland and Ireland and through a Connection to the Isle of Man" (Treaty Series No 10 (2007)).

Gas arrangements are being revised as the relevant regulators implement new EU regulations governing gas transmission ownership, management, charging regimes and pricing policies.

Energy: Off-Gas Grid Households

Question

Asked by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government what steps they are taking to mitigate the additional cost of heating for rural households not on the gas grid. [HL4733]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): The Government believes that domestic consumers living off the mains gas-grid should have access to secure and affordable fuel supplies to heat their homes.

This year's Buy Oil Early campaign, coordinated by DECC, was launched by the Federation of Petroleum Suppliers (FPS) and consumer groups in September. A similar campaign was launched by the LPG trade association (UKLPG) in October. DECC have worked with the FPS to produce a Code of Practice and Customer Charter, setting expected levels of service provision for FPS members such as the fair treatment of consumers with payment difficulties.

DECC have also worked with the industry to provide consumer guidance on setting up or joining oil buying clubs, in order for communities to save money through bulk buying.

The Energy Minister intends to hold a third Ministerial Roundtable meeting on heating oil and LPG in the spring, to assess how off-gas grid consumers fared over the winter and whether further action in this area is needed.

Energy efficiency is vital when it comes to reducing the cost of energy for off-gas grid households. The Green Deal offers a means for consumers to identify and finance the most effective energy efficiency improvements to their homes, such as insulation and new heating systems.

The Energy Company Obligation (ECO) works alongside the Green Deal to ensure energy efficiency measures are supplied to vulnerable consumers. We will be publishing a consultation on the ECO this spring. This will explore how best to incentivise delivery of Affordable Warmth measures to non-gas fuelled households, and include proposals to widen eligibility for the Carbon Saving Community Obligation.

In addition we will be considering how best to support non-gas fuelled households as part of our forthcoming draft Fuel Poverty Strategy, on which we will also consult in the spring.

DECC also provides additional support for the switch to renewable heating systems through the provision of one-off grants under the Renewable Heat Premium Payments scheme. From spring 2014, this will be replaced by the domestic Renewable Heat Incentive scheme (RHI). The RHI is designed to cover the additional costs of a renewable heating system compared to a new conventional heating system, through tariffs that will be paid over seven years.

EU: Foreign Policy

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government under what circumstances they encourage the European Union to take over and manage major foreign policy projects. [HL4552]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): Her Majesty's Government does not encourage the European Union to take over foreign policy. The EU's Common Foreign and Security Policy is decided by unanimous agreement amongst the Member States.

EU: Gypsies, Roma and Travellers

Question

Asked by ***Lord Avebury***

To ask Her Majesty's Government how they intend to implement the European Commission's European Code of Conduct on the Partnership Principle for the European Structural and Investment Funds 2014–20 as regards Gypsies, Roma and Travellers. [HL4495]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): Local Enterprise Partnerships will be responsible for strategic leadership of European Structural and Investment Funds in the 2014-2020 period and will be the lead bodies with whom Government works to ensure delivery of programme targets. The Government has made it clear to Local Enterprise Partnerships that they must include all relevant partners and interested parties in the development of their strategies. Government will however continue to be the formal legally accountable body to the European Commission for these Funds. Social inclusion is an important aspect of the EU Funds and is a mandatory element of the European Social Fund. Disadvantaged groups, including the Roma where relevant, will be therefore reflected in Local Enterprise Partnerships plans according to local circumstances.

EU: UK Membership

Questions

Asked by ***Lord Stevens of Ludgate***

To ask Her Majesty's Government, further to the remark by Baroness Warsi on 7 January (HL Deb, cols 1387–9) that United Kingdom membership of the European Union brings 3.5 million jobs to the United Kingdom, what estimate they have made, calculated on the same basis, of the number of jobs United Kingdom membership brings to the rest of the European Union. [HL4511]

The Minister of State, Department for Business, Innovation and Skills & Foreign and Commonwealth Office (Lord Livingston of Parkhead) (Con): No estimates have been made by HM Government of the number of jobs United Kingdom membership of the European Union brings to the other 27 Member States.

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government, further to the Chancellor of the Exchequer's speech at the Open Europe conference on 15 January regarding the future of the United Kingdom in the European Union, whether a priority in their reform agenda is the removal from any new treaty of the phrase "resolved to continue the process of creating an ever closer union among the peoples of Europe". [HL4665]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The Prime Minister, my right hon. Friend the Member for Witney (Mr Cameron) set out clearly the Government's EU reform priorities in his speech in January 2013: the EU needs to become more competitive, more flexible and more democratically accountable, with power flowing both ways and fairness for those within and outside the single currency. And, as the Deputy Prime Minister, my right hon. Friend the Member for Sheffield, Hallam (Mr Clegg), said in October, the EU must do less meddling and be more meaningful in its contribution to national life by concentrating its focus on policies where it can bring added value. Much of this reform can be and is being delivered right now, without Treaty change. Detailed decisions about a government negotiating position would be taken in the context of any future proposals for Treaty change.

Food: Horsemeat

Question

Asked by ***Baroness Byford***

To ask Her Majesty's Government how many prosecutions have taken place since the discovery in January 2013 of horsemeat in food for human consumption; how many businesses are being investigated; and whether any businesses have been closed. [HL4738]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Food Standards Agency (FSA) advises that police investigations are on-going and decisions on prosecution are for the Crown Prosecution Service. The FSA does not have information on the numbers of businesses being investigated as that is an operational matter for the police. The FSA is not able to confirm how many businesses have closed as a direct result of horsemeat because the reasons for closure are varied and a direct correlation between horsemeat and businesses closing cannot be made.

Government Departments: Administrative Costs and Salaries

Questions

Asked by ***Lord Morris of Aberavon***

To ask Her Majesty's Government what were the administrative costs, including salaries, of the private offices of each Minister in the Ministry of Defence for the last year for which figures are available. [HL4315]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The salary costs for staff employed in Ministerial Private Offices in Financial Year 2012-13 was £1.96 million. This includes a mixture of civilian and military staff.

Asked by ***Lord Morris of Aberavon***

To ask Her Majesty's Government what were the administrative costs, including salaries, of the private offices of each Minister in the Department for Work and Pensions for the last year for which figures are available. [HL4582]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The administrative cost, including salaries, for the Private Office of Ministers in the Department for Work and Pensions in 2012-13, the last year for which information is available, is given in the table below.

Description	*Administration Costs*
SECRETARY OF STATE	387
MINISTER OF PENSIONS	145
MINISTER OF EMPLOYMENT	206
MINISTER FOR DISABLED PEOPLE	207
MINISTER FOR WELFARE REFORM	214
TOTAL £000's	1,159

The administration cost exclude Ministerial salaries.

Government Departments: Research and Development

Questions

Asked by ***Lord Adonis***

To ask Her Majesty's Government how much the Department for Transport spent in total in (1) 2010–11, (2) 2011–12, (3) 2012–13, and (4) 2013–14; how much the Department spent on research and development in each of those years; and how much the Department spent on the Small Business Research Initiative in each of those years. [HL4641]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The Department for Transport's total procurement spend, spend on research and development and spend on the Small Business Research Initiative (SBRI) in 2010-11, 2011-12, 2012-13 and 2013-14 is below.

Year	*Total procurement spend*	*Spend on research and development*	*Spend on the SBRI*
2010-11	£3,282,564,767	£53,000,000	£0
2011-12	£2,701,876,619	£34,000,000	£0
2012-13	£2,789,751,980	See note [2]	£0
2013-14[1]	£2,002,619,542	See note [3]	£0 [4]

[1] Spend to 30 November 2013

[2] Data for 2012-13 has been submitted to ONS for publication in September 2014. As these are official statistics they cannot be released before formal publication.

[3] As 2013-14 has not yet finished, the data has not yet been gathered. Once gathered, as these are official statistics, they cannot be released before formal publication.

[4] The Department has one PCP competition (the EU equivalent of SBRI) and one SBRI competition in progress. Two further SBRI competitions are also planned for launch in 2013-14.

Asked by ***Lord Adonis***

To ask Her Majesty's Government how many competitions the Department for Transport held for the Small Business Research Initiative (SBRI) in (1) 2010–11, (2) 2011–12, (3) 2012–13, and (4) 2013–14; how many Phase 2 SBRI projects the Department funded in each of those years; and how many of the Department's SBRI-funded projects led to procurement contracts in each of those years. [HL4642]

Baroness Kramer: The Department for Transport has a significant programme of investment in innovation and research. This includes our recently announced £17m commitment to the "Transport Systems Catapult"—a new technology centre for integrated transport systems; and the funding over two years of £30m for the "Enabling Innovation Team", which addresses the "innovation gap"—taking new rail technologies forward to market delivery. We have also been developing the market through the Small Business Research Initiative (SBRI).

The number of competitions the Department held for the SBRI, the number of Phase 2 projects funded and the number of projects that led to procurement contracts is below.

Year	*SBRI competitions held*	*Phase 2 SBRI projects funded*	*SBRI funded projects that led to procurement contracts*
2010-11	0	0	0
2011-12	0	0	0
2012-13	0	0	0
2013-14	2*	0	0

* This figure includes one PCP competition (the EU equivalent of SBRI).

The Department also has two further SBRI competitions that are planned to launch in 2013-14.

Asked by ***Lord Adonis***

To ask Her Majesty's Government how much the Department for Environment, Food and Rural Affairs spent in total in (1) 2010–11, (2) 2011–12, (3) 2012–13, and (4) 2013–14; how much the Department spent on research and development in

each of those years; and how much the Department spent on the Small Business Research Initiative in each of those years. [HL4696]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): Total core Defra spend and spend on research and development are set out in Defra's Annual Report and Accounts (ARA). The links below show where the information can be found in respect of 2010-11 to 2012-13. Figures for 2013-14 will be available when the ARA is published, which is expected to be in July 2014.

2010-11

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69583/defra-annual-report2011.pdf

Total departmental expenditure is shown on Page 70

Research and Development expenditure is shown on Page 93

2011-12

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69588/pb13805-defra-annual-report-2011-12.pdf

Total departmental expenditure is shown on Page 90

Research and Development expenditure is shown on Page 118

2012-13

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224329/defra-year-end-accounts2012-13.pdf

Total departmental expenditure is shown on Page 90

Research and Development expenditure is shown on Page 121

The table below shows core Department expenditure on the Small Business Research Initiative in 2010-11 to 2012-13. Details of expenditure in 2013-14 will not be available until after the end of the financial year.

2010-11 £	*2011-12* £	*2012-13* £
1,277,404	404,954	2,183,000

Asked by ***Lord Adonis***

To ask Her Majesty's Government how many competitions the Department for Environment, Food and Rural Affairs held for the Small Business Research Initiative (SBRI) in (1) 2010–11, (2) 2011–12, (3) 2012–13, and (4) 2013–14; how many Phase 2 SBRI projects the Department funded in each of those years; and how many of the Department's SBRI-funded projects led to procurement contracts in each of those years. [HL4697]

Lord De Mauley: The information requested for core Defra is as follows:

Year	*SBRI Competitions*	*SBRI Phase 2 Projects funded*	*Number of Procurement Contracts*
2010/11	1	0	11
2011/12	2	2	20
2012/13	2	8	18
2013/14	3	5	11

The numbers of procurement contracts quoted include contracts for both the feasibility stage and development stage (phase 2), and include contracts which may form part of Small Business Research Initiative competitions started in the previous year.

Health: Academic Health

Question

Asked by ***Lord Turnberg***

To ask Her Majesty's Government what plans NHS England has to fund academic health science networks during the next five years. [HL4734]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): NHS England has advised that no decision on future year commitments has yet been made by its executive team on any operational programme budgets, including for the 15 academic health science networks. However, it does intend to provide a level of core funding during the initial five year contracts that were signed with the academic health science networks in November 2013, as well as seeking to supplement this with strategic investment programmes. A review of strategy for future funding is due to take place in 2015-16.

Health: Doctors

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what assessment they have made of current levels of recruitment of trainee doctors in the National Health Service; and what plans they have to address any shortfall. [HL4707]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Department has set up Health Education England (HEE) to deliver a better health and healthcare workforce for England. It is responsible for the education, training and recruiting for values of trainee doctors.

HEE works to improve the quality of health and healthcare for the people and patients of England, through educating, training and developing health and healthcare staff.

HEE is responsible for ensuring a secure workforce supply i.e. balance against demand and not a growth or reduction in the National Health Service workforce.

HEE has informed us that they have established working groups in those medical specialities that have been experiencing problems in recruitment and retention. These include emergency medicine, general practice, acute medicine and geriatrics and psychiatry.

The groups are tasked to look at a number of different workforce interventions to support the recruitment and retention of medics in these specialities.

HEE published its national workforce plan for England on 17 December. Data submitted to HEE includes the actual employment intentions for this year, as well as forecasts of future intentions that it has used in establishing the workforce plan for England, showing the education commissions that will be made with providers of clinical education for places commencing in August 2014.

Health: Vaccinations

Question

Asked by ***The Countess of Mar***

To ask Her Majesty's Government how many cases of suspected adverse reactions resulting in psychotic episodes and other mental disorders have been reported following administration of Stamaril yellow fever vaccine (1) to members of the armed services, and (2) to members of the public, in each year since its introduction. [HL4797]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Reports of suspected adverse drug reactions (ADRs) are submitted to the Medicines and Healthcare products Regulatory Agency (MHRA) via the Yellow Card Scheme. It is important to note that a Yellow Card report is not proof of a side effect occurring, but merely a suspicion by the reporter that the vaccine may have been the cause.

Suspected reactions of psychiatric disorders reported to the MHRA each year since Stamaril yellow fever vaccine was licensed are summarised in the following table.

Year	*Reported ADRs**
2002	Dissociation
2003	hallucination
2004	catatonia
	psychotic behaviour
	Hallucination
2005	disorientation
	sleep disorder
	eating disorder
	Insomnia
2006	nervousness
	Insomnia
2007	confusional state (2)
2008	0
2009	restlessness hallucination
2010	delirium
	confusional state (2)
	hallucination auditory
	Restlessness
2011	confusional state
2012	Insomnia
2013	confusional state
	panic attack
	Anxiety

*One report unless stated in brackets

The Yellow Card scheme is open to anyone in the United Kingdom who wishes to report a suspected ADR, regardless of their profession. However, the MHRA does not routinely receive information on a suspected ADR report on whether the individual concerned is a member of the armed forces or any other profession.

Although yellow fever vaccines have not typically been associated with psychosis, very rarely yellow fever vaccine-associated neurotropic disease has been reported following vaccination, symptoms of which include high fever with headache that may progress to include one or more of the following: confusion, encephalitis/encephalopathy, meningitis, focal neurological deficits, or Guillain-Barré syndrome.

This potential risk is described in the product information for Stamaril. Yellow fever is a serious and potentially fatal disease, and the balance of benefits and risks for Stamaril remains positive. As with all medicines and vaccines on the UK market, the MHRA keeps the safety of the yellow fever vaccine under close review.

Higher Education: Creative Arts

Question

Asked by ***Lord Freyberg***

To ask Her Majesty's Government what assessment they have made of the reasons for the decline in the number of students applying to study creative arts at university; and what measures they intend to put in place to reverse that decline. [HL4596]

Lord Ahmad of Wimbledon (Con): Higher Education (HE) institutions are autonomous and make their own decisions on which courses to run in response to demand from students.

In common with many other subjects, applications for creative arts courses fell in 2012/13, in part because of a 60% decline in the number of students deferring their application from the year before. However, Universities and Colleges Admissions Service (UCAS) data shows there has been a 2.2 per cent increase in applications to study creative arts in 2013/14 compared to 2012/13, and this has led to 2000 extra acceptances in creative arts this year. UCAS data also indicates that 4.4% of all 18 year olds in the UK applied to study creative arts in 2013/14, making these courses the third most popular after biological sciences and business administration.

Housing Benefit

Question

Asked by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government what assessment they have made of the additional cost of housing benefit paid to households moving to smaller properties in the open market and affordable rent housing sectors as a result of the under-occupancy charge. [HL4732]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): Our central estimate remains that this measure will save around £500m per annum.

We anticipated prior to the implementation of this measure that some affected tenants could downsize by moving to the private rented sector.

This movement frees up social sector accommodation, enabling it to be let to others who may otherwise have been renting more expensive private accommodation.

Israel and Palestine

Question

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what progress they have made in persuading the government of Israel to implement recommendations in the Children in Military Custody report. [HL4683]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): We welcome some recent progress in the implementation of some of the report's recommendations. This includes a pilot to use summons instead of night-time arrests, and steps to reduce the amount of time a child can be detained before seeing a judge. We are encouraging Israel to continue this progress.

Legal Aid

Questions

Asked by ***Lord Beecham***

To ask Her Majesty's Government how many applications for exceptional funding for legal aid have been made since the passage of the Legal Aid, Sentencing and Punishment of Offenders Act 2012; and what proportion of those have been granted. [HL4377]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): At around £2 billion a year we have one of the most expensive legal aid systems in the world. We are reforming legal aid so it remains available to those that need it most while getting better value for the hard-working taxpayers that fund it.

As of 3 January 2014, the Legal Aid Agency has received 1123 applications for exceptional funding (of which 1104 have been processed) and approved exceptional funding in 35 cases.

A significant number of applications are rejected following receipt (for example where the application is for civil legal services already in the scope of the civil funding scheme).

The exceptional funding scheme ensures the protection of an individual's rights to legal aid under the European Convention on Human Rights, as well as those rights to legal aid that are directly enforceable under European Union law.

Asked by ***Lord Beecham***

To ask Her Majesty's Government what is the estimated loss of VAT from the planned reductions in criminal and civil legal aid fees including experts' fees; and whether that figure has been reflected in the savings projected to be produced by the reductions. [HL4378]

Lord Faulks: Between 2010/11 and 2015/16 the Ministry of Justice is required to make a real terms spending reduction of around a third. The impact of the Transforming Legal Aid proposals if fully implemented—on top of the baseline that includes earlier reforms and volume reductions—would be that legal aid expenditure would be reduced by a similar order of magnitude over the same period. These proposals ensure that we can continue to bear down on the costs of legal aid spending, which is currently around £2 billion a year.

The estimated reduction of VAT revenue from the planned decrease in criminal and civil legal aid fees, including expert fees, is £33m per annum once savings have reached their steady state. The estimated savings for these measures set out in the consultation document *Transforming Legal Aid: Next Steps* referred to how spending by the Legal Aid Agency would change as a result of the proposals including VAT.

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government when and how they intend to introduce a residence test for civil legal aid claimants so as to limit legal aid to those with a strong connection with the United Kingdom. [HL4389]

Lord Faulks: It is intended that the residence test will be introduced, subject to Parliamentary approval, through secondary legislation. We expect this to take effect in 2014.

Local Authorities: Bellwin Scheme

Question

Asked by ***Lord Wigley***

To ask Her Majesty's Government on how many occasions in the last five years the Bellwin Formula has been applied to assist local authorities in England to meet significant unanticipated expenditure; how many local authorities were assisted on each such occasion; and what was the total centrally-funded expenditure on each such occasion. [HL4543]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): Bellwin provides emergency financial assistance to local authorities to help them meet uninsurable costs they incur when responding to a major emergency in their area. The level of funding over time is causally linked to the scale of flooding or other emergency. It operates by local authorities retrospectively claiming spending back.

The Bellwin Formula has been applied to assist local authorities in England to meet significant unanticipated expenditure on 9 occasions in the last

5 years. The table below sets out the local authorities who have been assisted and the total centrally-funded expenditure on each occasion in the last 5 years.

BELLWIN PAYMENTS 2009-10 to 20013-14

YEAR OF PAYMENT	*LOCAL AUTHORITY*	*GRANT PAID*
2009/10	Castle Morpeth Borough Council	24,452
	Herefordshire Council	607,872
	Shropshire County Council	710,061
	Eden District Council	2,281
Total for year		1,344,666
2010/11	Allerdale Borough Council	302,847
	Cumbria County Council	408,297
	Cumbria Police Authority	148,049
	South Lakeland District Council	30,348
Total for year		889,541
2011/12		
Total for year	0	0
2012/13	Calderdale Metropolitan Borough Council	76,668
	City of Lincoln	24,870
	Gateshead Council	393,939
	Herefordshire Council	218,499
	Royal Berkshire Fire Authority	404,640
Total for year		1,118,616
2013/14 (to date)	Devon County Council	3,023,598
	Herefordshire Council	2,048,963
	Richmondshire District Council	915
	Newark and Sherwood District Council	3,407
	Teignbridge District Council	38,234
	Uttlesford District Council	16,643
Total for year		5,131,760
Total over last 5 years	19	8,484,583

* Payments may not necessarily be in the same financial year as the incidents occurred. The amount claimed is net of threshold and grant rate.

Overseas Aid

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether they will ensure that a reasonable proportion of British aid for Syrians and Palestinians fleeing Syria is devoted to those now in Egypt. [HL4569]

Baroness Northover (LD): To date the UK has allocated £2.3 million to provide support to refugees in Egypt who have fled Syria.

Parliaments: European Parliament

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government whether they plan to take action to end the practice of holding sessions of the European Parliament in two venues; and, if so, what steps they will take. [HL4615]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The UK Government's position on the seat of the European Parliament remains the same: we are in favour of a single seat. The current arrangements are expensive, impractical and indefensible on environmental grounds. Any amendment to the seat of the European Parliament would require Treaty change, and agreement by common accord among Member States. The European Parliament itself recently committed itself to come forward with proposals for Treaty change aimed at ending the practice of holding sessions of the European Parliament in two venues. We will look at any Treaty change on the table to ensure that it is in the interests of all EU Member States, including the UK.

Railways: Network Rail

Question

Asked by ***Lord Berkeley***

To ask Her Majesty's Government whether, when its debt becomes part of the public sector, Network Rail will become subject to the Freedom of Information Act 2000. [HL4811]

The Minister of State, Department for Transport (Baroness Kramer) (LD): Work to decide on the best approach to governance, financing, and accounting/budgeting (which will include the applicability of the Freedom of Information Act 2000) has now begun. Decisions will be set out in a Framework Agreement that will be published before reclassification occurs in September. In the interim, Network Rail's voluntary information publication scheme, which it introduced in June 2012, reflects the Company's ongoing commitment to transparency and accountability.

Railways: Rolling Stock

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government, further to the Written Answer by Baroness Kramer on 20 January (WA 87), whether they are involved in the plan to refurbish to modern standards of seating, decor and lighting, over and above the statutory requirements for accessibility, those trains to be transferred to the Northern franchise. [HL4815]

The Minister of State, Department for Transport (Baroness Kramer) (LD): This is a matter for the Rolling Stock Owning Company and the train operator.

The Department is not involved in any detailed plans to refurbish rolling stock that may be transferred to the Northern franchise.

The Department will make an assessment of any such proposals on value for money and affordability grounds.

As I stated in my previous answer any rolling stock that is transferred will meet all statutory and legislative requirements.

Roads: A40

Question

Asked by ***Lord Mawson***

To ask Her Majesty's Government how frequently the A40 between Oxford and Witney is cleaned; and whether the amount of rubbish ejected from traffic on that stretch of road has increased since 2010. [HL4662]

The Minister of State, Department for Transport (Baroness Kramer) (LD): Oxfordshire County Council, as local highway authority, is responsible for litter clearance on the A40 between Oxford and Witney. The Department for Transport does not hold information on how much rubbish is ejected from traffic on this stretch of road or whether it has increased since 2010.

Sellafield

Question

Asked by ***Lord Lewis of Newnham***

To ask Her Majesty's Government whether it is still the intention of the Nuclear Decommissioning Authority and the existing Sellafield decommissioning consortium to seek to integrate tier 1½ contractors or programme partners within the renewed five-year Sellafield decommissioning contract, or whether it is considered that all necessary expertise and capacity already exists within the consortium to meet decommissioning targets in a safe, timely and cost-effective manner. [HL4701]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): Responsibility for the contracting strategy between Sellafield Ltd and its supply chain sits with Sellafield Ltd. The NDA, as owner of the Sellafield site and the client for the Sellafield contract, works closely with Sellafield Ltd on its plans including scrutinising its decisions on the most appropriate procurement routes to enhance the capability of Sellafield Ltd to deliver its plans.

Sellafield Ltd has identified a number of areas in which it is seeking to improve its contracting arrangements, including the use of organisations which can provide high level capability to support a range of activities. A range of options are currently being explored in order to determine the most appropriate way forward.

Smoking: e-cigarettes

Question

Asked by ***Viscount Ridley***

To ask Her Majesty's Government what assessment they have made of the impact on tobacco sales across Europe over the last year of e-cigarette use. [HL4778]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): No such assessment has been made.

Social Care: Elderly and Disabled People

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what assistance is available to elderly and disabled people in England who are not eligible to receive National Health Service social care at home. [HL4603]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): With the exception of National Health Service Continuing Healthcare (NHS CHC), publicly supported adult social care services in England are provided or arranged and funded by 152 councils with adult social services responsibilities (CASSRs). CASSRs are responsible for providing or arranging services to meet peoples' eligible care needs.

In addition to their duty to provide care to people with eligible needs, CASSRs have discretionary powers to arrange care for people, which they may exercise where they consider it appropriate.

CASSRs, together with the NHS, which funds the nursing element of residential care, currently pay for approximately 60% of the total cost of all social care services. The remainder is funded by service users themselves. Eligibility for public assistance with the cost of social care services is means tested and people who have over certain amounts of savings, income and assets may not be eligible to receive help with the cost from public funds.

Where a person is found not to have eligible needs, the local authority can advise on what universal services are available in the community to help them. Through the Care Bill, we will place a duty on local authorities to provide preventative services, information and advice relating to the care and support available in their areas.

NHS CHC is a package of care arranged and funded solely by the NHS. It is provided to people aged 18 or over to meet physical or mental health needs which may have arisen as a result of disability, accident or illness. Where a person has both health and social care needs, but their primary need is determined to be a health need, the NHS has responsibility for providing care to meet all of that individual's assessed health and social care needs. NHS CHC can be provided in any setting, including in a person's own home. It is not means tested.

Where an individual is not eligible for fully funded NHS CHC, the NHS may still have a responsibility to contribute to meeting their care needs. An individual's care and support package may be supported by both the NHS and the local authority—this is known as a "joint package of care". The respective powers and responsibilities of each organisation should be identified by considering the needs of the individual.

Older and disabled people may, depending on their circumstances, be eligible for a variety of benefits and financial assistance in addition to services.

Timber

Question

Asked by ***Lord Marlesford***

To ask Her Majesty's Government what assessment they have made of the adequacy of United Kingdom standards for the quality of softwood for construction; and whether European Union rules permit the use of effective materials for rot-proofing softwood used for agriculture. [HL4451]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): Timber construction products are subject to the Construction Products Regulation (305/2011/EU-CPR) and are covered by harmonised European standards. These standards are produced by the European standardisation bodies, including British Standards Institution (BSI) for the UK, with the assistance of industry experts, and are implemented by British sawmillers to grade and mark timber aimed at the construction market.

The Government works closely with the European Standard Committees responsible for timber grading through the UK timber Grading Committee to ensure standards are fair and applicable to construction regulations across Europe.

Rot-proofing products are covered by the European Biocidal Products Regulation (EU 528/2012) and its predecessors. Such products must be authorised before they can be sold or used in the EU. Products are only authorised for use if this is assessed to not cause undue harm to human or animal health or the environment and where they are demonstrated to be effective according to recognised standards for the uses in question.

United States of Europe

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government what is their assessment of the proposal by Viviane Reding, Vice President of the European Commission, on 8 January, for a United States of Europe in which the Commission would have supremacy over national governments and the European Parliament would supersede the sovereignty of national parliaments. [HL4550]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The Government does not agree with the comments that Commissioner Reding made in a speech at a Dutch telecoms company about what a political union means to her.

Waste Management: Recycling

Question

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

To ask Her Majesty's Government what levels of recycling are achieved in England by region. [HL4516]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): The table below shows the household waste recycling rates achieved in each region in England between April 2012 and March 2013. These recycling rates include household waste that is recycled, composted or prepared for reuse, deducting any material that is rejected at collection or rejected at the gate by processors.

Region	*Household recycling, composting and reuse, 2012/13 (thousand tonnes)*	*Household recycling rate*
North East	414	37.0%
North West	1,385	43.8%
Yorkshire and the Humber	971	43.3%
East Midlands	943	46.8%
West Midlands	1,027	43.5%
Eastern	1,269	48.5%
London	1,003	34.0%
South East	1,649	43.4%
South West	1,120	47.2%
England	9,782	43.2%

Source: WasteDataFlow

Friday 24 January 2014

ALPHABETICAL INDEX TO WRITTEN STATEMENTS

Friday 24 January 2014

ALPHABETICAL INDEX TO WRITTEN ANSWERS

NUMERICAL INDEX TO WRITTEN ANSWERS

Volume 751
No. 103

Friday
24 January 2014

CONTENTS

Friday 24 January 2014