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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

Tuesday, 19 November 2013.

2.30 pm

Prayers—read by the Lord Bishop of Birmingham.

Energy: Shale Gas

Question

2.36 pm

Asked by ***Lord Renton of Mount Harry***

To ask Her Majesty's Government whether they expect shale gas to be widely used in the United Kingdom; and whether there are circumstances under which they consider fracking for gas is likely to be dangerous.

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): My Lords, wherever shale gas operations are conducted they must be done in a safe and environmentally sound way. There are regulations in place to ensure on-site safety, prevent water contamination and mitigate against seismic activity and air pollution. As part of this rigorous process, my department, the Environment Agency and the Health and Safety Executive must all approve an application. Local communities will be consulted before any operations and the industry has committed to provide a package of benefits from shale gas production.

Lord Renton of Mount Harry (Con): My Lords, I thank my noble friend very much for that opening, but I want very quickly to say a few words about the position of shale gas in the UK. On one side, shale gas is considered as having no real future importance and as not being worthwhile; but on the other side, the position is quite different. The Financial Secretary to the Treasury recently wrote that shale gas has the potential to support thousands of jobs, generate substantial tax revenue and keep energy bills low for millions of people. If that is true then our shale gas is very important. Which way would the Minister vote on this?

Baroness Verma: My Lords, my noble friend is aware, of course, that the Treasury and the Government are very keen to explore all sources of energy. Shale gas will provide the UK with greater energy security, economic growth and jobs, and the Government are encouraging exploration to determine this potential.

Lord Barnett (Lab): My Lords, I suppose that we have all been nimbys at one time or another but it is important now that the public interest should be the main issue. Unfortunately, it looks as if the companies that are investing in fracking are being stopped or delayed, and that is clearly not in the public interest. As I am sure the Minister knows, all the evidence shows that there is only a low public health risk, and even that could be reduced considerably by proper regulation. In those circumstances we need the full support of both sides of the House. I hope that my own party will strongly support the Government on this, although there may be some critical points. What can the Minister tell us about what they are doing strongly to support the companies that are bringing in the private investment which is desperately needed in this vital matter?

Baroness Verma: My Lords, the noble Lord is absolutely right that this is an important source for us, and as with all things, we are making sure that the environmental protections are in place. We have a very strong regulatory process in this country, as he said. We are doing whatever we can to ensure that the process is followed through smoothly and as quickly as possible so that this industry which is investing in our country is not hindered by unnecessary regulations and red tape.

Lord Hylton (CB): My Lords, do the Government consider that there are risks from shale gas exploration for such national assets as, for example, the hot mineral water at Bath and the water flowing through the caves at Cheddar? Are there methods for assessing such risks, and are there ways of preventing harm?

Baroness Verma: My Lords, I hope that I am making it clear that we take seriously any environmental risk whether it is water contamination or anything else. It is therefore right that the Environment Agency, the Health and Safety Executive and my department work very closely together to ensure that the proper processes are followed through and that all the regulations which need to be in place are in place in order for companies to do their work carefully, safely and properly, and for the country to benefit from the potential.

Lord Borwick (Con): My Lords, is my noble friend aware that just 25 acres of shale gas well pads in Pennsylvania produce as much energy each year as the entire British wind industry, and that they produce energy rather more reliably, too?

Baroness Verma: My Lords, I am extremely grateful for my noble friend's intervention because it allows me to agree with him that shale gas is a very important component of the mix that we want for our country.

Viscount Brookeborough (CB): My Lords, does the Minister agree that there is a big difference between this country and America in that people there own the mineral rights under their farms whereas in this country it is very important to get public opinion behind it? The businesses involved may provide community benefit but that will not replace such a thing as financial benefit. I am not sure that they will get the public behind shale gas without that.

Baroness Verma: My Lords, the noble Viscount raises an interesting point. Companies have pledged through their own charter that they will at exploration

[Baroness Verma]
stage give £100,000 in community benefits, but also that 1% of the revenues generated from each well will go to local communities.

Lord Teverson (LD): My Lords, in the United States the shale gas industry is fragmented and there are good and not-so-good operators in terms of environmental risks. What specific lessons have been learnt from the United States? It is estimated that some 10% of the total UK water supply could be demanded by shale gas if, as many of us hope, it were to be successful. What discussions are the Government having with the water industry to make sure that that area will be catered for if shale gas development takes place?

Baroness Verma: My noble friend again raises an important point. Water UK, which represents water companies, is working closely with the United Kingdom Onshore Operators Group—the representative body for onshore oil and gas—to make sure that any potential extra demand for water will be managed sensibly. However, water companies are already obligated to produce and update every five years a proper water plan. Water companies will therefore assess well in advance the amount of water that will be available to the operator before it is used.

Baroness Worthington (Lab): My Lords, I wanted to let the Minister know that I have just returned from Poland, and fracking was a topic of great conversation there. What if anything has she done to reach out to Poland to discuss how it will pursue fracking? It could make a huge difference to Europe's carbon emissions.

Baroness Verma: My Lords, I know that the noble Baroness was in Poland and was aware that she returned today. As she will be aware, the UK is always in close conversation with all its member-state partners, and of course these conversations are ongoing.

House of Lords: Size

Question

2.44 pm

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

To ask Her Majesty's Government what representations they have received about the increase in the size of the House of Lords.

Lord Dubs (Lab): My Lords, on behalf of my noble friend Lord Foulkes, and with his consent, I beg leave to ask the Question standing in his name on the Order Paper.

The Chancellor of the Duchy of Lancaster (Lord Hill of Oareford) (Con): My Lords, the Government have received few representations about the size of the House. Of the ones that I have received, I would say that the majority are from those seeking to increase the size of the House by suggesting eminent candidates for membership, sometimes including themselves.

Lord Dubs: That is very good. My Lords, I do not need to remind the Leader of the House that, with the exception of the National People's Congress of China, we are now the largest legislative Chamber in the world. Does he agree that there is virtually no support on the Benches behind him—or anywhere else in the House—for further increases in the size of this House? Is he not aware that people see this attempt to pack the House as a bit on the cynical side? However, it is not working, because the Government are still losing Divisions. What is the point?

Lord Hill of Oareford: There are a number of points. First, we need to keep refreshing the House with new and young membership. I cannot remember which noble Lord it was who the other day pointed out that sadly all of us are growing older. That is why we need to have new Members coming in.

On the point about "packing the House"—that was the phrase the noble Lord used—I repudiate the charge. In his next point, he himself gave the lie to that by citing the fact that, for some extraordinary reason, the Government continue to suffer the occasional defeat on their legislation. In terms of the numbers, it is worth reminding the House that if one draws a comparison with the numbers for each of the four main groups in 2007 when Gordon Brown became Prime Minister, there are 25 more noble Lords now than there were then. We sometimes forget that, sadly, around 100 Members have died or taken leave of absence since the most recent general election.

Lord Steel of Aikwood (LD): Is my noble friend aware that in the other House, Mr Dan Byles has taken up the Bill that we passed some months ago, which would provide the authority for the House to produce both retirement and expulsion? Would he keep a benevolent eye on the progress of that Bill in the other place, because it would provide an alternative exit strategy to that provided by the Grim Reaper?

Lord Hill of Oareford: I am keen that we should have alternatives to the Grim Reaper. I shall certainly keep an eye on progress. The whole House will share my gratitude to my noble friend Lord Steel for his persistence in taking forward these issues. Therefore I am pleased, as I know he will be, that, following representations from a number of people, not least himself, the Government's position has moved to one of support for the Private Member's Bill sponsored by Dan Byles. The whole House will welcome that. It will deliver the benefits to which my noble friend referred.

Lord Hunt of Kings Heath (Lab): My Lords, has the noble Lord read the study by UCL that shows that if the Government go ahead with their intention to rebalance the Lords according to the votes cast at the most recent general election, the size of this House would reach 1,200 or more? That would be a nonsense. Will the noble Lord reassure the House that no more political appointments will be made to your Lordships' House until the next general election?

Lord Hill of Oareford: I will say two things. First, shortly after I came in, I was assured by everyone that there were going to be 100 Peers packed into the House within a couple of weeks. The noble Lord, Lord Hunt, will remember that, on the back of an amendment put down by my noble friend Lord Steel, he put forward a helpful amendment urging the need for restraint so far as appointments and patronage were concerned. I argue—as I argued then—that that restraint has been shown. The August list of 30 or 31 names was the first political list for three years.

In terms of the future, I cannot give any different undertaking from that which I am sure all my predecessors would have given: namely, that patronage rests in the hands of the Prime Minister. However I shall certainly ensure, as I continually do, that the views of your Lordships' House are brought before all those who are concerned with these decisions.

Finally, following which I must allow others to speak—I know that this is an issue about which many people in this House care a lot and that there are concerns—it is very important when talking of the work of the House to the outside world that we do not in some way give the impression that this House is unable to do its job. We do it outstandingly well.

Lord Laming (CB): My Lords, will the Leader of the House take the opportunity to emphasise the last point that he made, not only in this House but elsewhere? Whatever the issues may be, it is important to recognise that this House holds the Government to account to a very high standard, scrutinises legislation to a great degree and promotes debates that are of great concern to our fellow citizens. The House actually functions well.

Lord Hill of Oareford: I agree with the Convenor of the Cross Benches very strongly. In taking legislation through your Lordships' House, I saw the difference in the intensity of scrutiny in this House compared with that at the other end of the building. I think that we are right to be proud in the way that the noble Lord reminds us.

Baroness Seccombe (Con): My Lords, on a lighter note after that very important question, one hears the complaint that there are too many noble Lords and that we cannot get a seat. I draw the House's attention to the fact that, in the Commons, there are 650 Members and 350 seats. With an average number of 450 Peers, or around that figure, attending daily, it seems that we are rather well served in the ratio of seat to Peer. Does my noble friend agree?

Lord Hill of Oareford: I think my noble friend said "seat to Peer" rather than "seat to rear". It is good of her to remind noble Lords of that, and I know she is not suggesting that we should therefore set about a process of reduction of space. I know that here are problems at certain times of the day—Oral Questions is a good example. However, we all know that there are other times of the day when the Chamber is not as full as perhaps we might sometimes wish. As the noble Lord, Lord Laming, said, in terms of the job that we do, we do not have guillotines, we are all able to put amendments down and we take part in scrutiny. I have been able to increase the number of opportunities for QSDs, which I think has been widely welcomed, and we are getting through them much faster. We have had more post-legislative scrutiny and more ad hoc committees. I am hoping, in that way, to address the issue of attendance, which is a greater challenge for us than the question of the absolute size of the House.

Syria

Question

2.52 pm

Asked by ***Baroness Boothroyd***

To ask Her Majesty's Government what representations they have received relating to the creation of a humanitarian aid corridor in Syria.

Baroness Northover (LD): My Lords, humanitarian corridors are temporarily demilitarised zones intended to allow the safe passage of humanitarian aid and the evacuation of vulnerable civilians. DfID supports many humanitarian agencies operating inside Syria. To date, DfID has received no requests or representations for a humanitarian corridor from these partners or other humanitarian agencies. We welcome any option that complies with international law that might save lives in Syria.

Baroness Boothroyd (CB): I have it on the authority of Dr David Nott, the distinguished London surgeon who recently returned from delivering front-line medicine in rebel-held Syria, that aid is not getting where it is most needed. Dr Nott made representations to HMG, to which he has not received even an acknowledgement as yet. Will the Government work with the international community to insist that a humanitarian corridor be opened to deliver life-saving medical aid and bring the severely wounded to safety? Safe passages have been achieved in other conflict zones. If chemical weapons inspectors can be given protection, surely protection is possible for humanitarian aid.

Baroness Northover: I have a great deal of sympathy for what the noble Baroness has said and for what the surgeon David Nott has said. I heard the appeal that he made and obviously pressed very hard within DfID to elucidate this, because it is obviously extremely appealing. The problem is of course, as the noble Baroness will know, that the situation in Syria is immensely complex. One needs only to look at the map of where various groups are, and how that changes from day to day, to see how complex this is and the number of humanitarian corridors that would be required. In order for those to be created, all groups in the relevant area would need to buy in. Alternatively, it would need to be enforced in a military fashion, which would require a UN Security Council resolution. I think the noble Baroness can see some of the challenges in my answer.

Lord Chidgey (LD): My Lords, some 18 months ago, Turkey was considering intervening in Syria to create a humanitarian buffer. At the same time, US State Department officials were mooting a similar no-kill zone. The massacre at Srebrenica tells us, with a very good example, why a humanitarian corridor would require a protective military presence. Who would provide it in Syria, and with whose collective agreement?

Baroness Northover: My noble friend is absolutely right, and that bears out the answer I just gave to the noble Baroness. We would require the buy-in of all the parties or that kind of military enforcement. That is why the major organisations working in the area—for example, the United Nations, MSF and the ICRC—have reservations about the proposal for a humanitarian corridor for the very reason that my noble friend referred to. Sometimes, these result in civilians being less safe. He pointed to the Bosnian example, but more recently, of course, there has been the Sri Lankan example. There are examples where not only civilians, who are supposed to be protected, are in greater danger, but the humanitarian workers who may appear to be shielded by particular military groups are also under greater threat.

Baroness Kinnock of Holyhead (Lab): My Lords, will the Minister clarify whether discussions are taking place in response to the view expressed by the UN High Commissioner for Human Rights, Navi Pillay, that Syria should be referred to the ICC? Would an ICC referral not send an unequivocal message that such is the seriousness of the crimes—including denying the right to humanitarian aid—that strong measures to tackle impunity are essential and that criminal indictments of senior leaders, as was the case in the Balkans, can strengthen peace efforts?

Baroness Northover: It is clear that referring leaders in these situations to the ICC has, we hope, a chilling effect for other leaders thereafter. One can see that building in terms of leaders' responses, and one has to hope that in the situation in Syria some of the rebel groups as well as the government groups will recognise the challenge there. However, at the moment, the most important thing is to try to bring about a political resolution to this problem so that the killing on all sides can stop.

The Lord Bishop of London: My Lords, I think that everybody recognises the complexity of the situation, but just over a month ago, the UN Security Council itself called unanimously for humanitarian pauses. What contribution have Her Majesty's Government been able to make diplomatically pursuing the possibility of more humanitarian pauses to bring relief to some of the civilians caught up in the fight?

Baroness Northover: Again, that is a case in point. The right reverend Prelate makes a good point in referring to those humanitarian pauses which were politically agreed but not delivered. That is the challenge. This is a very complex situation with many groups fighting each other, and enormous efforts are being put in—not least by UN special envoy Brahimi at the moment—to try to push forward some kind of agreement, but it is immensely difficult.

The Earl of Listowel (CB): My Lords, does the Minister agree that as welcome as the statement recently produced on humanitarian access was, the perception on the ground is that access to Syria is not being permitted as it needs to be? Will the Minister seek to encourage her colleagues that, no matter how frustrating it may be to deal with the authorities in Syria, in order to move further forward with greater humanitarian access, one needs to persevere in communicating with the senior Syrian leadership?

Baroness Northover: The noble Earl is right. The presidential statement called for unhindered humanitarian access, including the granting of visas and permits, which is something that the Syrian Government can do, and pressure is being put on them to do that.

Lord Cormack (Con): My Lords, in response to the noble Earl's question, is it not made rather difficult because we do not recognise the legitimacy, or even the existence, of the Syrian Government?

Baroness Northover: The situation is extremely complex.

Small and Medium-sized Enterprises

Question

2.59 pm

Asked by ***Lord Mitchell***

To ask Her Majesty's Government what assessment they have made of the level of financing available to small and medium-sized enterprises.

Lord Popat (Con): My Lords, under this Government credit conditions continue to improve. Survey evidence indicates that more small and medium-sized enterprises are using external finance. Recent data from the Bank of England show that gross lending is continuing to rise year on year and in September reached the highest level since 2009. More broadly, confidence is beginning to return to businesses, which are now more ready to borrow and invest than since before the financial crisis.

Lord Mitchell (Lab): My Lords, yet again I am asking the Government why much needed financial support is not getting through to SMEs. According to the Bank of England, net lending to SMEs was down £600 million in the second quarter of 2013. The answer to the Question is obvious: financing that should be going to small businesses is in fact being used by banks to build up their profitable mortgage portfolios. Does the Minister accept that banks should be backing small businesses rather than helping to create another property bubble?

Lord Popat: My Lords, it is important to set the picture in context. According to the British Bankers' Association, the current stock of lending to SMEs by the top seven banks is more than £99 billion. By this measure, around £2 billion is lent by the banks to SMEs every month. SMEs are actually twice as likely to be successful when applying for finance than has been predicted.

The World Bank's ease of doing business index puts the UK as the top place in the world for accessing finance. I think this overstates how things are. In any case, we know that there is scope for improvement. Clearly, it is a tough environment for small businesses. Although net lending might have dropped last year, I am pleased to report to the noble Lord that gross lending has gone up, as did net lending in September.

Baroness Brinton (LD): My Lords, the August *SME Finance Monitor* showed a welcome increase in SMEs seeking finance, from 39% to 44%, but this increase is from less conventional sources of funding; for example, lease and income financing, which focus on cash flow rather than growth. The report went on to say that 25% of SMEs expect their loans to be turned down, whereas in fact 50% are successful. What can the Government do to encourage more SMEs to apply for finance for growth?

Lord Popat: The noble Baroness makes a very important point. SMEs are more likely now to have an alternative source of finance, including asset or leasing and quite often inward discounting. They are not approaching their own banks as much as they used to, but I am pleased to report that banks are now proactively lending money to SMEs.

Lord Haskel (Lab): Will the Minister respond to my noble friend's question about real estate? The Bank of England report states:

"The outlook for corporate lending also depends on developments in the commercial real estate (CRE) sector, which makes up around a third of lending to non-financial businesses".

The point is that the property bubble is taking money away from the SME sector. Will the Minister respond to that?

Lord Popat: My Lords, under our Funding for Lending scheme, £80 billion has been allocated by the Bank of England, of which some £17.6 billion has been taken up by SMEs. I agree that a large proportion of that is in the property sector. We have relaxed some of the conditions for lending money to SMEs, which are now able to finance their debt or their stock. Hence we will be lending more money to SMEs and this figure is gradually going up. Real lending to businesses is now taking place.

Baroness Neville-Rolfe (Con): My Lords, finance is important for small and medium-sized enterprises right across the board. Can the Minister tell us what the Government are doing to help with cutting red tape? This is one of the most important things for a small business. Finance is important but cutting red tape, which gets in the way of start-ups and small businesses, is also very important for small businesses' future.

Lord Popat: My Lords, it is a pleasure to answer the first question from my noble friend, who brings a wealth of experience from both the private and public sectors. As your Lordships know, the Government have introduced a moratorium on all new domestic regulations for three years for new start-ups and businesses with fewer than 10 employees. In addition, in January we introduced a "one in, two out" rule on all domestic regulations affecting businesses and voluntary organisations. The Government are absolutely committed to creating a culture in which all businesses, including SMEs, can thrive.

Lord Stevenson of Balmacara (Lab): My Lords, in September 2012, having failed to persuade the Treasury to break up RBS, the Secretary of State announced the formation of the British Business Bank. However, it was not until 17 October 2013 that the first chair was appointed and then we were told that the bank was in a "substantial expansion phase" and that it was on target to unlock £10 billion for expanding companies. Last week we learnt that the bank finally made its first investments, when it gave £45 million to two financial institutions, Praesidian Capital Europe and BMS Finance. When will we see funding actually flowing to the small and medium-sized businesses that need it and when do the Government expect the bank to reach its £10 billion target?

Lord Popat: My Lords, on 1 November RBS committed to a new direction that will lead it to being a boost to the UK economy, rather than a burden. It will be dealing decisively with the problems from the past by separating out the good and the bad and putting the bad loans in an internal bad bank. RBS will now focus on its core British business, supporting British families and companies. It will sell off more of its overseas operations and go on shrinking its investment bank so it has more capital to support lending to the British economy. RBS is committed to becoming the number one bank for small and medium-sized enterprises, as judged by customers, measured by the newly created survey to be run by the Federation of Small Businesses. On growing SME lending, RBS continues to be the number one bank for SMEs.

Lord Teverson (LD): My Lords, one of the key problems at the moment in the British economy is not about lending but quite the opposite—businesses are sitting on cash mountains, particularly large corporations and even medium-sized and some small businesses. We need now to liberate that cash so it is invested and drives this economy forward. Is not the good news economically at the moment the exact trigger for those businesses to do just that?

Lord Popat: I agree with my noble friend. In fact, we are returning to consumer and business confidence. The figures this morning from the OECD show that our growth forecast has gone up from 0.6% to 1.4% for 2013 and 2.4% for 2014. My noble friend is quite correct that a large number of SMEs are holding cash in their banks. A lot of them are also risk averse, or were until recently, and hence are not borrowing that much money from the banks.

Northern Ireland (Miscellaneous Provisions) Bill

First Reading

3.07 pm

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

Statutory Instruments

Membership Motion

3.07 pm

Moved by ***The Chairman of Committees***

That Baroness Humphreys be appointed a member of the Joint Committee in place of Lord Avebury, resigned.

The Chairman of Committees (Lord Sewel): My Lords, in the spirit of restoration and renewal, I beg to move the Motion standing in my name on the Order Paper.

Motion agreed.

Motor Vehicles (International Circulation) (Amendment) Order 2013

Motion to Approve

3.08 pm

Moved by ***Baroness Kramer***

That the draft order laid before the House on 17 October be approved.

Relevant document: 12th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 12 November.

Motion agreed.

National Health Service (Approval of Licensing Criteria) Order 2013

Motion to Approve

3.08 pm

Moved by ***Earl Howe***

That the draft order laid before the House on 16 October be approved.

Relevant documents: 11th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 12 November.

Motion agreed.

Inheritance and Trustees' Powers [HL]

Order of Consideration Motion

3.08 pm

Moved by ***Earl Attlee***

That it be an instruction to the Special Public Bill Committee to which the Inheritance and Trustees' Powers Bill [HL] has been committed that it considers the Bill in the following order:

Clauses 1 and 2, Schedule 1, Clauses 3 to 6, Schedule 2, Clause 7, Schedule 3, Clauses 8 to 11, Schedule 4, Clause 12.

Motion agreed.

NHS: Mid Staffordshire NHS Foundation Trust

Statement

3.09 pm

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): My Lords, I shall now repeat a Statement made earlier today in another place by my right honourable friend the Secretary of State for Health on the Government's response to Robert Francis's report on Mid Staffordshire Hospital. The Statement is as follows.

"With permission, Mr Speaker, I would like to make a Statement about the Government's response to the Mid Staffordshire NHS Foundation Trust public inquiry.

Let me start by paying tribute to the men and women of courage without whom this darkest episode in the history of the NHS would never have come to light: people like Julie Bailey and members of Cure the NHS, who stood outside the Department of Health in all weathers because no one would meet them to hear about the inhumane care given to their loved ones; brave whistleblowers like Mid Staffs nurse Helene Donnelly; and campaigners who suffered tragedies elsewhere, like James Titcombe, who never gave up the fight after losing his son, Joshua, at Morecambe Bay. They suffered greatly for their selfless determination to make sure that their personal losses were not in vain. All of us in this House today are humbled to stand in the shadow of their bravery.

Robert Francis and his team also deserve huge credit. Their diligence and thoughtfulness led to an outstanding report which will transform our NHS for the better. Finally, let me pay tribute to all NHS front-line staff, for whom reading about these events in the media has been immensely distressing. We owe it to them to make sure that poor care is never again allowed to take root and survive unchallenged in our NHS.

Since our initial response to the inquiry in March, much has happened. Thirteen hospitals have been put into special measures as part of a tough new failure regime. Those hospitals, where poor care had been allowed to persist, are now being turned around, and I thank the Keogh inquiry team for its painstaking work in this area.

Independent, Ofsted-style ratings of hospitals are under way, led by Professor Sir Mike Richards, the new Chief Inspector of Hospitals. The first 18 trusts are currently being inspected, with quality of care and safety paramount. We have appointed new Chief Inspectors of Adult Social Care and General Practice, whose robust inspections of care homes, domiciliary care and surgeries start next year. Surgical survival rates for 10 major specialties have been published by individual surgeons, making the NHS a world leader in transparency.

Today, the Government are publishing their further response to the inquiry as well as our response to the Health Select Committee's report on the inquiry. Both these responses have been laid before Parliament.

The NHS is a moral being or it is nothing. It was set up 65 years ago with the noble ideal that no one should ever be prevented by background or finances from accessing the best care. That is why it remains the most loved British institution, and rightly so. But each and every case of poor care betrays those worthy aims. I do not want simply to prevent another Mid Staffs; I want our NHS to be a beacon across the world not just for its equity but its excellence. I want it to offer the safest, most compassionate and most effective care available anywhere, and I believe it can.

But that is only if there is a profound transformation of the culture in the NHS. The inquiry shows the devastating effects of overly defensive responses: hurting families, suppressing the truth and preventing lessons being learnt. Failure cannot be addressed when it is covered up, so today I am announcing new measures to promote a culture of openness and transparency.

From 2014, every organisation registered with the CQC will have a statutory duty of candour. Patients must be told promptly about any avoidable harm, but there will be a statutory requirement to notify any harm that has led to avoidable death or serious injury.

We will consult on whether hospitals that are found not to have been open and transparent with patients or families at the earliest reasonable opportunity should risk having their indemnity from litigation awards reduced or removed by the NHS Litigation Authority. The signal must go out loud and clear to all clinicians: if in doubt, report an incident and tell the patient.

The professional regulators have agreed to place a new, strengthened professional duty of candour on all doctors and nurses. Failing to inform a patient, not reporting avoidable harm, or obstructing someone else seeking to do so will be subject to sanctions, including being struck off.

Inspired by the airline industry, this duty will cover "near misses"—occasions when mistakes were made that could have led to harm and from which we need to learn. Conversely, prompt reporting may be considered as a mitigating factor in a professional conduct hearing. This is not about penalising staff for making mistakes; it is about enabling them to learn from them. The NHS will adopt a culture of learning, as recommended by Don Berwick and his expert committee. I thank them for their seminal report.

A culture of openness also means learning from complaints. In line with the recommendations of the right honourable Member for Cynon Valley and Professor Tricia Hart's excellent review, all patients will be able to access independent help in making their complaint, with clear signs in every ward explaining how to do so; the Chief Inspector of Hospitals will inspect complaints handling to establish whether trusts are genuinely seeking to understand and learn from them; every quarter, trusts will publish the number of complaints received and the lessons learnt; and the Health Service Ombudsman will dramatically increase the number of cases that she looks at.

It is impossible to deliver safe care without safe staffing levels. All hospitals will be required to monitor their staffing levels on a ward-by-ward basis, analysing precisely how many shifts meet safe staffing guidelines. By the end of next year, this will be done using models independently approved by NICE. No hospital will be able to conceal unsafe staffing from the public because from next June all these data, both at ward and hospital level, will be published alongside other safety data on a new NHS safety website, triggering CQC action if there is cause for concern.

Things are already changing for the better and I am pleased to report that trusts are planning to recruit an additional 3,700 nurses compared to a year ago. However, we need to go further to train and motivate staff, particularly healthcare assistants and social care support workers who perform so much vital care. Healthcare assistants and social care support workers will be required to have a new care certificate to ensure that no one is ever asked to perform personal care without adequate training, whether in hospitals or care homes. The title "nursing assistant" will be used widely in hospitals and paths to nursing careers will be improved. I thank Camilla Cavendish for her excellent work in this area. We also need to broaden the talent pool going into NHS management positions, in particular attracting more clinicians and those with good external experience. We have introduced a fast-track leadership programme, sending 50 people a year to a world-leading business school, followed by time shadowing top NHS chief executives.

Robert Francis correctly highlighted the failure of regulatory systems to identify quickly what happened at Mid Staffs. Subsequently it has become clear that Ministers put pressure on regulators which may have led them to tone down news about poor care. This is totally unacceptable, so we will strengthen the statutory independence surrounding reports into care quality. The chief inspector will be the nation's whistleblower-in-chief and nothing must ever be allowed to stand in his way. The CQC can prosecute when fundamental standards are breached. Trusts put into special measures will have a strictly limited time to get their house in order before administration is considered. Foundation trusts in special measures will have their autonomy suspended and action will be taken to ensure that they quickly improve. No trust will be able to progress to foundation status unless they are rated good or outstanding.

Proper accountability must be at the heart of the NHS. I have therefore accepted Professor Don Berwick's recommendation of legal sanctions for those found guilty of wilful neglect or ill treatment. There will be a new criminal offence for care providers that supply or publish false or misleading information. A new "fit

[Earl Howe]
and proper persons" test will enable the CQC to bar unfit directors from boards. Every hospital patient should have the names of a responsible consultant and nurse above their bed. Starting with over-75s from next April, there will be a named accountable clinician for out-of-hospital care for all vulnerable older people.

One of the most chilling accounts in the Francis report came from Mid Staffs employees who considered such care to be "normal". Cruelty became normal in our NHS and no one noticed. The Francis report made 290 recommendations. I accept the principles behind all of them and, wherever possible, have adopted the practical solutions suggested by the inquiry.

Robert Francis himself has welcomed today's announcement as a carefully considered and thorough response to his recommendations, which he says will contribute greatly towards a new culture of caring and making our hospitals safer places for their patients.

Today's measures are a blueprint for restoring trust in the NHS, reinforcing professional pride in NHS front-line staff and, above all, giving confidence to patients that after Mid Staffs the NHS has listened and learnt and will not rest until it is delivering the safest, most effective and most compassionate care anywhere in the world. I commend this Statement to the House".

My Lords, that concludes the Statement.

3.20 pm

Lord Hunt of Kings Heath (Lab): My Lords, I remind the House of my interests as chairman of an NHS foundation trust, president of GS1 and a consultant and trainer with Cumberlege Connections. I thank the Minister for repeating the Statement. What happened at Mid Staffs was a betrayal of the NHS and its values. The previous Government rightly apologised, but now is the time to back our words with action. That is why, in welcoming much of what has been said, I would like to press the Minister on where we feel we would have gone further and question why, of the 290 recommendations from Francis, 86 are not being implemented in full.

First, I pay tribute to my right honourable friend Ann Clwyd, Professor Patricia Hart, Professor Sir Bruce Keogh, Camilla Cavendish, Professor Don Berwick and of course Sir Robert Francis. Between them they have given us proposals that will help to prevent a repeat and, more importantly, change the whole of the NHS for the better. Both Francis reports found three primary and fundamental causes of what went wrong: a failure to listen to patients; a lack of properly trained staff; and a dysfunctional culture. I shall turn to each of those.

First, I am sure that the Minister will agree with me that patients and their families must always, as Francis recommended, be the first priority for the NHS. Was Francis not right to recommend that the NHS constitution and the ethos that it sets out should be required reading for all NHS staff? I congratulate the Minister on agreeing to implement the Clwyd review in full and change the way that the NHS handles complaints.

Secondly, there is the issue of staffing numbers and training. The first Francis report found that Mid Staffs made dangerous cuts to staffing over a short period. I welcome the Government's new focus on this issue, but is it not the case that nurse to patient ratios across the NHS have got significantly worse in the past three years, with nearly 6,000 fewer nurses, more older patients in hospital and bed occupancy running at record levels?

It is encouraging that the NHS plans to recruit more nurses and is introducing more monitoring and transparency. The Secretary of State says that things are already changing for the better, but is the Minister aware that Monitor, the economic regulator of the NHS, has warned that trusts are planning major nurse redundancies in the 2014-16 period, far outweighing any increase planned this year? Will the Government intervene to stop that? Further, why have the Government stopped short of requiring safe staffing levels? Is the Minister aware that nurse training places have been severely cut in recent years and that many NHS trusts and foundation trusts are now being forced to recruit from overseas?

Alongside nursing, more action is needed to raise standards across the caring workforce. As Robert Francis has said, it is unacceptable that the security guard at the door of the hospital is more regulated and subject to professional sanctions than the healthcare assistant attending to an elderly patient. The development of the care certificate, as proposed by Camilla Cavendish, is a step forward, but will it not work only alongside a register of those who hold it and with an ability to remove it if they fall short? What happens if a member of staff employed as a care assistant in an NHS hospital has indeed obtained a care certificate but is then found to be wholly unsatisfactory to carry out a care assistant's work? What happens to the certificate? Surely we need to go back to the Robert Francis recommendation of a system of regulation for healthcare assistants. Will the Government reconsider this decision and at least commit to keeping it under review?

On culture change, Robert Francis's central proposal is a new duty of candour on organisations and individuals. It is not entirely clear how an organisational duty alone will help individuals challenge an organisation where there is a dysfunctional culture. Is it not the case that an individual duty, as proposed by Francis, is needed? The point comes over very clearly from the evidence given to Francis from a senior, soon to be retired consultant. He said:

"I took the path of least resistance … There were also veiled threats at the time that I shouldn't rock the boat at my stage in life".

It is only when an individual is both required to speak out and protected in doing so that the House can say that it has done enough to safeguard patients.

The duty of openness and transparency should apply equally to all organisations providing NHS services, including, as Francis rightly recommended, contractors providing outsourced services. The Government are clearly bringing in more outside providers. Surely patients need reassurance that we do not have an uneven playing field where private providers face less scrutiny. Will the Government extend the duty of candour to all healthcare organisations as Francis proposes? The amendments to the Care Bill do not seem to make that clear. Should not the Minister commit to extending

freedom of information law to any provider of NHS services and not allowing them to hide behind commercial confidentiality?

On openness, Francis made a direct call on the Government to set an example to the rest of the NHS. He said:

"risk assessments should be made public, and debated publically, before a proposal for any major structural change to the healthcare system is accepted".

Given the Government's claim to have accepted this recommendation, should they not show what they mean by finally publishing the risk register on the current reorganisation of the NHS?

Finally on openness, the NHS will be more accountable to families with a proper system of death certification. The House will recall that this was a core recommendation of Dame Janet Smith's inquiry into the Shipman murders. The Francis recommendations on this are not all accepted in full. I hope that the Minister will be able to give me some reassurance on that.

I would also like to ask the Minister about the regulatory structure. I have raised with him before the question raised by Don Berwick in his very interesting report on patient safety, which the Government themselves commissioned. In that report he said:

"The current NHS regulatory system is bewildering in its complexity and prone to both overlaps of remit and gaps between different agencies. It should be simplified".

He went on to say:

"The regulatory complexity that Robert Francis identified as contributing to the problems at Mid Staffordshire is severe and endures, and the Government should end that complexity".

Has the Minister picked up on the comment made by the chair of the CQC to the Health Select Committee in October, where he said that responsibility for patient safety in the health service should be transferred back from NHS England to the Care Quality Commission? Will the Minister agree that that is the right thing to do?

Can I also ask about the impact of competition on patient safety? The Minister may well have seen reports at the weekend that there are proposals to centralise cancer services in first-class treatment centres in order to enhance the efficiency, safety and effectiveness of the treatments being offered. Is he as shocked as I am that there has been a challenge to those proposals on the basis that they may run against the competition rules set out in the regulations that the Minister brought to this House in relation to Section 75 of the Health and Social Care Act 2012? Will the Minister look into those circumstances?

Finally, can I ask about the National Patient Safety Agency? In his Statement, the Minister referred to the fact that there will be a duty on staff to report near misses. He will be aware that the previous Government established the National Patient Safety Agency to allow staff to report those near misses. Is he as concerned as I am that the abolition of the NPSA and the transfer of the listening and reporting function to NHS England may, in itself, act as an inhibitor to staff feeling confident in reporting those safety incidents?

Finally, does the Minister believe—

Noble Lords: Oh!

Lord Hunt of Kings Heath: My Lords, this does not eat into Back-Bench time. I think I am quite at liberty to ask as many questions as I like. Perhaps the party opposite would do me the courtesy of actually listening to the questions. Let me say finally—

Noble Lords: Oh!

Lord Hunt of Kings Heath: My Lords, I am very happy to carry on. We have 20 minutes for Front-Bench questions and answers, and I have not yet taken half that time. I am quite happy to go on but, of course, I want to give the Minister time to respond as well. Perhaps some noble Lords will read the *Companion* to see what the rules are.

Finally, is primary legislation needed to implement any of these recommendations? I say to the Minister that if that is so, we on this side will certainly co-operate on a cross-party basis to enable those recommendations to be implemented in full.

3.31 pm

Earl Howe: My Lords, first, I welcome the noble Lord's very positive comments about the various reviews that have been commissioned in recent months. I am glad that he agrees that, in broad terms, the Government are on the right lines in accepting the recommendations that have come forward.

The noble Lord asked a number of questions, the first of which was about why we have not implemented all the recommendations of Robert Francis in full. Most of the recommendations have been accepted in principle, in part or—in the main—in their entirety. In some cases, we are taking an alternative approach to that suggested in the inquiry if we believe it is likely to be more effective in reaching the intended outcome. In total, we have rejected just nine of the 290 recommendations and where recommendations have been rejected, a full response outlining the reasons for doing so and the alternative action that organisations are taking is provided in our system-wide response.

The noble Lord asked about the regulation of healthcare assistants, a matter to which we return at regular intervals in this House. I assure him that the Government keep this issue under regular review but, for the time being, our view is to tackle the key issue at its root, focusing on making sure that healthcare support workers have the right training, values, support and leadership to provide the high-quality care that we all want patients to receive. We are committed to ensuring that this part of the workforce receives high-quality and consistent training. We have commissioned Skills for Care and Skills for Health, as the noble Lord knows, to develop a code of conduct and minimum training standards. We have also announced the development of a care certificate, which I am sure will be particularly welcome to a number of my noble friends.

The noble Lord asked me about a situation in which employers might find that a healthcare assistant or social care support worker no longer met the standards required by the care certificate. In that event, Health Education England and the sector skills council will set out in guidance the requirements for ensuring that appropriate retraining is given or other disciplinary action is taken. The guidance will be that the worker in

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question should not work unsupervised until the problem has been resolved and the employer is confident that their care certificate remains valid. Of course, if a healthcare assistant is found to have harmed patients or have been a serious risk to patients, the Disclosure and Barring Service needs to be considered as the ultimate remedy to make sure that that person does not put patients at risk in future. However, that is an extreme situation, which I believe will not be the norm.

The noble Lord referred to the nurse numbers. In the last spending review, the NHS budget was protected in real terms, with cash funding rising by £12.7 billion by 2014-15. Alongside that, Health Education England has been working with NHS trusts to develop the overall workforce plan for England for next year, reflecting the strategic commissioning intentions. That work indicates that a number of trusts have already increased their nurse staffing levels during the current year and others are planning to do so, as I mentioned in the Statement. Initial plans indicate that trusts intend to employ an increase of more than 3,700 nurses this year.

Moving to staff ratios, nursing leaders have been clear—indeed, there is a letter in today's *Times* about this—that hospitals should publish staffing details and the evidence to show that staff numbers are right. However, we do not think that prescribing a rigid set of rules from the centre is the right way forward. The National Quality Board and the Chief Nursing Officer are publishing a guidance document that sets out current evidence on safe staffing. By next summer, NICE will produce independent, authoritative, evidence-based guidance on safe staffing and review and endorse associated tools for setting safe staffing levels in acute settings. From next April, by June at the latest, NHS trusts will publish ward-level information on whether they are meeting their staffing requirements. A review every six months will allow for those staffing levels to be quality assured.

On the issue of candour, we have had a number of debates on this subject, both during of the Health and Social Care Act and, more recently, in the Care Bill, and I believe that we have reached a place for which this House can take some credit because the Government have moved a considerable distance from their original position. We agree with Don Berwick's intention that professional regulators are in the best position to strengthen the duty of candour for individual professionals working in a hospital. Of course, the duty of candour applies to the corporate entity but the GMC and the NMC will be working with the other regulators to agree consistent approaches to candour and the reporting of errors, including a common responsibility to be candid with patients when mistakes occur, whether serious or not, and clear guidance that professionals who seek to obstruct others in raising concerns or in being candid would be in breach of their professional responsibilities. The professional regulators will issue new guidance to make it clear that it is the responsibility of professionals to report near misses for errors that could have led to death or serious injury as well as actual harm, and they must do so at the earliest opportunity. We will seek advice from experts on how to improve the reporting of patient safety incidents, including whether the threshold for the statutory duty of candour should include moderate harm.

The noble Lord referred to the NPSA. He is right that the NPSA's function of reporting safety incidents has transferred to NHS England, into which the National Reporting and Learning System has been absorbed. I do not see that transfer as, in any way, inhibiting staff confidence in reporting safety incidents. The essence of the system remains as it always has been.

The noble Lord asked about the responsibility for patient safety being transferred back to the CQC. I am sure that, on reflection, he will agree that patient safety is everybody's business. In part, it is the business of the CQC but, above all, it is the business of those who work in the NHS. It is the business of trust boards and of commissioners. It is also very much the business of those whose job it is to look at the performance of the NHS on behalf of patients—chiefly Healthwatch, but also patient organisations. Therefore one cannot single out an individual organisation as taking sole responsibility for this.

I will write to the noble Lord about the Freedom of Information Act. However, he should not forget that the standard contract that the NHS operates binds anyone who provides services to the NHS into certain contractual terms, and the disclosure of relevant information is a part of that.

On death certification, the noble Lord asked me about medical examiners. We agree that they must be independent of the deceased person and their medical practitioner. That is because medical examiners need to carry out independent scrutiny of the medical circumstances and cause of apparently natural deaths to make sure that the right deaths are notified or referred to a coroner. However, we need to ensure that there are sufficient numbers of medical examiners to carry out this work, particularly in rural areas, so appointees are likely to have some sort of professional relationship with local care providers. Therefore the draft death certification regulations for medical examiners do not require that medical examiners are independent of the organisation whose patients' deaths are being scrutinised. However, we are mindful of the need for a greater level of independence within the spirit of this recommendation and the Government will review how they can include further safeguards on this front.

The noble Lord suggested that the NHS constitution was not the right means of changing the culture of the NHS, and I agree with him. However, declaratory statements in the constitution are an important part of signalling to the NHS its vision and values in the broadest terms, and the duties that people should feel they are under. The values, rights and pledges set out in the NHS constitution form the basis of everything the NHS does. NHS England, Health Education England, the department and CCGs are developing a joint strategy to embed the constitution further, as we promised they would during the passage of the Health and Social Care Act.

On the system that we have put in place and the complexity that the noble Lord sees in that system, I say, simply, that the system we now have is more transparent than the one we had before. Accountabilities

are clear, responsibility is clearly placed where it should be and it is backed by robust lines of accountability, including to Ministers and Parliament.

I hope that that answers most of the noble Lord's questions, but I will of course write to him if I have omitted anything.

3.43 pm

Baroness Brinton (LD): My Lords, we on these Benches welcome both the Francis report and the Government's Statement. In particular, we welcome the importance of openness, transparency and access to information to ensure that there is a change in culture. Can the Minister confirm that the new care certificate will be an NVQ qualification so that the public can be confident that staff have the right skills and training? We would also welcome registration and regulation for those staff in the way that the noble Lord, Lord Hunt, referred to earlier. Can the Minister also confirm that when complaints and other items have to be published, it will not be as a few lines in an annual report but on the web, and that it will easily accessible by patients and the public?

Earl Howe: My Lords, I very much agree with the spirit of my noble friend's questions. Certainly as regards complaints, the public should have a clear view of the nature of the complaints that have been registered with a particular organisation. They should be able to have a sense of what those complaints relate to and what action the organisation has taken to address the matter in question.

On my noble friend's first point, we are currently working through the question of the care certificate and will seek advice. It is important to arrive at an agreed formula that gives the maximum assurance, both to care assistants and to those they look after, that basic standards of training have been learnt and are being adhered to. It is important to define as closely as we can what we mean by that, and as soon as we have further details we will announce them.

Lord Patel (CB): My Lords, I thank the Minister for repeating the Statement, and I welcome the Government's comments on the Francis report. I apologise on behalf of my noble friend Lady Emerton, the matron, who is not here today as she is unwell, and also my noble friend—he is a friend, although he sits on the wrong Benches—Lord Willis. He cannot be here because he has been asked to undertake the duties of my noble friend Lady Emerton. They asked me to represent their views—which I will not do, because I would get them wrong, but perhaps I may make my own comments. I realise I am not allowed the same time as the noble Lord, Lord Hunt, had. That is a pity, because I have much to say about the Statement.

I welcome the statutory requirement to give notification of any harm or serious misses that have happened. During my time as chairman of the National Patient Safety Agency I tried to get that into statute and failed; it was not under the current Government, but that does not matter. I am therefore delighted that this will be a statutory requirement. The important thing is that, as Don Berwick said, this is about learning; reporting by itself is not enough. The Minister referred to the airline industry, which learns from what has happened by doing root-cause analysis. We need that system established in the NHS if we are to learn from avoidable harm and near misses. Whose responsibility will it be to do that, and how will that expertise be gained?

On staffing ratios, the Minister knows that if my noble friend Lady Emerton had been here she would have asked about ratios of trained to untrained staff. Now that there will be a new care certificate to ensure training for all care assistants and nursing assistants, which I welcome, she would have asked for regulation. However, we have passed that stage, and I welcome the fact that there will be a new care certificate following the training. Why, however, is all this to be only for hospitals? What about care homes? Why were care homes excluded from reporting on staffing ratios?

Earl Howe: I apologise, but I did not quite hear the last part of the noble Lord's question. Was it why care homes were excluded?

Lord Patel: The Statement refers particularly to hospitals. They will have to report on staffing ratios, but it did not say that care homes will have to do that.

Earl Howe: I am grateful to the noble Lord. I am in complete agreement with him on his first point. The best thing might be for me to read out a very short passage from Professor Don Berwick, who said:

> "The best keys to health care safety do not lie in blame, or regulation, or punishment, but rather in learning, support, and encouragement to the health care staff, the vast majority of whom are dedicated to excellence in care.
>
> Leaders who aim for safe and effective care have a duty to supply the workforce with the tools, knowledge and encouragement to do the work that adds meaning to their lives".

We have attempted, as far as we can, to make that philosophy the guiding principle of our response on patient safety. We do not want to create a blame culture; we want to create a culture that encourages everybody to feel ownership of the work that they do, and to feel well led. That is the other side of the coin to the culture that we have spoken about in other debates about innovation—about making innovation everybody's business in an organisation. It comes down, in the end, to good leadership.

We are not insisting that every organisation should carry out root-cause analysis. On the other hand, we are saying that it is the business of trust boards to make complaints, mistakes, and lapses in patient safety central to their work and to the scrutiny that they undertake of their organisations, and for those matters to be discussed openly and resolved openly.

As regards care homes, as I said, we have commissioned NICE to work through the guidance that will underpin safe staffing. It is not yet apparent whether that will cover care homes and it is difficult to see how it could do so because care homes are clearly very different organisations from acute trusts. On the other hand, we expect the CQC to have some way of judging whether a care home can call itself safe. We will certainly look at the noble Lord's points as we carry that work stream forward.

Baroness Pitkeathley (Lab): My Lords, I am sure it will be welcome to patients and their families that the name of a responsible consultant will now be above the patient's bed, but will the noble Earl say a bit more about the new attention to 75 year-olds that has been promised? In the extensive leaks of the Government's response over the weekend, GPs were definitely named as the people who would be responsible for the over-75s. The Statement refers to "a named accountable clinician". Is there a difference between the two?

Earl Howe: Yes. There were no leaks. The report that the noble Baroness saw was a report on the new GP contract that we announced at the end of last week. That was legitimate reporting by the press of an element of the new contract for next year, when we want all NHS patients over the age of 75 to have a named, accountable GP. However, we are saying in this response that every patient in a hospital setting should know who their consultant is, and therefore that there should be a named responsible consultant for every hospital patient. The two issues are, therefore, related but different.

Lord Mawhinney (Con): My Lords, the Statement said that the NHS has to be a moral organisation or it is nothing. I am sure that my noble friend carried the whole House with him when he said that. Therefore, the raft of changes and the new legal accountability that will come in next year are very welcome in their own right as they will bolster that concept. However, how is it that no individual or individuals have been held accountable for the tragedy and disaster at Mid Staffordshire? I know that my noble friend keeps saying, on behalf of the Government, that they do not want to encourage a blame culture, but will he explain to your Lordships' House how we can have an accountability structure without any blame attached?

Earl Howe: My Lords, the trust board at Mid Staffs was ultimately responsible, and individuals on it have been replaced. That was the first step in holding the system to account. We are introducing strengthened accountability for the future, including a fit and proper persons test for directors, as well as a single-failure regime triggered by failures in care. We have also appointed a Chief Inspector of Hospitals with power to ensure that the system acts quickly to tackle unacceptable care. In a range of ways I hope that we have addressed the central point in my noble friend's question, which is very well placed.

Baroness Masham of Ilton (CB): My Lords, I am pleased to hear about the transparency and the duty of candour, but will the noble Earl give the House an assurance that patients will be listened to? I am thinking about the young man who implored staff for a drink, and even telephoned the police on his mobile, but was ignored by staff. This was not Mid Staffordshire but a London teaching hospital. Further, will staff be protected when they blow the whistle? Will the noble Earl give an assurance that they will not lose their jobs?

Earl Howe: My Lords, I completely agree with the noble Baroness that the voice of the patient is an essential part of maintaining a culture of safety in the NHS. Improving the way in which the NHS manages and responds to complaints will be critical in shaping a culture that listens to patients and learns from them and ending a culture of defensiveness or, at worst, a culture of denial about poor care. That is why we welcome and accept the spirit of the review of the NHS hospital complaints system by Ann Clwyd MP and Professor Tricia Hart and the principles behind their recommendations.

On whistleblowers, the amendments to the NHS constitution have enhanced the protection for whistleblowers, but we are not complacent and we are already considering whether there is a need for more developments both to protect whistleblowers and to ensure that action is taken, where necessary, in response to concerns. We are looking, with the national regulators, at how whistleblowing concerns are dealt with at the moment and, where appropriate, we will introduce improvements to systems in the future.

Baroness Knight of Collingtree (Con): My Lords, much of what my noble friend has said has given us satisfaction, but it is perfectly true, as we have already been reminded, that troubles were going on not only in the Mid Staffordshire area but all over the place. It is also true that it is not just the whistleblowers who warned time and time again about what was going on and who should have been listened to. I spent four or five years raising cases of people who had written to me. On one occasion I presented the then Minister, the noble Lord, Lord Hunt of Kings Heath, with a dossier of some 25 cases, all of which had been checked very carefully. All the details were correct, all the patients, or their relatives, had given permission for these cases to be raised and they were raised in this House. I am not blaming the noble Lord for failing to take these cases forward, or failing to listen to the arguments put out clearly in this House, because I think that he passed them on, but they were never properly investigated.

It is upsetting that for such a long period warnings were being given and were allowed somehow to filter into the ground and away, or into the past. I particularly warned about the practice, which was fairly unknown at that time, of failing to feed patients because food was put too far away from them and other examples. I worry about the people who suffered for those long years when something could have been done if those responsible at the grass roots had taken care of what was being said in this House. I beg the Minister not to leave aside the really serious point that cases raised with great sincerity and truth in this House should be regarded and not just pushed aside in the future.

Earl Howe: My Lords, my noble friend should be listened to with great care. Of course, I remember those cases. I was not the Minister in charge at the time she submitted those cases to the Department of Health, but she shared them with me, and I share her concerns, which are, of course, directly relevant to the matters we are discussing today. We have the new duty of candour and in April the Enterprise and Regulatory Reform Act strengthened the main whistleblowing legislation introduced by the Public Interest Disclosure Act so that an individual who suffers harm from a co-worker as a result of blowing the whistle now has the right to expect their employer to take reasonable

steps to stop this. The idea is to ensure that people do not feel intimidated from speaking up. The Care Quality Commission is using staff surveys and the whistleblowing concerns it receives as part of the data in its new intelligent monitoring system. That data will guide the CQC about which hospitals to inspect. Since September, the commission's new inspection system includes discussions with hospitals about how they deal with whistleblowers and handle them.

Baroness Hayman (CB): My Lords, I declare an interest as a member of the General Medical Council. In no way do I speak on its behalf today, but it is obvious from the remarks that the Minister has made that the GMC has been working with the Government and other regulators and is committed to underlining professional responsibilities, particularly in relation to the duty of candour. That work will, of course, continue. On a personal level, I welcome the return to naming the consultant and the nurse responsible for an individual patient. It is emblematic of that personal sense of responsibility and accountability for patient welfare.

In respect of the new complaints procedure, as the Minister said, the care of patients and their safety are the responsibility of not only the named consultant and nurse but everybody in that institution. Does he agree that there is also a particular responsibility on the trust's non-executive directors in that respect and that the new system should ensure that they are taking their responsibilities seriously? I know from decades ago, when I chaired the complaints panel at a London teaching hospital, that that resource, in terms not only of the ability to protect patients but of improving efficiency and the quality of care by understanding complaints, was a treasure trove that should not be abandoned.

Earl Howe: I entirely agree with the noble Baroness, who of course has immense experience in these fields. I agree with her in particular about the role of the non-executive director. If an organisation has what may look like quite a high number of complaints, it should be regarded as a sign of openness, transparency and the right kind of culture in that organisation. It is only where suspiciously low numbers of complaints have been recorded that alarm bells should start ringing. I agree that boards of directors, led and encouraged in this area by the non-executives, should make it a central part of their business to analyse complaints and make sure that they have been followed through, not just that the matters have individually been remedied but that any systemic issue has been properly addressed.

Energy Bill

Third Reading

4.03 pm

Baroness Anelay of St Johns (Con): My Lords, I have it in command from Her Majesty the Queen and His Royal Highness the Prince of Wales to acquaint the House that they, having been informed of the purport of the Energy Bill, have consented to place their prerogative and interests, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

Clause 3: Further duties of the Secretary of State

Amendment 1

Moved by ***Baroness Worthington***

1: Clause 3, page 3, line 39, at end insert—

"(9) Where carbon intensity of electricity generation is reported to have increased year on year for not longer than three consecutive years, starting from the date of Royal Assent, the Secretary of State shall report to both Houses of Parliament, setting out both the reasons for the increase and the additional actions that will be taken to reverse this increase in carbon intensity."

Baroness Worthington (Lab): My Lords, during our scrutiny we have come to know this Bill as the "decarbonisation Bill" as it has passed through this House. It has been referred to in that way by a number of noble Lords and it is a reasonable description. The Bill represents a significant intervention in the electricity market that is justified on the basis that it will help to decarbonise our electricity system. Noble Lords will be aware that we have had lengthy discussions about the setting of a decarbonisation target in the Bill in order to give that clarity of purpose and to create a responsibility on the Government to deliver through the powers that they are taking. Unfortunately, we were unsuccessful in bringing forward the setting of a date for the setting of such a target. However, on Report the Minister was kind enough to give a partial concession in relation to the Government's commitment to monitoring carbon intensity and to acting if carbon intensity remained high. The concession was that, should carbon intensity rise year on year for three consecutive years, the Government would report to Parliament, setting out why this was the case and the additional actions that would be taken to counteract that increase.

The concession is welcome. It is not a replacement for a carbon intensity target by any means, partly because carbon intensity is currently at an astonishingly high level. This is because the merit order currently favours inefficient old coal plant over more efficient, cleaner gas stations. Therefore, currently carbon intensity is higher than would otherwise be the case. Intensity seems unlikely to increase. If it did, something would be seriously awry with government policy. The concession, while welcome, does not go far enough but I should hate to lose it. The purpose of this amendment is to place that commitment in the Bill to introduce into it a measurement of progress and a mechanism through which the Government will report back to the House on that progress and take corrective action.

It is fair to say that the interventions in this Bill and the powers that are given to the Secretary of State are so extensive that they ought to be matched with responsibility and a system of holding the Government to account to see that they are delivering. The measure of progress should be carbon intensity, the issue the Bill seeks to address. Therefore, I hope the Minister will accept this amendment in the spirit of enhancing that important part of the Bill that justifies why it has been introduced and the powers that have been taken. I beg to move.

Lord Teverson (LD): My Lords, this is a worthy amendment. However, Parliament is grown-up enough for those of us who are interested in these issues and

[Lord Teverson]
see them as really important to notice what happens and seek answers from the Secretary of State and the Government about carbon intensity. The issue is important but the amendment adds little to the Bill.

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): My Lords, I thank the noble Baroness, Lady Worthington, for tabling the amendment. The Government fully support the aim of clear and transparent reporting. However, like my noble friend Lord Teverson, I do not think it necessary to introduce an additional statutory reporting requirement to the Bill as the noble Baroness proposes. I shall set out quickly the reasons.

First, as the noble Baroness recognises, at Report I made a commitment to Parliament that the Government would undertake reporting measures once any decarbonisation target range had been set. This would supplement those reporting measures that are already included within Part 1 of the Bill. I repeat what I said on Report, which was that,

"where carbon intensity is reported to have increased year on year for three consecutive years, the Government will explain the reasons why, and, where appropriate, report additional actions to address it within the annual statement of grid carbon intensity".—[*Official Report*, 28/10/13; col. 1366.]

Secondly, it is important to recognise that, under the Climate Change Act 2008, there are already high levels of scrutiny of the progress made to meet our economy-wide carbon targets. This includes coverage of the power sector within the context of our wider economy. For example: the Government currently report annually on emissions in the power sector through the UK's greenhouse gas emissions inventory; the Committee on Climate Change publishes an independent and impartial report each year on our progress towards meeting our carbon budgets and the 2050 target; the Government provide annual responses to the committee's recommendations, which include a dedicated chapter on the power sector; and the Government publish updated energy and emissions projections each year, setting out the future trajectory we anticipate the economy taking.

Lastly, the amendment proposes that these reporting measures start from the date of Royal Assent. The Government's view is that it is logical for any additional reporting measures to be triggered by the setting of a decarbonisation target range rather than by the enactment of the Bill. That would ensure alignment with the existing reporting framework that is already included in Clause 3, and we should not forget that we already report on grid carbon intensity ahead of any decarbonisation target range being set. Section 5 of the Energy Act 2010 requires a three-yearly report to Parliament on progress in decarbonising electricity generation. That report sets out the policy framework and explains trends in grid carbon intensity over the reporting period.

In conclusion, the Government are already proposing a clear and robust target framework that includes regular reporting on progress in meeting any target range. That is in addition to the high levels of scrutiny that are already in place to meet our economy-wide carbon targets. For those reasons, it would be unnecessary to introduce another statutory reporting requirement. I hope that the noble Baroness will agree with me that the existing commitments are sufficient and will, on that basis, withdraw her amendment.

Baroness Worthington: I am grateful to the Minister for her response and for the contribution from the noble Lord, Lord Teverson. I agree that we are all mature in looking at these things and that people who scrutinise and follow this in detail will raise issues as they occur. However, something is clearly not working, otherwise why is it that carbon intensity has been allowed to rise to such high levels recently with the Government apparently incapable of acting to bring it down? Obviously, many factors play into that, but the whole purpose of the Bill is to bring some of those factors under greater control and to allow the Government to intervene in the market to create contracts for difference that bring forward investment in the low-carbon economy that would not otherwise be supported by the market.

There is a problem, given that carbon intensity remains stubbornly high; the measure of the success of the Bill will be that starting to fall. It is regrettable that the Government are not prepared to start monitoring that or reporting on it, in terms of actively managing it, until 2016, which is a number of years away. I understand that the Bill has existing requirements on reporting carbon intensity, and that it is routinely reported now, so I am happy to withdraw, but this is something we need to keep a close eye on. I am sure that the noble Lord, Lord Teverson, and others will join me in ensuring that we do just that.

Amendment 1 withdrawn.

Clause 34: Power to make capacity market rules

Amendment 2

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

2: Clause 34, page 22, line 10, after "is" insert ", or who has notified the Secretary of State of his intention to become,"

Lord Jenkin of Roding (Con): My Lords, Part 2, which is really the heart of the Energy Bill, contains all the proposals for the reform of the electricity market. Chapter 3 of Part 2, in respect of which I am moving this amendment, deals with a very important part of the reform, the introduction of the capacity market. As the noble Baroness has just mentioned, that is of course designed to try to attract investment which the market might otherwise find it difficult to support. It is one of the measures that the Government are introducing, if I may put it crudely, to keep the lights on—to make sure we have enough generating capacity to keep the power flowing. At this stage of the Bill, I do not think it is necessary for me to start spelling out all the details of this, which have been very substantially debated at Second Reading, in Committee and on Report.

However, I think it right once again to draw the attention of the House to the fact that most of the detail of this is to be in regulations. We are hoping that

the Bill will be Law before the end of the year—indeed, I hope well before the end of the year—and that the regulations will follow next year, and we are waiting for those. I have to say to my noble friend that the Government have been extremely good at producing drafts of what all the really important regulations would contain. It is a substantial document and I do not propose to read it out, but there is an enormous amount of detail in it and it is helpful for those who have to operate the new system to have that detail now.

4.15 pm

In addition to the regulations, there will also have to be what are called capacity market rules. They will either be made by Ministers, or can be made by the regulator, Ofgem. Again, in that document we have been given draft rules and I will come to them in a moment. Both the rules and the regulations are currently the subject of consultations and, while this is clearly essential to get them right and to make sure that they avoid unintended consequences, it means that even at this late stage of the Bill, it is not really open to us to debate the details. What we can ensure is that the Bill provides the necessary rules and guidance to what we think the Government ought to be aiming at in making these regulations, and that the processes by which they are made are sound and fit for purpose.

That is really what this amendment is about. It is Clause 34 that confers on the Secretary of State the power to make the capacity market rules. As I said, it is Clause 34(3) which gives the power to the "Authority". That is the phrase used in the Bill, but that means giving the regulator, Ofgem, the power to make capacity market rules subject to conditions. These conditions may be about consultations, and in particular, they must provide that if it is Ofgem which is to make the capacity market rules, it must consult and then set out two categories of what one might call the participants in the scheme—either anyone who has a licence to supply electricity or anyone who is already a capacity provider.

It is my view that this leaves out an important group. Ministers have recognised that in order to promote competition—there will be a great deal more about competition on the next amendment that I will move—it is important that new entrants and independent generators should be enabled, or indeed encouraged, to apply for a contract under the capacity market arrangements. They may very well not already be licence holders, and by definition they are almost certainly not yet capacity providers. My amendment provides that, in addition to those two categories in the Bill, there should also be included anyone,

"who has notified the Secretary of State of his intention to become",

a capacity provider.

How important is this? I have already demonstrated that in this volume the draft rules cover no fewer than 119 pages. They are immensely complicated; the definitions alone cover 20 pages, which gives a measure of the complexity of all this. They cover such vital issues as the timetable for the capacity auctions, how those wishing to bid could gain the necessary prequalification, how to decide who is eligible to bid, how the auctions will be conducted and so on. This is all highly relevant to anyone who is going to take part in these auctions, especially new entrants and independent generators that are aiming to participate in the market. Surely it is as important for these companies to know about the rules and any proposed changes to them as it is for firms already operating in the industry. It is a very simple question and I think that the answer can only be: yes, they must know about them. I hope my noble friend will give us satisfaction. I beg to move.

Baroness Worthington: My Lords, we support the amendment moved by the noble Lord, Lord Jenkin. Possibly it is merely an oversight that those who wish to become capacity providers are currently excluded from the list of consultees. As the noble Lord has explained, this part of the Bill is very important and should be open to new and independent players to attract them into the market. If all the capacity mechanism does is provide security to the existing incumbents, it will have failed in its aim to deliver capacity at least cost, with a good degree of competition enabling prices to be kept to the minimum. Given the context, it is an eminently sensible amendment and I really hope that the Minister will be able to support it.

Baroness Verma: My Lords, I thank my noble friend Lord Jenkin for his amendment. Both the electricity capacity regulations and the capacity market rules form the legal framework that will enable the introduction of the capacity market. The capacity market rules will be subsidiary to the regulations, for which the Secretary of State will continue to have responsibility.

Much of the content of the capacity market rules will comprise provisions of a technical and administrative nature, designed to supplement the regulations and ensure the efficient running of the capacity market; for example, the rules will set out how the delivery body is to conduct capacity auctions and the pre-qualification process, as well as its duties to maintain a capacity market register and carry out monitoring and testing.

Given the technical and administrative nature of the rules, we therefore expect changes usually to be of a minor and technical nature, with the primary purpose of ensuring the efficient operation of the capacity market. It is important to make the duty to consult on those changes proportionate, and to get the balance right between consulting widely and implementing the change within an appropriate timeframe.

Potential capacity providers may not necessarily be affected by a proposed rule change in the same way as existing capacity providers; for example, existing providers will have rights or obligations under the capacity market that might be affected by a change in the rules. I am therefore of the view that potential capacity providers should not be added as parties that the authority must consult on every proposed change.

Nevertheless, it is important that if the authority were to propose a significant change to the rules that affected a wider range of parties, consultation on that change should go beyond existing suppliers and capacity providers. I therefore reassure my noble friend that we expect the authority to consult more widely, as appropriate, for any significant changes to the rules that might affect a wider range of parties, such as prospective capacity providers. This is reflected in the draft electricity

[Baroness Verma]
capacity regulations 2014, published for consultation in October, which would oblige the authority also to consult the Secretary of State, the delivery body and,

"such other persons as the Authority considers it appropriate to consult".

The authority will be producing guidelines on the process it intends to follow for making changes to the capacity market rules, including its processes for consultation and for considering rule changes proposed by a third party. The authority intends to publish these draft guidelines next spring before finalising them, allowing all potential capacity providers the opportunity to comment on them.

I hope that my noble friend has been reassured that the consultation provision in the Bill is not exhaustive and that the authority can, and will, consult more widely where appropriate. I hope, therefore, that he will withdraw his amendment.

Lord Jenkin of Roding: My Lords, I am extremely grateful for the support from the noble Baroness, Lady Worthington, and it is very nice to know that if I had decided to divide on this I would have had her party with us. However, my noble friend has indeed been reassuring. I entirely accept that all these people should not be consulted on every minor change, but she has given us a clear assurance that, on anything of any significance, both the department and the regulator will consult all those who might reasonably expect to be affected. On that basis, I am happy to withdraw the amendment.

Amendment 2 withdrawn.

Amendment 3

Moved by ***Baroness Verma***

3: Clause 34, page 22, line 15, leave out paragraph (b)

Baroness Verma: My Lords, government Amendment 3 responds to a recommendation from the Delegated Powers and Regulatory Reform Committee regarding delegated powers in the capacity market. I am grateful to the committee for its recommendation and to my noble friend Lord Roper for raising it on Report. Amendment 3 will limit the powers of the authority to make capacity market rules and to confer additional functions on itself when exercising powers under Clause 34(3). It will do this by requiring the authority to obtain the Secretary of State's consent on each occasion that it seeks to confer a function on itself when making capacity market rules. This will ensure that there is a sufficient level of oversight when the authority makes changes to the capacity market rules. I hope that my noble friend finds the explanation of my amendment helpful and I beg to move.

Lord Roper (LD): My Lords, I thank the Minister for having put forward this amendment which, as she says, follows the discussion that we had on Report and the report of your Lordships' Delegated Powers and Regulatory Reform Committee. It is a most satisfactory amendment and, again, I thank the Minister for it.

Lord Grantchester (Lab): My Lords, after much debate in Committee and on Report we also welcome this further government amendment in response to the 11th report of your Lordships' Delegated Powers and Regulatory Reform Committee, which was published at the end of October. It is indeed important that no blanket powers or consents should be given for making particular categories of rules.

Amendment 3 agreed.

Clause 57: Duty not to exceed annual carbon dioxide emissions limit

Amendment 4

Moved by ***Baroness Worthington***

4: Clause 57, page 56, line 13, after "station" insert "with units emitting through a common stack"

Baroness Worthington: My Lords, this amendment follows on from our discussion about the decarbonisation aspects of the Bill. Noble Lords will be aware that an important amendment was successfully added to the Bill at Report. It would close a current drafting loophole in the Bill that would allow old, inefficient, polluting coal stations to upgrade and seek extensive life extensions without the need to comply with any kind of emissions performance standard. This will now, of course, be debated in the Commons, and we look forward to seeing the results of that.

However, in succeeding in having this part of the Bill accepted, an interesting definitional issue has arisen. Bear with me as I try to explain it. The industrial emissions directive, which requires tightened quality standards to apply to coal stations from 2016, applies at a station level. A station is defined as "a common stack", meaning a chimney that can be used by multiple units. This has interesting implications because the EPS limits can therefore be met by one unit upgrading to fit filters while another unit remains unabated but still operating unencumbered and at full capacity. Our intention in closing a loophole that could potentially extend coal's life span to late into the next decade was that the EPS should apply at the same level at which the IED applies, meaning that if a station with four units decided to retrofit two of the four in order to comply with the IED, the station as a whole would then be caught by the EPS.

4.30 pm

We have had representations from industry asking for clarification on this because, in sitting down to work out the implications of the amendment, they have looked at the Bill and seen that the definitions are not clear. The Bill defines a "plant" as a "station", which is insufficiently precise when one is trying to assess this, because plants are made up of units. The definitions used in air quality standards use "common stack" for that purpose. The amendment would bring greater clarity to the EPS part of the Bill and bring it in line with the definitions in the industrial emissions directive. The implications of the Bill could then be understood by those making investment decisions on whether to upgrade their plant or to opt out, run their hours out and close.

I hope that I have made that clear—I fear that I may not have done because it is very complicated. To put it in its simplest terms, the Bill is insufficiently clear on these definitions of what constitutes a station and we have tabled this amendment to address that. I hope that the Minister will be able to accept it. I beg to move.

Lord Oxburgh (CB): My Lords, I support the amendment. The noble Baroness, Lady Worthington, is too modest. She has made it abundantly clear that clarity is needed in the legislation because, as the wording stands, simply part of an operating unit may be upgraded. I therefore hope that the Government can accept the amendment.

Lord Teverson: My Lords, I welcome the amendment because clarification is needed—and, indeed, I thought that the explanation given by the noble Baroness was very good. I would be very interested to hear the Government's view on how this issue should be resolved, as it is clearly important for the way in which the industry moves forward.

Baroness Verma: My Lords, I am grateful to the noble Baroness, Lady Worthington, and I hope that I can add a little clarity on the matter she has raised. Under the existing provisions, and save for the circumstances provided for under Schedule 4, the EPS will apply to the entire generating capacity of any new fossil fuel power station consented after the EPS comes into force. For example, where planning consent is given for a new fossil fuel power station, the generating units that comprise the consented power station are, for the purposes of the EPS, the "generating station".

A generating station will report its carbon emissions under the EU Emissions Trading Scheme and the intention is that those reports will be used to reconcile total carbon emissions in a year against the EPS limit for the generating station, which is calculated using the formula in the Bill—I hope that noble Lords are following me thus far.

In respect of the circumstances provided for under Schedule 4, paragraph 1(1) of Schedule 4 gives the Secretary of State a power to make regulations to apply the EPS to a generating station consented before the EPS came into effect where it replaces or installs an additional main boiler—so where it effectively adds to or renews its generating capacity.

Paragraph 1(1)(b)(iii) of Schedule 4, on which the Government were defeated on Report, would extend the scope of Schedule 4 to enable the Secretary of State to apply the EPS also to an existing generating station that fitted substantial pollution abatement equipment. The exercise of the power to make regulations under Schedule 4 is at the discretion of the Secretary of State, and it would be premature to comment on whether or how that power may be used.

Sub-paragraphs (1) and (2) of paragraph 1 of Schedule 4 together allow the EPS to be applied with or without modifications and to different parts of a generating station. For example, it could be applied to only those units that are new or have replacement boilers or to only those units that have fitted substantial pollution abatement equipment.

While I recognise that the proposed amendment may be one way of determining how the EPS will apply to fossil fuel plant, it does not cater for a wider range of circumstances in the way intended by Schedule 4. The regulation-making power in Schedule 4 provides for alternative approaches and, due to the potential complexities and impacts on existing assets were we minded in the future to exercise these powers, we would want to consult fully on possible options before making regulations. I believe that this would provide a more properly informed debate and I therefore ask the noble Baroness to take my reassurances at this stage and withdraw her amendment.

Baroness Worthington: My Lords, I am grateful to the noble Baroness for her reply. Discretion gives flexibility but equally it gives a lack of certainty for industry. I am not quite sure why this proposal is premature as we need to give clarity to those affected by this Bill as soon as possible. It seems to me that in maintaining this discretion, we are prolonging lack of certainty for the industry. I think that it is very important that we do this consultation quickly and that we give clarity as soon as possible, whether that is through the regulations that follow or in a separate process. I am sure that there are many people sitting in boardrooms around the country looking at their assets, who need to know this information and need to know how the department is interpreting its powers.

If the department is minded to have an EPS apply only to the units which fit the filters that make the upgrade, that will have the very perverse affect of allowing unabated plant—the other corresponding units—to operate indefinitely at very high load factors. That is precisely what we are trying to avoid with this amendment. There is a very strong reason why we do not believe that discretion is necessary and why the definition should be at a plant level. However, I understand that the Government may wish to consult and to seek a little extra time before making this issue fully clear. I hope that that is completed in the shortest time possible, as prolonging uncertainty will make life harder for the industry and investors in deciding what their next move should be following the passage of the Bill. I beg leave to withdraw the amendment.

Amendment 4 withdrawn.

Clause 131: Designation of statement

Amendment 5

Moved by ***Lord Judd***

5: Clause 131, page 101, line 5, at end insert—

"( ) how the Authority shall incorporate social and environmental factors in carrying out its functions."

Lord Judd (Lab): My Lords, in moving this amendment I remind the House that I am involved in a voluntary capacity in a number of NGOs concerned with the environment.

On Report, the Minister said that energy production and consumption should be sustainable. I remind the House of an important point made by my noble friend Lady Worthington, that we face a "quadlemma" in

[LORD JUDD]
which we must tackle climate change, keep bills affordable and keep the lights on without sacrificing social and environmental standards in the process. It is very much in the spirit of this observation that I am pursuing this amendment.

On Report, the Minister helpfully reminded us that Ofgem has social and environmental duties and can consider sustainability when carrying out impact assessments for particular schemes. She also informed us that in future Ofgem's forward planning must show how it will implement the new strategy and policy statement and that it must report annually on how it is contributing to the delivery of the Government's policy outcomes. The Minister further explained that the Bill seeks to remove social and environmental guidance provision because it has,

"not achieved coherence between the Government's energy strategy and the regulatory regime".—[*Official Report*, 6/11/13; col. 263.]

She explained that it would be replaced by a strategy and policy statement setting out the Government's strategic priorities. She emphasised that Ofgem must have regard to strategic priorities and carry out its functions in the way that it considers best calculated to deliver the policy outcomes, and argued that this would be a stronger obligation on Ofgem than existed in current guidance.

The Minister undertook to write a letter to me and place a copy in the Library of the House setting out precisely how the Government will satisfy themselves that Ofgem will pay due regard to the effect on the environment of activity connected with the conveyance of gas through pipes or the generation, transmission and distribution of supply of electricity, including what measures, benchmarks and associated matters will be taken into account and used in establishing those benchmarks. The Minister has indeed written to me and the letter is in the Library, and I am grateful for the detailed advice about Ofgem's various duties and responsibilities. However, I am afraid that her letter failed to establish how social and environmental safeguards would be implemented, not weakened, by the Bill.

We seem to be in a circular argument. As I explained in some detail on Report, the strategic priorities set out in the Ofgem policy statement are functions to which the principal objective and general duty is applied. This duty is to be found in Section 4AA of the Gas Act 1986, with equivalent provisions in the Electricity Act 1989. These provisions make it clear that the principal objective is to protect the interests of existing and future customers of electricity and, wherever appropriate, to promote competition. They are not about social and environmental considerations.

Furthermore, the Bill has been set out in such a way that, should the Secretary of State decide to issue social and environmental guidance in future, it would be subordinate to Ofgem's commercial responsibilities. I have taken into account counsel's advice that the reality will be that if the Bill is enacted as the Government propose, the explicit responsibility to issue social and environmental guidance will disappear. There is nothing in the Minister's letter that indicates how it will be replaced. To be crystal clear about this, it is not a requirement that the strategy and policy statement should cover social and environmental issues, which it should if the present level of protection is not to be significantly weakened. My own views remain unchanged: Ofgem's social and environmental responsibilities will be weakened by this legislation. If that is not the Government's intention, there should be a clear statement in the Bill that the Secretary of State will indeed provide social and environmental guidance to the regulator in the strategy and policy statement. This small amendment would achieve that.

Even at this stage, I ask the Government to think very carefully about this and ask themselves: where is the vision? What does the word "sustainability" really mean? What sort of environment do we want to be living in, in future? What of the incalculable psychological and emotional value of landscape and its contribution to national well-being? If the Government recognise the quadlemma to which my noble friend referred and wish to address it, what are they actually doing to avoid the gradual destruction of the natural environment in their pursuit of energy goals? If current policy is anything to go by—it all seems to be about streamlining development—the answer seems to be not a lot. In short, it seems to be the Government's express intent to remove environmental safeguards in the quest for growth. I beg to move.

Viscount Ridley (Con): My Lords, I support the noble Lord, Lord Judd, in his amendment. I declare my interests as listed in the register.

I have only one minor correction to make. It is very important to draw attention to the fourth leg of the quadlemma, but we should really be calling it a tetralemma if we are going to be consistent in Greek. It is important that the concerns that the noble Lord has raised, which are vital to communities all over the country, about the desecration of landscapes that is being visited on them should be taken seriously. I look forward very much to what I hope will be a reassuring reply from the Minister.

Lord Jenkin of Roding: One thing which seemed to be missing from the letter to which the noble Lord, Lord Judd, referred was the role of the Environment Agency. I have raised this before. There are two separate agencies. There is Ofgem, as the regulator, and then there is the Environment Agency, which has some very specific responsibilities in this direction. When my noble friend replies to the debate, I hope she will put this in context.

I totally understand the point that has been made by the noble Lord, Lord Judd. I will not use the Latin, but the trouble is that what you put into one list automatically excludes anything else. That is a canon of legal construction. My noble friend has made it very clear that when there was a list of people who would be looked after socially—the disabled and chronically sick, those of pensionable age, those on low incomes and those residing in rural areas—that should not be taken as implying that regard might not be had to the interests of other types of consumer. That statement was made by the Minister, obviously on advice, so that I think the social thing is all right, but I accept the point that my noble friend Lord Ridley

has made. We need to make sure that the environment is properly protected, but I had always understood that that was primarily the responsibility of the Environment Agency and other similar organisations. I hope that my noble friend can put this into context.

4.45 pm

Baroness Whitaker (Lab): My Lords, I, too, would like to record briefly my support for my noble friend's amendment. The Minister's letter is helpful, although I received it in a very roundabout way, but I do not think it goes far enough. There is a lot at stake here. Our environment is precious and is also vulnerable. Unless these safeguards are explicit in the way that my noble friend has drafted I am sure that they will come second to other considerations.

Lord Teverson: My Lords, one of the things that I certainly enjoy when I get up when I am at home is seeing a living countryside rather than the one bathed in aspic, as some of my colleagues sometimes talk about. It is great to see a countryside that is there alive helping to generate the power that we need for this country and for its economy to move forward. It is a great delight to me and to many of my colleagues.

Baroness Worthington: I support my noble friend's amendment. Getting the regulator to incorporate social and environmental factors was a hard-fought battle. It would be a great shame if the passing of this Bill should see us going backwards on that front. I am grateful to the noble Viscount for the correction, although I prefer quadlemma, because we can then talk about the effect that Cuadrilla will have on the quadlemma. I look forward to the Minister's response.

Baroness Verma: My Lords, I thank the noble Lord, Lord Judd, for his amendment and for raising the matter of Ofgem's social and environmental duties. I recognise the importance that the noble Lord and others attach to this. It is recognised in primary legislation, which sets out Ofgem's duties, including those concerned with environmental sustainability and social issues. The noble Lord will be aware that Ofgem has other duties, including its principal objective to protect consumer interests, including their interest in a reduction of greenhouse gases and security of supply, as well as duties to promote efficiency and economy and the need to ensure that energy businesses are able to finance their activities.

The Government recognise that Ofgem's role to a large extent is concerned with identifying what is an appropriate balance between all of those different objectives. This is a case of an independent economic regulator. The Government's principles of economic regulation state that,

"regulatory decisions are taken by the body that has the legitimacy, expertise and capability to arbitrate between the required trade-offs".

In the case of energy, that body is, of course, Ofgem.

We are introducing the strategy and policy statement as a result of the Ofgem review, which concluded that this was necessary to provide more coherence between the Government's strategic energy priorities and the way Ofgem regulates the energy sector. It is crucial, however, that the statement should not undermine independent regulation. The review also concluded that Ofgem should remain responsible for the consideration of trade-offs between economic goals and broader goals, including social and environmental matters. That is why Ofgem will now have additional duties to take into account the contents of the statement when carrying out its own regulatory functions, which will stand alongside its existing duties. As before, Ofgem will be expected to continue to achieve the appropriate balances between its objectives.

The strategy and policy statement will set out the Government's strategic policy and identify policy outcomes which are relevant to what Ofgem should achieve, but it will not specify how Ofgem should act to achieve these outcomes or specify outcomes in a way that would compromise Ofgem's independence. It is not necessary to restate Ofgem's objectives within the strategy and policy statement and it would not be appropriate to include text which could be seen as directing Ofgem on how it should interpret its duties.

I repeat my previous reassurances that we will take social and environmental matters into account when we draft the strategy and policy statement and that there will be opportunities for interested parties to comment on its contents when we consult next year. Both Houses will be able to consider the contents of the statement before it is designated.

My noble friend Lord Jenkin raised the role of the Environment Agency. Ofgem is a regulator of the energy sector and the strategy and policy statement is aimed at achieving coherence between government energy policy and regulatory actions. It is not aimed at doing the work of the Environment Agency which, as my noble friend rightly said, is a duty on that agency.

However, the noble Lord, Lord Judd, and others have raised important points about visual amenity and other environmental concerns. Existing planning and environmental habitat legislation are operating in tandem with national policy guidance on planning matters. This provides the framework to ensure that this is done, and done properly. Environmental impacts are considered at all stages of the planning process, from the development of proposals by applicants, including, for example, through preparation of environmental statements, to consideration by the Planning Inspectorate and final determination and assessment by the Secretary of State. Environmental considerations are also taken into account when government are taking policy-making processes. Key guidance on considering planning for nationally significant infrastructure projects is contained in the national policy statements.

There is a lot already out there for Governments to utilise so, given all those reassurances, I hope that the noble Lord, Lord Judd, feels better reassured and will therefore withdraw his amendment.

Lord Judd: My Lords, as I have said before, I have no doubts whatever about the Minister's good will. What I am concerned about is the muscle that will ensure the objectives for which I have been arguing. I listened carefully to the words of the Minister. I am of course an optimist by nature and I hope that what she said will lead to the right conclusions. I would, however,

[LORD JUDD]
be misleading the House if I did not say that I have a profound sense of foreboding of another grim slide downwards in the character and quality of our countryside. This really is a profoundly serious issue. We shall see what happens but I hope I am allowed to say that I am absolutely confident that if this Government fail to reverse the trend, it will be reversed by the future Labour Government who, after all, will be the heirs to all that fine and imaginative legislation between 1945 and 1951 which enshrined the importance of the countryside in our national profile. I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

Amendment 6

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

6: Before Clause 139, insert the following new Clause—

"Secretary of State able to amend Authority's powers after review

(1) If a formal review of the regulation of competition in the energy industry discloses that the Authority lacks the powers necessary to implement any changes recommended in that review, the Secretary of State may make regulations to amend the Authority's powers so as to enable it to give effect to those changes.

(2) Regulations are to be made by statutory instrument.

(3) An instrument containing regulations which make provision falling within this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."

Lord Jenkin of Roding: My Lords, this amendment is also in the names of my noble friend Lord Roper and the noble Lords, Lord Berkeley and Lord Cameron of Dillington. I am very glad to see the noble Lord, Lord Cameron, back in his place; he sent me the first e-mail from Ethiopia that I have ever received, only a day or two ago. I cannot promise to be quite as brief with this amendment as I was with the previous one that I moved.

The House will remember that on 31 October my noble friend Lady Verma repeated a long Statement about the Government's energy policy, made in the other place by my right honourable friend the Secretary of State for Energy and Climate Change, Ed Davey. Towards the end of that Statement, following an announcement made earlier in another place by the Prime Minister, Mr Davey gave further details of a proposal to set up,

"annual reviews of the state of competition in the energy markets".

He referred to them as "competition assessments", to be undertaken,

"by Ofgem, working closely with the Office of Fair Trading and the",

newly established,

"Competition and Markets Authority, when it comes into being".—[*Official Report*, 31/10/13; col. 1771.]

As noble Lords will be aware, there is now serious public mistrust of the way in which the regulatory system has been working. The recent spate of announcements of, in some cases, swingeing price increases for energy have simply inflamed that mistrust, so there has been a cautious welcome to the announcement. I say "cautious" because I think most people remain to be convinced that these reviews will make any difference in practice. They see that, in place of the more than 20 generating companies which we had before 1997, there are now only six major firms which control 92% of the generating market. They also see what they rightly perceive as the failure of the regulator to get tough with the industry, even to the extent of failing to use its existing powers; there can be no doubt about that—I am glad to see my noble friend on the Front Bench nodding her assent.

Last week the Secretary of State delivered what he called "a tough message" when he spoke to the industry's main trade association, Energy UK. It is a long speech but I will quote just one or two bits of it because it very much reinforces the case for this amendment. Near the beginning of his speech he says:

"Trust between those who supply energy and those who use it is breaking down. You've admitted as much to me. For it is so difficult for people to work out what exactly they are paying for, that they fear the big energy companies are taking them for a ride when bills go up. Fair or not, they look at the big suppliers and they see a reflection of the greed that consumed the banks. So this is a 'Fred the Shred' moment for the industry to avoid the reputational fate of the banks".

That was indeed a very tough message. He went on to make the claim:

"The Government and Ofgem have been acting to open up the market, to increase competition, and put consumers in control of where they get their energy, and how they use it".

I suspect that few people are able to see that that claim has been actually happening.

This is not the time or place to quote more of what I believe was, by any standards, a forceful and effective speech, but I will allow myself one more quote. After making the point that tough and rigorous competition bears down on costs and prices, he referred to the annual competition reviews. He said:

"Competition works. We've seen small suppliers gain substantial business on the back of this year's high price rises. And today's announcement by"—

he mentioned one of the companies—is, he said, another welcome thing. However, he said, this,

"will only work … when there is a relationship of trust between suppliers and consumers".

He went on to talk about the reviews which had been announced.

5 pm

Part of the problem has undoubtedly been that, for whatever reason, Ofgem has failed to use its powers. It is, no doubt, true that both the other bodies—the OFT and the new Competition and Markets Authority—will have further powers. However—and here we come to the amendment—what happens if the reviews throw up abuses with which the regulators do not have the powers to deal? Do we have to wait for primary legislation to provide those additional powers? That is why, in the exchanges that followed the Statement given in this House on 31 October, I asked my noble friend:

"Would it not be wise to take powers now in order to avoid having to introduce fresh primary legislation?".

In her reply, my noble friend started by agreeing:

"The purpose of the review is to enable the regulators, led by Ofgem, to see what needs to happen in order to strengthen competition".

She then ended:

"If they need extra powers, it is for the Government to ensure that we support them by ensuring that those extra powers are put in place". —[*Official Report*, 31/10/13; col. 1775.]

That is quite right. However, she did not answer the question that I had asked, which was: what happens if the extra powers are needed and are not there? Should we not now give the Government power? They could put introduce regulations in the Bill that would give regulators extra power. That would be a considerably better solution than to wait for new legislation that might otherwise be necessary.

My noble friend and I had a brief discussion about this yesterday, and she asked me, "What sort of thing do you have in mind?". Earlier today I drew her attention to the specific recommendations set out last July in a *Which?* report, entitled *The Imbalance of Power*. The report is quite long, but I will quote only two bits of it. It said that,

"we've found little to give consumers confidence that the prices they pay are fair. The structures of the biggest companies raise serious questions of conflicts of interests. Much price setting and trading is hidden away behind closed doors. The volume of trading and the level of competition in the open wholesale markets are low".

Those are pretty swingeing criticisms. One then comes to the report's recommendations, the first of which echoes an amendment that was moved at an earlier stage by the noble Lord, Lord Berkeley:

"Ring-fence supply businesses from generation businesses in vertically integrated companies by requiring a distinct license holder for each business. Which? considers that a natural skewing of incentives exists within the current vertical integration arrangements—reducing the effectiveness of the market to the detriment of consumers. Evidence set out in this report suggests that structures that put supply and generation or production businesses under a single management and governance structure, may impede competition, and so increase … prices".

I do not know whether, if the review threw up a recommendation that something along those lines had to be done, it would be within the existing powers of Ofgem. But I do know that Ofgem does not seem ever to have considered any such thing in practice, so one wonders whether that is because it does not have the power to do it. The other bodies may have some power; I have not attempted to analyse that—but if there are no existing powers to enforce such a change, and if the reviews find that there ought to be such powers, why should we not give the Government the authority now to introduce regulations to create those powers? Why do we have to wait for other primary legislation?

If the Government were to accept the new clause it would do two things. First, it would demonstrate beyond peradventure to the industry that they are deadly serious about strengthening competition in the industry. Secondly, it might begin to rebuild the trust that the Secretary of State has acknowledged has evaporated. I beg to move.

Lord Berkeley (Lab): My Lords, I support this important amendment. The noble Lord, Lord Jenkin, has fully and clearly outlined the reasons behind it. Many of the concerns probably stem from misunderstandings, intentional or not, as to what Ministers, in particular, mean by the word "competition". We hear that word a lot, usually in connection with the price consumers pay for their power, rather than the competition between the generators, or the unfair competition that results from the vertical integration between retail and the generators, which we discussed fully on Report.

The noble Lord, Lord Jenkin, is right to say that trust has broken down. There is a complete lack of transparency, and I do not think that the present structure is fit for purpose. Conflicts of interest seem to abound. I am still surprised that, apparently, Ofgem either does not have the powers or chooses not to use them. It should have done so long ago. Even if there is to be a competition assessment, why do we have to wait for it? Why has it not been done before? However, we are where we are, and as the noble Lord, Lord Jenkin, said, the amendment would be an important addition, as it would avoid several years' delay if primary legislation were required before any action could be taken.

I would go one step further. If the Minister does not accept the amendment I shall suspect that the Government are completely in the pocket of the big six, and do not want it because it would cause trouble. They are more frightened of the lights going out—that is what the big six have said would happen—than they are willing to establish a structure for the industry that will take us forward into the future. I look forward to hearing what the Minister has to say in reply to the amendment.

The Earl of Caithness (Con): My Lords, I must speak against the amendment. My noble friend Lord Jenkin made some very good points about trust and getting more competition. That is absolutely true. However, competition narrowed considerably under the previous Labour Government. The noble Lord, Lord Berkeley, and the noble Baroness, Lady Worthington, have waxed lyrical during our discussions but we ought to recall that the previous Secretary of State for Energy under the Labour Government—Mr Edward Miliband—did absolutely nothing to correct the situation and refused to refer any of the energy companies to the Competition Commission.

My concern is that this amendment is the wrong way to solve the problem highlighted by my noble friend Lord Jenkin because it would take away parliamentary democracy. The amendment refers to,

"a formal review of the regulation of competition".

That formal review could be held at any time. Let us imagine that we have a Government whom none of us in this Chamber likes. If the amendment is passed, they will turn to this new clause and announce that they will carry out a formal review. The formal review will have whatever outcome they want and they can implement its findings without primary legislation. That would take away a hugely important role not just of this House but of the other place.

Lots of little things could be done by secondary legislation. Having been a Minister, I am sure that officials and civil servants have already worked out as many areas as possible that can be dealt with by secondary legislation. However, very significant changes may arise which need to be properly debated in both Houses of Parliament, but which could escape that close scrutiny if this amendment is passed. If a future

[The Earl of Caithness]
Government of whatever persuasion were to use this new clause, I can imagine the row that would erupt in this House and the complaints that would ring around this Chamber that there had been a lack of opportunity for debate, particularly from the noble Lord, Lord Berkeley. We should not put ourselves in that position.

Lord Cameron of Dillington (CB): My Lords, hotfoot from Ethiopia, I rise to support this amendment. Unlike the noble Earl, Lord Caithness, I believe that this is a fallback amendment which cannot in any way harm either the general thrust or the detail of the Government's policy, as spelled out in the Bill. As I said on Report, and the noble Lord, Lord Jenkin, has made amply clear this afternoon, the Secretary of State continually talks the talk about the importance of competition to all parts of the energy industry, yet the Government seem strangely reluctant to walk the walk when it comes to the Bill. I remain rather mystified by that.

I am sure that the noble Lord, Lord Jenkin, will respond to the comments of the noble Earl, Lord Caithness. However, the amendment refers to drafts of instruments being approved by each House of Parliament, so I do not see that the Secretary of State would be denied democratic freedom under the revolutionary scenario that the noble Earl made out. I hope that the unassuming, safety-net nature of the amendment will prove an exception to the Government's reluctance to walk the walk in respect of competition.

Lord Roper: My Lords, this proposed new clause follows up debates we had in Committee and on Report and is, I believe, a matter of considerable importance. I shall therefore listen with great care to what the Minister has to say in reply.

Baroness Worthington: My Lords, here we are at Third Reading debating an issue of such fundamental importance that it merely serves to illustrate the point that, although this Bill is considerable in size and breadth, it fundamentally fails to do what it says it is going to do: that is, reform the market.

Although I am sympathetic to the defence of this amendment that has been put forward, it simply is not enough. It hinges on whether one believes that a review undertaken by Ofgem will deliver anything. On this side of the House, we are absolutely certain that it will not. We have had numerous reviews from Ofgem, and Ofgem has clearly demonstrated that it is not fit for purpose. That is why the Labour Party and the leader of the Opposition have been absolutely crystal clear that under a Labour Government we would have a complete restart of that regulatory body to refocus it on putting the consumer first and bringing genuine competition across the market, not just in supply, tariffs and the consumer-facing parts of the industry, but all the way through the chain. That includes the generation market and the wholesale market, but also, importantly, the regulated aspects of this industry.

5.15 pm

Throughout the passage of the Bill one part of the energy sector has gone almost without mention. That is the regulated aspects of the industry: the distribution network operators and the transmission grid operators. I inform noble Lords that on Friday Ofgem will be issuing a consultation on the business plans of the DNOs. We raised this issue in Committee. They are now extended to eight-year regulated periods. Starting in 2015, they will sign off on a business plan that will last eight years to 2023—just think how many Governments that covers—and that essentially ties the hands of future Governments who want to look at that aspect of industry. It is an important issue because these regulated industries are going to change; they will see changes arising from the Bill. If the Bill does what it says it is going to do, which is to decarbonise and to help us move to a more sophisticated demand-management system through capacity mechanisms, it has significant implications for those regulated aspects of the industry and yet we have heard scarcely a word about that. We have a price review which is completely out of synch, and the business plans have been drawn up before the Bill has even received Royal Assent.

It is evident to me that the regulator is not fit for purpose. I have heard anecdotally that various parts of Ofgem, not the whole thing, have gone completely native and are now merely rubber-stamping what the industry wants. Therefore it is deeply regrettable that we are, at this very late stage, having such a fundamental discussion. It reflects very badly on the Government. This would not even be an issue if the leader of the Opposition had not made it such a political centrepiece of his conference speech, and here we are, several months later, discussing it and still we have no cohesive or comprehensive answer from the Government.

I support the principle behind the amendment, but I fear that it is simply too little, too late. We need a fundamental resetting of the market to rebuild the trust which, it is clear, has been lost. We must look at all aspects of the industry again to ensure that we put the consumer first and, as we strive to meet the many challenges involved in energy policy, that we put the consumer and value for money centre stage as we also seek to achieve the very important aims of keeping the lights on and addressing climate impacts. I am grateful to the noble Lord, Lord Jenkin, for raising this at this time, however it is, as I said, too little, too late. We really need a fundamental review of this, and that can happen only under a new Government.

Baroness Verma: My Lords, I am grateful to my noble friend Lord Jenkin for his amendment and for raising again the important issue of competition. I reassure my noble friend that we are deadly serious about greater competition. Competition is at the heart of the Government's drive to make sure that energy bills are as low as they can possibly be, to ensure that all consumers are getting a fair deal and, as importantly, to build the trust that my noble friend referred to.

In response to the noble Lord, Lord Cameron, we are walking the walk. That is why we have seen a great number of new entrants since 2010. The Government announced in the annual energy statement that Ofgem and the competition authorities— the Office of Fair Trading and the newly created Competition and Markets Authority—will conduct an annual competition assessment of the energy market. The first assessment will be completed by spring 2014. Together, these

independent regulators already have extensive powers to investigate the market and to implement the full range of structural and behavioural remedies to strengthen competition. The statutory framework includes important safeguards to give market participants confidence in a fair and predictable regime. The Government have established the Competition and Markets Authority, which will have strengthened responsibilities and powers and will take on the work of the Competition Commission and a number of responsibilities of the Office of Fair Trading. This will lead to more robust and faster decision-making.

We are strengthening Ofgem's hand through the Bill. The Government are taking powers to enable Ofgem to step in to improve wholesale market liquidity should its reforms be frustrated or delayed, and we are giving statutory backing to Ofgem's retail market reforms. We are also giving Ofgem a new power to compel energy businesses to provide redress to consumers. These measures will further strengthen Ofgem's ability to take effective and timely action to strengthen competition.

I listened carefully to the noble Baroness, Lady Worthington, about the weakness of Ofgem and what her party would do, but Ofgem's inception was under her Government, and they had 17 reviews. They had ample time to reform Ofgem, if they had wanted to. While I keep hearing from the noble Baroness that her party would abolish Ofgem, they have never given us a sound, credible alternative. When she says that the leader of the Opposition has put consumers at the heart of prices, I remind her that the Prime Minister highlighted the need to simplify the many thousands of tariffs that cropped up under the previous Government.

I should say to the noble Lord, Lord Berkeley, that we are not frightened of the big six. That is why Ministers in my department have been having tough, robust conversations with all energy providers to ensure that they understand quite clearly that this Government are determined to ensure the best outcomes for the consumer.

Finally, the strategy and policy statement will give Ofgem clear guidance on the policy outcomes that are to be achieved to implement the Government's strategic energy priorities. The Government stand ready to act in support of the regulators where necessary, as I have already said to my noble friend. We had a constructive conversation yesterday in which I wanted to reassure him that those powers are already there. It is for us to ensure that they are being utilised properly. My noble friend mentioned the *Which?* report on ring-fencing. Ofgem, the Office of Fair Trading and the Competition and Markets Authority will consider all measures that may be necessary in the competition assessment. Together they have far-reaching powers and are able to put in place the full range of remedies, which may include some forms of ring-fencing. It is for the competition authorities to decide what needs to be done, based on evidence. I hope that my noble friend is reassured that the Government are indeed taking this matter very seriously. The regulators have extensive powers to act, which are being strengthened by the creation of the Competition and Markets Authority. I hope that on that basis he is content to withdraw his amendment.

Lord Jenkin of Roding: My Lords, my noble friend has gone quite a long way to reassure me, but I have one or two other questions. However, before I come to them I shall respond to my noble friend Lord Caithness. This amendment simply creates a new power to make regulations that confer powers on the regulator; it does not attempt to say what should be in those regulations. Of course they would be subject to consent by both Houses of Parliament, and I have no doubt that if a significant new power were required, that, too, would have to be subject to an affirmative resolution, or possibly a super-affirmative resolution, in both Houses. I do not see this as being undemocratic and without parliamentary review. The parliamentary review would happen inevitably at each stage. I cannot accept my noble friend's suggestion that this is the wrong answer.

I recognise and am grateful for the support that the amendment has received, even the somewhat doubtful support from the Opposition Front Bench. I can only echo my noble friend on the Front Bench. The Opposition have yet to explain of what this new marvellous—what should we call it?—"restart" of the whole system is to consist of. I believe in building on what we have got and improving it, rather than taking a leap in the dark and making some entirely new start. These reviews that have been announced—I caught wind of them some time before the Prime Minister made his statement in the other place—are a major new effort to get at why competition has not been working largely because of the reduction in the huge number of generators under the previous Government.

I am grateful to those who supported the amendment. I agree that the main purpose of stronger competition is to protect consumers. A recent National Audit Office report looked at the impact of infrastructure investment on consumer bills. Its view was that,

"Government has made no assessment of the overall impact of infrastructure on future bills or whether those bills will be affordable. Therefore government and regulators are taking decisions on behalf of consumers in the absence of full information about the situation for consumers".

This is a worrying report. It points to a considerable shortcoming of not just this Government, but all Governments. It is interesting that its first two recommendations are aimed at the Treasury. The Treasury has to set up the structures whereby consumer interests can be considered during the whole question of the infrastructure investment. I do not think I am being unduly alarmist by pointing out that if there has been neglect of the consumer interest in the consideration of the Government's infrastructure investments, it is not altogether unreasonable to assume that it has also been neglected elsewhere in government, and that this is a wider problem. I do not want to pursue that now except to say that I shall be looking forward to the Government's response to the National Audit Office report.

My noble friend has gone a long way. She referred to the new powers in the Bill. She also referred to the extra powers that may be available to the Office of Fair Trading and the new Competition and Markets Authority. I shall take her at her word that these are the kind of things that could deal with the proposal that has been made by *Which?* about separating out

[Lord Jenkin of Roding]
the vertically integrated forms. She indicated that that could well be part of the process. On that basis, it would be wrong to divide the House. One point on which I do agree with the noble Baroness on the Opposition Front Bench is that this is a very late stage to raise an important issue. It arose out of the Statement that was made on 31 October. That was the first time that we got the details of these reviews. I hope I have not been wasting the time of the House in bringing this forward, but in this circumstance it would not be right to take the opinion of the House. I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

5.30 pm

Clause 139: Power to modify energy supply licences: domestic supply contracts

Amendment 7

Moved by ***Baroness Verma***

7: Clause 139, page 108, line 31, at end insert—

"(f) provision for requiring a licence holder to provide information to domestic customers about the licence holder's costs, or profit, attributable to its domestic supply contracts, which may, in particular, include information about—

(i) particular kinds of those costs, and

(ii) the extent to which domestic customers' costs are attributable to any of those kinds of costs, or to profit;"

Baroness Verma: My Lords, this group of amendments has the effect of giving the Secretary of State the power to require energy suppliers to provide a breakdown of costs to consumers. This includes both information about their costs in supplying domestic customers and costs passed on to domestic consumers through the Government's environmental and social programmes. It also enables the Secretary of State to set out the categories of costs to be included and to determine the frequency with which this information must be provided. I am grateful to my noble friend Lord Forsyth, who sadly is not in his place today, and to other noble Lords who raised this matter on Report. I listened very carefully to the views expressed and the Government have brought forward this amendment in response.

The Government are in complete agreement on the importance of providing clear information on the costs that contribute to consumers' energy bills, including the costs of government policies. Indeed, that is why the Government publish each year a detailed assessment of the impact of our policies in the *Estimated Impacts of Energy and Climate Change Policies on Energy Prices and Bills*. However, I recognise the strength of feeling on this issue and that is why we will now go one step further and ensure that this information is provided directly to consumers. We will be working with consumer groups, including Which? and Consumer Futures, to take this forward. Four of the largest suppliers already provide a breakdown of their costs on consumer bills. As a first step, I will be seeking a voluntary agreement with other suppliers to ensure that they also provide a breakdown of their costs to consumers.

It is right that we should first pursue a voluntary agreement, as this is the quickest and most cost-effective route to getting this information out to consumers. In the event that the Government are unable to reach agreement to a voluntary approach, the Secretary of State will exercise this power. We need to strike a balance between providing sufficient detail on the costs associated with supplying gas and electricity, and significantly increasing suppliers' costs, which would inevitably end up being passed on to consumers.

I will explain the types of costs about which suppliers might be required to provide information. I expect to see costs broken down into the following types of categories: wholesale energy costs, network and distribution costs, costs of complying with government environmental programmes, VAT, operating costs and profit. How suppliers display these costs should be left for them to decide, provided they include these categories. I believe the approach we are taking strikes the right balance by providing transparency to consumers on the costs incurred by suppliers without imposing significant additional burdens. I beg to move.

The Lord Bishop of Chester: My Lords, I welcome this amendment, which began its life, I think, in an interchange between the noble Baroness and me in Grand Committee. She has pretty much supplied everything that I asked for then, and I am very pleased. The only point that I will make now is that the Government rightly want to make it easy for consumers to switch suppliers. That is a good thing and it is very helpful that this information will be made available one way or another on bills. However, it needs to be made available consistently, in the same form, by different suppliers, so that if you are comparing a bill from one supplier with a bill from another, the information is supplied in the same form on each bill. The noble Baroness did not quite make that point in what she said. I hope that she can assure us that these costs will be disclosed—either voluntarily or by the exercise of the power that she is taking—not only transparently but consistently and comparably by different suppliers.

Baroness Maddock (LD): My Lords, I have one question for my noble friend. She talked about making environmental costs clear to customers on their bills. In the past few weeks, we have had lots of discussions about eco and green taxes, and it has become quite clear that the big six, in particular, have sometimes not pointed out to their customers, or admitted in their discussions, that some of those costs are social costs. Everything is in a bit of a state of flux at the moment but, depending on how things work out, it is also important that we are quite accurate on the bills about what is a social cost and what is a so-called green tax. I will also just say that I am very sorry that I was not here for the previous stage of the Bill when the noble Baroness accepted my amendment about the clarity of bills. I hope that the point that was raised by the right reverend Prelate will be covered in the amendment that was passed on Report concerning the clarity of Bills.

Lord Teverson: My Lords, I very much welcome this government amendment. However, I have a concern which is similar to the concern expressed by my

noble friend Lady Maddock about how these numbers are produced. When the price increases came through from the energy companies, a bill that I saw, to family members, bullet-pointed the green energy costs as being at the top of the list, giving the impression that this was the most important thing. We all know that numbers are subjective. Numbers in company accounts are as objective as they can be but they are subject to how things are interpreted to some degree; as we know, for example, in terms of the lack of tax that is paid by some multinational companies. Do the Government have any view about how these numbers should be somehow independently audited or at least be auditable, if we feel that they fall below standard?

Lord Jenkin of Roding: I will just add one point before my noble friend replies. I was very glad to hear her say that she would rather this was done voluntarily, but a back-up power is important to encourage the right response from the industry. I apologise to the right reverend Prelate. I was moving amendments on this subject during proceedings on the last energy Bill but one. Those amendments suggested that we needed to see more detail in the Bill. As other noble Lords have said, one needs to have a very clear view as to what these figures actually mean, which is not always apparent. I get bills with pie charts and other things from British Gas. I have one in front of me, to which I have referred before, from Southern Electric. Many of them try to do their best, but such is the lack of trust now between the public and the industry that the public need to be reassured that the figures actually mean what they say. I look forward to seeing what comes from this but, along with other noble Lords, I very much welcome these amendments.

Viscount Ridley: My Lords, as someone who spoke in favour of the amendment of the noble Lord, Lord Forsyth, on Report, I, too, welcome this amendment and think that it goes in exactly the right direction. I particularly welcome the emphasis on voluntary reporting, which will result in a much more flexible and effective way of finding out exactly what these costs are, and where they are, than if we tried to micromanage it by specifying the details ourselves as hopeless legislators rather than people who know how these things are done.

Lord Grantchester: From these Benches, I am happy to endorse the spirit of the amendments in the interests of consumers and providing them with more information on their bills. These amendments seem more neutral than those proposed on Report in that they do not seek in the Bill to mandate energy suppliers to highlight certain designated costs. The amendments thereby avoid the claim that they are targeting so-called green levies on behalf of one strident viewpoint. I listened carefully to the Minister's words in proposing these amendments and, like the noble Baroness, Lady Maddock, I am not sure that I picked up entirely how the Minister expected costs to be broken down to include the social costs. Can she clarify that in her reply? The impact of different costs, especially the so-called green or environmental costs, should be balanced and it is important how that is portrayed to consumers.

We welcome the consultation that this will enable so that all views can be expressed prior to the introduction of regulations—if any are introduced. However, we are concerned that the transparency of the whole market needs to be enhanced, not simply transparency with respect to the costs of energy supply companies. I refer here to generating costs and transfer pricing within each of the big six power companies, which can make big margins on their generation that would not then show up as the Government may intend.

We remain concerned that these clauses do not go anywhere near far enough. From these Benches, we contend that without proper reform of the market, the data available at any later date are likely to be of severely limited use. At this stage, we are content with the amendments but regard them as highly immaterial to the overall transparency of the market.

Baroness Verma: My Lords, I am extremely grateful to all noble Lords for, by and large, their support for my amendments. I will quickly respond to the right reverend Prelate the Bishop of Chester and to my noble friend Lady Maddock about transparency. The Government and Ofgem both agree that it is important that suppliers are transparent about their costs, including the costs of complying with government environmental and social programmes. One part of the list to which I referred earlier was about complying with greater transparency on those costs. The suppliers would be expected to be able to comply on the cost of delivering government environmental and social programmes. Just to reassure noble Lords, the power enables the Secretary of State to specify the particular kinds of costs that suppliers must refer to, so if we need to get further detail, there is scope to enable that to happen.

I have tried to provide a balance between not overcomplicating the Bill and enabling consumers to be able to look at a bill, see how much their energy is costing them and see whether they are able to get a cheaper deal elsewhere. Providing that information in a way that is clear and easy to understand is what my amendment proposes to do.

Amendment 7 agreed

Amendments 8 to 10
Moved by ***Baroness Verma***

8: Clause 139, page 108, line 47, at end insert—

"(4A) Provision that may be included in a licence by virtue of subsection (2)(d) or (f) may in particular—"

9: Clause 139, page 108, line 49, at end insert—

"( ) make provision about the times at which information is to be provided;"

10: Clause 139, page 109, line 46, after "make" insert "incidental, supplementary or"

Amendments 8 to 10 agreed.

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Clause 145: Fuel poverty

Amendment 11
Moved by ***Lord Whitty***

11: Clause 145, page 113, line 12, leave out "addressing the situation" and insert "reducing the number"

Lord Whitty (Lab): My Lords, in moving this amendment I shall also speak to Amendment 12. I had better declare an interest on this: I am the chair of a small fuel poverty strategy. I do so because the Minister was, I am glad to say, present at the opening of our conference today, which I am very grateful for.

We come now to fuel poverty. I am not quite sure how many "lemmas" we now have in energy policy, whether it is a tetralemma or a quadlemma, but clearly one of the objectives of energy policy must be to rectify the detrimental effects that arise from fuel poverty on some of the poorest in our land. The House will be well aware of how important it is to regard tackling fuel poverty as one of the priority aims of energy policy. There will still be millions of households in severe distress this winter because they cannot heat their homes properly. As a result, there will be millions of pounds of expenditure by the NHS in treatment of cold-related diseases, and sadly there will be some thousands of premature deaths.

Because of this background and because of the inexorable rise in consumer energy prices since about 2004-05—whatever programmes existed then were struggling against a rising trend of prices—the original intentions to eliminate fuel poverty, set down as far back as 2000, were no longer achievable. It was therefore of some concern to many of us that when the first version of this Bill appeared in another place, there was no mention whatever of fuel poverty.

In Committee, the Minister herself produced the provision that attempts to rectify that situation. It was commendable of her to persuade her colleagues that this was necessary, and the Government's commitment in Clause 145 to producing a new strategy for fuel poverty in a maximum of six months' time was broadly welcome—and I still welcome it. However, many of us also considered that more detail was required to make clear the nature of this strategy. As colleagues will remember, a number of more detailed proposals for inclusion in this part of the Bill were considered both in Committee and on Report. The Government rejected all of those, unfortunately, but at least the strategy is there.

5.45 pm

The amendments before us today are much simpler in nature. They simply attempt to clarify what the strategy is about. I would have thought that the Government could simply accept Amendment 11. Clause 145 refers to the intention of the strategy as,

"addressing the situation of persons ... in fuel poverty".

That is pretty neutral. Surely, at a minimum, the proposed strategy should be about either the elimination of fuel poverty or at least the reduction of the numbers of people in fuel poverty. That needs to be reflected in this clause.

I regret having to say this but the reason why it is so important that a reference to a reduction in numbers is included is that there is considerable scepticism out there about the Government's good intentions in this area. The Government started by closing down the only taxpayer scheme designed to improve the energy efficiencies of the dwellings of the fuel poor and, in effect, abandoned targets and sought to redefine the problem. Extreme cynics, some of whom I have met, would say that the main thing that the Government have so far done to "address" fuel poverty in the terms of this clause has been to change the definitions—to statistically manipulate 2 million people out of the figures without anything actually having changed.

There were problems with the old definition, and in my view there are even greater problems with the new one. But whatever the merits of the change in definition, the combination of that with the Government's abolition of previous schemes, the slow and somewhat expensive start of the ECO—which is supposed to address the problem of fuel poverty—plus the lack of a mention in the original version of this Bill, has led to some scepticism about the Government's intentions. I am moving this amendment so that the Government can make their aim clear. This relatively modest amendment is as much in the Government's interest as it is anybody else's. I hope that they will simply accept it and make clear what the intentions of this strategy will be in a few months.

Amendment 12 is also intended to provide clarification. It has always been the case, and is still the case under this Government, that multiple measures are needed to address the problem of fuel poverty. The tariff structures, which were addressed at an earlier stage of the Bill, and income enhancements such as winter fuel payments for pensioners, are also important. Most important of all, however, is the need to improve the energy efficiency of the homes of the fuel poor. That is also important for carbon reduction purposes. However, the need to address energy efficiency in buildings is not mentioned in Clause 145 or anywhere else in the Bill.

When the Government express the strategy in terms of targets in a few months' time, I hope it will be clear that the targets are about energy efficiency improvements as well as the number of fuel poor. If that is the intention then it would be useful to have a reference to energy efficiency in dwellings inserted in Clause 145 to clarify that intention. That is what the second amendment does.

It is in the Government's interest to clarify this, and it will certainly be in the interest of the consultation which they intend to hold on the fuel poverty strategy in a few months' time. I therefore hope that the Government will consider these amendments positively. I beg to move.

Baroness Verma: My Lords, I thank the noble Lord, Lord Whitty, for his amendment. Rightly, he has again highlighted the seriousness of fuel poverty, as he has throughout the debates on this Bill, and I know that on all sides of the House there is a real determination to ensure that the interests of the fuel poor are represented properly. Indeed, earlier today I attended an event with fuel poverty experts to gain a better understanding of how to tackle the problem, at the invitation of the noble Lord, Lord Whitty, for which I am extremely grateful.

The Government are determined to act to ensure that consumers get a good deal and affordable energy bills. Indeed, our analysis suggests that as a result of the electricity market reform measures in this Bill, household electricity bills will be, on average, around 9% lower per year over the period 2016 to 2030 relative

to what they would be if decarbonisation were achieved through existing policy instruments. As such, the impact of EMR will be to reduce fuel poverty compared to what it would have been without these policies in place.

The noble Lord's amendments would set an objective to reduce the number of persons living in fuel poverty and improve the energy efficiency of their dwellings. The Government are intent on tackling fuel poverty at its heart, with improving energy efficiency for fuel-poor households a real priority. We agree that improving the energy efficiency of fuel-poor homes can make a sustained improvement to the situation of households struggling to keep warm and it is therefore the right type of target to aim for. However, the right balance must be struck between what is set out in primary legislation and what is subsequently laid out in regulations, in order to maintain an appropriate use of parliamentary time and the level of government accountability.

Therefore, we have proposed setting out the detail of this objective through secondary legislation because we believe that this strikes the right balance between the certainty of a legislative target and the need for flexibility in the future. We know from Professor Hills's independent review that the way in which we understand the problem can change over time, as well as the best ways of tackling it. Primary legislation is not the appropriate vehicle to set out the detail of the target, given the importance of a nuanced, flexible approach to tackling fuel poverty.

The issue with the current legislation is that there is a very specific target which does not make sense in the context of how we have come to understand the problem of fuel poverty. That is why we have framed the new provisions in the way that we have, to ensure that there is an objective to address fuel poverty but with the detail of that objective set out in secondary legislation. Our proposals ensure that the setting of the target, and any changes to it, will be subject to full parliamentary debate, and the importance of that debate is why we have suggested from the outset that these provisions will be subject to affirmative resolution by both Houses.

Furthermore, from a practical perspective, it would not be sensible to make specific reference to improving the energy efficiency of dwellings, as this could mean that every time the methodology for measuring energy efficiency is updated, the primary legislation would need amending. As this could occur every couple of years, it would not represent a proportionate use of parliamentary time for what would be very technical amendments.

To reflect on what the noble Lord, Lord Whitty, said about the measures we are currently using under ECO, thus far 311,250 energy-efficiency measures have been installed in around 273,000 properties through ECO and the Green Deal, to the end of September. The vast majority have been installed through ECO so we believe that ECO is working. It is reaching out to the very families that I know the noble Lord and I both believe need the greatest assistance.

In summary, I agree with the spirit of the noble Lord's amendments but do not believe that it would be sensible to put this detail in the primary legislation However, since we are agreed on the intention, I hope that my response has reassured the noble Lord and he will withdraw his amendment.

This is the last group to which I will speak, so before I sit down I would like to put on record my thanks to everyone who has played a role in the passage of the Energy Bill through this House. I start by thanking the Lord Speaker and all Deputy Speakers and Deputy Chairmen who have facilitated our proceedings. I also thank all those who have worked behind the scenes: the clerks, *Hansard*, the doorkeepers and the officials from the Ministry of Defence, the Department for Communities and Local Government and the Department for Environment, Food and Rural Affairs who have supported the Government. I add my particular thanks to my officials from DECC, who have worked tirelessly—even to the point of giving up annual leave during the Summer Recess—to be able to provide the information that your Lordships required, which was made possible by the way they performed so heroically during the passage of this Bill.

I also thank all noble Lords who have taken part in our debates for their constructive contributions to the Bill. We have scrutinised it in full and I have no doubt it is leaving us in a better state than it arrived in, thanks to the expertise of this House. We have added new provisions on fuel poverty, access to markets and enabling the level of the small-scale feed-in tariffs threshold to be raised. Thanks to my noble friend Lord Roper and the Delegated Powers and Regulatory Reform Committee, we have also improved the level of scrutiny afforded to the delegated powers in the Bill.

I particularly thank my noble friend Lord Gardiner, who has so ably assisted me at the Dispatch Box, as well as my noble friends Lord Courtown and Lord Teverson, who have assisted from the government Benches.

I am also extremely grateful to all members of the House of Lords informal scrutiny group on the Energy Bill, which first convened for pre-legislative scrutiny and has continued its most helpful and appropriately challenging scrutiny in parallel to the Bill's passage. I particularly thank the noble Lord, Lord Oxburgh, who I do not see in his place, for his long-standing chairmanship of this group.

We have not agreed on everything but I am grateful for the broad support there has been for the intentions of this Bill. As I am sure noble Lords will agree, it is now important that the Bill proceeds to Royal Assent as swiftly as possible in order to secure the investment that is vital for growth, jobs and the decarbonisation of our economy.

Lord Whitty: My Lords, I echo the noble Baroness's sentiments in relation to the passage of this Bill. Although, apart from the Minister herself, we are now discouraged from making lengthy speeches at Third Reading, I would like to underline her thanks to her staff, because they have been extraordinarily helpful to other Members of this House. The meetings we have had under the auspices of the noble Lord, Lord Oxburgh, and the noble Baroness have been extremely helpful.

As the noble Baroness says, we have not always agreed. We do not entirely agree on this clause. Some of what she addressed in her reply related to earlier

[LORD WHITTY]
discussions we had on Report. I am not trying to specify targets in any detail; I am saying simply that the fuel poverty strategy should be about reducing the number of fuel poor, including by improving the energy efficiency of their homes. I would have thought that was pretty incontestable and really should have been reflected in this Bill.

I will not pursue this tonight but I will just say to the noble Baroness that because of when this was introduced, the other place has not actually considered the fuel poverty dimensions of this Bill. I rather suspect that her colleagues in the House of Commons will have some lengthy discussions on this and, in the light of that prospect, I will withdraw my amendment tonight. I reiterate my thanks to the Minister and her staff for the conduct of the whole passage of this Bill.

Amendment 11 withdrawn.

Amendment 12 not moved.

Amendment 13

Moved by ***Baroness Stowell of Beeston***

13: After Clause 149, insert the following new Clause—

"Smoke and carbon monoxide alarms

(1) The Secretary of State may by regulations make provision imposing duties on a relevant landlord of residential premises in England for the purposes of ensuring that, during any period when the premises are occupied under a tenancy—

(a) the premises are equipped with a required alarm (or required alarms), and

(b) checks are made by or on behalf of the landlord in accordance with the regulations to ensure that any such alarm remains in proper working order.

(2) "Required alarm" means—

(a) a smoke alarm, or

(b) a carbon monoxide alarm,

that meets the appropriate standard.

(3) Regulations may include provision about—

(a) the interpretation of terms used in subsections (1) and (2);

(b) the enforcement of any duty imposed by regulations.

(4) Provision made by virtue of subsection (3)(b) may in particular—

(a) confer functions on local housing authorities in England;

(b) require a landlord who contravenes any such duty to pay a financial penalty.

(5) Provision about penalties made by virtue of subsection (4)(b) includes provision—

(a) about the procedure to be followed in imposing penalties;

(b) about the amount of penalties;

(c) conferring rights of appeal against penalties;

(d) for the enforcement of penalties;

(e) about the application of sums paid by way of penalties (and such provision may permit or require the payment of sums into the Consolidated Fund).

(6) Regulations may—

(a) include incidental, supplementary and consequential provision;

(b) make transitory or transitional provision or savings;

(c) make different provision for different cases or circumstances or for different purposes;

(d) make provision subject to exceptions.

(7) Consequential provision made by virtue of subsection (6)(a) may amend, repeal or revoke any provision made by or under an Act.

(8) Regulations are to be made by statutory instrument.

(9) An instrument containing regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(10) Subject to provision contained in regulations, in this section—

"the appropriate standard", in relation to a smoke alarm or a carbon monoxide alarm, means the standard (if any) that is specified in, or determined under, regulations;

"local housing authority" has the meaning given in section 261(2) of the Housing Act 2004;

"premises" includes land, buildings, moveable structures, vehicles and vessels;

"regulations" means regulations under this section;

"relevant landlord" means a landlord in respect of a tenancy of residential premises in England who is of a description specified in regulations;

"residential premises" means premises all or part of which comprise a dwelling;

"tenancy" includes any lease, licence, sub-lease or sub-tenancy (and "landlord" is to be read accordingly)."

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): My Lords, in moving Amendment 13 I will speak also to Amendments 14 and 15. Before I get to that, though, I will start by paying tribute to the noble Baroness, Lady Finlay of Llandaff, and indeed your Lordships' House, for raising and debating the important matter of carbon monoxide poisoning during the passage of this Bill.

As noble Lords will recall, in Committee the noble Baroness, Lady Finlay, explained the effects of carbon monoxide poisoning and highlighted, as indeed did other noble Lords, some of the recent tragic cases. The noble Baroness tabled an amendment that would have introduced regulations for carbon monoxide detectors in the Bill. We could not accept that amendment but it provoked a debate within government which led me to announce on Report a couple of weeks ago that we would extend our review of private rented accommodation to examine whether landlords should be required to install carbon monoxide detectors.

6 pm

Noble Lords will recall that on Report the noble Baroness tabled an amendment that would have introduced order-making powers on the Secretary of State. During our debate then I was clear that the Government could not commit to regulate in advance of the completion of the review I had announced that day. However, as I could see the merits of having the power in place should the Government decide that regulations are the correct course of action, I agreed to discuss this further with my ministerial colleagues. Having done that, I am pleased to put forward government amendments today and am also pleased that the noble Baroness, Lady Finlay, and others have added their names.

The amendments before us now differ from the one tabled by the noble Baroness, Lady Finlay, on Report in two important respects. First, the government amendments also cover smoke alarms. We decided that it would be sensible to do so given that the arguments around carbon monoxide alarms are very

similar for smoke alarms. Secondly, the amendments apply only to rented housing, whereas the amendment tabled by the noble Baroness, Lady Finlay, would have applied to all properties, including owner-occupied ones. We have restricted the scope of the amendment in this way because tenants in rented homes do not generally have the same degree of control over their homes compared with home owners and may therefore need greater protection. In addition, there is some evidence that privately rented homes represent a greater risk to the safety of occupiers than any other sector.

In tabling these amendments, I make it clear again that the Government remain to be convinced of the need to regulate in this area at this time. However, as I have said, we have decided that it would be prudent to take the necessary powers now. We will now take forward a wide-ranging and fundamental review into property conditions in the private rented sector. The review will consider very carefully the case for requiring landlords to install carbon monoxide alarms and/or smoke alarms in their properties. The review is scheduled to last approximately six months and to conclude in June 2014. As soon as possible following this, the Government will publish a report which will summarise the key findings of the review, set out government conclusions and detail the Government's intended actions following those conclusions.

The first stage of the review will be the publication next month of a discussion document setting out the terms of reference and inviting views on a range of issues. We will also engage widely with interested organisations including landlord associations, housing charities, tenant groups and professional bodies. In addition to considering whether smoke and carbon monoxide alarms should be required in privately rented housing, the review will also look at the minimum standards tenants should expect when renting a property. This will include considering the requirements of the Landlord and Tenant Act 1985, the current licensing system for privately rented housing, current requirements around regular checks of electrical installations in the home and whether there is a need to introduce a compulsory system requiring that such installations are checked regularly. We will also give careful consideration to the possibility of requiring landlords to repay all or part of any rent they have received where they rent out a property that contains serious health hazards or has other major defects.

It is important that we do not prejudge the outcome of the review. The Government are seeking to take these powers now to enable us to move quickly if the review concludes that such alarms should be mandated in this sector. I hope, therefore, that noble Lords feel reassured by what I have said today and are reassured that the Government take this issue very seriously. I am very grateful to noble Lords for their intervention on this important issue which has had a significant impact in raising its profile. I beg to move.

Baroness Finlay of Llandaff (CB): My Lords, I am delighted to add my name to this amendment. This is Carbon Monoxide Awareness Week so the amendment is extremely timely and I am glad the Government have been prudent, and prudent enough to extend it to smoke alarms as well. I am most grateful to the Minister for the time that she has spent with me on this issue and also to the noble Baroness, Lady Verma, in her role as Minister taking this Bill forward. I hope that the Public Health England warning that went out yesterday over fossil fuel and wood-burning stoves for Carbon Monoxide Awareness Week will become a thing of the past. It is important that the cost of a working smoke alarm at European Standard EN 50291, guaranteed for seven years, is put in context. One year's protection costs less than a large cup of coffee at a motorway service area. Some 40 people a year on average lose their lives through carbon monoxide poisoning and about 4,000 people end up in A&E. This is a really important step. I wish that we did not have to take it but I am sure that we will end up needing to have regulations made. I will continue to question the Government as it goes through and I will be watching the review very carefully. In the mean time, I am most grateful and I am sure that the victims' families are also grateful that the Government have listened carefully and acted at a point where they could.

Baroness Maddock: My Lords, I, too, added my name to this amendment and I am very grateful to both Ministers for bringing this forward. Like most people who have campaigned on this issue over the years, it began with a personal experience. My first experience was in a private home where a room had been made in a roof and there were fumes as the builder had not properly sealed the chimney. I hope that at some point we can look also at homes other than rented ones.

My experience was 20 years ago and over those 20 years a number of groups and individuals have campaigned on this. During the passage of this Bill, we got the old familiar answer that, "It is not our department". I am very grateful to the Minister because she did not stop it there and the noble Baroness, Lady Finlay, and I had a very productive meeting with her and her officials—she took on board that we really ought to sort this out. It must be somebody's responsibility somewhere. I had hoped that there might be some regulations somewhere that we could add this on to but that is not exactly what has happened. I also raised it with my right honourable friend Ed Davey, the Secretary of State at DECC, and he took this seriously as well, so I know that a lot of work has gone on to bring this forward.

I, too, thank the Minister for the amazing access we have had and the information that we have all been party to through the passage of the Bill through this House. As other noble Lords have said, we always make legislation better when it comes here. We have certainly done that and I thank the Minister for bringing forward the fuel poverty strategy. We know that it is not perfect but we are really grateful as it was not there before. As the noble Baroness, Lady Finlay, said, on behalf of all those who have campaigned about the unnecessary deaths from this silent killer, carbon monoxide, we thank everybody who has brought forward these amendments today. However, like the noble Baroness, Lady Finlay, I shall be watching what happens in future because the dreaded word "may" is in the Bill; it is not "must".

6.15 pm

Lord Grantchester: My Lords, we, too, thank the Minister for joining with the energy department to bring forward this sensible amendment which, if implemented, will undoubtedly save lives. We also thank the noble Baroness, Lady Finlay, and other noble Lords, including my noble friend Lord Harrison who cannot be in his place today, who have campaigned strongly on the issue. Deaths from carbon monoxide and from fire are avoidable. These alarms are cheap to buy and fix and must be among the most efficient life-saving devices ever on the market. It must also be stressed that there can be no substitute for regular maintenance. I am glad to see that element also included in the amendment.

While welcoming the consultation to capture views on how the measure may be taken forward as part of a wider review, our only concern is that the Government may not bring forward the necessary regulations despite the undoubted value of these devices, which could save hundreds of lives a year. Will the Minister tell the House when the review announced on 16 October will report? We see no reason to hold up this welcome measure unnecessarily while the review looks at a number of other, quite unrelated issues. We therefore urge the Government to move with some haste on this measure, so saving tenants across the country from the risk of death either from fire or from carbon monoxide poisoning.

Baroness Stowell of Beeston: I am grateful to all noble Lords who have spoken and for their support for these government amendments. I share the views expressed by my noble friend Lady Maddock and the noble Baroness, Lady Finlay, on the work that my noble friend Lady Verma has done in this area. It was she who responded to the debates in Committee and ensured that there was the greater collaboration across government departments that led to the announcement that I made on Report. We have worked together on this, but the amendment was triggered by her response to the debates that took place in Committee.

I do not think that there is a great deal more for me to add to the points that I made when moving the amendment. I am grateful to the noble Lord, Lord Grantchester, for his support for the amendment. As I said in my opening remarks, the review that the measure forms part of will conclude next June. We will be as swift as possible in making public our conclusions in response to that review. As I have said and as I have demonstrated today, if the outcome of that review is a decision that we should regulate, we now have in place the order-making powers that would make that possible. The noble Lord urged us to go further, but as I said when we discussed this matter at the previous stage, his own Government conducted a comprehensive review of this area only in 2009 and concluded that they should limit regulations to just the installation of solid-fuel appliances. I accept his challenge and the pressure he puts on me to make sure that we go further, but we are doing this by way of review because we think that it is the right thing to do. I am quite confident that, by conducting a comprehensive review, we will be able clearly to demonstrate that our conclusions are evidence-based and well informed.

Amendment 13 agreed.

Clause 154: Extent

Amendment 14

Moved by ***Baroness Stowell of Beeston***

14: Clause 154, page 122, line 6, leave out "Section 145 extends" and insert "Sections 145 and (Smoke and carbon monoxide alarms) extend"

Amendment 14 agreed.

In the Title

Amendment 15

Moved by ***Baroness Stowell of Beeston***

15: In the Title, line 12, after "State;" insert "about smoke and carbon monoxide alarms;"

Amendment 15 agreed.

Bill passed and returned to the Commons with amendments.

High Speed Rail (Preparation) Bill

Second Reading (and remaining stages)

6.14 pm

Moved by ***Baroness Kramer***

That the Bill be read a second time.

The Minister of State, Department for Transport (Baroness Kramer) (LD): My Lords, I open this Second Reading by reminding this House why so many of your Lordships across the political divide have given their support to a high-speed rail network. The noble Lord, Lord Faulkner, has said:

"There you have the essential case for building High Speed 2—not as a separate line, physically and operationally away from the current railway, but as a crucial part of a reshaped and improved national network".—[*Official Report*, 24/10/13; col. 1226.]

The noble Lord, Lord Greaves, from the Liberal Democrat Benches, who is not in his place but was involved in the previous debate, said:

"It will herald a new era for railways in Britain, and it will form a vital part of bringing together the different parts of England and closing the regional divide".—[*Official Report*, 24/10/13; col. 1221.]

The noble Lord, Lord Heseltine, who sends his apologies because he is committed to a speech tonight, said:

"HS2 is about our country's competitiveness for half a century or more. It is about so many more people sharing growth that has, for too long, been concentrated on London and the south-east. It's all about drawing together our economy as a whole as well as improving our access to the enlarged, and enlarging, home market of Europe".

Of course, there are opponents of high-speed rail and specifically of HS2. I respect them; they raise real challenges; and I shall address those challenges today.

The Bill before your Lordships is a paving Bill. Mercifully, it is simple and clear. It grants the Secretary of State authority to incur expenditure, which must be also approved by the Treasury. It describes the route as publicly committed, but allows for future extensions as well as connections to the wider network. It requires an annual report to be made to Parliament for all expenditure incurred, including any variation from

budget. It requires reporting on those receiving vocational qualifications as a consequence of the project, and, of course, it is a money Bill. Each phase of HS2 and any future extensions will require a separate hybrid Bill without which construction cannot begin. That will be the opportunity to debate and scrutinise the route in detail and the manner in which the project will be delivered.

There are three key arguments for HS2 and the high-speed rail network that this Bill presages: capacity, connectivity and growth. In Britain, we are running out of capacity on our most important north-south routes. Demand for intercity rail travel has doubled in the past 15 years. By the mid-2020s, the west coast main line, our main rail line connecting London, the Midlands and the north, will be full. That is calculated on very modest figures for passenger growth: 2.2% a year. I should note that for the past decade demand has grown at 4.4% a year or more. Already in 2011, during the morning peak, 4,000 people were standing on arrival into Euston and 5,000 people were standing on arrival into Birmingham. It is close to impossible to get train paths for new services on the west coast main line.

We need a high-capacity answer, and that is HS2. It gives us 18 trains an hour in each direction when complete, each carrying up to 1,100 passengers. By taking long-distance travellers off the existing lines, it releases space on the west coast, east coast and midland main lines to be used for much needed regional and commuter services. Network Rail estimates that more than 100 cities and towns could benefit from the released capacity. It also releases essential capacity for freight: demand for rail freight is forecast to double by 2043, and there is not the capacity to carry it.

I am, of course, aware that many have proposed alternatives: upgrades to our existing lines to provide that capacity. Many of the ideas are interesting—in fact, some will probably be implemented—but they leave us with two problems. The first is scale. Including every reasonable alternative, we can achieve a 24% increase in capacity. HS2 gives us a 105% increase. It is a complete step change.

The second problem is disruption. As upgrades mean working on active lines in daily use, we have to resort to closure for much of the work. This House will have seen the Atkins report showing 14 years of weekend closures, and that is with an aggressive work programme of two simultaneous schemes on each route at any one time. It would frankly be a nightmare.

HS2 also transform connections across Britain. It will link eight of our 10 largest cities. It links up great cities of the north and the Midlands. Just as important as cutting times from London to Birmingham and Manchester, HS2 takes more than an hour off the journeys between Birmingham and Newcastle, York and Leeds. It will be integrated with the nation's main airports, with stations directly serving Manchester and Birmingham and short connections to Heathrow via Crossrail and to East Midlands Airport from Toton station. It is this new connectivity that provides a spur to growth, and it is the reason why the great northern cities are so supportive of HS2.

My noble friend Lord Deighton and the HS2 taskforce are looking at ways to maximise the growth benefits of the line. The great cities are doing exactly that without prompting. They can see the opportunity to rebalance the economy of the Midlands and the north. The economic analysis shows them gaining double the benefits of the south.

The national gain is £15 billion a year by 2037. Construction and its supply chain alone will provide 19,000 jobs. The Core Cities group predicts that HS2 will underpin the delivery of 400,000 jobs, and 70% of the jobs created by HS2 are expected to be outside London. HS2 will be an opportunity to build a British supply chain, as discussed previously in this House, with skilled jobs for our young people—a supply chain and skill set that will support not just this project but British industry at home and abroad in future infrastructure markets. Of course not every part of the UK benefits from HS2. It benefits more the areas that it physically reaches. However, so does every transport infrastructure project past, present and future; that is a characteristic of infrastructure.

That brings me to the cost. The budget for HS2 is £42.6 billion. That is an upper limit with a contingency of £14.4 billion. Rolling stock will be another £7.5 billion. This means a benefit-cost ratio of 2.3, which is frankly remarkable for a large project, especially given the limitations of a formula that caps passenger demand three years after phase 2 is finished. Sir David Higgins, the new chairman of HS2, has been instructed to bear down on those costs, and he has said that he can and will do so. The noble Lord, Lord Heseltine, recently reminded us that part of those costs can be picked by up the private sector rather than the taxpayer. That is the intention of the Government and will be part of plans going forward.

I remind your Lordships that while the sums for HS2 are large, they are only part of the transport spending budget. In the next Parliament we will spend £73 billion on transport, only £17 billion of which is for HS2. We are tripling the national roads budget and adding 400 extra lane miles of motorway. We are tackling 195 local pinch points to break up jams. We are delivering the biggest rail modernisation programme for generations, with more than £9 billion of government funding for major rail projects, including a new £500 million rail link from the West Country to Heathrow, an 850-mile national programme of rail electrification, Crossrail and Thameslink in London and more than £900 million in flexible funding for smaller schemes.

However, infrastructure on this scale always has some negative impact, and I understand the anguish of those who cherish the countryside along the proposed route. That is why 70% of surface lines between London and the West Midlands will be insulated by cuttings, landscaping and fencing. We are at present consulting at present on property compensation, another issue that is often raised in this House. An exceptional hardship scheme is already in place. The Government have said that they intend to be fair but generous, going beyond the requirements of the law. I urge noble Lords with an interest in this area to respond to that consultation before it closes on 4 December. The detailed environmental statement for phase 1 will be

[Baroness Kramer]
laid alongside the hybrid Bill. It will be the largest environmental impact assessment ever undertaken in the UK.

We have the opportunity today to support a Bill that takes Britain into the future. We cannot opt again for make do and mend, relying on an exhausted Victorian system for our vital rail transport. Doubters have always decried new infrastructure projects, from the M25 to the Jubilee line to HS1 to Crossrail, but we will build HS2 responsibly and within budget. I ask your Lordships across all parties to join in this commitment to a modern rail network that can support our ambitions for growth and our economy. I beg to move.

6.25 pm

Lord Adonis (Lab): My Lords, this is my first opportunity in the House to congratulate the noble Baroness, Lady Kramer, on her appointment as Transport Minister. I do so very warmly.

The previous Government started work on what became HS2 five years ago. In March 2010 we published the Command Paper that set out the case for HS2, together with the detailed route plan from London to Birmingham and the outline plan to extend the line from Birmingham to Manchester, Derby, Nottingham, Sheffield and Leeds, linking to the existing main lines to Liverpool, Newcastle, Glasgow and Edinburgh. HS2 transforms connections between London and the major cities of the Midlands and the north in the spirit of the great Victorian pioneers who built the main lines from the 1830s—starting with Robert Stephenson's London & Birmingham Railway—upon which we still depend today.

It was always clear to me that without cross-party agreement and a fixity of national purpose to rise above short-term party politics, HS2 would never happen. HS2 through to Manchester and Leeds is a 20-year project. The golden rule of high-speed rail is that while everyone wants the stations, no one wants the line. From the outset of planning HS2, I therefore consulted with the Conservatives and the Liberal Democrats, and the Cabinet agreed to publish the Command Paper in 2010 only on the basis of their support. I am glad to say that the coalition Government have maintained this cross-party approach and very largely stuck to the 2010 plan for HS2. We may disagree on other areas of transport policy—for example, I am proud that East Coast is doing such a good job for the public as a state company and believe that it ought to be allowed to continue as such—but on HS2 I acknowledge the constructive role played by the Prime Minister, the Secretary of State and other Ministers in keeping this a national project, not a party project. This approach is fully reciprocated by my right honourable friend the Leader of the Opposition.

I also applaud the decision to appoint Sir David Higgins as chair of HS2. The biggest infrastructure project in Europe needs the best infrastructure manager available. Sir David Higgins, fresh from delivering the 2012 Olympics on time and on budget, is the very best. As with all major infrastructure projects, HS2 has experienced some teething problems. Sir David must get a firm grip on management and costs at HS2, including the recent increase in the total projected cost from £32 billion to £42 billion—an increase largely due to a sudden, and in my view hard to justify, decision by the Treasury to impose an extra £6 billion of contingency reserve on the project, taking the contingency reserve alone to £14 billion. HS2 cannot be "at any price" and this represents a 50% contingency on the costed design of £28 billion. We look to Sir David to review these costs and to stress-test the figures with some urgency. I was glad to hear what the noble Baroness said about that. I know that Sir David will also take to heart the good advice on project costs and management from the noble Lord, Lord Heseltine, in his excellent lecture on HS2 to the Royal Town Planning Institute last week.

I will say a few things about the history of HS2. There have been claims that the 2010 Command Paper was not a thorough analysis, that I and others were kidnapped by rail fanatics who bamboozled us into mortgaging the Exchequer simply to cut half an hour off the journey time from London to Birmingham, and that the whole project has had to be relaunched on the basis of capacity rather than speed. None of this is correct. Capacity is and always has been the central argument for HS2. The 2010 Command Paper could not have been clearer. It set out the previous Government's intention to proceed with HS2 in these words:

> "The Government's assessment is that over the next 20 to 30 years the UK will require a step-change in transport capacity between its largest and most productive conurbations, both facilitating and responding to long-term economic growth … alongside such additional capacity"—

I stress those words—

> "there are real benefits for the economy and for passengers from improving journey times and hence the connectivity of the UK".

So, capacity first, with speed and connectivity significant additional benefits. That was the argument for HS2 in 2010, it is the argument in 2013 and, if we see this through, it will be the argument on its completion in 2033—and no doubt on HS2's centenary in 2133—because capacity is the fundamental problem, solved for a generation and more by HS2. It is a problem that, if not solved, will mean that in just 10 years' time we will have to start closing the north-south intercity railway to new business, which would be a betrayal of the future prosperity of this country, given that HS2 connects the five principal cities and conurbations of the UK.

The facts on capacity are compelling. Long-distance rail demand has doubled in the past 16 years alone; the trend growth rate is 5% a year, consistently ahead of economic growth, as other modes of intercity transport such as motorways and domestic aviation become saturated or simply unavailable, and as railway services steadily improve.

Furthermore, HS2 does not just meet rising demand for intercity travel; by freeing up substantial capacity on the existing lines, it also provides a huge capacity boost for freight trains and for commuter and regional passenger services. Rail freight volumes have increased by more than 50% in the past 20 years and continue to grow fast. Moving freight from road to rail is a national imperative, placing a special pressure on the west coast main line, which gets most of the relief from the additional capacity of HS2 since 43% of all rail freight

movements in the country use it to get from the ports to the nation's major goods distribution centres in the Midlands.

As for commuter rail, demand has also increased sharply over the past 20 years, particularly into the biggest cities served by HS2—London, Birmingham, Manchester, Sheffield and Leeds—because the big cities are the national dynamos of population and employment growth, and they will continue to be so as the UK's population increases by a projected 11 million people in the next two decades. Here, again, HS2 is an essential congestion-buster, to the benefit of dozens of towns and cities in and around the major corporations. Coventry, Wakefield, Bradford, Stockport, Leicester, Peterborough, Stevenage, Bedford, St Albans, Cambridge, Milton Keynes—the list of beneficiaries goes on.

The question before Parliament and the country is this: if not HS2, what? Given that we are not going to be building new intercity motorways or encouraging more domestic aviation—nor should we—the only alternative to HS2 for dealing with the capacity crunch is massive further upgrades of the existing Victorian main lines. This would be very expensive and destructive and yield only a fraction of the capacity and other benefits of HS2. You do not need a crystal ball to appreciate this reality. It is only five years since the most recent upgrade of the west coast main line was completed; it cost £9 billion and entailed a decade of constant chronic disruption, at weekends and often on weekdays too, without services or with severe delays and diversions. Upgrading a busy main-line railway is like conducting open-heart surgery on a moving patient—horrendous for all concerned.

The 2010 Command Paper estimated that to achieve two-thirds of the capacity of HS2 by conventional line upgrades, just for London to Birmingham, would cost more in cash terms than HS2. In practice, though, many of those proposed upgrades, like four-tracking the Chiltern line, are simply unattainable. If I was in any doubt about that, I have been seriously disabused by the large number of your Lordships who live in the Chilterns and rightly treasure it, and who have given me freely the benefit of their advice on these matters.

The present Government have since identified a more credible upgrade alternative from London to Birmingham, Manchester and Leeds, which is set out in chapter 6 of the strategic case document that was published last month. The key points about the upgrade alternative are these. First, the upgrade is projected to cost £19 billion. That is nearly half the cost of HS2 but the capacity increase would be less than one-quarter—so half the cost for one-quarter of the capacity.

Secondly, that increase in capacity would be insufficient by the late 2020s even to keep pace with the lower of the growth projections for intercity traffic set out in the Government's strategic assessments. So in all likelihood we would complete the upgrades of the existing lines, spending £19 billion, only to be faced with the prospect of either carrying out yet more expensive upgrades to the existing main lines or, at that stage in the 2020s, of embarking on HS2. That would be an even more expensive repeat of the situation that we now face in taking forward HS2, having already spent £9 billion on the most recent upgrade of the west coast main line when we might have done better to have started HS2 15 years ago.

Thirdly, the £19 billion price tag for the upgrade alternative does not take into account the chronic disruption of the upgrades in question—the open-heart surgery on the moving patient that I just described. Look at the description of these upgrades and you will see that to undertake them would require, as the Minister said, the equivalent of 14 years of continuous line closures every weekend. Furthermore, the list of projects involved in the £19 billion upgrade alternative, with its 14 years of disruption, is colossal, to say the least: a new 30-mile stretch of tunnel and surface line to get the east coast main line out of King's Cross, avoiding a series of acute existing bottlenecks including the Welwyn viaduct; the rebuilding of most of the major stations on all three of the main lines going north from Euston, St Pancras and King's Cross, including those three termini, to accommodate more platforms and longer trains; and four-tracking a lot of two-track sections of line, including in urban areas. The idea that this would be an easy alternative to HS2, let alone a cheap one, is wishful thinking, to put it mildly.

It is true that putting the £19 billion upgrade option through the Treasury's benefit/cost ratio methodology produces a somewhat, but not much, higher ratio figure than comes out for HS2, but from my experience of major transport projects I would always be cautious about the value of benefit/cost ratios because they involve so many artificial assumptions. The M25, the Victoria line and the Jubilee line extension all had low benefit/cost ratios and faced a deeply hostile Treasury, but which of those do we now think it would be a good idea to close? All three of them have recently been upgraded to deal with congestion.

Much has been made by the critics of HS2 of the value given in the benefit/cost ratio to the benefit of time saved by business travellers, as if they were not able to work on trains. Equally artificial, though, and far more significant in its impact on the BCR for HS2, is the fact that the benefit/cost methodology caps traffic growth projections in 2036, only three years after the opening of HS2, on the grounds that further growth thereafter is too speculative. Do any of your Lordships seriously think that traffic will stop growing in 2036? Brunel did not build the Great Western Railway on the assumption that there would be no traffic growth after 1870—thank goodness, otherwise the GWR would have been built single-track. He might even have been told by a Treasury economist that upgrading the canals offered better value for money. Nor did we build the M25 thinking that traffic would stop growing in 1995, which would have been an equivalent assumption. What is needed here is a dose of common sense plus a grasp of history, which shows that in Britain, with our historic aversion to major infrastructure investment, we have consistently underestimated the value of better transport links serving our major population and economic centres.

I have a few other points to make. Faster journey times, although not a principal reason for HS2, are a considerable benefit that cannot but be advantageous

[Lord Adonis]
to the unity of Britain and the strength of its economy. As HS2 proceeds further north, the time savings become steadily greater: an hour off every journey between London and Manchester, Sheffield and Leeds. Journeys will be further shortened by the proposed interchange between HS2 and the new Crossrail line at Old Oak Common, just west of Paddington. This will give an 11-minute connection direct to Heathrow and fast underground trains direct to the West End, the City and Docklands without going via Euston and its congested Victoria and Northern lines. This could be a rare British example of joining up two major traffic infrastructure projects at the point of conception.

The second point is that the notion peddled even by some reputable commentators that bringing northern and Midland cities closer to London will suck the lifeblood out of them is utterly farcical. If it were true that modern transport connections between great economic centres were a negative factor, we should close existing motorways and intercity rail lines because Manchester, Birmingham, Sheffield and Leeds would be better off without them, prospering in splendid isolation.

The third point is that HS2 not only dramatically improves connections between these cities and London but between the cities themselves, as the noble Baroness said. This is a crucial part of the connectivity improvement brought about by HS2. The Victorian railway companies built mostly separate main lines from provincial cities to London, which is why rail links between most of our provincial cities remain terrible. Birmingham and Manchester are only 67 miles apart, yet the rail journey takes one and a half hours. It is 40 minutes by HS2.

Fourthly, while I do not think that just because most other developed countries do things we should follow suit, I believe that when a technology has proved successful elsewhere we should take note. Almost every developed country with an economic geography similar to ours has over the past generation built high-speed rail to link their major cities. Japan started in 1964 with Tokyo to Osaka, about the distance from London to Glasgow. Since then, France, Italy, Germany, Spain, the Netherlands, Belgium, South Korea and Taiwan have all followed suit. China is constructing more high-speed rail than the rest of the world combined, and the United States is building its first line from LA to San Francisco—two major cities also about the same distance apart as London and Glasgow.

In conclusion, I am not aware of a single country that has introduced high-speed rail between its major cities and now thinks it was a mistake. They know that high-speed rail is integral to building a modern economy and a modern society. I believe it will be the same here in Britain, so we should get on with HS2.

6.42 pm

Lord Bradshaw (LD): My Lords, I warmly endorse the words of the noble Lord, Lord Adonis. I do so having managed all four lines out of London towards Edinburgh and Birmingham, including via Marylebone. They are now full. When I managed them there was about half the amount of traffic that there is now and very little capacity has been added since then. The noble Lord mentioned the upgrade on the London to Birmingham line but, in fact, it has not produced much in the way of new track; it simply patched up what was there before.

I am quite convinced of the need for a new line north of London. The problem is that, whichever way you go, it is going to upset somebody. There is not a way you can build a line without building it through areas that will be badly affected. It is therefore extremely important that the compensation arrangements, to which my noble friend Lady Kramer referred, are fair and the environmental impact is measured carefully. This is going to be the case because, while I agree that during construction there will be damage to the environment—there is bound to be as there is on any construction site—once the work is done, the countryside can get back almost to where it was. The wildlife and flowers will return—whatever you value will return—as a railway does not interfere with the area around it in the same way that a road does.

As the noble Lord, Lord Adonis, said, there is a strong management team in place, probably the best person possible is now in the lead on this. He will not need any lessons from us on the questions of delivery, keeping costs under control, and generally driving the scheme forward. The idea has been put about by some of the opponents that once you have the high-speed line, other places which formerly had a train service to London will lose theirs, so somehow Coventry and Rugby, to name two places, will suddenly lapse back into having poor quality services. That is most unlikely to be the case, because the case will exist to provide good services on those lines and there is no reason why the providers should not seek to meet that demand, under any structure you might imagine.

People have also said that there will be cuts elsewhere and I have heard some very depressing stories about the draining of so much away from Cambridge and Bristol. That is nothing to do with the argument and there is no reason to suppose that it will draw the lifeblood out of anywhere, but particularly places such as Cambridge, which is one of the strongest economic growth areas in the country.

I do not think any town or city will be worse off. I do not think we are suddenly going to stop spending money on the railway as there are very good plans to do so. I accept that there is objection from people in the Chilterns that deserves mitigating as far as possible. Of course, they will have the opportunity, as the hybrid Bill goes through both Houses, to make their case twice if they want. At the same time, it will be up to us to ensure that the matter is handled as sensitively as it can be handled, through what we all know are very sensitive landscapes. I am pleased to speak in support of the Bill.

6.46 pm

Lord Freeman (Con): My Lords, I am a strong supporter of the project for HS2. I am sure that those on the government Benches will welcome the fact that the noble Baroness, Lady Kramer, is the Minister is charge. She will bring her reasonableness, calmness and courtesy to the progress of the Bill through your Lordships' House, which gives me a great deal of comfort.

I find myself in some difficulty regarding the speech of the noble Lord, Lord Adonis, as I agreed with everything he said, which will make my contribution understandably brief. I speak with modest experience as the Transport Minister responsible for the day to day planning and then construction of HS1. There are very few lessons to be learnt about the strategic need for HS1, because it was about speed through the Channel Tunnel. At two hours and 15 minutes between Paris and London, it beats the alternative of flying from Heathrow if you are coming from central London. It has been an unqualified success, in my judgment, and we can learn some lessons for HS2, to which I shall briefly refer at the conclusion to my remarks.

The noble Baroness, Lady Kramer, and the noble Lord, Lord Adonis, referred to the fact that we are nearing capacity on certain sections of existing railways. I am going to refer briefly to the west coast main line. Without proceeding with this Bill, in 25 or 30 years' time, we will have a shambles of a national railway system. We have to upgrade the capacity. My noble friend Lord Heseltine, whom I served, is absolutely right to focus on capacity as one of the key arguments for this line. It is estimated that up to £20 billion is required to upgrade the west coast main line. I hope that figure is right; it is certainly that order of magnitude. Upgrading that line, as opposed to HS2, would create absolute mayhem for many weekends over many years and deliver only about half the benefits.

I will make one or two points about the alternative of trying to upgrade the west coast main line. Your Lordships might be interested to know that, at present, in the final peak hour for passengers coming into and out of Euston on the west coast main line, on average there are 120 passengers on board each train for every 100 seats. There is already a capacity problem. If we look forward to the 2020s without an HS2, the mind boggles.

I know that my noble friend Lord Bradshaw is particularly concerned about freight, as I am, too. HS2 will do a great deal for freight, particularly by taking it off the M1 and the M6. Creating more capacity at the southern end of the existing west coast main line by moving that passenger traffic onto the high-speed line will, I am told, deliver 20 extra daily freight paths on to the line. I see my noble friend Lord Bradshaw nodding, so I must be right. There will be relief for freight traffic on the M1 and the M6. Without HS2, that freight traffic can only increase. I am told that the order of magnitude is of half a million lorry journeys coming off the motorways per annum. That is what will occur if we not only proceed with this legislation but build HS2.

The noble Lord, Lord Adonis, referred to three other advantages of HS2 which relate directly to capacity: the link to HS1, so that one could travel from Birmingham to Paris directly through Old Oak Common; the link with Crossrail, which will certainly help with congestion in central London; and ultimately, if Heathrow is to remain as our key airport, the link to Heathrow.

I strongly support this Bill and when we come to the hybrid Bill—I look forward to that being introduced as quickly as possible—I am sure that the Government and the Minister will pay great attention to the legitimate concerns of those affected. The one lesson I learnt from HS1 is that it will be better to be reasonable, which will often mean some money as compensation, to get HS2 built. I hope that we can be reasonable, constructive and sympathetic.

6.52 pm

Lord Stevenson of Balmacara (Lab): My Lords, I declare an interest as a resident of Little Missenden, a small village in the centre of the Chilterns. I live in the village and have done for nearly 20 years. The proposed route currently goes close, but not that close, to the village, and it is tunnelled in the immediate environment of Little Missenden, but that does not stop me having concerns about the way in which the programme has been developed. I thank the noble Baroness, Lady Kramer, for her eloquent introduction of this paving Bill and I particularly thank the noble Lord, Lord Bradshaw, for his concern about the Chilterns, which I listened to with great interest. That is in fact what I will talk about in my brief address.

Much time has been spent in your Lordships' House recently on the *National Planning Policy Framework*. In its section on conserving and enhancing the natural environment, it says:

"The planning system should contribute to and enhance the natural and local environment";

and it gives some examples, the first of which is by,

"protecting and enhancing valued landscapes".

Later it says:

"In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment. Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this Framework".

It continues:

"Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty ... Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest ... planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss … Planning permission should … identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason".

There is clearly a tension here between conservation and what may be claimed by those who support the proposed route for HS2 to be in the public interest. For example, the Woodland Trust has demonstrated that the Government's preferred routes for both phases of the HS2 scheme will cause loss or damage to at least 67 irreplaceable ancient woods. When the Secretary of State—who was in his place a few minutes ago—announced the preferred route for phase 2 of HS2, he said:

"The scheme would avoid any national parks or areas of outstanding natural beauty".

So, the Chilterns AONB is now the only AONB along the entire HS2 phase 1 or phase 2 routes that is adversely impacted by the proposed project. Actually, it will be destroyed as the present tunnel erupts into an ancient monument and an ancient wood bang in the middle of the AONB.

[Lord Stevenson of Balmacara]

The draft environmental statement consultation published on 16 May accepts that a tunnel through the Chilterns AONB would perform better on environmental grounds when compared with the current HS2 Chilterns tunnel option. It accepted that it would also reduce operational noise impacts and, for certain locations, would result in reduced construction impact. In other words, it seems to meet many of the concerns expressed in the national planning framework. It is feasible in engineering terms and would fully protect the only unique area of outstanding natural beauty on the HS2 route; meet local concerns without damaging the overall objectives of the HS2 project; avoid major surface construction at 10 sites in the AONB and the loss of ancient woodland and the Grim's Ditch ancient monument; and is supported by all the local councils and action groups within the AONB.

The designation of the protected landscape of the Chilterns AONB rests on the unique characteristics of its landscape. The design of the Government's proposed scheme takes no account of the designated landscape of the Chilterns AONB or the protective provisions of Part IV of the Countryside and Rights of Way Act 2000. Conserve the Chilterns and Countryside has commissioned a study into the practicalities of extending the tunnel from the proposed current termination point to the boundary in Wendover. This study was published in October 2012 and HS2 Ltd was asked to comment on it. The conclusion it reached was that such a tunnel extension was a practical engineering solution, but it declined to pursue it because it is of the opinion that it will cost more than the published scheme.

However, there are other factors to be taken into account here—factors that have so far been ignored but which need to be debated. The analysis undertaken to date has shown that the published scheme affects 60 square kilometres of the Chilterns AONB; the tunnel extension through the Chilterns would affect six square kilometres. The published scheme would result in the loss of 13 historic sites; the tunnel extension would affect one. The published scheme removes 9.2 hectares of ancient woodland; the tunnel extension affects none. With the published scheme, approximately 250 hectares of agricultural land would be lost but under the tunnel extension only 20 hectares would be lost. From the figures that I have given, your Lordships can see that there are other factors to be taken into account. Analysis of these further indicates that the proposed scheme will incur environmental and other costs of the order of £500 million to £750 million, which is about twice the additional cost of building the tunnel extension.

Given the duty of the Government under Section 85 of the Countryside and Rights of Way Act 2000 to,

"have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty",

the scale of any cost differential between the published scheme and the proposed tunnel extension has to be balanced against the incalculable loss of an AONB—the only one on the line, and the one nearest to London.

In his speech last Tuesday, which has already been referred to, the noble Lord, Lord Heseltine, recalled his long interest in regeneration. He gave the example of Canary Wharf, where he recalled that he had appealed over the heads of his senior Cabinet colleagues—perhaps the noble Lord, Lord Freeman, was one of those—the Permanent Secretary of his department and all the leaders of the London boroughs to the Prime Minister who, he said, "backed me". Perhaps he should have added "on this occasion". He also recalled that another Prime Minister backed him against the Department of Transport when he,

"argued for HS1 and the regeneration of Stratford against British Rail's preference for the Channel Tunnel to hit the buffers at Waterloo and exclude the rest of the UK".

The noble Lord's example of the late change of route imposed on HS1 is instructive. In truth, there ought to have been a lot to learn from that episode. HS2 appears to have ignored many of the principles established by HS1. The lower design speed of 300 kilometres per hour allows the line to be twinned with the M2 and M20 motorways through Kent. It used existing major transport corridors. HS1 crosses the Kent AONB at its narrowest point. The published route for HS2 crosses the Chilterns at its widest point. As the noble Lord, Lord Heseltine, pointed out, bringing the main terminus out of London to Stratford brought much needed regeneration to the East End and paved the way for the Olympics. What would be the analogy for HS2, and why is the noble Lord not suggesting that at this time?

While I do not agree with everything that the noble Lord says in his speech, he does echo the recent Armitt report's call for us to do our infrastructure planning differently in future, although appealing over the heads of one's colleagues is probably not what Armitt had in mind. The reality is that the Government will not get their hybrid Bill for phase 1 of HS2 through in this Parliament. Given that the public interest would be better served if the proposals could be evaluated in the context of a fully developed infrastructure plan and a national planning framework of the type outlined in the recent report by Sir John Armitt, why not pause—which seems to be the vogue—the process now? There would then be time to engage in a proper cross-party debate and take a fresh look at HS2 to help the Government build in greater connectivity, sustainability and flexibility, and also help meet local concerns without damaging the overall national objectives of the HS2 project.

7.01 pm

Lord Rodgers of Quarry Bank (LD): My Lords, the Secretary of State for Transport says that what he calls the "north-south railway",

"is one of the most potentially beneficial, but also challenging infrastructure projects on the planet".

Again, and all too often, "on the planet" is an example of pointless hyperbole. However, he also says:

"The case for the new line rests on the capacity and connectivity it will provide".

Capacity is a lot more down to earth than the glamour of speed or the need to show France, Germany, Italy, Spain, Japan and China that we can do better. I would have been well disposed towards the speech of the noble Lord, Lord Stevenson, but I regret that there has been no provision for an ad hoc Select Committee

of the House to examine HS2. If this is such a challenging project, the procedures of the House should have allowed time ahead of today's Second Reading.

Last month, there were at least two new *HS2 Engine for Growth* documents. The origin of *The Economic Case for HS2* is not clear. The second document is called *The Strategic Case for HS2*. It has a ministerial foreword, which I mentioned earlier. However, it has no command paper reference. Is it a White Paper, like the other reports on HS2 that we had in January 2012 and January 2013? I would be grateful to know its status in order to keep track of the burgeoning HS2 literature.

Chapter 7 of *The Strategic Case for HS2* is fascinating about governance. Paragraph 7.2.19 refers to,

"processes for project cost control of Phase One".

It goes on to state:

"This oversight regime includes a dedicated High Speed Rail Board which has representation from HMT and IUK which oversees the overall HS2 programme and reports progress to DfT's Senior Board and to Ministers".

Then, in paragraph 7.2.27 it states:

"It is unlikely that a project as complex as HS2 could be delivered simply by one organisation being given sole responsibility for implementing it … Therefore an important consideration is how best to align roles of different bodies".

Finally, it says:

"The structure of how HS2 will be delivered requires careful analysis and consideration, and consequently a joint group led by DfT and including HMT, IUK and HS2 Ltd is undertaking options analysis to consider what is the most appropriate structure for the delivery of HS2".

I find all this breathtakingly obscure.

The Secretary of State has appointed Sir David Higgins as chair of HS2 Ltd, with eight other members of the board, but it can hardly be claimed that this is an independent board. A clearer, simpler governance and managing structure should have been established well ahead of today's Second Reading. When I was Secretary of State for Transport many years ago, I had responsibility for four nationalised industries, including British Rail. I took the view that I should have an arm's-length relationship with the excellent chairman, Sir Peter Parker. It worked well, with only a little constructive tension. It is crucial to have a clear, agreed responsibility for HS2 Ltd and a transparent relationship between the Secretary of State and the chairman of HS2 Ltd. I hope that my noble friend will reassure me on these matters. I would be grateful if my noble friend would remind us whether MPs and Members of this House will have direct access to the chairman of HS2 Ltd or access only through Ministers.

I make a further point related to funding and financing set out in paragraphs 9.7 to 9.11 in Command Paper 8508 of January this year. Paragraph 9.7 states that,

"the Government is engaging with third parties to secure funding contributions towards HS2".

Paragraph 9.8 states that it will,

"examine the potential for private financing to reduce the up-front capital demand on the taxpayer and offer value for money".

My noble friend Lady Kramer made an important contribution to discussions on the disastrous outcome of the maintenance and upgrading of the London Underground a dozen years ago. Referring to the stability of public-private partnership, she said that any joint venture involved high risk. As Minister, my noble friend has only just inherited HS2 and cannot be held responsible for any shortcomings hitherto. However, I hope that she can confirm today that no planning arrangements will involve joint ventures in the spirit of public-private partnerships such as Metronet.

I have spoken about the governance of HS2 because it is crucial to the project's success or failure and to avoid any major delay or significant additional cost. In turn, it is related to the concerns expressed earlier today by the noble Lord, Lord Stevenson, and, on 24 October, by my noble friend Lord Bradshaw and the noble Lord, Lord Berkeley, who referred to the loss of more than 2,000 properties in the London Borough of Camden. As speed rather than capacity is no longer the principal case for HS2, it must follow that HS2 Ltd is now free to take rather longer to reach its destination. On the face of it there should be scope for more flexibility and choice, thus easing the problems in the countryside and at the London end of the line—if, for instance, taking 20 minutes longer than the White Paper's route is more acceptable. I hope that my noble friend will reflect on that option.

There is a separate specific question, the answer to which I cannot find in the HS2 papers, although that may be my fault. What proportion of all travellers—or customers—on High Speed 2 will be business travellers? Whatever the answer, what has been put into the calculations of the increased use of video conferences, Skype and other emerging internet facilities? Busy business people do not want to travel, even on faster trains, if they are able to work in the office or at home by using the latest technology.

It is said that High Speed 2 will bring the north and the south together, leading to living standards rising disproportionately in deprived areas, or where the population is declining, or in areas of high and persistent unemployment. For many years I have spoken in both Houses and elsewhere about economic geography and the two nations. I was born and brought up in the north-west, in Liverpool, and for 20 years I was a Member of Parliament in the north-east, for Stockton-on-Tees. In the light of the outstanding contributions from noble Lords today, in particular the opening speeches, I wish I could believe that High Speed 2 would contribute to major regional benefits. However, I remain deeply sceptical.

7.11 pm

Lord Berkeley (Lab): My Lords, it gives me great pleasure to support this High Speed 2 Bill. I congratulate the noble Baroness on the way she introduced it and, of course, my noble friend Lord Adonis on his very full and fascinating description and arguments in favour of it. It is great that we now have all-party support for this project. I declare an interest as chairman of the Rail Freight Group.

As several noble Lords have very kindly said about rail freight, it is forecast to double over 20 years. We have discussed that, and passenger increase, in previous debates. Therefore I see High Speed 2, certainly in phase 1 and continuing into phase 2, as in effect adding two more tracks to the west coast main line in a way that will not obstruct or close it while it is being

[LORD BERKELEY]

built. I think that the noble Lord, Lord Freeman, said that he expected that if we did not have this, there would be a shambles in 20 to 30 years. I believe that it will be closer to 10 years.

As part of the preparations, the freight industry is discussing the capacity with HS2. Noble Lords will understand that when phase 1 gets to somewhere around Lichfield, where it joins the west coast main line, you have lots of different train services going onto the west coast main line, which happens to go into a short section of two tracks that go through Shugborough Tunnel. We have had very useful discussions with Network Rail and HS2 about where all these trains will go when seven extra High Speed 2 trains in phase 1 join the residual services on the west coast main line—although "residual" is not the right word, because they are very important services. As noble Lords have said, there is no intention to reduce those services provided to people who are not on High Speed 2. If you add to that the increase in freight, you have a problem. Network Rail is working with the industry on what to do about that problem, but it will still be there in 10 years' time. Whether it involves diversions, more night working or whatever, that challenge will happen now.

As I have said here previously, if it does not go by rail, it will go by road, and do we want another three-lane motorway somewhere? I think that the answer, as my noble friend said earlier, is that we do not. Therefore we have to find solutions to the capacity problem. It is a problem mainly on the west coast main line, and funnily enough, it is not just near Lichfield and thereabouts, but will happen north of Crewe as well, because there are sections of two-track there when you go over Shap towards Carlisle. The network needs looking at in a 20-year horizon so that the demands of freight and passenger—not just up the line but across it and parallel to it—are met. It is good that it has begun, and we shall probably have to have quite a few debates about the detail of this when one gets to the hybrid Bill and the Select Committees to see what answers and commitments can be made. However, in many ways that is a good challenge to have.

I was struck by comments from my noble friend Lord Adonis and the noble Lord, Lord Bradshaw, and others about the appraisals. It is absolutely crazy to say that that the growth will stop three years after phase 2 opens. That is rather like the announcement last week by either the Treasury or maybe the Department for Transport that the forecasts are that the growth of cycling in London will suddenly stop in 2015 and will thereafter decrease. Leaving aside the terrible run of accidents in the past week or two, what evidence is there that the growth in cycling in London over the past 10 years, which has been pretty surprising and gratifying for me, will suddenly tail off? It is probably something to do with the fact that they do not want to spend any more money on it. We need a review of the whole appraisal methodology. Maybe the noble Lord, Lord Deighton, is the person to lead that. The whole structure is not fit for purpose. Having arguments about what the cost-benefit ratio on a project the size of HS2 is is a pretty good waste of time, but still, we have to do it.

The noble Lord, Lord Stevenson, spoke about environmental issues, particularly in the Chilterns, and about AONB and woodlands; I do not think that he mentioned bats, but they will come in. I was involved in a way with the construction of HS1 and had many dealings with the noble Lord, Lord Freeman, when he was Minister. He certainly tried very hard and very successfully to deal with the objections of some of the people who lived along that route. One person said, "You are destroying the garden of England". In three years' time, after the line was opened and the trees had grown up a bit, he told me that it had not made any difference to his life at all. The construction will be hard, but we have to be careful about overreacting to what will, I hope, be a temporary and well managed construction phrase. When it is built, it will not be particularly serious. This makes me worry about how one balances the concerns of people against environmental concerns. As the noble Lord, Lord Jenkin, said, 2,700 properties in Camden are affected against 100 in the Chilterns. How do we balance those? Are the Chiltern people more important, or is the environment more important? That is a very difficult judgment to make, although I am sure somebody will make it. However, we have to be careful that we do not overreact. I say this as someone who was brought up in Great Missenden; I know it very well.

I have had lots of letters from people about objections. Some say that this is about capacity, others that it is about speed, while others argue about the economy. However, let us just look at what has happened to Lille and Lyon in France, which were two of the first provincial cities in France to be connected to the high-speed network. The city of Lille paid a lot of extra money to get the station in the middle of Lille rather than having the line go round the outside, as originally planned. The two cities are completely transformed. To say that such a line pulls economic benefit away from such cities to the centre is all wrong. It will help. Even outside cities such as Lille—up to 20, 30 and 40 kilometres away—there are benefits. We should look and see what has happened there.

We should also reflect on the fact that the first high-speed line in France, to Lyon, was built as a means of providing more capacity; it was nothing to do with speed. It is a virtually straight line from Paris to Lyon, which goes through very sparsely populated countryside, and it has done so well in the 20 or 30 years that it has been open that they have had to replace all the track already and have signalled it so that, I believe, it can now take a train every two minutes, because the demand is increasing. That will probably go on.

The track is very steep and undulating. I remember taking some Members of Parliament there when I worked for Eurotunnel, and they drove a train; we were allowed to drive the trains in those days. It was great fun, although people normally got a bit seasick in the front. It was also very exciting, and it still is exciting—and it just shows what the demand really could be.

To conclude, I shall say a word or two about connectivity. A lot of people have said that the HS2 line is not connected, but I think the Government are right not to specify what services will be operated in

10 or 20 years' time. The links are there. They are linking into the west coast main line. They are going to link to Manchester, to the west coast north, to Leeds and everything. In the south, Old Oak Common, as some noble Lords have said, is a wonderful interchange.

I have concerns about some of the connections in London. The noble Lord, Lord Bradshaw, and I are coming up with an alternative idea that, we hope, will reduce the demolition around Euston and provide better connectivity. I also have concerns about the station in Birmingham and the lack of connectivity on to Wolverhampton, because people will not save much time if they have to walk for 15 minutes between the new station and Birmingham Snow Hill to go on to Wolverhampton.

However, these are small details. The key issue is how to get the connectivity between these new services and the existing ones and city centres. We have problems in many station termini in London: Victoria, Paddington and Euston all get very congested in the rush hour, particularly on the underground. Connecting some of the west coast main line suburban trains into Old Oak Common and directly into Crossrail will save an enormous number of passengers from going into the underground at peak times.

Those are the kinds of issues that need to be discussed because HS2 is part of a network, and I hope that HS2 trains will go to many different parts of the north and west on electrified lines. That will provide enormous benefits in capacity. The speed will help in some places, but the important thing is capacity, because if we do not have the capacity we will be really lost. We have to get on with this as quickly as we can. I do not believe that doubling or quadrupling the great central or the midland main line will be enough. Just imagine the hassle in High Wycombe and Princes Risborough if we had to demolish half the houses there and build four tracks. The midland main line will probably have to be reconstructed as four tracks, as it used to be, in addition to HS2, within 10 or 20 years anyway. This is the kind of growth we are looking at. We have to get on with this project. It has been well thought out. I am sure that there are still some improvements that can be made, but I end by asking the Minister this question, to answer when she winds up: when will the hybrid Bill be published?

7.24 pm

Lord Howard of Rising (Con): My Lords, this country's debt is increasing at a rate in excess of £100 billion a year. I find it hard—almost impossible—to believe that in these circumstances Her Majesty's Government propose to enter into a financial commitment the case for which—I say this in spite of the eloquence that I have heard today—looked at in the very best, kindest and most positive way, is weak. Looked at in any normal way, HS2 is, frankly, insane. No sane businessman, dealing with his own money, would dream of making an investment based on the criteria being used to justify HS2.

Granted, the economy is improving, so that by the time bills have to be paid the financial position might be better, but the country will still have a burden of £1 trillion of public debt to deal with. There is no certainty about what the project will cost. I do not think anyone knows. In 2008 the cost was estimated to be £17 billion, in 2010 the estimate had increased to £30 billion, in 2012 it was up to £33 billion, and this year the figure has increased to £42.6 billion. And that is without counting the cost of the odd £10 billion for rolling stock. For what it is worth, the *Financial Times* has estimated the true cost to be £73 billion. Who knows what the final cost will be? Major Government spending plans have a habit of going over budget distressingly frequently.

Until quite recently the main argument to support this project has been the financial benefit to be gained from faster train journeys, because they would give more time for travellers to get on with their affairs—indeed, 79% of all benefits in the business case for HS2 are attributed to these savings. However, the vast majority of passengers on trains do get on with their business: reading, writing, using laptops and so on. They do not just sit there doing nothing. If the proponents of this Bill had ever sat on an intercity train they would have seen this. As a businessman who has never had a head office, but has had interests all over the country, I have spent many hours travelling; half an hour more or less on a train has never mattered. In practice, travelling time on trains is useful, as it enables one to get on with things, such as writing and reading, without interruption. The other point your Lordships might care to note is that the time-saving calculations assume trains travelling at 140 mph—a speed not yet achieved.

More important is the time spent journeying to and from stations, when it is considerably more difficult to use the time to good effect. In five of the seven main provincial cities to be served by HS2 trains, the line will not even go into main railway stations. In Sheffield, Nottingham and Derby the HS2 station will be 10 miles from the city centre. With the extra time required to get from the station to the final destination, one has to question whether there will be an overall time saving at all: will the journey door to door take just as long with HS2 as it did before?

With increasing recognition of the weakness of the time argument, the justification now being emphasised is the need for the extra capacity that HS2 will provide. How this will happen with, for example, the number of platforms at Euston presently used for existing services being reduced from 18 to 13 is difficult to understand. Figures that became available in December 2012 as a result of a judicial review show that intercity trains on the west coast main line were only 52% full in the evening peak period, and there was still scope to increase the size of trains if necessary. In spite of what the noble Lord, Lord Adonis, said, I believe that if there is a need for spare capacity there are other and considerably cheaper solutions.

The existing line could be upgraded. Claims that this would take 14 years and cost £19 billion have been comprehensively rubbished by a number of different commentators—so much so that the objectivity of the arguments in favour of HS2 must be seriously suspect. In any event, it would take 17 years before both phases of HS2 were complete.

There is also the possibility of opening up the Chiltern Line, another cheaper alternative. We are a trading nation and depend on the trade we do with other countries, be it in services or manufactured

[LORD HOWARD OF RISING]
goods. To be effective we need the best possible communications with the outside world. It beggars belief that Her Majesty's Government are proposing to spend quantities of billions of pounds on a project for which the business case does not even stand the most cursory examination, instead of getting on with increasingly desperately needed airport capacity—something the Minister hardly even mentioned in her long list of money to be spent on transport. Even today there is an article by Sir Martin Sorrell in the newspapers begging for better airport capacity. I urge the Minister to have a look at this side of life as well as the trains.

7.30 pm

Lord Faulkner of Worcester (Lab): My Lords, I hope that the House will forgive me if I do not follow the noble Lord, Lord Howard of Rising, in all the points he made. Needless to say, I disagree with every single one of them. On the question of cost—

Lord Howard of Rising: How flattering.

Lord Faulkner of Worcester: On the question of cost, to which he referred, if he reads the speech by his noble friend Lord Heseltine to the Royal Town Planning Institute, he will find that a number of those issues are addressed and answered very fully. I draw his attention to the fact that the noble Lord, Lord Heseltine, refers to the Government selling a 30-year concession in 2011 for High Speed 1 to a Canadian pension fund for £2.1 billion. I understand that something in the order of £10 billion could be realised for a similar concession on HS2, and there is a great deal more of the same.

I start by thanking the Minister—the noble Baroness, Lady Kramer—for convening the meeting for Peers with her officials last Tuesday. I certainly found it helpful and informative and left the Committee Room hopeful that this Bill and, indeed, the whole High Speed 2 project are in good hands. As we had such an excellent debate on High Speed 2 in your Lordships' House on 24 October, there is no need for me to go over the ground that I covered then. However, I am grateful to the noble Baroness for quoting a sentence from what I said that evening.

The important thing that came out of the debate was a demonstration of the overwhelming need to add capacity to our railways as a consequence of the phenomenal growth in demand for rail transport over the past 20 years. Passenger demand has doubled since 1995. As the noble Lord, Lord Rodgers, is still in his place, I will go back to 1976 and recall a conversation that Sir Peter Parker had with Tony Crosland, who was then Secretary of State for the Environment, which Sir Peter wrote about in his autobiography. He said that he was depressed by Tony Crosland saying to him:

"Peter, I see a future for BR as a smaller, sensible little railway".

Spare capacity was ruthlessly removed throughout the 1970s and 1980s as BR desperately tried to cut costs to meet the financial objectives imposed on it by the Treasury, about which my noble friend Lord Adonis spoke so eloquently earlier. Therefore, it is no wonder that more capacity is needed for the railways now.

Given the gloomy forecasts for passenger and freight demand produced at that time, which were all proved hopelessly wrong within 10 years, I am reminded of the words of the great economist John Kenneth Galbraith, who said:

"The only function of economic forecasting is to make astrology look respectable".

The lesson we should have learnt, post Beeching, is that you must keep your options open, retain the flexibility for future growth and never sell the track bed as it is a resource that must be protected.

At the Minister's meeting on Tuesday I pointed out that the task of building a high-speed railway to the Midlands and the north would have been much easier if previous Labour and Conservative Governments had not closed the Great Central Railway—the last main line to be built in Britain until High Speed 1, and the only main line, until High Speed 1, built to the continental gauge. One of its routes to Rugby, Leicester, Nottingham and Sheffield went straight through the Chilterns, including the towns of Amersham, Great Missenden and Wendover. I am sorry that my noble friend Lord Stevenson is not here to—

Noble Lords: He is here.

Lord Faulkner of Worcester: Oh, he is here. He has moved down to the Front Bench. I expect that a number of your Lordships have been on the receiving end of lobbying from residents of these places. As my noble friend is in his place—I am delighted to see him—I say to him that this lobbying from people in the villages and towns of the Chilterns has to be balanced against the voice of the representatives, from all political parties, of the eight core cities of England outside London: Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle, Nottingham and Sheffield. In their letter to the *Daily Telegraph*, published on 29 May this year, they wrote:

"Research has shown that an over-reliance on the capital city is bad for national economies. England needs these eight core cities to succeed. If these cities performed at the national average, another £1.3 billion would be put into the economy every year. Unlocking growth relies on rebalancing the economy of Britain, which HS2 will help to do, bringing regeneration benefits outside the South East … High-speed rail is not just about fast trains. Increasing capacity on the rail network is critical to our economic future. There is an important relationship between growth, jobs and HS2. High-speed rail is the best way to achieve a more sustainable economic future for the nation as a whole".

Of course, the residents of the Chilterns are entitled to express their views, although I have to say to them that the effectiveness of their lobbying would be enhanced if they wrote individually to us. For last month's debate, the first seven paragraphs of all the e-mails I received were exactly the same, and the same happened with the e-mails sent to me about this debate—all of which, incidentally, got the date of this debate wrong. If you do a little research, you discover that they were all generated through an American company which, according to its website,

"has developed a cloud based service that solves the challenge of email delivery by delivering emails on behalf of companies".

This is not exactly evidence of spontaneous local initiatives on the part of the residents.

However, I would certainly support generous compensation for those affected. As the Minister reminded us last Tuesday, and again this evening, the levels being offered are far greater than those which have been paid—and, as far as I know, continue to be paid—to those affected by highway schemes.

While we are on the subject of the Chilterns and its area of outstanding natural beauty—I know about this, having been brought up, like the noble Lord, Lord Berkeley, in that part of England—is it possible to imagine a more destructive transport project than the construction of the M40 in the 1970s right through the heart of the Chiltern escarpment above the Vale of Aylesbury, known as the Stokenchurch Gap? That was driven through the middle of the Aston Rowant National Nature Reserve, and all pleas to the inspector to put the motorway in a tunnel or follow a different route were ignored. Still active today is the M40 Chiltern Environmental Group, which says on its website that it represents 25,000 people who live along the M40 corridor from junction 3 to junction 8, and say:

"Day and night we all suffer from intolerable noise pollution".

By comparison, the residents of Amersham and Great Missenden are being offered a pretty good deal in terms of compensation and environmental protection. This will be confirmed by the residents of Kent, where HS1, so controversial when proposed 20 years ago, is simply no longer an issue. Indeed, it is hard to hear the trains in Kent because of the noise from the M20.

Make no mistake; if we do not build High Speed 2, we will have few options to meet the demand for transport. One would be to return to the days of the 1970s and 1980s and resume a massive programme of motorway construction. However, we should remember that the width of land required for a dual three-lane motorway is 36 metres, compared with just 22 metres which will be needed for High Speed 2. Over the entire 330-mile route, HS2's land take will be 11.7 square kilometres, compared with 19.1 square kilometres for the equivalent length of motorway.

The other option would be to patch up Victorian railways, even though we know, as we have heard from other speakers tonight, that that will come nowhere near meeting the demand for rail travel after 2020. It is worth remembering that "make do and mend" would inflict on all of us 2,770 weekend closures, endless bus substitutions and increased journey times over 14 years —all for a capacity increase between London and Birmingham of just 53%, compared with High Speed 2's 143%, with no increase in current line speed.

At some point I hope that the whole nation will again take pride in its railways, in the same way as other countries with modern high-speed lines do, such as France, Germany, Italy, Spain, Japan, China and Taiwan. Some of our finest architecture and engineering structures are to be found on our railways. Just consider such icons as Brunel's bridges across the Thames and the Tamar, Robert Stephenson's Royal Border Bridge at Berwick, the fantastic Forth Rail Bridge, wonderful Victorian stations, as fine as our medieval cathedrals, such as Bristol Temple Meads, York, Newcastle, Glasgow Central, and modern treasures such as Manchester Piccadilly, St Pancras and now, again, King's Cross. There is no reason why High Speed 2 should not be in the same league as Brunel's Great Western Railway or Stephenson's London & Birmingham Railway, adding to, not detracting from, the landscape, with soaring viaducts, fine stations and supremely engineered track and alignments. Above all, it is a project that will meet the nation's transport needs in the 21st century.

7.42 pm

Lord Rooker (Lab): My Lords, I ask myself, "Has everything already been said about HS2?", but I think the answer to that is no. I shall just repeat two points that I made on 24 October. The first is that it needs better leadership. The noble Lord, Lord Rodgers, in reading out that paragraph, identified that. I still do not know who is in charge, although I realise that Sir David Higgins will obviously be in charge. The second point is that it is not about a few minutes off journey times.

The Secretary of State made an excellent speech on 11 September at the Institution of Civil Engineers, but the noble Lord, Lord Heseltine, made a much better speech at the Royal Town Planning Institute on 12 November. We could do a lot worse than get the podcast in here tonight, switch it on and go home. The Library provided me with the podcast; it is no good reading it, listen to it. It is electrifying to hear the noble Lord set out the case for HS2.

At this point I need to mention a couple of interests. I do so in particular because the *Register of Lords' Interests* is frequently attacked over a lack of transparency. I can say that I have never discussed HS2 with either the company or other rail operators; I have had no discussion with the roads lobby, the landowners lobby or the airlines lobby; and I have had no discussions with local government, although I have requested written briefings. However, earlier this year, HMG was seeking someone to chair the HS2 planning forum, which is the meetings between HS2 Ltd, the Department of Transport and the local authorities along the proposed route. It was for just a handful of days per year. I offered. I did not get past the first cut and I have never spoken to anybody. I have nothing to register but I am being open and transparent, because the offer is there in the files, so that trouble makers in the future cannot make any mileage out of my position.

Following the sad death of my noble friend Lord Corbett of Castle Vale, I was asked by residents to take on the chair of the partnership board at Castle Vale, which is a very large-scale regeneration project on an estate of 10,000 citizens in my late noble friend's constituency of Birmingham, Erdington. Colleagues will have driven past it. There were 34 tower blocks there at one time; there are now two. The link from the north-south route of HS2 into the centre of Birmingham will traverse the outer perimeter of Castle Vale. It has not been on the agenda of the board to date, although various local representatives have attended consultation meetings. I have not been involved to date, but the Castle Vale partnership board is in the register anyway.

I support the HS2 project. I am not locked into one route or to the starting stations. There will probably be some changes as the thing makes further progress. It has to be straight and cannot stop too often as it has to be fast. Those are a given and I do not see a

[Lord Rooker]
problem with that. A new north-south link, which in my view should reach both Glasgow and Edinburgh, using modern technology, will bring benefit to generations and regions in the UK. Not many of us here today, as the noble Lord, Lord Heseltine, said, will see the benefit, but the crazy way in which the figures are presented is designed to put people off, designed to put supporters off, even. If it is going to benefit generations, why are most of the headline figures less than half a lifetime? It does not make sense. Talk about selling the project short.

My noble friend Lord Adonis in his excellent speech mentioned some of the alternatives. What are they? We could raise the fares; stop people using the railways. Reduce demand—it can be done, but it will not be much good for connectivity, economic productivity and growth. There could be a major expansion of domestic air flights, with extra check-in times, more pollution and a few more local runways. Enough said. We could build more motorways. The road lobby would welcome that. In fact, I wonder how much it is spending on anti-HS2, but I am not making any point about that. Of course, we need to improve the motorway network, junctions and feeder roads, especially on the M40 and the M20, but a major network of new motorways cannot be what the country needs. I have to assume that nobody from the Chilterns ever goes on the M6 north of Birmingham. That road has been 60 feet from the bedrooms of some of my ex-constituents, from 24 May 1972 until today: an elevated section at rooftop level 60 feet from their houses. Think about that for the way people move around the country. It works, but we do not want any more. We do not want a new motorway system. The idea that nobody travels on the existing infrastructure, which does disturb people, is, of course, palpable nonsense.

We could patch and mend the railway. I have not seen the attack on the 2,500 weekends. Basically, it is 14 years of weekend working, as the Minister said, on two out of the three north-south lines at any one time. That is the reality and what is more, it would cost £19 billion to £20 billion and we would not get a great deal from it. None of these alternatives will create the ingredients for regional economic growth and bring the private sector investment on the back of public expenditure which has occurred elsewhere. A new classic rail, the figures say, will cost 9% less than high speed, but high speed rail delivers journey time benefits by a factor of more than 5:1. It is not about journey times but the factor has to be taken into account that HS2, compared to the classic rail, is 5:1.

Not everything has to done at once, which is the impression given by the loose talk of some about the costs. The noble Lord, Lord Heseltine, mentioned that the annual £2 billion on London Crossrail ends as the HS2 annual expenditure of £2 billion starts. The two things merge together, and this benefits the whole country, not just the capital city. That has to be taken into account. Buried deep in the publications on HS2 is the point that we are talking about generations benefiting. Therefore, why cannot we use assumptions beyond the 20 years set out in the main body of the documents? The cost-benefit ratio goes from 1 to 2.3 to 1 to 4.5 if we go to 2040. It is preposterous to say that it will benefit generations and then cut off all the calculations showing how beneficial it will be at half a lifetime. It does not make sense. It may be the way that it has been done in the past by the Department of Transport and the Treasury, but it does not make sense in making the case.

I would like to hear from the Minister about one aspect of the speech of the noble Lord, Lord Heseltine, as I thought that it was the most important point he made. He said that the Government should propose development corporations at points of development on the route in order for the public to recoup some of the planning gains in exactly the same way we did in Docklands. Let us face it, in Docklands four local authorities did nothing for 30 years. That is why Docklands had to be seized into a development corporation to get the planning gain back for the public investment. That is exactly what the noble Lord said we can do along the HS2 route. I would genuinely like to know about that because it has not been referred to elsewhere. We cannot be certain—nothing is fixed about this—but the evidence in Docklands, the Thames Gateway and other areas of public investment, such as in the new city of Milton Keynes, which is doubling in size, is that along with public investment comes private investment to create the jobs and an economic future. We cannot, however, factor that into the calculations, although it is clearly self-evident. The noble Lord, Lord Bradshaw, made that point. The public sector must lead on this project. It is no good saying that the private sector should build HS2; the public sector has to lead but it does not have to do it all. By using our brains we can recoup as much of the extra land values as possible, as we have done in the past.

I hope that with this Bill we can hear the whistle blown for HS2 to leave the station of Whitehall to spread economic and social regeneration throughout the UK. So far, the only whistle I have heard regarding HS2 is the dog whistle blown by some colleagues in Labour's high command, aimed at those living in the Home Counties. Dog-whistle politics are not honest politics in any case. In this case, it happened that the dog whistle was heard in the town hall corridors of the northern cities of this country, and the message came back loud and clear. I hope that we hear no more of the dog whistle.

This is a visionary project on a scale that transcends the Channel Tunnel—although that is unique by definition—and the post-war new towns. It cannot be right, therefore, for any political leader to claim the project for themselves, and the Prime Minister is not doing that. As my noble friend Lord Adonis said, it is to the credit of this Government that they have taken this project forward. This has to be all-party or it will not happen; it is as simple as that. Furthermore, the final decision cannot be left to the financial bean counters because we know that the finance figures are fiddled. The 20-year cut-off helps to destroy the case, so I do not accept it. I reject the scrimping "Britain can't do it" approach. Leaders need to lead and show vision. They should connect public good investment, much of which can be recouped, with the substantial private gains in jobs and economic and social prosperity. A petty, party, tribal approach is to be condemned and

condemned hard and fast to nip it in the bud, otherwise this 20-year project will not get off the ground. I am happy to support the preparation Bill.

7.53 pm

Lord Cormack (Con): That is the sort of rumbustious and splendid speech that we are used to hearing from the noble Lord, Lord Rooker. I am sorry that I cannot entirely follow him or agree with all he said, but he would not expect that. I begin on a congratulatory note—first to my noble friend the Minister, who in 10 minutes presented an argument forcefully, cogently and persuasively. She brings to her task many gifts and qualities from which we will all benefit. I was also delighted to see the Secretary of State sitting on the steps of the Throne during her speech and that of the noble Lord, Lord Adonis. It is far too rare that Cabinet Ministers come and listen to debates in your Lordships' House, and the Secretary of State set a very good example tonight. He is a man for whom I have very considerable respect and affection.

However, even for the Secretary of State I am unwilling easily and willingly to endorse a blank cheque—and that is what the Bill is. There is no limit on the expenditure that the Secretary of State can sanction in preparation for this project. The noble Lord, Lord Adonis, who also made a forceful and powerful speech, would clearly not object to that, but it is a matter for which we should have a care, even though in this House—quite rightly—we do not have the power to send back or amend money Bills. I would not wish to have that power. The unambiguous democratic mandate in this country is at the other end of the Corridor, and long may it remain so. That is why I have always been such a staunch defender of the secondary role of your Lordships' House in these matters.

However, there are things that we have to consider. My noble friend Lord Howard of Rising made some very good points—and, after all, he is a man who has considerable business knowledge and is not alone in voicing his concerns at the prodigal expenditure on this scheme. We have heard many comments from the Institute of Directors and other business men and women who know what they are talking about and do not see this project as the panacea that many in the debate would claim.

Only this morning I had breakfast with one of the most successful British businessmen. It would be wrong to mention his name because I did not tell him that I would do so, but when I said that I was going to speak in this debate and that I would be voicing a degree of opposition to HS2, he warmly encouraged me to do so. He felt that the project was a distortion of priorities and said he did not feel that it would bring the benefits that so many in the debate have claimed. He is clearly not alone. Many in your Lordships' House agree and we heard spirited speeches in the previous debate—in which, sadly, I was unable to take part—from the noble Baroness, Lady Mallalieu, the noble Lord, Lord Mandelson, and others who put a different point of view. After all, we are having a debate and it is important that different points of view should be put.

There is one thing that we do not consider as carefully as we might. This is a finite country. People have been talking this evening about France and Germany, which are enormous European countries on our continent, and have thrown in references to China, which is not exactly a miniscule country. Noble Lords sought to suggest that because those countries depend so much on high-speed rail, given the enormous distances that have to be covered, we should follow suit. I do not think that to have an efficient transport system in this country we need necessarily to follow the suit of other countries that are enormous in extent.

We also have to bear in mind that other priorities should be considered. When I drive from my home in Lincoln to London, I come down the A1. It is a scandal that the main arterial route to the north is not of motorway standard. I agree with the noble Lord, Lord Rooker, and I know spaghetti junction almost as well as he does; for 40 years I represented a seat in Staffordshire, and from the opening of the M6 onwards I used that road weekly—year in, year out. I agree with him that we do not want a lot more motorways, but parts of our road system are wholly inadequate for the needs of our people, and the A1 is one of those roads. A number of things could and should be done, if there is £50 billion going begging, to improve the infrastructure of our country.

We should also have regard to the size of our country when we have a concern for its environment. I have spent a long time in this place and the other seeking to speak up for heritage causes. As long ago as 1976 I wrote a book called *Heritage in Danger*, in which I talked about the threats to our landscape from unthinking development. I well understand why people living near the Chiltern Gap feel as they do about the M40, skilfully as it has been landscaped. Our country is precious. Our countryside, once destroyed, can never be brought back. We must have very real concern about the environmental effects of HS2, particularly in the Chilterns. I was in that area for a couple of days last week when we had our brief break. It is one of the loveliest parts of England. It is not selfish of the noble Lord, Lord Stevenson, or anyone else, to point that out.

Why is the National Trust, our largest environmental charity—four million of our fellow citizens are members—so opposed? Not because its members are nimbys or introspective, but because they are seeking to be protective. This has to be taken into account. We have to look at proportion, and we have to look at balance. If I may say so without sounding insulting, I think that some people who are going over the top for HS2—and I would gently reprimand the noble Lord, Lord Adonis, in that regard—do not pay sufficient attention to the environmental side of things. I have great respect for the noble Lord. He was one of the most successful Ministers in the previous Government, deservedly gaining a fine reputation, and I am glad to see him back in front-line politics. However, I urge him to consider a little. Perhaps I could quote the famous remark of Cromwell that you should,

"think it possible that you may be mistaken".

We can all have that quoted at us, and he would with good cause perhaps want to quote it back at me. However, I say to him as one of those passionately concerned about the beauty of our countryside, which is not only ours but which brings enormous economic gains from the tourists who come here, that it is infinitely precious and should not be easily sacrificed.

[LORD CORMACK]

This is a complex issue. I well understand why people feel that to upgrade our transport we have to build something brand new, but I am not convinced of the argument. We do not pay sufficient regard to those who say that HS2 will possibly suck the life-blood out of some of our other cities and make us more of a London-centric country than we are already—and we are far too London-centric as it is.

These are all points worthy of consideration, and although they are causing infinite amusement to my dear friend, the noble Lord, Lord Snape—Lord Snape of the railways—who is sitting on the Back Bench and grinning like the proverbial Cheshire Cat, nevertheless they are worthy of our regard and our consideration. I hope we can develop some of them as we debate HS2 again, as we certainly shall when the hybrid Bill comes before us.

8.04 pm

Lord Lea of Crondall (Lab): My Lords, in following the noble Lord, Lord Cormack, I doubt very much that he will reflect that he might be mistaken on the basis of the arguments that I will put forward. On two things, he ought to reflect on whether he might have got them wrong. I shall begin with his phrase "a small island". Actually, that is the argument for railways, compared to larger countries. It is undoubtedly the case that as the economy grows, there is a propensity for the coefficient describing how fast passenger miles grow to increase. People have more discretionary expenditure which, as family dispersion proceeds, produces more family passenger miles as well as more business passenger miles, so these extra passenger miles will be generated. There is a positive coefficient in relation to economic growth. No one now flies between Heathrow and Manchester as they used to some time ago, and so the alternatives are much greater congestion on the roads or more capacity on the railways.

Higher speed attracts and is part of the equation. So is the fact that the size of the country is shrinking, if we think of economic geography in terms of how long it takes to get somewhere. We see as a cluster the whole city region of Manchester—where I was born—West Yorkshire, South Yorkshire, East Midlands and West Midlands. It is less than an hour all the way round. I ask the Minister whether the department ought to produce a study of a regional cluster compared with some European and other ideas, because this is a way in which we can learn from each other. I think that the answer will be that we are talking about an economic transformation.

I remember when Alastair Morton, the visionary chief executive of Eurotunnel, described economic geography as the basis of economic development. I am an economist myself. That is what I did for my first few years, and I think that the Channel Tunnel has produced a very interesting answer; namely, that it is very easy now to jump on a train in Paris and be in London or Brussels in two hours, and this is transforming so many things in terms of an economic growth model. So is the regeneration of Kings Cross. Even the Shard is on London Bridge station. Whether we have stations on the edge of cities or not, there will be different patterns of demand which fit.

Heathrow is not in the centre of London, but on the Surrey-Hampshire border where I live, we are part of the Heathrow economy. The noble Lord, Lord Howard of Rising, has got things 180 degrees wrong. There is no contradiction in talking about the need to deal very quickly with 98% of Heathrow's capacity already being full—national scandal that that is—and getting on with HS2. The scandal of not doing HS2 would be very similar to the scandal of not building the two extra runways, which should probably be to the west of the two runways at Heathrow.

I say to the noble Lord, Lord Cormack, that we can learn from the experience of Kent in another way. My noble friend Lord Adonis, who is not in his place at the moment, knows that I convened a meeting about four years ago because I happened to know some of the people in Kent who had been in consultations there. I got the National Association of Local Councils to bring together all the local councils in the Chilterns at a meeting here in the House of Lords to find out about all the stages of the consultation that had been gone through in Kent. The people from Kent confirmed what I think the noble Lord, Lord Berkeley, and others have said, that they had been very satisfied with the experience of the consultation. Although they never became what one might call protagonists, they all agreed that the noise envelope from HS1 is nothing like the noise envelope from the M2 and the M20. Those are the alternatives that we have to look at.

The noble Lord, Lord Howard of Rising, tried to ridicule the idea that £50 billion should be spent on a project of this kind. I do not know what goes on in his mind when he talks about £50 billion being spent on this, as if it is spent on social welfare in some sense, but it is value added in the supply chain in the west Midlands and other parts of Britain. It may well be that we have to look to our laurels to make sure that the tunnel boring machines are not all from ThyssenKrupp or whatever in Germany, but that is a slightly different question, about our industrial capacity. I put a second question to the Minister: has the Business Department joined up in Whitehall, as on Crossrail, to make sure that British industry gets the great share—the lion's share if I may call it that—of the £50 billion that we are looking at? That is the wages, salaries, profits and engineering progress that are entailed.

I can only echo what the noble Lord, Lord Heseltine, of whom I have always been a fan on these matters, said:

"It is 120 years since we built a new railway north of London".

It is a bit of a shock when you say it like that. Why should we not have built another railway north of London for 120 years? It is not as if railways, à la Beeching, are now a thing of the past. Ending—in due course—where I began, the argument is precisely that we are a small island. We should not be frightened of this because we are a small island.

We seem to have the idea that the Victorian era was some sort of golden age. I think Wordsworth wrote a poem about the Ribblehead viaduct or something—these exact arguments took place during Victorian times, even though we now all talk about the Victorian railways. The noble Lord, Lord Cormack, whom I greatly admire, is exactly the sort of person who probably has a society for the admiration and better

understanding of the Ribblehead viaduct. I would not be at all surprised, and the noble Lord is nodding his head. He probably is the president because he is the president of everything like that. But it was not exactly top of the pops at that particular time.

I am also reminded of when, exactly 20 years ago, in the presence of Her Majesty the Queen, President Mitterrand said, with a straight face: "Having travelled at 300 kilometres per hour across the plains of northern France, we came through the Channel Tunnel and reduced our speed to 100 kilometres per hour, to better admire the beauty of the Kent countryside". I did not know that the French were up to that sense of humour, but President Mitterrand somehow put his finger on a fallacy of our national psyche at that time.

In conclusion, I believe that we could be running the risk of another procrastination by having endless procedures which, in other circumstances, I could only call red tape. The Government are very committed to a bonfire of red tape—apart from when it comes to tying up the trade unions in red tape, although that is not the question we are discussing this evening. I suggest that, side by side with a statement about when we are going to see the next stages of legislation, we have a clear timetable, like the Olympic timetable, so that the thing does not slip and so that the people who are looking at the new patterns of economic geography can have some confidence. Many of the stations will not be in the middle of cities—I do not think that is necessarily a bad thing but more work can be done in the city clusters study that I recommend to look at the consequences of some of the stations not being in the centre of the cities and the connectivity there. That may have the upside of what I call the Heathrow Airport type of economic geography, as well as what you might call the downside, given that we all want to arrive at Kings Cross. There is a lot of very exciting work to be done and I have very little doubt that the Government and the Opposition are, on this issue, speaking for the nation's future and, also, for the environment on the small island on which we live.

8.16 pm

Lord Smith of Leigh (Lab): My Lords, I should declare some interests, in view of the remarks of the noble Lord, Lord Cormack. I am a member of the National Trust, but it does not speak in my name. I am also the leader of Wigan Council, as most Members know, and chairman of the Greater Manchester Combined Authority. I confirm to the Minister that all the local authorities in Greater Manchester, whatever their political control, are supportive of High Speed 2 coming to Manchester. Indeed, it has the support of the business community in Greater Manchester. We have great support and are getting very positive comments from the consultation for Greater Manchester as a whole and, I am sure, for each and every one of the local authorities.

We support the strategic case that the Minister and other noble Lords have made. It is about capacity. Let us get this clear: it is about capacity on the railways in order for people to continue to travel. The growth that noble Lords have talked about, in both numbers of passengers and freight, means that we cannot cope with the existing infrastructure and we have to invest in new.

One of the alternatives, which noble Lords have talked about, is to try to improve capacity. That has been well established, but I can remember the misery of being a passenger on the west coast main line during its refurbishment. It was not much fun; I even missed an appointment with the Garter King of Arms to come into this place because the train was late, as was every train on the west coast main line at that time. Therefore, that is not really an option.

I am a former director of Manchester airport so one might think that the idea of increasing air transport would appeal to me. But we cannot possible have the capacity at our airports to handle intercity transport within Britain; we want that capacity to be used for international connections and not for too many internal connections. We could not do it; it is not a possibility. Of course, in order to get to airports, infrastructure needs to be designed. Although I am sure that the noble Lord, Lord Heseltine, is normally correct, we actually built a new railway into Manchester airport to enable better connectivity.

Another option is to do something with the motorways. They are already congested and if we do not do anything to the rail system or to the motorways, we will just end up in gridlock. The impact of an increased capacity on the motorways, as the noble Lord, Lord Berkeley, said, is going to be far greater than anything that High Speed 2 would create. Therefore, High Speed 2 is really our only alternative.

We support the economic case even more strongly because of the benefits that we believe High Speed 2 will bring to cities such as Manchester. I am willing to take the gamble that it will not suck business out of Manchester; rather, it will create more activity in our city region. We think that the benefits of HS2 alone will be about £1.3 billion but, of course, the additional facility in Greater Manchester of the airport station will probably add to that by a further half a billion pounds. Therefore, HS2 could result in an increase in activity in Greater Manchester of almost £2 billion.

Piccadilly station is bang in the heart of Manchester and will help to regenerate more of the city centre. There will be additional benefits resulting from that and the regeneration will be important for Manchester. As the project is being constructed, as noble Lords have said, jobs will be created. We are already working locally to see what skills will need to be developed so that we can maximise the benefits of construction in Greater Manchester.

In Manchester we benefit from this national connectivity. As noble Lords have said, it is not just connections from Manchester to London—although that is clearly important—but Manchester to Birmingham, Leeds and other cities that will be greatly improved. We also recognise that we need to improve local connectivity and through the Greater Manchester Community Transport Forum, we are already investing considerable amounts of money into improving the tram system and the bus network so that people will be able to get access from across the conurbation into the new station at Piccadilly. The airport will provide us with international connectivity that will mean more jobs.

If we are serious about rebalancing the economy in this country, then High Speed 2 is really important. Otherwise, the south-east will tend to dominate, as it

[Lord Smith of Leigh]
has done in the past. I particularly welcome the creation of the growth taskforce, which will concentrate minds on how we can best engineer that growth, and I am sure that the Minister is aware that we have two members of that taskforce from Greater Manchester who are, I am sure, making a contribution.

Noble Lords have hinted that in the early part of the 19th century, this country had a phenomenal period of building railways. In a period of 20 years we built about 6,000 miles of railways in this country, providing the basis of the network that we have today. We did it because we had the confidence and engineering skills, and we did it without the cost-benefit analysis; no Victorian asked "What will be the benefit?". They just had the confidence that this thing would work—it did, and it produced the benefits for the Victorian economy that we can see.

On the whole, during that period, Parliament was supportive of railway developments. The only hiccup was when the first Manchester to Liverpool railway was mooted and turned down, and they had to reroute it so that it did not go across too much of the Marquis of Stafford's land. George Stephenson's ingenuity meant that he managed to get it to go across an impossible area of Chat Moss and to float the railway as he did, meaning that that railway could be built. Other than that, Parliament supported the building of railways during the Victorian period and I hope that we can do the same in this particular Bill.

I want to briefly mention, as noble Lords have done, this odd contradiction between what Britain thinks about high-speed rail and what other countries, particularly in Europe, think about it. Spain has already got 3,000 kilometres of high-speed line, carrying 29 million passengers. The Germans are planning a network of about 2,500 kilometres and they have about 78 million passengers. We are planning to get about 317 kilometres and we currently have 9 million passengers—somewhat behind Belgium. Then, as noble Lords have mentioned, there is France. France was the leader in high-speed rail, planning for nearly 5,000 kilometres, speed rail, with well over 100 million passengers currently on the TGV system.

On holiday in France last summer, I was delayed by some construction work near Tours for a new TGV line. When I came home, I checked what was going on, and it was a new extension of the TGV from Tours to Bordeaux, eventually on to Toulouse and the Spanish frontier. They announced this on roughly the same day that my noble friend Lord Adonis was planning to talk about HS2. It will open in 2017. We are now at the stage of a paving Bill and the lines in the north will not be completed until 2033. The French seem to be able to do these things somewhat faster than we can.

My only criticism of the Bill and the Government's plans—not just this Government but both Governments—is not that we are building it but that we are building it too slowly. Actually, we ought to be building the two phases together. I accept that the congestion on the southern bit of the west coast main line is causing the greatest pinch points and needs to be tackled, but the economic benefits are greatly needed in the north and should be considered. If the Minister wants to examine the relative spending on rail by region, she will find that in the south-east they are spending roughly £2,700 per head of population; in the north-west it is £178, so there is quite some way to go.

There are two visions of Britain in the future. One is a vision where we try to make do and mend with the current system; we accept that Britain will be a second-class country with a second-class economy and a clapped-out transport system. The other is a vision for the future, a vision for our children, a vision of a Britain that can compete in the modern world, and for that we need high-speed rail.

8.26 pm

Lord Teverson (LD): My Lords, it was a great delight to hear the noble Lord, Lord Rooker, in full flight again. I remember very well when he was a Defra Minister the great thing about him was that occasionally he used to throw away the script and agree amendments that the Government did not agree with. Those days are long gone, most regrettably.

A role that I had in this House until May was chairing one of your Lordships' Select Committees, EU Sub-Committee C on external affairs—the nearest thing we have to a foreign affairs committee in this House. Last week I had one remaining engagement that came out of that: the University of Kent asked me to give a lecture to its politics and international relations department about the External Action Service, which we had just done a report on. The university said that it would book the fares for me, so I got the tickets and went to the station, which of course was St Pancras, and was swept over the Thames and along the north Kent coast in a Javelin train.

The train was at about 4 pm and it was pretty full, not of businesspeople but normal people. We sped down, and I was met at Canterbury, where I did my lecture, and we had dinner afterwards, courtesy of the University of Kent. My hosts remarked on how Canterbury had changed substantially for the better, not just in terms of the restaurants—I am sure that is not important to everybody but it was quite good for that evening—but the whole place had been significantly regenerated, effectively with private money, over the past few years since that service had started.

I was quite interested in HS1's domestic transport function as opposed to its international one so I looked it up on the web. I came across an article on the BBC website from about 2010 which was all about how they were moaning in Ashford about the fact that nothing much had happened since the Javelins were announced, the train fares were going to be too much and really it was a waste of time, but then, moving down the results on Google, which I sometimes use—I am sure other noble Lords never do—I came across some rather more contemporary articles about this high-speed Southeastern service into Kent.

This time it was the citizens and the chambers of commerce of Deal and Margate really concerned that their service should continue feeding into High Speed 1. There had been help from Kent County Council, which I think was going to go into the main franchise, and there was real concern that there was going to be a hiatus for a couple of years until that franchise was sorted out. There was news about Canterbury and how property prices had increased quite substantially.

While this was not good news for everyone, it showed the economic reaction there had been to this minor extension of the domestic use of HS1. This part of Kent surprised me. I come from Essex and now live in Cornwall, so I do not know it. I thought east Kent was an area where you got on a train and half an hour later you got off at Charing Cross. It was nothing at all like that. A two-hour journey has come down to one hour, and the regeneration of Canterbury and the seaside has happened because, as noble Lords have said, private money has followed the public money.

I am delighted to say that I have never had to use the west coast main line a great deal. I was interested that my noble friend Lord Cormack said that maybe £21 billion was difficult to imagine. The west coast main line upgrade was completed in 2008, after a decade of upgrading. It cost £9 billion. It was a pretty feeble and incredibly awkward upgrade that was inconvenient, I am sure, to local citizens, let alone travellers, for a whole 10 years. I could never understand why, at a time when France was rolling out its TGV programme—it had been doing it for a decade and was about to connect Strasbourg to Paris at that time—we ever thought of upgrading the west coast main line. We should have built a new one with technology that was already tested in Europe and elsewhere. The upgrade was the wrong option then; to increase capacity you need a new line. Clearly one would never build a new line to old, slow standards. You would build it to fast standards. That is quite obvious. I cannot see that you could argue that any other way.

Noble Lords have already mentioned rail services worldwide. China is not the best example because it is a very large country. In fact, high-speed rail is probably not the best solution for countries like that, but it has been done in other parts of Asia, not old sclerotic Europe—we have talked about that. Forging-ahead eastern Asia is also doing high-speed rail. I have been on the trains in Taiwan. The noble Lord, Lord Adonis, mentioned Japan. I think the bullet trains started in 1964 for the Olympics. I do not think it a complete coincidence that this coincided with Japan's fantastic economic growth through the 1960s and 1970s and into the 1980s, where it paused for a while.

Those are the reasons why it is quite clear that we should invest in this project. We should move ahead with it because there is no viable alternative. Like many noble Lords, I have a business background. How can you have an economy where you do not plan your capital expenditure well enough ahead so your organisation starts operating inefficiently with congestion and overcrowding and your business goes the wrong way?

The United Kingdom is the right size for high-speed rail. It can substitute, as it has done in France, for air passenger routes, and it stops the degree of airport development that perhaps there might be otherwise. There is rising demand for train services, so clearly it is necessary. If we decarbonise the electricity energy sector, we can have a much more environmentally friendly and less carbon-intensive form of transport as well. We have one of the highest population densities in Europe. It means that public transport naturally works in this country, whereas in more sparsely populated areas it does not.

From my point of view, this is not a complex question, as other noble Lords have said; it is absolutely straightforward. This is something where UK plc has to decide whether or not it is going to invest in the way that it is going to work and have its infrastructure into the future. I think that there is only one answer to that and only one way to do that. What I have been terribly disappointed about during the past couple of years is the lack of political leadership on this matter within the Government of whom I am a great supporter. They have said yes, they have pushed it forward and this Bill is here, but somehow we have managed to muffle the message. That is why I am also delighted that my noble friend Lady Kramer is here on the Front Bench and is going to be leading on this. It is also great to see the noble Lord, Lord Adonis, sending from the Opposition Front Bench that really strong message again that we can bring all parties together for this essential investment in the UK. It needs that political leadership. From this evening, I hope that that will continue.

8.35 pm

Lord Snape (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Teverson, whom I have not heard speak on these matters before—although that probably reflects neglect on my part rather than on his. I agreed strongly with much of what he had to say. I am not seeking to make any particular political point here, but he was not quite right when he said that £9 billion was the total cost of the west coast main line upgrade. It is not finished yet; it was stopped at £9 billion in order to stay within that amount. He said that he does not use the west coast main line very much. If he makes the mistake of doing so next year, he will find that the re-signalling of Watford, which was not done in the original upgrade, will cause quite a bit of delay and dislocation to that line.

This debate follows one that we held a matter of only a few weeks ago, so I shall try to avoid repeating anything that I said then. I do, however, think that it is incumbent on those who oppose the scheme to tell us what the alternatives are, which few of them ever do. The noble Lord, Lord Cormack, whom I have listened to with appreciation—I hope that he will understand that—for nearly four decades in both Houses, accused me of grinning like the Cheshire Cat during his contribution. It would have been appropriate if I did, because I was born in Stockport, which was in Cheshire before Ted Heath and his colleagues destroyed local government in the 1970s. Why I was smiling, rather than grinning, during the noble Lord's contribution was because he did not see any contradiction between his impassioned plea for the environment to be defended and his demand for the A1 motorway to be widened so that he could drive from Lincoln to London in a bit more comfort than he does at present. That is a slight contradiction in terms. The noble Lord shakes his head—not like the Cheshire Cat—but the fact is that it is a contradiction.

We heard my noble friend Lord Rooker, whose constituency was adjacent to mine when we were in the other place, mention road building—and motorway building in particular. In his case, the motorway was 60 feet from the bedroom windows of his constituents.

[Lord Snape]
If the noble Lord, Lord Cormack, thinks that that is not an environmental disaster, I would be surprised. The fact is that most people who are interested in transport policy in this country acknowledge that the days of motorway building—to a certain extent, widening is permitted—lie in the past. It is much more damaging to the environment to build new roads, which is something that my noble friend Lord Stevenson, too, might reflect on. Today is the second or third time that I have heard him make his impassioned plea on behalf of the citizens of the area in which he lives, which he is perfectly entitled to do—but he should answer the particular question of whether the M40 has destroyed more sites of special scientific interest and done more damage to the environment than the proposed high-speed railway through the Chilterns will do.

We come back to the question: if not HS2, what? The fact is that we do not have enough capacity on the west coast main line. I listened with interest to the contribution of the noble Lord, Lord Howard. He would be flattered, I am sure, if I said that it was the biggest load of reactionary nonsense that I had heard for years—I am sure that he would take that in the spirit in which it was intended. If he believes that expanding the world of aviation will mop up the extra journeys that are being made on our railway system, that should perhaps be the subject for another debate. Some 128 million people a year now use intercity trains. That that would require a hell of a lot of aeroplanes, I must say.

He said that no businessman would touch the financial case for HS2. As the financial case was devised by the Treasury, indeed no businessman would. If and when the Treasury makes any contribution to these matters, it will be to say that we cannot afford it and that it does not meet the cost-benefit analysis. If it were left to the Treasury, we would not have built the M25, the Jubilee line, the Docklands Light Railway and various other schemes that most people would agree are essential. I will go further: if everything had been left to the Treasury, when I made my way back to Birmingham this week, I would do so on the 10 o'clock stagecoach from Tyburn. There would be no other way of going from London to Birmingham as no schemes, including the London & Birmingham Railway, would ever have passed the preposterous cost-benefit analysis so beloved of Her Majesty's Treasury.

I propose to the noble Lord, Lord Howard, that he and I should go to Watford one day. If he thinks that the existing railway can cope with the 5.2% increase in passenger carryings that we are seeing on the west coast main line, we should stand together on the fast-line platform in Watford. He will probably not come because I understand that one cannot get a decent lunch in Watford, but if we were to go there and gaze towards London, we would see in the average hour, outside the rush hour, the following trains: three Pendolino trains from Birmingham and three from Manchester, a Super Voyager from North Wales, a London Midland train at 110 miles per hour from Crewe serving the Trent Valley, an hourly Scottish train and various other trains. That is the basic timetable for the up fast line between Watford Junction and London Euston at the present time. Indeed, this up fast line is so busy that Virgin Trains was refused permission to run an extra service to and from Shrewsbury because there was no room for it. An open-access operator wanted to use the west coast main line as far as Stockport—the home of the Cheshire Cat, as the noble Lord, Lord Cormack, might say—and on into Yorkshire, but was refused permission for the same reason.

I put it to the noble Lord, and the other critics of this scheme: if not HS2, what? The existing railway can barely cope with what it has at the present time. I do not want to bore your Lordships with stories of my time on the railway or the connections that I still make—it is a temptation, but I refuse. However, I can assure your Lordships that the intention is to close the up fast line that is being hammered in the average hour by all the trains that I mentioned, for between five and 10 years, from Saturday night to Monday morning, in order to do long-awaited and essential work. If we are getting into that state with the traffic that we have at the present time, I cannot believe that we could take any additional traffic, given the increase in intercity carryings that I referred to.

The noble Lord, Lord Rodgers, who was, as he reminded your Lordships, Secretary of State for Transport during my time in the Whips' Office—he tried to get me the sack once, but we will not go into that—seems to believe that the increase in passenger numbers that I referred to will perhaps tail off over the years. It is the 50th anniversary of "Doctor Who"; perhaps I should say to my 11 year-old grandson that instead of building HS2, perhaps in 2033 we will all climb into a police box and be transported from A to B. He is only 11, but I do not think that he would believe that. I suspect that, in his heart, the noble Lord knows full well that we must build new rail capacity in this country. If we do not, the country will grind to a halt.

The alternative is that we all go by road. Perhaps we could pursue the noble Lord, Lord Cormack, on the newly widened A1 to and from Lincoln. However, as everyone knows, widening roads generates more traffic. That is probably why we have stopped doing it in recent years. As fast as we widen roads, we generate even more traffic and the widened roads fill up once more.

There is no alternative to HS2, for the reasons that I have outlined. I have only one great criticism of it, and it is one that has been mentioned before: at the turn of the 20th century, Brunel managed to convert the Great Western Railway, as it then was, from broad-gauge to standard in a long weekend. Will it really take until 2033, when my grandson will be middle-aged? Although noble Lords on both sides look in extremely good health, few of us are likely to be around to travel on the new high-speed rail service, the principle of which I hope we will embrace under the terms of the Bill. We ought to do it—and a damned sight quicker than we are proposing to at the moment.

8.45 pm

Lord Dubs (Lab): My Lords, I am delighted to follow my noble friend Lord Snape. We were in the Commons together, and every time I take a train to Manchester and we go through Stockport and Edgeley sidings, I think of his younger days when he was doing

very important work there. I am grateful to the Minister for the meeting that she arranged for us with officials last week. It was very helpful and certainly clarified a number of issues. I missed the previous debate on this so I do not have to apologise for repeating myself.

I do not believe that the argument in favour of HS2, which I fully support, is one of sentiment but I must confess that I have some affection for railways. I wonder if I might just mention a little story. I ask your Lordships to imagine New Year's Eve December 1947: I was quite young, my mother was taking me back from London, where we had been over Christmas, and we were changing trains at Preston to go on to Blackburn. It was a cold, snowy and damp evening, the waiting room had no heating and there was nowhere to get any refreshments. The railways were to be nationalised on 1 January, the following morning. We were sitting there waiting for this non-existent train to Blackburn, and someone in the cold waiting room said, "Well, from tomorrow morning we can blame the Government for all this".

That was a story from way back. I have one other bit of sentiment—actually, it is not really sentiment, it is harder than that. When Beeching's report led to the closure of a lot of our railways, he did this country an enormous disservice. We closed lines that we wish we had now, not because they would replace HS2 or anything like that but simply because we lost something important. They were wonderful triumphs of Victorian engineering. I remember the line behind Tintern Abbey, the Chepstow-Monmouth line, which was a wonderful bit of engineering but is now derelict. I wish that they would reinstate the line from Penrith to Keswick, which could be reinstated—there is enough of the infrastructure there—although then going on from Keswick to Cockermouth and the coast would be impossible because it has been built over by the A66. Even then, though, reinstating some of these railways would have helped.

I suppose that those are bits of sentiment. What I am concerned with are the harder arguments in favour of HS2. I have reflected that if the financial estimates for the cost of the Channel Tunnel had been accurate, they would of course have been much higher than they were and we would not have built it because it would have been too costly. We have had enormous benefit from the fact that they were wrong. My point is that if we had deployed the arguments that some people are deploying against HS2 against the Channel Tunnel, it would never have been built and the country would have been much worse off because of it. I am not arguing that we should throw all financial estimates to the winds—not at all. I am arguing that we need to be careful before we reject some imaginative infrastructure schemes.

I am bound to say that as a country we are not very good at thinking about infrastructure and developing it—we tend to find too many arguments for not doing it. Sometimes those arguments win the day and sometimes they delay things enormously, but at other times we overcome them and then we get the benefit, and the Channel Tunnel is an example of that.

I fully accept that there are sensitivities in building new railway lines, although there are more sensitivities in building or widening motorways. I understand those sensitivities, though, and I hope that some of the concerns raised by my noble friend Lord Stevenson will be reflected in the details of the Government's scheme as it goes through the Chilterns. Having said that, I still believe that we have something important afoot with HS2.

I was reading *Middlemarch* not long ago. I could not find a particular reference—it is quite a long book—but there was a lot of discussion of local opposition to building the railways. I thought that some of the arguments could have been applied to today's debate. George Eliot used slightly more elegant language than many of us use, but nevertheless the arguments were there at the time.

When I am not living in the Lake District, we have a house in London. For a long time, we had a house in Paddington that overlooked the main line out of Paddington station, the underground and the motorway that becomes the M40. It was pretty noisy. The reason we could just about afford it was because people did not like the noise. We put all the bedrooms at the back overlooking the little gardens, and that was fine. The trains got quieter, the shunting in the middle of the night stopped and it became much more bearable. Then the foxes got in and the noise of the foxes kept me awake more than the noise of the railways. Although I was opposed to fox hunting, I wanted to make an exception for some of the back gardens in Paddington. Some of my friends did not like that argument.

My point is that the noise of building is very hard to live with. Crossrail is causing a lot of anxiety where I used to live in Paddington because of the excavation and so on. However, once these infrastructure works are completed, the noise of the railways is perhaps not as bad as all that. It is not wonderful; I would not want to live a few yards from a railway, as I did, but at least it is more acceptable.

I use the west coast main line a great deal these days. I am conscious of the enormous disruption that there was for years—referred to by some of my noble friends—when the work was going on. Frankly, it was so awful that we could not travel on a Sunday. We said to friends of ours, "Don't ever come up at the weekend because it is absolutely hopeless". By the time you have changed buses and changed at Preston, the journey time is unpredictable. I shudder at the thought that we might do the same thing with our existing west coast and east coast lines; it would be absolutely intolerable. That is one of the many reasons why I would much prefer HS2.

One only had to travel for years, as I did, on the west coast main line—it is much better now but it is getting very full—to know that we do not want years of infrastructure work and disruption. Nevertheless, the trains are pretty full. On at least one occasion when I failed to book a reserved seat, because I could not predict my time, I had to stand all the way to Preston. Quite often, there was no space and that is north of Birmingham, not just from the Midlands southwards. These trains may not be full on a Saturday night, but they are full most of the time when most people want to travel. So I very much welcome the commitment to extra capacity which would be the result of building HS2. I hope that some of the freight on the motorways will move on to the railways, although

[Lord Dubs]
I suspect that they will have to absorb additional freight rather than transfer freight from the roads as they do now. Unlike some noble Lords, I would like to see people travelling not by car, but using the railways. I was lobbied by somebody who said, "Don't worry about HS2, flying will always be cheaper"—not a very environmental argument. I believe that HS2 and the building of it will also have strong environmental benefits when it is completed.

I have two regrets. First, I wish we could get on with it, instead of taking so long. Secondly, I wish the plans would include going further north than Birmingham. Let us get on and link the north of England and get on to Glasgow and Edinburgh. If we do not do this, the next generation will never forgive us.

8.54 pm

Lord Davies of Oldham (Lab): My Lords, I found this debate a fascinating one and in many ways a more enjoyable one than the debate that we had only a few short weeks ago on exactly this topic. On that occasion, there was an indication in the press, at least, and in some circles of some uncertainty about my party's position with regard to HS2. That had been generated because the shadow Chancellor, my very good friend Ed Balls, had indicated that he was very concerned at the rapidly escalating costs that were being reflected in parts of the media. Of course he was anxious about them. It is his job to look at the way in which a future Labour Government intend to spend their money.

I am very grateful to the noble Lord who spent a great deal of his time commenting on the weakness of the business case for HS2. There should be a business case. I very much appreciated the fact that the majority of my noble friends indicated their support for HS2—all of them, I think, with the possible exception of my noble friend Lord Stevenson, who had other fish to fry as far as the line is concerned. They were a little in danger of glorifying past triumphs with regard to the railway and indicating that we could take similar, easy risks today. I hate to say it but in the absence of cost-benefit analysis, a high percentage of Victorian railway lines went bankrupt. Railway mania was one of the shocking problems of the 19th century so although we glory in the architecture that was left us to us, in terms of both our great railway stations and the significant lines that we still use extensively today, particularly the north-south lines, we ought not to deride the fact that we need to be clear about costs.

When the Minister replies to the debate, I want her to address herself to this question of potential costs because we are asking the nation to commit itself to a very substantial investment in future years against the background of a very significant decline in ordinary living standards at present, with no immediate indication that there is early relief in sight. Our people—our fellow citizens—are therefore going to be concerned about costs. That is why it is important that in substantiating the issue with regard to HS2, we have a clear perspective on those costs and how they are to be controlled.

I think we all take considerable pleasure in the fact that David Higgins has become chair of HS2. We know of his achievements. After all, one achievement in the past couple of years which we all recognise and glory in is that the Olympic Games were delivered on time and on budget, without excessive use of the contingency element built into that budget, and they were a huge success for the nation. Everybody derived value from them so we can make these projects work and we should derive satisfaction from recent successes, while keeping a very close and beady eye on costs because they are so significant in terms of the commitment of the nation's resources against a background where we all know that those resources are fairly limited.

I do not have to make the case on HS2 today, partly because so many voices around the House indicated their support for it, including a former Transport Minister, the noble Lord, Lord Freeman, on the government Benches. My Benches were very strong in their arguments. Of course, the case was made as soon as the debate opened. The magnificent opening speech of my noble friend Lord Adonis set the terms of this debate and in a very real sense put to bed any suggestion of any possible backsliding by a future Labour Government on seeing this project through. However, we want to be absolutely certain about the degree of scrutiny over costs and effectiveness.

We are also concerned about the delays built in to the present progress. Already we have seen the timetable slipping, and nothing will prevent it from slipping further in the very near future. Again, I want the noble Baroness to give us some reassurance about the urgency with which the Government are acting. I will make the obvious point. This is a paving Bill and it will get through in the very near future. However, we have not started on the hybrid Bill and the hybrid Bill procedure on Crossrail took several years. I know that my noble friend Lord Snape once served on a hybrid Bill and we lost contact with him for about 18 months when he disappeared into those wonderful committees in which one is sworn to total commitment to the Bill.

Lord Snape: My Lords, I apologise to the House for interrupting, but in the interests of accuracy I must point out that I served on three hybrid Bills and disappeared for much longer than that.

Lord Davies of Oldham: I am sorry if I elided them all into one, but the loss was so great in the other place at that time that it was remarked on in many quarters. We know without any doubt that my noble friend will volunteer for a hybrid Bill should any arise. I am concerned, however, about this issue. As we know, hybrid Bills are ones over which Parliament and the Government have negligible control, yet we are starting on this Bill. It was intended and hoped that we would have all the processes of Parliament covered, all legislative processes in place and all procedures completed by the time of the general election. There is no hope of that now. There is no question of the Government being able to deliver against that timetable. Of course, slippage is costly in terms of the ambitions that we all have for the successful implementation of the project on time, but delay is also costly in financial terms. No doubt the noble Lord, Lord Howard, is already calculating just how much the additional length of time will impact on cost.

All the real issues have emerged in this debate. I listened very carefully to another former Secretary of State for Transport, the noble Lord, Lord Rodgers, when he indicated that he still preserved a degree of scepticism about the ability of rail to impact on the economic geography of the country. There is evidence from other countries that its impact is indeed beneficial. It is certainly the case that, as so many noble Lords have emphasised in this debate, if we do not do anything, we will actually reach paralysis. Such is the increase in numbers of those seeking to use rail travel that if we do nothing, we will face a seizure.

During the time when there was a slight degree of misunderstanding about my own party's position, when proper anxieties were expressed about rising costs, it was very noticeable that the northern cities acted. Representations came in with very considerable force from Manchester and Leeds that indicated how much importance they placed on the improvement of services to those cities, which HS2 alone can provide.

Another question hangs in the air and cannot be answered—certainly not from this debate, because no one has attempted to answer it. What is the alternative? We have a situation in which the rise in demand for rail travel shows itself in very marked ways so that we can all foresee that if nothing is done the constant problems which we see in all commuting areas will get worse. I know that when one talks about commuting people's first thought is that one is talking about the south-east and London. However, the pressure on Birmingham and the West Midlands, on Manchester, Leeds, Yorkshire and Bradford, is just as acute for people there who want to get to work, to the shops and to other facilities in their cities. Of course, what hangs in the air is that if we do not solve this by improving rail travel we will guarantee misery for our fellow citizens, and it will represent a failure to improve society and the economy.

I hope that the noble Baroness will also comment on one other dimension. I refer to the recent speech of the noble Lord, Lord Heseltine, to which my noble friend Lord Rooker referred. One of the things we all know about significant public investment is that it can lead to very significant private gains. Just look at any situation where a Tube station in the London area has been opened in recent years and what it does to house prices. There is a straight correlation between transport and private gain. Of course we want to see private gain, because we are providing these services for private people—for our fellow citizens. However, we ought also to look at the public good. These resources are invested on behalf of the nation. I hope that the noble Baroness will take away the noble Lord's thought about the use of urban development corporations to canalise some of the gains from the investment that will derive from the construction of HS2 so that it comes to the public purse as well. That will perhaps help to reassure those like the noble Lord, Lord Howard, that costs can be kept under control.

9.08 pm

Baroness Kramer: My Lords, what a tremendous debate. Every time this issue comes before the House I learn more, which adds very much to the pleasure. I, too, was appreciative that the Secretary of State came to listen to the early speeches; he then had to leave to vote, but I know that he will read the rest of this debate. I know that that information flow to him is very much appreciated on his part.

Obviously, the overwhelming majority of noble Lords who spoke today spoke so strongly and positively in favour of HS2 and the high-speed rail network that once again I feel almost that the comments that I can make are somewhat redundant; they have been almost better covered by other noble Lords who have spoken. I will begin by trying to pick up on the questions from noble Lords who were perhaps more sceptical, and in particular that issue of cost that the noble Lord, Lord Davies of Oldham, mentioned, which was also mentioned by other noble Lords—by the noble Lord, Lord Howard of Rising, in particular, and in a slightly different way by the noble Lord, Lord Adonis.

The cost of the project—the budget—has been set at £42.6 billion. The noble Lord, Lord Howard of Rising, mentioned the figure of £73 billion, which was floated in the *Financial Times* and some other parts of the press. That is a mischievous number, because of the way in which it is constructed; I was quite sad to see it in a respectable newspaper. It included things like VAT, which obviously comes back to the Treasury and is therefore not a cost to the taxpayer. It also included inflation, although we look at infrastructure projects using current numbers rather than inflated numbers because we do not look at the benefits in inflated numbers. A mischief-making number has, unfortunately, been introduced into this conversation.

I shall say more about cost, because it is important—and what I have to say about it will also address some of the other issues that have been raised. The work that has been done in preparation for High Speed 2, to the point where it is now ready for phase 1 to appear in a hybrid Bill, is far more intense than that for any previous hybrid Bill. I think that that degree of preparation is a good thing, and I am cleared to say that the hybrid Bill will be introduced in the Commons on Monday. That degree of detailed examination and preparation gives us far greater confidence in the actual numbers, particularly for phase 1.

As the noble Lord, Lord Davies, will know—he has read the strategic case—High Speed 2 now estimates that, without any contingency, it could bring in phase 1 at £15.6 billion. The Secretary of State has said that we need to have a little contingency, but he wants to see this come in at £17.16 billion or less. That is the pressure being put on Sir David Higgins, and he feels that it is pressure that he can accept. That is a much crisper number than the more overarching number, including contingency, that we have generally been using. I ask that, as people look at the strategic case, they understand that we are talking about the overarching budget, but that underneath that there is huge pressure to ensure that the cost is pushed down, and we can do that with more and more confidence because of the level of detail that we now have. I hope that that also explains to the noble Lord, Lord Adonis, why there is a generous contingency in all this. The contingency does not reflect the fact that there is very detailed work going on to push the cost down.

That consideration also speaks somewhat to the governance point raised by the noble Lord, Lord Rodgers of Quarry Bank. Sir David Higgins, when he

[Baroness Kramer]
comes in, will make governance and driving down cost two of his highest priorities. The governance programme, which sounds incredibly complex as it is read out in a paragraph, actually reflects a number of bodies that have come together to increase the downward pressure on costs. That is part of the reason why there have been so many parties so absolutely focused on ensuring that the costs of the project have been reduced to the greatest extent possible.

In the same context, Sir David Higgins has said that he will look at delivering HS2 faster. There is an underlying question here, which I picked up from a number of people today—for example, from the noble Lord, Lord Smith of Leigh—along the lines of, "Why don't we start both phases pretty much at the same time?" The answer is that we have the detailed work to be able to go ahead with the hybrid Bill for phase 1, and to hold that up in order to bring phase 2 to the same degree of preparation would hold back the whole project. We are in a position to move much faster on phase 1. I have heard many people in the House today talking about the importance of going as fast as possible; they compared us unfavourably with France, and I can understand why. We are doing this in phases so that we can get into the ground at the earliest possible date.

Benefits will flow from phase 1 alone. It is true that the maximum benefits will come when phase 2 is completed, but from phase 1 alone there is already an advantage, both in capacity going from London through to Birmingham—on the most congested set of routes that we could possibly have—and also in terms of starting the time reduction, which, as others have said, adds to the connectivity and the potential for development in the north and the Midlands.

The noble Lord, Lord Cormack, referred to the Bill as a blank cheque and asked why it does not have a monetary figure in it. The Bill gives permission for preparatory expenditure and contains a very vigorous reporting process under which the Government must report back annually and record any deviation from budget, and the consequences of that. The wording of the Bill has been strengthened somewhat in the other place, which has put in place a very intense scrutiny process around the budget.

One of the reasons why there is no monetary figure is because this is not just the paving Bill for HS2 but allows us to look at extensions. The noble Lord, Lord Dubs, talked about the importance of going beyond HS2 and looking at Scotland. I was up in Glasgow and Edinburgh just over a week ago, announcing formally the initiation of a study which will look at bringing the benefits of high speed to Scotland. Automatic benefits come from bringing High Speed 2 as far as Leeds and Manchester. In fact, Scotland benefits even from the run to Birmingham. However, taking it beyond that, the study will look at how to maximise high speed on existing rail lines and at potentially building what some people have dubbed "High Speed 3". This paving Bill creates the context for what in the end will be a high-speed rail network. The word "network" matters in the context of some of the questions about economic growth. Dedicated high-speed trains can run only on high-speed lines. However, in addition, these lines can be used by the classic trains which currently operate on our long-distance services. They can travel part of their journey on a high-speed line and then deviate off on to the west coast main line and various other lines, creating a much more interconnected network.

The noble Lords, Lord Stevenson of Balmacara and Lord Cormack, and, to some extent, the noble Lord, Lord Rodgers, raised concerns about the Chilterns and its highly valued landscape. We all value that landscape; I do not think there is any question about that. However, I think that we have also always understood that there are circumstances in which we have to weigh the significance of infrastructure projects against that value. We must mitigate any effects to the extent that we can. I listed earlier many of the mitigations. Looking much more narrowly at the Chilterns, I say to the noble Lord, Lord Stevenson, that, between Chalfont St Peter and Hyde Heath, which is a distance of 8.3 miles, of which 5.8 miles lies in the area of outstanding natural beauty, the route will be in a tunnel. To minimise the visual impact in the AONB, the following mitigation measures will also be taken: 3.5 miles in cuttings; 1.5 miles in "green tunnel"; 0.6 miles on viaducts; and 1.4 miles with embankments. This means that fewer than two miles of the 13 miles of the route through the Chilterns area of outstanding natural beauty will be at surface level or above. The noble Lord, Lord Stevenson, has asked why we cannot extend the tunnel. Unfortunately, that would require the construction of ventilation shafts and an emergency access station at Little Missenden. Weighing that damaging environmental impact against the current mitigations has led us to the conclusion that we have used tunnelling to the best effect.

Lord Stevenson of Balmacara: I am very sorry to interrupt the noble Baroness, and it is a very trivial point, but it would have helped if we had been able to have the meeting that I requested over a month ago. It has not yet happened and if it had, we could have explained this. This canard about having to open up an opening near Little Missenden is not what is proposed. The alternative, which I sketched out for her and which I am happy to present to her in more detail, provides for an opening, required under European law, to be within the 22 miles covered by the AONB. It is near Wendover—in fact, at Wendover Dean—it is agreed by residents, agreed by all the authorities around and does not affect the central part of the Chilterns. This point was raised by her predecessor in a debate more than a year ago, and I tried to correct it then. I am clearly not effective at doing that, so can we please meet?

Baroness Kramer: As we agreed earlier, I am looking forward to that meeting and I apologise. Because I am new to the department, it has basically been triage. I regret that we did not have the chance to have that meeting before this debate, but we will have it. As the noble Lord, Lord Stevenson, recognises, the course of the hybrid Bill will address many of these issues.

The noble Lord, Lord Cormack, was very concerned that HS2 is a London-centric project rather than one which will spread economic opportunity out across the country. I could make the case in the other direction—

I thought that I had in my opening speech, as had the noble Lord, Lord Adonis, and others, in the course of their speeches. I pray in aid the noble Lord, Lord Smith of Leigh, who from his position in Greater Manchester has been able to represent to this House today the great potential that Manchester and the other great cities of the north and the Midlands have seen in this project.

They are using this opportunity in a very positive way, which perhaps is relatively new as a British approach to infrastructure. So often, we have built an infrastructure project in a silo and left it to see if anything good generates around it. In this case, the noble Lord, Lord Smith, and others are working within the various local authorities and within the various key cities. My noble friend Lord Deighton, too, is working with his task force in order to try to reinforce and support the process. This is a very different approach that will ensure that we garner the economic benefits.

A number of noble Lords, including the noble Lord, Lord Rooker, and the noble Lord, Lord Davies of Oldham, reiterated the idea of the noble Lord, Lord Heseltine, of development corporations. It is certainly true that the Mayor of London would be able to initiate them—that is already within his competencies. However, the Government are waiting to see how local communities in the areas that will be impacted by HS2 will wish to take these issues forward. It is within the concept of devolution that Whitehall should not always know best how each individual area should approach these questions, but I suspect that in many of the schemes and developments that develop, we will look to capture development gain in various ways. Indeed, the Government have already said that they expect all the stations to be built, essentially, with private money, which in and of itself is a development-gain process. So I fully appreciate those comments and I know that they will be studied closely as we go forward.

The noble Lord, Lord Howard of Rising, raised an issue that has been in some of the literature that has been coming through people's doors and which I would like to take on. He argues that we are not at capacity, citing an example quoted by one of the campaigning organisations, that trains are only 52% full in the evening peak. I think he is referring to a Virgin long-distance train. Certainly, regional and commuter trains are incredibly heavily used. To remove that Virgin train from the train paths in order to allow expansion of regional and commuter traffic would be a drastic option, widely opposed by passengers. There is sometimes no easy trade-off between the issue of train paths and usage at particular times. I also point out that the evening peak is a very well spread peak. During the morning peak we are pretty close to anyone's definition of being out of capacity as it is, never mind in the circumstances that we will face as we get to the 2020s.

Perhaps I may move on to thank those who spoke so effectively and with much knowledge in favour of this high-speed rail network project. The noble Lord, Lord Adonis, called on the spirit of the Victorian pioneers and the spirit of cross-party working. Both have to inform the way in which we move forward. The noble Lord, Lord Bradshaw, talked from his experience of actually running the four lines that go out of London. That is always an invaluable and incredibly practical touchstone as we move forward in these debates.

My noble friend Lord Freeman brought to us the experience of being the Transport Minister for HS1. That project gave us the confidence to move ahead with HS2, and the lessons that he is able to bring to this debate are therefore crucial. The noble Lord, Lord Berkeley, again reminded us of the freight conundrum that we face. In passing, he also reminded us that it is not just the Chilterns that have an issue but the area around Camden, Euston station and the HS1-HS2 link. We must appreciate and do everything we can to achieve the necessary mitigations. In this case, there is close working now between Camden Council and Network Rail, although many issues have yet to be resolved and answered.

The noble Lord, Lord Faulkner, provided a constant reminder of the lack of alternatives to HS2. The point was put more clearly by the noble Lord, Lord Snape, when he said: if not HS2, what? One alternative is likely to be an exceedingly intrusive motorway. I am afraid that there would be not just one six-lane motorway if we do not build HS2 but probably two. The impact of that on the environment, communities and areas of natural beauty would be something that this House would, frankly, not relish.

I cannot remember whether it was my noble friend Lord Cormack or my noble friend Lord Howard of Rising who talked about aviation as an alternative. Again, the noble Lord, Lord Smith of Leigh, hit the nail on the head; the discussion around aviation capacity is primarily around international capacity rather than around attempts to build up a domestic aviation network of much greater intensity, but I will obviously bow to the Davies commission as it considers capacity issues in the south-east.

I should say thank you to the noble Lord, Lord Lea of Crondall, because on this occasion and previously he made a point that was picked up by others about the cluster potential. That was echoed by the noble Lord, Lord Smith, from the perspective that he and Manchester are looking at development. My noble friend Lord Teverson shared with us reports from Kent of the change from a negative to a positive attitude because of the experience of the benefits of regeneration as a result of HS1.

I am sure that in this whole process there are questions that I have failed to answer. I am reminded that I am coming to my boundary of 20 minutes. I feel that I have had the opportunity to listen to an exciting debate, and if I have not responded to questions we will do so afterwards. Perhaps I may conclude by saying this: let us protect the Victorian spirit that built our railroads, but let us look for an infrastructure that is not Victorian but modern and 21st-century so that we can build the economy of the future. I thank this House and I formally ask that the Bill be now read a second time.

Bill read a second time. Committee negatived. Standing Order 46 having been dispensed with, the Bill was read a third time and passed.

House adjourned at 9.30 pm.

Grand Committee

Tuesday, 19 November 2013.

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Lord Skelmersdale) (Con): Good afternoon, my Lords. In the Grand Committee this afternoon we have three statutory instruments and one Question for Short Debate. If there is a Division in the House, the Committee will adjourn for 10 minutes.

Defamation (Operators of Websites) Regulations 2013

Considered in Grand Committee

3.30 pm

Moved by ***Lord McNally***

That the Grand Committee do report to the House that it has considered the Defamation (Operators of Websites) Regulations 2013.

Relevant document: 10th Report from the Joint Committee on Statutory Instruments.

The Minister of State, Ministry of Justice (Lord McNally) (LD): My Lords, these regulations are made in exercise of the powers conferred on the Secretary of State for Justice by Section 5 of the Defamation Act 2013. Section 5 creates a new defence against an action for defamation for the operators of websites hosting user-generated content. Where an action in defamation is brought against a website operator in respect of such material the operator will not, however, be able to rely on that defence where the claimant shows: that he or she did not know who had posted the statement on the website; that he or she had complained to the operator about the statement in the proper way; and that the operator had failed to respond to that complaint in the way set out in these regulations.

The approach that we have taken in these regulations aims to support freedom of expression by allowing operators generally to retain the benefit of the defence without the need for material to be taken down where the person who has posted it co-operates with the process and wishes to stand by the material. In such a case the process will help to enable complainants to resolve their concerns with, or take action against, the poster of the allegedly defamatory material. Equally it will ensure that, to rely on the defence, an operator must remove the material complained about where the poster cannot be identified or is unwilling to engage in the process.

Informal views were sought on the contents of the process set out in the regulations from a range of key stakeholders including internet organisations, claimant and defendant representatives, media bodies and non-governmental organisations.

To benefit from the Section 5 defence, operators will be required to carry out prescribed actions within a short fixed time limit. A range of views was expressed by stakeholders on what time limits were appropriate. We consider that the approach we have taken strikes the right balance in ensuring that action is taken as promptly as possible, without placing unreasonable burdens on operators or denying posters a reasonable opportunity to engage with the process.

The time limits are subject to a general discretion, in the event of a defamation action being brought against the operator, for the court to waive any time limit if it considers that it is in the interests of justice to do so. That will ensure that the defence is not lost through, for example, an inadvertent or unavoidable failure by an operator to comply with a time limit if the court thinks that this would be unfair. The process is not compulsory, and operators can still choose either to remove a statement immediately on receipt of a complaint, or allow it to remain posted. An operator which takes either course of action can of course seek to rely on any other defences that may be available against a defamation action.

Noble Lords may find it helpful if I explain the process established by the regulations in detail. To trigger the process, a person complaining about a statement posted on an operator's website must send the operator a notice of complaint. Regulation 2 and Section 5(6) of the Act set out the information that must be included in a notice of complaint.

These provisions require that the notice must state where on the website the statement was posted, set out what the statement says and explain why it is defamatory of the complainant, and explain what meaning the complainant attributes to the statement and what aspects he or she believes are factually inaccurate or are opinions not supported by fact. The notice must also confirm that the complainant does not have sufficient information about the poster to bring proceedings directly against him or her.

The complainant does not have to provide detailed evidence to support what is said, but the intention is that the poster should have sufficient information to reach an informed decision on how to respond. The complainant must also provide his or her name and an e-mail address at which he or she can be contacted, but can ask the operator not to provide this to the poster of the statement. These provisions were supported by a substantial majority of those who provided views on the content of the regulations.

Where the complainant does not provide all the required information, to retain the defence Regulation 4 provides that the operator must inform the complainant of this in writing within 48 hours of receipt of the notice of complaint, and must tell the complainant what is required for a notice to be valid. In common with other instances under the regulations where an operator is required to take action within 48 hours, this time period excludes non-business days such as weekends. The operator is not required to specify exactly what it considers is wrong with the notice that the complainant has sent. This avoids imposing any obligation on an operator to guide or advise the complainant. However, the guidance accompanying

[LORD MCNALLY]
the regulations makes clear that operators can provide this information to the complainant if they wish to do so.

Paragraphs 2 to 4 of the Schedule to the regulations explain what an operator which wishes to rely on the defence must do on receipt of a valid notice of complaint. Paragraph 2 provides that the operator must contact the poster of the statement complained of within 48 hours and paragraph 4 provides that it must also inform the complainant that this has been done. If the operator has no means of contacting the poster by e-mail or another means of private electronic messaging, paragraph 3 of the Schedule to the regulations provides that, in order to retain the defence, the operator must remove the statement within 48 hours and must inform the complainant that this has been done.

Paragraph 2 of the Schedule sets out what information the operator has to provide to the poster to enable the poster to respond to the complaint. This includes a deadline for the poster to respond of midnight at the end of the fifth day after the day on which the operator sends the information to the poster. The operator must specify the calendar date on which the deadline expires and ask the poster within that time to confirm whether or not the poster wishes the statement to be removed from the website and, if not, to provide his or her name and postal address to the operator and confirm whether or not he or she consents to this information being released to the complainant.

Paragraphs 5, 6 and 7 of the Schedule deal respectively with situations where the poster fails to respond within the prescribed time period, where the poster responds but does not provide all the information requested, or where the poster agrees to the removal of the statement. In all these circumstances the operator is then required to remove the statement within 48 hours and to inform the complainant that this has been done. If the poster provides a name and postal address that a reasonable operator would consider to be obviously false, the operator is required to treat the response as not containing all the required information, and hence must remove the statement.

To ensure that the regulations operate effectively where the statement has already been removed before the operator is required to do so, paragraph 1 of the Schedule provides that in those circumstances the operator is taken to have complied with the relevant requirement.

If the poster indicates that he wishes the statement to remain on the website and provides the relevant contact details, paragraph 8 of the Schedule provides that the operator must inform the complainant within 48 hours that the statement has not been removed and, if the poster agrees, pass the poster's contact details on to the complainant. If the poster does not agree to release his contact details, the operator must inform the complainant of this. Provided it has complied with these requirements, the operator will have a defence under Section 5 unless it can be shown that the operator acted with malice in relation to the posting of the statement concerned.

Where the poster has not consented to release of his or her contact details to the complainant, it will be a matter for the complainant to consider what further action he may wish to take. It will, for example, be open to the complainant to seek a court order, known as a Norwich Pharmacal order, for the operator to release the information that they hold on the poster's identity and contact details so that legal proceedings can be brought against the poster.

Paragraph 9 of the Schedule provides further protection for complainants in circumstances where material has been removed following a notice of complaint, but the poster persists in reposting the same or substantially the same material on the same website. On the first such occasion, to keep the Section 5 defence the operator must follow the full process and seek the poster's views. However, on being informed by the complainant that the poster has posted the same or substantially the same statement on two or more previous occasions, the operator is required to remove the statement within 48 hours of receiving the notice of complaint without seeking to contact the poster again.

We consider that this is a fair and proportionate approach which gives the poster an opportunity on a first reposting to engage with the process in circumstances where, for example, they were not aware of the original notice of complaint but which tackles persistent reposting by immediate removal.

I believe that the process established by the regulations strikes a fair balance between freedom of expression and the protection of reputation and between the interests of all those involved, and that it will provide a useful and effective means of helping to resolve disputes over online material. I therefore commend these draft regulations and I beg to move.

Lord Lester of Herne Hill (LD): My Lords, we should be very grateful to my noble friend for a very full explanation of what he seeks to be approved today. It sounds dry and technical but, in fact, although I do not say that my noble friend Lord McNally is like Moses in the splendid portrait, bringing down the tables of the law to the Israelites, in seeking the approval of the House to the regulations what he is doing is important not only in this country but throughout Europe and in the wider world.

We are trying in the regulations to lay down a fair framework, as my noble friend said, which will provide effective remedies to victims without unduly burdening the freedom of speech. If he will allow me to say so—he has little choice—I remember him at an early stage insisting that the Defamation Bill should cover the difficult subject of defamation via the internet. That was an important decision taken by him, however difficult it was to give effect to it. It was important because we had no proper laws in this country striking a fair balance between free speech and defamation in relation to the internet. The regulations are part of the process which, I understand, will come into force in April. They will be read with interest in the United States, on the most libertarian side, and in China, on the most restrictive.

3.45 pm

In this country we are subject to the e-commerce directive, which strikes a European balance between the extremes of absolute immunity for internet service

providers and the Chinese firewall—the great wall of China—which seeks to regulate the internet. In Europe, we find a compromise and the beauty of these regulations is that they strike a fair balance, as the Minister has said. They do not deal with other problems of speech via the internet. They do not deal with privacy. They do not deal, obviously, with cybercrime. They do not deal with copyright, which is dealt with very well by our own courts. They deal with all that they can deal with, which is defamation. I am sure that it is right to do so by means of regulations rather than on the face of the statute. That enables flexibility in the future when, as I am sure we will have to, we will need to amend the scheme in the light of further technological change.

In one sense, we are trying to do something which King Canute's courtiers failed to do. They could not stop the tide from coming in and we cannot in this country, by our one system alone, deal with all abuses on the world wide web. However, I would be sceptical about trying to seek too much international regulation of the internet because I fear that that would, unlike these regulations, be too coercive of free speech and too much overregulation.

I congratulate the noble Lord and the Government on these regulations. They are probably the last word that we will say in this House about the process of completing the work on the Defamation Act, which has taken three careful years by the noble Lord and his team, and by the other place. I am very glad to be present today to welcome these regulations.

Lord Beecham (Lab): My Lords, I pay tribute to the noble Lord, Lord Lester, who was instrumental in securing reform of defamation law and has campaigned long and hard for that. I also join him in thanking the Minister for walking us through this rather tangled undergrowth of regulations. I am bound to say that the Minister reminds me less of Moses bringing down the tablets than perhaps Daniel exercising judgment. I should like to think that I was descended from one or other; I may be remotely connected but I do not think that I am descended from either of them.

After 45 years as a solicitor, I know something about the law of defamation, although I would not claim to be an expert. But when it comes to the world of computers, information technology and social media, I confess to being an utter novice. At risk of being labelled a Marxist by the right-wing press or Conservative Central Office, I recall some words of Marx—Groucho, I hasten to add, and not Karl. In one of his films, which might have been "A Night at the Opera" but I would not swear to that, he is seen poring over a map and declares that a child of five could understand the map. He continues: "Bring me a child of five". I am tempted to make the same request when confronted by matters of the kind encompassed by these regulations.

We share the Government's objective to protect freedom of speech, in which the internet and social media can and do play such an important part. We welcome the thrust of the regulations, although perhaps it would have been better if guidance on Section 5 of the Defamation Act had been available in draft form when the legislation was under consideration on its journey through Parliament. The regulations appear to offer reasonable protection to the operators of websites but there are perhaps questions about the extent to which they adequately protect those who claim to be defamed by material appearing on those sites. Thus, the website operator will have a defence, as we have heard, to an action if it can show that it did not post the material in question unless the claimant can show that he or she did not have sufficient information to bring legal proceedings against the poster of the statement and that the operator failed to comply with a notice requiring it to identify the poster requested by the complainant. Of course, this assumes that the claimant has the means to pursue that legal remedy, a somewhat questionable proposition in the light of the matter of costs. We are not now dealing with conventional media stories with a limited shelf life and relatively limited audience, although perhaps quite a wide reach, but with material with a potentially unlimited shelf life—unless, like the Conservative Party's once publicly available material, it can be conveniently hidden—and a consequently higher risk of damage to a complainant's reputation.

Part 4 of the guidance explains that the operator will have a defence when the complainant has sufficient information to bring an action against a poster but, again, that relies on the claimant having the means to do so—and what if the poster is outside the jurisdiction? It is all very well for the guidance to proclaim that disputes should be resolved directly between the complainant and the poster but, in the event that the poster does not wish a statement to be removed and his details to be released to the complainant, the latter will have to obtain a court order to obtain the details, again raising the issue of cost. Would it not have been better to have established for these purposes a less formal and less expensive mechanism, in which a panel, perhaps financed by the industry itself, could determine whether the information as to identity should be released and whether the post should be removed, leaving the question of financial compensation to be determined by the courts?

On a further point, what is the Government's response to the observation of the Secondary Legislation Scrutiny Committee to the need for the guidance to define,

"how terms such as 'receipt' are interpreted in this legislation"?

The Explanatory Memorandum to the regulations sets out the response to consultation and lays down welcome tighter timetables for action by the operator and poster following a notice of complaint. However, somewhat disappointingly, it requires further notices to be given when the material has been the subject of two or more complaints rather than immediately. Moreover, paragraph 9 of the Schedule to the regulations makes it clear that even the more limited protection afforded by this provision is available only when the same poster is involved. If a different person posts the same material, the whole process must be gone through again by the defamed claimant—and the material can be identical.

My honourable friend Dan Jarvis, speaking for the Opposition yesterday in the debate in the Commons, asked the Government whether they would keep the new process under early review, given the speed at

[LORD BEECHAM]
which the world moves. Is the Minister able to confirm that that is the Government's intention and that such a review would be initiated within a year of the regulations taking effect and be kept under regular review thereafter? Will they look again at suggestions made in Committee during debates on the Defamation Bill that would require the operator to post a notice of complaint, should one be received, alongside the alleged defamatory material so that those who view the material can, at least, be alerted to the fact that the matter is disputed?

Having said that, we support the regulations. As the noble Lord, Lord Lester, indicated, things change, and it is necessary to keep these matters under review. Perhaps some of the points that I have raised could be taken on board at the time of the first review and in the light of the experience that will develop over the next few months or so.

Lord McNally: My Lords, I am grateful for the contributions of both noble Lords. As the noble Lord, Lord Beecham, said, the noble Lord, Lord Lester, is very much the godfather of this Act, and I have benefited from his wisdom over the whole three years. As he says, the end is nigh, in that the Act will come into force on 1 January 2014, including these regulations. He points to the fact that although the Act itself will, I hope, give the kind of balance between freedom and the rights of defamed which will stand the test of time, as he and the noble Lord, Lord Beecham, have said, legislators will always have the problem of how fast technology moves. I am not one of those who believe that new communications technologies should be beyond governance, but it is going to be a continuing challenge. The noble Lord rightly points to areas such as copyright, privacy and cybercrime, which we will continue to grapple with. But we set an example by being flexible and, as both noble Lords indicated, by underpinning free speech as far as we can and avoiding overregulation.

The noble Lord, Lord Beecham, always starts with a statement of modesty by saying that he does not understand these things and that they are all so complex. He then deftly skips through the particular regulations posing me difficult questions. I will try to address some of them.

Anyone listening to this debate will know that this is a complex matter, but it is complex because we have to get the balance right between the poster, the internet provider and the complainant. We do not want to overburden the provider with regulations or drag him into court cases. This is an attempt to ensure that the complainant and the poster are brought face to face, as it were, as easily as possible.

We are taking steps to introduce a system of cost protection for defamation and privacy and have recently consulted on that. We are currently considering the views expressed with the intention of introducing that as early as possible next year. I am grateful to the Master of the Rolls for the advice that he has given me on that.

On monitoring, it is always tempting, particularly for the Opposition, to ask for a review within a year. We obviously need an opportunity to see how these matters will settle down. Parliament has put in place formal reviews within a period of three to five years of royal assent. This Act will be subject to the usual arrangements of parliamentary scrutiny. However, the noble Lord, Lord Beecham, is quite right. We will continue to informally monitor the operation of these regulations and we will certainly not hesitate to draw the attention of Parliament to them if they do not seem to function as we hope they will.

On not releasing details and putting complainants to the cost of a Norwich Pharmacal order, there may be a good reason why the poster is unwilling to release the contact details. On balance, we consider that it is right for a court order to be obtained in these circumstances. However, there may also be cases where, through the operation of the process set out in regulations, a poster agrees to release contact details to the complainant, avoiding the necessity to obtain a court order.

The other question was on the matter of the definition of "received" in the regulations. While ultimately it will be for the court to interpret the regulations, we consider that the word "received" should be given its natural meaning and that therefore the notice of complaint would be "received" at the point when it is delivered. That is when it has arrived at the operator's machine. We will make that view clearer in the guidance accompanying the regulations.

As both noble Lords indicated, the Act has been broadly welcomed by those who have campaigned for it. We believe that it will defend free speech while giving those who are defamed a reasonable opportunity for redress, and with some protection from the costs of doing so. Section 5 of the Act, and these regulations, represent an important part of the package of measures designed to reform the law of defamation. The noble Lord, Lord Lester, is right: given the way the world is moving from the printed page to electronic communications, it would have ducked the issue had we not tried to address the matter in the Act. In so doing, I think we strike a fair balance between freedom of expression and the protection of reputation, as I said in my opening remarks. The regulations strike a fair balance between the various interests involved, and their approval will enable the Act as a whole to be brought into force on a timely basis at the end of this year. I hope that noble Lords will agree that this is a proportionate and sensible measure.

Motion agreed.

Judicial Appointments (Amendment) Order 2013

Considered in Grand Committee

4.01 pm

Moved by ***Lord McNally***

That the Grand Committee do report to the House that it has considered the Judicial Appointments (Amendment) Order 2013.

Relevant document: 10th Report from the Joint Committee on Statutory Instruments.

The Minister of State, Ministry of Justice (Lord McNally) (LD): My Lords, the order before us, if passed, will make fellows of the Chartered Institute of Legal Executives—CILEx—eligible for coroner appointments under the Coroners and Justice Act 2009. The order essentially has two main aims, which are complementary: to make coroner appointments potentially more diverse; and to increase the range of roles which CILEx fellows can perform, to include that of coroner.

The order will amend the Judicial Appointments Order 2008, made under Section 51 of the Tribunals, Courts and Enforcement Act 2007. In practical terms the order is the final part of the legislative package of reforms that the Government committed to when we implemented the coroner reforms in the Coroners and Justice Act 2009 earlier this year. As background, I hope it will be of use to explain how the 2009 and 2007 Acts work together to determine eligibility for coronial appointment.

Under the 2009 Act, a potential candidate must have met what is known as the "judicial appointment eligibility criteria" for at least five years. Under Sections 50 to 52 of the 2007 Act, this means that they have a relevant legal qualification and have gained experience in law for five years or more. In practice, the only people who meet the criteria are solicitors and barristers. Under Section 51 of the 2007 Act, the Lord Chancellor may extend the list of relevant qualifications that make someone eligible for a judicial appointment. The Judicial Appointments Order 2008 exercised that power and provided that CILEx fellows were eligible for various judicial posts, such as deputy district judge and judge of the First-tier Tribunal. These posts are set out in Schedule 1 to the 2008 order.

The 2013 order will amend the 2008 order simply by adding coroners to the list of roles for which CILEx fellows are eligible, so in future CILEx fellows will be considered to have a relevant qualification to be a coroner. The order is a continuation of the Government's aim to increase the diversity of those who can apply for and hold judicial positions.

Sections 50 to 52 of the 2007 Act and the 2008 order have already removed some of the old barriers to judicial appointment. Coroners are appointed slightly differently from those holding other judicial appointments and in fact the process for appointing them has recently changed. It may be helpful if I take a moment to explain this and put it in the context of increasing diversity of appointments.

Under the Coroners Act 1988, coroners were appointed by their local authority, but then were free to appoint their own deputies and assistants. Now, under the 2009 Act, every coroner appointment is made by the relevant local authority. Every vacancy is advertised and every proposed appointment requires the consent of the Lord Chancellor and chief coroner.

The new system has only just been put in place. However, this new advertising and central scrutiny of all posts will increase the transparency of appointments. It will enable applications from a more diverse pool of people who may never have heard about a vacancy under the old system. Although the actual appointment process for coroners is different from other judicial ones, I think it has to be the case that the same principle of increasing diversity of applicants should apply to all these appointments.

Any changes to the 2008 order are not just the Government's responsibility. They also require the approval of the Judicial Appointments Commission and the Lord Chief Justice. I can report that both have confirmed that they support our proposal. We have also sought stakeholders' views on the policy behind this draft order. We did this in the spring as part of our consultation on implementing our proposed reforms to the coroner system under the 2009 Act.

Responses on this issue were split evenly between those who supported the proposal, those who did not, and those who expressed no view. CILEx itself was among those who welcomed the proposal, because of its potential to increase the diversity of coroners and competition for the role. Other respondents, including many coroners, worried that extending eligibility for coronial appointment could lower standards.

We published our response to the consultation in early July. To address concerns about lowering standards, we confirmed that we would be increasing eligibility only for applying for coroner roles. Our aim was to encourage suitable CILEx fellows to apply for coroners' posts. However, their applications would subsequently be assessed against the same consistent and transparent criteria as those from solicitors and barristers. Appointments would be made purely on merit.

To put it simply, if a CILEx fellow applied and was the best candidate he or she would be appointed as coroner. If the fellow applied and the application was weak, he or she would not be appointed. Having made this clear, the consultation response reconfirmed our commitment to make the proposed change later in 2013.

Finally, this draft order also has the support of the chief coroner, His Honour Judge Peter Thornton QC. We are working closely with the chief coroner on the new coroner appointments system, as well as the implementation of the other recent changes in the system.

I hope that I have demonstrated the merits of the order before us today. It will permit those CILEx fellows who may be more than adequately skilled and experienced to, for the first time, apply for a coroner's role. They will then be assessed to the same high and consistent standards as other applicants, to ensure that the best person gets the job. It is no more than what bereaved people deserve. I beg to move.

Lord Lester of Herne Hill (LD): My Lords, I have always been in favour of widening the pool, as far as one can, for judicial appointments, provided that there are adequate safeguards. I am satisfied that there are adequate safeguards and I think that it is in the public interest if the pool of people can be widened in the way which my noble friend described.

Lord Beecham (Lab): My Lords, I served my articles to a solicitor who was a coroner, and subsequently went into partnership with him. I may regale the Minister with a couple of stories from the coroners' courts after the sitting. There are certainly some interesting

[LORD BEECHAM]
side-lights that he might enjoy. I join the noble Lord, Lord Lester, in congratulating the Government on widening the range of possible appointees. There is no earthly reason why a competent and experienced legal executive should not exercise the coronal functions. In passing, I am also glad that we still have a chief coroner, notwithstanding the Government's early aspirations in that regard. That should also lend confidence to the legal profession generally that the standards will be maintained.

It has to be said that, from time to time, one hears criticisms of coroners, as one does of other members holding judicial appointments in our legal system. Some of the new appointees may likewise incur some questioning and criticism, but that does not vitiate the thrust of the Government's policy, which is to widen the range of potential applicants and encourage those who take that particular form of legal career to progress their careers and make their contribution to society.

We are glad to see the order and congratulate the Government on introducing it.

Lord McNally: My Lords, I am grateful to both noble Lords. I suspect that the clue to the unity is the fact that we were using legislation passed by the previous Government, including the reforms to the coroners. The chief coroner is of course very much the child of this House in the way that it advises and revises. It advised us to keep a chief coroner and, being a wise Government, we accepted that advice. I have benefited from it in bringing forward the order.

Lord Beecham: I thought for a moment that the noble Lord was implying that some of us were going to need the services of a coroner before very long.

Lord McNally: Ultimately, we all will.

The noble Lord said that he had some stories about coroners. Along the rocky road that I have travelled, I was political adviser to the Prime Minister, James Callaghan, whose personal physician was Monty Levine. Monty Levine was coroner in Westminster and Southwark for about 20 years. I think he was a doctor who qualified as a coroner. In the order and what is in the legislation, we are bringing consistency, but also an opportunity for diversity, both of which are entirely welcome. I am very grateful for the support from the noble Lords, Lord Lester and Lord Beecham, and I commend the draft order to the House.

Motion agreed.

Special Immigration Appeals Commission (Procedure) (Amendment) Rules 2013

Considered in Grand Committee

4.14 pm

Moved by ***Lord McNally***

That the Grand Committee do report to the House that it has considered the Special Immigration Appeals Commission (Procedure) (Amendment) Rules 2013.

Relevant document: 11th Report from the Joint Committee on Statutory Instruments.

The Minister of State, Ministry of Justice (Lord McNally) (LD): My Lords, the amendment provides for the extension of the current SIAC rules to cover new applications resulting from the new jurisdiction inserted into the Special Immigration Appeals Commission Act as a result of the Justice and Security Act 2013. This enables the Home Secretary to certify that certain exclusion, naturalisation and citizenship decisions were made in reliance on sensitive information which should not be made public in the interests of national security, in the interests of the relationship between the UK and another country, or otherwise in the public interest.

The Special Immigration Appeals Commission, or SIAC, was set up under the Special Immigration Appeals Commission Act 1997. It hears immigration and asylum appeals involving national security issues and/or sensitive information which should not be made public—for instance, cases where intelligence is part of the evidence and the material cannot be released to the appellant, or his representatives, for fear of compromising sources or the national security of the UK. It has heard appeals under the Anti-terrorism, Crime and Security Act 2001 by persons certified as suspected international terrorists, and it currently hears appeals against deprivation of citizenship.

The Justice and Security Act 2013, which commenced in June this year, contained a number of provisions designed to control the disclosure, during litigation, of material which if released could be damaging to our national security. Section 15 of the Act amends the Special Immigration Appeals Commission Act 1997 to ensure that, where the Home Secretary excludes someone from the United Kingdom or refuses to naturalise them as a British citizen on the basis of sensitive material, the appropriate place for that decision to be challenged should be the Special Immigration Appeals Commission.

Previously, any individual in that situation could apply to the High Court to set aside the decision. This was a far from satisfactory arrangement for two reasons. First, prior to the Justice and Security Act 2013, the High Court had no facility for closed material proceedings, and even now it has only limited provision for them. Secondly, SIAC is the tribunal with the greatest expertise in considering sensitive national security cases, as well as having expertise in immigration matters.

Parliament therefore deemed that challenges to exclusions or citizenship decisions would be best heard by SIAC. In order for SIAC to entertain these new challenges, its procedure rules must first be amended, and that is what we must turn our attention to now.

The rules that sit before us have been produced on behalf of the Lord Chancellor, following a short period of consultation with several of the parties who best know SIAC. The list of consultees includes the Law Society, the Bar Council and indeed the sitting chair of SIAC.

In the main, the amendments that these rules make simply confirm that all the existing rules, covering the kinds of appeal that SIAC has heard since its inception in 1997, now apply to the review of exclusion and naturalisation decisions. These are purely administrative

changes which establish the guidelines relating to time limits for seeking a review, submission of forms and so on.

However, the rules have a number of substantial effects. First, although SIAC uses closed material proceedings regularly, the SIAC Act 1997 allows this by providing that rules may make provision for closed material proceedings. Therefore, until these rules are passed, it is difficult for SIAC fully to consider applications for review of exclusion or citizenship decisions.

Secondly, these rules establish the obligations upon the Home Secretary when disclosing material following an application for a review of an exclusion or naturalisation decision. These disclosure obligations are slightly different from those attached to a conventional appeal, and new Rule 10B makes that distinction. The difference derives from the fact that applications for review are to be decided on the principles applicable in an application for judicial review, and therefore the duty of candour represents the correct approach to disclosure. By contrast, appeals to SIAC are merits-based. SIAC is not simply reviewing the Home Secretary's decision; it is making its own. Therefore, in appeals, a fuller disclosure process is required.

Thirdly, your Lordships may wish to note Rule 29, which amends 2003's Rule 40 to give the commission the power, where appropriate, to reinstate an appeal or application for review which had previously been struck out. This, I hope the Committee will agree, will benefit the interests of justice by ensuring that an appellant or claimant need not be punished for a failure to comply with SIAC's rules when the failure is for a reason outside their control. Indeed, this amendment results from a judicial suggestion made by the president of SIAC in a recent judgment in a case known as R1—see paragraph 28 of the judgment in R1 dated 21 May 2013, which can be found on SIAC's website.

There is a particular need to affirm these rules without delay, as until they take effect the new cases which SIAC will hear cannot be progressed to conclusion. That affects the 60 or so claimants whose pre-existing High Court challenges will be certified and terminated under the Justice and Security Act's transitional powers but whose applications to SIAC cannot be fully considered without these new rules. I beg to move.

Lord Lester of Herne Hill (LD): My Lords, this course is important and sensitive. I would like to give a little background to how SIAC came to be set up and involved in this way in this procedure. It happened because of a case called Chahal. Mr Chahal was a Sikh and suspected terrorist being sent back to India. Under the old three wise men procedure there was no proper judicial process to decide whether he should be sent back, so he brought a case in Strasbourg. The problem was how you reconcile justice and the needs of national security. In the Chahal case, the various NGOs that intervened mentioned that there was a Canadian process that allowed national security and justice to be reconciled by a procedure rather similar to what the House is now considering.

I then did two cases from the bad old days, one in which the then Secretary of State prevented women in the Royal Ulster Constabulary part-time reserve having their sex discrimination cases determined in Belfast on the basis that it involved national security and that in no circumstances could his certificate be set aside. The second one involved alleged Catholic discrimination in Northern Ireland, where another Secretary of State again sought to prevent the applicants having the merits of their cases reviewed.

The SIAC procedure of 1997 was Parliament's decision at the time to apply something like the Canadian procedure to enable national security and justice to be properly weighed. I have one experience of SIAC from the distant past, when I represented a group of suspected terrorists, who later won their case—not through me—in Luxembourg. My experience then was very unhappy. I and they did not consider that the way it was dealt with by SIAC felt fair. But that was a long time ago and I am sure that lessons were learnt a long time ago. For my part, we are now concerned with not the controversial matters that plagued the House for so long when considering the Justice and Security Bill, but a perfectly sensible grafting on to the existing SIAC procedure of matters that clearly belong within SIAC under those procedures and nowhere else.

I recognise the compromises that are struck in these rules, one of which is where the Home Secretary—the Minister—decides to object to the disclosure of information to the claimant. My understanding is that there can then be a special advocate procedure to deal with that. That is a compromise that I reluctantly accept has to apply in this context. I hope, having said all that, that it provides a little more context to what we are talking about. For my part, I support the Motion before the Committee.

Lord Beecham (Lab): Once again, there are three of us in this marriage, to quote a much more distinguished person.

I am grateful to the noble Lord, Lord Lester, for his long contribution to the evolution of the law in this area and the conduct of the debate. Of course, we spent a considerable time debating closed material procedures when we were engaged in a more recent piece of legislation. It is perhaps worth remembering that the procedures under SIAC are rather more stringent in terms of the criteria that a tribunal can apply, since the Justice and Security Act requirement is to protect matters of national security, but SIAC's remit is wider. It has the potential of ruling out material that is contrary not only to the interests of national security but the international relations of the United Kingdom, the detection and prevention of crime or in any other circumstance where disclosure is likely to harm the public interest. That is a much wider range, but this is a rather separate case. We are not at the moment disputing that.

However, the Minister referred to consultation about the proposals. I make it clear that we are not opposing the proposals. He cited the special advocates, the Law Society, the Bar Council and the chairman of SIAC as having been consulted. He did not mention that the Home Office, the Treasury Solicitor, the security and intelligence agencies and the Foreign and Commonwealth Office were also consulted, which is perfectly proper. But can he say if anyone else was consulted? Were

[Lord Beecham]
organisations concerned with representing people in this situation consulted? Were voluntary organisations such as Liberty or Justice for All consulted? Were any bodies or organisations working with those involved in immigration matters consulted, such as the association of immigration lawyers? It would be interesting to know whether the consultation was confined to those who might be expected to have few, if any, reservations about it as opposed to those who might want to raise other issues.

For my part, having had some communication from the association of immigration lawyers, there is one matter that I would be grateful for some elucidation about. There is a concern that the transitional provisions in the rules could allow a case currently progressing in the High Court as a judicial review to be hijacked and taken to the commission. I have no idea whether there is any substance in that fear. Will the Minister—perhaps not at this moment—clarify whether that is a possibility and, if it is a possibility, how likely it is and how many current cases might be caught? It would be a matter of concern if it is a possibility, although, of course, it may not be and I am perfectly content to await the Minister's response on that.

Another possibility that has been raised is that perhaps some matters have been held back from being listed for hearing on a judicial review, if indeed it is possible that the problem might have arisen. Again, an assurance that that has not happened would be welcome. Having made all the points that I want to make, I support the order.

Lord McNally: I am grateful to my noble friend Lord Lester for his little historical background. He also hinted, as did the noble Lord, Lord Beecham, that every party which has had responsibility for these matters has agonised over that balance between the proper demands of justice and the need to protect national security. It is right that we agonise. I believe we do because we are of all political persuasions. This country is still a liberal democracy—with a small "l" and a small "d"—and liberal democracies agonise about how to get that balance right.

The noble Lord, Lord Beecham, asked for the list of other consultees and I am hopeful that I will be able to tell him that. As I mentioned in my opening remarks, around 60 cases currently are held in the High Court, which the Home Secretary intends to certify. My understanding is that those cases would then go to SIAC. If the full list of consultees has been passed to me, it has gone right past me, which would not be the first time.

Lord Beecham: Perhaps the Minister will write to me about that.

Lord McNally: I will write and put in the Library of the House the full list of consultees.

While I have been here today, the noble Lord, Lord Pearson of Rannoch, has been sitting in his place at the other end. I have to say that passing through my mind was the thought that when Talleyrand died, Metternich apparently said, "Now, what does he mean by this?". I have been looking at my Order Paper wondering on which item of business the noble Lord would intervene; then I realised that his is the next business. So as regards any unworthy thoughts that he was going to intervene on any of my business, I am much relieved.

Lord Pearson of Rannoch (UKIP): My Lords, I trust that it did not make the noble Lord too nervous. I thought that his performance was entirely fluent throughout.

Motion agreed.

Islam

Question for Short Debate

4.36 pm

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government what was the basis for the statement by the Prime Minister on 3 June that "There is nothing in Islam that justifies acts of terror" (HC Deb, 3 June, col 1234).

Lord Pearson of Rannoch (UKIP): My Lords:

"But there is a problem within Islam—from the adherents of an ideology that is a strain within Islam. And we have to put it on the table and be honest about it.

Of course there are Christian extremists and Jewish, Buddhist and Hindu ones. But I am afraid this strain is not the province of a few extremists. It has at its heart a view about religion and about the interaction between religion and politics that is not compatible with pluralistic, liberal, open-minded societies.

At the extreme end of the spectrum are terrorists, but the world view goes deeper and wider than it is comfortable for us to admit. So by and large we don't admit it. This has two effects. First, those with that view think we are weak and that gives them strength.

Second, those within Islam—and the good news is there are many—who actually know this problem exists and want to do something about it, lose heart".

Those are not my words but those of Tony Blair, after the Islamist murder last summer of Drummer Rigby—the same Tony Blair who, as Prime Minister, dismantled our borders to,

"rub the noses of the right in diversity".

We must be grateful that his subsequent experience as our Middle East envoy has taught him something about the reality of modern Islam, and that he had the courage to say what he did. In these few minutes, I want to talk about some of that reality.

Islam does not enjoy the separation of powers that we take for granted in our liberal, western democracies. Islam's Sharia law is a legal, political and religious system all in one, which takes its authority solely from the Koran, the Hadith and the Sunnah, as interpreted by its religious clerics, collectively known as the ulema.

Our Muslim friends tell us that the jihadists are a misguided minority who misinterpret the Koran and the holy texts. They point to verses such as Surah 2, verse 256, in which Muhammad commands that there shall be no compulsion in religion, and to other verses

of peace. There are millions of Muslims who live their lives guided by those verses, and many thousands who have been murdered by their violent co-religionists.

Here we come up against part of Islam's problem, which is the widely held Muslim tenet of abrogation. This holds that, when verses in the Koran contradict each other, it is the later verses which cancel out or abrogate the earlier ones. This is unfortunate because, as Muhammad went through life, he became steadily more of a conquering warrior, and the messages that he received and what he said and did became progressively more bellicose and violent. If abrogation is accepted, the later verses of the sword, of which there are many, outweigh the earlier verses of peace, and it is from these later verses that the jihadists take their inspiration and authority. I have time to touch on just two of them. Surah 9, verse 5, commands the faithful to kill the unbelievers wherever they find them, and Surah 9, verse 14, says:

"Fight against them so that Allah will punish them by your hands, and give you victory over them".

"Them" means non-Muslims. The Hadith and the Sunnah, examples of the sayings and doings of Muhammad, which all Muslims are bound to follow, are even more antagonistic to non-believers, or Kaffirs, as they call us.

I am not pretending that Christianity has done all that well over the centuries. Even if the Crusades were a response to 400 years of Muslim aggression, we still have the Hundred Years War and the facts that Soviet communism emerged from Christian Russia, and the two world wars and the Holocaust from Christian Germany and Europe.

As a Manichaean, I see good and evil as balanced in the eternal dimension, beyond and above all the world's religions. It seems to me that good and evil are present in each one of us, and that they can work only through the agency of our humanity. Evil is at its most destructive when it passes from the individual to the collective, as we saw with the Holocaust and Soviet communism. It is no respecter of any religion, nor of the humanists—the Soviets were a fine example of humanism gone wrong.

However, we must consider how our world stands now, today, and I fear that the dark side is moving strongly within Islam. I understand the defence that Islamist terror against the West is a reaction to Palestine, Srebrenica, Iraq and Libya. The kaleidoscope of Islamic internal violence is being shaken hard in north Africa with the tragic conflict between Sunni and Shia, and we cannot yet see how it will settle. However, it is not encouraging that the Sandhurst-educated Sultan of Brunei has just introduced strict Sharia law in his country.

If we come home to the United Kingdom, we see large and growing Muslim communities which are set against integration with the rest of us; we see thousands of home-grown potential terrorists; we see Sharia law running de facto in our land; and we see a birth rate several times higher than ours, to which our democracy is already exposed. Noble Lords have just to look at the recent Bradford by-election if they doubt that.

To me, most worryingly of all, we are not allowed to talk about any of it. As soon as we do, we are condemned by our useless political class as racist Islamophobes. The "racist" tag is clearly nonsense—Islam is present in almost every race on earth, including of course our own. A phobia is an unreasonable fear of something, but is it unreasonable to fear a religion which has recently given us 9/11 and 200,000 dead, most of them Muslims, in 18,000 attacks since then; which has given us the London bombings, Mumbai, the Spanish train, Bali, Drummer Rigby, Nairobi and Boko Haram; which, in 15 of its current regimes, employs stoning to death, amputation and death for apostasy?

What baffles me completely is that when we do speak against these things and when we dare to mention that they come from within Islam, we are told that we are the guilty ones—that it is us who are stirring up hate—and our politicians invent "hate crime" to shut us up. However, the hate lies in the heart of the Islamist. We can stir it up only because it is already there, red hot and seething against us. These people hate us with frightening religious fervour, and we are right to fear them.

What can we do? I suggest that we must stop being afraid to talk about it. We must do much more to encourage and support our many brave Muslims and apostates who take on their violent co-religionists publicly and thus risk the death penalty.

As an example of our present weakness, I give you the BBC, which was happy to air "Jerry Springer: The Opera", with its offensive treatment of our Judaeo-Christian heritage, but which refused to air that brilliant play "Can We Talk About This?", a factual critique of Islam, which ran last summer to packed audiences at the National Theatre. It was helpful of Mark Thompson, the BBC's director-general, to confess that the BBC would not air "Can We Talk About This?" because he did not want to look down the barrel of an AK47.

In that respect, and in closing, I congratulate the Minister, the noble Baroness, Lady Warsi, who is to reply to this debate, for the great courage that she showed in her speech at Georgetown University last Friday. I regret her support for UN Resolution 16/18, put forward by the Organisation of Islamic Cooperation, which seeks to criminalise Islamophobia or "defaming Islam" worldwide. She certainly highlighted, however, the current plight of Christians in the present world at the hands of what she calls a new sectarianism. As a Muslim she was particularly brave to say that Muslims should be free to change their faith.

I conclude by asking the Minister only two questions. First, does she agree that nearly all the present violence against Christians is coming from within Islam—from the jihadists? We have the suffering of Muslims themselves in Burma and we have the Hindu massacre of Christians at Orissa, but is not the rest of it almost entirely jihadist?

The second question is one I have asked the Minister before. If it is true that the jihadists are such a small minority in Islam, who misinterpret the Koran and the holy texts, why does not the great majority do more to stand up against them? Why for instance do not the leaders of Islam, the grand muftis and righteous ulema call a massive conference, a sort of combination of the councils of Nicea and Trent, to issue a fatwa against the jihadists and to cast them out of Islam?

[Lord Pearson of Rannoch]

Could it be because they dare not? Are things as bad as that? I hope not and I look forward to the noble Baroness's reply.

I am also grateful to all noble Lords who are to speak. Looking down the list I fear that none of them may agree with what I have said. At least, however, we are talking about it. I trust that it is just a start.

4.46 pm

Lord Sheikh (Con): My Lords, I speak as a Muslim, as a proud British national and a supporter of all faiths and communities. I am privileged to live in a country where people of numerous religious beliefs live alongside each other in relative peace. This is a testament to our nation's tolerance and unity in equal measure.

I was brought up in Uganda, where there were people of different racial and religious groups, and learnt to respect all communities. I am a patron of several Muslim and non-Muslim organisations that promote harmony between people. I believe that there must be dialogue and respect for others if we are to continue to coexist peacefully. Without these, there is lack of understanding which leads to suspicion and tensions.

I believe this debate today has been called as a result of such misunderstanding. The noble Lord, Lord Pearson, questioned the basis for the Prime Minister's statement that:

"There is nothing in Islam that justifies acts of terror".

I believe the basis for the Prime Minister's statement was obvious. There is nothing in any religion, teaching or scripture that condones causing indiscriminate harm to others. It is the interpretation of corrupt minds that seek to justify these actions for themselves and those they manipulate.

The actions of a few fanatical individuals must not be the yardstick by which we judge Islam or any other religion. If we allow this to happen, the culture of fear and division takes hold. When that culture permeates, the terrorists realise their intentions. Later on in the statement, the Prime Minister referred to the murderers',

"extremist ideology that perverts and warps Islam to create a culture of victimhood and justify violence." —[*Official Report*, Commons, 3/6/13; col. 1234.]

It is that ideology that we are facing, not the religion itself. Terrorists' motives have time and again been revealed as political grievances. Terrorists twist these grievances, through the prism of religion, into an ideology to justify their actions. It must therefore be clear that these actions were not motivated at root by religious teachings. The united condemnation of the Woolwich attack from prominent Muslims illustrated this.

Let us look specifically at Islamic teaching. As a Muslim, I was taught that human life was sacred. It is written in the Holy Koran,

"whoever kills a human being … it is as though he has killed all mankind, and whoever saves a human life, it is as though he has saved all mankind".

That is why I have consistently spoken about Islam as a religion of peace, and continue to do so. In fact, I even represent that in my coat of arms, which features two doves. I believe that every Muslim should be an ambassador to convey that message and help to promote peace and harmony with other religions. I also believe that both the media and politicians must play their part. Some media circles, in particular, are guilty of vilifying Islam and portraying us with an unfair image.

There are 1.6 billion Muslims in the world, and in the United Kingdom, there are more than 2.6 million. Such large numbers of people and their faith must not be used as a scapegoat or a political football. It is important that our politicians of all persuasions act responsibly and use moderate language. I find the use of the term "Islamic terrorist" to be improper in the same way that I would the term "Christian terrorist". That kind of language stokes fear and creates a psychological tie between the religion and the terrorist.

The opposite is in fact true. A report by Demos in 2011 revealed that 83% of British Muslims feel proud to be a British citizen, compared with 79% of people across the whole population. That reasserts that our problem lies with a very small minority. The vast majority of Muslims enjoy practising their religion peacefully in the United Kingdom. I do not believe that anybody looking to cause disharmony should be allowed to come here from a Muslim country or a European country, such as the Netherlands. If we demonise Islam or any other religion, we are doing a disservice to the concept of religion as a whole and the societies that embrace it. I therefore totally endorse the comments made by our Prime Minister.

4.52 pm

The Lord Bishop of Birmingham: My Lords, I am grateful to the noble Lord for enabling us to talk about these very important matters, so in that sense I can agree with him. I also encourage him not to lose heart at sin and evil wherever they are found. There are remedies, and people of religion are often seeking to achieve them.

Of course, if I read my own scriptures, as I do every day, and select various pieces of them, I could easily form myself into some kind of sect which would be disapproved of, I hope, by most of civil society. None the less, our activities which are theological, seeking peace, are often turned into historical disappointments and much less than the ideal that we want to promote. That is true of all religions and, indeed, of all humanity.

Rather than seek division or selective use of scriptures and theology, I emphasise today that the healing of divisions and the communication between those of different religions and societies is the primary responsibility, such as we find in the very diverse community of Birmingham, with 187 nationalities and all the great religions of the world represented in great numbers.

Your Lordships will know of the work of the noble Lord, Lord Carlile, in reviewing the Prevent strategy, which came to us in 2011. There we can find that those who support terrorism obviously reject a cohesive, integrated society. They often reject parliamentary democracy. Because polarisation and fragmentation are key conditions for the emergence of radical views, every effort should be made to understand, to have dialogue with and to befriend those who are different

from ourselves, those who have different religions, different cultures or even different political solutions to intractable problems both at home and overseas.

In the communities of the Church of England, we have a process of presence and engagement where we want to be present in local communities, however diverse they are, and to engage with theologies and differences of views from our own strongly held beliefs. Noble Lords will know that the Near Neighbours programme, which is supported by the Department for Culture and Local Government, engages in four communities across England. They are asked to make friends, stay friends and change society based on cross-cultural and cross-religious engagements. In smaller ways, charities such as the Feast bring Christian and Muslim young people together in activities both civically and in practical ways. We can see that in the face of unacceptable terrorism, wherever it is found, the response is to resist evil but at the same time to build new ways of understanding and community.

Perhaps one other thing to mention is the process of scriptural reasoning where the great Abrahamic faiths of Judaism, Islam and Christianity are, at the highest level and local level, examining the scriptures and testing the realities of things that are captured perhaps by groups who want to be terrorists. They are put into their proper perspective and understood, so that the wider community can be taught properly. I also welcome the work of the Ministry of Justice and the noble Lords, Lord McNally and Lord Ahmed, in seeking to understand what religious freedom is really like in this country.

Of course, those national and international efforts—the practical resistance of evil wherever it is found—are necessary. But it is at the local level in local dialogue and local communication that I believe these terrible things that we experience can begin to be resolved. We should sit with one another and listen to the understanding of our theologies and our scriptures but also debate vigorously the differences that we find when we do not understand why someone might feel differently or behave in a different way.

I hope that today we will understand that there are difficulties but that we are building a new community in a completely unrecognised way in places such as Birmingham. People who hitherto have not understood each other and not got on with each other are now able to say that they are proud to live in this country and proud to enjoy their diversity. They also are proud—as one Muslim waiter in an Indian restaurant in Birmingham seeks to do with his Bishop—to stand against those within their own community whom they feel, sadly, have become atheist; we have a joint campaign to enable them to be enlightened. In the scriptures we have the strong and imperative demand to seek peace and pursue it.

4.57 pm

Lord Bhatia (Non-Afl): My Lords, the statement made by the Prime Minister on 3 June 2013 is correct and has been echoed by the leaders of the Labour Party and the Lib Dems. Terrorism and extremism has existed in people from all faiths and religions. The important thing to understand is that such terrorists form a very small part of the faith groups. If one looks at the Muslim communities in Britain, there is a huge silent majority who abhor violence in the name of their religion. They are peace-loving British citizens who practise their faith and contribute to the welfare of their own communities, the wider communities and the United Kingdom. They oppose the attacks on innocent civilians. No religion advocates violence. Those who commit violence should be dealt with by the police and other law-enforcing agencies.

One has to look at the root causes of terrorism in the United Kingdom. Is it lack of education? Is it lack of understanding of their own faiths? Is it because the young get influenced by radical preachers? Our schools should be teaching the messages of peace and law abiding, and ensuring that only through sound education one becomes successful. It is perhaps rightly argued that people who are trapped in the vicious circle of poverty due to lack of jobs and opportunity become victims of radicalism. The past five years have not been easy for such people without jobs. The Government need to create more opportunities for the young who are without work.

Turning to Islam as a faith community, I wish to say that Islam, although it is the fastest-growing faith in the world, is little understood or not understood at all in the West. There is a deficit of understanding of Islam. Islam is a peaceful faith and occasionally, like all other faiths, it is hijacked by a handful of radicalised people for their own perverted personal or political reasons and ambitions. Islam reveres all the prophets—Christ, Moses, Abraham and others. Muslims are shocked when the prophets are ridiculed or abused on the altar of freedom of speech and expression.

Freedom of expression is a democratic right, but it carries responsibility. Our democracy is based on the rule of law, and those who break the law should be dealt with in the courts. Our courts are independent and magistrates and judges ensure that justice is not only delivered but seen to be done.

Turning to the Muslim community in Britain, I ask the Minister whether more could be done to support newly arrived spouses and partners from different parts of the world who come to join their families. In order to integrate them into the wider communities, they need to learn English. There are thousands of Muslim women who need to learn English to be able to communicate with the wider community and participate in civic society. They also need to be able to communicate with their own children who go to school. I believe that English and the ability to use a computer with internet connectivity are the two tools that will bring such isolated groups of women from the margins to the mainstream.

English and computers will enable the mothers to understand what their children are doing with their computers when they return home from school. Are they doing their homework, or are they playing computer games or chatting with undesirable people? The Minister should consider talking to some of the charities who work with these isolated groups of women to explore how additional funding could be given to those charities to help these isolated groups of women.

5.02 pm

Baroness Uddin (Non-Afl): Assalamualikum wa Rahmatullahi Wa Barkathu. Peace be upon you all. This is the fundamental doctrine and teaching of Islam, so how is it that, again and again, we are forced to defend the beauty of our faith? Find me a community that does not have its burden—countless acts of senseless violence and death all over the world, including between different faiths. We all have our crosses to bear. Hidden under the protection of faith, hundreds of thousands have suffered predatory abuse in silence, yet it has never occurred to me or to many others in the Muslim community to make the slightest aspersion on the religion of those who committed those crimes.

I do not think about the religion of those who carry out drone attacks, ruthlessly, on thousands of innocent bystanders, just as I do not consider those who tried to kill Malala Yousafzai, Kainat Riaz, Shazia Ramzan and many other girls and women—Muslims. We must call acts of brutal violence and criminality by their name and not allow them to be trivialised with our prejudices and blindness by attributing it to Islam, Christianity or Catholicism.

A task force to tackle radicalisation was set up by the Prime Minister following the murder of our soldier Lee Rigby in a bid to deal with extremism head-on. Michael Gove and Schools Minister David Laws will look at confronting racism and extremism in schools and charities, while Business Secretary Vince Cable will monitor universities, the Justice Secretary Chris Grayling will look into prisons and the Faith and Communities Minister, the noble Baroness, Lady Warsi, will examine work in the communities.

That is rightly impressive attention, yet I also heard emotional pleas made publicly on television channels by the family of Mohammed Saleem, a father, grandfather, husband and brother mercilessly stabbed repeatedly by a self-confessed racist. The family and its supporters asked repeatedly why there was no political outcry about the terror that the family and the community endured. Why was no COBRA meeting called? Why was there no decision to hold an inquiry into the activities of the far right fascist groups and their atrocious impact on the streets of our major cities, schools and universities and, most importantly, why was no mention made of the attacker's race or faith? Further, why was his community not asked to account for his criminal action?

This is the home of 3 million Muslims, who are impeccably loyal and love our country. We also know that there is inherent, deep-seated Islamophobia and racism in the way that we deal conveniently with one community and not the other, demonising one until it has no recourse except to tolerate more deaths and violence. I commend the Prime Minister's commitment and his words, and I pay tribute to the noble Baroness, whose record speaks for itself.

I end with a quotation from the Deputy Prime Minister in his more liberal days. In 2008, he said:

"The sad truth is you play into the hands of the men you seek to discredit, driving further the alienation of the majority of Muslims who see themselves mischaracterised everywhere they turn as would-be terrorists ... The space for debate is currently filled with few voices, a fact that extremists capitalise on. If we are to truly achieve a society in which all peaceful members are free and equal, that space must be filled with reasoned and principled debate … We must challenge publicly the ideas of those who propagate terrorism and instead promote the cause of peace and freedom in Britain for all citizens".

I very much look forward to the Deputy Prime Minister, in the very near future, countering some of the impact of what Tony Blair has said.

I believe in free speech, so today I have borne the seething hatred of Islam from the noble Lord, Lord Pearson. It is time that we reclaimed our pride as a multifaith, multiracial society where we now take collective responsibility against the subjugation of all our faiths.

5.06 pm

Lord Hameed (CB): My Lords, the holy book of the Muslims begins with the concept of God as not hurting or harming or as cruel but as beneficent and merciful. It also talks of Islam as a religion of peace and not war, for every time a Muslim takes the name of the Prophet Mohammed, he adds the words, "Peace be upon him". The Koran also instructs the believer to be tolerant and compassionate and to extend a helping hand to the sick and infirm. It also commands the pursuit of knowledge with respect for scholars, women and minorities in any land. It also instructs Muslims to respect other faiths and to live with them as good neighbours in peaceful coexistence. Therefore, strapping oneself with explosives to kill others in an act of suicide in search of martyrdom is totally un-Islamic and against the instructions of the Koran, the holy book that all Muslims must obey.

As was explained earlier, the word "phobia" is described in the *Oxford English Dictionary* as an extreme and irrational fear or dislike of a specified thing. Thus, noble Lords may have heard of the term "Islamophobia" being bandied about against Islam, leading to prejudice and generalised hatred or fear of Islam and its followers. The media around the world have their share of blame to bear in drip-feeding into the minds of the readers of newspapers and journals, and the viewers of television, regular doses of anti-Muslim material, not as factual reporting but to create public excitement with sensationalism to enhance the number of their readers and their viewing public. The widespread damage this does to society at large is incalculable. The resultant pressure from this on Muslim families is anger, confusion and frustration, with the resultant acts of violence.

God's vision of a just and compassionate human society remains unfulfilled. This, in turn, leads to impressionable young men, low in self-esteem, frustrated with unemployment and ostracised by society through the media, who then become the best recruiting ground for the sergeant-majors of terrorism.

In truth, no divine religion has ever been based on conflict, whether it be the religions represented by Moses and Jesus or Mohammed, Ram or Guru Nanak, Zarathustra or Buddha himself. On the contrary, all religions strictly forbid conflict, oppression and the killing of innocent people.

The question we face as Muslims in the West is whether Islamic society is ipso facto fundamentalist. No, we say, because the holy book of the Muslims, the Koran, repeatedly commends coexistence. It says:

"lakum deen-e kum wal ya deen"—

your religion for you and my religion for me. It also says,

"la iqra fi al deen"—

let there be no compulsion in religion.

Let me give your Lordships a glaring example of how selective our principal source of information, the media, can be. I am pointing out a question of opportunities. One of the most venerated and respected figures of the Islamic world is the Grand Mufti of Saudi Arabia, where the most holy sites for Islam are based. Recently, he delivered the Hajj sermon for the annual pilgrimage, where nearly 2 million Muslims were gathered. There, with many in the Muslim world also listening to his fatwa, or sermon, he underscored the true teachings of Islam through peace and harmony and declared that Islam has nothing to do with terrorism or extremism and urged Muslims to unite against the incidence of suicide bombings. These, he said, were recipes for being transported to hell rather than a place in paradise. I wish that our wonderful media worldwide had given more prominence to such a message, rather than the drip-drip that we see in newspapers every day which leads only to the poisoning of our minds against each other.

Finally, let us proclaim loudly our intent to defeat those who are bent on destroying our civilised way of life and resolve our differences through interfaith dialogue. My friends, it is time to stand up and be counted. This, indeed, is our duty, and we must fulfil it.

5.12 pm

Lord Ahmed (Non-Afl): My Lords, the Prime Minister's statement that there is nothing in Islam which justifies acts of terror was a call for unity at a time when many of us felt frightened. The Prime Minister was right: we must respond to senseless violence with all the strength of a united society. When community leaders of all faiths work together to guide young people away from extremism, they strengthen our society. That is the kind of constructive action we need. The spreading of religious prejudice is far from constructive. Islamophobia and any other kind of religious hatred will only divide Britain. Religious hatred and the fear-mongering that goes on with it has no place in a civilised country.

First, I want to deal with the myth that terrorism is an Islamic phenomenon. In July 2011, 77 people were murdered and 150 injured in Norway. Acting on the belief that immigrants were undermining the Christian values of his country, Anders Breivik identified himself as a Christian crusader. I do not think that Breivik was a Christian. I do not think that his actions reflect Christianity or that Christianity has something fundamentally wrong with it because he claims to be acting in its name.

The noble Baroness, Lady Uddin, mentioned Pavlo Lapshyn, who stabbed an 82-year-old man, Mohammed Saleem, in Birmingham. Pavlo Lapshyn also planted three bombs outside mosques. Lapshyn cited his desire to stir up racial tension as the motivation for his crimes. Surely this makes it our duty to quash any racial tension that this kind of violence stirs up.

The noble Lord mentioned the Buddhist monks who have been attacking the Rohingya communities in Burma, killing thousands of Muslims, and Hindu nationalists have also bombed in India. They do not represent the majority of Hindus or Buddhists. From the reign of Bloody Mary and her burning of hundreds of Protestants to the troubles of Northern Ireland between Protestants and Catholics, our history illustrates that it is ignorance, prejudice and the desire for power—not religion—that fuels violence.

Even so, some will draw comfort from blaming the Muslim community. In an interview in 2009, the noble Lord, Lord Pearson, stated:

"Muslims are breeding ten times faster than us".

To me, this dehumanising language echoes the anti-Semitic comments made about Jews in the 1920s. When the noble Lord says "ten times faster than us", what does he mean by "us"? Would he separate British Muslims from the rest of British society? Millions of Muslims, Hindus and Sikhs served in the British Armed Forces across two world wars. British Muslims have also served and died in Afghanistan.

Quotations from the Holy Koran have been used by Geert Wilders and the noble Lord, Lord Pearson, including verse 14 and other verses in Surah 9, and Surah 47, verse 4. I tell noble Lords that those quotations are out of context. They are not even interpreted. I challenge him to recite three words in Arabic and see whether he can do the translation.

The truth is that the right reverend Prelate was right. I could quote 18 examples from the Holy Bible that could be misinterpreted, but I do not want to go down this route. As a politician, I want to remind noble Lords of a quotation:

"I have nothing to offer but blood, toil, tears, and sweat. …You ask, what is our policy? I will say: It is to wage war, by sea, land and air, with all our might … You ask, what is our aim? I can answer in one word: it is victory, victory at all costs … victory, however long and hard the road may be".

That is not Lord Ahmed calling for jihad in the House of Lords or threatening the noble Lord, Lord Pearson, as he claimed in Washington DC on 28 October 2009. This is our great war-time leader, the Prime Minister Winston Churchill, in the House of Commons on 13 May 1940. It can be read at col. 1502 in *Hansard*. I do not need to remind your Lordships of the two world wars. There were 16 million deaths in the First World War and 60 million in the Second World War. I need not mention the colonial wars. Everywhere you dig into European colonialism in Afro-Asia there are bodies—lots of bodies—as well as between 1916 and 1930 in Tsarist and Soviet Russia. Lives were also lost during the fight for Algerian independence. I could go on. None of them were Muslims.

I know that my time is up. All I want to say is that the Koran teaches me: do not argue with the people of earlier scripture. Even if they do, tell them that you believe in the same God as they do.

5.18 pm

Lord Triesman (Lab): My Lords, I start by doing something that I have not done often, which is simply to endorse the Prime Minister's words. It is notable to me that no noble Lord today has started with the

[Lord Triesman]
convention that we have of congratulating somebody on getting a debate on the Order Paper. That is probably because most of us, certainly me, have looked forward to this with some apprehension. I was apprehensive because I know from the time in November 2009 that the noble Lord, Lord Pearson, in running for the leadership of his party, UKIP, said that the political class was complacent about Islamism. He claimed that our people—again, I do not quite know who the "our" and "we" are—were strangers in our own land. He went on to commend the right-wing Dutch politician, Geert Wilders, and invited him to screen his controversial film about Islam here.

A number of speakers in this debate have treated it, understandably, as though it were a discussion of a religious or theological issue. I do not believe that it is—I think that it is straightforwardly political. It is about the potency that is sometimes achieved, at times of economic crisis, of characterising some people in ways that are dismissive of them and stereotypes them, speaking about them with a generality that cannot be justified. I shall have to go back through *Hansard* to make sure that I am quoting accurately, but in introducing this debate the noble Lord talked about the "dark side" and birth rates of people who are, obviously, not quite as good as us, people stirring up hate and "red hot" people striving against us, people who we will finally see looking down the barrel of a gun at us, the plight of Christians, and so on. These are all characterisations which, candidly, should have no place in the debates in this country and our Parliament.

Noble Lords: Hear, hear!

Lord Triesman: Sadly, and I want to say this as briefly as I can—and I make the point about it being political—this is not simply about the noble Lord, Lord Pearson. I have been going through quotations from a large number of other people from UKIP, and there is obviously an attempt to adopt positions on the extreme right in our country. Cavan Vines, the candidate in south Yorkshire, talked of people who hide behind women and kill our children. Chris Pain, the opposition leader in Lincolnshire, gave a foul-mouthed diatribe about Islam. Peter Entwistle, the deputy chair of Bury UKIP, speaking of President Obama said:

"If I ever see him on a Greyhound bus wearing a rucksack, I'm getting off!!".

Misty Thackeray, the deputy chair of UKIP in Scotland, praised the right-wing Dutch politician, Geert Wilders as a self-confessed hater of Islam. I could go on. I have also noted that the support for those UKIP positions from the EDL has been as conspicuous as those quotations are. This is a sequence of attacks that have no place among us.

Whatever the justification that some people may feel for political objectives that they cannot achieve by normal, democratic means, those objectives never justify the use of violence to achieve them. That is true for any people in any community; it is never justified, and nobody in here would try to justify it. Nobody would say that the people of the United Kingdom can be bombed, shot at or violently compelled to make political changes that they do not wish to see. They never have been compelled that way and I do not believe that they ever will be compelled that way; this is a country that repudiates violence from any quarter and insists that those who conduct violence from any quarter are brought to justice. That is a straightforward convention among all of us, for reasons that are very profound.

It is not a matter, in my view, of whether people choose to live differently in their style or at a distance from others in their own communities. Personally, I have no taste for seeing communities constructed in that way—let me be quite clear about it. I prefer to live in an integrated society in which people share each other's cultures and enjoy them. But it is also a truth that if people live that way within the law and including all laws that protect equal status of all citizens, there is no reason why those people should be subject to state intervention or trenchant language, as we have heard in the House this afternoon. People do have different lifestyles, and if they wish to live lawfully in their own communities we should at least have some modicum of respect for those facts.

I noted what the noble Lord, Lord Pearson, said about abrogation, with the later verses superseding the earlier ones, but I am not a sufficient student of that tradition to understand what is or is not within context. However, I am, in my modest way, a Talmudic scholar—at least, I have studied it to some extent—

Lord Ahmad of Wimbledon (Con): Perhaps the noble Lord could conclude his remarks.

Lord Triesman: I am nearing my final words. I notice that one of the most prominent quotations often relied upon is about smiting one's opponents hip and thigh. That appears in Judges, chapter 15, verse 8. I tell noble Lords that I have never set about doing that, I have never thought of doing it, and I have never thought that it was a compunction upon Jewish people or anybody else.

5.25 pm

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): My Lords, I welcome the opportunity to put on record this Government's view on extremism and terrorism. I start by thanking the noble Lord, Lord Triesman, for his bold words of support, and I add my wholehearted endorsement to everything that he has said.

I begin with the Prime Minister's words in the wake of the horrific murder of Drummer Lee Rigby in May —the words to which the noble Lord refers in calling this debate:

"What happened on the streets of Woolwich shocked and sickened us all. It was a despicable attack on a British soldier who stood for our country and our way of life, and it was a betrayal of Islam and of the Muslim communities who give so much to our country. There is nothing in Islam that justifies acts of terror, and I welcome the spontaneous condemnation of the attack from mosques and Muslim community organisations across our country. We will not be cowed by terror, and terrorists who seek to divide us will only make us stronger and more united in our resolve to defeat them".—[*Official Report*, Commons, 3/6/13; col. 1234.]

Those are his words, and I thank my noble friend Lord Sheikh, the noble Lord, Lord Bhatia, the noble Baroness, Lady Uddin, the noble Lord, Lord Ahmed, and others for their kind words of support for the Prime Minister's stance—support which was received from across the world and from across the British Muslim community. Indeed, if Islam justified terror, we would not have seen the out-and-out condemnation of this brutal murder by the British Muslim community.

After that attack, we saw the Ramadhan Foundation, the Muslim Council of Britain, the Christian Muslim Forum, MINAB, the Al-Khoei Foundation, the British Muslim Forum, the Ahmadiyya Muslim Association, the Karima Institute, the Islamic Forum of Europe and many, many others come out and say, "Not in our name". They were united with the country in grief and horror at what happened on a London street. I wholeheartedly support this clear and unequivocal condemnation. As the noble Lord, Lord Hameed, said, let us stand and be counted. The British Muslim community did just that.

I am grateful for the very considered contribution from the right reverend Prelate the Bishop of Birmingham. Islam, like all the major religions, is not inherently violent. Passages from sacred texts must be taken in context. It would be possible to distort quotes from any religious text.

The noble Lord referred extensively to the sword verses in the Koran. These are often cited by critics to demonstrate that Islam is violent in its very nature. These same verses are also selectively used, or abused, by religious extremists to develop a theology of hate and intolerance and to legitimise unconditional warfare against Muslims and non-Muslims.

It is not surprising that the Koran, like the Hebrew Scriptures or the Old Testament, has verses that address fighting and the conduct of war. However, like all scriptures, Islamic sacred texts must be read within the social and political context in which they were revealed.

As a political anorak, I shall step away from theology and talk TV political drama. In the hit American show "The West Wing", a conversation between the Catholic President, Bartlet, and a bigoted TV presenter went something like this. President Bartlet:

"I like your show. I like how you call homosexuality an abomination".

The TV presenter:

"I don't say homosexuality is an abomination, Mr. President. The Bible does".

President Bartlet:

"Yes it does. Leviticus 18:22. I wanted to ask you a couple of questions while I have you here. I'm interested in selling my youngest daughter into slavery as sanctioned in Exodus 21:7. She's a Georgetown sophomore, speaks fluent Italian, always cleared the table when it was her turn. What would a good price for her be?". While thinking about that, can I ask you another question? My Chief of Staff, Leo McGarry, insists on working on the Sabbath. Exodus 35:2 clearly says he should be put to death. Am I morally obligated to kill him myself or is it okay to call the police? Here's one that's really important because we've got a lot of sports fans in this town: touching the skin of a dead pig makes one unclean. Leviticus 11:7. If they promise to wear gloves, can the Washington Redskins still play football? Can Notre Dame? Can West Point? Does the whole town really have to be together to stone my brother John for planting different crops side by side? Can I burn my mother in a small family gathering for wearing garments made from two different threads? Think about those questions, would you?".

I could not make this point more clearly. These texts from the Old Testament could so easily be manipulated to cause mischief and indeed have been manipulated in the past. But being religious means making choices and understanding the central values of your faith. It also means considering the context in which that faith was formed. To be an adherent, one must also be a historian. This is a point that the late Benazir Bhutto, the first female Prime Minister of a Muslim country, once put particularly well when speaking of teachings in the Koran. She said:

"In an age when no country, no system, no community gave women any rights, in a society where the birth of a baby girl was regarded as a curse, where women were considered chattel, Islam treated women as individuals".

Noble Lords will be aware that most religions have suffered at one time or another from extremism. Islam is no exception. The essential lesson taught by Islamic history is that extremist groups are ejected from the mainstream of Islam. They are marginalised and seen as heretical aberrations to the Islamic message. That is why religious leaders such as countless Muslim scholars have stood tall, not only condemning acts of violence committed in the name of their faith but issuing clear Islamic rulings, a fatwa on why terrorism is a rejection of what Islam stands for.

The noble Lord, Lord Pearson, has a clear interest in Islamic theology. He makes a distinction between the Prophet's life in Mecca and Medina. He refers to the "sword verses" in the Koran. He joins critics to demonstrate that Islam is violent in nature. Ironically, these same verses are also selectively abused by religious extremists to support their theology of hate and intolerance. It is not surprising that the Koran, like the Hebrew Scriptures and the Old Testament, has verses on fighting and the conduct of war but they must be put into context.

As many noble Lords have said in this debate Islam, like all world religions, neither supports, nor advocates, nor condones terrorism. I am saying that the values of al-Qaeda and like-minded terrorists are not only contrary to what we as a country stand for, they are a distortion of the Islamic tradition itself. Al-Qaeda's ideology is fundamentally at odds with both classical and contemporary Islamic jurisprudence. That is why the majority of Muslims across the globe reject their ideology.

I believe it is a great shame that the noble Lord has asked this question. It points, at best, to ignorance about Islam, or, at worst, a deliberate attempt to perpetuate a distorted image of the faith. It is particularly sad to see this being done during interfaith week, when we celebrate the important role that faith plays in British society, particularly when different faiths come together. This Government support the role of faith in society. They support people in their right to manifest their faith, to worship freely and to act in the name of their faith for the good of society. They support people to share their faith with others, to change their faith, or, indeed, to have no faith at all. As well as that, they are committed to protecting people from intolerance, discrimination or even persecution

[Baroness Warsi]
on the basis of their faith. We have done more than any other Government to tackle that unacceptable scourge of anti-Muslim hatred. For that, I am proud.

Deep, entrenched anti-Muslim bigotry goes against everything this great nation stands for—the idea that Islam is a particularly violent creed and therefore an irrational reaction to it is somehow appropriate. I am concerned that the deeper Islamophobia seeps into our culture, the easier becomes the task of extremists recruiting. I invite the noble Lord to reflect on this.

Lord Pearson of Rannoch: My Lords, before the noble Baroness sits down, she has not answered the two questions that I put to her. I believe that I am in order to repeat them.

The Deputy Chairman of Committees (Lord Colwyn) (Con): The noble Lord may make a brief point for clarity.

Lord Pearson of Rannoch: Will the noble Baroness answer the two questions I put to her?

Baroness Warsi: I am coming to that now. I will be answering the noble Lord's direct questions now. The fact is, British Muslims play a crucial role in British society. Everyone in this house knows Muslims in British life—doctors, engineers, scientists, journalists, MPs, teachers, business people, local councillors and so on. They are all making strong contributions to our country. The citizenship survey of 2010-11 asked whether it is possible to fully belong to Britain and maintain a separate cultural or religious identity. Some 89% of Muslims agreed with that, as opposed to 72% of the general population.

Let me draw the noble Lord's attention to recent research conducted by ICM, which showed that Muslims are Britain's top charity givers, topping a poll of religious groups. Muslims who donated to charity last year gave an average of almost £371 each. That is nothing new. The first recorded Englishman to become Muslim was John Nelson, in the 16th century. At the time of the union with Scotland in 1707, Muslims were already in Britain. There are records of Sylhetis working in London restaurants as early as 1873. Noble Lords may also be aware of the recent campaign that the Government launched to highlight the contribution of the nations from the Commonwealth during the First World War. Hundreds of thousands of the 1.2 million who served in the British Indian Army were Muslims. They fought and died for the values and freedoms that we enjoy today.

I turn the two specific questions asked by the noble Lord, Lord Pearson. He asked about the persecution of Christians and by which particular group and they were being conducted. I say this simply: one life taken, one life destroyed, is one life too much. For me, the religion of those communities is absolutely irrelevant.

Lord Pearson of Rannoch: With respect, that does not answer the question. The question I put to the noble Baroness was about the persecution of Christians, to which she so bravely referred in Georgetown last Friday. Is it or is it not mostly the work of the jihadists? That was the question I put to her.

Baroness Warsi: It was mostly the work of extremists who do not follow any faith, as far as I am concerned. Collective punishment for co-religionists is wrong. That is what I said in Georgetown. Collective requirement of a community to be a constant apologist for its co-religionists is also wrong. As the UK's first ever Minister for Faith and Communities, it is my job to ensure that freedom of religion and belief remains at the top of the Government's agenda both at home and internationally.

The US Congress hearing in 2011 about "Islamist terrorism" was described as reality TV and a witchhunt. The White House said that we do not practice guilt by association. The Prime Minister, this Government and I wholeheartedly agree with that. Values such as religious tolerance are not just British. They are universal values that cut across different countries and different faiths. Although, of course, all faiths contribute to the public good, Islam is my religion and I am proud of my beliefs.

I believe that our work in building a society characterised by respect and tolerance is not best served by scare stories stirred up by Parliament or parliamentarians. Those of us who have the privilege to serve in Parliament should use this platform to help to build better relations, to speak not just for those communities and faiths to which we belong but wherever injustice occurs, as I did just a few days ago in Georgetown, when I spoke about the persecution of Christians. I thank the noble Lord, Lord Pearson, for his warm words about the speech, and I hope that it inspires him to take a similar approach. Once more, I thank noble Lords for their contributions.

The Deputy Chairman of Committees: My Lords, that fascinating debate completes the business before the Grand Committee this afternoon. The Committee stands adjourned.

Committee adjourned at 5.37 pm.

Written Statements

Tuesday 19 November 2013

Armed Forces: Defence Equipment and Support

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): My right hon. Friend the Secretary of State for Defence (Mr Philip Hammond) has made the following Written Ministerial Statement.

On 10 June 2013, I published a White Paper on the strategy for reform of the acquisition and support of our Armed Forces' equipment. The strategy plans to explore the potential for involvement of the private sector under a Government Owned and Contractor Operated (GoCo) model by means of a commercial competition which is under way, and to compare this option with an internal approach which would deliver an improved solution within the public sector (DE&S+). I want to update the House on progress of the commercial competition.

When the Invitation to Negotiate (ITN) was released on 25 July there were three prospective bidding consortia but this reduced to two shortly thereafter. While we believed that two bidders were sufficient for an effective competition, alongside the internal DE&S+ option, I asked that a review of the process be undertaken jointly between the Cabinet Office and the Ministry of Defence (MOD). This has recently been completed, and a copy of the report has been laid in the Library of the House today.

The review concluded that a viable competition remained, albeit with some risk attached, but that any further reduction in the number of bidders should stimulate a formal reconsideration and decision on whether to proceed further with the GoCo option. Bids were required from the two commercial consortia in three phases and the second of those was due to be received on Friday 15 November. MOD has received a bid from one of the consortia but the second (Portfield, comprising CH2MHill, Serco and Atkins) has decided to withdraw from the competition. This is regrettable and the reduction in competitive tension will make it more challenging for the Department to conclude an acceptable deal with the remaining bidder, notwithstanding the competition from the DE&S+ bid, which will be received shortly.

The Department, with the Cabinet Office and HM Treasury, will now study the detailed proposal received from Materiel Acquisition Partners (led by Bechtel with PA and PwC in support), which is substantial at over 1,200 pages. In parallel, the DE&S+ team will continue to refine and enhance their proposition. This analysis will inform a decision on whether it is in the public interest to proceed with only a single commercial bidder and an internal option, or whether alternative approaches should be considered and a further Statement will be made once this process is complete.

British Indian Ocean Territory

Statement

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): My Honourable Friend, the Parliamentary Under-Secretary of State, Mr Mark Simmonds, has made the following written Ministerial statement:

On 8th July I announced to the House the Government's intention to commission a Feasibility Study on the issue of resettlement of the British Indian Ocean Territory (BIOT). I wish to update the House on the scope of this Feasibility Study, which will be funded by the BIOT Administration.

Over the summer, FCO and BIOT officials sought initial views from over 400 people, including members of the Chagossian community in the UK, Mauritius and the Seychelles.

These initial consultations show that views within Chagossian communities vary widely on the issue of resettlement. Though a clear majority of Chagossians expressed a preference to return to BIOT, there were significant differences on the detail. A number of concerns and issues were highlighted, by Chagossian groups and others, which will need to be carefully considered during the Feasibility Study. These include the scale of resettlement, the extent of the provision of modern infrastructure and facilities, access to employment opportunities, and the need to protect the unique environment of BIOT.

The input provided has helped to shape the draft Terms of Reference (TORs) for the study which will be published immediately on the Overseas Territories webpage on Gov.UK and placed in the libraries of both Houses. The Feasibility Study will look at the full range of options for resettlement and will include all of the islands of the Territory, including Diego Garcia with its vital military base. Following the Study, in assessing the potential options for resettlement the Government will wish to balance a range of factors including whether this could be accommodated in a way that does not inhibit the scale and output of the existing base and whether the base can continue to operate undisturbed alongside any potential resettlement.

In order to ensure that the process remains transparent, credible and inclusive, officials from the BIOT Administation will continue to regularly meet and update Chagossian groups and other interested parties on progress and emerging findings as the Study develops. I shall continue to keep Parliament informed.

Daniel Morgan

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach): My right hon Friend the Home Secretary (Theresa May) has today made the following Written Ministerial Statement:

I announced in a Written Ministerial Statement on 10 May 2013 the creation of the Daniel Morgan Independent Panel, to be chaired by Sir Stanley Burnton.

Sir Stanley Burnton informed me on 13 November of his decision to resign as chairman of the Panel for personal reasons.

The work of the panel will continue and announcements about any further appointments will follow in due course.

The Morgan family has been informed of Sir Stanley's decision and remains fully supportive of the panel process.

EU: Finances

Statement

The Commercial Secretary to the Treasury (Lord Deighton) (Con): My honourable friend the Economic Secretary to the Treasury (Nicky Morgan) has today made the following Written Ministerial Statement.

I am today laying before Parliament, the European Union Finances 2013: statement on the 2013 EU Budget and measures to counter fraud and financial mismanagement (Cm 8740). It is the thirty third in the series.

The Statement gives details of revenue and expenditure in the 2013 European Union (EU) Budget, recent developments in EU financial management and measures to counter fraud against the EU Budget. It also includes an annexe on the use of EU funds in the UK.

The current economic and financial climate means that governments and families across Europe are taking difficult decisions to make savings; it would be wrong for the EU to not show similar spending restraint. The Government remains determined to ensure transparency, spending control and better value for money in EU budget spending, and to push for improvements in EU financial management.

Higher Education

Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie) (Con): My Rt. Hon Friend, the Minister of State for Universities and Science (David Willetts) has made the following statement.

In the 2011 white paper on higher education, Students at the Heart of the System (Cmnd 8122), the Government announced its intention to introduce a level playing-field for regulating higher education providers of all types. A number of reforms have since been introduced to deliver convergence between the rules governing higher education institutions funded by the Higher Education Funding Council for England (HEFCE) and others, known as alternative providers (APs). The process of applying student number controls to APs was subject to a consultation, which was launched in November 2012 and which closed in January 2013.

The previous Government introduced a system of recovery of payments from HEFCE-funded providers that breached their number controls. This regime was not applied to APs, even though students studying at APs are eligible for maintenance grants, maintenance loans and tuition fee loans. As the higher education sector has diversified, the number of applications for student support at APs has increased. In addition, the tuition fee changes implemented in 2012/13 mean students at APs may borrow up to £6,000 a year to cover the costs of their tuition. The number of English and EU students claiming support at APs has grown from 13,000 in 2011/12 to 30,000 in 2012/13, and the total public expenditure on these students has risen from £60m to £175m. This is 4% of the total student support budget. Growth has been particularly concentrated among students studying for Higher National Certificates (HNCs) and the Higher National Diplomas (HNDs).

The Government announced in March 2013 that it would introduce number controls for 2014/15 academic year based on institutions' 2012/13 entry data. Alternative Providers were asked to submit data to HEFCE on their recruitment plans. The Department received this data on 5 November and concluded that some of these plans were unaffordable, given the need to control public spending. We have therefore written to the 23 APs that are expanding most rapidly to instruct them to recruit no more students for HNCs and HNDs in the current 2013/14 academic year. Degree-level courses are unaffected by these changes.

Concurrently, we are dealing with a different student support issue. We identified that there had been a significant increase in the number of Bulgarian and Romanian students applying for full student support in England this year. This support is usually only available to EU citizens resident in the UK for a minimum of three years. We have asked each of these students to supply additional information to support their applications for maintenance, before any further public funding is made available to them or to their institutions. We have asked all EU citizens applying for maintenance support in England to supply this additional information.

Justice: Cautions

Statement

The Minister of State, Ministry of Justice (Lord McNally) (LD): My right honourable friend the Minister for Policing, Criminal Justice and Victims (Damian Green) has made the following Written Ministerial Statement.

"The Secretary of State for Justice, together with the Home Secretary and the Attorney General, on 3rd April 2013 launched a review of simple cautions. The review examined the way in which simple cautions are currently used, and consider the need for any changes to policy or practice to ensure that there is transparency, accountability and public confidence in the use of simple cautions as a disposal.

The review included (but was not restricted to) the examination of:

- existing guidance and practice relating to the use of simple cautions;
- the question of whether there are some offence types for which the use of simple cautions is generally inappropriate – and if so, what procedures should be adopted;
- the multiple use of cautions;

• the need for increased scrutiny of, and accountability for, the use of a caution in any given case, or the general approach adopted in a police force area to the use of cautions as a disposal; and

• the impact on individuals of accepting a caution – taking into account the recent case of T-v-Chief Constable of Greater Manchester and others.

The review reported to the Justice Secretary, Home Secretary and the Attorney General. Following detailed discussion and an examination of the report's findings, CJS ministers agreed to accept the recommendations of the review, namely that:

• The Government should remove the availability of simple cautions for indictable only offences unless there are very exceptional circumstances and the caution has been approved by a chief officer, whilst continuing to allow the use of the conditional caution for these offences. This can be achieved either through toughening the guidance or through legislating. We will also seek to restrict the use of simple cautions for particularly serious either way offences which would ordinarily attract custodial sentences or high end community orders if the offender is found guilty following a trial.

• We should also restrict the use of simple cautions for repeat offenders beyond the position as set out in the guidance.

• We believe there is a compelling case for simplification and consolidation of the existing guidance. We also recommend further strengthening the existing guidance regarding cautioning in serious cases.

• That there is greater local accountability and scrutiny of decision making. Each force should have a senior officer identified as responsible to provide local leadership and accountability and by making use of local Scrutiny Panels.

• Whilst the imposition of a caution is an operational policing matter we believe there is a compelling case for forces to review strategy and usage of cautions and other out of court disposals on an annual basis. Particular scrutiny should attach to the question of cautions for serious and repeated cases. There is clear potential for Police and Crime Commissioners to play an active role in providing transparency and assurance for the public on this issue.

• The presentation of data on cautions, and any accompanying narrative, should continue to draw a clear distinction between youth and adult cautions and simple and conditional cautions, although there is a need for consistent operating principles between these wherever possible. More use can be made of police.uk to ensure that the data is easily accessible to the public.

• Whilst this review has limited itself to adult simple cautions, it has concluded that in view of wider concerns which have been voiced during the review, there would be a good case for conducting a wider review of other statutory and informal out of court disposals for both adults and youths to ensure that the framework is rational, understood by all practitioners, and maintains public confidence, and that there are no inadvertent effects from any changes to the simple caution regime in isolation.

The government has revised the guidance on Simple Cautions, which is published on the Ministry of Justice website, and has published the report of the review of Simple Cautions alongside the consultation document on the wider out of court disposals framework which is due to conclude by 09 January 2014. A copy of all of these documents has also been placed in the libraries of both Houses."

Written Answers

Tuesday 19 November 2013

Abortion

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government whether they have assessed their policy on access to safe abortions for war rape victims against the United Nations Security Resolution 2122 of 18 October, and in particular the section noting "the need for access to the full range of sexual and reproductive health services, including regarding pregnancies resulting from rape, without discrimination"; and, if so, what is that assessment. [HL3228]

Baroness Northover (LD): The UK welcomes the Security Council's focus on improving access to sexual and reproductive health. The UK funds partners to deliver these services and will be calling on other donors and partner agencies to provide more sexual and reproductive health services in humanitarian situations.

UK aid can be used to provide safe abortion care where necessary, and to the extent allowed by national laws. In conflict situations, where denial of abortion in accordance with a national law prohibition would threaten the woman's or girl's life or cause unbearable suffering, international humanitarian law principles may justify offering an abortion rather than perpetuating what amounts to inhumane treatment in the form of an act of cruel treatment or torture. Clearly this will depend on the woman's choice, her condition and the safety and security of the humanitarian staff, as well as other contextual factors.

Africa

Question

Asked by ***Lord Ashcroft***

To ask Her Majesty's Government what is their assessment of the International Democrat Union resolution of 31 October on democratisation in Africa. [HL3390]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The British Government considers a broad range of reports from a wide number of organisations focusing on democracy and governance in considering its policies on Africa. The Government fully supports democratisation and improved governance in Africa and has a programme of projects in support of the wider issues raised in the International Democrat Union's resolution.

Armed Forces: Defence Expenditure

Question

Asked by ***Lord Trefgarne***

To ask Her Majesty's Government whether any of the expenditure authorised by Ministers at the Ministry of Defence in the three years prior to June 2010 was the subject of a Direction to the Accounting Officer. [HL3268]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): In the three years prior to June 2010 there were four Ministry of Defence (MOD) Ministerial Directions to the Accounting Officer authorising expenditure. They are identified in the following table:

Date	*Direction*	*Category of Direction*
15 September 2008	REMPLOY Procurement	Value for Money
29 June 2009	Repatriation Flights for UK Hostages in Iraq	Propriety
17 September 2009	Repatriation Flight for UK Hostages in Iraq.	Propriety
6 March 2010	Basra Memorial Wall Dedication Ceremony.	Value for Money

No MOD Ministerial Directions have been issued since March 2010.

Bangladesh

Question

Asked by ***Lord Ahmed***

To ask Her Majesty's Government what is their assessment of the war crimes tribunal held in Bangladesh which has passed death sentences on British citizens and political opponents of the current government of that country; and whether they have made any representations to the government of Bangladesh about the tribunal. [HL3244]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The UK supports the principle of war crimes trials to hold to account those who may be guilty of crimes committed during the 1971 war. This must be done in a way that meets international legal standards. We made this point at Bangladesh's 2nd Universal Periodic Review at the UN Human Rights Council on 29 April.

But what we do not support is for those found guilty to face the death penalty. I raised our opposition, in all circumstances, with the Bangladesh Foreign Minister, Dr Dipu Moni, on 25 September. Our High Commissioner in Dhaka recently supported a local EU statement calling for the abolition of the death penalty to mark the World and EU Death Penalty Day on 10 October.

BBC: World Service

Question

Asked by ***Lord Bourne of Aberystwyth***

To ask Her Majesty's Government what support they provide to the BBC World Service. [HL3266]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The Foreign and Commonwealth Office (FCO) is the BBC World Service's (BBCWS) sponsoring department and is providing £238.48 million for resource and capital spend as FCO Grant in Aid to support its activities in 2013-14.

Although the World Service moves to Licence Fee funding from April 2014, the Secretary of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for Richmond (Yorks) (Mr Hague), will continue to retain governance responsibilities, such as: agreeing the BBCWS's Objectives, Targets and Priorities and the language services in which the BBCWS is provided.

The FCO will continue to work with the BBCWS to help ensure it continues to be recognised as the world's most influential and respected international broadcaster.

British Council

Question

Asked by ***Lord Bourne of Aberystwyth***

To ask Her Majesty's Government what support they provide to the British Council. [HL3265]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The Foreign and Commonwealth Office (FCO) is the British Council's sponsoring department and is providing £161.4 million in Grant in Aid for resource and capital spend to support its activities around the world in 2013-14.

The FCO works in close co-operation with the British Council and its offices located in over 100 countries. The Council is also an important contributing partner in the Government's International Education Strategy.

Burma

Question

Asked by ***Baroness Jenkin of Kennington***

To ask Her Majesty's Government whether the government of Burma agreed to support the United Kingdom initiative on sexual violence in conflict when requested to do so by Hugo Swire, the United Kingdom Minister of State with responsibility for Burma, during his visit to that country in December 2012. [HL3264]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): During his visit in December 2012 to Burma, the Minister of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for East Devon (Mr Swire), called for action to tackle sexual violence.

President Thein Sein welcomed the Preventing Sexual Violence Initiative (PSVI) during his visit to London in July. Mr Swire pressed the Burmese Foreign Minister for his government to endorse the PSVI Declaration at the UN General Assembly in September. We will continue lobbying to strengthen accountability systems and eliminate impunity for rape in Burma.

At its outset, the Initiative identified countries, in consultation with the UN and other partners, for initial deployments. Over recent months the Initiative has extended to a number of other countries—including Burma. Our Embassy in Rangoon is looking to incorporate PSVI activities in to new and existing work—for example, funding a new project to improve access to justice for victims, develop community-based preventive mechanisms and promote wider legal and policy reforms.

Community Groups

Question

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

To ask Her Majesty's Government how many services have begun to be delivered by community organisations and other groups under the Community Right to Challenge provisions. [HL3302]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): The Community Right to Challenge came into affect in June 2012. This information requested is not centrally held. My department has a general policy of seeking to reduce, rather than increase, data-reporting burdens on local government.

Government is providing support to community groups who want to bid to run local services or exercise the right to challenge. Since 2012, our support providers have given specialist support to 221 groups interested in delivering local services, including through the Community Right to Challenge.

Crime: Domestic Violence

Questions

Asked by ***Baroness Scotland of Asthal***

To ask Her Majesty's Government what training has been provided to police officers about responding effectively to domestic violence claims by individuals in same-sex relationships. [HL3247]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): All Police Officers complete the Initial Police Learning and Development Programme (IPLDP) that provides them with the knowledge and skills to respond to and investigate all crimes effectively, irrespective of the sexual orientation of individuals concerned.

This Programme and the training for Crime Investigators include modules relating to domestic abuse in same-sex relationships.

Asked by ***Baroness Scotland of Asthal***

To ask Her Majesty's Government what assessment they have made of the impact on domestic violence claims of their proposed changes to legal aid.

[HL3248]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The proposals consulted on in *Transforming Legal Aid: delivering a more credible and efficient system* are aimed at reducing the cost of and ensuring public confidence in the legal aid scheme.

As part of our consultation response we have updated our assessment of the impacts of the proposals. This can be found at https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/consult_view.

The proposals will not significantly alter the situation regarding domestic violence claims under the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which came into effect from April this year.

Crime: Hate Crime

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether convictions have been obtained in the last one-year and two-year periods for hate crimes, including attacks on places of worship and religious premises; and if so, how many and which faiths were involved.

[HL2790]

The Minister of State, Ministry of Justice (Lord McNally) (LD): We are aware that there have been convictions for attacks on places of worship, including the recent conviction relating to the planting of explosive devices near to Mosques in the West Midlands.

The number of offenders found guilty at all courts for Racially and Religiously Aggravated Offences and Stirring-Up of Hatred offences in England and Wales from 2011 to 2012 (latest available) is attached below.

The Court Proceedings Database does not hold information about whether the attack took place on places of worship or religious premises and the faiths.

Offenders found guilty at all courts for hate crime offences[1], England and Wales, 2011-2012[2][3]

Outcome	*2011*	*2012*
Found guilty	6,755	6,458

(1) Includes racially & religiously aggravated offences and offences intended or likely to stir up racial or religious hatred, under following legislation:

Offences against the Person Act 1861 as amended Crime & Disorder Act 1998, S.20, S.47 (in part)

Crime & Disorder Act 1998, S.29(1)(a) & (2), S.29(1)(b) & (2), S.29(1)(c) & (3), S.32(1)(a) & (4), S.32(1)(b) & (4), S.31(1)(b) & (4), S.31(1)(a) & (4), S.31(1)(c) & (4), S.30(1) & (2)

Protection from Harassment Act 1997, S.4, S.2,

Criminal Damage Act 1971, S.1(1)

Public Order Act 1986 as amended by Crime & Disorder Act 1998, S.4A, S.4, S.5

Public Order Act 1986 added by Racial and Religious Hatred Act 2006, S.18, S.19, S.20, S.21, S.22, S.23, S.29B, S.29C & 29L(3), S.29D & 29L(3), S.29E & 29L(3), S.29F(1) & (2)(a) & 29L(3), S.29F(1) & (2)(b) & 29L(3), S.29F(1) & (2)(c) & 29L(3), S.29G & 29L(3)

Football Offences Act 1991, S.3

(2) The figures given in the table on court proceedings relate to persons for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

(3) Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

Source: Justice Statistics Analytical Services - Ministry of Justice.

Ref: PQ HL 2790

Criminal Cases Review Commission

Question

Asked by ***Baroness O'Loan***

To ask Her Majesty's Government in how many cases each year since 1997 the Criminal Cases Review Commission has referred a conviction in England and Wales to the Court of Appeal, and in Northern Ireland to the Court of Appeal for Northern Ireland.

[HL3189]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The Criminal Cases Review Commission publishes information about the cases that it refers to the appeal courts in its Annual Reports and on its part of justice.gov.uk. The numbers of conviction referrals (including conviction and sentence) are summarised below by year from 1997 to date and by the appeal court to which they were sent.

Financial year	*No. of conviction referrals England & Wales*	*No. of conviction referrals Northern Ireland*
1997/98	10	0
1998/99	25	2
1999/00	31	2
2000/01	39	2
2001/02	33	3
2002/03	31	1
2003/04	23	3
2004/05	35	0
2005/06	34	2
2006/07	36	1
2007/08	19	2
2008/09	22	12
2009/10	21	3
2010/11	19	0
2011/12	17	3
2012/13	15	2

Financial year	No. of conviction referrals England & Wales	No. of conviction referrals Northern Ireland
1 Apr–1 Oct 13	17	1

Data Protection

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what assessment they have made of the impact of draft European Union legislation on data protection on existing United Kingdom practices on data protection; and how they intend to implement it in the United Kingdom. [HL2856]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The European Commission's Impact Assessment concluded that the proposed Data Protection Regulation would be beneficial for the EU economy because it reduces the administrative cost that arises from fragmentation of current law, and gives individuals greater confidence in using online services. The Commission's IA concluded that the proposals would result in a net benefit of €2.3 billion per annum to the EU economy. The UK has carried out its own Impact Assessment of the costs and benefits of the proposals. While we agree that there would be some benefits from the Regulation, such as a reduction in legal fragmentation, the UK Impact Assessment concluded that these benefits would be outweighed by the costs of additional administrative and compliance measures that the Regulation would introduce. The Impact Assessment concluded that the Regulation as originally proposed by the Commission could have a net cost to the UK economy of £100 million to £360 million per annum (in 2012-13 earnings terms).

Drones

Questions

Asked by ***Lord Ahmed***

To ask Her Majesty's Government what is (1) the total number of drone attacks conducted by the British Army in Afghanistan in the last three years, and (2) the annual breakdown of that figure for each of the last three years; and how many civilians have been killed and injured in total by the use of British drones in Afghanistan. [HL3316]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): Reaper is the UK's only armed Remotely Piloted Aircraft System (RPAS). It is operated by highly-trained Royal Air Force pilots. The following table provides information on the number of weapons released by UK Reaper RPAS in Afghanistan between 01 November 2011 and 31 October 2013.

Date	Number of weapons released
01 November 2010 - 31 Oct 2011	106
01 November 2011 - 31 Oct 2012	119
01 November 2012 - 31 Oct 2013	104
Total	329

There is only one incident where civilian casualties are known to have resulted from a UK Reaper RPAS strike. On 25 March 2011, an attack on two pick-up trucks resulted in the destruction of a significant quantity of explosives and the death of two insurgents, but, sadly, four Afghanistan civilians were also killed. In line with current International Security Assistance Force (ISAF) procedures, an ISAF investigation was conducted to establish if any lessons could be learned or if any errors in operational procedures could be identified. The report concluded that the actions of the Reaper crew had been in accordance with extant procedures and rules of engagement.

Asked by ***Lord Ahmed***

To ask Her Majesty's Government whether British drones have been used in the Federally Administered Tribal Areas of Pakistan; and, if so, what is the total number of casualties caused by such drones in the last three years. [HL3317]

Lord Astor of Hever: Reaper is the UK's only armed Remotely Piloted Aircraft System (RPAS).

UK Reaper RPAS only operate in support of UK and International Security Assistance Force ground forces in Afghanistan.

Employment: Work Experience

Question

Asked by ***Baroness Scotland of Asthal***

To ask Her Majesty's Government what assessment they have made of the impact of unpaid work experience on social mobility; and what measures they are taking to ensure that young people are given equal opportunity to enter and progress in employment. [HL3221]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The Government has not made an assessment of the impact of the DWP work experience scheme on social mobility; however evaluation work has looked at some of positive impacts of this scheme. Analysis published on 17 April 2012 showed that work experience participants were 16% more likely to be off benefits 21 weeks after starting their placement than a matched group of non-participants. This finding relates to the first 3,490 young participants (aged 19-24) who started their work experience placement between January 2011 and May 2011.

The Department has also commissioned independent researchers to survey young people who have participated in the work experience scheme. Results will provide

customer feedback on the benefits of participation (such as increase in skills, job prospects, confidence etc) to be published in early 2014.

The Government has a substantial menu of provision to help young people move into work. Jobcentre Plus advisers offer comprehensive job search, work experience and training provision tailored to the individual at the most appropriate point in their claim.

Energy: Carbon Monoxide

Questions

Asked by ***Baroness Finlay of Llandaff***

To ask Her Majesty's Government how much of Ofgem's budget is ring-fenced for carbon monoxide awareness. [HL3253]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): Ofgem does not ring-fence any of its budget for carbon monoxide awareness.

In the previous Gas Distribution Price Control 2008-2013, Ofgem's Discretionary Reward Scheme (DRS) rewarded Gas Distribution Networks (GDNs) for otherwise unfunded worthwhile initiatives. Gas safety related awards (which included Carbon Monoxide) totalled over £5m over 5 years.

Ofgem does however impose certain Licence Conditions which encourage activity on Carbon Monoxide awareness. Through the Gas Suppliers Standard Licence Condition 29 Ofgem requires suppliers annually to inform domestic customers of:

- the safe use of gas appliances and other gas fittings;
- the dangers of carbon monoxide poisoning;
- the benefits of fitting an audible carbon monoxide alarm that complies with a relevant British or European safety standard;
- the benefits of gas safety checks; and
- where to seek advice if gas appliances are condemned as a result of a gas safety check.

Asked by ***Baroness Finlay of Llandaff***

To ask Her Majesty's Government how much of fossil fuel energy suppliers' budgets Ofgem requires them to spend on carbon monoxide awareness. [HL3254]

Baroness Verma: Ofgem does not require energy suppliers to spend a specific proportion or amount of their budget on carbon monoxide awareness.

Ofgem does however impose certain Licence Conditions which encourage activity on Carbon Monoxide awareness. Through the Gas Suppliers Standard Licence Condition 29 Ofgem requires suppliers annually to inform domestic customers of:

- the safe use of gas appliances and other gas fittings;
- the dangers of carbon monoxide poisoning;
- the benefits of fitting an audible carbon monoxide alarm that complies with a relevant British or European safety standard;
- the benefits of gas safety checks; and
- where to seek advice if gas appliances are condemned as a result of a gas safety check.

Encouraged by the All Party Parliamentary Gas Safety Group (APPGSG) Report's Recommendation 12, and Ofgem's intervention, the gas suppliers are now looking at how effective their messaging actually is.

Under the RIIO-GD1 price control (applicable between 2013 and 2021), Ofgem requires the Gas Distribution Network (GDN) operators for the first time to deliver an improvement in the public awareness of the risks of carbon monoxide (CO) poisoning, a key gas safety issue. Ofgem will publish an assessment of the GDNs' comparative performance. All GDNs have a variety of initiatives in place for raising CO awareness and ways of measuring the effectiveness of these initiatives.

Asked by ***Baroness Finlay of Llandaff***

To ask Her Majesty's Government whether Ofgem has any obligation to ensure that fossil fuel energy suppliers support carbon monoxide poisoning victims' charities in their work on carbon monoxide awareness and promotion of carbon monoxide alarms. [HL3255]

Baroness Verma: Ofgem does not have an obligation to ensure that suppliers support carbon monoxide poisoning victims' charities in their work on carbon monoxide awareness and promotion of carbon monoxide alarms.

Ofgem does however impose certain Licence Conditions which encourage activity on Carbon Monoxide awareness. Through the Gas Suppliers Standard Licence Condition 29 Ofgem requires suppliers annually to inform domestic customers of:

- the safe use of gas appliances and other gas fittings;
- the dangers of carbon monoxide poisoning;
- the benefits of fitting an audible carbon monoxide alarm that complies with a relevant British or European safety standard;
- the benefits of gas safety checks; and
- where to seek advice if gas appliances are condemned as a result of a gas safety check.

Under the RIIO-GD 1 price control (applicable between 2013 and 2021), Ofgem requires the Gas Distribution Network (GDN) operators for the first time to deliver an improvement in the public awareness of the risks of carbon monoxide (CO) poisoning, a key gas safety issue. Ofgem will publish an assessment of the GDNs' comparative performance. All GDNs have a variety of initiatives in place for raising CO awareness and ways of measuring the effectiveness of these initiatives.

Energy: Coal Fired Power Stations

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what scope exists for reducing carbon and other emissions by including wood products in the fuel of coal-burning power stations. [HL3324]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): If sustainable biomass is used as a fuel to replace coal, significant greenhouse gas savings can be achieved. Life cycle emissions of electricity from wood used in the UK power stations, calculated using the methodology in the directive 2009/28/EC of the European Parliament and of the Council, are less than 280 kg CO2e/MWh delivered electricity, whereas the calculated[1] average greenhouse gas emissions of electricity from coal in the UK are around 1060 kg CO2e/MWh delivered electricity.

[1] Emissions calculated using 'direct' and 'indirect' greenhouse gas emissions associated with coal combustion from the 2012 Government conversion factors for company reporting, and the average UK fleet efficiency of coal power stations from the Digest of UK Energy Statistics 2012.

Energy: Suppliers

Question

Asked by ***Lord Bourne of Aberystwyth***

To ask Her Majesty's Government what assistance they give to help energy consumers to switch suppliers. [HL3310]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): The Government is providing legislative backing to Ofgem's Retail Market Review measures which will simplify and standardise tariff structures and require suppliers to provide consumers with clearer and better quality information so that it will be far easier for consumers to compare tariffs.

The Government is providing extra help and advice to vulnerable consumers through the Big Energy Saving Network to help them engage with the energy market and to give them the confidence to switch.

The Government has also been instrumental in providing support to collective switching schemes. Earlier this year the Government kick-started a number of innovative projects through the £5 million Cheaper Energy Together competition. Money was awarded to 31 successful projects that all focused on engaging vulnerable consumers.

In addition, the Government has challenged the industry for their assessment of what needs to be done, and how quickly it can be done, to move to a switching period of 24 hours.

EU: Health Procurement

Question

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what assessment they have made of the impact of the European Union Procurement Directives, to be implemented in the United Kingdom during 2014; and what plans have been made for consultation on the permitted light touch regime which will apply to health, social care and education. [HL3349]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Cabinet Office has considered the impact of the new European Union Procurement Directives, which are expected to be adopted by the EU in early 2014. The new rules are considered deregulatory and of net benefit to business and public bodies.

In the health sector, the Government has already put in place arrangements for the purchasing of clinical services (the NHS Procurement, Patient Choice and Competition Regulations) to drive improved quality and best value. These effectively put in place a light touch regime for clinical services. Existing EU requirements, for example to publish contract award notices, sit alongside the health sector requirements and this will continue to be the case when the light touch regime is in place.

A formal public consultation will take place on the implementation of the Directive, including the light touch regime, next year.

Food: Food Banks

Question

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

To ask Her Majesty's Government what discussions, if any, they have had with the major providers of food banks. [HL3337]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): We have had some correspondence with the Trussell Trust but, as food banks are not a Government responsibility, we do not have regular discussions with major providers.

Freedom of Information Act 2000

Questions

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

To ask Her Majesty's Government how many requests under the Freedom of Information Act 2000 have been turned down by the Department of Energy and Climate Change since May 2010; and how many of those requests have subsequently been upheld on appeal and fulfilled. [HL3401]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): The Ministry of Justice publishes annual statistical reports on the handling of requests for information under the Freedom of Information Act 2000 for central government. These reports include statistics on the outcomes of internal reviews and appeals to the Information Commissioner. These reports can be accessed on the following webpage: https://www.gov.uk/government/collections/government-foi-statistics and the figures in this response are based on these. The dates of the published statistics do not coincide exactly with the time period in this question, but match them as closely as possible.

For the period April 2010 to June 2013 the Department of Energy and Climate Change withheld information in response to 1,177 requests. These statistics are published quarterly, and this response does not include statistics after June 2013 as this pre-empts publication by MOJ.

In between January 2010 and December 2012 information was subsequently released on 25 occasions as the result of an appeal. These statistics are published annually, and this response does not include statistics for 2013 as this pre-empts publication by MOJ.

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

To ask Her Majesty's Government how many requests under the Freedom of Information Act 2000 have been turned down by the Ministry of Justice since May 2010; and how many of those requests have subsequently been upheld on appeal and fulfilled. [HL3402]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The Ministry of Justice publishes annual statistical reports on the handling of requests for information under the Freedom of Information Act 2000. These reports include statistics on the outcomes of internal reviews and appeals to the Information Commissioner. These reports can be accessed on the following webpage:

http://www.justice.gov.uk/statistics/foi/implementation.

We do not hold statistics on the number of requests that have been upheld on appeal and fulfilled. To obtain this information we would need to review each appeal case individually. Therefore, it would only be possible to provide this information at disproportionate cost.

Health: Bounty

Questions

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government whether they have a contract with Bounty which allows that company to distribute packs with child benefit forms to new parents on NHS wards. [HL3163]

To ask Her Majesty's Government how much they pay to Bounty to distribute packs with child benefit forms to new parents on NHS wards. [HL3164]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): HMRC use the services of Bounty to help distribute Child Benefit claim packs to new mothers in NHS hospitals. The contract for this service is held by HMRC's Print Vendor Provider, Williams Lea. Using the Bounty pack as one channel for distributing Child Benefit forms has proved efficient and cost effective. The Child Benefit form can also be obtained through other channels, notably the HMRC website.

In 2012-13, HMRC paid £85,990.27 (ex VAT) for Bounty to distribute a total of 857,939 English and Welsh language claim forms.

Health: Health Workers

Question

Asked by ***Baroness Tonge***

To ask Her Majesty's Government whether they have any plans to compensate low- and middle-income countries whose health systems have lost large numbers of health workers to the National Health Service. [HL3153]

Baroness Northover (LD): The Department of Health has worked together with the DfID to produce a definitive list of developing countries, which should not be targeted for recruitment of healthcare professionals. The list is based on the economic status of the countries and how many healthcare professionals are available. The UK has also signed the World Health Organisation Code of Practice (WHO CoP) on the International Recruitment of Health Personnel and NHS organisations are strongly advised to adhere to this in all matters concerning the international recruitment of healthcare professionals across all disciplines.

Health: Mesothelioma

Question

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

To ask Her Majesty's Government what is their latest estimate of the number of British citizens who will die from mesothelioma over the next 30 years. [HL3144]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): Based on the latest projections of annual mesothelioma deaths, the best estimate is that there will be around 60,000 mesothelioma deaths in Great Britain over the 30-year period 2012-2041.

The statistical model suggests an uncertainty range of 55,000 to 65,000 deaths on that estimate. However, the true uncertainty range may be wider as longer-range predictions are reliant on assumptions about asbestos exposures that cannot currently be fully validated.

Immigration

Question

Asked by ***Baroness Scotland of Asthal***

To ask Her Majesty's Government what is their assessment of the recent University College London report The Fiscal Effects of Immigration to the United Kingdom that recent immigrants to the UK make a net contribution to public finances. [HL3219]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): The Government has not yet made any assessment of the report.

Iran

Question

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

To ask Her Majesty's Government what efforts they are making to restore diplomatic relations with Iran; and when they expect the Iranian embassy in London to re-open. [HL3229]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): On 11 November, the Secretary of State for Foreign and Commonwealth Affairs, my right hon. Friend the Member for Richmond (Yorks) (Mr Hague), announced the appointment of Mr Ajay Sharma as the UK's non-resident Chargé d'Affaires to Iran. Iran has also appointed a non-resident Chargé d'Affaires. The two Chargés are tasked with taking forward the bilateral relationship, including interim steps on the way towards the re-opening of both our Embassies. At this stage it is too early to say when this might happen. Progress towards this needs to be on a step-by-step and reciprocal basis.

Israel

Questions

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what representations they have made to the government of Israel concerning the case of Osman Balasma. [HL3212]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): Officials from our Embassy in Tel Aviv have not made representations on this specific case.

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what assessment they have made of the right to equal access to Jerusalem enjoyed by those of Muslim, Christian and Jewish faith. [HL3214]

Baroness Warsi: We have not made an assessment on the right to equal access to Jerusalem for the three Abrahamic faiths. However, we retain concerns that, notwithstanding Israel's welcome temporary easing of restrictions during Ramadan, Israeli restrictions on movement and access and the Separation Barrier continue to limit severely access for Palestinians from the West Bank and Gaza to Christian and Muslim holy sites in Jerusalem.

Israel and Palestine

Questions

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what representations they have made to the government of Israel concerning the death of Ahmad Tazaz'a on 31 October in Qabatya village near Jenin. [HL3210]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): Officials from our Embassy in Tel Aviv have not made representations on this specific case. However the UK has repeatedly made clear to Israel our concerns over the manner in which the Israeli Defence Force (IDF) policies Palestinian protests, including the use of live fire, and over the frequent IDF incursions into Area A of the West Bank.

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what responses they have received from the government of Israel concerning their representations on the deaths and injuries of Palestinian civilians. [HL3211]

Baroness Warsi: When officials at our Embassy in Tel Aviv have raised the issues of civilian deaths and injuries, the response they have received from the Israel authorities is that investigations have been opened but that the use of force was authorised in the face of a legitimate security threat. The Israeli authorities have stressed their commitment to protecting non-combatants with examples given of the extent to which they go to avoid civilian casualties.

Legal Aid

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government how much legal aid was paid towards the costs of the appellants in the recent cases at the Supreme Court involving (1) Chester and McGeoch, and (2) Hirst. [HL3095]

The Minister of State, Ministry of Justice (Lord McNally) (LD): Minister of State Lord McNally: We cannot close our eyes to the fact legal aid is costing too much and the Government's legal aid reforms are intended to reduce the annual legal aid bill of around £2 billion. Our proposals include reforms to what we pay barristers and advocates, and would contribute to bearing down on the cost of cases and the legal aid bill as a whole.

The appeal in question, challenging the outcome of a Judicial Review relating to the voting rights of prisoners, involves Peter Chester and George McGeoch only. John Hirst is not an appellant in this case.

Any legal aid funding relating to George McGeoch, if granted, would be a devolved matter for the Scottish government. Legal aid costs paid in respect of Peter Chester in respect of the appeal in question to date total £14,937.

This includes VAT and disbursements, and covers appeals to both the Court of Appeal and Supreme Court. Final costs may be subject to change following receipt of final bills.

The Legal Aid Agency (LAA) is legally bound to cover the costs of legal aid for eligible cases. The funding for Peter Chester's case was managed by a specialist team at the LAA to ensure costs were carefully controlled.

Legislation

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government, in the light of the comments by Viviane Reding, Vice-President of the European Commission, that 80 per cent of Swedish laws were in fact European laws, whether they are aware of any similar calculation having been carried out by the European Commission with regard to United Kingdom laws; if so, what is the relevant percentage; whether they have carried out any similar analysis; and if so, what is the result of that analysis. [HL3193]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): I am not aware of the evidential basis for the Commissioner's statement, nor indeed of a European Commission calculation having been done with regard to the percentage of United Kingdom laws. Neither has this Government carried out any such analysis. It would in any case be extremely difficult to determine such a percentage—it would in part depend on the relative weight placed, for instance, on Acts of Parliament, Statutory Instruments whether implementing EU legislation or not, and directly effective EU legislation. The House of Commons Library Research Paper of 2010 entitled *How much legislation comes from Europe?* also stated that "there is no totally accurate, rational or useful way of calculating the percentage of national laws based on or influenced by the EU". Such a calculation would also have a limited value as it would neither give an indication of the effect nor of the impact of the legislation in the UK. The Balance of Competences Review, currently underway, seeks to give an overview of the effect and impact of EU legislation. The first six reports can be found here: https://www.gov.uk/review-of-the-balance-of-competences#semester-1

Living Wage

Question

Asked by ***Baroness Scotland of Asthal***

To ask Her Majesty's Government what is their assessment of the link between the living wage and economic growth. [HL3222]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): The Government believes that a key part of delivering a sustained improvement in living standards is to tackle the economy's problems head on and deliver a recovery. Alongside this, the Government supports businesses that choose to pay a living wage where it is affordable. However, decisions on what wages to set, above the national minimum wage, are for employers and workers.

National Offender Management Service: Conduct and Discipline

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government, further to the Written Answer by Lord Ahmad of Wimbledon on 30 October (WA 267–8), whether they will publish the National Offender Management Service Conduct and Discipline Policy. [HL3108]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The National Offender Management Service Conduct and Discipline Policy has already been published and is available on the Ministry of Justice website: (http://www.justice.gov.uk/downloads/offenders/psipso/psi-2010/psi_2010_06_conduct_and_discipline.doc).

NHS Property Services Limited

Questions

Asked by ***Lord Warner***

To ask Her Majesty's Government whether the working capital provided to NHS Property Services Ltd in 2013–14 was money that would otherwise have been available to the National Health Service in the current financial year. [HL3270]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The working capital provided to NHS Property Services Limited in 2013-14 was part of the Department's existing capital allocation and would not have been available for the National Health Service.

Asked by ***Lord Warner***

To ask Her Majesty's Government whether NHS Property Services Ltd is required to charge VAT on any of its output transactions; and, if so, which transactions. [HL3271]

Earl Howe: NHS Property Services Limited (NHS PS) is required to follow the normal VAT rules and charge VAT on relevant transactions.

Asked by ***Lord Warner***

To ask Her Majesty's Government how many meetings Department of Health Ministers have had with any non-executive members of the board of NHS Property Services Ltd, including the Chair, in the last 12 months. [HL3273]

Earl Howe: Ministers regularly meet the Secretary of State's Shareholder Representative of NHS Property Services (NHS PS) Limited (a non-executive member) in an official capacity.

Ministers have not met any other non-executive members of the board of NHS PS.

Asked by ***Lord Warner***

To ask Her Majesty's Government who is the accounting officer for the activities of NHS Property Services Ltd. [HL3274]

Earl Howe: The Department's Permanent Secretary is the accounting officer for NHS Property Services Limited.

Nuclear Missile Submarines

Question

Asked by ***Lord Wigley***

To ask Her Majesty's Government what discussions they have had with the Welsh Government concerning the relocation of the British fleet of nuclear missile submarines from Scotland, in the event of a "yes" vote in the forthcoming Scottish independence referendum. [HL3299]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): None.

Offenders: Dependants

Question

Asked by ***Lord Patten***

To ask Her Majesty's Government what assessment they have made of the need for the courts to identify children or dependent adults whom those remanded or sentenced to prison may be leaving behind without provision for their care or safety. [HL3083]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The Government recognises the need to raise awareness amongst criminal justice professionals and the courts of the importance of identifying dependants of offenders or defendants who face a custodial sentence or a remand in custody. Probation staff and the Crown Prosecution Service continue to play an important role in identifying and drawing attention to the existence of dependents in advising the court. The court also has clear guidance, via established case law, on the sentencing of offenders with dependents. We welcome the important work that other organisations, such as the Prison Advice and Care Trust, do in raising awareness of this issue across the criminal justice system and by encouraging defendants to disclose the existence of dependents so that practical arrangements can be made for their care.

Palestine

Question

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what assessment they have made of the economic losses to Palestinian farmers (1) in the last 12 months, and (2) in the last 10 years, resulting from the destruction of olive trees. [HL3213]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): According to information from the UN Office for the Co-ordination of Humanitarian Affairs (OCHA), to date in 2013, OCHA has recorded the damage or destruction of over 9,400 olive trees or saplings in the context of settler-related incidents, compared to 8,500 in all of 2012.

We have made no assessment of the economic losses resulting from the destruction of olive trees either (1) over the last 12 months or (2) the last 10 years as we do not hold the data required for this assessment.

Pensions

Questions

Asked by ***Lord Laird***

To ask Her Majesty's Government what assessment they have made of the number of people currently in private sector defined benefit or final salary pension schemes; and what are the 10 largest schemes, and their current membership numbers. [HL3359]

To ask Her Majesty's Government what assessment they have made of the number of people currently in private sector defined benefit or final salary pension schemes and similar public sector schemes respectively; what has been the change in numbers of members in such schemes over the last five years; and how they are addressing any decline. [HL3360]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The number of people currently in defined benefit schemes, in both the public and private sector, and the change in these numbers over the past five years can be found in the answer I gave to the Noble Lord, *Official Report*, on 15 October 2013, Col WA75.

Information on the largest schemes and their current membership is not held by DWP.

The Pensions Regulator (TPR), who hold this information, have confirmed that they do not give out information in relation to specific schemes as a result of the data protection act. Listing the ten largest schemes would also be commercially sensitive.

We recognise the decline of DB pension schemes has been happening for a long time and employers are deciding to close DB schemes for a number of reasons. Two key reasons are the high costs of funding schemes, and the volatility of costs - risks which employers are increasingly unwilling to bear. Unless we act now, we believe DB will be a thing of the past for all but a small number of schemes.

Our proposals for Defined Ambition pensions—set out in our consultation paper *Reshaping workplace pensions for future generations*—include ways of addressing these issues. We propose easing the regulatory burdens on employers with DB schemes for future accruals of benefit, and the paper includes suggestions to encourage employers to continue to offer some element of DB pension in the future rather than seeing DC as the only alternative.

Personal Data: Facial Recognition Software

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what assessment they have made of the impact of the use of facial recognition software in advertisement display hardware on privacy; whether they consider sufficient consent to be given in the use of such devices; and whether they will promote a code of ethical use to prevent an abuse of the technology. [HL3202]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The Data Protection Act 1998 (DPA) covers the processing of personal data—this includes the use of facial recognition software to process the facial images of individuals.

There has been no specific assessment of the impact of the use of facial recognition software in advertisement display, however the Ministry of Justice works closely with the Information Commissioner's Office (ICO), who is the independent regulatory body responsible for enforcing the DPA in the UK, to ensure that both private and public sector organisations understand their responsibilities under the DPA.

As part of the ICO's regulatory responsibilities, the ICO produces guidance for the general public, private and public sector organisations on such matters. This guidance can be found on its' website at; www.ico.org.uk.

Planning: Neighbourhood Planning

Question

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

To ask Her Majesty's Government what has been the impact of the new neighbourhood planning provisions which came into force in April 2012. [HL3303]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): Three neighbourhood plans are now in force after being resoundingly approved by residents at referendum. The neighbourhood plans now form part of the development plan for the local area. Three more referendums are scheduled in the next three months. 13 neighbourhood plans have been submitted to local planning authorities and are being considered by an independent examiner and 30 communities are currently carrying out pre-submission consultation on their neighbourhood plan or neighbourhood development orders.

Our informal monitoring of local planning authority websites tells us that as of the beginning of November, over 780 communities have taken up the right to prepare a neighbourhood plan or a neighbourhood development order and more are joining them each week.

Post-Millennium Development Agenda

Question

Asked by ***Baroness Tonge***

To ask Her Majesty's Government whether they intend to take steps to champion the role of the health workforce in the current discussions on the post-millennium development agenda. [HL3151]

Baroness Northover (LD): Health workers are a vital part of the health system and are critical to achieving the Millennium Development Goals (MDG). We continue to work with developing counties in their efforts to build health service quality and access, and strengthen their health workforce. The UK has supported the Global Health Workforce Alliance (GHWA) for a number of years, which aims to ensure that Human Resources for Health remain an area of focus in the post-MDG agenda.

Repatriation

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what legislation governs the repatriation of living British citizens not convicted of offences; and what assessment they have made of the need to obtain consent to repatriation in cases when an adult is capable of giving consent. [HL3225]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): There is no UK legislation to cover repatriation, and British consular officers cannot force British nationals to return to the UK against their will when they have capacity in accordance with the Mental Capacity Act 2005. Through our consular services we can assist British nationals who wish to return to the UK. Further information about what we can and cannot do to assist in these circumstances can be found in our Guide, Support for British Nationals abroad, which is available on our website at: www.gov.uk/government/publications/support-for-british-nationals-abroad-a-guide.

Sudan

Questions

Asked by ***The Earl of Sandwich***

To ask Her Majesty's Government what assessment they have made of the ability and capacity of the United Nations mission in Darfur, Sudan, in meeting the humanitarian and security needs of new arrivals joining already internally displaced persons in Darfur. [HL3301]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): With over 300,000 additional people displaced by fighting in Darfur so far this year, it is crucial that the Government of Sudan and the African Union-United Nations Hybrid

Operation in Darfur (UNAMID) take steps to meet the pressing security and humanitarian need. Some existing or newly displaced populations are currently beyond the reach of UNAMID and humanitarian agencies.

Protection of civilians and supporting the delivery of humanitarian assistance are UNAMID's core tasks. While it faces a range of constraints and obstacles to its day-to-day operations, in particular restrictions imposed by the Government of Sudan, we consider that the mission could be more robust and effective in fulfilling its mandate. In July this year the UN Security Council mandated a detailed and forward-looking review to help achieve this goal. We fully support this, and in the meantime will continue to work with UNAMID's leadership and troop contributing countries to improve the mission's performance.

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government, further to the remarks by Lord Wallace of Saltaire on 7 November (HL Deb, GC 169), whether his comment that the United Kingdom did not channel aid through the government of Sudan took into account the funding of training for police and prison officers in that country. [HL3332]

Baroness Northover (LD): No UK funds are channelled through the Government of Sudan. The UK does support the training of police through an independent non-governmental organisation/agency with the aim of building the capacity of the police to increase the coverage, accessibility and effectiveness of services offered to citizens.

Syria

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what representations their diplomatic missions in Beirut and Amman are making to the government of Syria concerning prisoners and missing persons. [HL3309]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The British Government raises these issues in a number of different ways. Where British nationals are concerned, we have made consular representations to the Syrian Ministry of Foreign Affairs through various EU partners still represented in Damascus. Our Embassy in Beirut has also raised specific cases of British nationals in Syria with the appropriate authorities.

The UK supports the National Coalition's call for the release of detainees in advance of the start of the Geneva II dialogue process. The UK also fully supports the work of the UN Commission of Inquiry and will continue to call for them to be given unfettered access to Syria to investigate human rights violations. We welcome the latest Human Rights Council resolution on Syria, which was adopted on 27 September. The resolution raised the urgent need to address the human rights situation in Syria, including the growing accounts of sexual violence in the conflict as well as calling for full access for the Commission of Inquiry team and humanitarian workers. Our diplomatic mission in Beirut also encourages those countries who do send diplomats into Damascus (e.g. EU missions) to raise broader human rights issues with the Syrian authorities.

Torture

Question

Asked by ***Lord Judd***

To ask Her Majesty's Government when they expect the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to the United Kingdom from 17–28 September 2012 to be published. [HL3322]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The Government is currently considering the Committee's initial findings following its September 2012 visit and will respond to the Committee in due course.

Troubled Families

Question

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

To ask Her Majesty's Government what is their estimate of the number of Troubled Families; and what action they are taking to address this problem. [HL3305]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): In December 2010, the Prime Minister announced his commitment to turn around the lives of 120,000 troubled families in England by 2015.

To achieve this goal, all upper-tier local authorities have committed to turn around an agreed number of troubled families within their area. Information relating to these local commitments and current progress is published and shows the programme is on track nationally. The latest information and can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/237773/130906_PI_RESULTS_TABLE.xls

This information shows that local authorities reported in July that they had successfully turned around the lives of nearly 14,000 troubled families. Councils have already identified over 80,000 of their families and almost 50,000 of the 120,000 troubled families are already being worked with.

To support this work, the Government has provided a budget of £448 million, primarily on a payment by results basis. The detail of this scheme is published and can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11469/2117840.pdf

Uganda

Questions

Asked by ***Lord Jones of Cheltenham***

To ask Her Majesty's Government what is their assessment of the report by Human Rights Watch Letting the Big Fish Swim: Failure to Prosecute High-Level Corruption in Uganda. [HL3236]

To ask Her Majesty's Government what discussions they have had with the government of Uganda about anti-corruption measures in that country. [HL3238]

Baroness Northover (LD): The UK government has had significant high-level dialogue with the Government of Uganda at Ministerial and official level about corruption. We are committed to maintaining this level of focussed dialogue on corruption and accountability with the Government. Following the discovery of misappropriation of UK funds by the Office of the Prime Minister in 2012, the Secretary of State for International Development decided indefinitely to suspend all budget support to the Government of Uganda. Development partners have an agreed joint approach to corruption and are committed to increasing their support to anti-corruption institutions to help improve their performance. The UK has been at the forefront of these efforts.

Asked by ***Lord Jones of Cheltenham***

To ask Her Majesty's Government what is their assessment of the effectiveness and value for taxpayers' money of the United Kingdom's assistance to Uganda. [HL3237]

Baroness Northover: The recently published operational plan refresh for Uganda sets out our assessment of DfID Uganda value for money, and a new value for money strategy and action plan to improve value for money.

United Nations

Question

Asked by ***Lord Bourne of Aberystwyth***

To ask Her Majesty's Government whether they plan to seek reform of the United Nations Organisation. [HL3378]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): The Government is committed to seeking reform of international institutions such as the United Nations, to ensure that they reflect the modern world. The role of the United Nations is more important than ever in tackling problems facing the UK and the international community. But at a time when many governments face tight constraints on resources, it is important that the UN is able to deliver better outcomes for its member states while giving better value for money.

The Government, together with our EU and like-minded partners, has therefore strongly supported the efforts of the UN Secretary-General and Executive Heads of the Specialized Agencies, Funds and Programmes to transform the UN Organisation into a more efficient and effective body. In June 2012 the Foreign and Commonwealth Office hosted a conference at Wilton Park that brought together senior UN officials and a number of UN member states to consider the reform challenges. My officials also work closely with other Government Departments that engage with UN bodies to ensure that Her Majesty's Government delivers clear and consistent messages to the UN's leadership on the need for reform.

Waste Management

Question

Asked by ***Lord Plumb***

To ask Her Majesty's Government why bespoke permits for anaerobic digestion plants importing more than 100 tonnes of waste per day do not stipulate a minimum distance between the plant and nearby homes; and whether the Environment Agency has any plans to introduce such a requirement. [HL3198]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): Bespoke environmental permits for anaerobic digestion plants importing more than 100 tonnes of waste a day do not stipulate a minimum distance between the plant and nearby homes because they are tailored to address site-specific individual circumstances and rely on site-specific risk assessments to determine the impacts the proposals will have on human health and the environment.

An applicant will need to take account of the location of the proposed activities in preparing a risk assessment. In the case of a proposed anaerobic digestion plant, this may need to include air dispersion modelling, noise modelling and odour modelling to consider the impact on people living nearby. The applicant is also required to submit management plans that set out the measures to be taken to mitigate against these emissions. The Environment Agency will review the risk assessment and management plan and may refuse an application for an environmental permit if it is not satisfied that the proposed measures will prevent harm to human health and the environment. This level of assessment and control could not be achieved by simply stipulating a minimum distance from nearby homes and the Environment Agency has no plans to introduce such a requirement.

Young Offenders

Questions

Asked by ***Lord Dholakia***

To ask Her Majesty's Government how many children aged 10 and 11 were sentenced for criminal offences in (1) 2011–12, and (2) 2012–13. [HL3179]

To ask Her Majesty's Government how many children aged 10 and 11 received formal youth justice disposals not involving court proceedings in (1) 2011–12, and (2) 2012–13. [HL3180]

To ask Her Majesty's Government how many children aged 10 and 11 were sentenced to detention in (1) 2011–12, and (2) 2012–13. [HL3181]

The Minister of State, Ministry of Justice (Lord McNally) (LD): The age of criminal responsibility in England and Wales is 10 years old. Having an age of criminal responsibility set at 10 allows us to intervene early and robustly to prevent further offending and to help young people develop a sense of personal responsibility for their behaviour.

Serious crimes committed by 10 and 11 year old children are rare. However, it is important to ensure that, where appropriate, serious offences are prosecuted and the public protected.

Formal out of court youth justice disposals for 10 to 11 year olds are represented by reprimands and warnings, which were replaced for offences committed from 8 April by the youth caution and youth conditional caution.

The table shows the number of children aged 10 to 11 given a reprimand or warning and the total number sentenced for criminal offences, including community sentences, discharges, fines and offenders otherwise dealt with, in England and Wales, for the calendar years 2011 to 2012, the latest available data. There were no cases resulting in immediate custody.

Court proceedings and out-of-court disposals data for the calendar year 2013 are planned for publication in May 2014.

Persons aged 10 to 11 given a reprimand/warning and sentenced at all courts for all offences, England and Wales, 2011-2012[(1)(2)]

Calendar Year	*Total Sentenced*	*Immediate Custody*	*Reprimand/ Warning*
2011	246	-	1209
2012	168	-	891

' - ' = Nil

(1) The figures given in the table on court proceedings relate to persons for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

(2) Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

Source: Justice Statistics Analytical Services - Ministry of Justice.

[Ref:HL 3179-3180]

Zimbabwe

Question

Asked by ***Lord Goodlad***

To ask Her Majesty's Government what progress has been made in discussions with the government of Zimbabwe on the subject of Zimbabwe public service pensions. [HL3280]

The Senior Minister of State, Department for Communities and Local Government & Foreign and Commonwealth Office (Baroness Warsi) (Con): We remain concerned by the difficulties that many British nationals resident in the UK have faced as a consequence of the non-payment of Zimbabwe public service pensions.

Our Embassy in Harare has regularly pressed the government to resume payments to those living outside Zimbabwe, most recently during their meeting with the Government of Zimbabwe on 11 November 2013. The Government of Zimbabwe have confirmed that they have the financial resources, but have been unable to pay the pensions due to logistical problems. We understand they are now close to finding a solution.

We will remain in contact with the Pensions Department and continue to highlight the importance of this issue to British nationals.

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