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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
Ind SD	Independent Social 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, 4 November 2014.

2.30 pm

Prayers—read by the Lord Bishop of Norwich.

The Earl of Oxford and Asquith took the oath.

Northern Ireland: National Crime Agency
Question

2.38 pm

Asked by ***Lord Empey***

To ask Her Majesty's Government when the National Crime Agency will be fully operational in Northern Ireland.

The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson) (LD): My Lords, we continue to urge all parties in Northern Ireland to make progress on this issue. Justice Minister Ford has submitted a paper to the political parties which sets out enhanced accountability arrangements for the NCA. This paper should allay remaining concerns about the NCA's role and allow all parties to support the full extension of the NCA to Northern Ireland without further delay.

Lord Empey (UUP): My Lords, does the Minister feel it appropriate for Her Majesty's Government to allow Sinn Fein to exercise a veto over the operation of the National Crime Agency? Is she aware that when debating Commons Amendments to the Crime and Courts Bill on 25 March 2013 the prospect of a Sinn Fein veto was anticipated? The noble Lord, Lord of Taylor of Holbeach, announced that in such circumstances,

"any Government of the United Kingdom will respond in a responsible manner".—[*Official Report*, 25/3/13; col. 832.]

When will the Government override Sinn Fein's veto, behave responsibly and fully establish the National Crime Agency in Northern Ireland right away?

Baroness Randerson: The noble Lord refers to the words of my noble friend Lord Taylor and to the Government responding with responsibility. It is important to remember that this is a devolved issue. In order to retain the confidence of the people of Northern Ireland across the communities every effort should be made to reach the decision within Northern Ireland. The Government believe that the efforts being made by David Ford as Justice Minister in Northern Ireland are working towards that end.

Lord Trimble (Con): My Lords, does the Minister agree that the Northern Ireland Act, which implemented the agreement, expressly reserves and protects this Parliament's right to override that legislation, in just the same way that it has the power to override others in the national interest? How long will the Minister wait before the inevitable exercise of that power?

Baroness Randerson: My Lords, the Government do not intend to breach the Sewel convention on this issue. We believe that there is still work that can profitably be done to bring all parties in Northern Ireland to agreement on this issue. If agreement is not reached, the parties will have to decide what measures they need to take on devolved issues to deal with the problems that they face.

Baroness Harris of Richmond (LD): My Lords, my noble friend has told us that these proposals are being talked about. Can she tell us whether they are being talked about in the context of the talks taking place to try to resolve many of these issues? I was not quite clear.

Baroness Randerson: My right honourable friend the Secretary of State discussed these issues with the political parties last week as part of the wider issues that were being discussed.

Lord McAvoy (Lab): My Lords, with no disrespect to the Minister, we have heard before stories about it happening soon and all the rest of it. We have repeatedly asked for the Secretary of State to get involved, which would show the urgency of the situation. The security of the people of Northern Ireland is continually put at risk by the absence of participation in the National Crime Agency's operations. Instead of merely urging the parties to get together, should not the Secretary of State stop hiding behind the figure of David Ford and get some action on the Government's own account?

Baroness Randerson: I understand the frustration that the noble Lord expresses, but I can assure him that my right honourable friend the Secretary of State has been constantly involved in this issue and is regularly in discussions with the political parties. However, the noble Lord is correct in drawing attention to the fact that the same protection is not afforded to the people of Northern Ireland while the issue of the NCA is unresolved. I can assure him that we are extremely keen to reach agreement on this.

Baroness Butler-Sloss (CB): My Lords, how long will the Government wait to decide to override what is not being done in Northern Ireland?

Baroness Randerson: I think the noble and learned Baroness expresses the same view that has been made clear around the Chamber not just today but in previous discussions that we have had on this issue. It is important that we are given this opportunity to discuss it because our frustration and concern need to be heard in Northern Ireland in order to ensure that all the political parties take this issue very seriously indeed.

Lord Browne of Belmont (DUP): My Lords, does the Minister agree with me that it is vital for the security of the whole United Kingdom that the National Crime Agency should be permitted unfettered freedom to operate within Northern Ireland as neither the Police Service of Northern Ireland nor the Garda Siochana will have the necessary expertise and resources to counter effectively the potential threat posed by international terrorists and criminal gangs operating across the United Kingdom's only land border?

Baroness Randerson: The noble Lord makes some excellent points. It is important to emphasise the huge pressure being put on PSNI while this issue remains unresolved. It is also important to point out that the NCA deals with serious and organised crime which does not respect boundaries. It has been very much more difficult to deal with serious crime—child exploitation, drug related crime, fraud, and so on—since the NCA has not been able to operate.

Lord Bew (CB): As all the parties in Northern Ireland have a very strong and noble position against human trafficking, does the Minister accept that the National Crime Agency has a key role to play in that respect? In their discussions with local parties, do the Government emphasise the important role that the NCA could play regarding human trafficking, which is increasingly troubling to those who pay attention to the affairs of Northern Ireland?

Baroness Randerson: The noble Lord makes a very important point. If the parties of Northern Ireland feel vulnerable on this issue, it will hit home hardest on the question of child exploitation and human trafficking.

Central African Republic

Question

2.45 pm

Asked by ***Lord McConnell of Glenscorrodale***

To ask Her Majesty's Government what support they will provide to the United Nations mission in the Central African Republic.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, in April 2014 the United Kingdom supported the establishment of MINUSCA, the UN peacekeeping operation in the Central African Republic. We continue to support UN efforts to build its military and civilian assets to meet the mission's mandate to build security and stability, support the political process and foster reconciliation in the Central African Republic.

Lord McConnell of Glenscorrodale (Lab): My Lords, I thank the Minister for her Answer. The recent decisions to extend the European mission, EUFOR, and the level 3 emergency status at the United Nations are very welcome. However, when the noble Baroness, Lady Berridge, and I visited the Central African Republic last month, it was clear that instability there affects people not only in that country but in South Sudan, Cameroon, the DRC and others in the region. Will the UK continue to argue for an extension of the level 3 emergency status and the European mission until there is enough stability to conduct elections and secure proper development and progress?

Baroness Anelay of St Johns: First, I pay tribute to the work of the noble Lord, Lord McConnell, and my noble friend Lady Berridge in continuing to bring these issues before the House. We fully support the extension of the EUFOR mandate, which currently runs until the end of March. The intention is that, by that time, MINUSCA will be up to its full complement of peacekeeping forces and civilian support staff. At that stage, they should take full control. The noble Lord mentioned elections: that is clearly a matter for President Samba-Panza to implement. I know that she is working as hard as she can to get the elections in place.

Lord Chidgey (LD): My Lords, first, can my noble friend confirm that the UN peacekeepers are briefed not to hesitate to act in compliance with their mandate in rapid response to outbreaks of violence against civilians, establishing that they and not the militias enforce law and order in Bangui? Secondly, can she confirm that the warring parties and their leaders will be held accountable for any crimes that they commit and are on notice that incitement to violence—and violence itself—will be prosecuted?

Baroness Anelay of St Johns: First, the conduct of MINUSCA troops falls under the United Nations rules of engagement, which are covered by international humanitarian law. In the first instance, it is for the country which sent the troops there to hold those people to account, but the United Nations as a whole makes sure there is no impunity. I think that covers my noble friend's second question. Where people transgress, impunity should not prevail and President Samba-Panza is trying to enforce her own legal systems, locally, to ensure there is no impunity there either.

Baroness Kinnock of Holyhead (Lab): My Lords, children are bearing the brunt of the insecurity and lawlessness in the Central African Republic. UNICEF has said that children are in desperate need of protection at this time and in danger of being forgotten by the world. Will the Minister tell the House what, if anything, is being done to make the CAR a priority, especially when the security of innocent people continues to deteriorate, despite the deployment of a UN peacekeeping mission?

Baroness Anelay of St Johns: The noble Baroness is right to focus on the lack of security for children. Of course, across the region there is a history of the abduction of children and their use as child soldiers. What I can say is that we remain the third largest bilateral provider of humanitarian aid in CAR, having given £30 million in direct humanitarian assistance to the Government and to refugees since the crisis began.

Baroness Berridge (Con): My Lords, there are of course no fully functioning police, courts or prisons in Central African Republic. The interim President, Catherine Samba-Panza, has heard of the UK's wonderful work on security sector reform in Sierra Leone and has specifically asked the United Kingdom whether it will provide such support to CAR. Will Her Majesty's Government consider offering such support?

Baroness Anelay of St Johns: My Lords, when the President made her address to the UNGA in September, she clearly set out her ambitions. Shortly thereafter, the security problems in the area increased. I think we should give all the support we can to her and her initiatives on security and imposing the rule of law.

She has a tough task ahead. However, the help we are giving through MINUSCA means that we are ensuring that trained people are there to assist with the security of that region.

The Lord Bishop of Norwich: My Lords, given the widespread violation of both women and children in this tragic conflict, will the Minister indicate whether there are ways in which the Government could extend the success of the Preventing Sexual Violence in Conflict Initiative to the Central African Republic?

Baroness Anelay of St Johns: The right reverend Prelate makes a very important point. The work done by my noble friends in the Foreign Office and DfID this summer is bearing good results but we need to be able to take those further forward. I listened to what he said and I will certainly take his views back to the FCO.

Lord Collins of Highbury (Lab): My Lords, in this volatile situation in the Central African Republic, there clearly needs to be stability before progress can be made. Will the United Kingdom Government support security sector reform, with, in particular, advice from DfID on the development of national and local policing standards?

Baroness Anelay of St Johns: My Lords, of course we will listen to any requests made by the President for technical assistance. As the noble Lord will know, that can be done through the United Nations. Certainly at the moment MINUSCA, as a peacekeeping force, is concentrating on securing Bangui and the immediate area. Until that is done, it is difficult to go further outside Bangui to provide any assistance there. DfID will be doing all it can through delivering its humanitarian aid to provide the kind of technical assistance that is appropriate in those circumstances. The first objective, though, has to be to secure the region, which has been so troubled.

Baroness Jenkin of Kennington (Con): My Lords, the noble Baroness, Lady Kinnock, drew attention to the 2.3 million children who have been affected by the violence in this country. Will my noble friend join me in paying tribute to UNICEF and the other NGOs that are providing humanitarian assistance, despite unprecedented attacks against the humanitarian workers?

Baroness Anelay of St Johns: I join my noble friend in that with great pleasure. I ought to declare a past interest, of which I am proud, which is that I used to be a trustee of UNICEF. It is one of many organisations that perform valiant work and without them I have no doubt that Governments would find it almost impossible to deal with the humanitarian crises we face.

Airports: London

Question

2.53 pm

Asked by ***Lord Spicer***

To ask Her Majesty's Government what is their policy on the development of London's airports.

The Minister of State, Department for Transport (Baroness Kramer) (LD): In *Our Programme for Government*, the coalition announced the cancellation of plans for a third runway at Heathrow, and the refusal of permission for additional runways at Stansted and Gatwick. However, we recognise the need for a long-term airport capacity solution to ensure continuing international competitiveness in the coming decades. Therefore, Sir Howard Davies was asked to chair the independent Airports Commission, which will submit its final report in summer 2015.

Lord Spicer (Con): My Lords, does the Liberal Democrat policy not to build runways at London's airports, whatever the circumstances, drive a coach and horses through the policy that my noble friend the Minister has just announced?

Baroness Kramer: My Lords, it is absolutely important that as a Minister in the Department for Transport I make sure that the commission is always recognised as having full integrity and independence. Therefore, even when pressed with this question at my own party conference, I have always refused to give any answer other than that the Government will comment after the final report is submitted in 2015.

Lord Faulkner of Worcester (Lab): My Lords, in view of the improbability of any new runway capacity being constructed in the south-east during the lifetime of most Members of your Lordships' House, does the Minister not agree that this is the time to look very seriously at the role of regional airports such as Birmingham, which will be only 47 minutes from central London by High Speed 2?

Baroness Kramer: My Lords, I think that under all circumstances it is important to look at the potential for regional airports, Birmingham being one. There are numerous others across the country with ambitions.

Lord Soley (Lab): My Lords, does the Minister accept that her position has moved significantly? I welcome that, but does she appreciate the importance of airports to Britain's success in global markets? If she does, can she please accept that we ought to give at least as much attention to airports throughout the UK as we do to the rest of the transport infrastructure, most notably rail and road? We have to put airports up there or we will not succeed.

Baroness Kramer: My Lords, working from my transport brief, we look frequently at connectivity for airports and recognise that all transport has an important role to play in economic growth.

Lord Swinfen (Con): My Lords, what consideration is being given to the expansion of Manston Airport, which has good rail and road communications with London and could easily mop up a lot of the unemployment on the Isle of Thanet?

Baroness Kramer: My Lords, I have to confess a lack of knowledge on that question, and I will gladly write to your Lordships.

Lord Grocott (Lab): My Lords, in view of the Minister's answers in respect of London airports, can she tell the House whether she is more or less happy in her work in the Department for Transport than her Liberal Democrat colleague Norman Baker is in the Home Office?

Baroness Kramer: My Lords, I love my time in the Department for Transport, and I can say that it is one of the most collegiate places in which I have worked.

Lord Sugar (Lab): My Lords, I respectfully point out to the noble Baroness that she may not be aware that the current arrivals and departures procedures used by civil aviation mean that it matters not whether we have one extra runway at Heathrow or 10. The fact is that we cannot land enough aircraft at the moment. Will the noble Baroness inquire of the Davies commission whether it will review the standard arrivals and departures procedures and the adoption of GPS technology, which I know the CAA has just started to use, to allow further arrivals at airports?

Baroness Kramer: My Lords, I will go back and ask my department to have conversations with the CAA so that I can give the noble Lord a more complete answer.

Baroness McIntosh of Hudnall (Lab): My Lords, would the noble Baroness—

Noble Lords: This side.

Baroness Tonge (Ind LD): My Lords, my noble friend will remember that after Terminal 5 was approved, we were assured that there would be no further development at Heathrow Airport. I wonder if she can give us any insight into what will happen should a third runway be built at Heathrow Airport, and how much more development we shall see there?

Baroness Kramer: My noble friend knows intimately the history of airport development in the south-east. I am afraid that I can make no further comment until the final report comes from the Davies commission in the summer of 2015, at which point I will be delighted to comment.

Lord Davies of Oldham (Lab): My Lords, are the Government sustaining pressure on Sir Howard so that an incoming Labour Government will be able to consider the report immediately after the general election? Another easy question for the Minister: how much did the unrealistic and abortive idea of "Boris Island" cost?

Baroness Kramer: My Lords, Sir Howard Davies' report will not be ready until the summer of 2015 and it is beyond my telepathic capabilities to anticipate its contents. I cannot answer for the Labour Party.

Baroness McIntosh of Hudnall: My Lords, would the noble Baroness agree—

Lord Clinton-Davis (Lab): Does the Minister agree that there is bound to be a substantial delay between the publication of the report and the building of a new runway? Meanwhile, the costs will inevitably rise, and British aviation will have to pay those costs, among others. Does the Minister agree with that?

Baroness Kramer: My Lords, I am sure that everybody would want a major decision such as whether to build a new runway to be made with the best information available. It is important in those circumstances to make sure that the issue has been fully explored. That may be called delay by some. I think that others would say that it helps to inform appropriate decision-making.

Baroness McIntosh of Hudnall: My Lords—third time lucky. May I ask the noble Baroness whether she agrees that one of the things that have bedevilled this issue over the past two decades has been delay? Does she believe that when the Davies report is finally published, it will be implemented? I declare an interest as a supporter of the Stop Stansted Expansion campaign. If she looks at that example, she will see the restorative effect of lifting the blight on an airport and the countryside coming back to life.

Baroness Kramer: My Lords, Sir Howard Davies identified that there was no immediate capacity requirement; he is looking to 2030. After the report is issued we will all have to look at its contents and then make our decisions on how we will respond.

Sport: Funding

Question

3.01 pm

Asked by ***Lord Addington***

To ask Her Majesty's Government whether they will consider new funding criteria for team sports in the light of UK Sport's public consultation on their approach to funding elite sport.

Lord Gardiner of Kimble (Con): My Lords, decisions on elite funding criteria are for UK Sport. Its no-compromise approach has delivered our greatest ever Olympic performances in London and Sochi and exceptional Paralympic successes. We remain in discussion with UK Sport and Sport England on how to maximise the potential of sport to reach more people and succeed at the highest level. We await with interest the outcome of UK Sport's consultation.

Lord Addington (LD): I thank my noble friend for that Answer. Does he agree that we have moved on since the debacle of the 1996 Olympics and that we should look at funding criteria that would mean that team sports, where they have one gold medal and one championship to achieve, are marked on something that is compatible with sports where there are many gold medals and many championships to win? I ask that because team sports generally have provided very good criteria for mass participation.

Lord Gardiner of Kimble: My Lords, I would not want to pre-empt the consultation, but its purpose is to listen to all those affected by the work that UK Sport undertakes and to build on the successes that GB has had over the last decade. That is what the department will be looking into. Whether they are teams or individuals, they are all extremely important to the morale of our sporting talent.

Lord Harris of Haringey (Lab): My Lords, I am sure that the Minister is aware of the report of your Lordships' Committee on the Olympic and Paralympic Legacy, which I had the privilege of chairing. A key recommendation in that report was about the approach of UK Sport to funding sport—and, clearly, some consideration of that is now going on. Can the Minister tell us whether the role performed by the former Secretary of State for Culture, Media and Sport, who personally co-ordinated the Government's activities in delivering the Olympic legacy, is a mantle that has been taken on by the new Secretary of State? If so, what is he doing to deliver a step-change improvement in the sporting activities of the country, as was originally the aspiration of the Olympics?

Lord Gardiner of Kimble: My Lords, 1.7 million more people are playing sport once a week than when we won the bid in 2005. There has been a 13% increase in funding for elite sport for the four years leading up to Rio 2016. One billion pounds is being invested over four years in youth and community sport, and there has been a huge increase in volunteering and a changing attitude to disability. I think that those are parts of the legacy of which we should all be very proud.

Lord Holmes of Richmond (Con): My Lords, Team GB delivered 29 gold medals and Paralympics GB 34 gold medals in London 2012. These were great performances, underpinned by UK Sport funding. Without pre-empting the results of the consultation, does the Minister agree that there should be no compromise to the no-compromise funding approach?

Lord Gardiner of Kimble: My Lords, it is important that I do not prejudge any consultation, but it is definitely the case that the difference in national morale after the Atlanta Olympics and after the 2012 Olympics—and the inspiration that our Olympics in London have given in terms of future athletes—should be very much borne in mind.

Baroness Armstrong of Hill Top (Lab): My Lords, does the Minister acknowledge that sport is an incredible way of motivating disadvantaged children, not just in terms of their self-esteem but actually of their attainment? Do the Government want to see a situation where we are not sending 40% of our competitors to an Olympics who have come from the public school sector but are making sure that children who are disadvantaged get their opportunity? Sport England has a huge part to play in how it works with the grass roots, in order to make sure that those children get the opportunity, because I know that they have the capacity.

Lord Gardiner of Kimble: My Lords, I very much hope for and look to a position where all children of all backgrounds have the same opportunities in sport. That is why, as I said, that the Government are investing £1.1 billion over the next four years in youth and community sport. It is precisely why we need to encourage schools to ensure—as they are required to do by law—that children have as much sporting opportunity as possible. All of that needs to be done.

Lord Stevenson of Balmacara (Lab): My Lords, while I must congratulate UK Sport on the work it did in the run-up to the Olympics, there were some problems that have been mentioned already. Team sports have not done as well and there is real concern about the churn caused by the annual review of that programme. Could the Minister confirm that it is the intention of UK Sport to have changes in place after the Rio Olympics? Could he not try to persuade it to ensure that any changes that it recommends are done in time, so that we could have even more success in 2016?

Lord Gardiner of Kimble: My Lords, the door is always open to all Olympic and Paralympic sports to come through the system. I understand what the noble Lord said about the annual review, but it is important, if we have the no-compromise position and philosophy in place, that they are adhered to. It is very important that we have as much opportunity as possible for successes in Rio. The funding arrangements that we have in place for Rio will remain, and those for the Olympics in Tokyo are also very strong.

Lord Forsyth of Drumlean (Con): My Lords, will my noble friend pay tribute to Sir John Major for having introduced the National Lottery, which has provided the funds that have delivered this enormous success?

Lord Gardiner of Kimble: My Lords, it is a great privilege to say that Sir John Major played an absolute blinder in ensuring that so many good causes have been supported over many years. The whole country benefits from that.

Lord McConnell of Glenscorrodale (Lab): My Lords, will the Minister welcome, on behalf of the Government, the announcement today that the Emirates Arena in Glasgow is to host the Davis Cup tie next spring between the UK and the USA? Does he agree that this is part of the legacy of the fantastic success of the Commonwealth Games in Glasgow this summer?

Lord Gardiner of Kimble: My Lords, I very much congratulate all in Glasgow; indeed, £27 million of National Lottery money will be invested in the Golden Event Series for the period 2013 to 2019. That means that more than 70 events have already been secured, including world and European championships in Olympic and Paralympic sports.

Wales Bill

Order of Consideration Motion

3.09 pm

Moved by ***Baroness Randerson***

That the amendments for the Report stage be marshalled and considered in the following order:

Clauses 1 to 12, Schedule 1, Clause 13 to 16, Schedule 2, Clauses 17 to 30.

Motion agreed.

Social Action, Responsibility and Heroism Bill

Second Reading

3.09 pm

Moved by ***Lord Faulks***

That the Bill be read a second time.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, this is a short but significant Bill. Its core aim is to provide reassurance to people who act in socially beneficial ways, behave in a generally responsible manner, or act selflessly to protect someone in danger by ensuring that the courts recognise their actions and always take that context into account in the event that something goes wrong and they are sued.

The Bill forms part of a much wider programme of measures that the Government have taken forward to tackle unjustified and dubious claims and reduce fears of litigation. That includes transforming no-win no-fee arrangements; banning referral fees paid between lawyers, insurance claims firms and others for profitable claims; and preventing inducements in the form of cash incentives or gifts being offered by claims management companies. The latter provision is in the process of being extended to the legal profession more generally through provisions in the Criminal Justice and Courts Bill currently going through your Lordships' House.

Before telling the House a little more about the Bill, I should declare a personal interest. During my practice as a barrister before achieving my current position, I frequently represented local authorities, the police, the fire brigade, the NHS, the Medical Defence Union and, on occasion, claimants. I was also a special adviser to the Department for Constitutional Affairs on a report that led to the Compensation Bill.

The Bill aims to achieve its goal by requiring the court, when considering the steps that a person was required to take to meet a standard of care in a claim for negligence or relevant breach of statutory duty, to have regard to three factors.

First, Clause 2 provides that the court must have regard to whether the alleged negligence or breach of statutory duty occurred when the person was acting for the benefit of society or any of its members. That will give reassurance not only to voluntary organisations but to individuals who perform acts of kindness or make other helpful contributions to the community. The Government have already taken a range of initiatives to promote volunteering and socially beneficial activity, and we are pleased to say that the number of people volunteering is steadily on the increase. For example, we have part-funded Join In, the Olympic volunteering legacy programme so recently referred to in your Lordships' House, which has allowed sports clubs to flourish at grass-roots level, providing worthwhile activities for volunteers and aspiring athletes alike. The Step Up to Serve initiative was launched last year by His Royal Highness the Prince of Wales, and aims to double the number of young people aged between 10 and 20 participating in social action by 2020. We also continue to support the Alzheimer's Society in recruiting supporters for those suffering from dementia.

Through the promotion of such schemes, we want to build a cohesive and altruistic society, and the Bill will help to further that aim by ensuring that people who want to get involved are not discouraged from socially beneficial action by the fear of being sued. A survey carried out in 2007 by the National Centre for Social Research and the Institute for Voluntary Action Research found that that issue was cited by 47% of those questioned who were currently not volunteering.

That message was confirmed in the important report published following the 2010 election by my noble friend Lord Young of Graffham, *Common Sense, Common Safety*. Four years ago I made my maiden speech on the publication of that report, an event that will be remembered only by me and possibly my wife. There was also the task force chaired by my noble friend Lord Hodgson of Astley Abbotts on *Unshackling Good Neighbours*. During the passage of the Bill through the other place, evidence was provided by the National Council for Voluntary Organisations which showed that this is still a matter of concern for many people, and is a significant factor in deterring those who would otherwise volunteer. I mentioned my noble friend Lord Hodgson. I know that he supports this Bill, for two reasons. First, he referred to it explicitly in his speech on the gracious Speech, and secondly he told me so in person last week. Unfortunately, he is unable to attend because he is abroad.

Section 1 of the Compensation Act 2006 attempted to address similar issues. It provides that the courts may look at whether requiring particular steps to be taken to meet a standard of care might prevent a desirable activity being carried out to any extent or discourage people from undertaking functions in relation to it. As the evidence from the National Council for Voluntary Organisations and others shows, this appears to have done little to reassure those who still say that worries about liability prevent them getting involved in socially valuable activities. The current Bill goes further than the Compensation Act did by making it a requirement for the courts to take account of the context where someone is acting in a socially beneficial way for the benefit of others.

Secondly, Clause 3 of the Bill requires the court to have regard to whether a person, in carrying out the activity in the course of which the alleged negligence or breach of statutory duty occurred, demonstrated a generally responsible approach towards protecting the safety or other interests of others. This represents a change to the law, as case law does not currently require a court to do this. Clause 3 will oblige the court to weigh that factor in the balance when considering a person's liability for negligence, or breach of a relevant statutory duty. This will reassure organisations, individuals and small businesses who have taken a generally responsible approach to the safety of others during an activity that the law is on their side.

It cannot be fair that such people feel pressured to settle speculative and dubious claims. So as well as giving that reassurance, we hope that this provision will give them greater confidence in resisting such claims and indeed—this is important—will help to deter such claims being brought at all. The clause is broadly drafted to ensure that it is relevant in a wide

range of different situations, and will be available to bodies such as small businesses, volunteering organisations, religious groups and social clubs, as well as to individuals.

There has been some criticism that the Bill will undermine the rights of employees. Among these is the Association of Personal Injury Lawyers. I can reassure the House that this is not the case. There is nothing in this clause, nor in the Bill more generally, that will prevent somebody who has been injured bringing a claim, or prevent the court finding an employer or any other defendant negligent if the circumstances of the case warrant it. In addition, the focus of the clause is on whether a generally responsible approach was adopted in the course of the activity in which it is alleged the negligence occurred. The requirement to consider whether the defendant's approach was generally responsible applies to the activity in the course of which the alleged negligence occurred. It will not, therefore, enable a body with a slipshod approach to safety to escape liability, for example, because its general health and safety record would need to be satisfactory over a longer period.

The third main area of the Bill, Clause 4, addresses another key area of concern, and gives reassurance to those brave members of the public who see another person in danger and come to their aid. It does this by requiring the court to have regard to the context of such selfless actions in the event that a claim for negligence or breach of a relevant statutory duty is brought.

Unfortunately, there remains a reluctance among some members of the public to intervene and assist those in danger or distress because they are afraid of being sued should something go wrong. This is illustrated by the fact that 34% of those who responded to a recent survey conducted by St John Ambulance indicated that they were concerned about the legal repercussions of intervening. Clause 4 therefore provides reassurance that heroic behaviour in emergencies will be taken into account by the courts in the event of a claim being brought. I recognise that St John Ambulance has expressed some concern about the wording of Clause 4. I am sure that, if we have the opportunity, we will debate those concerns in more detail in Committee.

In concluding, I reaffirm that the Bill does not seek to confer immunity from civil liability on anyone whose actions fall within its scope. Those who are injured through negligence will continue to have access to legal redress and the Bill will not affect the court's ability to do justice in an individual case. The Bill ensures that the important matters it deals with are always considered by the courts, alongside all other pertinent factors as appropriate.

I believe that the Bill takes a fair and proportionate approach that will provide valuable reassurance to those who act responsibly in the course of an activity, heroically or more generally for the benefit of society by requiring the courts to take that into account, while ensuring at the same time that those who are genuinely injured through negligence can obtain redress where that is appropriate. I commend the Bill to the House.

Amendment to the Motion

Moved by ***Lord Lloyd of Berwick***

As an amendment to the Motion that the Bill be now read a second time, to leave out from "that" to the end and insert "this House declines to give the Bill a second reading on the grounds that (1) it is unnecessary and the subject matter is already covered by Section 1 of the Compensation Act 2006, and (2) the sole purpose of the Bill is not to make new law but to send out a powerful message or signal on behalf of the Government to the Courts, which is not a proper use of legislation."

3.21 pm

Lord Lloyd of Berwick (CB): My Lords, I thank the Minister for the way that he has introduced the Bill today, but on this occasion I want to go a little further, provided that it does not embarrass him too much. We all know that he is a distinguished and very successful barrister, so he must have given up a lot when he joined the government Front Bench. Still, at least it can be said that he has an interesting time on that Front Bench, because instead of appearing before judges in court he has had to face a number of Members of the House of Lords and ex-members of the Supreme Court, of whom it cannot yet be said, as one looks at them, that they represent a row of extinct volcanoes. Having said that, I have to warn him that on this occasion, and in relation to this Bill, I come to bury Caesar—in the shape of the Minister—rather than to praise him.

I will start by saying something about the course on which I am embarked. I do so because different views have been held as to whether such a course is appropriate. One view is that when a Bill has been passed by the elected Chamber, we should always give it a Second Reading in this House. However, that view is not supported in the *Companion*, and nor could this Bill possibly be described as a manifesto Bill so as to bring it within the Salisbury convention. If there were some parallel convention it would surely have been mentioned in the Cunningham report, but as far as I know it is not.

In any event, such a view is contradicted by history. There have in fact been four recent amendments in the past seven years. The most recent example is the amendment of the noble Lord, Lord Dear, to the Marriage (Same Sex Couples) Act 2013. That amendment did not succeed but there was not the slightest hint that it was inappropriate to have approached the matter in that way.

Secondly, there was the amendment moved by the Labour Opposition to the Health and Social Care Bill in 2011. It is important to note that they voted in favour of the amendment of the noble Lord, Lord Rea, as well as that of the noble Lord, Lord Owen. The amendment of the noble Lord, Lord Rea, would have wrecked the Bill.

Thirdly and nearer home, there was the Fraud Bill in 2007. The Conservatives were then in Opposition. Lord Kingsland moved a reasoned amendment. His argument was that if you are against a Bill in principle, the proper course is to move a reasoned amendment,

[LORD LLOYD OF BERWICK]
otherwise you are impliedly accepting the principle. No other course, he said, was open to the Conservative Party. That argument succeeded and I shall be asking the House to accept the same argument on this occasion. It seems to be accepted on all sides of the House—including the Cross Benches—that a reasoned amendment at Second Reading is not in itself objectionable.

Finally, it has been said that a reasoned amendment is acceptable only in exceptional cases of great importance. To refuse a Second Reading here is to give this Bill an importance that it does not deserve. On the face of it, that argument seems to be counterintuitive. This Bill is indeed exceptional—not because it is of any importance but because it is of no importance at all. It is useless. It received negligible support in the Commons.

I remind the House of what actually happened in the Commons. There were only two Back-Bench speeches on the government side. One was by Sir Edward Garnier, a former Solicitor General. He opposed the Bill in the strongest terms. He described it a silly Bill. He said it would be greeted with "derision" by the judges. Mr Dominic Grieve, a former Attorney-General, described it as "utter tosh". We should listen to what former Law Officers have said, coming as they do from the government side. They should know. So this is not the sort of Bill of which it could be said that denying a Second Reading is in some way being discourteous to the Commons or that we should give it a Second Reading out of respect. That is all I have to say on why I am approaching the Bill in the way I am.

I will now say something about the Bill itself and will start by summarising what the Government hope to obtain by it. This has already been done by the Minister but I wish to add a few footnotes. The Bill, it will be remembered, has three operative clauses—to encourage volunteering, to tackle the so-called compensation culture and to encourage, or at least not deter, brave actions. On Clause 2 the Lord Chancellor relied on a survey of 300 people carried out seven years ago, in which 47% of them said that they would have volunteered but for the fear of being sued. That seems to be the sum total of all the evidence the Lord Chancellor had to support the clause. His view on the matter, however, was contradicted by a recent Cabinet Offence paper which states that, on the contrary, volunteering is doing well and that section of the community is thriving.

More importantly, it was contradicted from the Government's own Benches by a former Minister for Civil Society, Nick Hurd, to whom a great deal of credit is due for all his tireless efforts in this area. He told the Commons that the number of volunteers is rising, not falling: but it may not matter, for the evidence of the National Council for Voluntary Organisations warns that this Bill is not going to make any difference one way or the other, so I leave it at that.

Turning to Clause 3 on the so-called compensation culture, the Lord Chancellor said that claims by employees against their employers have gone up by 30% in the past three years. No one seems to know where that figure comes from. The evidence the other way is that workplace claims have actually gone down by half in the last 10 years, and half of those claims were for less than £5,000. The latter view was the view supported by the noble Lord, Lord Young, in his report published in 2010. His view was that the so-called compensation culture is based on perception—encouraged, as it always is, by the media—and not on reality.

That view was also taken by Lord Dyson, the Master of the Rolls, in a lecture he gave last year entitled, Compensation Culture: Fact or Fantasy?. Again, it may not matter because it is the Government's case that this Bill is not going to make any difference. In that connection, I am referring to paragraph 23 of the Government's impact assessment which states that any difference this clause may make will not be substantial, and that if there is a problem, it can be solved only by education, not by legislation.

Finally, as to encouraging heroism, the Minister referred to ambulance drivers. But there was a far more significant piece of evidence against it from the Fire Brigades Union. It described Clause 3 as a very dangerous clause. For years, the fire brigade's advice to the public in the case of fire is to get out as quickly as possible and stay out. It thinks that Clause 4 undermines that advice. If a member of the public enters the scene of a fire to rescue someone, he puts at risk not only his own life but the lives of the firemen who may have to rescue him as well. The Fire Brigades Union gave two graphic illustrations of when that has happened in practice.

Those being the purposes which lie behind the Bill, I come at last—I am afraid it has taken a long time, but I shall be quicker from now on—to the two reasons for rejecting this Bill. The first is simple enough. The Bill is unnecessary. The subject matter of all three clauses is already adequately covered by Section 1 of the Compensation Act 2006, to which the Minister made scant reference in his speech. I thought that it had always been the Government's case that this Bill does not change the law. The key thing about the Bill, according to the Lord Chancellor, is that it simply lays down a set of principles. Mr Vara, the Parliamentary Under-Secretary, describes is as a consolidating Bill. That is why, although it covers exactly the same ground as Section 1 of the 2006 Act, this Bill does not purport to repeal that section. If this Bill becomes an Act, they are apparently to stand side by side on the statute book. The Bill may not add much but it does no harm. Until recently, that has been the Government's case—it does not change the law.

However, quite suddenly, on the third day in Committee in the Commons, the Government changed tack. According to Mr Vara, the Bill does change the law. He gave this reason. Whereas, under the 2006 Act, the judges "may" take certain things into account, under this Bill, the judges "must" take those very same things into account. That applies to all three operative clauses of this Bill. Which is it to be? If this is a consolidating Bill, what is it that is being consolidated? Is it "may", as under Section 1 of the 2006 Act, or is it "must", as under this Bill? That is the question to which we are entitled to know the answer.

If it is "may", the Bill is wholly unnecessary and all it does is add confusion. If it is "must", the change is crucial. Will the judges be bound to have regard to these three clauses, even though, on the facts of the

case before them, they are wholly irrelevant? How are they to comply with this duty which has been imposed on them? Are they to say, in every negligence case, "I have had regard to this Bill", so that people realise that they are complying? That seems to be what the noble Lord is saying now. If so, this is yet another case—and a very bad example—of the Government telling the judges what to do and how to exercise their discretion. That is sufficient reason for regarding the Bill as wrong in principle and rejecting it.

There is a further reason for taking this view. In truth, the Bill is unamendable. That was the view taken by the Law Society, and it was right. The Bill is so defective in all three operative clauses that the only feasible amendment is to take each of the three clauses in turn and remove it from the Bill, one by one. That was the view taken by the Labour Opposition in the other place. They moved an amendment to remove Clause 3. They might just as well have tabled amendments to remove the other two clauses. That is what I shall seek to do in Committee if the Bill is given a Second Reading. If I succeed, we shall have an Act which, after it has been brought into force under Section 5, will consist of nothing but its Title. I wonder what legal historians will make of that.

I turn even more briefly to the second reason set out in my amendment. The Lord Chancellor has said over and over again that the purpose of this Bill is to send out signals—signals to the judges and signals to the public. I will say no more about sending out signals to the judges. What about signals to the public? If, as we are told, the intention is, for example, to increase the number of volunteers, or to reduce the number of spurious claims, surely the way to do that is for Ministers to appear on television and write to the papers. Are potential volunteers somehow supposed to become aware of the Bill and say to themselves, "Now it is all right; now I can volunteer; now I can sleep easily at night"? Nobody in their right mind could take that view of what would actually happen as a result of the Bill. If so, does it not follow that the Bill is a misuse by the Government of the legislative process? I say again—I and many others have said it many times—that the purpose of legislation is to make law that can be enforced in the courts. It is not to send out government messages, however well intentioned. I beg to move.

3.40 pm

Lord Beecham (Lab): My Lords, the prisons are in crisis—understaffed, overcrowded, with a rising incidence of self-harm and suicide. The judiciary complains of the difficulty, delay and cost caused by the increase in unrepresented litigants denied legal aid. The magistracy is greatly concerned about the decline of local justice, exacerbated by court closures and the increasing reliance on professional district judges. An untried and risky change in the probation service is under way, beset by the loss of experienced staff and reports of confusion and disorganisation. The Lord Chancellor's response is what can only be described as another Grayling gimmick.

Two years ago, the Lord Chancellor celebrated his arrival in office by pitchforking unnecessary provisions into the then Crime and Courts Bill, supposedly to protect householders from prosecution if they used force to defend themselves or their property from intruders. It would be interesting to learn in just how many cases that measure has been invoked. This autumn, we have a five-clause, 20-line, one-page Bill—one of the shortest on record—designed to meet another non-existent problem: the unfair, or alternatively chilling, effect of the so-called compensation culture on those who might face a claim for compensation for negligence or breach of statutory duty while,

"acting for the benefit of society or any of its members".

From bash a burglar to hug a hero in two years.

Such was the significance of the Lord Chancellor's proposed measure that of the 18 witnesses he invited to give evidence in support of the Bill, only five bothered to turn up. Two of those were fire authorities. The Greater Manchester fire authority was particularly exercised by the fact that it had faced two claims for compensation by people who had tripped over fire hoses in the vicinity of an accident. Quite what difference the Bill would have made to the outcome of such a curious claim is unclear. Perhaps the Minister would care to elucidate.

By contrast, all five witnesses invited by the Opposition attended. One of them, representing the Law Society, was treated to a most discourteous and offensive attack by the Minister, Mr Vara, who is clearly a graduate of the Eric Pickles political charm school. His performance only underlined how fortunate we are to have the Ministry of Justice represented in this House by the noble Lord.

The Second Reading debate occupied all of an hour and a half, with two Back-Bench speeches, one—as we have heard from the noble and learned Lord, Lord Lloyd—by the distinguished former Conservative Solicitor-General, Sir Edward Garnier. The Lord Chancellor did not condescend to stay for any speeches, even Sir Edward's. He did not even extend the courtesy of staying to hear Sir Edward speak on Report and at Third Reading. Perhaps he anticipated the forensic dissection of this flimsy foray into legislative vote-catching. Not a single government Back-Bencher spoke in the debate in Committee.

The Bill starts with the premise that volunteers are deterred from helping individuals, or society as a whole, for fear that they might be sued if things go wrong because of the alleged compensation culture which insurance companies and the media constantly denounce. There is very little evidence to support that claim. Even the noble Lord, Lord Young of Graffham, who is not in his place—that ermine-clad St George, constantly in search of regulatory dragons to slay—observed that the so-called compensation culture was more a matter of perception, rather than reality. As the noble and learned Lord, Lord Lloyd, has pointed out, that view was explicitly shared recently by Lord Dyson, the Master of the Rolls.

The irony is, of course, that banging on about a compensation culture is itself likely to create the very apprehension that the Bill purports to allay. The reality is that anyone seeking compensation has to prove, on the balance of probabilities, that the defendant has been negligent—that is, to have failed to take reasonable care—or in breach of a statutory duty, and that that has caused the damage that is the subject of the claim.

[Lord Beecham]

Nothing in the Bill displaces that test and nor should it. If, as a result of my careless driving, a third party suffers injury, why should the fact that I may have been engaged in some voluntary service—perhaps taking an overexcited Minister to a therapy session, for example—in any way affect that third party's right to compensation, even if he was my passenger?

The position was well summarised by the Minister, Mr Vara, in the Public Bill Committee:

"Nothing in the Bill suggests that it gives immunity from civil liability. It also does not change the standard of care that is generally applicable. That is and remains what the ordinary and reasonable person should have done in the circumstances. The Bill simply requires the court to have regard to certain factors in deciding what steps should have been taken to meet that standard of care in a particular case. It does not tell the court what conclusions to draw or prevent a person from being found negligent if the facts of the case warrant it".

In which case, one might ask, what is the point of the Bill? He went on to muddy the waters:

"In a finely balanced case, if the court's consideration of these provisions tipped the balance in favour of a defendant who had acted for the benefit of society, demonstrated a generally responsible approach towards the safety of others … or intervened to help somebody in an emergency, we would welcome that outcome".—[*Official Report*, Commons, Social Action, Responsibility and Heroism Bill Committee, 9/9/14; col. 63.]

I suspect that the welcome would not be shared by the injured party, particularly if it allowed the insurer of the defendant—if he or his employer was insured—to avoid paying compensation.

Moreover, the courts would have to engage with interpreting the wording of the Bill, which, to put it mildly, is highly problematic. Take Clause 2, which requires the court to,

"have regard to whether the alleged negligence or breach of statutory duty occurred when the person was acting for the benefit of society or any of its members".

How would one define "the benefit of society"? Would that proviso protect somebody who negligently inflicted injury while acting for the benefit of a "member of society" who happened to be doing something inappropriate or even criminal?

Clause 3 is similarly opaque, with its reference to its requirement for the court to,

"have regard to whether the person … demonstrated a generally responsible approach towards protecting the safety or other interests of others".

What on earth constitutes a "generally responsible approach"? As the General Secretary of the Fire Brigades Union—the members of which risk life and limb daily to protect the public—put it,

"the question of how an employer deals with … situations is not a matter of the general perception of their responsibility … The question of the employer's general responsibility … comes down to the specifics of how they have planned, prepared and resourced the particular incident".—[*Official Report*, Commons, Social Action, Responsibility and Heroism Bill Committee, 4/9/14; col. 21.]

To cap it all, we have Clause 4, "Heroism", which appears to be the stuff of Greek legend or the annals of *Boy's Own Annual*. The court is solemnly charged with the duty of having regard to whether,

"the person was acting heroically by intervening in an emergency to assist an individual in danger and without regard to the person's … safety or other interests".

We all salute those who risk life or limb to rescue others, whether they do so as part of their job—as fire or police officers, for example—or simply as courageous citizens, like the recent tragic case of the doctor who died trying to save others from drowning in the seas off Cornwall. But where is the evidence of claims for damages by the subjects of such brave and selfless interventions against those endeavouring to help them? For that matter, where is the evidence that the present state of the law deters such brave responses to emergency situations? And what, after all, constitutes an heroic intervention?

There is another aspect of this defective Bill which causes concern; namely, the possibility that references to breaches of statutory duty imply a potential defence for employers, or perhaps for those with other statutory duties—for example, in the realm of care—for acts which cause damage or loss. Perhaps the Minister could clarify the Government's intentions in this respect, assuming of course that they are conscious of having any.

If, as I hope, the noble Lord can confirm that the Bill is not intended in any way to diminish the existing protection to employees or others, we are left essentially with a Bill which is designed to send a message to volunteers—a message to counteract the possible, but unproven, effect on volunteering of a reaction to the compensation culture mythology which the Government sedulously peddle on volunteering. This would in effect merely echo, as we have heard from the noble and learned Lord, Lord Lloyd, the provisions of the Compensation Act 2006—a well intentioned but, I have to say, not particularly compelling piece of legislation on somewhat similar lines but without the surrounding hyperbole or loose phraseology. It is hardly surprising that the Delegated Powers Committee says:

"There is nothing in this Bill"—

although, in all fairness, it did go on to say,

"which we wish to draw to the attention of the House".

The Explanatory Notes to the then Compensation Bill declared that it was intended to,

"contribute to improving awareness … of the law … and to ensuring that normal activities are not prevented because of the fear of litigation and excessively risk-averse behaviour".

However, importantly, they also went on to stress that the provision did not alter the standard of care or the circumstances in which such a duty is owed, and they explicitly affirmed that it did not extend to cases of breach of statutory duty involving strict liability or where carelessness was not an issue. Moreover, the notes stated that the,

"provision reflects the existing law and approach of the courts as expressed in recent judgments".

In other words, the legislation was, in effect, otiose, and this proposed legislation is doubly otiose.

Sir Edward Garnier spoke powerfully both at Second Reading and on Report. He detected in the Minister's speech during the Queen's Speech debate in your Lordships' House some lack of enthusiasm in relation to this measure. Is the Minister able, in the light of the vestigial information contained in the impact assessment, to reply to Sir Edward's inquiry as to how many High Court or county court actions would have been decided differently if this Bill had been in force?

Sir Edward's speech was a devastating critique of the Bill. He declared:

"I really do think that the courts will treat this Bill with derision … unless we are clear … that we are doing something to improve the situation in an intellectually sustainable and coherent way. I sincerely regret the fact that so far this Bill does not do that ... I am used to bits of Bills sending messages and signals—albeit that that is an improper use of legislation ... We do not think about what is in the legislation; we just think about the flags we are running up the flagpole in order to send a message".—[*Official Report*, Commons, 20/10/14; col. 697.]

It will be gathered that the Opposition are not enthusiastic about this Bill. My right honourable friend Sadiq Khan, in winding up the Third Reading debate in the Commons, observed:

"The Bill will change little, but we will not oppose it today. We tried in Committee to make something of it, and it will now fall to the other place to attempt to give it purpose".—[*Official Report*, Commons, 20/10/14; col. 705.]

The noble and learned Lord, Lord Lloyd, feels very strongly about the Bill. He regards it as trivial and I have to say that I agree with him. However, when it comes to seeking to defeat a Bill at Second Reading, the House is traditionally cautious. I recall the two Bills that the noble and learned Lord referred to—their passage through this House occurred in the four years that I have been here. In particular, I recall the Health and Social Care Bill—a major piece of legislation affecting a huge swathe of public services and for which neither of the governing parties had made any kind of provision in their manifestos. It did not seem unreasonable on that occasion for the Opposition to move that the Bill be not read a second time.

Frankly, I do not think that a Bill as trivial as this should attract such an amendment and we will not support it. It gives a trivial Bill far too high a profile for its contents, but also it is not, in my submission, necessary to deal with the Bill in that way. If the noble and learned Lord, Lord Lloyd, divides on it, I will advise opposition Members to abstain. We will endeavour to make some modest improvements to this Bill in Committee. Even if we succeed in those, frankly, it will add little to the state of the law, but in my judgment that is a better process for us to follow. Indeed, in his speech, Sir Edward Garnier called on the House of Commons—mainly, as it turned out—to introduce,

"a degree of common sense into … the … Bill before the other place gives it a thorough grilling".—[*Official Report*, Commons, 21/7/14; col. 1204.]

Let the grilling commence.

Lord Phillips of Sudbury (LD): My Lords, I agree word for word with what the noble and learned Lord, Lord Lloyd of Berwick, said in moving his amendment, and indeed with what the noble Lord, Lord Beecham, has just said.

Lord Pannick (CB): May I remind the noble Lord that there is a list of speakers in this debate?

Lord Phillips of Sudbury: I thought that we were debating the amendment.

Lord Pannick: There is a list of speakers and next on the list is the noble Baroness, Lady Browning, who is expecting to speak next.

3.56 pm

Baroness Browning (Con): My Lords, I am most grateful, particularly to the noble Lord, Lord Pannick, for coming to my rescue. Having done that, I hope he will not be disappointed by what I am about to say.

I support the Bill, and certainly the way in which my noble friend on the Front Bench brought it forward. The final remarks of the noble Lord, Lord Beecham, about dividing on the Second Reading of a Bill need careful reflection and I concur with his reservations over having to do so. There are times when the House recognises the importance of a Bill by perhaps stepping away from our usual procedures. I am not saying that this is an unimportant Bill; I have some issues with it on which I should like reassurance from my noble friend—but, none the less, I support it.

We are a litigious society, which I know is a generalisation. But the more litigious that we have become as a society, the more risk-averse we have become. Which is the chicken and which is the egg? Have we become more risk-averse because we have become more litigious, or vice versa? I have no polls, studies or focus groups to back up the generalisation, but I served for nearly 20 years in another place and dealt with 84,000 constituents. Since the *Boy's Own Annual*—which I thoroughly enjoyed when my brothers received copies for Christmas—was published, I have seen a fundamental shift in the casework and issues brought to me by those running voluntary organisations and in our uniformed services. We are not in that era. Things have changed. If anyone wants a snapshot, to be reminded of just how things have changed, in this country a game of conkers is regarded as a dangerous sport. Conkers requires risk assessments. Some local authorities have chopped down chestnut trees to prevent conkers falling on people's heads. That is the backdrop against which we look at the reasons why the general public have real concerns.

I shall look at this from the perspectives of two different groups of people. The first is that of the general public, people who do things on a genuinely voluntary basis—that is, supporting voluntary groups and organisations. Over the years, I have known a huge number of people who run these voluntary organisations, including the Brownies, the Girl Guides and the sea scouts. These are organisations for which people give up their time to promote within young people a sense not just of well-being but of purpose and of things that will fashion how they develop into mature, responsible adults. I take my hat off to people—often the busiest people—who give up their time to do that. Over the years, however, they have become more and more concerned when they take young people away.

I was a Devon MP, and it is quite common for the whole area of Dartmoor to be seen as one of those areas where you take young people to test the parameters of how they work as a group and what they do in an outward bound environment. Yet the people responsible for taking them have become more and more nervous of the responsibility because of the compensation culture, the risk-averse society and the need for risk assessments, which are important but have, perhaps, gone well beyond what a previous generation would have regarded as proportionate.

[Baroness Browning]

I believe that there is that feeling and that those people and society need reassurance. When I used to employ staff down at the other end, I would occasionally take someone in for the last weeks of term, when they were about to leave school at the age of 18, to give them a couple of weeks' experience of what life was like here before they went on a gap year or to university. I always had to fill in a risk-assessment form. I remember the first time I had to do it and writing to the authorities in the House of Commons to ask, "What should I say is the biggest risk in having a young person of 18 in my office for two weeks?". I was told that it was the risk of terrorist attack.

Those are the realities of life that a lot of people have to deal with. It makes you think—there is a risk of terrorist attack in having an 18 year-old working in an office down the Corridor. These are not just trivial things; they are things that responsible employers, caring parents, teachers and volunteers have to address every day of their lives if they are to pursue their wish to enable young people to take the opportunity of these types of activities. From that perspective, I believe it is very important for the Bill to give some clarity to what can be expected in terms of the legislation that goes with such activities.

There is another group of people for whom I should like some reassurance from my noble friend. Every year, I have the great privilege to host the ambulance service awards in this House. Each year, we see the most wonderful examples of heroism within a range of ambulance services—the NHS, private, third sector and, of course, those very important people who provide the Medevac relief in our armed services. We have heard testimony in this House from former chief constables about the dilemmas they have faced when, for example, a uniformed officer has gone beyond the call of duty and has disobeyed force orders to go into a pond or a lake to pull out someone who might be drowning. The problem for chief constables, as I believe the record of the House shows, is that if that person going in on their own, without back-up or support, gets into difficulties and is injured or even dies, the relatives or next of kin can come to the police force for compensation for the injury and damage that the police officer received while on duty. That would apply to just about all our uniformed services.

The debate has been small and amusing so far, but I hope that my noble friend will reassure me when he winds up that this piece of legislation will ensure that chief constables and those who lead and have to set out the day-to-day rules for our uniformed services will no longer have to feel that they must keep the people they employ on a string when they are faced with an emergency or something that puts the life of a person in danger. I see that the noble Lord is looking rather perplexed at this, but we have seen examples of it and have discussed exactly that in a Home Office debate during this Parliament, with former chief constables explaining what the difficulties are for them. I hope that my noble friend will be able to clarify that.

The noble and learned Lord, Lord Lloyd, in his opening remarks, said that he had come to bury my noble friend. Shakespeare, in all his glory, did not manage to save the Roman Empire, so I live in hope.

4.04 pm

Lord Cotter (LD): My Lords, the words "common sense" strike a chord. It is good that we are addressing this issue today. A point has been made that the main purpose of a Bill should not be just to send out a message. That is fair enough, but the Bill is useful in trying to bring more certainty and common sense to the life that we lead. I come to this as an ordinary member of the public, with a small business background rather than a legal one, so I bow to the legal brains that are here today. However, as an ordinary person there are many incidents and events that come to mind where caution has ruled. I do not remember the full details with confidence but there was one case where someone in a uniform waited for instructions from a superior before helping in a life-saving situation, whereas the instinctive act should have been to pitch in and help right away.

On a different point, I hope that the Bill will help the small business community, where I come from. In this sector, we are always well aware that big businesses have big organisations behind them, with legal and PR departments and all that sort of thing. The small business community can be at a disadvantage when such businesses come to defend a situation where they are right but worry that they do not have the time or resources to defend themselves.

I will keep this brief, because I am interested in what other noble Lords have to say, but it is right that we have this debate and ask the Government to give reassurances, as happened in the other place. There are, rightly, concerns about the compensation culture and I hope that the Bill can help to address them. I look forward to the Minister's response.

4.06 pm

Lord Brown of Eaton-under-Heywood (CB): My Lords, there is much to be said against this Bill and much already has been said against it. Either it is intended and apt to change the present law or it is not. Despite the Minister's valiant and, as ever, beguiling advocacy, I find it difficult to see how a court could find, in any of these clauses, anything which would lead it to a different conclusion on the facts of a case. I await an explanation of how that could arise.

However, if it is intended to change the law, I respectfully submit that that should be made altogether clearer than it is at present. Just what change is it intended to bring about? Is this deemed always to have been the law, or will the Act only take effect from the date of some future conduct, whether that be action or inaction? If it is not intended to change the law—if it is intended, rather, to send out a message—that should be made abundantly clear, too. As the noble and learned Lord, Lord Lloyd, has already suggested, if that is the position, it is not an appropriate use of the legislative process.

There are many legislative initiatives that are worth taking, and the Government are to be applauded for a number of recent ones such as those on FGM, confiscation of criminal assets, and the forthcoming slavery and trafficking Bill. By contrast, this Bill would essentially be a waste of legislative time and worse because, inevitably, it would bring with it unintended

consequences, one of which would be the needless future waste of court time and legal expense in debating what, if any, effect it is intended to have.

One distinct curiosity about the Bill is that in essence it mirrors what Parliament enacted eight years ago in Section 1 of the Compensation Act 2006, which has already been mentioned. I differ from my noble and learned friend Lord Lloyd on one aspect of this because, frankly, it seems to me that the change in this proposed legislation from "may" in 2006 to "must" now will actually make no difference whatever. The Bill states that the court must have regard in all circumstances to these considerations—it does already. If it is of simply no relevance, it just discards that regard which it has had to them.

As the Explanatory Notes to Section 1 of the 2006 Act say, that section addressed,

"a common misperception, that can lead to a disproportionate fear of litigation and consequent risk-averse behaviour".

It was intended to reflect,

"the existing law and approach of the courts as expressed in recent judgments of the higher courts"—

most notably, perhaps, the judgment of the noble and learned Lord, Lord Hoffman, in the well known case of Tomlinson v Congleton Borough Council in 2004, 1AC 46 at 82, where he stressed the importance of,

"the social value of the activity which gives rise to the risk".

It is hardly surprising that in those circumstances Section 1 of the 2006 Act, which of course was enacted by a Government of a different political colour, has been recognised by the courts to have been of no help whatever. As Lady Justice Smith put it in 2011,

"section 1 of the Compensation Act 2006 did not add anything to the common law position",

echoing what Lord Justice Jackson had said the previous year:

"The principle enshrined in section 1 of the Compensation Act 2006 has always been part of the common law".

The other striking fact about Section 1 of the 2006 Act—a shorter and simpler provision than we have here but, frankly, with the same essential effect—is the length of time it occupied this House in the course of enactment. I have here a substantial sheaf of *Hansard* reports dealing just with Clause 1—extracts from Second Reading, three days in Grand Committee and Report—and, frankly, much the same arguments were being advanced then about that provision as are now being made about these proposed new provisions.

I will confine myself to quoting just a single passage, from the contribution of the noble Viscount, Lord Eccles, who said:

"Clause 1 was discussed for more than seven hours in Grand Committee, which may give some indication of the way in which it might be discussed in the courts in the land in future—at unreasonable expense, I suggest. The reason for the length of the debate was partly the question of what the clause meant and partly an attempt to change and interpret the clause to provide legal cover for the promotion of desirable activities. Thus desirable activities would take place with greater frequency. This discussion ended in some frustration, because all the attempts to find a legal way forward were unavailing. As the Minister said to us at the time, the Bill was trying not to amend the law but to take away doubt".—[*Official Report*, 7/3/06; col. 648.]

He continued by suggesting that it was likely to introduce more doubt than it would remove, and that it would be unwise to agree it. Indeed, it was suggested that it should not stand as part of—in that case—the 2006 Bill, which of course contained other provisions.

Of course, it did stand part and it was enacted—although, as I have indicated, without in any way affecting the course of the law. Now it is proposed to superimpose upon our common law yet another such provision. Are we, one cannot help wondering, perhaps cynically, to expect, a few years down the line, a third Bill to demonstrate yet again some new Government's keenness to underline that volunteering is a good idea and that compensation should not be too readily ordered when it should be discouraged?

With all that said, I shall not be voting in support of the amendment of the noble and learned Lord, Lord Lloyd. It is perhaps a nuclear option which should come into play only on the rarest occasions—and this Bill is not, as already been said, worthy of it. Indeed, in the 2006 Act it could not have been used because, as I said, other provisions were included. Perhaps that should give one pause for thought, should it not? You have only to add some other coherent provision and you defeat this nuclear option—so I shall not be supporting it. Assuming, however, that this Bill survives the amendment, is read a second time and goes ahead, then, with respect, it will need some full dissection and drastic, radical amendment. For my part, I would, reluctantly, give it a Second Reading.

4.16 pm

Baroness Hodgson of Abinger (Con): My Lords, I believe that this is a worthwhile Bill. Having read the *Hansard* report of its Second Reading in the Commons and listened to some of the previous speakers, I am aware that it is not without its controversial aspects. Nevertheless, the Government are to be congratulated on bringing it forward, and I am pleased to add my support.

Today, our society is in danger of becoming ever more insular. The effect of the Bill will be to encourage our fellow citizens to step forward to participate and to become more active members of their community. It will contribute to inspiring them to help others and to pay something back to society, while at the same time offering them reassurance and a degree of protection when things do not go entirely to plan or, as is inevitably the case, accidents happen.

In 2010, my husband, the noble Lord, Lord Hodgson, was asked by the Government to head a task force to examine what prevents people giving more of their time and money to charities and voluntary groups. In May 2011 it published its report, *Unshackling Good Neighbours*, which has already been referred to by the Minister. That report very sharply identified an evolving and rather depressing attitude in this country. It pointed out that the significance of,

"the prevailing attitude towards 'risk', the downgrading of the value placed on 'common sense' and on the enabling nature of English and Welsh Common Law. These factors together with a reluctance to extend any significant level of 'trust'—not just among central and local Government but no less importantly amongst the general public".

The evidence provided to the task force identified that guidance and regulations throughout civil society are often expressed in negative terms, reinforcing the view

[Baroness Hodgson of Abinger]

that a lawyer, with a writ at the ready, waits around every corner when something goes wrong. The report concluded that,

"an insidious mythology about being sued"—

is—

"deterring millions of Britons, volunteer organisations and charities from helping out more fully in society".

Whether with friends and neighbours, in the workplace or in a public space, many people have, rightly or wrongly, become apprehensive of taking part in voluntary activities, helping others or intervening in emergencies due to these types of concerns. The "nanny state" and "health and safety culture" have without doubt been very off-putting and discouraging. As we have already heard from the Minister, the Lord Chancellor and the Secretary of State for Justice stated during the Bill's Second Reading in the House of Commons:

"In a survey carried out by the NatCen Social Research and the Institute for Volunteering Research, worries about risk and and liability was an issue cited by 47% of those questioned who were not currently volunteering".—[*Official Report*, Commons, 21/7/14; cols. 1191-92.]

During that debate, we heard numerous grass-roots examples from both sides of the House of the shocking ramifications of this unhealthy culture. Most disturbing were tales of people unwilling to involve themselves in emergencies because they were worried that the law would not adequately protect them should something go wrong as a result of their intervention. People have become frustrated by a poisonous no-win no-fee compensation culture, where I know the Government have bravely tried to restore the balance by way of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

A personal real-life example perhaps illustrates the difficulties that people who genuinely wish to help can encounter. I was on the Tube recently and, at a station, a very young boy rushed into the carriage. His mother and sister were following, but, before they could get on, the doors slammed shut, leaving them on the outside, and the train pulled out of the station. The boy became absolutely hysterical. The two people closest to him were men. They very kindly tried to talk to him and reassure him. However, as we drew into the next station, I could see how anxious they looked about what they would do. So I stepped forward and said that I would look after the boy and got off the train with him. The uniformed station master came and said that there had been a telephone call from the previous station and that the boy's mother was coming to pick him up. But the point of the story is that the two men on the Tube were clearly very worried that, if they took the boy off the train, it could be seen as absconding with him, when all they were trying to do was help a little boy in trouble.

Of course, some of the examples that were cited in the other House were myths. In one, farmers in Sussex were said to be worried about salting the roads near their farms in icy weather because, if there was an accident, they could be held responsible. That was a myth. I have been told that carers of the elderly are not allowed to trim their toenails and have to call in a chiropodist. Is this myth or reality? I do not know. Sending for a chiropodist is expensive and takes time. I would have thought that trimming toenails is something that everyone does and surely most carers could be trusted to wield some nail scissors without inflicting grievous bodily harm.

I believe that people are innately good, and that this culture is causing untold damage in shackling our natural inclinations to be helpful, compassionate citizens. By allowing these kinds of fear-driven attitudes to permeate our society, we are doing a massive disservice not only to ourselves but to future generations and the long-term interests of our country. We must try to reverse it now before it is too late.

The Bill will perform a valuable function of closing the gap between perception and reality by reassuring people that the law will stand by them when they are acting in the best interests of other people. The measures will thus encourage participation in volunteering and other socially valuable activities, which could lead to a most welcome increased sense of community spirit.

What are the arguments against the Bill? As we have already heard, some are saying that it is not needed because courts should make judgments on the evidence alone. I am no lawyer and, as I know that there are many learned and eminent members of that profession in the House, I will not attempt to enter into any detailed legal debate. But surely common sense says that the intention of an action is very relevant, and thus ensuring that the context is always taken into account seems reasonable and fair. However, nobody should be immune from civil liability and the Bill does not seek to introduce that. It does not instruct courts as to the conclusions they should reach nor prevent people being found liable where appropriate.

I understand that some have tried to argue that the so-called compensation culture does not exist, but evidence does not bear this out. I am informed that in the past three years there has been a 30% increase in personal injury claims. Then there is the stress of the legal process itself. While for lawyers suing and court appearances are an everyday normal occurrence, for those outside the law who end up trying to defend a claim it can be an incredibly long and very stressful experience. It can take months, and even years in some instances, to resolve such a situation. Meanwhile, it hangs over the person psychologically, sometimes creating great anxieties about the outcome—both financial and social—and putting enormous strain on working and marital relationships. Even when it comes out right in the end, the person will have gone through the most stressful and distressing time to get there. I sometimes wonder whether lawyers really understand the very detrimental aspect that going to law can inflict.

When it comes to matters of social action, we should surely encourage and support people to step up and make a difference if they feel they can. This is a Bill of reassurance: it tells people that they can take the initiative to contribute to society without having to worry about ramifications, mistakes or unintended consequences. In short, it tells people that the law and the Government are on their side. It will make our country even more generous, proactive and socially engaged. Such a society will only continue to build its own confidence and grow into something more successful. I am proud that our coalition Government have made

a commitment to encourage volunteering and involvement in social action; I am even prouder that we are now seeing it through with this Bill.

4.25 pm

Lord Pannick (CB): My Lords, unlike some of your Lordships, I am not disappointed by this Bill. When I see that the Lord Chancellor is bringing forward a legislative proposal, I worry about which valuable aspect of our legal system he is going to damage: judicial review, human rights and legal aid have all come under the cosh. It is, then, a pleasant surprise that the Lord Chancellor should be using valuable legislative time on a Bill which is so anodyne and pointless that the only appropriate response is a shrug of the shoulders or the raising of an eyebrow. Since neither of those gestures would be recorded in the *Official Report,* it is necessary to put one's response into language.

The noble Lord, Lord Beecham, and the noble Baroness, Lady Browning, each quoted Shakespeare. I cannot compete with that, but the Bill puts me in mind of what Basil Fawlty says of his wife Sybil in the celebrated television programme, "Fawlty Towers". I hope that noble Lords will excuse this unparliamentary language. He said: "She should be a contestant on 'Mastermind'. Special subject: the bleedin' obvious". The Bill is a statement of the legally obvious. I find it very difficult to believe that, if enacted, it is going to make any difference whatever to any case that becomes before the courts. The Government's own impact assessment of the Bill, says, at paragraph 17:

"Both the possible reduction in case volumes and the size of any compensation payments are unknown, but are likely to be small".

The Minister is a very fine advocate but not even he can persuade me that the Bill is, as he suggested in his opening remarks this afternoon, significant.

In opening Second Reading in the House of Commons, the Lord Chancellor, Mr Grayling, said that the Bill,

"is about bringing back common sense".—[*Official Report*, Commons, 21/7/14; col. 1187.]

Your Lordships have heard about common sense this afternoon; it was mentioned by the noble Baroness, Lady Hodgson, among others. As far as the courts are concerned, common sense never went away. Leading judgments have established that: they establish that where appropriate and on the facts of any particular case, the court gives weight to what this Bill describes as social action, responsibility and heroism.

Let me give two examples. Sixty years ago, in the case of Watt v Hertfordshire County Council—this is from 1954 and in Volume 1 of the *Weekly Law Reports*, page 835—Lord Justice Denning, as he then was, said in the Court of Appeal that in assessing claims of negligence, it was necessary for the court to balance the risk against the end to be achieved. He said:

"The saving of life or limb justifies taking considerable risk".

More recently, there was the case of Tomlinson v Congleton Borough Council, in Volume 1 of the appeal cases 2004 at page 46, which was already mentioned by the noble and learned Lord, Lord Brown of Eaton-under-Heywood. That case concerned a hearing before the Appellate Committee of your Lordships' House of a claim by a young man seeking compensation after he had dived into a lake in a country park. He had ignored safety warnings and, tragically, broken his neck. The Appellate Committee dismissed his claim. Lord Hoffmann, speaking for the Appellate Committee, said at paragraph 34 that, in assessing a claim for negligence or a claim under the Occupiers' Liability Act, the court must consider,

"not only the likelihood that someone may be injured and the seriousness of the injury which may occur, but also the social value of the activity which gives rise to the risk and the cost of preventative measures. These factors have to be balanced against each other".

In his Holdsworth Club lecture on 15 March 2013, the Master of the Rolls, Lord Dyson, posed the question: "Compensation Culture: Fact or Fantasy?". We have heard a lot today about compensation cultures. Lord Dyson analysed the case law and summed up for fantasy. There is simply no compensation culture in English law. I ask the Minister which judgments would have been differently decided if the Bill were in force. Mr Grayling's answer at Second Reading in the House of Commons to such a question was to say that,

"this is not just about what happens in the courts … The Bill is designed to send a powerful message".—[*Official Report*, Commons, 21/7/14; col. 1189.]

So the Lord Chancellor's concern was with perception, not reality, and the Minister's speech today was to very similar effect.

If we are to bring forward legislation to deal with perception, three questions need to be answered by the Government. First, where is the evidence that such a damaging perception exists? I entirely recognise the force of the points made by the noble Baroness, Lady Browning, about her experience. I recognise that, but if legislation is to be brought forward by the Government, I would hope for some thorough analysis of available evidence. Where is it?

Secondly, if we are concerned about perception, why is it that the Minister and the Government think that a message, if sent by Parliament, will be received? As your Lordships have heard, the Compensation Act 2006 already gives power to the courts to consider very similar factors to those set out in the Bill. I recognise that the Bill goes a stage further, in that it would oblige the court to have regard to those factors, whereas the earlier legislation only empowered the court to have regard to such factors, but they are very similar factors. In any event, the Bill rightly still leaves the judges with the power to decide what weight, if any, to give to those factors. I cannot understand why the Government think that the Bill will be more effective in communicating a message than the 2006 Act. It is simply unrealistic to think that someone who is considering volunteering—far less someone who is thinking of jumping into a lake to save someone in peril—will consult *Halsbury's Statutes* and reflect on the difference between the 2006 Act and the Bill.

The third question for the Minister on perception is whether this is really the most effective means of correcting a false perception, if false it be. The time, effort and money spent on enacting and publicising this Bill would surely be better spent on press releases and newspaper advertisements. The Bill is a public relations exercise unconvincingly disguised as a prospective Act of Parliament. The Minister is renowned for his ability to present the Lord Chancellor's proposals in this House in a manner that makes them sound almost plausible—and I stress "almost". The noble Lord is in

[LORD PANNICK]
this respect, as in all respects, the man who the draftsman of the Bill had in mind. He is concerned only to act for the benefit of society. The noble Lord is responsible and, to all of us, he is heroic but not even his admirable qualities, as utilised in defence of the Bill, can make it remotely credible.

I share much of the analysis of the noble and learned Lord, Lord Lloyd of Berwick, but I know that I am going to disappoint him because like the noble Lord, Lord Beecham, and others, I regret that I will not be able to support the noble and learned Lord if he chooses to divide the House on whether this Bill should receive a Second Reading. I hope that the noble and learned Lord will not divide the House because that may send precisely the wrong message about what it thinks of the Bill. This is a Government Bill that has been through the House of Commons. Its contents are not objectionable; they are simply pointless. Such a Bill is not worthy of provoking a fundamental conflict between the two Houses of Parliament.

4.37 pm

Earl Attlee (Con): My Lords, I am grateful to my noble friend the Minister for his explanation of this Bill, which I support. Before saying anything substantive, I would like to state how much I value our system of justice and the rule of law—JROL—which is the envy of the world. We know perfectly well that countries such as Russia will be in severe difficulties so long as they persist in loving a strong leader with a weak and corrupt JROL. But you can have too much of a good thing. We have a problem with the compensation culture in this country, and the Government have already taken some steps to deal with it. The problem is that many cases never get to court. Your Lordships have been talking about how the courts would deal with a case, but very often the claimant just gets paid out, because it is easier, and the plaintiff's organisation decides to cease a commendable activity.

We are also getting into a situation where people are fearful of doing something wrong in an emergency, and then having to deal with litigation. Just for now, I will define an emergency as a situation where action has to be taken immediately in order to prevent the situation from deteriorating further. It is often much easier to do nothing, and frequently people are being incorrectly advised to do nothing. This is despite the fact that there are very few, if any, successful negligence actions in respect of emergency assistance, as your Lordships well know.

Only this morning my taxi driver explained to me that, on his statutory training course, he was advised that he should use his first aid kit only on himself, and not on a member of the general public or an injured motorist. Your Lordships will not be surprised to hear that this was because of the risk of being sued if anything went wrong. Now, we all know that this is completely wrong. But if that is what trainers are telling their students, we must not be surprised if the "do nothing" culture emerges. It certainly seems to me that there has not been much positive change since 2006.

All my life I have been trained that, if an emergency arises, I must do something. I have certainly never hesitated to get stuck in, because that is how I have been programmed. When I was 16 or 17, as a Stowe School CCF cadet, I went off on my own on a serious military internal security exercise with the local TA unit. At the time this was unexceptional, but now it would be a serious child protection matter. When I visited the Regular Army at about 17 years old I was allowed to drive heavy high-mobility vehicles over a severe cross-country route, including swimming the vehicle in the River Weser. This would be absolutely out of the question nowadays. Later, I did significant amounts of TA training involving military logistics. Although we took much greater risks than would be tolerated nowadays—for instance, with driver hours—I cannot recall any significant or life-changing injuries. The payback to society for the modest risk taken was very great indeed. In later years I was engaged in civilian aid operations in Bosnia and Rwanda, and in military operations in Bosnia and Iraq. I also survived for a considerable time as your Lordships' government spokesman for transport matters in the House of Lords, despite the efforts of the noble Lord, Lord Davies of Oldham. So the seed was sown very early on.

Nowadays in my spare time I do a lot of work at the REME museum in Bordon, particularly with tanks and tank transporters. Obviously they are hazardous, but you can be trained in how to operate them safely and responsibly, and that is a useful skill for life. I have no doubt that there are youth groups and charities in the Portsmouth and Southampton areas that try to steer youngsters away from vehicle crime and perhaps gang culture. I could offer some fantastic opportunities for them in getting involved with operating a tank transporter or an armoured recovery vehicle. I know from experience that I could alter a youngster's whole attitude and make it far easier to secure that all important first job, perhaps with a plant hire company.

The really sad thing is that I know any such scheme is quite impossible for health, safety and compensation-culture reasons. It is simply out of the question. These days, when cadets visit the museum, they cannot even be allowed to climb on the tank. Of course, youngsters outside of the cadets will still get their excitement and adventure but that might be from drugs, motor crime and other undesirable activities.

I turn to the Bill itself. As I understand it, the Bill is mainly concerned with negligence but also covers a breach of a statutory duty, though not a criminal matter. Does a statutory duty include the Health & Safety at Work etc. Act, particularly the Management of Health & Safety at Work Regulations? It would be helpful if the Minister could write to me explaining what is covered and what is not.

During the passage of the Bill in the House of Commons, Ministers seemed to be in some difficulty explaining what, if anything, the Bill did. In my time in government I found case studies very useful for explaining how the legislation worked, and particularly where the dividing line was. Officials hated case studies, and I suspect that this was because they did indeed explain exactly what was and was not intended. The alternative seems to be to let case law develop. I urge the Minister to use case studies to argue his position in Committee.

Some noble Lords think that the Bill goes too far or is unnecessary. I do not think it goes far enough. I do not think that a person should be liable for his actions in an emergency unless a perverse course of action was taken—in other words, no reasonable person with the experience of the person in question would have taken that course of action. In the unlikely event that your Lordships agreed such an amendment, that would surely change the law. It therefore seems to me that the Bill is amendable.

I do not have a problem with the noble and learned Lord, Lord Lloyd of Berwick, tabling his reasoned amendment, because the Bill is a relatively short and simple one. However, I disagree with the amendment's merits. I think that we should give the Bill a Second Reading, while recognising that we will have quite a lot of work to do.

4.45 pm

Lord Aberdare (CB): My Lords, I start by declaring my interests as a trustee of St John Cymru Wales and as vice-chair of the First Aid All-Party Parliamentary Group. No doubt like some other noble Lords, I have received a briefing from St John Ambulance, which is of course the counterpart in England of St John Cymru Wales. There has been much discussion about the purpose of this Bill and what difference it will actually make. During the debate on the Queen's Speech in June, I welcomed the announcement of the Bill, which I felt could help to achieve the laudable aim of persuading more people to volunteer or to provide emergency first aid assistance when needed without worrying about possible legal consequences of doing so. Having now seen the text of the Bill, and read and listened to the debates on it, I am not so sure.

The principal purpose of the Bill, since it is not at all clear to me whether or how it will actually change the existing legal position, seems to be the often-touted idea of sending a signal, both to the courts and to the rest of us, including potential volunteers and providers of emergency first aid help. However, if you are going to send a signal with any effect, it needs to be clear and unambiguous. It would also be helpful for the signal not to conflict with other signals that people expected to follow it are likely to receive. This Bill seems to fall short on those criteria, in at least two respects.

First, the Bill seeks to address an apparent concern that bystanders sometimes do not try to help in emergency situations because of fear that they may subsequently be sued for their actions. St John Ambulance commissioned research from ICM in August—which the Minister mentioned—to find out what factors might deter people from giving such help and whether this Bill would help to overcome them. The findings show that the key factor determining the likelihood of someone taking action in an emergency is having been on a first aid course. Some 55% of people with advanced first aid training would help, even with a life-threatening injury; while 55% of those with no first aid knowledge would not give first aid at all, even for a minor injury. The main inhibitor is that people lack the skills and confidence to know what to do and fear, possibly with some justification, that they may make the situation worse. Some 63% mentioned that concern as opposed to the 34% mentioned by the Minister concerned about possible legal repercussions. A rather small majority said that this Bill would make them more likely to administer first aid. Some 18% answered "more likely", against 14% "less likely", giving a positive balance of just 4%. One clear conclusion of this research is that the best approach to increasing the number of people willing to give emergency first aid—surely better than this Bill—would be to ensure that more people receive first aid training. One obvious way of doing that, which your Lordships have heard me mention before, would be to make such training mandatory in schools.

Secondly, the reference in Clause 4 to acting,

"without regard to the person's own safety or other interests",

runs directly counter to accepted first aid practice, as set out in the standard *First Aid Manual* developed jointly by St John Ambulance, the British Red Cross Society and St Andrew's First Aid. This clearly states:

"Protect yourself and any casualties from danger—never put yourself at risk".

What signal is this clause trying to send? Does it seek to encourage people to pile into emergency situations without any thought of the risks and dangers to themselves, which might indeed be viewed as heroic, but possibly in many instances also dangerous and foolhardy? Or should it encourage them to assess the risks and then take appropriate action, without of course feeling constrained by lack of skills or fear of legal consequences? Surely it is the latter.

One of the ways in which people are likely to hear about the provisions of this Bill and their effect in providing protection from prosecution when people act in a socially responsible or heroic way is through the process of receiving first aid training, but with the Bill as it stands the organisations providing such training would be forced to point out that it might remove such protection from people who act responsibly by taking account of their own safety before acting, as they are taught to do as part of their first aid training. That seems quite contrary to what the noble Earl, Lord Attlee, wants to happen in first aid training. Is that the message we want to send? I have considerable doubts about whether this Bill will anyway achieve the useful outcomes to which it is supposedly directed, but it certainly will not do so unless Clause 4 is amended to remove the phrase relating to personal safety and, ideally, replace it with a form of words that would emphasise the value and importance of responsible citizens learning first aid from as early an age as possible, as a means to being effective rather than counterproductive heroes.

Like other noble Lords, I am not convinced of the appropriateness of the nuclear option of denying the Bill a Second Reading, but if it goes into Committee I hope the Minister will make every effort to address the concerns that have been expressed today, particularly in relation to Clause 4.

4.51 pm

Lord Hurd of Westwell (Con): My Lords, I was brought up on a fundamental principle about legislation, which I sometimes feel your Lordships would do well to memorise. It is the following: if it is not necessary to legislate, it is necessary not to legislate. Of course, it is a sweeping statement, and everyone in this House will

[Lord Hurd of Westwell]
have occasion to disagree with it, but it is not a bad working principle—and it is a principle that is entirely neglected in this Bill.

Several of my noble friends—my noble friend Lady Hodgson in particular—made general speeches about the importance of volunteering and of not being frightened by the threat of prosecution. I entirely understood and agreed with all that, but where their analysis began to crumble seemed to be on the relevance of their concerns to the Bill in front of us.

The noble Lord, Lord Beecham, speaking for the Opposition, made an admirably cutting, caustic speech, and as he approached the crucial fence, I thought that he was going to take it in style—but, having glared fiercely at it, he turned resolutely away and did not take it. Several noble Lords, no doubt obeying some vestige of party solidarity, agreed with him, the argument being that the Bill is a tiddler, there is no particular harm and no particular good in passing it and we should preserve our nuclear explosives for some great cause—unspecified—which deserves it. I think that is a rather feeble way of running an Opposition, if I may say so: to make a very acute and shrewd, sometimes unfair, analysis of the Lord Chancellor's proposals and then not take the obvious course of supporting the amendment.

I support the amendment moved by the noble and learned Lord, Lord Lloyd of Berwick, partly because I want to protect, so far as is possible, the principle I mentioned at the beginning, but partly because of the point he made about this business of sending messages. It is very common now to defend a Bill—a change in the law—on the grounds that it sends out a powerful message to some group in the population whom we wish to reach. We have all fallen victim to this at one time or another. I very rarely meet members of the population who have been bowled over or entirely convinced by the speeches made, or even by votes taken in this House. It does not work like that.

If you are going to encourage people to volunteer, you have to do what my son in the other place has been trying to do until recently—to persuade them to volunteer; to deal with their doubts and fears. It is a public relations exercise. That is not to say that it is useless or to be critical of it; it is necessary to persuade. Passing laws in this House or in the other place is not an adequate way of doing this, particularly when the differences between one text and another—for example between "shall" and "might"—are minimal, as has been analysed in this debate.

If you are contemplating a brave action which may carry some risk, such as diving into a pool or rescuing somebody from a dangerous situation, you are almost certainly taking a quick decision on the spur of the moment. You are not going to creep away and find a book to memorise the course of a debate in your Lordships' House. So this is a bad way of sending a message. The message is good and well meaning, but we should not clutter the law book of this Parliament with such messages. If one were starting again and had plenty of time and no precedent, one could make a more glorious Bill than Section 1 of the Compensation Act. Nevertheless, we do not have that time and that luxury, and it is a mistake to think that we should gild the lily by passing this Bill.

4.56 pm

Lord Kennedy of Southwark (Lab): My Lords, this has been an interesting and entertaining debate on a five-clause Bill that I am not convinced is very necessary. I agree with what the noble Lord, Lord Hurd, said, though I am sorry if he feels disappointed by how the Opposition are responding to the debate.

We have heard from other noble Lords, in particular from my noble friend Lord Beecham and the noble and learned Lord, Lord Lloyd of Berwick, that this Bill is unnecessary. The Government have suggested that the impetus behind this Bill is to increase volunteering and other forms of social action to provide reassurance to people, including employers, that the courts will take certain factors into account when considering claims for negligence and certain breaches of statutory duty. If the Government feel that there is a problem with people volunteering, it is probably more to do with their attitude to the sector and the policies that they are implementing.

I agree with the noble and learned Lord, Lord Lloyd of Berwick, and the noble Lord, Lord Pannick, that, if there is a problem with getting people to volunteer and they are under a misapprehension about their legal position, what is needed is some sort of media campaign. I do not see the fear-driven culture to which the noble Baroness, Lady Hodgson, referred, nor the compensation culture to which the noble Earl, Lord Attlee, referred.

I enjoy the area of south London and the vibrant community in which I live. I do voluntary work with no fear of being sued or taken to court for trying to be a good citizen. Where I live in Lewisham, I also serve as a local councillor. I have never heard anyone say to me in the voluntary projects that I visit and work with—either in the ward I represent, or elsewhere in the borough—that they cannot get more people to help because they are worried that they might be sued. No one has ever told me that they would like to be involved, but that the risk of a negligence claim against them is too much for them to bear.

I invite the noble Lord, Lord Faulks, to visit the Ackroyd Community Centre in Honor Oak Park, where I am a trustee, so that he can see for himself the wonderful work that the people there undertake. He can ask them how they think we can increase volunteering. I am certain that not one word of this Bill will be raised as a barrier to volunteering, and no one will suggest that the Government need to legislate on it.

I have the greatest respect for the noble Baroness, Lady Browning, but I do not agree with her that the Bill is necessary; all the important points she made are already adequately covered. Again, I agree with the noble and learned Lord, Lord Lloyd of Berwick, on this.

While we are on the subject of volunteering, what happened to the big society? No one from the Government ever mentions it—it has disappeared. Only the Opposition ever mention it to ask, "Where has it gone?"—but four years ago it was all the Government ever talked about.

I have concerns that the legislation could worsen the position of workers. Hugh Robertson, head of health and safety at the TUC, described the Bill as "gobbledegook" and said:

"There is not a shred of evidence that there is a problem".

The Association of Personal Injury Lawyers, to which the noble Lord, Lord Faulks, referred, has also raised concerns, and Thompson Solicitors said that it is,

"nonsense before it even starts".

We generally have a good health and safety record in this country, which we should be very proud of. I visited the Olympic park just before it opened, where both the noble Lord, Lord Coe, and Sir John Armitt proudly told us that the most serious accident over the whole construction period was one broken leg, because health and safety was such an important part of life on the construction site.

It is important for the noble Lord, Lord Faulks, and the Government in general to make it clear that no employer should be under any doubt that the Bill on becoming law will not in any way loosen health and safety provisions or place less importance on risk assessments—I hope that the noble Lord will have the opportunity to do that when he responds to this debate. Although an employer may have a good health and safety record—and it is quite right that their good record should be taken into account—if they are negligent, they should be found liable, whether or not it is their first breach.

The noble and learned Lord, Lord Lloyd of Berwick, and my noble friend Lord Beecham, referred to both the Fire Brigades Union and the St John Ambulance brigade, which made compelling comments on the issue of heroism and raised concerns about the present wording of Clause 4. They are worried that it could encourage people to engage in reckless behaviour. It is important that we are not seen to be encouraging people to act recklessly and risk becoming a casualty themselves. I hope that the noble Lord, Lord Faulks, will say something about that when he responds to the debate.

I pay tribute to anybody who through their work as a police officer or firefighter, or any other occupation—or as a member of the public—has acted heroically and saved others. We have seen that spirit many times in our country; nowhere was it more in evidence than on 7/7 in London. Some of the heroes on that day needed help after the event, in addition to medical care and in some cases counselling, but maybe they also needed a bit more protection from the media intrusion they suffered after those terrible events.

In addition, how would the Bill affect Armed Forces personnel and the difficulties they could face in obtaining compensation for injuries sustained while serving their country? Can the noble Lord reflect on that in particular in detail, and explain how the Armed Forces covenant would work there? I am worried that that could be an issue, so perhaps he could come back to me on that between now and Committee.

I have looked carefully at Part 1 of the Compensation Act. As the noble and learned Lord, Lord Lloyd of Berwick, points out in his amendment and his contribution today, the matters in the Bill are adequately covered there. The noble Lord, Lord Faulks, is a very skilled advocate, a Queen's Counsel and an officer of the court, while I am just a lay person. It would be helpful if he could explain to me why the Bill is necessary. Would he not expect the advocate for a defendant in a negligence claim to put these matters before the court? Would he not expect the advocate for the defendant to make use of Part 1 of the Compensation Act, and would he not expect the court in considering a negligence claim to consider such matters and give them due weight in coming to its decision?

If the noble Lord, Lord Faulks, says to me, "Yes; I would expect the defendant's advocate to put these matters forward and I would expect the court to consider them", again I ask, why is the Bill necessary? I certainly found nothing in the risk assessment to convince me that it was necessary. As the noble Lord, Lord Pannick, said, the document is nearly as thin as the Bill itself, and phrases such as,

"slightly less likely to pursue a case … slightly reduced aggregate compensation paid … slight drop in the number of negligence cases",

do not make compelling or convincing reasons as to why the Bill is wasting valuable Parliamentary time.

Having said that, the Opposition will not be supporting the amendment moved by the noble and learned Lord, Lord Lloyd of Berwick, if he presses it to a vote, for the reasons outlined by my noble friend Lord Beecham. We agree with him that the Bill is unnecessary, but do not believe that it is right to deny it a Second Reading. However, it is a depressing waste of valuable parliamentary time. When you look at the Order Paper and see the list of uncontroversial Private Members' Bills—such as the Mutuals' Redeemable and Deferred Shares Bill put forward by the noble Lord, Lord Naseby, from the Minister's own Benches, which has much more merit and is struggling to get a hearing—it is a matter of much regret that we are here today. My noble friend ended his contribution by saying, "Let the grilling commence". It has started, and the noble Lord has much work to do.

5.04 pm

Lord Faulks: My Lords, this has been a very interesting, entertaining and helpful debate, in which a number of useful points have been raised. As I explained in my opening speech, our core aim in introducing the Bill is to provide reassurance to people who act in a socially beneficial way, behave in a generally responsible manner, or act selflessly to protect someone in danger that the courts will always take the context of their actions into account in the event that something goes wrong and they are sued.

The amendment tabled by the noble and learned Lord, Lord Lloyd of Berwick, seeks to prevent the Bill from receiving a Second Reading on the basis of two premises: first, that the subject matter of the Bill is already covered by Section 1 of the Compensation Act 2006; and, secondly, that the sole purpose of the Bill is not to make new law but to send a message to the courts, and that that is not a proper use of legislation. The Government do not accept that either premise is correct. As I explained, Clause 3 does change the law—albeit not in a major way—by requiring the courts to have regard to whether a person, in carrying out the activity in the course of which the alleged negligence or breach of statutory duty occurred, demonstrated a generally responsible approach towards protecting the safety or other interests of others.

In making that change, we want to ensure that the courts take a slightly broader view of the defendant's conduct than at present by looking at whether a

[LORD FAULKS]

defendant's approach to safety during an activity was generally a responsible one, taking into account all that he did or did not do. The court will be obliged to weigh that in the balance when considering the ultimate question of whether the defendant met the required standard of care. While that does not rewrite the law in detail, it is a substantive change. If it were to tip the balance in favour of the defendant in a particular case, then that is a result with which the Government would be happy.

Clauses 2, 3 and 4 also require the court to take particular factors into account. While, as I have said, Clause 2 relates to broadly similar territory to that in Section 1 of the Compensation Act, the approach that it takes is different. It requires the court to have regard to whether the alleged negligence or breach of statutory duty occurred when the person was acting for the benefit of society or any of its members. The fact that the fear of litigation remains so widespread almost a decade after Section 1 was introduced only goes to suggest that it has been ineffective and that firmer action, such as this, needs to be taken.

The noble and learned Lord, Lord Lloyd, said that I had paid scant regard to the Compensation Act in my opening remarks. Let me attempt to make good that omission. In her introduction to the Compensation Bill, the noble Baroness, Lady Ashton, said:

"The Bill will provide better safeguards for consumers of claims management services and will reassure those concerned about possible litigation that the law of negligence takes the social value of activities into account and that they will not be found liable if they adopt reasonable standards and procedures".

After dealing with the regulation of claims management services, she went on to say:

"The Bill's provision on negligence reflects recent judgments of the higher courts. It makes clear that when considering a claim in negligence, in deciding what is required to meet the standard of care in particular circumstances, a court is able to consider the wider social value of … the context of which the injury or damage occurred. It provides that the court can have regard to whether requiring particular steps to be taken to meet the standard of care might prevent a desirable activity from being undertaken or might discourage people involved in providing the activity from doing so.

The Bill forms part of a wider programme of work which is being taken forward across government and, in partnership with stakeholders, to tackle perceptions that can lead to a disproportionate fear of litigation and risk averse behaviour, to find ways to discourage and resist bad claims and to improve the system for those with a valid claim for compensation".—[*Official Report*, 3/11/05; cols. *WS 29-30*.]

At Second Reading, the noble Baroness said:

"This Bill is part of a much wider set of initiatives that is being taken forward across government. The Government are determined to tackle practices that stop normal activities taking place because people fear litigation, or have become risk-averse. We want to stop people from being encouraged to bring frivolous or speculative claims for compensation. The provisions in this Bill will help us do that. They will reassure people who are concerned about being sued that, if they adopt reasonable standards and procedures, they will not be found liable".

Later, she said, referring to Clause 1, that:

"This provision reflects guidance given by the higher courts during a considerable period and renewed in recent cases. It will ensure that not only all courts but also litigants and potential litigants are fully aware of this, and will provide reassurance to the many people and organisations, such as those in the voluntary sector, who are concerned about possible litigation".—[*Official Report*, 28/11/05; cols. 81-82.]

The noble Lord, Lord Beecham, seemed to imply that the notion of a compensation culture was entirely in the imagination of this Government, but it appears to have featured quite heavily in the imagination of the previous Government.

Lord Lloyd of Berwick: When I said that the noble Lord had paid scant regard to Section 1, I thought that I would be understood as saying that he did not attempt to say why Section 1 does not cover everything in this Bill. Indeed, what he has just read out makes it clear that it does cover everything in this Bill.

Lord Faulks: Indeed, but the noble and learned Lord is saying in his amendment that this Bill should not get a Second Reading because the matter is covered by Section 1 of the Compensation Act. I am identifying what lay behind the legislation when it was brought in, what it attempted to do and why, if the noble and learned Lord will bear with me, it failed to do so.

Lord Beecham: The noble Lord read out the words of the noble Baroness, Lady Ashton, in the previous Labour Government. I referred to Greek legend, and I concede entirely that the noble Baroness, Lady Ashton, and the previous Labour Government nodded, as did Homer. I would not defend the section of that Act but the noble Lord has to point to any distinction between the effect of that Act and the present Bill.

Lord Faulks: I am entirely aware of the question that the noble Lord asked and I am attempting to answer it.

Perhaps I may go on to refer to what happened following the passing of that Bill. Was there a fundamental change in the compensation culture? What happened? After the coalition Government came to power, my noble friend Lord Young of Graffham produced his report *Common Sense, Common Safety*, which was widely applauded by all sides of your Lordships' House. He observed in his report that there was a growing fear among business owners of having to pay out for even the most unreasonable claims. The fear of business owners and small business owners, referred to by my noble friend Lord Cotter, is a reasonable matter to take into account. My noble friend Lord Young also identified a public misconception that,

"we can be liable for the consequences of any voluntary acts on our part".

He described this belief as "particularly pernicious" because it might,

"deter people from engaging in organised voluntary activities in the mistaken belief that they can be sued should anything go wrong".

He recommended that people who seek to do good in our society should not fear litigation as a result of their actions. He said:

"It is important to have clarity around this issue and at some point in the future we should legislate to achieve this if we cannot ensure by other means that people are aware of their legal position when undertaking such acts".

My noble friend Lord Hodgson, whose report *Unshackling Good Neighbours* has been referred to, led a task force established by Nick Hurd, the son of my noble friend Lord Hurd, who has spoken on this issue.

He may have observed that unfortunately his son did not share his lack of enthusiasm for the Bill when speaking in a brief intervention in the House of Commons. Fortunately, the family of Hodgson was more together than the family of Hurd. My noble friend Lord Hodgson said that the fear of becoming involved in litigation was a major preoccupation that deterred people from volunteering. The task force acknowledged the work of various government departments in producing guidance on health and safety, but argued that it was unlikely to provide volunteers with the general reassurance that they seek. The task force took the view that the Government's efforts seemed,

"'to fall short' of Lord Young's recommendation to clarify through legislation if necessary that people would not be held liable for any consequences due to well-intentioned voluntary acts on their part".

The response of Dr Davis Smith in his evidence to the Public Bill Committee was also important. His perspective as the executive director of the National Council for Voluntary Organisations was interesting. He said:

"Parliament has a hugely important role in sending out messages about what is valued in society, and I think that sending out the message that volunteering and community and social action has a hugely beneficial role to play in society—recognising that there are barriers and difficulties that must be addressed—is a really important function that Parliament can play. Even the process of having discussions such as this and getting the debates out as part of the passage of legislation is helpful in raising awareness in society more broadly".—[*Official Report*, Commons, Social Action, Responsibility and Heroism Bill Committee, 4/9/14; col. 14.]

The noble and learned Lord, Lord Lloyd, and the noble Lord, Lord Beecham, challenge me to say that this Bill effectively adds nothing to the Compensation Act. I respectfully suggest that since the Act we have had an explosion of claims. These have resulted in what I submit to the House is an extremely sensible part of the LASPO Act, which implemented the Jackson reforms and went a considerable way to stopping the explosion of claims by modifying the amount of cost that could be recovered.

We have improved the control of claims management. The question of claims management was touched on in the Compensation Act. It went nothing like far enough. We have reduced the number of claims management companies. We have introduced a successful unit to monitor carefully what claims management companies do. They have halved in number. We now have heavy fines if they transgress in any way. We have introduced in the Criminal Justice Bill, still before your Lordships' House, provisions that will deter fraudulent claims.

Anyone who watches television or reads newspapers will I suspect share with me the feeling of depression and disgust at the vulgar advertising for claims brought, which are often meritless. People resent being telephoned and asked to take part in a fraud, told that they have been involved in an accident of which they have no recollection. For those who say that the compensation culture is a mere figment of the Government's imagination, I say that they are not paying attention to what normal people say.

Lord Beecham: Is the noble Lord able to identify what proportion of these claims relates to the provisions of this Bill? What proportion of them relates to claims for compensation for injuries suffered as the result of voluntary activity or heroic action?

Lord Faulks: I will not give details of particular claims. In opening this Second Reading debate I said that this Bill is intended to reassure those who might be reluctant to volunteer. It intends to set out matters that the court is required to take into account when deciding on cases that potentially generate those factors with which the Bill is concerned.

Can we really conclude that the Compensation Act had answered the questions posed by the noble Baroness, Lady Ashton? I say "posed", though the noble Lord, Lord Beecham, disavows her concern. The answer, I fear, is no. What difference is there between the terms of the Compensation Act and the terms of this Bill? One said "may" and the other said "must". Noble Lords may remember that the difference between "may" and "must" last week caused the House to be divided on more than one occasion, so crucial was it in the interpretation of the particular Bill. Furthermore, the Opposition in the House of Commons thought that it was a sufficiently important difference to table an amendment, removing "must" and inserting "may". There is a difference, I respectfully submit, between the provisions in this Bill and the provisions in the Compensation Act.

What is not entirely clear—and I accept this on behalf of the Government—is that all Members of your Lordships' House know the target at which the Bill is aiming. I readily accept, as was apparent from the previous Government, that it is a very difficult target to hit. We do not suggest that judges are routinely getting matters wrong, or that they ignore these factors. However, they will now have to take those into account, and in many cases that will be an unnecessary enjoinder. Clearly, on the face of the statute will be that obligation. This Bill will contribute to an increasing reassurance which I hope the public has and that volunteers have in approaching life, which inevitably has many risks.

This debate has divided roughly—only roughly—between lawyers who are hostile to the Bill and non-lawyers who seem rather more, with exceptions, in favour of it. We, as lawyers, should reflect a little on the occasional disconnect that exists not only between politicians and the public but sometimes between lawyers and the public. Should Parliament be legislating in this fashion at all if it is simply sending a message? I entirely accept what my noble friend Lord Hurd said about the fact that one should be very cautious indeed before legislating simply to send a message. But, on the other hand, I suggest that it would be idle to pretend that part of what we do is not conveying an important message.

One has to think only of the amendment that the Government brought forward, with considerable help from my noble friends on the Liberal Democrat Benches and with support from the Opposition, on the question of revenge porn. It sent a clear message that this House of Lords thoroughly disapproved of that activity. The reality was that the offence was probably captured by other specified criminal offences within the canon of criminal law. So strong was the general feeling that we should identify specifically this behaviour that we sent a message by legislation and made law. What is the Modern Slavery Bill about? Of course, it has important provisions in relation to modern slavery, but is accompanied with all the publicity about what

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to look for in slavery. Legislation is not always the dry dust of particular words. The context in which we legislate is extremely important.

I was asked many questions during the debate, and I will answer all of them in writing in due course. I hope that noble Lords will forgive me if I do not answer them all now. I can reassure a number of those who asked about the emergency services, for example. I hasten to add that we are very keen to encourage first aid, but nothing about this will alter the sensible practice that should be adopted by the emergency services. The law in that respect has been well visited by a number of Courts of Appeal and the Supreme Court. This will not change that.

The noble Lord, Lord Pannick, in an amusing speech, referred to that well known student of jurisprudence Sybil Fawlty, and expressed the view that the case of Tomlinson, which was the backdrop to the Compensation Act, was a statement of the obvious. Why then, I ask rhetorically, was it necessary for the case to go all the way to the House of Lords, which deals only with difficult matters of law on which there is uncertainty? If the case was so straightforward it should either have settled immediately or been disposed of without an appeal to the Court of Appeal or the House of Lords. Unfortunately it can be the case that courts take a little time, when faced with appalling accidents which result in serious injury, to come to the—sometimes reluctant—conclusion that they must deny compensation in the face of an apparently deserving claimant.

Much has been said about the need to sometimes take risks. Few were more robust advocates of that approach than my noble friend Lord Attlee. Much of what he said was true: we want people to take sensible risks but we are not encouraging them to do anything or forcing them to volunteer or take part in activities if they do not want to. However, it is a sad fact that people are deterred: they are aware of the risk of compensation and I am sure that most Members of your Lordships' House agree that this can act as a negative factor in both their ability and willingness to volunteer. Indeed, it can reduce the enjoyment of life. The Bill's core purpose is to reassure a wide range of people who should not be deterred from engaging in these activities. I do not accept that it is improper for legislation to have such a purpose. I suggest that it is a proper use of legislation and will provide valuable support for voluntary organisations and small businesses. They can make a contribution to society without being constrained or, at least, being far less constrained by worries about being sued.

Noble and learned Lords will, undoubtedly, examine the provisions of the Bill closely in Committee—if there is one—and on Report. I do not suggest, for a moment, that the noble and learned Lord, Lord Lloyd, is not entitled to take the course he apparently wants, of testing the opinion of the House at Second Reading. The Bill passed through the House of Commons; it received some support—albeit it has been criticised—in your Lordships' House; it could certainly benefit from examination by those who are experienced in these matters when it proceeds further. However, I hope that he is persuaded that the Bill deserves our consideration. If it is sending a message, it is one that should be heard. It is making a small but important change in the law where there is a need for change. In all those circumstances, I ask him to consider carefully whether it would not be better to withdraw his amendment.

5.27 pm

Lord Lloyd of Berwick: My Lords, I tried hard to persuade the Labour Opposition to support this amendment. They attacked all three clauses in the other place. I assumed that they were against the Bill in principle so I thought they would support this amendment: it would have been the logical thing to do. However, I am afraid that the ways of political parties are beyond my understanding. Try as I might, I simply could not persuade them. I was told they would definitely be opposing the amendment. If that is their intention now, it would certainly not be my intention to divide the House. However, as I understand it—and I may be wrong—they have decided at the last moment to abstain. Are they opposing or abstaining?

Lord Beecham: Perhaps I might assist the noble Lord. It has been our formal position, in the discussions we have had over the last few days, that we would not support the amendment but we would not vote against it. We will abstain.

Lord Lloyd of Berwick: That makes it much more difficult. It puts me in a quandary. I believe there are very many Members on the Labour Benches who want to support this amendment, if they are allowed to do so. I believe there are Members on all sides who want to support this amendment. The noble Lord, Lord Hurd, wants to support this amendment. So what am I to do?

I will say that I wholly disagree with what the noble Lord, Lord Pannick, said in one aspect of his speech, which was that to oppose the Bill on Second Reading would create a fundamental conflict between this House and the other place. Did the Labour Party's reasoned amendment in the Health and Social Care Bill create a fundamental disagreement between the two Houses? Did the Conservatives' reasoned amendment in the fraud Bill create a fundamental conflict between the two Houses? Clearly not. Although the noble Lord, Lord Pannick, was right in every other respect in regarding the Bill as a wretched Bill which should have no support in this House, I cannot agree with the reason he gave that we should not agree the amendment now.

I come back to where I was. I do not want to disappoint Members who are here to vote for this amendment. But I feel on the whole that the points that have been made, very forcefully, against the substance of the Bill have probably been enough for my purpose. My guess is that at the end of Committee, on which we will waste more valuable time, we will find that there is nothing we can do with the Bill—which is what I think they suspected in the other place. That is because essentially this is an unamendable Bill. But I do not think that there is quite enough support for actually rejecting the Bill at this stage to justify wasting the time of the House in dividing on the amendment. I respectfully ask to withdraw the amendment.

Amendment withdrawn.

Bill read a second time and committed to a Committee of the Whole House.

Shale Gas and Oil (EAC Report)

Motion to Take Note

5.34pm

Moved by ***Lord MacGregor of Pulham Market***

That this House takes note of the report of the Economic Affairs Committee on The Economic Impact on UK Energy Policy of Shale Gas and Oil (3rd Report, Session 2013–14, HL Paper 172)

Lord MacGregor of Pulham Market (Con): My Lords, it is a privilege to introduce the report of the Economic Affairs Committee, *The Economic Impact on UK Energy Policy of Shale Gas and Oil*. I must declare an interest, in that I chair the pension funds of two energy companies.

I have served on this committee for seven years, four as chairman. I have to say that this subject turned out to be not only one of the most fascinating but potentially one of the most influential. At the outset I was uncertain as to whether we would get agreement, given the wide range of interests of the members of the committee as well as the wide-ranging nature of the issues—energy policy, environmental and safety issues and climate change, among many others.

The committee held 20 evidence sessions with a wide range of opinions from political, business and environmental groups. We had 30 witnesses in all covering government departments, academics, energy companies, government agencies, environmental groups, the European Commission and overseas witnesses. In the final outcome, based entirely on the evidence we received, the questions we asked and our own analysis, our report was unanimous.

I thank all our witnesses and give special thanks to our specialist advisr to the enquiry, Professor Nick Butler, visiting professor at King's College London. His knowledge and analytical and drafting skills were especially valuable to us. I also pay special tribute to our retiring clerk, Bill Sinton, for whom this was the last report on which he served us. His administrative and organisational skills, always quietly and conscientiously undertaken, have been of great benefit to us. Thanks also to Ben McNamee, policy analyst, and Stephanie Johnson, committee assistant, for their unfailing help. I am also grateful to all the members of the committee, whose widespread interests, skills and experience, and great application to the work in hand, made it a joy to be their chairman.

Why did we choose this subject? It started with our fascination for the huge impact of shale gas and oil on the energy situation and the economy generally in the United States in a comparatively short time—the last decade or so. It led us to look at the production prospects in the UK, the potential benefits and the risks of not going ahead. We covered the progress, or lack of it, to date, the climate change effects, the environmental and regulatory concerns and what more needs to be done. I will briefly speak to each in turn.

As our report makes clear, the experience in the United States has been astonishing. I thought I knew a bit about it but the evidence came as a revelation. New production techniques to release gas from shale rock have brought abundant and growing new supplies of gas to market in a short time. Shale oil production is also growing rapidly. This has meant that the US energy mix has changed fast, with dramatic and beneficial effects for the US economy and customers. Gas prices have fallen to about one-third of the UK price level. Despite recent falls in oil prices on the world market, the benefits of shale oil and gas to the US remain substantial and long lasting, whereas world oil prices will continue to be volatile. Cheap gas has displaced coal from electricity generation in the US, with the result of substantial exports of US coal to Germany and, indeed, the UK, with corresponding climate effects.

Most significantly, energy-intensive and petrochemical industries are returning to the United States and building up their investment there rather than elsewhere as a result of the cheap shale gas now available. North America is expected soon to become self-sufficient in energy—and what a boon that is—and a large exporter of shale gas in the form of liquefied natural gas.

As to the UK, we identified substantial benefits if shale gas could be developed on a significant scale—I stress "if". These include the obvious point about enhancement of energy security through a decreased reliance on imports, which recent developments in Russia and Ukraine have underlined; decommissioning of high-emission coal-fired generating capacity; reducing the risk of gas price increases or even possibly delivering a fall in gas prices; and, as has happened in the United States, the benefits for energy-intensive businesses and the petrochemicals sector, which could not only retain investment here but enhance it. Of course, there are benefits, too, for employment, and infrastructure, and other increased economic and community benefits for areas where shale is likely to be found and which have often suffered from industrial decline. BIS has supported the view in its response to our report that there could be more than 64,000 jobs at peak, with more than 6,000 jobs on shale gas pads, from a successful UK shale industry, and that these would be highly skilled, high-quality jobs, with pay levels higher than the UK average.

Recent geological surveys, particularly that of the British Geological Survey, have shown where the shale gas and oil prospects are likely to be, but the crucial point—and I must stress this—is that we will not know the extent of actual production capacity until the exploratory wells are installed. So far, not a single one has been.

Apart from the obvious geopolitical risks to our energy supplies from Russia and the Middle East, recent events have underlined the risks of, in the jargon, "the lights going out". The recent closures at least until the end of the year of nuclear reactors at Hartlepool and Heysham, which supply 4% of total electricity supply, and the fire at Didcot, bringing the reserve over the winter to only 4%, underline the current precarious nature of our supplies.

Some might ask whether the recent fall in oil prices on world markets negates some of our arguments. On the contrary, the benefits of shale oil and gas to the US remain substantial and long lasting. We here in the UK are nowhere near the production stage, and who can say where our oil prices will be when that begins? So the arguments for swift development of our indigenous supplies remain compelling.

[Lord MacGregor of Pulham Market]

Media coverage of the current debate about shale gas and oil tends to be dominated by environmental and local pressure groups, as we found when our own report was published. Detractors and critics occupy the headlines much more than the proponents. I sometimes wonder what the public reaction would be some years hence if our energy supplies and prices were constantly under pressure and we had missed the opportunity of our own shale gas and oil production. Where would the blame then lie? Therefore, we need to do everything can to ensure, first, that environmental and safety questions are totally addressed and, secondly, that the positive case for exploring and developing our own potential and its importance is fully put over.

We devoted a great deal of our report to the concerns, because it is clear that they need thoroughly to be examined. On climate change, we found persuasive the conclusion that the carbon footprint of shale gas, including fugitive methane emissions, is similar to that of conventional gas production and substantially less than coal. We endorsed the recommendation for a monitoring programme to measure the level of fugitive methane when shale gas extraction begins in the UK. We considered not only that the development of shale gas in the UK is compatible with the UK's commitments to reduce greenhouse gas emissions, because of the acknowledged role for gas, but that substitution of British shale gas for imported LNG would reduce the carbon footprint.

A large section of our report is concerned with examining environmental impact of shale gas in the UK, covering ground water contamination, disposal and treatment of flow-back water, effect on UK water supply, seismic activity and so on.

We also had an impressive amount of evidence about the robustness of the UK regulatory regime in relation to all these matters, and that is crucial. There is an impressive amount of scientific evidence that, with a robust regulatory regime, the risks to the environment and public health are low. We concluded that, with such a regime in place, the environmental risks are small, whereas the benefits, if shale gas development can take place, are substantial.

The one area where environmental concerns are undoubted is the increase in traffic and disruption in places close to the development of shale, especially in the exploratory stage and where the wells are drilled. We acknowledge that, as with any industrial activity of that nature, there would be these problems and they would be significant for that period. This is why an important role for the industry's community benefit scheme is to compensate the communities and the individuals directly affected. However, once that initial work has been completed, the impact should be low. Who even in Dorset knows where Wytch Farm—the land outlet for one of our major undersea oil wells—actually is?

We heard much evidence that the UK's regulatory framework is more rigorous than that of the US but, even so, we argued that it was crucial that the Government explicitly continue to address the safety issues. I warmly welcome the Government's response on this aspect, which points out that the UK has more than 50 years' experience of regulating the onshore oil and gas industry nationally and has an effective system for addressing safety risks; and stresses that the Government will continue to set this out.

However, while the UK's regulatory framework for oil and gas exploration and production is highly regarded internationally, it is, as we say in our report, also dauntingly complex in this area and untested by large-scale onshore development of shale. While the Government's response points out what they are doing on this front, many complexities remain; despite the attempts at co-ordination, many responsibilities are divided between different agencies. Are local authorities sufficiently resourced and geared up with the skills for the necessary technical challenges?

I welcome the Government's swift response on one question where the UK is at a disadvantage compared with the US—namely underground access—and their proposal in the Infrastructure Bill for companies to be given a right of access below 300 metres, in return for a voluntary payment and notification to the community. However, there continue to be concerns about the costs, complexities and delays involved in the planning process.

I do not have time to go into all the aspects of the streamlining of the planning process that are listed in our report and the Government's response. However, one of our American witnesses, when asked if he would consider applying for an exploratory well in the UK at present, concluded that it was clear that he would not, and for these reasons. However, the proof of the pudding is in what is happening on the ground, given the urgency of getting material, practical progress. The plain fact is that not even one application for an exploratory well is likely to be granted this year. At best, there might be three or four next year. This is an area which needs continuing urgent action by Ministers. We need to see results; otherwise, developers—which, at this stage, are largely private or comparatively small in terms of the industry as a whole—will be discouraged.

The Government's response to our report on this area said:

"Development and production will take time. The first successful shale fracking demonstrations in the United States were in the early 1990s, but production at commercial scale did not get under way until the early 2000s".

I hope that is not the timescale by which the Government intend to judge themselves. We simply cannot wait that long.

Let me be clear: our verdict was not to criticise the general policy of the Government or to oppose their direction. Indeed, we strongly endorse it. We simply feel that, for all the welcome developments in pulling together the planning complexities, in the encouraging fiscal measures that the Chancellor has introduced, and in the Prime Minister's and the Chancellor's own speeches earlier this year about,

"going all out for shale",

not enough is being done.

We want a more strongly co-ordinated government campaign, and one given higher priority to put over the message constantly repeated and speed up the process. That is why we recommended in our report as one of our conclusions that,

"since several Departments share responsibility for policy on shale gas, the Government should take measures to improve coordination,

clarity and speed of policy making and its implementation. We recommend in particular that the Prime Minister should establish a Cabinet Committee or Sub-Committee, chaired by the Chancellor of the Exchequer, to direct and coordinate policy on development of shale gas, with a mandate to promote well regulated exploration and development of the UK's shale gas resource".

However it is done, we need to ensure that the important potential benefits are constantly emphasised and the relevant measures urgently pursued. In short, exploration and appraisal of our shale resource has been too slow. Here is a potential economic prize which we should grasp without further delay. We need to get on with it.

5.51 pm

Lord Hollick (Lab): My Lords, I thank the noble Lord, Lord MacGregor, not only for introducing the debate and chairing the committee during the inquiry but for his excellent chairmanship over the past four years. He has managed to keep a group of members, always of strong opinions and often unafraid to express them, in fairly good order. He has done that with quiet authority, charm and good humour. As he mentioned in his introductory remarks, he has kept us focused on the evidence. That has enabled us to reach unanimity on all the reports that he has chaired, which has given those reports a particular authority, helped to shape the debate and, in many cases, led to important change.

A couple of weeks ago, National Grid warned that the tightening balance of generating capacity and demand had forced it to enter into agreement with some customers to allow their supplies to be interrupted to keep the lights on. That extraordinary state of affairs has come to pass courtesy of a shambolic national energy policy and incompetence in Westminster and Whitehall. Although it has been evident for many years that our generating capacity was reaching a crunch point, the Government have failed to devise an attractive environment for encouraging the private sector to invest in new generating capacity to provide consumers with competitively priced energy and reduce emissions.

We are now using the most carbon-intensive fuel—coal—to generate 40% of our electricity. We are investing in very high-cost renewables but because those are intermittent, gas and some coal stations have to be held in reserve at very high cost, to be borne by the taxpayer in the form of capacity payments. As Sam Laidlaw of Centrica pointed out last week, we—that is, the consumer—are paying at the same time to replace coal and to keep coal capacity on standby.

The new nuclear generating capacity at Hinkley Point, built partially to replace our ageing nuclear fleet, comes at a dizzyingly high price. At a time when energy costs generally are falling, the Government have entered an agreement to pay EDF—partially owned by the French Government—twice the current wholesale price for electricity, index-linked for 35 years. The PM's concern about the £1.7 billion payment to the EU pales into insignificance when compared with the payment to EDF to be borne by every household in the land for each of the next 35 years.

Professor Nick Butler, our excellent specialist adviser, called last week for an independent review of our energy policy before the situation deteriorates further. He is right. Does the Minister agree that such a review is a priority?

How would shale gas improve the energy picture? If shale gas can be developed in the UK it could play a valuable role in our energy mix, to the benefit of consumers and the overall economy. It will help to fill the gap as North Sea gas declines; it will halve emissions by replacing coal; and it will provide a home-produced source of energy which can help us to transition to affordable renewable sources of energy. Yet the search for shale gas in the UK, as the noble Lord, Lord MacGregor, said, has yet to start in any meaningful way. To date, only one well has been fracked—and that was in 2011. As the noble Lord said, the expectation in the industry is that there will be three wells drilled in 2015.

The British Geological Survey has identified sizeable reserves of gas, and in some cases oil, in Lancashire and Yorkshire, southern England and the Midland valley of Scotland. But until test drilling takes place no one knows whether those reserves are sufficient in scale and accessibility to make exploitation economic. The BGS survey suggests that the shale gas deposits identified could supply gas for up to 40 years at the current level of consumption, which means that shale gas could make a significant contribution to the UK's energy needs. Shale gas would then reduce dependence on imports and provide important security of supply at a time when, as recent events in Ukraine have shown, overreliance on imported fuel carries risks.

While shale is unlikely to have the same downward impact on UK gas prices as it has in the US, because our gas supply is part of a Europe-wide interconnected network, it can moderate price rises. There is also a financial windfall. The public purse will benefit from taxes levied and, importantly, local communities will derive significant benefit from their share of the revenue generated by gas supplied from wells in their localities. Up to a quarter of a million jobs in highly energy-dependent industries will be preserved and an estimated 20,000 to 70,000 jobs will be created by the shale gas industry itself.

Communities where shale drilling is planned to take place have understandably raised concerns about its impact in their local environment, pointing to evidence from the US about groundwater pollution and the use of toxic chemicals. A seismic event in 2011 at Preese Hall, outside Blackpool, further heightened concerns. In 2012, the Royal Society and the Royal Academy of Engineering produced an extensive report into shale gas extraction, which concluded that the risks associated with fracking could all be managed with suitable regulation and care.

We took evidence from a wide range of academics and industry experts from the UK and the USA, and from UK regulatory bodies. Based upon the broad range of evidence we received, there was general agreement that while an industrial process like drilling for shale gas brings with it a level of risk, these risks can be satisfactorily managed by scrupulous adherence to best practice. We can take advantage of some of the significant technological advances in the United States in recent years, which have improved safety, eliminated toxic chemicals and reduced water depletion.

Mining and drilling are not new activities in the UK; we have long experience of managing such activities well. The regulatory regime in the UK is in some ways

[LORD HOLLICK]
more rigorous than in the US, and although it remains to be tested in the shale gas industry, its excellent record in regulating offshore and onshore oil exploration gave us confidence that the shale industry can be effectively regulated. Companies with the necessary finance and expertise stand ready to explore shale gas opportunities. At the highest level, the Government have voiced their enthusiasm. The Prime Minister wants to go "all out for shale", the Chancellor is offering tax incentives and legislation has been introduced to allow companies to drill horizontally under adjacent land.

What, then, stands in the way of rapid development of this promising natural resource? In a word, it is bureaucracy. The regulatory regime is complex, unwieldy and slow with many government agencies sharing responsibility for approving fracking applications. The process is bedevilled by complexity; it lacks transparency, accountability and consistency. Cuadrilla, one of the companies seeking to drill for shale gas, estimated that it could take up to 16 months to navigate the process of obtaining permission to start drilling. We were told that local authorities were not adequately resourced to deal expeditiously with the approval process. Will the Government take steps to ensure that local authorities have the necessary resources?

We recommended that the Government appoint a lead regulator to address these shortcomings. To get an overall grip and provide authoritative leadership of this important opportunity, we also recommended that the Chancellor chairs a sub-committee of the Cabinet to turn the Government's enthusiasm into action. The Department of Energy and Climate Change's frankly flaccid, complacent response to our report provides ample evidence of why that leadership is so badly needed.

6 pm

Lord Shipley (LD): My Lords, I join in the thanks to the noble Lord, Lord MacGregor of Pulham Market, and pay tribute to his leadership over the several years in which he has chaired us in several complex and important inquiries. This report is one of those and it is a very helpful contribution to the debate on shale oil and gas, which of course is primarily about gas.

As we say, the aim of the report is to focus on the facts. Some have been established, as far as we were able, but many have not because either they are unknown or they need further work. We need to know the extent of shale gas and oil that could be extracted. We need to know where it is, offshore and onshore; we need to understand the commercial viability of extraction, and thus the possible extent of applications for extraction; and we need to understand the negative environmental impact of extraction that might arise, in all its detail. I have much sympathy with residents in areas that could be affected who are asking legitimate questions about the environmental impact. Their concerns need clear answers. I think that this means there is a need for a regulatory regime that is fit for purpose, understandable to the general public, transparent and independent of commercial interests.

These issues all relate primarily to shale extraction policies—but, as we have heard, the role of shale in promoting security of supply remains a major consideration. I believe that we have to reduce energy imports. We have become over-reliant on North Sea output, which is declining, and on imports, which have grown over the past decade. The Department of Energy and Climate Change estimates that we could be importing three-quarters of our gas before 2030. We heard some convincing evidence that home-produced shale gas would displace imported gas rather than displacing renewable energy and would reduce the need for coal to be used more, with all the impacts of that on carbon targets. I want to be clear that I think that we have to maintain investment in renewables because shale gas cannot be the answer to all our energy needs—but shale can give the renewables sector time to grow.

I was impressed when hearing evidence from the British Geological Survey, which was cautious, refusing to jump to immediate conclusions on the capacity for extraction. It said, though, that 40 times the annual UK gas use should be extractable from the Bowland-Hodder area in the north of England. But as we conclude in paragraph 70, there are no well grounded assessments of economically recoverable reserves of shale gas, and we need to know what that potential is.

Mention has been made of the USA, and there are some comparisons that can be made. However, we have to remember that there are large differences between this country and the USA in the scale of the land area; experience and expertise; regulation; and landowner rights. Still, we can learn from the US experience, and I have become increasingly concerned about reports from the USA of a rising tide of opposition to shale extraction. We read recently in the *Financial Times* of rising public opposition to fracking in Colorado on environmental grounds. There are accusations that shale extraction is industrialising rural landscapes and being committed in city suburbs very close to people's homes. North Dakota, another state that has substantial shale extraction, and which is perhaps more remote, is clearly facing social pressures, not least the very high cost of housing.

We say in our report that the development of shale gas cannot go ahead without public acceptance. We say that shale development has to be properly regulated and that we must reduce or eliminate risk, and I agree. But I want to express support for the rights of local people in areas that have been or could be subject to licensing applications. Such local concerns are understandable and must be clearly answered because fracking must be safe.

Public concerns relate to issues around ground-water contamination, flow-back water, tremors, noise, traffic, fugitive methane and destruction of the countryside. These all need clear answers. Fugitive methane, as the report indicates, can leap from well-heads during the extraction process or when being transported. As we say in the report, this will need to be monitored, even though levels of fugitive methane emissions are estimated to be similar to conventional gas production.

Concerns that ground-water contamination could arise from chemicals in the fluid used to fracture the rock have also been made. In the USA, leaks from faulty shale gas and oil wells have contaminated water supplies, but fracking itself is not to blame. Well integrity is essential. The Royal Society, as I think we

have heard, and the Royal Academy of Engineering have told us that none of the claims of contaminated water shows evidence of chemicals found in hydraulic fluids. Cuadrilla said in its evidence that 99.95% of its fracking fluid is water and sand. The other 0.05% is polyacrylamide, as used in cosmetics. The regulators would need to confirm that this continues to be accurate to allay any public concerns. Concerns about flow-back water, traffic noise and impact on the natural environment are very understandable—which is why effective regulation is so important.

Some have given the public the impression—not in your Lordships' House—that this report is calling for relaxation of fracking regulations. It most certainly is not. The trouble is that the regulatory system is so confusing even though we have a tighter regulatory regime than the USA—and I think it is pretty clear from all the evidence we have received that we do. That regulatory regime has to be applied and it has to be seen to be applied. The operators say it is a complex system, but it is complex for the general public, too. I support streamlining the system to make it more robust.

There are three different UK bodies responsible for licensing and regulating above and beyond the planning system. The Department of Energy and Climate Change issues exploratory licences, requires environmental risk assessment, approves hydraulic fracturing plans and grants final consent to drill to mitigate the risk of induced tremors. The Environment Agency grants environmental permits, jointly inspects well sites with the Health and Safety Executive and is responsible for mitigating risks to public health. The Health and Safety Executive approves well design and jointly inspects well sites with the Environment Agency to prevent ground-water contamination.

I find the relationship somewhat confusing and wonder how it can work in practice, which is why the report's recommendations to identify a lead regulator to oversee all stages of licensing is important and why we should consolidate all regulatory provisions relating to onshore oil and gas development into one clearly titled set of regulations. My last point is that there should be an explicit recognition in the regulations that well examiners must be independent of the well operator—not appointed by the operator. This would create a more robust and more transparent regulatory system, because nothing less will build public confidence.

In conclusion, we have heard about the potential benefits; the difficulty is that we do not know how great those are. We think that energy-intensive industries might grow. We think that there will be benefits to the balance of payments and to tax revenues, but the truth is the benefits will be unknown until exploratory drilling takes place. We need that evidence but we also need strict environmental protection in place in the areas affected.

6.09 pm

Lord Lawson of Blaby (Con): My Lords, I shall follow the noble Lord, Lord Hollick, our new chairman—who I welcome most warmly to a job that he has been carrying out with aplomb and finesse—and my noble friend Lord Shipley in paying tribute to my old and noble friend Lord MacGregor. He knows what a high regard I have for him. From the bottom of my heart, I thank him for his brilliant service as chairman of the Economic Affairs Committee. The report that we are debating was the last report produced under his chairmanship. It is an excellent report and he deserves more credit than anybody else for it, and for the other reports that we have done.

It is well over 30 years since I was Energy Secretary, and since then I have followed the energy scene quite closely. In all that time, I have never known as big a game-changer as the technological revolution which has made it possible to extract economically the vast amount of shale gas and shale oil distributed over the world. Geologists—and all of us, I think—have long known that this existed, but there was not a means of extracting it commercially and economically. Such means now exists and it is a huge game-changer. As has been pointed out, there has been a game-change in the American economy and it has dramatically changed the strength of the American economy. Indeed, the main reason why the American economy has recovered considerably better from the banking meltdown of 2008 than the European economy has, despite the subprime crisis and all the banking difficulties, is the development of shale gas and shale oil in the United States.

It is not just a game-changer for the American economy; it has been a game-changer for the world energy scene. I have never been a believer in the peak oil thesis. When I was appointed Energy Secretary in 1981, one of the first things I did was to ask the chairmen of the two British-based oil majors—Shell and BP—to come and see me. They came to see me and I said, "Tell me what I need to know". They said, "The first thing you need to know, Secretary of State, is that there are only 30 years of commercially exploitable oil left in the world". That was in 1981, 33 years ago, but it has always been like that. They never need to look beyond 30 years in their plans, so why should they be interested in beyond 30 years?

It is true that, through a thoroughly incompetent energy policy—I shall not go into it now as I am sure there will be another occasion to do so—we have managed to get very close to peak electricity in this country. However, that is a different matter altogether. Oil and gas have never been in greater abundance in the world. We see that in the declining prices of oil and gas, which are highly beneficial to all those who use energy—not that it ever happens in this country. Unlike other countries, prices have not fallen in this country. Again, that is because of the energy policy that I alluded to earlier. However, shale has completely changed the global energy scene.

The question now—and this is what our report addresses—is whether shale could be just as big a game-changer for the United Kingdom. The answer is that we do not know. The British Geological Survey has shown that the actual mineral resources of shale gas and shale oil in the United Kingdom, particularly the Bowland shale, in the north-west and particularly in Lancashire, are absolutely massive. The Bowland seam is a particularly thick one, which is good.

The potential for something possibly on the scale of North Sea oil and gas—which is now in decline—is before us. On the other hand, some people say that it

[Lord Lawson of Blaby]
might be very much less. Nobody knows because nothing has happened. Until the exploratory drilling takes place it is impossible to know whether we have the biggest bonanza since North Sea oil and gas or something rather small. We need to find out. It is all very well for the Prime Minister and the Chancellor of the Exchequer to wax enthusiastic about UK oil and shale but we need action, not words. So far it has been all talk and no action.

The problem lies partly in the lack of real interest or enthusiasm but more particularly because of the nature of our regulatory system. I disagree with my noble friend Lord Shipley on only one point—when he referred to the regulatory system in the United States. There is no regulatory system in the United States. The United States has decided that this should be at the discretion of the individual states, so each individual state has its own policy towards shale and its own regulatory system. That is why, in some states, they have developed shale tremendously; in others they have not developed it at all. The regulatory systems vary considerably in efficacy from state to state. It is pretty good on the whole, but not in all of them.

A proper regulatory system is needed here, as it is in many other areas, such as—to confine myself to energy—for nuclear power. We have a good, strong and rigorous regulatory system for nuclear power. We need a similar system here but we do not need anything as cumbersome, as inefficient or as time-consuming in this case because it creates an almost impossible barrier.

The biggest company seeking to operate in this country is Cuadrilla, in which Centrica has about a 30% stake. After almost interminable talks and discussions, five months ago, Cuadrilla put in a complex, detailed planning application for two wells in Lancashire to Lancashire County Council. It has now been told that it has to wait for another three months. After that, there will probably be a further delay. That is just Lancashire County Council. The Environment Agency is equally slow moving. There is enthusiasm in words but not in deeds from DECC. So nothing happens at all.

We took evidence on the environmental issues, as my noble friend Lord MacGregor said. Under pressure, it became quite clear that the nature of the objectors' objection was to fossil fuels in principle, despite the fact that gas has only half the carbon emissions of coal. The environmental objections are all completely spurious. I will mention three. First, there are the so-called earthquakes. These are minor tremors which happen from time to time. They are considerably less than the tremors that regularly occur both in coal mining and in nature. They are about on the scale of a heavy lorry passing along the road—that sort of thing. Then there is the contamination of groundwater. That would be very difficult to achieve, even if you wanted to, considering that fracking happens at least a mile if not more below the surface, while the groundwater is, as its name implies, near the ground. The risk of contamination from one to the other is negligible—it is nonsense; in fact, it is zero. As for the chemicals, as my noble friend Lord Shipley says, dangerous chemicals are not used in the mixture that Cuadrilla proposes and which will be used elsewhere. It is 99.95% water and sand and 0.05% polyacrylamide, which is widely used in the manufacture of cosmetics. No dangerous chemicals are involved in the slightest.

We have got to get to grips with this problem—which is impeding this development, this possible huge game-changer for the British economy—of the regulatory system. Again, shale is a game-changer in a particular way. Some points have already been mentioned but I will mention just one other which has not. North Sea gas is running down and we are going to be reliant on imported gas. I am not concerned about the so-called security problem of imported gas. However, the only way that you can import gas is first to have it liquefied into liquid natural gas, which is a very expensive process; and then when it comes to the country of destination—to this country—it has to be gasified again, which is also very expensive. Therefore the overall transport cost of gas is far higher than the transport cost of anything else because of the process that it has to go through. The Government have to get their act together.

As my noble friend Lord MacGregor said, we proposed that a government committee or Cabinet sub-committee should put everybody together in order to knock heads together, but that was rejected by DECC. There is an extraordinary number of Cabinet sub-committees dealing with totally trivial matters but there is no Cabinet committee or sub-committee dealing with something as important as shale. That is despite the fact that a large number of different departments—this is why onshore is different from offshore, which involved just the energy department—have a locus and their own point of view, and a number of government agencies also have a locus. If anything needs co-ordination, this does. People used to talk about joined-up Government. How about joining up the governance of shale? Nothing could be less joined up than it is at present. People have decided that it is not worth investing in UK shale if you cannot even get to the exploration stage. Other countries, such as China and Argentina, are going ahead with it—America is by no means the only one although it was first in the field—and we are left languishing behind.

Many people recognise that there is a malaise in this country. It might not exist exclusively in this country but it is certainly here. There is a great gulf between the people and the elites. Elites are needed, but they are needed to provide leadership in the interest of the people, and the people do not feel that they are acting in their interest at present. We could make a start in changing that by making the development of UK shale "an urgent national priority", to quite the concluding words of our report—and we did not say that lightly. Action, not words, is needed, and not just for the economy. It might restore a sense of optimism in place of the debilitating pessimism that is so prevalent in our country at present.

6.24 pm

Baroness Blackstone (Lab): My Lords, I will speak briefly to support the noble Lord, Lord MacGregor, who so ably chaired the Economic Affairs Committee during its consideration of the report.

The evidence we heard convinced us that the Government should create opportunities for shale development and persuade the public of its desirability. We were convinced for five main reasons. A thriving shale gas industry will contribute to our commitment to reduce our carbon imprint and to mitigating the effects of climate change. The environmental impact of fracking will not be damaging in the way it has sometimes been portrayed—most of my speech will be on that. Moving towards greater self-sufficiency and less dependence on importing our energy supply will have advantages for energy security, and for our balance of payments and tax revenues. New jobs will be created, a substantial proportion of them outside London and the south-east. The longer-term benefits of developing and retaining energy-intensive industries was also something that we thought important.

I will expand on the first of those reasons, the impact on climate change. I endorse what was said by my noble friend Lord Hollick. While the case for renewables is strong, they are expensive and they are a long-term solution. However, the exploration and exploitation of the extensive reserves of shale gas in the UK should be seen not as an alternative to renewables but as an additional source of energy that is much superior to burning coal. The carbon footprint of shale gas extraction is about half that of coal. That is a huge benefit that it would be irresponsible to ignore.

I will now focus on the environment, mainly because that is the issue about which there has been some public disquiet, as well as quite a lot of misinformation. As the noble Lord, Lord Shipley, said, in considering the issues we can learn from the experience of the US, although it is important to recognise that there are differences, not least in the location of US shale in the wide-open spaces of relatively remote rural areas.

The committee took this issue very seriously and received extensive scientific evidence from a variety of government and independent sources, as has been said. We were convinced that the potential long-term benefits of shale gas outweigh any potential environmental damage in a well regulated system. It was therefore somewhat disappointing to read the strident reaction to the report from a couple of the green environmental groups, which seem unwilling to adapt their views in the light of the evidence.

On the claim that ground-water will be polluted by the chemicals used in fracking fluid by operators, we were convinced that there is no reason why that should happen in the UK. The regulators here do not allow the use of hazardous chemicals. The companies concerned have clearly set out their intentions to avoid their use. As long as the regulators insist on enforcing the prohibition, there is no risk to ground-water from fracking fluid.

On the escape of methane into ground-water, leading to flames coming out of taps when they are turned on, we accepted evidence from the Royal Society and the Royal Academy of Engineering. The risk of methane migrating up natural faults in aquifers is hard to imagine. However, it is important that wells are properly constructed and well sealed. The Environment Agency is well aware of the need to ensure this. Nor did the committee accept the claims of the Frack Free Balcombe Residents Association that wastewater treatment from fracking would not be safe. We were convinced that the low percentage of wastewater from fracking—estimated to be about 3%—could be handled by the tough regulatory system already in place for mining.

The claim that water shortages would arise as a result of shale gas development has also been greatly exaggerated. The demand for water from the operators will be similar to that from other industrial users. Moreover, technological advances will allow the use of saline water and recycling of flow-back water, reducing the need for fresh water. It is inconceivable that the regulators would allow levels of water consumption that would threaten supply to households.

Perhaps the most serious misinformation is about the threat of earthquakes from fracking. The scientific evidence is clear that the likelihood of tremors from fracking is negligible and that their magnitude is likely to be so small as to be—I repeat the quotation cited by the noble Lord, Lord Lawson—

"no worse than a heavy lorry driving past the house",

in the words of one of the scientists who gave evidence to the committee.

It is, however, important that any risk of seismic activity should be mitigated by strong regulatory controls. All the evidence that we heard about the stringent measures that are in place was compelling. We took evidence from the Health and Safety Executive and others about air pollution, which might have an effect on public health. Again, the conclusion of a review by Public Health England of all the evidence on the risk to public health of both air emissions and radon levels in people's homes was convincing. Once again, with proper regulation the effects would be very small.

This brings me to the last of the possible environmental effects: traffic and noise pollution. Here, the committee accepted that there would be some disruption to local communities from increased traffic, as with any industrial activity. Two things follow from this. First, the planning procedures in local authorities and the environmental permit provided by the environmental regulators must mitigate these effects through requirements on noise levels. Secondly, the operators must work with local communities to provide compensation for the disruption through the industry's community benefit scheme, to which they are already committed and to which they must be held.

I have argued that the environmental disadvantages of fracking have been exaggerated, leading to unnecessary public disquiet. It is important that the Government tackle these unwarranted fears, and they need to do so along with the regulators and the industry.

I conclude by saying that it is vital that we have a strong regulatory system in place. Everything that I have said about the environment requires this. This may mean that in a few areas the existing environmental regulations and voluntary measures from industry need some strengthening, if only to reassure the public. The Environment Agency will in any case have to take on additional work to regulate the industry. Will the Minister reassure us that it will have adequate resources to do so, and will the principle of full cost recovery from the industry be applied?

[Baroness Blackstone]

As other speakers have said, we also need an efficient and well run system, as well as one which is rigorous and thorough. As the noble Lord, Lord MacGregor, said at the beginning, we were not convinced that the current system is sufficiently clear. There is a lack of transparency and it is overcomplex. I am sure that the Minister will want to respond to these concerns when she replies.

6.32 pm

Lord Tugendhat (Con): My Lords, I, too, begin by congratulating the committee on this excellent report. As has already been pointed out, it is the last in a long line of distinguished reports produced under the chairmanship of my noble friend Lord MacGregor. I am honoured to have been a member of the committee for part of the time that he was chairman, so I can, with great sincerity, pay my tribute to the skills that he deployed in that role, to which others have referred.

My noble friend Lord Lawson referred to his background in the energy industry. I have a background which goes back further even than his, although it is of a less distinguished nature. Back in the 1960s, I was energy editor of the *Financial Times*. In that capacity, I covered the discovery and development of North Sea oil—and how very exciting that was for a young journalist. It was exciting for me but it was also very exciting for the country. I remember clearly how something which at first seemed like a dream came true, and how what seemed as though it might be a peripheral contribution to the national economy turned into a major contribution. I remember how first the Wilson Government and then the Heath Government did everything possible to encourage the development of this great new resource. When I was energy editor of the *FT*, which was before my noble friend was Secretary of State, world oil reserves were reckoned to last for 20 years, not even 30 years. That gives some idea of the importance that the North Sea assumed in the national imagination.

As has been pointed out, we do not know whether shale gas or even shale oil reserves will have anything like the impact on the British and wider European economy that the North Sea has had. The one point that I really want to make in this short speech is that it is of major importance that we determine whether we have a real bonanza lying under our island or something less important. If it is something very important we cannot let the opportunity slip: it would not only be of great significance to the British and the wider European economy but would also contribute, as the discoveries in the United States have done, to depressing the oil price and reducing the dependence of this country and the economies in the rest of the EU—which play such an important role in our prosperity or otherwise—on those suppliers. To the extent that it would help other countries it would help us. To the extent that developments in this country could encourage developments in other countries, the benefit of shale gas would be increased.

As my noble friend Lord Shipley and others have pointed out, the environment must be effectively safeguarded and a stringent safety regime put in place. That applied in the North Sea. There were many people then who argued that it would be impossible. The predecessors of some of the organisations that gave evidence of a rather doleful and pessimistic nature to the Select Committee were saying exactly the same things back in the 1960s, but an effective safety regime was put in place. The North Sea environment has also been sufficiently safeguarded.

Due account must also be taken of the economic interests and the quality of life of those who live in the areas where production takes place. It has, however, been pointed out several times that we are not talking about the sort of massive disruption that coal mines constituted in the 19th century or the early 20th century; we are talking about inconvenience of a much more modest nature.

Lord Lawson of Blaby: My noble friend referred to the effects on the areas where this is taking place. I am sure that he will agree that in the United States some of the most impoverished parts there have, as a result of the development of shale gas, been enormously enriched. In the case of England it is fortunate that the big deposits of gas are in the north, and everyone agrees that it would be great if we could strengthen the economy there. There is a huge plus for areas where this takes place, which is very important.

Lord Tugendhat: I certainly agree with my noble friend. I was going to touch on a related point, which I will now make. One of the most disagreeable things about many of the protests against the development of shale gas is that they come from prosperous people in prosperous areas, and these people may very well prejudice the development of a resource that would help less prosperous people in less prosperous areas. I agree that the regime must safeguard as far as possible the quality of life of the people in the areas concerned, but it would be quite intolerable if a small minority of people in the most well-to-do parts of the country was allowed to prevent the development of a resource which could have such a very great and beneficial impact on the country as a whole—and, as my noble friend said, in particular on that part of the country which has benefited least from the great development of the British economy over the last 20 to 30 years.

If we do not get ahead with exploiting this possibility we will be doing a great disservice to the nation. Nobody can foresee the future but we know that the electricity margin of safety is now so tight that supplies might well be interrupted during the winter. We are investing huge sums in renewables and in nuclear power, but when will they make a decisive contribution? As the noble Lord, Lord Hollick, pointed out, the cost in the case of nuclear power will be very considerable indeed.

Can we be sure that we and our European Union partners will never again be blackmailed by Russian or Middle Eastern suppliers, or that we will never suffer interruptions as a result of war or civil disorder? One only has to consider these possibilities to realise the importance not just in terms of our prosperity but in terms of our security of developing a new natural resource. If things go wrong and we are not safeguarding our future, the people who will suffer will be the least prosperous people because it will be impossible to keep our manufacturing industry going at the rate at

which it could have been kept going if power supplies act as a brake instead of an accelerator on national economic development.

Looking back to the 1960s when development of the North Sea began we have a great deal to learn from the foresight, enthusiasm and political courage of those who made sure that we had a regulatory regime that enabled companies to go forward and develop those resources. All of us have benefited from that and I hope that in 50 years' time, those who are sitting here will be able to say the same for the present.

6.42 pm

Lord Smith of Clifton (LD): My Lords, I am not sure whether anyone will be sitting here in 50 years' time.

I, too, should like to thank the noble Lord, Lord MacGregor of Pulham Market, for introducing this debate and join all my colleagues in thanking him for his excellent chairing of the Economic Affairs Select Committee over the past four years. I also want to thank our clerk, Mr Bill Sinton, and wish him well in his retirement, and Professor Nick Butler, our very knowledgeable specialist adviser. As has been said, the noble Lord, Lord MacGregor, successfully contrived to get the committee members to produce unanimous reports during his term. That is a commendable record given the contentiousness of the subjects investigated by the committee. That, of course, includes the question of shale gas and oil, which is the topic of today's debate.

In the wider context of the UK's energy supplies, it must be recognised that successive Governments over many years have abysmally failed to produce effective and coherent energy policies. The cumulative result, as my noble friend Lord Shipley said, is that our energy supplies are now at their lowest level in the living memory of most people. Recently, it has been reported that the margin is down to a mere 4%. Long may the recent mild weather continue, to avoid another catastrophic supply failure if a severe cold snap occurs. Some of us recall what happened in 1947, and more will recall the shivering conditions at the turn of the year in 1962-63.

The very feeble response from the Government to our report revealed a lack of urgency bordering on irresponsibility by Ministers that is frankly unacceptable. As the noble Lord, Lord Lawson, pointed out, "energy requires energy", to coin a phrase. If successive Governments have found it impossible to produce a coherent, credible and robust energy strategy that would endure in the medium term, perhaps the obvious approach is to spread the risks by fostering a diversity of energy resources that would embrace nuclear, solar, wind and tidal power and, now, shale. As has been remarked, all sources have their advantages and drawbacks and all, of course, are subject to the vagaries of both climate change and prices in the international markets. The recent developments that have enabled the exploitation of shale deposits as a source of oil and gas, most noticeably in the USA, have added to the range of supplies of which we should seek to take advantage.

The case for shale, as the committee points out, is not without its problems. The fracking methods involved contain potential environmental dangers, but it is said that fracking may also lead to an excessive demand for water and the possibility of its pollution. Disturbances caused by greater use of lorry traffic and the fumes and noise emitted, together with toxic gas escapes, are all risks that need to be assessed, properly regulated and kept under continuous review by both the industry and Government. That is only common sense. However, as many noble Lords have remarked, the risks have to be placed alongside the advantages that are likely to accrue from shale exploitation. Very important among these would be lessening the UK's dependence on foreign supplies, particularly prudent in the increasingly turbulent times we are currently witnessing. There would be increases in employment and great benefits for our energy-intensive and petrochemical industries. This would help to promote the UK's manufacturing capacity, which is much needed if we are to reduce our economic reliance on the financial services sector of the economy.

There is now an urgent need to commence shale extraction, not least to ascertain more accurately the extent of our potential reserves. Time is of the essence. The vast majority of people will want to secure our energy supplies overall, including shale exploitation. However, there is likely to be a strong element of nimbyism among the public, which will be played upon by pressure groups who—in principle and never mind the evidence—are totally opposed to shale exploitation whatever the safeguards imposed. The Government and their successors should offer the necessary guarantees to rebut nimbyism and encourage the creation of a fracking industry to exploit the use of shale as a new source of energy.

6.47 pm

Lord Borwick (Con): My Lords, the report of the Economic Affairs Committee is extremely sensible. It quite rightly stresses the urgency with which the Government must act to start the shale revolution. We have seen what economic benefits gas extraction can bring. North Dakota's economy grew by 13.4% in 2012, according to a report by the US Bureau of Economic Analysis. That was nearly three times the next fastest state, Texas, and dwarfed the national average of 2.5%. I would love to see that kind of growth in the north-west and other regions of the UK. However, the community benefit schemes seem to be a tax pretending to be something else. Are local councils the winners here, rather than local people?

By giving these taxes a nice name, we seem to be just trying to make them more acceptable, although one up side is that this shows that tax has become a dirty word. However, it just goes to show that Governments devising new taxes would rather not call them what they are. Most key services are funded through a central government grant anyway, so it would be a tragedy if new revenues were used badly, or squandered on pet projects. Therefore, these community benefit schemes may mean that the central grant is reduced, leading to a further reliance on hidden revenue streams such as this. Of course, those living in an area that sees a boom from gas extraction should benefit, and they will. Shale extraction will bring new industry, more jobs, more skills and knock-on growth for the whole local economy. It just seems to me that the local authority need not be the conduit for those benefits, as I am not convinced that the proposed methods will actually benefit people as much as they should.

[LORD BORWICK]

We should also consider the environmental benefits of shale extraction as an economic opportunity. It has been estimated, most notably by Peter Atherton of Liberum Capital, that the cost of renewing our energy infrastructure and implementing both the EU carbon reduction strategy and our own renewables strategy will run into the hundreds of billions of pounds. In short, meeting renewables targets and pursuing them with inefficient methods of energy production will be very expensive.

The environmental benefits of fracking should not be forgotten. As an excellent paper by Professor Richard Muller for the Centre for Policy Studies found, shale gas extraction can reduce not only greenhouse gas emissions but a deadly air pollution known as PM2.5. It is currently killing more than 3 million people each year worldwide, primarily in the developing world, where traditional fossil fuels are still burnt in larger proportions than in the western world.

Of course, the IPCC announced just last week that the use of fossil fuels should be phased out entirely by the end of the century. But even if the IPCC's target was feasible—or desirable—surely the switch from coal to natural gas must be encouraged as soon as possible. Perhaps we can then rethink our energy mix—and relieve taxpayers and bill payers of the burden of massive subsidies for inefficient methods of energy production.

We should not forget that climate change is a global issue. The volume of CO_2 produced worldwide is the problem, not just the amount produced in the UK. The task is huge. What we do here is of course important, but a year's worth of reducing our CO_2 emissions would be wiped out in a matter of days by China's energy growth. That is why time is of the essence with regard to shale extraction, and we should be sharing the technology across the globe.

Perhaps the most important benefit of getting on with shale extraction will come from increased energy security. At the moment Europe imports about 30% of its natural gas from Russia—and the Russians certainly want it to stay that way. At a global economic conference last year, Putin said fracking means that, "black stuff comes out of the tap". He has also previously said that shale extraction would directly reduce Europe's competitiveness, as it would be "more expensive" than Russian gas and oil. That indicates he is worried about Europe breaking free of dependence on Russian resources. Again, we can look elsewhere to see how crucial it is to break that dependence.

On current projections, America will be energy self-sufficient by 2035, with some predicting it might come even sooner. The pattern is the same elsewhere. Estonia is the world's first country to meet all its power needs from shale gas. It even has enough left over for fuel exports for the shipping industry. We should be doing all we can to emulate that here.

The Economic Affairs Committee made a very sensible suggestion; namely, its recommendation that a Cabinet committee should be established to ensure that the Prime Minister's commitment to shale gas extraction is matched with action. But the Government's weak response is easily mistaken for that of a Civil Service that does not understand the importance of action. Will my noble friend the Minister assure me that that is not the case?

6.53 pm

Lord Giddens (Lab): My Lords, I congratulate the noble Lord, Lord MacGregor, and members of the committee on their report, and on using the term "fracking" only once in it, thereby skirting some of the corny humour that could otherwise ensue. Other noble Lords have not been quite so parsimonious in this respect.

We live in a world of huge risks, most of which we have created for ourselves. Irrevocable climate change is one of them. Yet at the same time this is a period of massive technological innovation, much of it positive and most of it global in implication. The shale gas revolution—and I would not hesitate to call it that—is a very interesting and consequential example. Its roots stretch back some 60 years. The Breakthrough Institute in the United States has demonstrated that it would not have come about without a history of federal intervention and support, just as in the case of the internet. George Mitchell's extraordinary accomplishments would not have been possible without that.

The Breakthrough Institute pioneered the thinking that became the basis of President Obama's climate change policy. It is one based more on technology than on any legal framework. Essentially, it is progressive replacement of coal as a source of energy by gas, with shale gas to the fore, and by renewables. The US, as the report notes, as a consequence has reduced its greenhouse gas emissions substantially in recent years.

I would dissent from very few of the points and recommendations made in this admirable and thorough report. I note the Government's positive response to it. I would like, however, to add to it by mentioning further lessons to be taken from the American experience. These, I do not feel, are stressed enough in the report, and I draw attention to three here.

First—this echoes partly what the noble Lord, Lord Shipley, said—the successful cultivation of shale gas need not and must not distract from investment in renewable energy. Here I disagree a bit with what the noble Lord, Lord Borwick, said. In the United States it has certainly not done so. Wind and solar have seen dramatic advances. More than 50% of the new US energy sources installed in the first half of 2014 consisted of renewables, including hydro. The cost of wind power has dropped, on average, by 40% in the United States over the past four years. Advances are being made in reducing the impact of intermittency. Texas is a pioneer in shale gas, but it is also a national leader in wind power—and why not?

Secondly, contrary to what many people here seem to think, "Not in my backyard" has been a major problem with shale gas in the United States, and we should reflect on that very carefully. Shale gas production has been implemented mainly in regions in the US where drilling for oil and gas or open-cast mining were already very familiar. Those are the regions in which it has been readily accepted. In other parts of the country, such as New York State, Michigan or California, and not only in prosperous areas, it has met with fierce

resistance. I think the same or worse could happen here. After all, this is a small country, about the same size as California, which is only one state among 50 in the US. If we are not very careful, "Not in my backyard" could sink the whole show. The American experience on this, not just on a macro level but on a micro level, therefore, should be studied in detail and with great care.

Thirdly, the American experience shows that "Not in my backyard" so far as shale gas is concerned does not derive only from prejudice and misinformation, although there is a lot of that around. If successful, the American evidence shows, shale gas production changes the nature of local communities more than renewable energy. It can also expose them to a cycle of boom and bust. Providing economic incentives for local communities to accept shale gas exploration and production is therefore not enough. I do not think government policy in this area is sufficient. More rounded forms of community involvement and planning are needed. I strongly advise the Government to enrich their community policy on the basis of research available from the United States, which has to look in comparable areas to those which we have in this country. I would be pleased if the noble Baroness would respond to those three points.

6.59 pm

Viscount Ridley (Con): My Lords, I, too, congratulate the noble Lord, Lord MacGregor, and his committee on their powerful and evidence-based report. I declare my interests in the energy sector as listed in the register, but I do not think that they include shale gas.

The title of the report is *The Economic Impact on UK Energy Policy of Shale Gas and Oil*. There has already been a significant impact on UK energy policy even without pumping a teaspoon of shale oil or a cubic metre of gas in this country.

As my noble friend Lord MacGregor said, America's shale revolution has driven down the price of fossil-fuel energy. It has pushed Qatari and Algerian oil out of the US market, and has done the same for coal and oil, which benefits the UK by lowering energy prices generally. The US has doubled its oil output in six years as a result of the shale revolution. It has overtaken Saudi Arabia as an oil producer. A McKinsey report last year said that the effect of shale gas and oil on the US economy will be such that, by 2020, the economy will be $500 billion to the better, representing 3% of GDP, and it will have 1.7 million extra jobs. These are enormous impacts. And, of course, the oil price is down: from $115 per barrel to about $85 now, and falling further. That is largely because of the shale revolution.

World gas prices have come down despite the fact that the Fukushima accident and Middle East turmoil in recent years would normally have been things that pushed them up, as would the economic recovery. UK wholesale gas prices are down to levels last seen about four years ago. That is largely because of the US shale revolution. As my noble friend Lord Lawson said, shale is definitely a game-changer.

So, yes, we have already felt some benefits from shale, but not nearly as much as we could have felt. That is for several reasons. The first is that we have backed the wrong horse in the decarbonisation race. As my noble friend Lord Borwick and the noble Lord, Lord Giddens, said, the US has cut its carbon dioxide emissions, using gas to replace coal, by three times more than Europe has cut its carbon emissions using solar and wind. Whereas decarbonisation has cost Europe hundreds of billions of dollars, US decarbonisation with shale gas has benefited that economy to the tune of $200 billion. In 2010, the Department of Energy and Climate Change forecast that there would be a doubling of gas prices by 2020. They are now falling, and every fall puts up the subsidy cost of renewable energy and therefore, in effect, insulates us against falling world energy prices.

The second reason for our not having been able to benefit as much as we could from the shale gas revolution is that gas costs a lot to transport by sea, as my noble friend Lord Lawson said. Therefore, even if US gas prices fall, we will not see the full benefit over here—it is not like oil; it is not a fungible commodity with one world price. So we have to produce domestic gas to get the full benefit of lower gas prices. But we have twiddled our thumbs and listened to every discredited theory about environmental harm from shale, including fugitive emissions, flaming taps, aquifer pollution, damaging earthquakes, radioactivity and heavy water use. As the noble Baroness, Lady Blackstone, said, these have been greatly exaggerated.

I hear it said that there has been exaggeration at both ends of the spectrum: that people have exaggerated the potential benefits of this technology as well as its potential environmental drawbacks. I do not think that this is true. Shale's boosters have, if anything, been found to underplay its impact; they have been too cautious—and I know because I was one of them. Back in early 2011, I went to Pennsylvania, found out what was going on, wrote a report for the Global Warming Policy Foundation of my noble friend Lord Lawson, and worried when it came out that I was overhyping this revolution. But, in fact, if you go and look at what I wrote, you will see that I was far too cautious about what was going to happen. Had we pushed ahead then with shale gas in this country we could have been roaring now.

The third reason why we have not fully benefited from falling world energy prices in this country—and I hate to bring an element of partisan disagreement to this thoroughly bipartisan debate so far—is the impact of last year's announcement by the leader of the Opposition, Ed Miliband, of an energy price freeze. I would be very interested to hear the response of the noble Baroness, Lady Worthington, to this point. It had the effect of telling energy companies that it would not be a good idea to drop their prices now lest Labour win the election next year. Paul Massara, the head of npower, said in August:

> "Then we are acutely aware that if the Labour Party were to implement their proposed price freeze, we will be living with the consequences of our standard rate tariff price for a very long time and beyond the level of risk that we could manage in the wholesale market".

The effect of our policies has been that we have, to some extent, insulated ourselves in this country against the benefit of falling oil and gas prices. As a result, we face a real economic threat from the shale gas revolution: the threat that the reshoring of energy-intensive jobs to the United States will leave us without so many

[VISCOUNT RIDLEY]
opportunities in those industries. As the noble Lord, Lord Hollick, said, technology in this industry is getting better all the time. There is no sign of diminishing returns in the improvement of shale; the drilling time per well is down by two-thirds, compared with six years ago in the Fayetteville shale. Gas production per day is eight times as high today in the Marcellus shale as it was in the beginning. Oil production is five times as high in the Bakken as it was a few years ago. The break-even price at which shale is profitable is coming down all the time and is somewhere around $60 a barrel for oil now. It is nonsense to say that this revolution could not happen quickly in this country and could not have a big impact over a relatively short number of years.

What about shale in this country? We thought that there was not very much to start with, but we now know, as the noble Lord, Lord Shipley, said, that we possibly have enough to last us for 40 years if it is economically recoverable. We have one of the biggest, thickest and highest quality shales in the world. As my noble friend Lord Tugendhat said, it exists in an area with high unemployment. In parts of North Dakota where shale oil is being exploited, the unemployment rate is 0.8%.

I will make a few suggestions for the Minister to consider. First, as has already been said, we need to address the streamlining of permitting. We have to be able to drill many wells, because we will not get the recipe right the first time—or at least the industry will not. It was clearly mentioned in the report that you cannot be required to file a separate application every time you drill a well: you have to be able to drill several.

Secondly, there is no incentive at the moment for local government application- handling to be quick. There is nothing to prevent it delaying applications—as we heard in the case of Cuadrilla in Lancashire—several times. Thirdly, we need to keep an incentive in this country to burn gas as electricity. At the moment, we have brand new gas stations that are being mothballed to make way for renewables—indeed, sometimes to make way for coal, which surely is madness. It is important that the Government encourage the use of gas as a heating fuel. That is something that we obviously use a lot of at the moment, but there has been a lot of talk about displacing gas with electric heating in the future. I do not think that is an efficient way to do it, either economically or environmentally. A statement saying that there is a great future for gas in this country would help the industry.

In conclusion, shale gas has already had a big impact, but not as big as it could have had. Letting others do it and not doing it ourselves is a threat to us as well as an opportunity. We must get an energy policy that does not insulate us from falling energy prices.

7.08 pm

Lord Griffiths of Fforestfach (Con): My Lords, before we hear the winding-up speeches, and although my name is not on the list of speakers, I would like to make a few brief remarks. Before I do so, like others, I would like to pay tribute to the outstanding chairmanship of my noble friend Lord MacGregor. He was very fair and even-handed—and he was determined, when there was an issue that we were not sure about, to really get to the bottom of it. He was frankly a huge pleasure to work with.

I will make three points. First, I emphasise once again the huge benefits that there potentially are—and not just the benefits of oil and gas coming out of the ground, but the secondary benefits because of falling energy prices. One of the most remarkable things we found in producing the report was the impact on the petrochemical industry in America. There had been no new investment in petrochemicals for 25 years in the US; now, 11 major facilities are under construction and seven are in the planning phase. The reason for this is that production of oil and gas has gone along with the production of products such as ethane, propane, butane and the higher alkalines. In fact, it has been so successful that European producers are reported to be moving their operations to the US.

Secondly, I have found the arguments of those who oppose fracking unconvincing. The reason is that I never felt that they were based on evidence: they were based on opinion. They raise important issues. Fracking involves legitimate concerns, which all of us should be interested in and respect. Fracking involves risks, which we have to manage, and we should not brush them under the carpet. They have been mentioned this evening.

The committee examined each one of them in detail, and our conclusion, which, by and large, is very supportive of fracking, was backed by the best available research from technical experts in the field. We discovered that some of the concerns were not really an issue. On those that were, we discovered that, in the UK, we have a strong, detailed and rigorous regulatory framework through which we can manage those risks.

Thirdly, I have a personal view that does not come out in the report. I have found a great contrast between those giving evidence from the US—from US citizens—and those giving evidence from the countries which make up the United Kingdom. For the US people, the cup was always half full; for too many of our fellow citizens, the cup was half empty. The US people involved in the industry showed an enthusiasm, urgency and intensity which, I have to say, was lacking in colleagues from this country.

The result is that we have a section in the report that refers, in my noble friend Lord Lawson's phrase, to moving at a snail's pace. That sums up the problem. The Government have made very clear that they support fracking. However, their intention has become mired in a cautious bureaucracy. There is a great prize to be won, as so many people have said. I think that now, as a matter of urgency, the process of exploration and development must be made quicker, simpler and easier.

7.12 pm

Baroness Worthington (Lab): My Lords, I add my congratulations to the noble Lord, Lord MacGregor, on the production of his last report for the committee and thank all noble Lords for their contribution to the debate this evening.

I want to inject a note of optimism. I do not often find myself agreeing with the noble Lord, Lord Lawson, but in this case I agree that we need to have less

pessimism. We are moving along quite rapidly towards a new energy system. I may support the Minister when I say that this is not a simple problem. Moving away from the fossil-based economy that we are used to, where the externalities of the use of those fuels is largely borne by society, to a cleaner, more sustainable future is not simple. There is no silver bullet and no one technology that will deliver the answers—and we do not have a crystal ball, so we have to try to move forward in a diverse way that respects our need to keep costs low and to keep the security of supply strong. That is challenging, but we are making progress.

On shale gas, we have the vocal support of the two most senior politicians in the Government. They have made it very clear that they want to pursue it to find out exactly what resource we may be sitting on. Several noble Lords have rightly pointed out that there is great potential but we do not have very much information at the moment about the total recoverable resource and what it will cost.

Either it might be that the two most powerful men in politics just are not very good at their job—we could debate that—or it must be true that this is a complex issue. Not only energy in general but shale is complex. The noble Lord, Lord Tugendhat, pointed out that we have had gas revolutions in the past. We were fortunate enough to discover North Sea gas. In comparison to shale gas it was quite a simple process: not simple in engineering terms but simple politically, because it took place a large distance from the crowded island that we all share, and it was simply a case of drilling and then the gas was relatively easy to extract. I do not want to trivialise the effort, but in engineering terms it was doable, and in political terms very easy.

Shale is not quite that simple. We do see advances, and it is true that in the US they are learning by doing, and getting better at it. But the very nature of shale is that it is largely onshore, more visible, and it has some environmental implications. A number of noble Lords have pointed out that these have, perhaps, been overemphasised. Nevertheless there is often a grain of truth in many of the concerns, and it is true that the UK has a rich heritage of regulatory standards and a regulatory framework that we should be very proud of.

We will probably not be able to do what they have done in the US: we do not have the same geographic conditions of large open spaces with very few people in them; we do not have the same land ownership rules; and we have a world-class environmental regulatory system. That is not to say that fracking and shale gas cannot be developed in that context, but it is going to be different, and it is going to mean that we will be a bit slower to start, but when we do start, hopefully it will be more sustainable.

I do not want to pick up on all the comments that have been made about the various environmental impacts. Noble Lords will know that in the course of debating the Infrastructure Bill, our party has tabled amendments to encourage the Government to look again at whether we have covered all the bases in our environmental regulations. We will probably return to that issue on Report. The key thing for me is that we are relying on a fairly old regulatory framework. Old is perhaps a relative term but regulations were passed in 1996 that cover "Offshore Installations and Wells". The title slightly gives it away; they were focused on the offshore industry. It might have been sensible for the Government to look again at those regulations and consider whether, in moving forward on fracking, we did not need a comprehensive review of the regulatory framework and to have had government time given to bringing in those regulations.

We have obviously seen some movement on the trespass issue—again, we will discuss that—but we have not seen enough consideration of some of the unique elements of fracking and shale gas. Those will require changes to the way that our regulatory system is currently conducted, not just to try to harmonise it and make it more efficient but to ensure that we have the absolute integrity of the environmental protection completely encapsulated.

One of the issues that we need to think about is fugitive emissions. A number of noble Lords have mentioned this. This is not to say that it will necessarily be a huge issue but, as we move from a fairly centralised system of extraction of energy resources to one which is quite distributed, we will need to have a careful and well resourced environmental regulatory framework to ensure that fugitive emissions are being properly monitored. One of the key recommendations from the report was that we put that monitoring in place. I think it was Professor MacKay who gave that evidence. The report recommended that it was taken on board that we should have a proper monitoring regime for emissions. It would be a shame if the detractors of shale gas were continually able to say, "Oh but it's going to be worse than coal", purely because we do not have the information. It would seem sensible to ensure that that monitoring is there, and that it is well resourced and developed in an independent manner.

I support a lot of what the noble Lord, Lord Shipley, said about the need for independence to build the public's confidence that this is being done fairly, not in a way that compromises integrity because of a lack of independence. Again, that was a clear recommendation from the report. I would be very interested to see the Minister's response to the recommendation that those inspecting the integrity of wells should be independent of the company that benefits from them.

This has been a fascinating debate. As I say, we can be reasonably optimistic. We in Europe have moved from a system of energy policy that was very focused on renewables and energy efficiency and, in the time that we have been focusing on those two areas, we have seen quite a lot of development. As much as we might want to cast our eyes westwards to America and see the great impact of shale gas over there, we also ought sometimes to look eastwards at some of the things that are happening on the European continent. There we have seen similarly game-changing technologies coming to market. Indeed, we are part of that with our offshore wind industry and other developments in the renewables sector. These show that we have not reached peak electricity—far from it, actually; we have an abundance of mechanisms for generating electrons now. That is a good thing and that diversity will be a huge strength for Europe.

[Baroness Worthington]

There is no one-size-fits-all solution to the energy trilemma. We need to keep our options open. We were right to press Europe to allow us the flexibility to pursue different technologies; if Germany tries to do it one way and we try another, we will benefit from that diversity. As I say, while we do not have a crystal ball, the last couple of decades have seen big advances in people's understanding of the different ways in which we can improve our security of supply and reduce carbon at the same time. We must always of course focus on keeping costs manageable and reducing them. This is the energy trilemma and that is what we are undertaking.

I feel amazingly privileged to be involved in this debate, which has been a very rich one. I look forward to hearing the Minister but the debate today is symptomatic of other debates that we need. We need to have a sensible, grown-up discussion that is evidence-based rather than getting too dogmatic about particular technologies.

7.21 pm

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): My Lords, I want to put on record our appreciation of the work of the Economic Affairs Committee for this report. I thank in particular my noble friend Lord MacGregor and all noble Lords who have contributed to the debate today, as well as to the report, for the opportunity to discuss this really important issue.

We welcome the committee's conclusion that realising our shale potential in a safe and sustainable way could enhance energy security and provide jobs and opportunities for economic growth. The Government have not been, and are not, complacent about responding quickly and being able to ensure that realising the potential for shale oil and gas is not hindered by unnecessary regulations. I hope that during the passage of my contribution, noble Lords will feel reassured that the Government are taking active steps to ensure that the environment in which this is happening is streamlined as quickly as possible. We are working very closely with other departments.

Home-grown gas, just like home-grown renewables and new nuclear, will of course assist our energy security, be compatible with our climate goals and provide jobs and tax revenue for our society. The Institute of Directors estimated that UK investment in shale gas could, at peak, reach £3.7 billion a year and, as my noble friend Lord MacGregor rightly points out, support 74,000 or 75,000 jobs in the oil, gas, construction, engineering and chemicals sectors, mostly highly skilled and highly paid. The Royal Society, the Royal Academy of Engineering and Public Health England have concluded that the risks in shale development are manageable if industry follows best practice, enforced by regulation.

I hope that my comments will illustrate to noble Lords, as my noble friend Lord Ridley pointed out, that we are supporting every opportunity and taking every action to ensure that opportunities to explore shale gas and oil are there for companies to take advantage of. The Government are putting legislation through this House to ensure that drilling for shale oil and gas can go ahead without undue delay or cost and with the right environmental protections in place. The right to underground access, which is part of the Infrastructure Bill, will simplify the procedure for onshore gas and oil and deep geothermal developers to get underground drilling access. These new rules will help us unlock exploration for shale gas and deep geothermal, as we move towards a low-carbon economy.

This does not take away from our strong regulatory system, which provides a comprehensive and fit-for-purpose regime for exploratory activities. As has already been said, the UK has more than 50 years' experience of regulating the onshore oil and gas industry to draw on. This is supported by an authoritative review of the scientific and engineering evidence on shale gas extraction conducted by the Royal Academy of Engineering and the Royal Society in 2012. This concluded:

> "The health, safety and environmental risks associated with hydraulic fracturing … as a means to extract shale gas can be managed effectively in the UK as long as operational best practices are implemented and enforced through regulation".

My department's Office of Unconventional Gas and Oil will work closely with regulators, such as the Environment Agency and the Health and Safety Executive, and industry to ensure that regulation is robust enough to safeguard public safety and protect the environment, imposes no unnecessary burdens on operators and is as simple and easy to understand as possible. On the point made by the noble Baroness, Lady Worthington, about the resourcing of the Environment Agency and the Health and Safety Executive, they have both said that they have at this time enough resources to meet current demands. Of course, if the demand gets bigger, we will review the situation.

We have already put in place appropriate measures to address seismic issues. As rightly pointed out by my noble friend Lord Lawson, seismic risks measured previously have been very small. I want to assure all noble Lords that it is very much the will of this Government to ensure that we have a regulatory road map so that operators and citizens can see the overall process and how it applies to the different nations in the UK. It confirms the roles and responsibilities of all the different regulators. We have also looked for opportunities to simplify regulations and speed up processes, while continuing to maintain a robust system. For example, we are reducing permitting times for low-risk activity from 13 weeks to around four weeks. Already, all onshore oil and gas projects, including shale gas, are subject to scrutiny through the planning system, which addresses impacts on local residents such as traffic movements, noise, working hours and so on.

Planning guidance has been produced by the Department for Communities and Local Government, making clear the planning and appeals processes for operators. It also encourages the planning authorities to engage with the regulator at an earlier stage, identify any issues and ensure that they are all involved at that earlier stage, rather than later, as has been the case in the past. The guidance also makes clear that operators can make all relevant required permit and planning applications in parallel.

In November 2012, the Health and Safety Executive and the Environment Agency published a "working together" agreement for shale gas sites, which specifies when and at what stages they will conduct joint inspections.

It confirms that they together must be satisfied that wells are designed, constructed and operated to standards that protect safety and the environment. The Health and Safety Executive is also committed to visiting jointly with the Environment Agency all shale gas sites during the current exploratory phase of shale gas development.

The Office of Unconventional Gas and Oil based in my department co-ordinates across Whitehall. We have a very close working relationship with all departments to ensure that the policy is well informed, coherent across government, alert to the risks and challenges and delivered in the right order at the right time. That is why we have not sought to set up a sub-Cabinet committee on this. It is being led at the front by the Prime Minister and the Chancellor. They are fully supportive of it. We think that the work we are doing across government satisfies all the concerns and issues raised as we are making progress.

Planning permission underscores the need to engage the public. Noble Lords have rightly pointed out that by properly engaging we will gain support and take communities with us. That is why the Government believe that a social licence is key to operate, so we are ensuring that there is access to evidence-based information that can address any questions the public may have. We have a range of materials on the gov.uk website which help to explain the processes involved in shale gas operations to the public. We agree with my noble friend Lord Shipley that proper public engagement is crucial.

All noble Lords have identified that the benefits that can be brought to communities are potentially huge. The communities that would benefit most are those where this potential has already been identified. We want to work actively with local communities. At their request, staff from my department regularly take part in events held by local councils and residents. We engage, address concerns that are raised and explain policy and regulation, and we bring along regulators and expert scientists so that we have proper public engagement. Events range from national events to local authority exhibitions and parish level. We engage at that level as well because we want to work with local communities and local authorities to ensure that concerns raised by some groups are addressed and the public are well informed about what will happen in their localities if exploration takes place there.

Viscount Ridley: I came across an important point. We often say that we have to win public trust before we can do this, but the best way of winning public trust turns out to be to drill a well. I was told this about Poland. People's reaction is: is that all there is? Is that little box of tricks behind that hedge all that is needed?

Baroness Verma: I accept my noble friend's comment but evidence has also shown that real engagement, right from the start of the process, explaining what will happen within those communities, how it will impact on those communities and the benefits that come with the exploration ensures that you have public opinion on side before anything has to take place. That evidence is perhaps slightly more informed than the example my noble friend gave.

We are working with the industry, and the industry has committed that it will include at exploration stages £100,000 in community benefits per well where fracturing takes place, and 1% of revenues from wells that go on to production will be paid to communities. That could be worth between £2.5 million and £10 million for a typically producing well. These are key benefits to local communities. Each operator will have to publish evidence of how it has met these commitments.

The industry is looking to present positively the case for shale gas developments. It has recently launched a campaign called Let's Talk About Shale" which has been providing answers to public concerns on shale. Both the Government and the industry continue to work with the public to present the positive case for shale development. We cannot do enough. It has huge potential, but there are questions to be answered, so it is right that we engage thoroughly.

At this stage, I shall quickly touch on some points that were raised by noble Lords before I finish with my concluding remarks. The noble Baroness, Lady Worthington, asked about the independence of well examiners. They will be separate from and in addition to the Health and Safety Executive well inspectors. The well examiners will be employed by the company but, under health and safety legislation, the company will be responsible for the safety of its operations. The HSE has also undertaken that well inspectors will visit and inspect all shale sites during the exploratory phase.

I refute the opening remarks by the noble Lord, Lord Hollick, who asserted that this Government have done nothing to respond to the massive underinvestment that the energy sector faces. I remind him that this underinvestment went on for many years while his party was in government. It knew that 20% of our energy supply would be coming offline by 2020. As the noble Baroness pointed out, we need to have a sensible debate about investment in the infrastructure to ensure that we do not face the massive underinvestment that we are seeing today. That inevitably puts costs on to consumer bills because we are having to catch up now; whereas we should have spent many years looking at how the ageing infrastructure needed to be upgraded as it was coming offline. Since we came into government, we have seen more than £40 billion-worth of infrastructure investment as well as the biggest reform of the electricity market through the Energy Act, which came into force in 2013.

The noble Lord asked if there would be an expert group set up to look at shale gas. A task force has been set up which will be independent of government. It will be chaired by the noble Lord, Lord Smith, the former chair of the Environment Agency, and it will provide impartial opinions on the impact that the exploitation of shale gas will have on the UK. The Government look forward to reading its report.

My noble friend Lord Shipley referred to the Bowland basin. The probable amount of gas in there is estimated at around 1,300 trillion cubic feet, so there is huge potential. We are at the exploratory stages. Noble Lords asked when we would see first drilling. We hope to see something happening in the new year. Other noble Lords asked about water contamination. My noble friend Lord Lawson and the noble Baroness,

[BARONESS VERMA]

Lady Blackstone, referred to the fact that drilling is so deep down—over 1,000 metres below groundwater—that the layers of rock in between stop gas and fracking fluids from escaping into the water. Any wastewater will be stored in closed metal tanks before being treated, in accordance with strict environmental regulations. This is common practice, as with other industrial processes, so we are sure that water contamination will not take place.

A lot of work has been done in preparation for this new industry. There is still much to be done. We look forward to further debates as to how we can take this huge potential forward. There are challenges ahead but we need to ensure that the public are informed with a proper, evidence-based debate. I hope this will be the start of it.

7.39 pm

Lord MacGregor of Pulham Market: My Lords, I thank all my colleagues for the very kind remarks they made about my chairmanship. I will say only that I found this a most rewarding experience. Both chairing that committee, and this debate tonight, demonstrate one of the great benefits and values of the House of Lords. We have come together from different backgrounds, had different experiences, have different areas of knowledge and come from different parties, but I suspect that those looking down on our debate and listening to it would not know which party we belonged to if they could not see where we sit. That is a reflection of the very real benefit that the House of Lords can give, as well as the very valuable experience we had from outside our committee. I thank in particular my noble friend Lord Ridley for a very knowledgeable and splendid contribution to our debate. That is my first point: this shows the House of Lords at its best and has real value.

Secondly, I have to say to the Minister that when we got the response from the Government I felt that it was somewhat complacent. To a certain extent it argued, "We understand all these things; we are doing all that, and don't worry". The noble Lord, Lord Smith, described it as feeble. Whether it is complacent or feeble, that is still the impression that has been given to the House, and the impression out in the country. I absolutely accept everything the Minister has said about what the department is doing, but this needs real promotion. Of course the industry must do that, but the Government must do it in a much more forceful way, by getting across the benefits that shale gas could potentially give us. I suspect that that is not happening strongly enough at the moment, which is why we made the recommendation for a Cabinet sub-committee. I do not mind how it is done, but it has to be done much more forcefully across the board. If you go out and ask the general public what the contribution of shale gas to the UK could be, I am sure that they would not have a clue. However, they are aware of the problems in local communities. Therefore, there is a big job to do to put the case over, as well as all the policies to be made by government. That was one of the messages that came out of the debate tonight.

In conclusion, this has been a very useful debate. It is extremely important to keep pressing the case for shale so that the general public understand it. With those few remarks, I beg to move.

Motion agreed.

House adjourned at 7.42 pm.

Grand Committee

Tuesday, 4 November 2014.

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): My Lords, if there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Deregulation Bill

Committee (4th Day)

3.30 pm

Relevant documents: 4th Report from the Constitution Committee, 14th Report (Session 2013–14) from the Joint Committee on Human Rights and 5th and 9th Reports from the Delegated Powers Committee.

Clause 35 agreed.

Amendment 43

Moved by ***Lord Gardiner of Kimble***

43: After Clause 35, insert the following new Clause—

"Road traffic legislation: use of vehicles in emergency response by NHS

(1) Section 87 of the Road Traffic Regulation Act 1984 (exemptions from speed limits), as substituted by section 19 of the Road Safety Act 2006, is amended in accordance with subsections (2) to (4).

(2) In subsection (1)—

(a) omit ", for ambulance purposes";

(b) after paragraph (a) insert—

"(aa) it is being used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service".

(3) After subsection (1) insert—

"(1A) In subsection (1)(aa), "an NHS ambulance service" means—

(a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;

(b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;

(c) the Scottish Ambulance Service Board."

(4) In subsection (1)(c), after "paragraph (a)" insert ", (aa)".

(5) If this section comes into force before section 19 of the Road Safety Act 2006, section 87 of the Road Traffic Regulation Act 1984 (as it has effect until section 19 comes into force) is amended as follows.

(6) After subsection (1) insert—

"(1A) Subsection (1) above applies in relation to a vehicle that, although not being used for ambulance purposes, is being used for the purpose of providing a response to an emergency at the request of an NHS ambulance service.

(1B) In subsection (1A), "an NHS ambulance service" means—

(a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;

(b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;

(c) the Scottish Ambulance Service Board."

(7) Schedule (Road traffic legislation: use of vehicles in emergency response by NHS) makes further amendments to road traffic legislation in connection with the use of vehicles in the provision of an emergency response by the NHS."

Lord Gardiner of Kimble (Con): In moving Amendment 43, I shall speak also to Amendments 44, 45, 46 and 102. The amendments make some small changes to the wording of various pieces of road traffic legislation. The aim is to enable and empower NHS ambulance services to respond to medical services and emergencies quickly and effectively. As far back as 1967, there have been statutory provisions which exempt vehicles from various rules contained in road traffic legislation when they are being used by the emergency services for fire, police and ambulance purposes. These provisions apply so that our vital services can reach an emergency in time whenever there is one. Therefore, the exemptions include matters that a member of the public could reasonably expect to be included, such as exemptions from rules relating to speed limits, traffic lights, road signs and the fitting and use of sirens and flashing lights.

The problem that we are faced with is that modern practice and technology has outgrown the current law which mainly uses the term "ambulance". NHS ambulance services now use what are known as fast response units, including cars and motorbikes, to help provide quick response to the most critically ill patients where time is of the essence. They are also using larger vehicles to transport equipment to major incidents to ensure that clinicians are properly equipped.

These type of responses provide a vital part of NHS emergency healthcare. The definition of "ambulance" and "ambulance purposes" in a recent case concerning the use of blue lights and sirens was limited to those vehicles whose primary use is to convey the sick and disabled and did not include other vehicles such as motorbikes used by paramedics. These amendments provide certainty to NHS fast response teams that they can rely on exemptions from road traffic legislation to facilitate their speedy arrival in a crisis situation. They extend the stated exemptions to cover vehicles used,

"for the purpose of providing a response to an emergency at the request of an NHS ambulance service".

This will then cover all fast response units dispatched by the NHS ambulance services. We will have removed an unnecessary, unfair and dangerous legal block in the work of surely one of our most crucial services.

Amendments 44 and 45 to Schedule 8 are simply consequential. Since the introduction of the Deregulation Bill, some of the legislation amended by Schedule 8 has been modified by subordinate legislation made earlier this year, namely the Combined Authorities (Consequential Amendments) Order 2014 and the West Yorkshire Combined Authority Order 2014. I beg to move.

Amendment 43 agreed.

Amendments 44 and 45

Moved by ***Lord Gardiner of Kimble***

44: Schedule 8, page 129, line 15, after first "area" insert ", a combined authority area"

45: Schedule 8, page 131, line 16, at end insert—

"8A (1) The Transport Act 1968 is amended as follows.

(2) In section 9(1)(c)—

(a) in sub-paragraph (i), for "sub-paragraph (ia)" substitute "sub-paragraphs (ia) to (ie)";

(b) after sub-paragraph (ia) insert—

"(ib) in relation to the area of the Greater Manchester Combined Authority, the Greater Manchester Passenger Transport Executive;

(ic) in relation to the area of the Greater Merseyside Combined Authority, the Merseyside Passenger Transport Executive;

(id) in relation to the area of the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority, the South Yorkshire Passenger Transport Executive;

(ie) in relation to the area of the Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority, the Tyne and Wear Passenger Transport Executive;".

(3) In section 16(2A)—

(a) for "subsection (2)" substitute "subsection (1)";

(b) omit the "and" at the end of paragraph (b);

(c) after paragraph (c) insert "; and

(d) the words from "including in particular" to the end of the subsection were omitted."

(4) In Schedule 5—

(a) in Part 2, in paragraph 2, after "as the case may be,", in both places where it occurs, insert "the combined authority area or";

(b) in Part 3, in paragraph 11(a), after "integrated transport area" insert ", a combined authority area"."

Amendments 44 and 45 agreed.

Schedule 8, as amended, agreed.

Amendment 46

Moved by ***Lord Gardiner of Kimble***

46: After Schedule 8, insert the following new Schedule—

"Road traffic legislation: use of vehicles in emergency response by NHS

Traffic Management Act 2004

1 The Traffic Management Act 2004 is amended as follows.

2 In section 85 (prohibition of double parking etc), in subsection (3), for "for fire brigade, ambulance or police purposes" substitute "—

(a) for fire brigade or police purposes, or

(b) for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service.

"An NHS ambulance service" means—

(a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;

(b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;

(c) the Scottish Ambulance Service Board."

3 In section 86 (prohibition of parking at dropped footways etc), in subsection (4), for "for fire brigade, ambulance or police purposes" substitute "—

(a) for fire brigade or police purposes, or

(b) for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service.

"An NHS ambulance service" means—

(a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;

(b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;

(c) the Scottish Ambulance Service Board."

Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078)

4 The Road Vehicles (Construction and Use) Regulations 1986 are amended as follows.

5 In regulation 3(2) (interpretation), in the Table at the appropriate place insert—

"an NHS ambulance service	(a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services; (b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services; (c) the Scottish Ambulance Service Board."

6 (1) Regulation 37 (audible warning instruments) is amended as follows.

(2) In paragraph (5)(a), omit ", ambulance".

(3) After paragraph (5)(a) insert—

"(aza) used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service;".

7 (1) Regulation 82 (restriction on width of loads) is amended as follows.

(2) In paragraph (10)(a), omit ", ambulance".

(3) After paragraph (10)(a) (but before the "or") insert—

"(aa) for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service;".

8 (1) Regulation 101 (parking in darkness) is amended as follows.

(2) In paragraph (2)(a), omit "ambulance".

(3) After paragraph (2)(a) insert—

"(aa) being used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service if compliance with those provisions would hinder or be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion;".

9 (1) Regulation 107 (leaving motor vehicles unattended) is amended as follows.

(2) In paragraph (2)(a), omit "ambulance,".

(3) After paragraph (2)(a) (but before the "or") insert—

"(aa) being used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service;".

Road Vehicles Lighting Regulations 1989 (S.I. 1989/1796)

10 The Road Vehicles Lighting Regulations 1989 are amended as follows.

11 (1) The Table in regulation 3(2) (which sets out the meaning of expressions used in the regulations) is amended as follows.

(2) In column 2, in paragraph (a) of the definition of "emergency vehicle", omit ", ambulance".

(3) In that definition, after paragraph (a) insert—

"(aza) a vehicle used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service;".

(4) At the appropriate place insert—

"An NHS ambulance service	(a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services; (b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services; (c) the Scottish Ambulance Service Board."

12 (1) Regulation 11 (colour of light shown by lamps and reflectors) is amended as follows.

(2) Omit paragraph (2)(y)(iii).

(3) After paragraph (2)(y) insert—

"(z) reflected light from yellow or orange retro reflective material fitted to the rear of a vehicle—

(i) used for ambulance purposes, or

(ii) used for the purpose of providing a response to an emergency at the request of an NHS ambulance service."

13 In Part 2 of Schedule 17 (requirements relating to optional side retro reflectors), in the first column of the Table, below "Ambulance" (but in the same row) insert "The provision of a response to an emergency at the request of an NHS ambulance service but only in respect of a vehicle which is owned by the service or held by it under a lease or hire agreement".

14 (1) Part 2 of Schedule 18 (requirements relating to optional rear retro reflectors) is amended as follows.

(2) The first sentence becomes paragraph 1.

(3) At the end of that paragraph insert ", subject to paragraphs 2 and 3."

(4) The second sentence becomes paragraph 2.

(5) In that paragraph—

(a) omit "But";

(b) omit paragraph (c).

(6) After paragraph 2 insert—

"3 The colour of rear retro reflectors fitted to—

(a) a vehicle used for ambulance purposes, or

(b) a vehicle used for the purpose of providing a response to an emergency at the request of an NHS ambulance service,

may be red, yellow or orange (or any combination), provided that, in the case mentioned in paragraph (b), the vehicle is owned by the NHS ambulance service or held by it under a lease or hire agreement."

Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 (S.I. 1997/2400)

15 The Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 are amended as follows.

16 In regulation 3(1) (interpretation), at the appropriate place insert—

""an NHS ambulance service" means—

(a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;

(b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;

(c) the Scottish Ambulance Service Board;".

17 (1) Regulation 12 (significance of vehicular light signals at Pelican crossings) is amended as follows.

(2) In paragraph (1)(e), omit ", ambulance, national blood service".

(3) After paragraph (1)(e) insert—

"(eza) when a vehicle is being used for ambulance or national blood service purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service and the observance of the prohibition conveyed by the steady amber or the red signal in accordance with sub-paragraph (c) or (d) would be likely to hinder the use of that vehicle for the purpose for which it is being used, then those sub-paragraphs shall not apply to the vehicle, and the steady amber and the red signal shall each convey the information that the vehicle may proceed beyond the stop line if the driver—

(i) accords precedence to any pedestrian who is on that part of the carriageway which lies within the limits of the crossing or on a central reservation which lies between two crossings which do not form part of a system of staggered crossings; and

(ii) does not proceed in a manner or at a time likely to endanger any person or any vehicle approaching or waiting at the crossing, or to cause the driver of any such vehicle to change its speed or course in order to avoid an accident;".

18 (1) Regulation 13 (significance of vehicular light signals at Puffin crossings) is amended as follows.

(2) In paragraph (1)(f), omit ", ambulance, national blood service".

(3) After paragraph (1)(f) insert—

"(fa) when a vehicle is being used for ambulance or national blood service purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service and the observance of the prohibition conveyed by the amber, red or red-with-amber signal in accordance with sub-paragraph (c), (d) or (e) would be likely to hinder the use of that vehicle for the purpose for which it is being used, then those sub-paragraphs shall not apply to the vehicle, and the red signal, red-with-amber and amber signals shall each convey the information that the vehicle may proceed beyond the stop line if the driver—

(i) accords precedence to any pedestrian who is on that part of the carriageway which lies within the limits of the crossing or on a central reservation which lies between two crossings which do not form part of a system of staggered crossings; and

(ii) does not proceed in a manner or at a time likely to endanger any person or any vehicle approaching or waiting at the crossing, or to cause the driver of any such vehicle to change its speed or course in order to avoid an accident;".

19 (1) Regulation 21 (stopping in controlled areas) is amended as follows.

(2) In paragraph (c), omit ", ambulance".

(3) After paragraph (c) insert—

"(ca) when the vehicle is being used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service; or".

Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113)

20 The Traffic Signs Regulations and General Directions 2002 are amended as follows.

21 In regulation 4 (interpretation), at the appropriate place insert—

""an NHS ambulance service" means—

(a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;

(b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;

(c) the Scottish Ambulance Service Board."

22 (1) Regulation 15 (keep right and kept left signs) is amended as follows.

(2) In paragraph (2)—

(a) omit "ambulance,";

(b) omit ", national blood service".

(3) After paragraph (2) insert—

"(2ZA) On an occasion where a vehicle is being used for ambulance or national blood service purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service and the observance of the requirement specified in paragraph (1) would be likely to hinder the use of that vehicle for one of those purposes then, instead of that requirement, the requirement conveyed by the sign in question shall be that the vehicle shall not proceed beyond that sign in such a manner or at such a time as to be likely to endanger any person."

23 (1) Regulation 26 (double white lines) is amended as follows.

(2) In paragraph (5)(b), omit "ambulance,".

(3) After paragraph (5)(b) insert—

"(bza) to a vehicle for the time being used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service;".

24 (1) Regulation 27 (zig zag lines) is amended as follows.

(2) In paragraph (3)(c), omit "ambulance,".

(3) After paragraph (3)(c) insert—

"(ca) when the vehicle is being used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service;".

25 (1) Regulation 36 (light signals) is amended as follows.

(2) In paragraph (1)(b)—

(a) omit "ambulance,";

(b) omit ", national blood service".

(3) After paragraph (1)(b) insert—

"(bza) when a vehicle is being used for ambulance or national blood service purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service and the observance of the prohibition conveyed by the red signal in accordance with sub-paragraph (a) would be likely to hinder the use of that vehicle for the purpose for which it is being used, then sub-paragraph (a) shall not apply to the vehicle, and the red signal shall convey the prohibition that that vehicle shall not proceed beyond the stop line in a manner or at a time likely to endanger any person or to cause the driver of any vehicle proceeding in accordance with the indications of light signals operating in association with the signals displaying the red signal to change its speed or course in order to avoid an accident;".

26 (1) Schedule 19 (bus stop and bus stand clearways and box junctions) is amended as follows.

(2) In paragraph 4 (bus stop and bus stand clearways)—

(a) in paragraph (a), omit "ambulance,";

(b) after paragraph (a) insert—

"(aza) a vehicle being used for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service;".

(3) In paragraph 9 (box junctions)—

(a) omit "ambulance,";

(b) omit ", national blood service".

(4) After paragraph 9 insert—

"10 When a vehicle is being used for ambulance or national blood service purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service and the observance of the prohibition in paragraph 7(1) or 8 would be likely to hinder the use of that vehicle for the purpose for which it is being used, then that prohibition shall not apply to the driver of the vehicle."

Lord Davies of Oldham (Lab): I have a question about this new schedule. As noble Lords, including Ministers, will recognise, it is a fairly lengthy addition to the Bill. I can see entirely the argument for the exemption of emergency vehicles carrying out an essential role, and why they need to be absolved from certain legal constraints in order to carry out their duties. However, I have the anxiety that the Government have provided for all bodies related to the National Health Service and vehicles driven on their behalf, in Wales and Scotland and so on—but what about other vehicles which are driven in emergency circumstances? If, for example, an accident occurs at a football ground and a St John Ambulance immediately springs into action, because one is always present, I have no doubt at all that it would seek the help of the nearest hospital. It could well have a vehicle and be able to expedite the matter more effectively. Would the driver be breaking the law if he or she exceeded the limits in seeking to get a trauma patient to hospital as rapidly as possible in a clear emergency, similar to those to which public vehicles respond?

Lord Gardiner of Kimble: My Lords, the amendments are designed to ensure that the definitions of "ambulance" and the way in which ambulances are used include the new vehicles that might well be used. I think that I will need to write to the noble Lord to make sure that all his points—I will look in *Hansard* at what he has said—are covered precisely.

I may have some assistance coming my way. These amendments relate, as at the top of Amendment 46, to emergency response by the NHS. They are to ensure that—because of case law, where there has been a particular problem with paramedic motorbikes—this is about an emergency response by the NHS. The noble Lord raises an interesting point, particularly about people going to emergencies. However, this legislation is to ensure that those who come out in response from the NHS are properly protected.

Lord Skelmersdale (Con): I notice, reading the amendment rather more carefully thanks to the questions of the noble Lord, Lord Davies, that paragraph 8(3) of the proposed new schedule talks about,

"a response to an emergency at the request of an NHS ambulance service".

In theory, going along the lines of the noble Lord, Lord Davies, anybody who happened to be around with a suitable vehicle could surely be requested by the NHS ambulance service to get on with it and remove the potential patient from the football ground. The noble Lord has a point, but I think that it is covered by this amendment.

Lord Gardiner of Kimble: My Lords, I understand that in practice this relates to a call which would be from an NHS ambulance only. My officials have speedily

passed me a note on this. One may ask why these amendments do not cover, for instance, all private organisations responding to emergencies. Our priority in this legislation is to allow NHS ambulance services to provide emergency responses. Those private organisations which have arrangements with NHS ambulance services to be dispatched by them to emergencies will be covered. Bringing other types of vehicle purposes within speed exemptions is part of a wider piece of work being carried out by the Department for Transport in relation to its commencement of Section 19 of the Road Safety Act 2006. I am most grateful to the noble Lord and my noble friend for their comments which have given me the opportunity to provide clarity—I hope—on the matter.

Lord Davies of Oldham: The noble Lord has certainly clarified the matter. I only hope that if vehicles are brought into use in this way they will act with due promptness, as did the Minister's officials in providing an answer to a rather tricky question. I apologise for not giving notice of it. However, we wanted to clarify that regular support services which are not National Health services—St John's Ambulance is the obvious one that springs to mind—would without doubt be covered by the legislation as the Minister described it.

Amendment 46 agreed.

Clause 36 agreed.

Schedule 9: Regulation of the use of roads and railways

Amendment 47

Moved by ***Lord Gardiner of Kimble***

47: Schedule 9, page 132, leave out lines 14 and 15 and insert—

"(1) A permit scheme may be prepared by—

(a) a strategic highways company,

(b) a local highway authority in England, or

(c) such a company or authority acting together with one or more other such companies or authorities."

Lord Gardiner of Kimble: My Lords, in moving Amendment 47, I wish to speak to the other government amendments in this group. Part 2 of Schedule 9 removes the current requirement for the Secretary of State to approve local highway authority permit schemes. A permit scheme allows for better control of works in the street that can cause traffic disruption. That includes works in roads and pavements by utilities and authorities' own works. The changes would remove only the requirement for the Secretary of State to approve schemes, enabling highway authorities to bring into operation their own schemes to their own timetable by council order.

Government Amendments 47 to 58 to this part are technical in nature and deal with the relationship between the Infrastructure Bill and this Bill. The Infrastructure Bill will create a new strategic highways company and will allow the new arrangements for permit schemes to apply to the strategic highways company as well as local highway authorities. In relation to Part 3 on road humps, this measure essentially removes the Secretary of State's powers to place road humps on roads he does not control, mainly local authority roads. In practice, this has not been done for some time so this is a tidying-up measure. The powers of Welsh Ministers under this section are retained. However, there are two roads in Wales for which the Secretary of State remains the highway authority, and that is the two Severn crossings. The purpose of Amendments 59 to 61 is to ensure that the changes proposed to Section 90B of the Highways Act 1980 by Schedule 9, Part 3, do not apply to these two roads. I beg to move.

3.45 pm

Lord Davies of Oldham: My Lords, this is a long schedule. The Minister will be relieved to hear that we are in broad agreement with it. However, we have some difficulties because some real consequences need to be considered. Our Amendments 61A and 61B would improve the schedule by introducing further transparency into the process of issuing exemption orders. I am concerned about the extent of the Government's powers to introduce accessibility standards for rail vehicles, established by the Disability Discrimination Act 1995. We, in fact, introduced the first set of rail vehicle accessibility regulations in 1998. In 2005, I and one or two other noble Lords who are present in the Room, contributed to updating that Act by making it unlawful to discriminate against disabled people using public transport or transport facilities. We introduced minimum accessibility standards for all new carriages and light rail, and placed a requirement on rail operators to develop a disabled persons protection policy.

We are obviously proud of our record in government, and are concerned that it should be continued in the amendments to the legislation that this Bill represents. All new stock must be compliant with the regulations, and all vehicles that fall under their scope will have to be compliant by 2020. However, we recognise that some heritage systems use vehicles that can never be compliant in these terms, and they deserve exemption. The Government's proposals would remove the requirement for exemption orders to be made by statutory instrument, thereby reducing the time it takes to issue an exemption.

We appreciate the principle of reducing the time it takes to issue such an exemption, but we are concerned that the Secretary of State's power to limit exemptions could be undermined. Our amendments seek to ensure that the Secretary of State retains full freedom to impose conditions on exemption orders, such as on length, rather than just issue blanket exemptions. The Department for Work and Pensions figures show that more than one in five people with a disability has experienced difficulty using transport and, on several occasions at Question Time, disabled Peers have indicated that they still face some transport difficulties, not least when the trains are longer than the platforms at some halts, and the train does not stop where the ramp is provided. In any case, fewer than one-fifth of rail stations have full step-free access via lifts or ramps.

The House of Commons Transport Committee suggested last year that the department involved disability organisations and charities in prioritising stations for

[Lord Davies of Oldham]
improvements in a future "access for all" programme. Ministers dismissed the views of disabled people by saying that that those organisations' involvement would add little value.

In the context of our amendment, as we live longer, increasing numbers of us will be living with some kind of disability. It is therefore essential to adapt the public transport system and ensure that it fits the needs of disabled people. Amendment 61B requires the Secretary of State to,

"produce a report detailing the nature",

of any exemptions issued,

"including the conditions or restrictions made as part of that order",

and to publicise it.

Currently there are no requirements to publish any details when exemptions are issued; only the statutory instrument itself is published. How will this shift from a statutory instrument to an administrative regime make the documents more accessible and the process more open for a wider range of UK citizens? I do not say that they will not be—I am not accusing the Government of causing a deterioration in the position—but I seek some reassurance from the Minister that this has been fully considered in this fairly lengthy amendment to the schedule.

Lord Gardiner of Kimble: My Lords, first, I thank the noble Lord for his broad agreement on Part 7. I agree that we are dealing with some lengthy paperwork. We have made much progress in making rail vehicles more accessible to disabled people since accessibility standards were introduced in 1998—and rightly so. More than 8,100 rail vehicles now meet modern accessibility requirements, and the law requires all rail vehicles to be accessible by 2020. However, it is occasionally not appropriate, or proportionate, for those access standards to apply fully, so the Secretary of State retains the right to exempt specified vehicles from all, or parts, of them.

Originally, all such exemptions were made by statutory instrument. However, in 2008, the domestic rail vehicle accessibility regime covering mainline trains was replaced by an EU regime, whereby exemptions are issued administratively. As a result of implementation of the EU regime for mainline trains, the number of vehicles which remained within the scope of the domestic regime was reduced to just over one-quarter of those originally covered. These are the vehicles which are still subject to the use of statutory instruments for exemptions. Such vehicles include trams, underground, metro, airport people movers and even brand new vehicles for use on heritage railways. That brings the domestic regime more in line with the European regime, which the majority of vehicles are subject to, and is more proportionate than the current situation whereby, if sought, exemptions for the hundreds of trains serving Gatwick, Stansted and Birmingham airport stations would be subject to an administrative process, while any for the 17 small vehicles shuttling passengers between terminals would remain subject to a process involving statutory instruments.

I highlight to the Committee the fact that the vast majority of responses from stakeholders to the Government's public consultation were in favour of these proposals. In particular, the Disabled Persons Transport Advisory Committee, the Government's statutory adviser on the transport needs of disabled people, was involved as the proposals were developed and is strongly in favour of these changes. In this respect I am also pleased to note that the Delegated Powers and Regulatory Reform Committee is now of the view that these proposals have merits and finds the arguments for consistency with the European regime compelling.

The practical effect of this measure will be to shorten the period between when an application is made and the outcome is given, so reducing uncertainty for the rail industry. They will also reduce the resources required within government to handle each application. I emphasise that it will not reduce in any way the strength of argument that any applicant will need to make to justify an exemption; no exemptions will be granted in future that would not have been granted under the existing arrangements. I also assure the Committee that we will continue to consult the Disabled Persons Transport Advisory Committee, and others as necessary, on the merits of each application. The final decision on whether to grant an exemption will remain with Ministers, and the Government will continue to report annually to Parliament on the use of the exemption powers over the last year. This will allow Parliament to call Ministers to account if they feel that the powers have been used excessively or inappropriately.

Given the overwhelming support from stakeholders that this proposal received, we believe that this reform makes sense. Proceeding with this proposal will mean that applicants for exemption receive a decision sooner, so reducing uncertainty for them, and will reduce administrative burdens on Government, but without lessening protection for disabled passengers, or reducing transparency on the use of exemption powers. That is why we have concerns about the noble Lord's first amendment.

Turning to the noble Lord's second amendment, the Government recognise that members of the public and Parliament will wish to know that the Secretary of State has used his powers to grant exemptions from the rail vehicle accessibility regulations. That is important. However, this amendment is unnecessary as transparency is already provided through two new routes, both of which will continue. First, the Equality Act 2010 already requires the Secretary of State to make an annual report to Parliament on the use of exemption powers. The Secretary of State will continue to report annually to Parliament on those exemption powers. This will enable Parliament to call Ministers to account. Furthermore, the department already publishes on its website details of applications received for exemptions, the outcome of consultation on the merits of each application and the outcome, including the exemption order itself, if granted.

I assure the Committee that the Government's intention is that openness must continue. Although I understand the position that the noble Lord has taken, it is for those reasons that we feel his amendments are not necessary.

Lord Skelmersdale: My Lords, before the noble Lord, Lord Davies, decides what to do with this amendment—indeed he does not have much option in Grand Committee—would my noble friend go back to the draftsmen about the proposed new subsection (7) inserted into the Equality Bill by Schedule 9? The Bill provides that,

"such an order is as capable of being amended or revoked as an order made by statutory instrument".

From my experience on the Joint Committee on Statutory Instruments, I know that a statutory instrument can amend or revoke another one and regularly does, but the way this clause is worded suggests that the statutory instrument itself can be amended. To my mind, only a super-affirmative procedure can be amended in that way. I do not expect my noble friend to answer this now, but if he could get this looked that, I would be extremely grateful.

Lord Gardiner of Kimble: My Lords, I am extremely grateful to my noble friend. His experience is invaluable and I will certainly discuss this with officials so that we can come to a mutually satisfactory conclusion.

Lord Davies of Oldham: As ever, the noble Lord, Lord Skelmersdale, is to be congratulated on his eagle eye. We shall see that the Minister gives a satisfactory reply. I listened carefully to the Minister and was grateful for his remarks, which were reassuring. The Delegated Powers and Regulatory Reform Committee's acceptance of the position was enough for me, so I assure the Committee that when the time comes I will not move my amendment.

Amendment 47 agreed.

Amendments 48 to 61

Moved by ***Lord Gardiner of Kimble***

48: Schedule 9, page 132, leave out lines 20 to 23 and insert—

"(2) The Secretary of State may direct—

(a) a strategic highways company,

(b) a local highway authority in England, or

(c) such a company or authority acting together with one or more other such companies or authorities,

to prepare and give effect to a permit scheme which takes such form as the Secretary of State may direct."

49: Schedule 9, page 132, leave out lines 29 to 32 and insert—

"33A Implementation of permit schemes of strategic highway companies and local highway authorities in England

(1) This section applies to a permit scheme prepared in accordance with section 33(1) or (2) by—

(a) a strategic highways company,

(b) a local highway authority in England, or

(c) such a company or authority acting together with one or more other such companies or authorities."

50: Schedule 9, page 132, line 35, after "authority" insert "or a strategic highways company"

51: Schedule 9, page 133, line 28, at end insert—

"(3A) A strategic highways company may by order vary or revoke a permit scheme to the extent that it has effect, by virtue of an order made by the company under section 33A(2), in the area in respect of which the company is appointed.

(3B) The Secretary of State may direct a strategic highways company to vary or revoke a permit scheme by an order under subsection (3A).

(3C) An order made by a strategic highways company under subsection (3A) may vary or revoke an order made by the company under section 33A(2), or an order previously made by the company under subsection (3A)."

52: Schedule 9, page 134, line 8, at end insert "or strategic highways companies"

53: Schedule 9, page 134, line 24, at end insert—

"(b) at the appropriate place insert—

""strategic highways company" means a company for the time being appointed under Part 1 of the Infrastructure Act 2014;"."

54: Schedule 9, page 134, line 32, after "England" insert "or a strategic highways company"

55: Schedule 9, page 134, line 36, after "authority" insert "or a strategic highways company"

56: Schedule 9, page 134, line 37, at end insert—

"11A In consequence of the amendments made by paragraph 5, in the Infrastructure Act 2014, in Schedule 1, omit paragraph 144."

57: Schedule 9, page 135, line 11, at end insert—

"( ) After subsection (1) insert—

"(1A) Subsection (1) does not apply in relation to the following parts of Wales—

(a) the part of road to which section 329(5) applies;

(b) the part of the M4 Motorway in Wales that comprises "the new toll plaza area" and "the new bridge", as defined in section 39(1) of the Severn Bridges Act 1992.""

58: Schedule 9, page 135, line 26, leave out "he or they" and insert "he, it or they"

59: Schedule 9, page 136, line 36, after "England" insert "and in relation to the following parts of Wales—

(a) (a) the part of road to which section 329(5) applies;

(b) the part of the M4 Motorway in Wales that comprises "the new toll plaza area" and "the new bridge", as defined in section 39(1) of the Severn Bridges Act 1992"

60: Schedule 9, page 136, line 37, after "Wales" insert "other than the parts mentioned in paragraph (a)(i) and (ii)"

61: Schedule 9, page 137, line 13, at end insert—

"20A In consequence of the amendments made by paragraph 15, in the Infrastructure Act 2014, in Schedule 1, omit paragraph 26."

Amendments 48 to 61 agreed.

Amendments 61A and 61B not moved.

Schedule 9, as amended, agreed.

Clause 37 agreed.

Schedule 10 agreed.

4 pm

Clause 38: Civil penalties for parking contraventions: enforcement

Amendment 61C

Moved by ***Lord McKenzie of Luton***

61C: Clause 38, page 30, line 21, leave out from "given" to end of line 23 and insert "either—

(a) by a notice fixed to the vehicle;

(b) by a notice handed to the person appearing to be in charge of the vehicle at the time; or

(c) where the enforcement officer is prevented from serving the notice by either of the methods in paragraph (a) or (b), by post,

in respect of a parking contravention on a road in a civil enforcement area in England"

Lord McKenzie of Luton (Lab): My Lords, in moving this amendment, I will also speak to our other amendments in this group—Amendments 61D, 61E, 61F and 61G. I will address the clause stand part debate in due course.

Most local authorities have adopted civil parking enforcement powers, which mean that they, rather than the police, can issue parking tickets for on-street parking contraventions and in local authority off-street car parks. This means that they have full responsibility for the design, implementation and enforcement of parking policies in their areas. The quid pro quo as the Government apparently see it is that local authorities should use these powers to seek best solutions to balance the sometimes competing needs of different road users, including cyclists, pedestrians, residents, shops and businesses.

Local authorities, as we know, are precluded from using their civil parking enforcement powers to raise revenue. The Government say that they are aware of concerns that some local authorities are being overzealous with parking enforcement, and they have focused on the use of CCTV as having insufficient regard to statutory guidance. It is suggested that enforcement by CCTV is particularly unfair because a motorist might be issued with a ticket as a consequence of a camera. The ticket arrives at their home some time after the event when they have no opportunity to examine the location when the alleged contravention took place. However, the Government's consultation on local authority parking last year acknowledged the benefit of CCTV in enforcing moving traffic congestion where cars use bus lanes, do not exit box junctions and so forth.

The LGA disputes much of the Government's analysis. It points out that successful appeals to the adjudicator are low, 80% of councils make no surplus on enforcement and parking surpluses that do arise are reinvested back into transport improvements. Parking controls help to ensure that businesses have access to loading bays, school entrances are kept clear and parking does not obstruct access to shops, businesses and residences.

Notwithstanding that, Clause 38 seeks to ban the use of CCTV for parking enforcement, although the Government have already acknowledged the need for some exemptions to this policy as a result of campaigning by the LGA. They have acknowledged the need to allow its use at bus stops, in bus lanes, outside schools and on red routes. CCTV is quite properly used to enforce parking restrictions where the use of enforcement officers is not practical. Outside schools is a particular case in point because motorists can move their vehicles when a traffic officer approaches. Enforcement in some instances requires constant observation over a period of time or for safety reasons.

As Clause 38 is currently drafted and subject to the detail of any regulations, it would seem to make it impossible to enforce a penalty where the driver has fled the scene or where an enforcement officer is otherwise prevented from fixing the PCN to the vehicle or handing it to the person in charge of the vehicle; perhaps because of threats of violence. It cannot be the Government's intention to allow such behaviour to be rewarded. At present of course, an enforcement officer can hand a PCN to a driver or send it by post when prevented from serving it directly. Amendment 61C would therefore allow a PCN to be issued by post where it cannot be issued in the manner currently provided for in Clause 38.

Amendments 61D and 61E would include in the Bill exemptions from the ban, some of which the Government have already conceded should be provided. This applies to contraventions for stopping at bus stops and bus lanes, school entrance markings and red routes on the grounds of safety and the needs of bus services. Amendments 61B, 61F and 61G have been added to our proposals for the same reasons. We propose that all arrangements for safety reasons should be covered as well as no-stopping and no-loading restrictions because these too impact on bus service delays.

Amendment 61F seeks to ensure that the provisions of Clause 38 cannot have effect until the proposed implementing regulations have been the subject of a regulatory impact assessment and an equalities impact assessment. As I understand it, no impact assessments have been conducted on these clauses, particularly in respect of the impact on those dependent on public transport or on vulnerable users. Can the Minister tell the Committee why this is? Will the Government now commit to producing such assessments before implementing these provisions?

The purpose of Amendment 61G is to enable those local authorities that wish to use CCTV and automatic number plate recognition in car parks in order to make it easier for users to park and pay later or to better manage space for users. It would make it easier, for example, to have pre-booking arrangements. The Protection of Freedoms Act 2012 provided for such technology in private car parks but not local authority ones. The use of such technology would depend on it being used for better space management or customer convenience. This approach follows the same basis as that on which the congestion charge operates and, so I am told, the new Dartford crossing toll. The Department of Health's encouragement for NHS trusts to use pay-on-exit systems is in the same vein.

Since tabling these amendments and drafting most of these notes, we have seen a draft of the regulations enabled by this clause. We obviously need some time to look at these—although doubtless the Minister will offer some enlightenment—but on the face of things, it looks as though the prospect of enforcement by post is preserved for on-road contraventions, in limited circumstances when alternatives are prevented. These would appear to be more limited than in Amendment 61C. The regulations would also appear to cover some, if not all, of what is provided by Amendments 61D and 61E, but this is not in the Bill. The draft regulations do not address Amendment 61G.

Can the Minister help me in particular with a specific piece of drafting in those regulations? Regulation 9A(3)(c) looks at the circumstances where service of enforcement by post would be permitted. It refers to,

"where the civil enforcement officer has begun to prepare a penalty charge notice for service in accordance with paragraph (2)".

What does,

"begun to prepare a penalty charge notice",

mean in this context? Does the officer have to actually get his machine or pencil out of a bag for a written enforcement notice? Does he just have to appear and look at the number plate of the vehicle in contemplation of doing something or does he actually have to press the button on the notice? This might seem frivolous but it is important that these things are clarified otherwise the scope for argument, litigation and adjudication will be endless.

We welcome the Government's response, so far as it goes, in listening to the concerns and the LGA's campaign—however, it is not enough. I beg to move.

Lord Bradshaw (LD): I believe that these provisions are ill thought through and extremely damaging to local government and local governance. At the same time as the Government are beginning to concede powers—to Greater Manchester, as we read this morning—these provisions are taking away a power which is essential for local government to keep its roads free. Those roads are becoming increasingly congested and increasingly badly maintained.

The law relating to bus operation is that the traffic commissioners who license buses provide that they do not run early or more than five minutes behind schedule. It is extremely difficult for bus operators to keep within the present limits with the present level of enforcement; it would be completely impossible if we got odd people having five minutes to pop in to get the paper and impeding the traffic. That has a large-scale effect. For example, in Oxford, which I know well, the congestion at one stage got so bad that in one of the park and rides they had to put extra buses in and extra drivers. Of course, they got no more revenue, because they were taking the same number of people, who just happened to be sitting in congested areas. I am not talking only about bus lanes; these appear to be covered in the proposed regulations. I am talking about the fact that a large number of buses do not use roads that have bus lanes; the vast majority—I think about 60%—travel along ordinary roads, which are protected in places at least by double yellow lines. I honestly believe that this is not a subject that the Government should be involved in.

There is very little evidence that surpluses are being frittered away or used by councils to subside luxuries. I accept that in Kensington and Chelsea and in Westminster a couple of councils make a profit, but we cannot argue from the particular to the general. A piece of evidence that I have from one local authority shows that actually a very small fraction of people contest their parking fines and a much smaller proportion of them are upheld by the parking adjudicator. Nobody likes getting tickets because they have been watched by CCTV but most people accept that they have done wrong and will have to pay the fine, which is mitigated to 50% if people pay promptly. It is quite impossible to think that the police have resources to do that sort of work; it has to be done by CCTV, and if local authorities can afford to employ parking wardens it is probably at the expense of spending money on something else. I cannot understand why, in this day and age, technology is not brought to bear on problems. This is not spying on people; it is picking up illegal parking that is obstructing the highway for the ordinary person.

The regulations talk about zig-zag lines outside schools. I know what they are like; they go for about 10 yards either side of the entrance. That is not the problem. If you go almost anywhere you will find a line of cars outside schools and, for that matter, outside hospitals, which is very long and creates huge safety problems. Many headmasters ask local authorities to bring the enforcement ban or some sort of TV equipment to control the problem, because many people who park in those places are just selfish or lazy—or perhaps both. I do not believe that we should pander to that sort of thing.

With this clause, we need to go back to the drawing board and take some advice from people who really know what they are talking about, not relying on something conjured up in Whitehall, probably by somebody who really does not understand the problem.

4.15 pm

Lord Tope (LD): My Lords, I follow my noble friend and, in deference to my other noble friend sitting on the other side of me, I am sure that he did not mean to say that the Royal Borough of Kensington and Chelsea makes a profit from parking because it would, of course, be illegal. I am quite sure that it does not do that. I felt obliged to say that.

Before I speak to the amendment more fully, and with the permission of the Committee, I want to make a small correction to something I said in Grand Committee last Thursday—as I have been requested to do. In col. GC 452 of that Committee's meeting, I said—or I am reported as saying—that the company, onefinestay, believed that regulation should apply to properties that are the "sole or main residence" of the owner. That is not the company's policy, and I have agreed to put on record at the first opportunity that the position of onefinestay is that the regulation should apply to all residences, including primary and secondary residences, not simply to one sole or main residence. I have put that on record. I am certain that we will return to this subject at another date and I need say no more about that today.

I return to the thorny issue of parking. For 40 years, until last May, I represented a town centre ward in a London borough. Many, probably most, of the houses and streets in that ward were built before the motor car was invented. Pretty well all the houses there were built at a time when it was inconceivable that the people living in them would be able to afford to own and run a car, let alone two or more, in come cases. One of the consequences is that the basic problem now in what used to be my ward is that there is simply not enough road space to accommodate residents' own cars, let alone all the other demands on the road space. As a reward for my long service on the council, during my last year there I was given political responsibility for implementing—and, I have to say, changing a little—parking policy. It encouraged me to accept retirement, and I fervently hoped last May that I would never, ever again have to deal with parking issues and parking problems. It follows that I am not

[LORD TOPE]
entirely grateful to Mr Pickles for ensuring—sounding very much more like Friday night in the pub than anything I would hear on the streets—that I am here talking again about parking policy.

I want to make some fundamental points that I know are not widely perceived. Good parking services in most councils all over the country are there to work on behalf of the local residents and, in most cases, on behalf of motorists, too. I strongly believe that, although I understand only too well why there is a popular impression to the contrary. Having had to deal with the sort of problems that I described, I know from experience that good parking services may not provide the road space necessary to solve the problem but can go a long way to making life more tolerable for residents and manageable for non-residents who need to use those roads and streets.

As has been said—indeed, I began by saying it—local authorities are not allowed by law to make a profit from parking. With deference to my noble friend Lady Hanham, who is sitting next to me, most local authorities are unable to make the sort of income that Westminster or Kensington and Chelsea are able to make. Nor, indeed, do most councils have the sort of problems that those two authorities have to deal with. Most local authorities, including my former authority, do not make a substantial profit—or income; I shall get myself into trouble—out of parking services by the time they have covered all the expenses that are necessary. Such surplus income as may arise is, and has to be, used for transport-related actions. That is important to understand.

We come now to this clause. I think that the noble Lord, Lord McKenzie, made reference to the Government's consultation on local authority parking policies which took place at the very end of last year and the early part of this year. I think I am right in saying that eight organisations, as distinct from individuals, responded to that. Six of those eight were totally opposed to the Government's proposals. The two that were not opposed—the motoring organisations—also did not fully support the Government's proposals, which makes me even more concerned about why the Government—my Government—are still insisting on going ahead with this measure.

As my noble friend Lord Bradshaw has just said, if anything should be the responsibility of a local authority, it should surely be parking services. The local authority, and those elected to represent the local residents, best know the local circumstances and the local conditions, which vary not just from authority to authority but, frankly, from area to area, even from street to street. It is they who are in a position to determine what should and should not be done in implementing parking policy in a local authority area. Given my 40 years' experience, I wonder why the Government are so foolish as to want to enter this minefield. For that reason, my noble friend Lord Bradshaw put down the proposal that this clause should not stand part of the Bill—that is, to delete the clause altogether. Frankly, I still think that would be the best thing that could happen. If the Government are minded to go ahead with the clause, I certainly accept that the amendments in the name of the noble Lord, Lord McKenzie, would go some way to mitigate it. Therefore, if that is the case, I would largely support those amendments, but I still believe that it is better to leave this matter to local authorities, whose job it is to deal with it.

The noble Lord, Lord McKenzie, also said that yesterday afternoon we received a copy of the draft regulations from the Minister. I am very grateful for that and am pleased that we received it in time for this meeting, although I am sure that the Minister and noble Lords will understand that I certainly have not had time in the intervening 24 hours to have a detailed look at it or even to consult those who know far more about it than I do. I hope that the Minister will tell me that I am wrong on this because I want to be wrong, but, from my first impression, it looks to me as if the draft regulations would allow CCTV enforcement of a school clearway—the zig-zag lines—but not elsewhere. In other words, you can use a camera to enforce penalties with regard to the 10 yards round a school clearway but not a little further down the street. From my experience as a councillor with a number of primary schools located in streets such as I have described, that is simply ludicrous. Cars park all the way down the road. The residents want to have enforcement to stop cars doing that or to deal with car drivers which park inconsiderately and foolishly all the way down the road. However, if these regulations were enforced, and if I am correct—as I say, I hope that I am not—we are going to be in a position of having to tell those residents who want the local authority to enforce them, "I am sorry, we can only enforce them for 10 yards. We can't enforce them down the rest of the road". I am no longer a councillor, thank goodness, but I invite the Minister to explain to some of my former constituents why the regulations can be enforced for 10 yards but not for the rest of the road. That is just one point that occurs to me, which I hope the Minister will tell me I am wrong about. However, I fear that I may not be.

This illustrates the danger in the Government interfering with all this. The local authorities best know how to deal with this issue and most of them do so well. Of course, mistakes are made and silly things happen sometimes; they should not, but they do. However, we now have a very good appeals system that works fairly. Nobody has suggested that there is anything significantly wrong with that. Why do we not leave the situation as it is? For all these reasons and many more, my noble friend Lord Bradshaw and I wish to give the Government the opportunity to think again and not to enter what I assure them is a minefield and an area where they simply will not win, and to leave it to the local authorities which best know their own areas to carry on dealing with the things that they have had to deal with for many years.

Baroness Hanham (Con): My Lords, I have been mentioned a couple of times by my noble friend beside me, and I am very grateful to him for explaining the policies of the Royal Borough of Kensington and Chelsea on the use of parking moneys, and why our roads are so beautifully kept. I remind the Committee at this stage of my co-presidency of London Councils and my former membership of the Royal Borough of Kensington and Chelsea. I apologise to the noble

Lord, Lord McKenzie, for the fact that I was rushing down from a Select Committee and was about three minutes late for the start of the debate.

I support what has been said about this being a local authority matter. If anybody who has been involved in local government knows anything about it, there are two things that really irritate residents. The first is planning and the second is parking. How parking is controlled and enforced is totally a matter for local authorities. Noble Lords know as well as I do that Westminster City Council has completely different parking regulations to those in Kensington and Chelsea. They were very difficult to cope with to start with, but everybody has not got used to the fact that you cannot just totally rely on the same things. They have different rules of enforcement, too. Kensington and Chelsea does not employ cameras for parking enforcement, while other councils do. Whose choice is it that that should happen? Why is not that the choice of the borough—how it enforces it? If you do not have cameras, you have to put people on the streets. I came across two today, and one was on a scooter with his little yellow hat on, while one was on his bike with his little yellow hat on. They were running up and down the road. You have to have a bigger army of those to keep up enforcement if you cannot use cameras.

Where is the mischief that has brought about this proposal? Who has been complaining about cameras for parking enforcement? Cameras are used for all sorts of things in our streets, some of them extremely helpful. Some cameras catch criminals and help to protect people who are walking up and down the street. Some provide for the traffic flows. It is very annoying being caught by a camera. I can declare that I was caught by one while sitting at a box junction a little while ago. I did not know that there was a camera there, and I was a bit stuck. I got a traffic fine, and rightly so, because what I was doing was against the law. I was not doing what the law said and hoping that I would get away with it, but I did not. That is because I was breaking the law, and when people go against the law on parking arrangements brought in by local councils, which decide on the parking restrictions, it is up to the local authority to enforce it themselves. That is particularly essential for major cities, where there are really tight areas for parking, as well as in small county towns, which are different to anywhere else.

My former position as a Minister in the DCLG leaves me in no other position than to say that I do not know at all why the department has set off down this road, and it would be a frightfully good thing if it got away from it.

Baroness Eaton (Con): Unlike the noble Lord, Lord Tope, I am not an ex-councillor. I am not sure that it is a misfortune or fortune still to be an elected member of Bradford Metropolitan District Council. My ward has in it two large upper schools and a very large primary school. Because of the topography and the nature of the communities of Bradford, which noble Lords will know is a very large area, many children, however large or small, are brought by parents in cars. The ensuing chaos is something that you cannot believe. Not only is it chaotic and dangerous; it is also detrimental to economic growth in the area. When cars cause obstacles to vehicles passing through a community, it delays important business traffic and people choose not to open businesses in places where they cannot get quickly to their destination. If councils do not have the opportunity to use everything possible to control unsightly, difficult and inconsiderate parking, we will have even more chaos.

I could not agree more with all my colleagues on the Benches in front of me: it really should be a matter for local authorities to determine how this is dealt with, certainly not somebody who thinks that a zig-zag line outside a school is the only place where there is a problem. We even have situations, because of inconsiderate parking, in which emergency vehicles cannot get through at school times. This is therefore a step too far, which the Government should not be considering.

4.30 pm

Lord Deben (Con): My Lords, I apologise for being a minute late. I thought that we wanted freedom for local authorities—I just do not understand this. If local authorities cannot handle their parking, what on earth are they supposed to handle? I am sorry, but it seems to me to be manifest. The Royal Borough of Kensington and Chelsea is wrong in both its planning and its parking proposals. Westminster is better at both. I live in Westminster, thank goodness—I do not live in it for that reason, but I thank God for the fact that I live there.

I want to have a local councillor to whom I can talk about the planning in my street. I do not want him coming back and saying, "I am frightfully sorry. The Government have decided we shan't have this". It is wholly contrary to the Localism Act we have recently passed. I thought that we were going to do more of that. We are going to give a great deal of power to Manchester. I am very much in favour of that; I hope that we do the same for Sheffield and all the great cities of Britain. I want all that. A fat lot of good it is giving them a hand and then suddenly saying, "You can't have the parking; we're going to do it differently".

This is manifestly not to do with government policy. It is contrary to government policy, and if it is contrary to government policy, would it not be better not to have it? Then everyone would understand that government policy is for localisation and not for telling people that they cannot decide how the parking shall work out in Queen Anne's Gate. I want to be able to say directly to somebody, "This does not work. Can we do it this way?". I cannot do that to the Minister—unless he would like us all to come and see him, with every planning problem from around the country. That is the only alternative to what is being proposed here.

Lord Skelmersdale: My Lords, irrespective of the arguments made on my right and behind me, I have a slightly different problem with the clause. The Bill has been touted by the Government as the great deregulation measure of this Parliament. I am all for deregulation, but this ain't it. It is a regulation measure. Why on earth is it in the Bill in the first place?

Lord Gardiner of Kimble: My Lords, I first thank the noble Lord, Lord McKenzie, for his amendment, and all who spoke in this debate. I think the word "minefield" was used by one of my noble friends; there may be some more extreme language.

I will explain why Clause 38 is, in the Government's view, important. New Section 78A to be inserted in the Traffic Management Act 2004 will allow for regulations to be made, the effect of which will prevent local authorities from issuing parking tickets in the post based solely on the evidence of CCTV cameras. Once the regulations are in place, traffic wardens will need either to affix tickets physically to the vehicle, or hand the ticket to the person who appears to be in charge of the vehicle, so that drivers are made aware of an alleged parking contravention at the time. This might be an appropriate time to answer the question of the noble Lord, Lord McKenzie, about what the phrase,

"begun to prepare a ticket",

means. My understanding is that it is the point at which the traffic warden begins to prepare the ticket in a physical sense. I hope that that is helpful; that is my understanding of the matter.

The Government accept that sole reliance on CCTV evidence in enforcing on-street parking regulations is suitable in certain circumstances, and will therefore set out in secondary legislation four exemptions where CCTV will continue to be used: bus lanes, bus stops, red routes and around schools. My noble friend Lord Tope mentioned this in particular about schools. I can well understand this because I have had direct experience of it in the past 10 days. Noble Lords of a political persuasion may have gone down to Rochester. I was there in a street that had a school, and one of the issues that was raised was parking.

The description in the draft regulations of what constitutes "around schools" follows that used elsewhere in DfT legislation. There is nothing to prevent local authorities using traffic wardens to enforce in other areas. I should, however, like to look into that in a little bit more detail.

Lord Tope: I should be grateful if my noble friend would look into it. With deference to my noble friend the former leader of Kensington and Chelsea, most local authorities do not have the income from parking that enables them to employ large numbers—I think she referred to armies—of traffic enforcement officers. It is simply not practical to put civil enforcement officers—I think that they are called parking attendants now—outside every primary school throughout that local authority area where there is a parking problem. I am sorry to say that the Minister confirmed my understanding from a quick read of the regulations, that a camera can be used for 10 yards outside the school but if you go further than 10 yards you have got to employ a human being at consequent cost for enforcement. That simply will not happen in most areas. There is neither the money nor the demand to do it. Frankly, it is ludicrous.

Therefore I thank the Minister for his willingness—even, I suspect, his enthusiasm—to look into this and to have it resolved before we get to the next stage of the Bill. I am not sure that he has already noted that by far the strongest opposition to this clause has come from his own side.

Lord Gardiner of Kimble: My Lords, I am fast becoming aware of that. I do not want to be provoke my noble friends, but since local authorities took on responsibility for parking enforcement the income from parking has gone up significantly. Local authority surpluses from parking income have more than doubled from £223 million to £512 million between 1997 and 2010. There are obviously some local authorities that are increasing surpluses—clearly not the local authorities with which my noble friends have been associated or which they may know. I pass those figures on as a matter of record.

The Government believe that these proposals are necessary as a matter of principle. People should be able to see what they are accused of when they return to their vehicle, so that they have the opportunity to examine the area for themselves. It is not reasonable for drivers to receive a ticket in the post up to two weeks after the incident has taken place.

The Government also believe that some local authorities are ignoring operational guidance and using CCTVs in areas in which they should not do so. The Traffic Penalty Tribunal told the Transport Select Committee that adjudicators have found cases where camera enforcement is used as a matter of routine where the strict requirements for use in the guidance do not appear to be present. By bringing forward this legislation the Government are seeking to ensure that parking practices are fairer for people.

Lord Rooker (Lab): What is the difference between getting a ticket through the post as a result of camera activity two weeks after the event and getting a ticket in the post as a result of camera activity two weeks after the event when you are whizzing up the M40 and there has been a police car on one of the bridges?

Lord Gardiner of Kimble: The noble Lord, Lord Rooker, used the word "whizzing". I am not sure that anyone could start placing the ticket on a vehicle going at 80 or 90 miles an hour on the motorway. However, I take his point more seriously than perhaps is suggested by making that instant judgment as to why it would not be possible to adhere to these principles for someone going at 80 or 90 miles an hour on the motorway.

Lord Deben: Does this not give my noble friend the opportunity to go back to the department to explain why there is unhappiness? It was said that the reason why you cannot affix the notice is that the car is travelling too fast, but there are other reasons, too. In the part of the country from which we both come, a village school may have real problems with people parking in the wrong places. The ideal answer in that distant place, where it is difficult to have someone on duty all the time, may be to have a camera. The idea that Suffolk Coastal District Council or Mid Suffolk District Council is capable of having people standing outside every village school—and many of them have

this problem—is not sensible. Is that not the same sort of issue as dealing with people travelling at 60 or 80 miles per hour? There is no other way of doing it, but we have to do it.

Lord Gardiner of Kimble: My noble friend is always extremely persuasive. Clearly, the record of these discussions will go back to the department.

In his amendments, the noble Lord seeks to place in the Bill the list of exempted areas where local authorities can continue to use CCTV to issue tickets in the post. The department does not think that it would be expedient to set the exemptions in primary legislation. It is conceivable that exemptions could be increased or reduced in the future, so it might be more desirable to include them in secondary legislation. Everyone will have their own view on what is the right balance for the use of CCTV, whether that is in parking, as your Lordships are debating today, or more widely. The Government have given careful consideration to the list of exemptions and, in particular, have reflected the views of those who responded to the consultation.

The noble Lord, Lord McKenzie, also seeks to introduce a requirement for impact assessments to be carried out for the provisions. As I am sure he will know, the Government have been clear in their determination to reduce the impact of rules and regulations on businesses and policymakers. Indeed, the Government's *Better Regulation Framework Manual*, which was published in July 2013, states that impact assessments are required only for measures that regulate or deregulate business or concern the regulation of business. This clause applies only to local authorities that carry out parking enforcement, so we believe that no impact assessment is required.

Lord McKenzie of Luton: Will the Minister remind me what the criteria are for an equality impact assessment?

Lord Gardiner of Kimble: I think that I might need a little assistance on that, but I will return to it.

The noble Lord also suggested the insertion of a new clause that would prevent the measures in the Bill from affecting off-street parking. However, the measures in the Bill already apply only to on-street parking, so we consider that the noble Lord's suggested new clause is not necessary.

I should also reply to my noble friend Lord Bradshaw on the issue of traffic flow. Local authorities will still be able to enforce parking. Indeed, the great majority of authorities do this without the use of CCTV. As I said, in those areas where traffic flow is vital, the Government have provided for CCTV to continue.

I promise to write to the noble Lord about equality impact assessments.

4.45 pm

Lord McKenzie of Luton: My Lords, I thank all noble Lords who have spoken in this debate. I shall first pick up some points that the Minister made. I understand his definition of when someone begins to prepare a parking ticket. I suspect that CCTV evidence will need to be brought to bear on that decision on more than a few occasions.

Let me revert to the noble Lord, Lord Bradshaw, who said that the amendment was damaging to local government and took powers away from local authorities. With respect, that is not what the amendment was doing. What is taking the power away from local authorities is the clause in the Bill. The amendment was seeking to ameliorate the impact of that. In that sense, I guess that it is a middle position between the two extremes of the coalition—those who do not want the clause at all and those who, if it has to be there, want to make it work in a better way. The arguments for not having it there at all are not insignificant.

Lord Bradshaw: I am sorry to interrupt. There is a woeful lack of solid evidence to support what the Government are proposing. The Minister, in replying, referred to parking penalty charge notices and all the work given to the adjudicators. In one borough, which I shall not name, 45,771 tickets were issued in a year. Of those, 358 were referred to the parking adjudicator and 65 were upheld. So we are talking about 65—one and a half a week—against the local authority issuing nearly 1,000 a week. It is preposterous that this sort of evidence is used by the Government to make these proposals. I beg the Minister to go away and convene a meeting between the people who support the Bill and those who actually have to work it. Seriously, this will cause chaos to bus services and parking enforcement—and probably a general feeling, once again, that the Government are out of touch with people.

Lord McKenzie of Luton: My Lords, I do not at all dispute the adjudication figures. I probably used the same briefing as the noble Lord. We have a common understanding of the data and the Government have more to do in justifying what they are doing here.

The issue around schools is clearly very important. The point has been well made that it is nonsense to say that TV cameras will be able to be used along a very short stretch of road. Our amendment would widen or retain the opportunity to use CCTV in those circumstances. The noble Baroness, Lady Hanham, asked who was complaining about parking charges. I hesitate to say, but she might wish to take a taxi ride in Luton and it will not be long before she gets someone bending her ear about parking charges and enforcement. I suspect that that situation is not unique to where I live.

There is a localism argument in all this, although I know that depending on where people are on a proposition, they either grasp the localism mantra or they do not. We debated something just last week when those who are now on the localist wing were arguing for a very much centralist approach. We have all probably been on one side of that issue or another.

The Minister said that I was trying to introduce a new clause related to off-street parking enforcement; was that the point he was making? The point about Amendment 61G, which was suggested to us by the LGA, related to the opportunity for local authority car parks to have the benefit of the same use of technology as private car parks so that it can be used to improve management of those car parks—to enable people to park and pay afterwards, for example. Those are the sort of arrangements that make more efficient

[Lord McKenzie of Luton]
use of car parks—as I said, the Department of Health hospital trusts are encouraging that—which was the purpose of my clause. Perhaps the Minister might reflect on that.

My noble friend Lord Rooker, as ever, made a challenging point, in this case about the difference between somebody getting done for speeding on a motorway and somebody getting a parking ticket when they are stationary. These provisions apply only for stationary vehicles—for obvious reasons which the Minister I think dealt with. If people are motoring at 40, 50 or 60 miles an hour, you need some form of evidence to be able to justify a penalty, and CCTV is the obvious option. I do not think that the Government, to be fair to them, are seeking to change that in these regulations. But where I challenge the Government, and where I would certainly align myself with most of the Benches opposite, is that I do not think the Government have justified the very narrow use of CCTV that would result from this clause. At the very least it should be widened to cover all of those areas focused on safety, for example bus usage and the efficiency of the bus service. What they are doing is very restrictive and, I believe, unacceptable. One way or another, it needs to change.

Lord Tope: I do not think the noble Lord has quite withdrawn his amendment yet. Before he does so, I could perhaps help with Amendment 61G—which I certainly support—which refers to the use of an approved device in car parks. As I understand it, the Protection of Freedoms Act 2012 provided for the use of CCTV and automatic number plate recognition in private car parks but did not do so for local authority car parks. If that is the case—I believe that it is, and that is the reason for the amendment—I do not understand the logic for it. Why is it permissible in a privately owned or managed car park but not in a local authority one? I suspect, or would like to believe, that that was simply an omission when the 2012 Act was passed and that this is the opportunity to correct it.

Lord McKenzie of Luton: I am grateful to the noble Lord for his support on that particular amendment. I do not believe we can get an answer this afternoon as to why that distinction was made when the provisions were introduced but it is certainly important that we get it. We will obviously need a lot of follow-up on this area of debate, but in the mean time I beg leave to withdraw the amendment.

Amendment 61C withdrawn.

Amendments 61D to 61F not moved.

Clause 38 agreed

Amendment 61G not moved.

Amendment 61H

Moved by ***Lord Tope***

61H: After Clause 38, insert the following new Clause—

"Prohibition of parking on verges, central reservations and footways

(1) The Road Traffic Act 1988 is amended as follows.

(2) After section 19 insert—

"19A Parking on a road anywhere other than on the carriageway

(1) A person who parks a vehicle wholly or partly—

(a) on the verge of an urban road,

(b) on a footway comprised of an urban road, or

(c) on any other part of an urban road other than on the carriageway,

is guilty of a civil offence, subject to the provisions of subsection (3).

(2) An offence under this section shall be treated as a traffic contravention for the purposes of Part 6 of the Traffic Management Act 2004 and regulations made under it.

(3) Subject to subsection (6), a highway authority may by resolution, or in the case of the Secretary of State by such notice as appears to him to be appropriate, authorise, from a date specified in the resolution or notice, the parking of vehicles on or over a footway or any part of a footway as referred to in subsection (1).

(4) Nothing in this section shall apply to any road within Greater London.

(5) In this section—

"carriageway" and "footway" have the same meanings as in the Highways Act 1980;

"urban road" means a road which—

(a) is a restricted road for the purposes of section 81 of the Road Traffic Regulation Act 1980;

(b) is subject to an order under section 84 of that Act imposing a speed limit not exceeding 40 miles per hour which is imposed by or under any local Act; or

(c) is subject to a speed limit not exceeding 40 miles per hour which is imposed by or under any local Act;

"vehicle" means a mechanically propelled vehicle or a vehicle designed or adapted for towing by, or to be attached to, a mechanically propelled vehicle but does not include a heavy commercial vehicle within the meaning of section 19 of this Act.

(6) The Secretary of State may make regulations as to any exemptions from the prohibition contained in subsection (1).

(3) The Traffic Management Act 2004 is amended as follows.

(4) In Schedule 7, after paragraph 4(2)(g) insert—

"(ga) an offence under section 19A of the Road Traffic Act 1988 (c.52) (parking on a road anywhere other than on the carriageway);"."

Lord Tope: My Lords, I put my name to this amendment, although it is not shown here. Unfortunately, the noble Lord, Lord Low of Dalston, is in another meeting in your Lordships' House and is unable to be here today. He has asked me to move this amendment, which stands in his name, and I am of course very happy to do so; first, because I have some experience of the issue but secondly because the amendment repeats very closely the wording of the Private Member's Bill introduced by my honourable friend Martin Horwood in the other place, which is supported by all parties including Plaid Cymru and the Greens. I am very pleased to be able to move it.

On the last amendment, I rehearsed at some length my experience of parking in a London borough and the nature of the ward that I represented in that borough. Coincidentally, the year of my election was the year that Greater London acquired the power to ban pavement parking—for simplicity's sake in this discussion, I will simply refer to pavement parking, because that is the way it is most easily understood

and that is what it is about. As a result, pavement parking has been illegal for some years now throughout Greater London except where a street is specifically exempted from that ban.

I believe, certainly, in my own borough—a number of roads in what used to be my ward had to be so exempted, or nobody would have moved in them—the exemptions are strictly controlled. Nearly all of the rest of the country is not in that fortunate position. Although Exeter and Worcester have bans, the rest do not. It is an inconsistent situation throughout the country. One of the purposes of the amendment and my honourable friend's Private Member's Bill is to deal with that inconsistency.

The need for the ban is, I am sure, obvious to all of us here, not just for consistency but because parking on pavements is extremely dangerous to many people: very obviously to people who are blind or partially sighted, to people who have a mobility difficulty whether they are using a wheelchair or not and to people pushing prams and pushchairs. Indeed, I would say that it is dangerous to every pedestrian who is forced into the road. That is the primary reason why we should now take this opportunity to introduce a pavement parking ban on a consistent basis throughout the rest of the country outside London, within which it already exists.

The campaign for a pavement parking ban has the support of 20 organisations: Guide Dogs for the blind, the Local Government Association, the British Parking Association, the Campaign for Better Transport, Age UK, Living Streets, the National Association of Local Councils, Whizz-Kidz, the Royal National Institute of Blind People, Sense, Civic Voice, the Design Council, Keep Britain Tidy, Transport for All, the Thomas Pocklington Trust, the Macular Society, the Glass-House, the National Pensioners Convention, the National Federation of Occupational Pensioners and Deafblind UK. I hope that the Minister's experience in trying to deal with Clause 38 just now would suggest to him that it might be as well to give in and accept the amendment, or one very like it, now.

The amendment is long overdue. The primary reason is what I have already said: the dangerous nature of parking on pavements for pedestrians; particularly for those I have described, but quite seriously for all pedestrians—although clearly much more so for some than for others. I have a local authority background; indeed, maybe I should declare again my vice-presidency of the Local Government Association. Another reason is the cost of pavement parking. Parking on pavements breaks up the pavements, which are not built or designed to have people parking on them. It adds a considerable cost to local authorities having to repair them. Increasingly, I am sorry to say, budget restraints mean that those pavements do not get repaired, so even walking on the pavement can now be quite difficult and dangerous.

This campaign is supported by the overwhelming majority of local authorities for the reasons I have said and the need to get consistency. Current laws and practice around the country are simply not consistent. We therefore need a new law, long overdue, that, although it is quite a complex issue, makes it clear in simple terms that parking on pavements is not just wrong—it is, or should be, illegal. I beg to move.

Lord Deben: My Lords, I feel sorry for the Minister. The previous speaker, having earlier fought hard for localism is now trying to take localism away. I am happy to have this as giving a power, but the idea that the Government should tell every local authority, whether it is suitable or not, that they cannot allow parking on pavements seems to me to be a mistake. There are places where parking on the pavements is a sensible answer—indeed, the only answer. Now, it may be a choice between two evils, but it is a choice that should be made locally. We either have to believe in localism or not. I therefore very much hope that the Minister will accept that we should give this power, but that it should be permissive and should not be national.

5 pm

Lord Tope: My Lords, I do not want to argue with my noble friend about which of us is the greater localist. We have known each other for more than 40 years. I thought that I made clear that it would obviously have to be the case, as it is in London, that where necessary and appropriate, and as decided by the local authority, the pavement concerned could be exempted from that ban. It is clearly not just desirable but essential.

If the amendment were approved, it would simply change the situation now, where parking on pavements is okay unless it has been stopped, to the reverse situation where it is not okay unless the local authority has specifically exempted it. My noble friend used the example in the previous debate of a vehicle travelling at 60 miles an hour down the motorway. Maybe we should not talk about motorways but is he seriously suggesting that local authorities alone should decide which area has a speed restriction and that the situation in the country should be that there are no speed restrictions in place unless the local authority chooses to impose one? That would be anarchy and simply would not work. We are going to have a dialogue if we are not careful.

Lord Deben: My Lords, I do not intend to have any dialogue at all, but I would just point out that it is the local authority that decides where a 30 mile an hour limit should be. Many of them overdo it and that is a pity, but I put up with that. It is their right. I am merely saying that I do not think that the clause as drafted would have the most local effect. I would prefer the clause to give powers. I want powers to be given and then people can make up their own minds. That is not what this clause does and I am sure that it could be done in such a way as to satisfy both of us. There is not much point in us having a dialogue, but can we please have a local solution?

Lord Hunt of Chesterton (Lab): I think we may be about to have a dialogue. I used to be a councillor in Cambridge and we spent a lot of time stopping people driving over 30 miles an hour because of Mr Toad characters who wanted to go at 40 miles an hour.

If we go too far down this road we would have to have a little leaflet about every town that we visit about parking on the pavement or not parking on the pavement. In the country as a whole, we need to have

[Lord Hunt of Chesterton]
some broad rules. If a city does not allow you to park on the pavement, that should be stated very clearly as you enter the city. It is very important to have broad rules in a country, otherwise we begin to be like countries several hundred years ago when every city had different rules. We should have a broad rule and then local authorities should have the power to exempt, but there needs to be some information.

Lord Holmes of Richmond (Con): My Lords, I support the amendment tabled by the noble Lord, Lord Low, and already spoken to. I feel nervous about standing between two noble friends. Luckily, I am not right between them, so I feel safe at the end of the Table. Also, it is a pleasure to be speaking to my noble friend the Minister. Two hours ago we were speaking on sport and now we are on parking. We should all bow down in awe at the extent of his knowledge and the range of expertise demonstrated in just one afternoon.

We all know very well that there are three subjects never to be discussed in polite conversation. I would certainly add a fourth, parking, to that. It raises temperatures—sometimes justifiably and sometimes the solution is actually in the hands of the person holding the steering wheel at that particular moment. Looking at the amendment, the situation is clearly set out and has worked not just perfectly but incredibly well in London since 1974. It has not impacted on the economic, social or cultural success of this great city. I would never say that what is good enough in London is good enough everywhere, but it is a very useful case in point to consider.

As a guide dog user, I obviously have a particular interest in this. In many cities and towns that I go to, trying to walk along the pavement is impossible. One steps out to avoid one car then realises that there is a second, third and fourth car and one is walking down the centre of the road while the cars are on the pavement. What a curious world one has entered there. It is almost as if pink flamingos are used as mallets for croquet and we are all diving down rabbit holes when we have reached a change of roles to that extent.

It is not just about visually impaired people, though—it is about the very nature and essence of inclusion. If you have a pushchair or pram, or you are walking with friends or family, if you have toddlers or if you are on a mobility scooter, if you are a pedestrian you should be able to access and enjoy the environment on the pavement. The clue is really in the name, "pavement"; it is not a carriageway. The Americans get it quite well—it is a sidewalk, not a side road or a side car park. That is where we should aim to guarantee everybody free, unimpeded access along the pavements, not just of London but across the entire nation. As we have already heard, there is a very clear local element here. Politics is nothing if it not only listens but acts locally. This amendment offers the right local solution to enable unimpeded access of the pavements up and down this nation.

I turn to the economics of it. Pavements are not designed for cars. Unsurprisingly, they crack and the tarmac sinks and they become not only unsightly but dangerous for pedestrians. Between 2006 and 2010, £1 billion was spent on pavement repairs as a result of parking. That figure does not even cover the costs that we can all only think about of people who have had to bring claims against local authorities for having been injured on pavements that have broken down as a result of people parking on them. Again with reference to the local agenda, that is why it is hardly surprising that 78% of local councillors believe that there should be prevention of pavement parking, as is the case in Greater London.

There is an economic argument and a social argument, as well as a legal argument. It would be good if my noble friend could strongly consider the wording set out in this amendment.

Lord McKenzie of Luton: My Lords, this is an important amendment, and we should thank the noble Lord, Lord Tope, for moving it on behalf of the noble Lord, Lord Low. As the noble Lord, Lord Tope, said, we all signed up to the Private Member's Bill, which has stalled at the other end but is due for a Second Reading in January.

Under the existing legislation, it is illegal to drive on pavements and footpaths, but there is no specific prohibition against pavement parking. The ambiguity in the law means that most local authorities struggle to enforce restrictions, in contrast to London, which has operated a separate system since 1974. I understand that there are also exemptions in place in Exeter and Worcester. As the campaigning charity, Living Streets, said in written evidence to the Transport Select Committee:

"Inconsiderate parking can cause a major barrier to many vulnerable road users. It is clear that the current legislative situation relying on police enforcement isn't working".

Of course, there are some areas where parking on the pavement is unavoidable, and there are other legitimate reasons why it might sometimes be necessary—but all too often parking on the pavement obstructs access to pedestrians, forcing them to navigate busy and dangerous roads instead. Some 74% of adults report being forced to walk on the road because the pavement was being obstructed by cars and other vehicles. For some, pavement parking can effectively extinguish their right of way altogether. I refer to elderly people, people with buggies and those with disabilities. For them, cars that block the pavement can be a serious restriction on their freedom of movement.

I know that the measure proposed today has the support of the Guide Dogs UK, Age UK and several other organisations referred to by the noble Lord, Lord Tope. Banks of parked cars can also force cyclists to swerve into dangerous traffic flows, which can be especially dangerous on narrow roads. Pavements are not designed to bear the weight of cars, as the noble Lord, Lord Holmes, just said, let alone heavier goods vehicles; over time, they can become degraded, posing additional challenges for pedestrians and costs for local authorities.

The reality of the problem is not in contention, I suggest. In 2006, the Transport Select Committee said that the then Government,

"must grip the problem of pavement parking once and for all and ensure that it is outlawed throughout the country … rather than relying on the use of individual Traffic Regulation Orders on specific streets and local Acts to impose",

a fine. Last year, the Transport Select Committee called for reform to end,

"a confusing patchwork approach across the country",

and for a clarification of the rules for loading and unloading by haulage companies, and action to rectify the long-standing problems over poor signage. It is important that, even as the Government try to move towards allowing more diverse road signs from local authorities, common national standards can be agreed on this issue.

The status quo brings challenges for drivers as well as pedestrians and cyclists. The British Parking Association and the RAC Foundation all support the calls for change. Inappropriately parking vehicles can interfere with traffic flows for other road users, causing jams and congestion, and drivers are often unsure about restrictions—and which, if any, are in place. Given the growth in congestion on many of our roads, these problems are likely to be magnified in the years ahead.

The Government also seem to be in agreement, on the principle at least, that pavement parking is a problem that needs to be addressed. The amendment gives the Minister and the Government ample opportunity to do so. I urge them to take it.

Lord Gardiner of Kimble: My Lords, I first thank the noble Lord, Lord Tope, for speaking to the amendment; I am most grateful to the noble Lord, Lord Low, for tabling it.

The Government recognise entirely the importance of making the local environment convenient, safe and attractive to walk in, and of keeping footways in good order. I do not think anyone could have failed to be struck by all that my noble friend Lord Holmes of Richmond has said. However, as I think the noble Lord, Lord McKenzie, acknowledged, part of the dilemma is that there are indeed some streets where pavement parking may be inevitable, whether to maintain free passage of traffic, to allow loading and unloading or to allow the setting down of passengers in certain situations. I am afraid that I can think of instances when I have parked on a pavement for an elderly relative to get out safely, which I think was legitimate; it was not in London, either. There are therefore issues with a blanket ban, as the amendment is drafted, that are problematic.

Local authorities already have many powers to ban pavement parking; I have a list of them and they are quite considerable. However, I agree with my noble friend Lord Deben on this occasion. Local authorities are in the best position to decide on local parking restrictions and need to consider all road users when taking such decisions. A national ban of the type proposed would require local authorities to remove all existing restrictions, then to review their urban areas for where footway parking should nevertheless still be permitted, consult the community and erect new signage and markings, which would of course impose a burden on local government.

The amendment also proposes banning footway parking but allowing authorities to permit it where desired by a simple resolution. Circumvention of the traffic regulation order process would take away an important protection for the public. This process requires authorities to undertake consultation and advertise the proposals before councillors take final decisions. The Government's guidance to local authorities makes clear that, during the appraisal of their parking policies, an authority should consider whether pavement parking is problematic in any part of its area. If it is, and is not covered by an existing traffic regulation order, the authority should consider amending the existing order or making a new one. Indeed, my noble friend Lady Kramer wrote to all English traffic authorities on 27 June this year to remind them of their existing, wide-ranging powers to prevent people from parking on the pavement where it is a problem.

Given the significant issues in managing a change of this scale, and the fact that authorities already have comprehensive powers to ban footway parking, I will ask the noble Lord to withdraw his amendment. However, before that, I want to emphasise that I am not asking the noble Lord to do that because the Government do not understand or accept the concerns that have been expressed. Indeed, the Government consulted the Disabled Persons Transport Advisory Committee on this. Although that body favours having no parking on the footway, it recognised that there would need to be exemptions from the national ban and that issues arise from this.

Although I am sure all noble Lords in the Committee will have every sympathy for what is intended, there are issues, which is why I ask my noble friend to withdraw his amendment.

5.15 pm

Lord Tope: My Lords, as we are in Grand Committee, the rules ensure that I have no choice but to withdraw my amendment, which I will of course do in a moment. I am grateful to the Minister for expressing sympathy and understanding, but what the 20 organisations and thousands and thousands of other parties—including a majority of councils and councillors—are looking for is not sympathy but action.

I accept entirely that it is complex but I just remind noble Lords that it was introduced in Greater London in 1974—coincidentally, the year in which I first became a councillor for the ward that I have already described, which has a number of streets that have to be exempted from the ban for practical and physical reasons. When a road or pavement is exempted, it is marked accordingly on the pavement and with a prescribed street sign, so that everybody knows that it is exempted and the extent of the exemption. The important point that we are trying to get across here is that in Greater London parking on pavements is illegal unless exempted, and that should be the situation in the rest of the country. People will then know where they stand: it will be illegal unless there is a sign and marking on the pavement that says it has been exempted. The local authority will deal with those exemptions and will have drawn up and published criteria for dealing with them, so it will be publicised in that way.

I do not want to provoke him again by saying this, but I do not think that my noble friend Lord Deben and I are that far apart. All I would say is that we have over 40 years of experience and practice in dealing with these issues in Greater London, which is arguably one of most densely populated urban areas in the country, and it works reasonably well. There is always

[LORD TOPE]
an issue of enforcement, but there is something there to enforce. So what I and, in particular, the supporters and campaigners on this issue seek from the Government is rather more than sympathy or understanding, or leaving the situation, which is widely recognised as cumbersome and inadequate, as it is. We are looking for them to actually take action and to say to people that parking on pavements is illegal unless it is exempted.

Lord Hunt of Chesterton: Would the noble Lord not agree that it is pretty clear in the *Highway Code* that you do not park on the pavement? As I understand this legislation, with the new *Highway Code* you had better ring up your council to see whether you can park on the pavement.

Lord Tope: It is certainly in the *Highway Code* and is certainly good practice, but it is not illegal outside London. That is the point that we are making. I am sure that we will return to this debate, both on this Bill and when my honourable friend gets the Second Reading of his Private Member's Bill, but in the mean time I have no choice but to withdraw my amendment.

Amendment 61H withdrawn.

Clause 39 agreed.

Clause 40: Removal of duty to order re-hearing of marine accident investigations

Amendment 62

Moved by ***Lord Rooker***

62: Clause 40, page 31, line 15, leave out paragraphs (a) and (b) and insert "in paragraph (a) at the end insert "following a secondary investigation funded by trade unions and other organisations representing families of victims of the accident.""

Lord Rooker: My Lords, having noticed that my noble friend Lord Prescott is in his place I shall make my speech shorter than it would otherwise have been, since his expertise in respect of this issue both as a Minister and of course in his previous life is far greater than anything that I can contribute. At Second Reading on 7 July, I mentioned that the Joint Committee that I had the privilege of chairing and that looked at the draft Bill a year ago did not take any evidence on the clause relating to marine accident investigations, so there is no comment in the Joint Committee's report about the issue. I also said on Second Reading at col. 30 that I thought that we should take a look at it more closely as it goes through this House. I said that in relation to two or three other issues as well. We had hundreds of submissions on a Bill that had 65 clauses at that time—this Bill has 91—so we could not do everything in the time allowed. There were one or two issues on which I thought Parliament should spend some time because it had not done so and it is important that the legislation is scrutinised.

I have gone back to look. Although the Joint Committee did not take any evidence on marine accidents, so far as I can check from the full list on the web it did receive three items of written evidence. One was from the UK Chamber of Shipping. I freely admit that, because the Joint Committee did not go into this in detail, this is the first time that I have read what the UK Chamber of Shipping wrote and I have not done lots of research on this. The UK Chamber of Shipping supported the logic of the change proposed. It pointed out that these changes were outlined in Marine Guidance Note 458 issued in 2012 and no concerns had been raised. There were a lot of red tape challenge issues relating to marine matters that I am not going to go into in great detail. The reference for the UK Chamber of Shipping written evidence is DDB0206. It is on the website.

Nautilus International also sent in written evidence, reference DDB0266, relating to what was then Clause 25 in the draft Bill. I am not going to go into great detail about this. Nautilus International is the union for maritime professionals. It certainly raised matters that ought to be considered. I do not think that it was wholly in support of the amendment as it was drafted. It,

"respectfully pointed out that in the case of the loss of the MV "Derbyshire", that the technological advancement had been such that it was possible to locate the wreck and to ascertain more accurately its true loss and"—

I have no doubt that my noble friend will raise this—

"so as to bring about changes in the rules of construction that subsequently could save unnecessary burden and expenditure upon the industry".

Therefore it is an important issue for relatives. It also said,

"it would seem pointless in removing this flexibility from the Secretary of State"—

about a second inquiry—

"that could be extremely beneficial in both allaying public anxiety following a marine incident and addressing the concerns of those directly or indirectly involved".

The third piece of written evidence, reference DDB0294, was from RMT. It made clear that it strongly opposed the proposal in what was Clause 25. I am not going to go into detail about that because I am going to use part of the RMT brief now.

There were those three bits of evidence and it is important to put this on the record. The evidence was provided, the Joint Committee did not seek any further particulars, and we did not go into any detail regarding the Bill. The matter was raised during the passage of the Bill, which I am pleased about. It was raised while the Bill went through the House of Commons. Last week I apologised straightaway because I had been grossly misinformed about an issue we dealt with last week that I said had not been dealt with in the Commons, but it had been. In this case, the issue certainly was dealt with in the Commons. That is quite important. The issue was dealt with at Second Reading on 3 February and then in Committee on 11 March.

I want to make a couple of general points because the answer from the Government on 11 March from the Solicitor-General appeared to hinge on two key arguments. First, that it would remain mandatory to reopen the formal investigation if there are grounds to suspect a miscarriage of justice. Secondly, removing the duty to reopen will,

"facilitate the more efficient administration of reopened formal inquiries without compromising marine safety".—[*Official Report*, Commons Deregulation Bill Committee; 11/3/14; col. 306.]

The RMT's latest briefing turned up on the internet. I am privileged to have seen this amendment, which I thought it was worth raising. I have now come to the conclusion that the clause should not remain in the Bill, but if it does it should be amended. The RMT's point about the miscarriage of justice is that:

"The Secretary of State's power in the 1995 Act (269(1)(b)) … to re-open an accident investigation if he/she suspects that a miscarriage of justice may have occurred is retained but we remain concerned that this places the bar too high in such instances and will further deter trade unions, NGOs and others from conducting the sort of campaign that led to the re-opening of the MV Derbyshire investigation and eventually secured justice for the families of those who died at sea working on a UK flagged vessel. We are clear that a duty to reopen an investigation in the circumstances set out here is far safer than the power to re-open on the grounds of a miscarriage of justice".

So takes issue with the central plank of the Government's argument that they have got it right in the Bill.

The second point the Minister made related to the administration of marine accident inquiries. The RMT now says, having considered all these issues, that:

"This line of argument is consistent with that made by the Chamber of Shipping in support of abolishing the Duty. The argument goes that removing the Duty is just a bit of 'tidying' to bring the Merchant Shipping Act into line with recently revised guidance … on marine accidents and investigations. RMT continues to reject this line of argument for the following reasons, none of which were satisfactorily answered by the Minister … in Committee".

I am giving the Minister plenty of warning now about the answers we want today.

As the Government acknowledged in Committee in the Commons, the Marine Accident Investigation Branch is not an enforcement or prosecuting body. Its role is restricted to establishing the causes and circumstances of an accident in the aftermath partly to prevent future accidents. The duty to reopen investigations under the 1995 Act therefore remains an important statutory safeguard over the longer term if the initial accident investigation board investigation is found to be lacking.

Secondly, the duty in the 1995 Act is not regulatory goldplating. Paragraph 6 of the *Marine Guidance Note* 458 states:

"The Regulations … set out requirements for reporting accidents and serious injuries. They do not require the requirements of formal investigations or other public inquiries".

Therefore, the duty in the 1995 Act is untouched by recent changes through regulations, and needs to be retained in the event of marine accidents involving UK-flagged vessels, particularly in the deep-sea sector.

5.30 pm

The third point to which they objected was that, as they said:

"Abolishing the Duty is a threat to seafarer safety. Re-opening an investigation is rare but occasionally necessary and should not be down to the whim of an individual Secretary of State. On the occasions that such an investigation has been opened it has led to significant improvements in safety, ranging from the structural design of vessels to the survivability of serious weather-related incidents at sea".

I was going to go into the details of what actually happened as a result of some of these investigations, including more than 20 different recommendations being made about the safety and design of vessels, all of which were accepted.

Therefore, this is not a little bit of tidying up. I can understand how he got done with the Red Tape Challenge. I cannot keep criticising it all the while, it is just that I know of one particular incident relating to the Red Tape Challenge which arose from nothing more than the anecdotal views of a couple of environmental health officers on food safety, which all of a sudden became a great cause celebre. Well, it was nothing of the kind. There was no evidence.

There is no formal consultation on this, by the way. That is the other issue. That is noted in the back of the Joint Committee's report: there is informal consultation and a reference to the Red Tape Challenge, which is a bit suspect. The amendment is the second-best amendment, but certainly covers the point, maintaining a secondary investigation funded by trade unions and other organisations representing families of victims of the accident.

The Government have got to have a much better case than they have made so far in the Commons for dealing with this. It would be much better if it were dealt with in the tranquillity of Grand Committee, in an orderly fashion. I presume that they have had time to think about this. It was raised in the Commons, so it is not a surprise that it is being raised in the Lords. I flagged up at Second Reading that I thought that the House should look at it. I am hoping that the Minister has got some considered views from, I presume, the Department for Transport and others. I beg to move.

Lord Prescott (Lab): First, I congratulate my noble friend Lord Rooker on his usual diligence and research, looking into the details of why the Government want to remove this measure. Indeed, he is right: a lot has come from the inquiries, and I will refer to some of them. I support the deletion of this clause, which would repeal the Merchant Shipping Act 1995. Perhaps I should declare an interest, as I was a seaman for 10 years, a union official, and spent 40 years as a Member of Parliament, 10 of which as a Minister of Transport. I had to order some of these inquiries, and have experience of them, which I will bring to the Committee's attention.

We are dealing here with the Secretary of State's power to order a re-hearing of a formal investigation if there is new and important evidence. It is to that judgment that I now address some of my remarks: about how, given that discretion, you may make the wrong decision, and whether it weakens inquiries to simply remove the present duty to order a re-hearing, as the clause would do.

As the former Secretary of State with responsibility for these inquiries and requests for re-hearing, I think that we are all agreed that making judgments about these matters is a duty upon the Secretary of State. The clause would make it discretionary. That is what causes me concern.

I see in the nature of any re-hearing and use of discretionary powers, one is to take into account how long it is since the original inquiry before one is requested to have a re-hearing. The argument is often that it has been too long since the accident, people's memories are not clear and it is not wise to hold an inquiry under those circumstances. Making a judgment

[Lord Prescott]
as to the practical value of a re-hearing and what we would gain from it if, indeed, we have one are for the Minister to take account of in his considerations. But, at the end of the day, I should have thought it important, if there is to be a re-hearing, to have some idea of what one wants to find out. Can it be done by discretion? That is why we have inquiries. That is where the judgment comes in—to find out what the facts are. I suggest to noble Lords, and I hope that I will be able to prove, that the only thing a Minister can do at his discretion is to take the advice of his department, which is not always impartial in some circumstances, as I can show. A Minister is therefore highly influenced by the advice he receives from the department.

I should therefore like to present to the Minister and the Committee a couple of experiences that came out of three inquiries. I do not have to go into the detail. Some will already know them, and my noble friend has already mentioned one—the "Derbyshire", which was a bulk carrier. Another vessel, a fishing trawler, was the "Gaul", and the third, which most will know about, was the terrible tragedy of the "Marchioness". When I came into government in 1997, I had to order a re-inquiry into the circumstances of those three incidents.

A long period of time was involved in all those because, after the vessels sank, no vessel was in evidence. It was not known where they were and they were only found later. The "Gaul" went down in 1974 but she was not found until some 18 years later by a TV company that went looking for her. The "Derbyshire" was another case of a vessel that went down and was found many years later, after money was provided from the trade unions and the European Community—to which my noble friend referred. They were pressing hard to get an inquiry as to where the ship was. She sank off Japan, with a loss of 44 lives, most of them from Liverpool, and people wanted to know why. I shall come to the "Marchioness" which was a particular case.

However, in the case of the "Gaul", which went missing in 1974, she was found in, I think, 1997, with a loss of 36 lives. There had been an inquiry. Inevitably, if the vessel could not be found, one could probably say, to the best of one's knowledge, "The vessel is not here but she went down in bad weather". That seemed to be a reasonable conclusion. If there was no further information and no vessel, one had to arrive at that conclusion—and that is what it was. I have to tell noble Lords, as regards the "Gaul", one has to take account of the relatives. Not much is said in here about the concerns of the relatives. They certainly want to be satisfied that everything has been done about it.

The "Gaul" case is peculiar because British trawlers were used as spy ships in the North Sea, and the Government admitted that to me in Answers to Parliamentary Questions at the time, in the 1970s. The relatives thought that the ship had gone down because she had been torpedoed on a spying mission. It sounds outrageous but that is what they believed. To satisfy that great concern, and knowing that such vessels had been used for spying off the coast of Russia, I ordered the inquiry—more to see if we could get the truth. I could only do that once the ship had been found, as happened many years later. When we investigated, there was no damage from any kind of military action; it was obvious that the ship had been overwhelmed. Anyone who knows about the fishing industry knows that the fish is wound in up the back and side, and if the sea is going the wrong way it fills that type of vessel which goes down very quickly. All the evidence showed that there was insufficient security covering the ship. She had taken a hit by a large wave and gone down. The circumstances of the loss due to the weather were confirmed, as the original inquiry had said in the absence of the ship. But we were trying to satisfy the relatives who wanted to know what happened. That is important in these circumstances.

That was the "Gaul". I mentioned three ships, and the next was the "Derbyshire", which sank off the coast of Japan in a typhoon. The first inquiry concluded that there was bad weather but went on to say that it suspected bad seamanship. That caused a great deal of concern among seafarers and their families.

Eighteen years later the ship was discovered after the trade unions went looking for it. Indeed, I had to make a request to Tony Blair who rang Clinton to ask whether we could use the very famous searching mechanisms of Woods Hole. That institution originally found the "Titanic" and it found the "Derbyshire", which was smashed to bits. It managed to bring the ship together, and there was a remarkable exercise by the investigation branch in Britain to look at what had happened to it.

I do not have time to go into the technical issues but the point is that the re-inquiry then discovered the circumstances. It was not bad seamanship which they were led to believe because a rope hold had been left open and not tied down. Then it found that seamanship was not the problem but a piece of equipment on the ship had led to the loss of the vessel. It was controversial at the time because the shipyards were privatised and they had to give a guarantee that if there was negligence on the ship there would have to be compensation, which the Government would have to pay, not the people who bought the yard.

That is the background that Ministers have to consider when looking at inquiries. The "Derbyshire" case led to changes in the structures of vessels. Two or three of these bulk carriers had gone so it was right to hold the inquiry. The decision of the original inquiry had to be changed and, at the same time, we learnt about the safety of bulk carriers. Those of us in the industry saw an awful lot of bulk carriers, largely off Australia, but we always suspected that there was something wrong with the design.

Then there was the "Marchioness" and the loss of 51 lives. That was a terrible tragedy. In that case the Government did not hold one inquiry, never mind a re-inquiry. I constantly took delegations to Mr Parkinson who was then the Secretary of State. The relatives wanted an inquiry. You might ask why there was not a first inquiry. The Minister decided not to have one. He took the view that there was a court case under way on the "Bowbelle" and if it hit the "Marchioness", that would lead to a problem. I said at the time of the accident in a letter to the *Times* that there looked to be

negligence on behalf of the department. Why? Those launches had dance decks. When a new deck was put on an old ship the department had to make a decision on stability and safety. In this case the "Bowbelle" came up from behind and the skipper could not see because of all the dancers who were between him on the bridge and the stern.

In the week that the "Marchioness" went down I said that the department had some responsibility for agreeing to the design and the change to the vessel. The Minister had to make a decision about the inquiry. He said that there was nothing to learn from an inquiry. I pointed to a number of inquiries that changed safety procedures in the Thames. If a Minister has discretion in such cases, presumably his department has to be impartial. We discovered that there had been a mistake in the design of the vessel. The legal department told me that we could not have an inquiry because it was too long since the vessel went down. That is the kind of advice you would got from a Minister to another Minister—the memories will not be there. The legal people said to me, "You can't get the legal power". I had to go to the Lord Chancellor and get his view and tell my legal department that it was wrong. I ordered that inquiry.

These are the conflicts. A legal department could say, "We might have some responsibility here. We had better not have an inquiry—let's leave it to the discretion of the Minister". There were statements from the Minister at the time, and even though there was a duty to carry out an inquiry, he did not do so.

The point of using these ships as examples is that it was left to the discretion of the Minister. There are varying qualities of Minister, including me. One way or another we have to make a judgment. It is not a good idea to give discretion to a Minister who invariably does not come from a background of shipping as I do, which can be measured. Ministers are politicians who come from various backgrounds. He is reliant on experts but should exercise discretion over whether there is anything to be learnt from reopening an inquiry. How do you know that unless you make some inquiries? Do you just make a judgment on something and say, "I have a feeling about this. I've read about it in all the papers. They suggest that we should not reopen the inquiry and I won't".? You need the facts. How the heck do you get the facts unless they are obtained through investigation and inquiry? Are we actually saying that the Minister can make a decision without knowing the facts? I am not saying that all Ministers necessarily take the advice that is offered. I was given good advice by the department. However, when a decision is left to a Minister's discretion, he may be overwhelmed by the experts around him whose interest is not to have a further inquiry, as I have shown in the examples I have given.

5.45 pm

I had to come to the House of Commons and apologise to relatives and to everybody because we had found that the department was responsible. The only issue that we are considering here is the discretionary power of a Minister to reopen an inquiry. At the end of the day, why are we doing this? I do not know whether the research undertaken by the noble Lord, Lord Rooker, shows how many times inquiries have been reopened. There cannot be many of them, so why are we doing it? If this deregulation measure is about cost—not the Red Tape Challenge that the noble Lord, Lord Rooker, was talking about—we are really saying that the department has to make a judgment in these cases and sometimes it has a vested interest. It also knows that any measures recommended by the inquiries mean that the department has to introduce changes. Of course, it has, but you cannot leave this issue solely to discretion rather than a duty to act. Can the Minister tell us how many times inquiries have been reopened? It cannot have been done many times. I did three in one go. I see the Minister indicating that four such inquiries have been reopened, but over how many years? As I say, I did three in one go, but that is because the Government of the day refused to reopen the relevant inquiry.

When I became Deputy Prime Minister in 1997, I told the relatives that we would hold an inquiry. The essential issue is what we learn about events and safety from relatives and seafarers. What we are being asked to do here is to change a rarely invoked requirement that was placed on government in the Merchant Shipping Acts. Now the decision to act is to be left to the Minister's discretion despite all the different pressures to which he is subject. Can noble Lords really believe that there was no inquiry into the "Marchioness" case until I ordered one, despite all those people dying in that terrible tragedy? Some 50 or so lives were lost. Therefore, I do not believe that this should be a discretionary power but rather a requirement and a duty.

I hope the Committee will say that we should leave the power as it is and not change it as to do so will diminish safety and deny relatives the right to know what happened to their family members—knowledge which could be gained from such an inquiry. The relatives of those who died on the "Marchioness" were upset because the coroner would not allow them to see the bodies. Why would he not allow them to see the bodies? Why did he refuse to co-operate? It was because the hands and feet had been cut off and he did not want the relatives to see the bodies with no hands or feet. That was the practice on the Thames at that time. Relatives are entitled to know the truth and that can best be delivered by an inquiry.

I have been involved in merchant shipping all my life. I remember getting into a fight over the Merchant Shipping Acts—the old Master and Servant Acts—with the then Labour Government in 1966, so I have lived with them all my life. There are now hundreds of cruise liners with some 1,000 people on each. So millions of people are travelling on these cruise liners and the death rates and incidents and number of people going missing from ships is growing at an alarming rate. A campaign is now going on in Liverpool to trace a nursery steward on a Disney ship, Rebecca Coriam, who was reported missing from the ship. There was no inquiry or investigation. The Government were asked why nothing was being done about this British citizen. However, there was no inquest. She was on a ship that came under the jurisdiction of the Bahamas, but the rules there are pretty slack. By the way, the three "Queens" of our big fleet have gone to the Bahamas for tax reasons where, to my mind, there

[LORD PRESCOTT]
is very informal safety regulation. The campaign to find Rebecca is being run in Liverpool. I know the Government have refused to do anything about an inquest. Why can we not have an inquest for a British citizen?

In America they have got concerned about it so they produced a piece of legislation in 2010. They are extremely concerned about the increasing number of people going missing and rapes and murders occurring on these ships. Rockefeller has now brought out a Bill that requires every ship under whatever flag to report what happens to any citizen of America to the FBI and the FBI then holds an inquiry. It is required to do it. Over here we look the other way and will not even have an inquest. That is quite wrong. There are thousands of British citizens going on these ships under different flags of different countries with different approaches to the law. If you are talking about regulation—I cannot expect the Minister to answer that; perhaps we could arrange a meeting and talk it through properly.

It is the same Act, by the way, that was used to change some regulation. Here it is—the Government have just passed it. I see they have increased the compensation on ships if you lose your luggage. Should we not be giving more attention to the lives on the ship rather than the ruddy luggage? This is a regulation that has just been passed by this Government. Fine, great—have a look at the inquest procedures and look at what we can do about those. Bill Anderson is leading the campaign, doing a wonderful job, bringing the ropes together. We have no satisfaction on this. We are still on to the Foreign Office and the Government. We need to get an agreement about it.

If British citizens, crew or passengers, go on cruise liners, and they are lost, we should have someone responsible, like the Americans, to report to our authorities and then tell the relatives what happened, to the best of their knowledge. We do not have that at the moment so if we put all these things together, let us look at regulation. You can take it a bit further if you want but what we are choosing to do now by taking this right away is dangerous. It is bad for relatives. It does not tell us anything about the safety. It leaves it to the political judgment—and we are all politicians here. As we found with the "Marchioness", the advice came from a department that had been guilty of the loss of that vessel, for which I had to apologise, so it was no surprise that it did not want an inquiry. This would make it easier for such departments. I am against the clause and I hope we delete it.

Lord Davies of Oldham: My Lords, those two powerful speeches have made the case that we wish to make from the Front Bench. We also hope to persuade my noble friend Lord Rooker than objecting to the clause itself is in fact a stronger position than his amendment. I hope the speeches have convinced a very significant number of Members of the Committee, perhaps even the Government, to think again, but they have also reduced the length of my speech because all the issues have been more than adequately covered.

I emphasise that the effect of the Government's legislation would be to downgrade rights that are derived from a duty on the part of the Minister to a mere choice by him, which is the emphatic point that my noble friend Lord Prescott was making. There is an obvious flaw in the Government's proposals. My noble friend has made his case already but I will show how much we on the Front Bench are concerned about this. It is not clear how the Secretary of State can be expected adequately to assess the existing evidence in order to suspect a miscarriage of justice without investigative help by the very accident investigation branch itself. As my noble friend Lord Prescott has indicated, there are very good reasons why the branch should be reluctant to participate in this. The work will now be undertaken by the branch only if the Secretary of State requests it because he already suspects a miscarriage of justice. That is a long shot in circumstances where he has no or very little evidence before him at that stage. In addition, reinvestigating might unearth difficult truths about the adequacy and focus of previous assessments by officials and the department when making the initial judgment. Any Minister should, of course, be able to process issues without fear or favour, but there is bound to be an inhibition when he is dependent on the department for certain facts.

The justification that Ministers have given for the change is entirely spurious. They have claimed that it is to safeguard the human rights of officers involved in accidents, whose careers could be undermined by an automatic investigation organised by the Minister. It might have that advantage, but it would block off new evidence to support future safety measures and which could tell families what really happened. We know, from the illustrations given today, two things from the "Derbyshire" inquiry. First, the families of those who were lost got to hear what had actually happened 20 years later, as opposed to the original depiction. Secondly, future safety measures were inaugurated by my noble friend in the department as a result of the evidence of why the ship had sunk.

I believe that the clause should be opposed and not stand part of the Bill.

Lord Gardiner of Kimble: My Lords, under the Merchant Shipping Act 1995, the Secretary of State is obliged to reopen a formal investigation either if new and important evidence that was not available at the time of the original investigation becomes known, or if there appear to be grounds to suspect a miscarriage of justice. For any other circumstances, the Secretary of State has a discretionary power to reopen an investigation. There is no time limitation on the current obligations to reopen a formal investigation. This is surely right and proper where there are grounds to suspect a miscarriage of justice, and the Bill most certainly does not seek to change this duty in any way. However, in other cases, the potential value of reopening a formal investigation in terms of enhancing safety for today's mariners may—and I emphasise may—diminish with the passage of time after the loss of a ship.

The design of ships and their equipment, industry crewing and operating practices, continually change and develop. By the time that new and important evidence is found, these matters may be very different from those that applied at the time of an accident.

That is not to say that one can draw a specific time limit on the usefulness of an inquiry. Each case is likely to be unique and should be considered on its own merits. This would be preferable to the current blanket imposition of a duty that may not always be beneficial for maritime safety, which is rightly our priority. Therefore, Clause 40 is drafted to enable the Secretary of State to take a considered view on the likely benefits of reopening a formal investigation in circumstances where new evidence comes to light. To be clear, a formal investigation, the subject of this clause, is very different from the safety investigations undertaken by the Marine Accident Investigation Branch. The noble Lords, Lord Rooker and Lord Prescott, mentioned that. The Marine Accident Investigation Branch's sole objective is to determine the causes and circumstances of an accident to prevent a recurrence; it does not seek to apportion blame or liability. I re-emphasise that the clause does not affect these safety investigations, nor situations in which new and important evidence is found from accidents that have been subject only to a safety investigation. Of course, the Marine Accident Investigation Branch acts of its own decision.

In contrast, formal and reopened formal investigations are proceedings which, as well as probing the causes of an accident, can apportion liability and blame, censure ships' officers, or cancel their certificates of competency. There have been four since 1997: a formal investigation into the loss of the "Marchioness"—the noble Lord, Lord Prescott, spoke very powerfully and with great experience of that tragedy—and reopened formal investigations into the "Derbyshire", "Gaul" and "Trident". The three reopened formal investigations all related to accidents that occurred prior to the establishment in 1989 of the Marine Accident Investigation Branch. With most accidents since then being subject to safety rather than formal investigations, increasingly any reopened formal investigation would relate to more historic accidents.

6 pm

There is no question that some such investigations can be hugely important and beneficial, as the noble Lord, Lord Prescott, said. The "Derbyshire" inquiry came only 20 years after the accident, when sister vessels were still operating. It found the cause of the sinking and made 24 safety recommendations—a point referred to by the noble Lord, Lord Rooker.

Lord Prescott: It was the reinquiry.

Lord Gardiner of Kimble: Yes, it was the reopening of the inquiry, and it happened 20 or so years after the accident.

I stress that, even if there were no obligation to reopen an inquiry, I would strongly expect one to be called if similar circumstances to the "Derbyshire" applied. Of course, I acknowledge the importance of the reopened investigation into, for instance, the loss of the "Derbyshire" both in terms of providing answers to the bereaved families of those who lost their lives and in contributing to enhanced maritime safety for the benefit of all mariners.

I understand all the concerns expressed by the noble Lord, Lord Rooker, in tabling this amendment and by the noble Lords, Lord Davies of Oldham and Lord Prescott. I assure your Lordships that any decision on whether to reopen a formal investigation would be taken very seriously, taking into account the views of all interested parties, including, of course, trade unions.

During consideration of this clause in the other place, the then Solicitor-General explained the principles of how the Secretary of State would approach the decision. My honourable friend confirmed that each case for reopening would be considered on its individual merits. Such considerations would include, although they would not be limited to, the likelihood of lessons being learnt that would improve the safety of current marine operations and ship design; the likelihood of being able to identify the true cause or causes of marine accidents where these had been particularly uncertain prior to the evidence being found; and the likelihood of uncovering information that would provide a deeper understanding of the causes of other marine accidents. In short, Clause 40 would allow the Secretary of State to consider the individual circumstances of a formal investigation when new and important evidence was found, taking a rounded view of the best ways to improve maritime safety.

The noble Lord, Lord Prescott, in referring to his experience, expressed concern about the impartiality of the department and the question of fault. Now, the Marine Accident Investigation Branch must undertake impartial investigations and assess evidence, and indeed it could well criticise any department at fault.

Lord Prescott: On that point, I thank the Minister for his explanation. The Marine Accident Investigation Branch has always had a responsibility to investigate. It did so in the case of the "Marchioness" but the Government would not produce the report.

Lord Gardiner of Kimble: I think that I may need some advice from behind on that. While I am receiving that, I should mention that the noble Lord, Lord Prescott, referred to what I would describe as "crimes at sea", which the Government obviously take very seriously.

The Government have promoted guidance on the preservation of evidence at crime scenes with the International Maritime Organization. In our view, these are matters that we must take forward on an international level, with international agreements. I very much understand the points about preservation of evidence and about offering information and understanding to families with loved ones who are in this position.

If I am not given the information now that I hope I might be about to be given, I will be in touch with the noble Lord. However, given all the circumstances, I ask the noble Lord to withdraw his amendment.

Lord Prescott: I thank the Minister very much for giving a response to the last point—I could not expect him to have all the details, but at least he is aware of the problem. However, I still believe it is the right of every British citizen to have an investigation or an

[LORD PRESCOTT]
inquest—if, for example, their daughter has died. We should surely be entitled to report back to the people and have our Government involved in an inquest, as the Americans are doing. Our Government say, "It happened on a ship registered in the Bahamas"—but the authorities there have not had an inquest, so we should do it. I do not expect the Minister to give an answer, as it is a highly technical point, but perhaps he could just write to me with information from the department as to why we cannot have an inquest on a citizen who has gone missing, whatever the circumstances. The Americans have acted on it, and the least we could do is offer an inquest in which our own police are involved.

Lord Rooker: Is the Minister going to get back up with the advice he has got?

Lord Gardiner of Kimble: The advice is not on that particular matter but on another one.

Lord Rooker: My Lords, I sincerely thank the Minister for his response. This is not an area I have any detailed knowledge of whatever, but I understand that over the years there have been considerable improvements, and heaven forbid there is another big loss. Part of the briefing that I have is about the size of ships. The "Derbyshire" remains the largest UK-registered ship to have been lost at sea—I was unaware of that. It was big, with a gross tonnage of 91,000. As my noble friend said, at the time the bulk carriers accounted for only 7% of the world fleet but for 57% of lost ships, so there was clearly something wrong there that had to be looked at. I find it astonishing that it was found on the sea bed at 4,200 metres. That is an astonishing depth at which to locate and recover a ship.

I will refrain from saying too much about the "Trident", because with my noble friend here I am trying to cut down my material, but the Minister referred to it. The "Trident" was lost for 35 years. Was there not a sniff at one time that because it had been lost for so long, the cost of reopening the case was considered by some people disproportionate to the potential benefits? Only one recommendation came out of that, while 22 came out of the "Derbyshire". The Government's argument—my noble friend raised this because of his detailed knowledge—completely ignores the benefit of emotional closure for the families. The Minister did not refer to that at all, but it is a matter which should be addressed. If there is a sniff about cost here, I would like some further and better particulars before Report. No one is making a cost argument, I am just naturally suspicious and it is a factor that I think has to be considered at the back of our minds.

I am on record as supporting the Bill and am very much in favour of deregulation. The Government do not go far enough sometimes, and the Bill introduces regulation to avoid regulation, so it does bits of both. However, the issue here, unlike other parts of the Bill, is that we know that people have died or have been missing for decades. As a result, we know we have the issue of the families, which should be considered. There are very few cases, as has been said.

Finally, my noble friend is quite right about the discretion of argument. Just looking around the Room, I see former departmental Ministers. I do not know about the noble Lord, Lord Wallace, but there is a difference in the coalition between being Whips and being answerable for other Ministers; I fully accept that. My noble friends Lord Whitty and Lord Prescott and I have been departmental Ministers—I was at a much lower level than my noble friend Lord Prescott—but the issue of discretion is interesting. You are allowed, as a Minister, to choose the colour of your car.

Lord Prescott: As long as it was a Jag.

Lord Rooker: I did not mean to raise that. My driver always chose the car; but I was allowed to choose the colour. When it comes to big issues where there is discretion, the lawyers pile into the offices, because they are always worried sick about setting a precedent. They will admit that you have discretion and say, "Minister, it is your decision. However, our job is to advise you". You get this pile of stuff about the pros and cons of creating a precedent. You are almost warned that you are not allowed to create precedents; it goes against the grain. Then their advice will be given to you in writing as part of the audit trail for the Permanent Secretary. If your decision leads to public expenditure that they might not agree with, that note will go to the National Audit Office and the chairman of the Public Accounts Committee.

So all the pressure on the Minister is not to do it: do not use your discretion. We are talking about inquiries. Inquiries cost money; we know that. I have been in six different departments and I have watched that happen in each one—except in Northern Ireland, which was slightly different. There is pressure not to use discretion. I am not saying that it is never used, because clearly it was in the case raised by my noble friend, and I have seen it in other cases, such as when I was at the Home Office with David Blunkett.

When it is legal, it is clear cut. You think, "There is no decision to take; it is taken for me". That is where seniority comes in. When you are considering chief executives, how much discretion do they have? If they do not have a lot of discretion, the pay grade is lower than for those who have discretion. Those who have discretion are, by and large, pressured in a very subtle way not to use it. As I said, it is about the lawyers, the accounting officer's certificate and the Perm Sec. Discretion is there on paper. Good examples can be given—I freely admit that—where Ministers exercise it, and it is right and proper that they do. I am just saying that my experience across departments was that, by and large, the pressure is not to use your discretion.

In this case, I have come to the conclusion that we should leave this well alone and I hope that in due course, the House or the Government—it would be better if the Government did it—remove the clause or substantially rewrite it. I hope that that is the message that Ministers will take back to the department: that the provision is unsatisfactory. Obviously, we will return to it on Report. I beg leave to withdraw the amendment.

Amendment 62 withdrawn.

Clause 40 agreed.

Clause 41: Repeal of power to make provision for blocking injunctions

Debate on whether Clause 41 should stand part of the Bill.

Lord Stevenson of Balmacara:: My Lords, the noble Lord, Lord Holmes of Richmond, is not in his place at the moment. He enjoined us to pay respect to the wonderful skills of the Minister who is about to respond to his fourth topic of the day. Having moved seamlessly from sport to parking and to marine inquiries, he now has to deal with intellectual property and, in particular, the blocking of ISPs—not an easy topic, as I know that he knows, but one that has to be dealt with as we consider Clause 41.

The clause would remove a power from the Digital Economy Act 2010 to make regulations containing site-blocking provisions. The Act gives courts the power to grant injunctions requiring internet service providers to block access to specified sites to prevent the infringement of copyright. The power was included to enable copyright owners to tackle sites based outside the UK that offer their copyrighted material illegally. Copyright owners are not able to take action against those sites in the UK and find it difficult to pursue them in their home territory. It was therefore considered reasonable to provide the ability to block access via internet service providers.

6.15 pm

After the Digital Economy Act came into effect, the Government asked Ofcom to review the efficacy of such site-blocking injunctions, if they were to be made. I will refer to its report later. Copyright owners had begun successfully to utilise the pre-existing provisions in Section 97A of the Copyright, Designs and Patents Act 1988 in the interim, and had applied them to site-blocking injunctions. Since Section 97A of the CDP Act provides remedies for copyright owners, we accept that there is at least a case for the clause to be included in the Bill. However, as I have pre-warned the Minister, this is a complex issue, not least because how we legislate for copyright infringements is central to our creative industries. As this repeal has wider implications, we need to be careful about how we approach this issue.

Copyright is a key part of the creative industries and the digital economy that drives them. They provide an estimated 1.5 million jobs, 10% of the economy and more than £36 billion of gross value added. However, it is wrong to think that intellectual property is the preserve simply of specific creative industries, such as design, film, music and broadcasting. Our USP in this area is the difficult to find juxtaposition between creativity and innovation, and the impact on production and manufacturing. The fact that we have a strong creative industries sector, combined with a strong science and research base and world-beating manufacturing sectors, including automotive, construction, aerospace and pharmaceuticals, means that our economic model—indeed, our whole future prosperity—is very much dependent on IP.

The first problem with the Government's approach is that, despite several significant changes to our copyright regime in primary and secondary legislation in this Parliament, they have no overarching vision of this sector. Everything in this area is compromised by the split in responsibilities between DCMS and BIS, whether it is the failure of the IPO to speak up for creative industries in a general sense; the mess made by the Government in implementing the Hargreaves recommendations; or the worrying approach to copyright apparently being adopted by government in Europe.

Under the previous Government, the Communications Act 2003 set out a 10-year vision that brought together existing communications regulators for telecoms, television and radio to address the then new concept of convergence. There was another review in 2009, which looked forward a further 10 to 15 years. The previous Government wanted to ensure that legislation kept pace with technology as far as possible. That is a key point of the clause: the opportunities and challenges of technology lie at the heart of the malaise that is attacking the value of online copyright. When in government, we wanted legislation to keep pace with and not to prevent change or innovation, but to provide the certainty and legislative framework in which competition could flourish, new businesses could be established and innovation could be harnessed to put us in first place in the global digital race.

I have some questions for the Minister. If the Government want to delete Sections 17 and 18 of the Digital Economy Act, are they confident that they are putting in place the necessary legislative framework to enable our digital economy to grow, so reliant as it is on online copyright? Where can we find a vision of our future digital economy and the role of online copyright in it? We have been promised a Green Paper and then a White Paper since 2010; indeed, there were rumours and sightings of drafts at one point. At one stage, publication of a White Paper was promised every month for almost an entire year. The interim discussion paper, *Connectivity, Content and Consumers*, simply cobbled together a few existing initiatives and said that the Government would work with industry to develop a strategy by the end of 2014, which is about now. Will the Minister tell us where we are with the long-term strategy for connectivity, content and consumers? It is important to understand what it is.

The rationale for this deregulatory measure is that a clause in a Bill drafted well before the digital age is being used to protect against modern problems. Would it not have been sensible to have approached this from the other direction: to have used the DEA provisions, which were specifically drafted to achieve the aims outlined in the Bill, as a long-overdue trigger to implement the other measures in the Digital Economy Act that could have benefited our creative industries?

As I argued earlier, the proper protection of IP is critical for many sectors of our economy. It is about incentivising creativity and innovation by allowing an appropriate reward for the risk that inventors, creators, musicians or performers take in generating that IP. Protection of IP is not about protecting obsolete business models, but about protecting new and emerging business models when they suffer copyright theft or other effective criminal activity.

[Lord Stevenson of Balmacara]

Studies by the film and television industries indicate that more than 10% of UK adults consume infringing content online, and that piracy costs of these industries are more than £535 million per year in the UK alone. We have more evidence from Ofcom, which estimates that in the last three months, 280 million music tracks, 52 million TV programmes, 29 million films, 18 million e-books and 7 million games were illegally downloaded. The industry estimates that over the whole Parliament, the Government's delay in effectively enforcing online IP will cost it more than £1 billion.

The Government propose to repeal these provisions in the Digital Economy Act, but do not give any real indication of what they will do to protect IP in the future. Clause 41 repeals the power to make provisions for blocking injunctions in Sections 17 and 18 of the Digital Economy Act. However, these sections contain wide powers that are not found in the Copyright, Designs and Patents Act 1988. How could they be? It was drawn up well before the digital age. The sections contain powers to make regulations that could grant courts the power to order internet service providers to block websites that enable illegal downloads or host significant material that is not copyright, or copyright-infringing. Section 18 also specifies that any such regulations would be subject to the super-affirmative procedure, which means that the regulations must be expressly approved by both Houses of Parliament before they can be made. Will the Minister explain why he feels that the clauses in the Copyright, Designs and Patents Act 1988 are sufficient for the digital age and why Parliament is being excluded from this process of blocking websites?

The Minister will probably refer to a report by Ofcom in 2011 when it was asked to review the practicability of the DEA provisions. In that report, Ofcom noted that none of the blocking techniques,

"is 100% effective; each carries different costs and has a different impact on network performance and the risk of over-blocking … all techniques can be circumvented to some degree by users and site owners who are willing to make the additional effort … the location of infringing sites can be changed relatively easily in response to site blocking measures, therefore site blocking can only make a contribution if the process is predictable, low cost and fast to implement … to be successful, any process also needs to acknowledge and seek to address concerns from citizens and legitimate users, for example that site blocking could ultimately have an adverse impact on privacy and freedom of expression".

These are good points that need to be taken on board. I invite the Minister to respond to them. I hope that he will also recall that Ofcom acknowledged that,

"site blocking could contribute to an overall reduction in online copyright infringement",

even though it said that Sections 17 and 18 of the 2010 Act were not the full solution. However, I note that in August 2011 the Business Secretary said:

"There are test cases being fought in the courts, so we're looking at other ways of achieving the same objective, the blocking objective to protect intellectual property in those cases, but in a way that's legally sound".

So can the Minister explain why there has been a change of plan here? In 2011 the Government were apparently searching for even better ways to achieve the objective of Sections 17 and 18 of the DEA Act, but in this Bill they say that injunctive relief using existing 25 year-old legislation is the only solution they need. Is this really so? Is it not clear that what this clause exposes is that the Government have failed to come up with a legally sound, effective way of protecting intellectual property, something the industry says that it needs?

The House of Lords Communications Committee was invited by the Joint Committee that scrutinised the draft Bill to comment on Clause 41. In its response, it noted what it described as the Government's undertaking in 2011 to do,

"more work on what measures can be pursued to tackle online copyright infringement".

Will the Minister explain precisely what further work the Government have done on this issue? Are they intending to do any more? Is this it? This decision hardly meets the need for the overarching approach to securing the future of our digital economy that we were promised.

Repealing Sections 17 and 18 of the Digital Economy Act is the wrong approach. It might have detrimental consequences in terms of both perception and reality for the digital economy. Perhaps the Government are no longer engaging with the matter. Given the disarray in the Government's approach to the digital economy more generally, we find it difficult to support Clause 41. The contrast between the previous Government, seeking out the future, looking forward and acting in advance of the technology to secure and protect jobs in the valuable digital economy and this Government, waving the banner of deregulation to hide their inability to act, could not be greater.

Lord Gardiner of Kimble: My Lords, I might agree with a number of points that the noble Lord, Lord Stevenson, made, but I particularly agree that this is a complicated area. The point of this reform is to remove a power from the Digital Economy Act 2010 to make regulations which would allow the court to grant injunctions requiring service providers to block access to specified sites in order to prevent the infringement of copyright. That is the purpose of this reform. There are wider debates about the importance of the creative industries and the Government's programme to ensure that the creative industries remain part of our economic revival, which is a point that the Government are working on. I want to concentrate on the purpose of this part of the reform.

The Government have no intention of having regulations following the Digital Economy Act because we believe that access can be, and is in practice, blocked through a simpler mechanism via the legislation that the noble Lord mentioned, the Copyright, Designs and Patents Act 1988. The provisions being repealed were inserted because copyright owners were concerned at the time that, although the legislation provided them with a tool to tackle unlawful peer-to-peer file-sharing, it did nothing to help them defend their copyright against sites dedicated to infringement, which were generally operated outside the UK. Copyright owners made a case that the power in Sections 17 and 18 of the Digital Economy Act should be included to enable them to tackle such sites. They were unable to take action against the sites in the UK and found it difficult to pursue them in their home territory. The

solution was to provide a mechanism through which copyright owners could apply to the High Court for an injunction requiring internet service providers to block access to identified sites for the internet service providers' subscribers.

However, as the noble Lord, Lord Stevenson, said, following the Digital Economy Act being enacted, the Government asked Ofcom to carry out a review of the efficacy of such site-blocking injunctions, were they to be made. Ofcom concluded that in practice such injunctions were unlikely to be effective, largely due to the time an application would take. This is stating the obvious: very often people will want to ensure that there is a remedy that is as speedy as possible when time is of the essence. In Ofcom's view, it would be no improvement on the existing Section 97A provisions under the 1988 Act. On that basis, the Government announced that they had no intention of making such regulations under DEA.

Moreover—this is important because the noble Lord also referred to this—copyright owners began to utilise other provisions in Section 97A of the 1988 Act successfully to apply for site-blocking injunctions. This rendered the regulation-making powers in the DEA unnecessary. Such provisions had not been used before since copyright owners were unsure how the court would interpret them and were worried about potentially being left in a worse position.

I want to emphasise that it is absolutely not the intention of this Government to put at risk the health and growth of the creative economy, an area where this country has a real competitive strength. If I were to take a different view with the noble Lord, I think the record of this Government has been extremely strong during a very exciting time of change in this area which is vital to our economic strength and recovery. However, Section 97A of the 1988 Act is now providing remedies for copyright owners and is doing so in an increasingly efficient and economical way. Economy in seeking redress is important. Copyright owners are content that the provisions work and have now used them to block around 40 sites. That being so, and in light of the doubts about the practical usability of the power in the DEA following Ofcom's review, we believe there is no need for the DEA power.

6.30 pm

The noble Lord accused the Government of having no overarching vision or strategy. The Government are absolutely clear about the critical importance of the creative industries. We have a clear view of the continued development of this industry. Those visions were set out in the connectivity, content and consumers papers which considered a wide variety of factors relevant to the issues. From my dealing with Ministers in the department, I know that this is a sector where there are huge opportunities that we and people running businesses must grasp. That is very much what we seek to encourage.

On the development of the legal framework for protecting intellectual property, the repeal of these provisions does not suggest in any way that the framework for regulation is flawed of IP. Rather, it shows that the existing framework is working. This repeal provides certainty about the framework being used by those concerned. The remaining provisions of the Digital Economy Act are unaffected and should industry-led voluntary work be ineffective, we would return to those remaining provisions.

The noble Lord also asked whether the 1998 Act, which the industry is now using, is sufficient for the digital age. Put simply, the answer is yes. That is precisely why copyright owners are now using that remedy for the rapid streamlined process which gives them what they need. Although I agree with the noble Lord that we need to keep these matters very closely under watch and to make sure that we are ahead of the curve as a country in the development of something so crucial, from what I understand, those copyright who which are concerned about infringements are using existing legislation satisfactorily.

Clause 41 agreed.

Clause 42 agreed.

Clause 43: Household waste: de-criminalisation

Amendment 62A

Moved by ***Lord Tope***

62A: Clause 43, leave out Clause 43 and insert the following new Clause—

"Household waste: reduction in statutory penalty

(1) Section 46 of the Environmental Protection Act 1990 (receptacle for household waste) is amended as follows.

(2) In subsection (6), for "3" substitute "1"."

Lord Tope: I rise to move Amendment 62A and will speak more generally to oppose the clause—indeed, the first part of the amendment has exactly that effect, as it would delete the clause.

Earlier this afternoon we had a pretty lively debate demonstrating why parking enforcement is best left to local authorities. It is a pretty fundamental rule among any councillors who have any experience in local government that you do not mess around with refuse collection or waste collection within a year of an election. Any councillor, particularly any councillor who has served for any time, would tell you: never mess with refuse collection within a year of an election, yet here we have a clause in which the Government are seeking fundamentally to interfere with refuse collection within a few months of a general election. My mission this afternoon is to save the Government from themselves, and I hope the Minister will feel able to help me with this.

The first question I have to ask is: why are the Government doing this? Local authorities generally have a pretty good record, not just on refuse collection but particularly on recycling. There is a long way to go but the rate has increased to 43%, I think, which is very near to quadrupling in the past decade. Perhaps there will be an incentive with the landfill tax, but the amount of waste going to landfill has reduced by 70% in the past decade. Yes, more needs to be done but it is not a bad record to start with, so there is no problem there.

[Lord Tope]

There is no evidence as far as I am aware that local authorities, either genuinely or particularly, have been acting disproportionately in the way in which they enforce their collection regimes. If there is evidence of that, I am sure the Minister will give it to us, but I would still need to know that that evidence is so overwhelming and strong that it requires legislation from central government to interfere in this service. If you ask most residents what they pay their council tax for, after their initial rude remarks, the one thing that most residents everywhere say is that they pay their council taxes for their refuse collection. That is one of the few services these days that local authorities have to provide to all residents, so where is the evidence?

The Government consulted on these proposals and I hope the Minister will confirm that most of the responses to the consultation said, in effect, "Leave it alone and do not decriminalise this", so where is the evidence? Why are the Government taking the frankly rather risky and unnecessary step of interfering in local authorities' business for waste collection?

The effect of the clause will remove the power of local authorities to prescribe their refuse collections arrangements. It will reduce the fine for an offence from the current £1,000, which is a penalty few wish to incur, to a civil penalty of £60. I return to our earlier discussion about parking, when I said that the penalty imposed was nowhere near the same sort of deterrent. As a former leader of a council that had an extremely good record on recycling I must say straightaway that I strongly prefer incentives to threats. My local authority never had to use those threats. But those threats are necessary as a deterrent.

Why do the Government want to do this? I referred to the proposals on parking as something more suited to Friday night in the pub. I suggest that this, too, properly belongs in a pub on a Friday night—from a *Daily Mail* reader rather than from anyone who actually has any knowledge of refuse collection services and of the drive to increase recycling rates. It probably belongs in the pub on a Friday night, not in a Bill brought forward by my Government and still less in a Bill brought forward by my Government within months of facing a general election.

This measure is in a Deregulation Bill. It does not deregulate: it removes a system that seems to be working reasonably well—I have not seen the evidence that is not working reasonably well—and substitutes that for a far more difficult and complex situation that nobody is going to understand. It is going to cost local authorities a great deal more to implement and enforce. I simply do not know why the Government want to do this.

If the Government press ahead with this—I hope that we will all be able to persuade them to think again—the Local Government Association believes that if it has to happen the current level of fine of £1,000 should be reduced to a level 1 fine of £200. I would prefer us to leave things as they are. I believe that they are working well and all the evidence suggests that they are working well. Most importantly of all, waste collection arrangements are the business of local authorities and not the business of central government. I beg to move.

Baroness Hanham: My Lords, I tried to get my name attached to the clause stand part debate but somehow I failed; I think I have to start earlier than the day before. I support this very strongly. At the moment, the area that runs the decriminalised system for waste collection is of course Greater London, and it does so under the London Local Authorities Act 2007. It has been doing that spectacularly successfully ever since. It has its own rules, guidelines, enforcement and appeals process.

What happens now? Schedule 11 makes it clear that that Act is going to have to be changed to be in accordance with this new and, as my noble friend Lord Tope said, extremely complicated system of enforcement. Why does anyone need to tamper with London when it is already running a system and could continue to run it as it is without any further interventions? Why would we want to ensure that the fine that the local authorities in London are able to charge at the moment should be reduced under the Secretary of State's say-so? Why should we interfere in any way at all with the appeals system, which is currently run by local councils and is a fairly quick and straightforward process?

To say that I am baffled by these proposals would be to put it mildly. There is probably no difficulty with a decriminalised system, but the intervention and regulations—in a Deregulation Bill—that are going to support this seem to be way over the top for anything that is rational. The Minister talks about people putting out rubbish in the wrong place, in the wrong container, at the wrong time and on the wrong day, and talks about how local authorities can run that system, but it does not require five steps of enforcement. At the moment, London puts out an enforcement notice for a penalty, and that is it. Here we have written warnings, a waiting period, appeals, notices of intent—all this over possibly one refuse bag put out in the wrong place. That really seems to be excessive in the extreme.

Schedule 11 should be abandoned. London should carry on what it is doing. It has set the tone and indeed set the stage; it has done the work, and it knows what it is doing. If the Secretary of State or the Government insist on the rest of the country having this decriminalised way of doing things then London will have to do that, but I do not think that it should do it under the measures that are in the Bill. I ask the Minister why Schedule 11 should be there at all, why London, which is already running its own system, should be involved, and why there is any question at all that it should have to lower the fine that it is currently able to charge, which is having a reasonable effect. The penalty notices are for £60. These days, people do not think that a £60 penalty is very much; they are paying £80 for parking. I strongly support my noble friend on this issue, and I want to ensure that the consideration of London is that London should be left running its own scheme.

Lord Cameron of Dillington (CB): My Lords, if the Committee will indulge me for a moment, I have kind of wandered in off the street on this particular item of business. If the Government wish to simplify and deregulate in this area, the most important thing is that they have to get local authorities to unify their procedures on waste and renewable waste. If you

travel around the country, you see that every single local authority has a different policy on renewable waste. That is so bad for the renewable agenda and for recirculation. Some local authorities tell you to put all your renewables in together, such as glass, plastic and tin, and to put your waste into another bin. Others want you to divide your glass, plastic and tin separately, while others will not take glass at all and you have to go to the bottle bank, which is usually full up. If the Government wish to simplify matters, they should have some form of encouragement for local authorities to unify their policies over the whole question of waste, which at the moment is a disgrace.

6.45 pm

Lord Wallace of Saltaire (LD): My Lords, living in one local authority area during the week and in another at the weekend, I am very conscious that standards differ from one local authority to another.

It is a brave Minister, I know, who stands up to the Local Government Association embattled. The Government's intention in these measures is to reduce the burden of regulation on householders. Representations were made on behalf of householders and, as the noble Lord, Lord Tope, has mentioned, there was also a press campaign which suggested that the threat of large fines and criminal convictions is disproportionate to what is often in the first instance a case of people making mistakes about which bin to put out when and what to put in each. Again, as the noble Lord has just said, that varies from one local authority to another. My family is lucky in that the two local authorities in whose areas we live are relatively permissive about where you put each particular bit of waste.

The noble Lord's amendment would reduce the fines available to level 1 on the standard scale instead moving to a civil basis. The Government think that it is disproportionate for an individual to be treated like a criminal when they may make a mistake putting their bins out for collection, and it is not right that they risk a higher fine for making this type of mistake than they would, for example, for deliberate shoplifting.

I am conscious that some of my noble friends are concerned that this clause may increase burdens on local authorities. I reassure them that our proposals do not add significant burdens compared to how the current arrangements operate in practice. As always in questions of regulation and deregulation, there is the question of the balance of burdens. The Government's view is that we should be concerned to reduce the balance of burdens on householders.

I am also aware that some of my noble friends are worried that this clause might have a negative impact on recycling rates. We are committed to meeting our recycling targets and, as the noble Lord, Lord Tope, has remarked, we have made considerable progress in recent years in that direction. The way to do this is to support people as they do the right thing rather than threaten them with criminal sanctions and fines of up to £1,000.

Currently, under Section 46 of the Environmental Protection Act 1990, householders are subject to criminal sanctions and a fine of up to £1,000 if they do not comply with local authority requirements for presenting their waste for collection. In contrast, a shoplifter may be issued with an £90 penalty notice for disorder for their first offence. The Government's argument is that it is disproportionate for an individual to be treated like a criminal when they make a mistake putting their bins out for collection, and it is not right that they risk a higher fine for making this type of mistake than for shoplifting.

Nevertheless, we recognise that local authorities need some powers to deal with people who spoil the local area by the way they put out their waste, which is why the clause provides for a civil sanctions regime. Under this system, fixed penalties between £60 and £80 will be available if a person has failed to present their household waste as required, and this failure causes a nuisance or is detrimental to the locality. This is what we refer to in shorthand terms as the "harm to local amenity" test, covering such things as putting waste out in a way that causes obstruction to neighbours, unreasonably impedes access to pavements, attracts foxes, rats or other vermin, or is an eyesore.

We expect local authorities to use effective communications to ensure that householders know what they can recycle; for example, by making it easier to know which plastics go in which bin. On the balance of the evidence presented in response to the consultation exercise, which the noble Lord, Lord Tope, raised, I will have to write to him.

I make it clear that we intend to retain the current criminal system applying to commercial waste. The sanctions available to combat more serious offences like fly-tipping are also unaffected by the provisions in the Bill.

The noble Baroness, Lady Hanham, raised Schedule 11, which amends the London Local Authorities Act 2007 and gives London authorities similar powers to issue penalty charges to householders. We are amending the London Local Authorities Act so that civil sanctions and financial penalties will be imposed only if a householder fails the "harm to local amenity" test, and the level of penalties will be the same as under the Environmental Protection Act. In effect, the same provisions will apply throughout England. There will therefore be a degree of standardisation. I hope that this may persuade the noble Lord to withdraw his amendment.

Baroness Hanham: Can the Minister explain something to me? Subsection (1) of new Section 46B of the Environmental Protection Act says:

"The amount of the monetary penalty that a person may be required to pay to a waste collection authority … is … the amount specified by the waste collection authority".

That would seem to indicate that the waste collection authority had the right to set a charge. It then goes on to say in subsection (2) that:

"The Secretary of State may by regulations make provision in connection with the powers"—

one of those powers being the setting of the penalty. I seek clarity as to whether there will be a power for a local authority to set its penalty charge. New Section 20B of the London Local Authorities Act, in Schedule 11 to the Bill, is quite specific that:

"It is to be the duty of the borough councils to set the levels of penalty charges payable to them".

[Baroness Hanham]
That sounds great. If they must do it, they have got to do it. However, under the subsequent subsection (4) of new Section 20B:

"The Secretary of State may by regulations make provision",

for that.

Which is it? Will it be left to local authorities to set their own penalties? I understand that there will be a regime. Or will it be regulations set by the Secretary of State? It does matter.

Lord Wallace of Saltaire: I thank the noble Baroness. At this point I may be better off writing to her to explain in detail. My note says that the Secretary of State will make the regulations, but I recognise that there is a degree of ambiguity there. We will make sure that we clarify that.

Lord Tope: My Lords, I am of course, as always, grateful to my noble friend Lady Hanham. I was going to say "for her support", but who is supporting who? We are as one on this. I have just said to her that it is good to have her back onside. I always knew what she really thought, because we have known each other for so long. Now, at last, she can say it.

I am grateful to my noble friend the Minister for his response and, indeed, whether he meant to or not, for confirming that we have this clause as the result of a "press campaign"—those were the words that he used—not because there is any evidence that vast numbers of innocent householders are being persecuted and prosecuted for their innocent mistakes. If that has ever happened, it is certainly not the norm. It certainly does not happen to the extent that requires this sort of heavy-handed additional regulation.

Reference has been made to different systems in different areas. In passing, most people only live in one local authority area, and it is not of much concern to most people what happens in other areas because they never experience it—unless they happen to live in two, three or more homes. Having said that, I entirely agree that greater harmonisation and simplification between local authorities in their collection arrangements, particularly for recycling, would be extremely helpful, however many homes one happens to live in. That is a job for the local authorities and the Local Government Association. It is not a job in which central government needs to intervene or is able to usefully add anything to what local authorities can do.

I said in my opening remarks—because I have always believed it very strongly—that I too believe in supporting recycling, not threatening it, and giving incentives for recycling. That was something that my council started to do the day when I became leader of it, as it happens. However, I have also said that you need to be able to back that up with a threat or disincentive. You will hope that it is never needed; if your incentives are working well and properly, that threat will never need to be used, but it needs to be there as a back-up. I am at one with the Government in wishing to incentivise rather than threaten, but not with them on the wish effectively to withdraw any meaningful threat.

The Minister says that he hopes that I will withdraw the amendment. He knows very well that the rules require that I do so. I have no choice but to beg leave to withdraw it, but I feel sure somehow that we will return to the issue of waste collection at a later stage of the Bill.

Amendment 62A withdrawn.

Clause 43 agreed.

Schedule 11 agreed.

Clause 44 agreed.

Schedule 12: Other measures relating to animals, food and the environment

Amendment 62B

Moved by ***Lord Whitty***

62B: Schedule 12, page 154, line 18, at end insert—

"9 The Secretary of State must lay a report before both Houses of Parliament within 6 months after the passing of this Act on the fulfilment of their obligations under regulation 26 of the Air Quality Standards Regulations 2010 (S.I. 2010/1001).

10 In regulation 26 of the Air Quality Standards Regulations 2010, after paragraph (7) insert—

"(8) Where limit values set out in Schedule 2 and target values set out in Schedule 3 are not met by the date specified in more than one zone, the Secretary of State must draw up and implement a national framework for Low Emissions Zones to ensure compliance with each relevant limit value within the shortest possible time.""

Lord Whitty (Lab): My Lords, I move this amendment on behalf of my noble friend Lord Grantchester, and with his permission.

We come to page 154 of this remarkable and fascinating Bill. Hidden within it is a remarkable backing off, if not a total retreat, by the Government in relation to the important issue of air quality. A relatively, apparently, small deletion from the Environment Act 1995 needs to be seen in a broader context. I brought this wider context to the attention of the House yesterday in Oral Questions—and I should, once again, declare an interest as the vice-president of Environmental Protection UK, although as of now I am very temporarily speaking on behalf of the opposition Front Bench.

Yesterday in my OQ I asked the Government to spell out what they were doing about air pollution, which still causes 29,000 premature deaths. We have failed to meet EU standards in the vast majority of areas; 93% of the designated urban sites are not meeting their criteria, and the WHO has indicated on the $N0_2$ front a significant part of our urban area to be in a dangerous state. That includes this city and the second city of Birmingham, as well as places like Nottingham and many other urban areas. The Government's own forecasts in this area indicate that those areas—London, the West Midlands and west Yorkshire—are unlikely to meet the EU limit values for $N0_2$ until, at the earliest, 2030. That is 15 years after the EU deadline. Some 29,000 premature deaths requires the Government to have a bit more urgency about this.

In the Question yesterday, other noble Lords also intervened; the noble Baroness, Lady Parminter, talked about low emission zones and my noble friend Lord Hunt of Chesterton, who has just returned to join us, raised the issue of diesel. No doubt we will come back to that in a moment. The noble Baroness, Lady Northover, replied, accepting the difficulties in one sense, but spelling out a range of the things that the Government are doing and a rather more impressive list of things that the Mayor of London is doing—some of which I accept.

The Minister's colleague, the noble Baroness, Lady Northover, also denied that the Government were lacking a strategy, but the reality is that the Government abandoned the national strategy on air quality. They tried to draw up a new one in 2013 but the reaction from stakeholders was such that they had to drop it and indeed it would not have met the EU requirements. They have removed the impetus that the previous Government had towards local authorities introducing local low emission zones and the only real initiative that the Government have taken in this area is a failed attempt to get the EU to agree to the postponement of the application of the next stage of EU limit values. I was right to say that there is no strategy.

7 pm

In paragraphs 7 and 8 of Part 4 in Schedule 12, the Government are removing a requirement on local authorities to make local air quality assessments. Those assessments could have been evidence on which a broader strategy could have been drawn up. The removal of them means that there is no evidence base for a strategy, let alone a strategy at all. It could be argued that local assessments as described in the 1995 Bill are not necessarily the best way of going about this in terms of evidence or that these provisions have been rendered to some extent obsolescent by non-compliance for whatever reason, usually lack of resources, by local authorities. I agree that there needs to be a review of how local authorities are carrying out their duties in this respect. But if that is the argument and if the Government, as they claim, are serious about tackling air quality, they need to put something else in its place. There is no such move from the Government either at local or national level.

If the Committee were to accept the Bill as it stands and the complete deletion of this area, we would be accepting that there is a backing off and a retreat in this area. Our amendment does not argue that there should not be a deletion but that there should be a provision that would lead to a clearer statement of what is intended and that the Government should, instead of relying on local authority action entirely, create a framework for, for example, the delivery of low emission zones.

The dual purpose of these amendments is that we accept the deletion of the 1995 requirement although, to be honest, it would be better to keep it in than to do nothing— but it should be replaced by a requirement on the Secretary of State within six months of the passage of this Act to come up with a clear strategy on how the Government are tackling air quality. The second part is that if we continue to be in a situation where more than one zone is failing to meet the basic EU standards, there is an obligation on the Secretary of State not just to report but to draw up a national framework for delivery of low emission zones. The majority of the problems—although not all of them—of air quality are entirely related to traffic management and mainly ground traffic, although air traffic also has an effect. Low emission zones are not the only way to deal with this issue, but they are an important one.

At the moment, we have abandoned the previous framework for introducing those emission zones. Local authorities do not know where they are on those propositions and the Government are giving no clear guidance or impetus from the centre. This would replace what was simply an information gathering process with an obligation on the Government to provide that framework for local authorities and report to the House on their overall strategy.

There was a strategy at the end of the previous Labour Government. I accept that it had been disappointing in terms of some of its delivery, but there was a clear strategy. It could have been improved on, but instead we have had effective abandonment of that strategy and this is just another little bit of the Government's knocking out of the tools that were there to tackle what is a very real problem. I remind the Committee that this problem ends up with 29,000 people dying prematurely. I beg to move.

Lord Hunt of Chesterton: My Lords, I support the amendment. Air pollution in the UK is pretty serious and getting worse. We now have a better understanding that the larger the city, the more cars there are. In fact, cars travel longer distances in smaller cities. There is increasing awareness about air pollution, particularly in London, and the parties involved realise the seriousness of this. Other cities will have to make their own air quality assessments as they grow, so it is surprising that a Government who wish to make the UK seem like a desirable place to live and set up industry have introduced this measure. We know from experience round the world that incoming businesses and industries take a great interest in the environment but, under the Bill, local authorities will not be compelled to produce these assessments.

There is an equity aspect to this. We see large differences in life expectancy across London. Studies carried out every day in London show very high levels of pollution in areas with poorer housing. Therefore, it seems strange that we should be moving backwards in this respect. Websites show that the best city in Europe in this regard is Zurich and show how bad other cities are in comparison. The Government are taking a retrograde step in this regard. That is why this amendment insists that the Secretary of State takes this issue very seriously.

I regret that the amendment does not refer to noise, because the situation in the UK is pretty bad in that respect. If you drive round Germany, you see notices on the road advising you to drive slowly to reduce noise. The North Circular road is extremely noisy. People accelerate between traffic controls and the residents have to put up with that noise. There is no attempt in this country to tell people about the danger

[Lord Hunt of Chesterton]
of noise pollution and how they can moderate their behaviour to reduce it. Local authorities are not encouraged to do that. Part 5 of this schedule takes a regressive step in not insisting that local authorities not only designate noise abatement zones but inform people how to reduce noise in these areas. I hope very much that the amendment will be carried.

Lord Wallace of Saltaire: My Lords, I think there are some limits to how far we would necessarily take this as a general model in this area. The noble Lord will be well aware that all efforts to agree speed limits within the European Union and to deal with the problem of cars going extremely fast are blocked by the Germans, who have a very powerful lobby, not unconnected with BMW and Mercedes Benz, which insists on having cars which are extremely powerful, which we all know also produce more pollutants when they are being driven very fast. They are driven very fast across Germany, rather more quickly than they are allowed to be driven through other countries, so Germany is a mixed example, I think.

This government proposal is not to lower air quality. I recognise in the admirably clear speech of the noble Lord, Lord Whitty, the much wider issues which he is raising about the Government's overall strategy on air quality. This is a deregulatory measure which simply aims to remove the requirement for a further assessment when an air quality zone has already been agreed. The Government give active support to local authorities when it has been decided that a low emission zone or strategy is the appropriate action. We have so far funded 15 separate low emission zone-related projects or feasibility studies for our local air quality grant scheme. We have also disseminated the results that have come from these studies as good examples for local authorities. Since 1997, over £52 million has been spent to support local authorities in delivering low emission strategies, including feasibility studies with low emission zones and the uptake of clean vehicle technology and programmes to change behaviour.

There is regular feedback from local authorities, and an independent review of local air quality management in 2010 indicated that this requirement for a further assessment, or a second round of assessment, did not add to the understanding of local air quality and actually delayed the production and implementation of local action plans required under the Act. This was confirmed in a consultation of air quality stakeholders in January 2013. I refute the argument that the noble Lord, Lord Whitty, has put forward, that this is an attempt to weaken the local air quality regime. This is very much an attempt to support what local authorities do and to speed up their implementation of such zones when they are agreed. The Government continue to give active support in this regard. I recognise what the noble Lord, Lord Hunt, said about the overall problem of air quality. As I sat listening to him, I recalled that, as a boy, when I first came to a choir school in London, I was here just in time for the last great smog, in 1953 I think it was. Air quality has improved a little since then, and life expectancy has improved with it.

However, this change is a limited one, as are many others in the Bill. It will allow local authorities to prepare and implement air quality action plans more quickly and to avoid duplicating information gathered either in the earlier, detailed assessment stage that is required, or in the preparation of the air quality plan. That is the limit of what we are attempting to do here. We remain actively committed to higher air quality throughout Britain. We have supported local emissions zones: I have just been handed a note which remarks on the local emissions zones in Oxford, York, Bradford, Southampton, Birmingham and Hackney. With that reassurance, I hope that the noble Lord will be able to withdraw his amendment.

Lord Whitty: I thank the Minister for that. As on the previous occasion, I have no option but to withdraw it. However, the basis on which I withdraw it is not quite the same as the Minister's.

The Minister is right to say that this is a relatively specific requirement, relating to checking what the effect would be of the emission zones, once established. But that is part of the evidence for extending them further. If they were simply replacing it with something more useful, I would not object to the deletion as such. But the reality is that that is just one part of what the Government seem—despite what the Minister has said—to be retreating from. They are not encouraging local authorities in a broad sense, although some local authorities, because of impetus within themselves, are still putting forward local emission zone propositions. I was surprised to hear Birmingham on that list, but I take the Minister's word for it; some of the others I do know about. Local authorities as a whole do not feel that they are being encouraged to initiate new local emission zones. The Government are not really answering the essential thrust of this: if they are deleting what they regard as pernickety requirements, they should do so in the context of replacing them with a broader approach to encourage initiatives and activity at local and national level to improve our air quality.

7.15 pm

That is why our amendment is put in terms of accepting the deletion but replacing it with an obligation on the Secretary of State, not on the local authorities, to come forward with a framework and report to ensure that we know where we are going on this issue. At the moment we do not know and there is serious anxiety that we will not only continue to fail to meet the current EU standards but provide fewer resources and give less priority to air quality measures than was the case five or 10 years ago. That will make matters in the not-very-long run worse, not only in some of the more deprived areas—as my noble friend Lord Hunt said and I thank him for his support—but in substantial areas of our cities.

The Government need to take this significantly more seriously and I hope that they do so. I accept my noble friend's view that there is also a noise issue often associated with air quality, because the same machinery that is creating the noise is creating the pollution. We need a broad approach to these issues. For the moment, we are not going to get from the Government. I would

like to believe that at some time in the next few months we will see a more coherent air quality strategy. Should there be a change of Government, we certainly intend to ensure that that is one of our main priorities for Defra after the election.

Obviously, I will withdraw the amendment but we hope that the Government will look again at the issue. I beg leave to withdraw the amendment.

Amendment 62B withdrawn.

Schedule 12 agreed.

Committee adjourned at 7.17 pm.

Written Statements

Tuesday 4 November 2014

Agriculture: National Pollinator Strategy

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): My Right Hon Friend the Secretary of State (Elizabeth Truss) has today made the following statement.

I would like to update the House on the progress that my department has made in developing a National Pollinator Strategy for England.

Bees and other insect pollinators play an essential role in our food production and are vital to the diversity of our environment. Evidence suggests that many species of our pollinators are less abundant and widespread than they were in the 1950s. Although it is difficult to be certain about the rates or the causes of change, we do know that pollinators face a wide range of environmental pressures (including intensification of land use, loss of habitat and food sources, pests and diseases, invasive species, and pesticides), and that some species are already threatened.

The Government is committed to taking action on a range of fronts to protect pollinators. The National Pollinator Strategy launched today, sets out a 10 year plan which commits to actions that will help protect the 1,500 or so insect species that fulfil an important pollination role in England. The Strategy aims to deliver across five key areas, which are:

- supporting pollinators on farmland particularly through the new Countryside Stewardship scheme;
- supporting pollinators across towns, cities and the countryside;
- enhancing the response to pest and disease risks;
- raising awareness of what pollinators need to survive and thrive; and
- improving the evidence on the status of pollinators and the service they provide.

Recognising that there are gaps in our understanding of the status of pollinators, the Strategy provides a framework for evidence gathering action that will help improve our understanding of current trends, economic and social value, and impacts of pressures. Together with building our evidence base, the Strategy outlines that there are policy actions that the government and others can take now to protect pollinators. The Strategy also reaffirms our pollinator call to action, "Bees' Needs: Food and a Home", that was launched in July this year and which provides a simple message for all land managers on the essential needs of pollinators and how to fulfil them, including five simple actions such as planting more bee-friendly flowers and cutting grass less often. Finally, the strategy includes a commitment to review and refresh the vision, aims and policy actions from 2016, as evidence emerges.

The Strategy builds on current policies across Defra which support pollinators, including habitat and species conservation, the honey bee disease control programme, pesticides and environmental stewardship as well as initiatives and campaigns across many other organisations. Our conservation charities, beekeeping associations, scientists and many volunteers already make a vital contribution in protecting these species and the services they provide. Equally, farmers, landowners and local authorities have a central role to play in their stewardship. Many of these individuals and organisations have made important contributions to the drafting of the Strategy, and we will continue to work with these partners towards producing an Implementation Plan over the following six months.

Given that our current understanding about the problems facing wild pollinators is patchy and incomplete, our approach to developing new policies will be iterative and adaptive. The Strategy provides a framework for doing more as we find out more.

Defence Equipment

Statement

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): My hon Friend the Minister for Defence Equipment, Support and Technology (Mr Philip Dunne) has made the following Written Ministerial Statement.

In my statement of 14 May 2014 (*Official Report, column 24WS*) I outlined plans for the Defence Equipment and Support organisation (DE&S) to procure a set of specific private sector skills through contracts for Managed Service Providers (MSPs). We made good progress on this work over the course of the summer and I can confirm that on 3 November, we made formal offers of contract to three companies. I am announcing this development today, in anticipation of final contract award. In line with standard commercial practice, the offer of contracts triggered a stand-still period which will last for at least 10 calendar days. Subject to the successful conclusion of this period, we expect contract signature to take place on 17 November.

The MSPs are being brought in to help DE&S with its transformation programme. Unlike the approach being followed under the last year's competition for a Government Owned Contractor Operated (GOCO) entity, we are not placing contracts with the MSPs to run the DE&S business. What we need is an injection of highly specialised advice to support some specific areas of the business. The MSPs will be working alongside the DE&S workforce to achieve aligned transformation goals.

The Project Delivery MSP contracts have an initial term of three and a half years, with the option of two one year extensions. They will be awarded in four lots covering each of the four DE&S domains. The commercial approach was designed to allow a maximum of two of the four lots to be won by any one company, and following a rigorous competitive process, we have offered the Land and Joint Enabler domain contracts to CH2M Hill, and the Air and Fleet domain contracts to Bechtel.

The Project Delivery MSPs will be required to provide high-quality advice in the fields of project management and project controls over a defined period. They will support DE&S in driving the necessary

organisational, behavioural and cultural change designed to establish enduring improvements in project delivery approach, systems and outcomes across the organisation in support of the Equipment and Support Plans.

The Human Resources MSP contract has an initial term of three years with the option of two one year extensions. It is a single lot and has been awarded to PwC. This MSP will be required to help DE&S establish a bespoke and business-relevant HR function and deliver the required HR transformation. They will support DE&S to attract, develop, manage and retain high-performing individuals through a new performance management, incentivisation and career management system.

The competition for the third MSP, which will cover Finance, Management Information and Information Technology is planned to begin in the next few months. Sequencing the procurements in this manner will ensure maximum coherence across all three MSPs, and will allow the assessment and application of early lessons identified through the first MSP contracts.

The House will recall that when DE&S became a bespoke trading entity on 1 April this year, it secured a range of freedoms, agreed by HM Treasury and the Cabinet Office, to allow DE&S to manage its workforce better. This included the ability to pay 25 members of staff at a rate higher than the senior salary cap; and flexibility around how DE&S recruits, rewards and manages its staff to optimise its business needs. The MSPs are not party to these freedoms, and are being brought in to the business as external contractors, procured via standard commercial practices.

The offer of these contracts represents an important milestone in the transformation of DE&S. We are moving ahead at pace, and this development underlines our firm intent both to build on recent project successes and deliver genuine and sustainable improvement to Defence acquisition. Once contracts are signed, the MSPs will play an important role in this, working with DE&S to deliver the substantial change programme, which is itself designed to deliver improved value for money for taxpayers, and the best possible support for the Armed Forces.

EU: Agriculture and Fisheries Council

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): My Hon Friend the Parliamentary Under Secretary of State (George Eustice) has today made the following statement.

I represented the UK at the EU Agriculture and Fisheries Council on 13 October in Luxembourg. Richard Lochhead MSP was also present.

Fisheries:

Agreement was reached on setting the TACs and quotas for the Baltic Sea in 2015, established for the first time under the requirements of the reformed Common Fisheries Policy. Preparatory discussions were also held ahead of the upcoming EU-Norway fisheries agreement negotiations, where I highlighted our priorities of North Sea cod and continuation of our successful catch quota scheme. I also supported the Commission in the need to introduce further shark protection measures and follow the science in setting quotas for Bluefin tuna at next months' annual meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT)

The Council discussed the impact of the Russian trade restrictions on EU fisheries products. I highlighted the impact on the Scottish pelagic fishing industry with Russia making up 18% of the UK's mackerel exports in 2013. I was successful in securing agreement from the Council to increase quota banking rates from 10% to 25% for mackerel and herring as a temporary measure. This will allow UK fishermen to carry over more of their 2014 quota until 2015, thereby providing more time to develop alternative export markets.

Under AOB Lithuania also raised their concerns about the seizing of a Lithuanian fishing vessel by the Russian authorities. Commissioner Damanaki assured Lithuania that she was giving high priority to responding to this situation.

Agriculture:

Europe 2020 Strategy

Member States responded to a short Presidency questionnaire on the Europe 2020 strategy mid-term review. I stressed that CAP contributes to jobs and growth through Pillar 2 rural development programmes where it can be used to support agricultural innovation and competitiveness.

Europe 2030 Climate and Energy Package

EU Ministers participated in a lunch discussion on the treatment of agriculture and the land use, land-use change and forestry (LULUCF) sector under the 2030 climate and energy framework. I argued that we cannot have an informed discussion in the immediate term on the role of these sectors as there is insufficient data to fully assess the three options suggested by the Commission and outlined in the Presidency's paper. The Commission acknowledged that further work was required.

Agricultural trade issues

The Commission updated the Council on the progress of several trade negotiations, including the Transatlantic Trade and Investment Partnership (TTIP), the Comprehensive Economic and Trade Agreement (CETA) and Mercosur. Several Member States accepted that open, global markets were necessary but many raised concerns. Focussing on TTIP, I acknowledged that there would be some difficult discussions ahead however none appeared insurmountable and we should not overlook the benefits for all parties from a successful deal.

African swine fever

The Council endorsed a Commission proposal in response to a request from Poland and the Baltic Member States to increase the EU co-financing rate to 75% for measures to combat the spread of African swine fever.

Russian ban on agriculture products from the EU

The Commission stated that it wanted to provide direct compensation to dairy producers in the Baltic Member States and Finland who have been impacted

the most as result of the Russian import ban. Commissioner Ciolos, however, was unable to provide further detail but acknowledged that it may need to be funded through the Crisis Reserve. I accepted the principle but argued that further detail was required and we needed to consider the precedent it would set. The Commission and Presidency agreed to discuss this further at the Special Committee on Agriculture on 20 October. I, along with several other Member States, rejected Polish proposals for the reintroduction of export refunds in the dairy sector and a temporary increase in the intervention price.

International Olive Oil Council

The Commission updated the Council on action it was taking to prevent the current impasse in negotiations to extend the mandate of the International Olive Oil Council, and its efforts to persuade the Turkish Chair to extend the current agreement for one year.

Infrastructure Bill [HL]

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Lord Ahmad of Wimbledon) (Con): I wish to update the House on an aspect of the Infrastructure Bill, on behalf of the Department for Communities and Local Government and my noble Friend, Lord De Mauley, of the Department for Environment, Food and Rural Affairs.

Better use of previously used, brownfield land is at the heart of the Coalition Government's planning reforms. Our ambition is for there to be permissions in place to accommodate 200,000 new homes on suitable brownfield land by 2020. The Government is committed to playing its part, ensuring that where it owns land that it no longer needs, this land is returned to economic use more quickly and effectively, building homes and creating jobs. Better use of this type of land will support our desire to protect the Green Belt and amenity land, such as forests, woodlands and open spaces.

We are committed to continuing to improve and accelerate this programme, removing the internal government bureaucracy that causes delays and impedes progress. From 2015, this will mean transferring a significant amount of land from Government departments and their arm's length bodies to the Homes and Communities Agency. These transfers will enable the Homes and Communities Agency to prepare that land for release to market, promoting house building and boosting economic growth.

Currently, land held by Government's existing arm's length bodies cannot transfer directly to the Homes and Communities Agency, and instead must transfer first to the parent department, before it can then transfer to the Agency. Clause 21 of the Infrastructure Bill which is currently working its way through Parliament, aims to simplify this process and reduce bureaucracy so that land owned by arm's length bodies can be transferred directly to the Homes and Communities Agency without having to go through the parent Department. The bodies that will be able to transfer land to the Agency are to be named in regulations.

There has been some suggestion that this minor adjustment to the Government's existing powers to transfer land presents a threat to the future of the nation's publicly owned forests. It does not, and Ministers would like to make this crystal clear. The intention behind the clause is not to sell off socially or environmentally important publicly owned land such as the nation's forests. These forests are not surplus, they are in use and the new powers will not be used for this purpose.

The Government recognises the significant social, environmental and economic value of the Public Forest Estate to the nation and made a clear public commitment, in its Forestry and Woodlands Policy Statement in 2013, to establish a new operationally independent body to own and manage the estate, holding it "in trust for the nation". This commitment reflects the recommendations of the Independent Panel on Forestry, which the Government established in 2011, under the leadership of the then Bishop of Liverpool, with a remit to advise on the future direction of forestry and woodland policy in England.

The Government has worked closely with partners to develop plans for the new body but it was not in the end possible to accommodate the necessary legislation within the current parliamentary programme. However, the Government remains fully committed to the objective of establishing the new Public Forest Estate management body.

The Government has no plans to dispose of the Public Forest Estate and the powers contained in Clause 21 of the Infrastructure Bill do not present a threat to the future of the estate in public hands. The estate is not surplus, it is not owned by an arm's-length body and very little of the Public Forest Estate would be suitable for housing development under the Homes and Communities Agency's remit.

The Government recognises, however, the strength of people's concerns about the future security of the Public Forest Estate, and commits to:

1. Not transferring any part of the Public Forest Estate to the Homes and Communities Agency while the land remains in its ownership; and

2. Not including the new Public Forest Estate management body in any future regulations specifying which bodies can transfer land to the Homes and Communities Agency.

I hope this clear public commitment by the Government provides certainty and reassurance for noble peers and the wider public.

Libya

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 Michael Fallon) has made the following Written Ministerial Statement.

On 11 June this year, my predecessor informed the House, (Official Report column 49WS), that the UK had started training the first tranche of Libyan recruits

at Bassingbourn Camp, as part of an international commitment with other G8 nations to train a General Purpose Force.

The UK has been providing a challenging training programme to Libyan troops since late June. The majority of recruits have responded positively to the training despite the ongoing political uncertainty in Libya but there have been disciplinary issues.

Training was initially expected to last until the end of November but we have agreed with the Libyan Government to bring forward the training completion date. The recruits will be returning to Libya in the coming days.

The UK remains committed to supporting the Libyan government as it works to establish stability and security across the country. The immediate priority must be agreement to a political settlement and the Prime Minister's Special Envoy to Libya, Jonathan Powell, is playing an active role in support of that process.

As part of our ongoing support for the Libyan Government, we will review how best to train Libyan security forces – including whether training further tranches of recruits in the UK is the best way forward.

London Borough of Tower Hamlets

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Lord Ahmad of Wimbledon) (Con): My Rt Hon Friend the Secretary of State for Communities and Local Government (Eric Pickles) has made the following Written Ministerial Statement.

In my written statement of 7 April 2014, Official Report, Column 2WS, I stated that my Department had received documents which made serious allegations about poor governance and financial management at the Council of the London Borough of Tower Hamlets. I also noted that Ministers had long been concerned about a worrying pattern of divisive community politics and alleged mismanagement of public money by the mayoral administration in Tower Hamlets.

On 4 April, I appointed PricewaterhouseCoopers LLP (PwC) to carry out an inspection of the local authority's compliance with its best value duty and to report their findings to me by 30 June 2014. On 30 June, I told the House that PwC had informed me that the Council had considerably delayed the investigation by delaying the provision of key information or simply not providing it at all, and that consequently I was extending the period for PwC to report.

PwC have now completed their inspection; I am today putting a copy of their report in the Library of the House and publishing the report on my Department's website. As statute requires, PwC is now also sending a copy of the report to the Council.

I have been carefully considering the report, and later today I will make an oral statement updating the House on the action I propose to take, having regard to the report and other relevant information available to me about the London Borough of Tower Hamlets. I hope this will provide an opportunity for hon. Members to read through the detailed and comprehensive report before my oral statement.

Railways: High Speed 2

Statement

The Minister of State, Department for Transport (Baroness Kramer) (LD): My Right Honourable friend, the Secretary of State for Transport (Patrick McLoughlin), has made the following Ministerial Statement:

Further to my statement of 27 October in which I welcomed the key recommendations in Sir David Higgins' report *Rebalancing Britain*, I am today announcing to the House the launch of a consultation on safeguarding directions for the western leg of HS2 Phase Two between Fradley, near Lichfield, to Crewe.

Safeguarding is an established part of the planning system in the UK. It ensures that land which has been identified for major infrastructure is protected from conflicting development. The consultation will run for nine weeks, closing on 6 January 2015.

In Sir David's *HS2 Plus* report of March 2014 he suggested opening the line to a new hub station in Crewe in 2027, six years earlier than planned. In response I commissioned HS2 Ltd to undertake a route consideration process, informed by feedback from consultation. While a decision has yet to be made on the Phase Two route, I can inform the House that the analysis we have undertaken to date, points towards an onward connection from HS2 Phase One through to Crewe and that it is therefore appropriate to consult on whether I should make safeguarding directions for that part of the route.

HS2 Ltd has examined hundreds of options for the whole route for the western leg of Phase Two across five criteria: constructability, sustainability, journey time, cost, and demand. HS2 Ltd has refined these options into a number of recommendations through a sifting process that balanced these different criteria. Following a careful consideration of the suggestions put forward by consultees, including those put forward by Stoke-on-Trent City Council, HS2 Ltd advice is that on the analysis done so far (and there is more to do) the Crewe route looks likely to be the right route choice.

A connection from the high speed line to the West Coast Main Line at Crewe would allow towns across the North West to benefit from HS2 with trains running direct to Crewe, Liverpool, Carlisle, Lancaster, Preston, Wigan, Warrington, Chester and Runcorn. Crewe would also permit ready access to HS2 to North Wales. HS2 Ltd's analysis recognises the importance of serving these areas too.

Other destinations served by the proposed HS2 Phase Two route, on both the eastern and western side of the country, should be reassured that we continue to be committed to a Y shaped HS2 network delivered as quickly as possible. Decisions on the Phase Two route will be taken when the necessary analysis has been completed, and my Department continues to carefully review the material submitted by consultees and the further work undertaken by HS2 Ltd. While we work towards finalising a route for Phase Two, I cannot rule out the possibility of needing to make changes to the route—including from Fradley to Crewe. But in the interests of ensuring the timely and economic

delivery of Phase Two I must consider protecting that part of the route from conflicting development in the meantime. Making safeguarding directions would also trigger the entitlement for affected owner-occupiers to ask the government to buy their property under statutory blight arrangements.

Following a decision on the route of Phase Two, HS2 Ltd will undertake a more detailed design study; and safeguarding directions made following this consultation would have to be reviewed. As with safeguarding for HS2 Phase One, updates are also to be expected as greater understanding of the engineering requirements will clarify whether or not the correct land is safeguarded or whether any changes need to be made.

I am placing copies of both the Phase Two (Fradley to Crewe) safeguarding consultation and the HS2 safeguarding maps (Fradley to Crewe): general notes on draft safeguarded area documents in the Libraries of both Houses.

Written Answers

Tuesday 4 November 2014

Afghanistan

Questions

Asked by ***Lord Judd***

To ask Her Majesty's Government what strategic policy on the use of armed drones was put in place before withdrawing troops from Afghanistan. [HL2313]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): Remotely Piloted Aircraft Systems (RPAS) have played a vital role in supporting UK and coalition forces in Afghanistan. On current plans, in line with the withdrawal of UK combat troops, all of the UK Reaper RPAS will be withdrawn from Afghanistan by the end of the year. Her Majesty's Government has been clear it plans to retain the Reaper RPAS, principally for its intelligence, surveillance and reconnaissance capabilities. Reaper can be utilised in a variety of environments and roles and has recently been deployed to support operations the Middle East.

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government whether they will consider issuing visas in Kabul for civil society representatives who wish to attend the London Conference on Afghanistan in November and whose funding is not provided by the United Kingdom. [HL2322]

The Parliamentary Under-Secretary of State, Department for International Development (Baroness Northover) (LD): Invited guests of the British Government will have their visa applications facilitated by our Embassy in Kabul for the London Conference on Afghanistan. This includes individuals invited to Government sponsored "associated" events. For other side events not sponsored by the Government, visas will be handled by the UK visa offices in Islamabad and New Delhi. We are liaising with the organisers of these events to ensure that the process is as straightforward as possible.

Alcoholic Drinks: Misuse

Questions

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what steps they are taking to address Britain's drinking culture, which Public Health England recently identified as causing a rise in liver disease deaths. [HL2266]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Government's Alcohol Strategy set out ambitions whereby 'we will radically reshape the approach to alcohol and reduce the number of people drinking to excess'. The ambitions include:

- a change in behaviour so that people think it is not acceptable to drink in ways that could cause harm to themselves and others;

- a reduction in the amount of alcohol-fuelled violent crime;

- a reduction in the number of adults drinking above the National Health Service guidelines;

- a reduction in the number of people 'binge drinking';

- a reduction in the number of alcohol-related deaths; and

- a sustained reduction in both the numbers of 11-15 year olds drinking alcohol and the amounts consumed.

In November 2012, the Home Office launched a consultation on five key areas with the aim of reducing alcohol-fuelled crime, anti-social behaviour and alcohol-related health harm.

The Government response, published in July 2013, provided an analysis of the responses and set out the next steps that the Government will take:

- targeted national action, ending sales of the cheapest alcohol by introducing a ban on selling alcohol below the price of duty and VAT, and strengthening the ban on irresponsible promotions in pubs and clubs;

- a challenge to industry to increase its efforts, building on what has already been achieved through the Public Health Responsibility Deal. This includes tackling high strength products; promoting alcohol responsibly in shops; improving education around drinking; and supporting targeted local action; and

- support local action on alcohol-related harm, identifying a number of high harm local alcohol action areas and take action with them to strengthen local partnerships; improve enforcement; and share good practice based on what works locally. The Minister for Crime Prevention announced the twenty successful areas on 13 February 2014.

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what steps they are taking in respect of Britain's drinking culture in order to reduce liver disease deaths. [HL2288]

Earl Howe: The Government is taking a number of steps to tackle alcohol problems and reduce alcohol-related liver disease. These are being led by Public Health England (PHE), working with partners across government and local authorities. Through the Responsibility Deal the Government is also working with industry partners to tackle alcohol problems.

On 23 October 2014, PHE published its priorities for protecting and improving the nation's health and one of the seven issues they will be focusing on is preventing and reducing the harmful effects of alcohol. This priority includes two actions relating to liver disease:

- producing a framework on liver disease outlining public health actions to tackle liver disease, including alcohol; and

- launching liver disease profiles to support local authority health and wellbeing boards to understand liver disease and its risk factors in their area and, in turn, design effective local population level interventions.

Other key actions from PHE on alcohol and liver disease include:

- developing the evidence base for what works in preventing alcoholic liver disease and increasing awareness of the harmful effects of alcohol and the impact of interventions, to support policy development nationally and locally;

- supporting and promoting effective use of licensing legislation and local powers to create a safer drinking environment that encourages people who drink to do so at a lower risk levels. Part of this is improving the effectiveness of the powers directors of public health have on alcohol licensing;

- encouraging and supporting people who drink to do so within the lower risk levels;

- reducing the harmful impact of alcohol on individuals who already experience harm. PHE will be supporting a widespread roll-out of interventions and brief advice; and

- supporting improvements in treatment provision in line with National Institute for Health and Care Excellence guidance. Locally, PHE is supporting the development of effective alcohol specialist services in secondary care and accessible, evidence-based specialist treatment for dependent drinkers.

Armoured Fighting Vehicles

Questions

Asked by ***Lord Moonie***

To ask Her Majesty's Government why an order has been placed for the turreted version of Scout SV before the Critical Design Review has been completed, and when completion of the Review is expected. [HL2267]

To ask Her Majesty's Government why the decision to order Scout SV has been brought forward from after May 2015. [HL2269]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The Scout Specialist Vehicle programme was subject to a number of assurance reviews and found to have reached a level of maturity sufficient to commit to a production contract. Sub-system critical design reviews are progressing ahead of the system level critical design review, which is contracted to be completed in March 2015.

Asked by ***Lord Moonie***

To ask Her Majesty's Government whether all the intellectual property for the Scout SV will be held by General Dynamics United Kingdom or by a foreign company. [HL2268]

Lord Astor of Hever: General Dynamics United Kingdom owns all the intellectual property generated under the contract and has secured rights of use for pre-existing intellectual property within the supply chain.

Asked by ***Lord Moonie***

To ask Her Majesty's Government what proportion of the value of work within the Scout SV programme will be carried out in the United Kingdom. [HL2270]

Lord Astor of Hever: An exact figure is not expressed in the contract; however, a substantial proportion of work (around 60% by contract value) will be carried out in the UK, including the design and build of high value sub-systems such as the turret (Bedfordshire), thermal sights (Glasgow), electronic architecture (Hastings), and the armour packs (Wales). The Scout Specialist Vehicle programme represents the biggest single order for a UK armoured vehicle in 30 years and will guarantee at least 1,300 jobs in the UK.

Asked by ***Lord Moonie***

To ask Her Majesty's Government how many Scout SV vehicles are planned to be delivered by the end of 2020. [HL2271]

Lord Astor of Hever: The Scout Specialist Vehicle contract with General Dynamics United Kingdom is for 589 vehicles. Around 230 vehicles are planned for delivery by the end of 2020.

Asked by ***Lord Moonie***

To ask Her Majesty's Government whether support work, including deep support, for Scout SV will be carried out in the United Kingdom. [HL2272]

Lord Astor of Hever: There are no constraints for support work on the Scout Specialist Vehicle to be completed in the UK. In line with European competition rules, the full support solution will be subject to open competition.

Asked by ***Lord Moonie***

To ask Her Majesty's Government in what ways they expect the Scout SV to prove superior in capabilities to VBCI and CV90 vehicles. [HL2296]

Lord Astor of Hever: The Scout vehicle was chosen by the Army after an extensive assessment period and a competitive process which examined a number of different vehicle options. Scout was selected because it delivered the optimum value for money and the overall balance of capability required to provide a genuine multi-role platform for the Army against a demanding set of requirements. Scout is a fully digitised armoured vehicle which will deliver a step change in versatility and agility for the Army. Scout will be able to conduct both close combat and reconnaissance tasks and will be equipped with a sensor suite and sighting system that will double the range at which all types of target can be detected from the ground, providing a genuine force multiplier to the Army.

Asked by ***Lord Moonie***

To ask Her Majesty's Government why there is to be no assembly or production line for the Scout SV vehicle in the United Kingdom; and what, if any cost savings they anticipate as a result of that arrangement. [HL2297]

Lord Astor of Hever: The contract let is in accordance with the Armoured Fighting Vehicle Sector Strategy, announced by the Ministry of Defence (MOD) on 23 June 2009. The strategy made clear that it is not necessary to retain industrial capabilities in the UK in order to achieve appropriate operational sovereignty. The strategy was intended to make greater use of the global market, particularly within the EU and NATO. This remains the case for Scout Specialist Vehicle. General Dynamics United Kingdom was selected on the basis of the best value for money for the MOD and has decided to use the production facilities at General Dynamics European Land Systems in Spain. Neither of the final competition bidders planned to assemble the entire vehicle in the UK; both planned to make best use of their established international facilities and supply chains. Following production of the first 100 vehicles, an option does exist to transfer vehicle assembly to the UK subject to an economic case being accepted.

Asked by ***Lord Moonie***

To ask Her Majesty's Government what impact they anticipate on the operations and value of the Defence Support Group as a result of overseas assembly of and support for the Scout SV vehicle. [HL2298]

Lord Astor of Hever: There will not be an impact on the operations and value of the Defence Support Group (DSG). It was not assumed that DSG would be involved in the assembly of the Scout Specialist Vehicle, and DSG will be able to bid for the future support contract when it is competed.

Asked by ***Lord Moonie***

To ask Her Majesty's Government what is the effect on the costs of production of the Scout SV vehicle of the non-production of the Pizarro II vehicle from which it is derived. [HL2299]

Lord Astor of Hever: This is a matter for General Dynamics. The Scout Specialist Vehicle contract price was secured through international competition and represents value for money regardless of any plans for the Pizarro II vehicle.

Asked by ***Lord Moonie***

To ask Her Majesty's Government what assumptions have been made about the exportability of the Scout SV vehicle family; and what benefits they expect the United Kingdom to derive from any such exports. [HL2300]

Lord Astor of Hever: The UK Trade and Investment Defence and Security Organisation is currently assisting General Dynamics United Kingdom in identifying international prospects for the vehicle. The benefit expected from defence exports is a contribution to economic growth.

Bail

Question

Asked by ***Lord Black of Brentwood***

To ask Her Majesty's Government how many individuals were placed on police bail in England and Wales in each year between 1976 and 2013. [HL2323]

The Parliamentary Under-Secretary of State, Home Office (Lord Bates) (Con): The information requested is not held centrally and could only be obtained at disproportionate cost.

Civil Servants: Languages

Question

Asked by ***Baroness Coussins***

To ask Her Majesty's Government what plans they have to conduct a comprehensive audit of the foreign language skills currently possessed by civil servants across all departments and government agencies. [HL2343]

Lord Wallace of Saltaire (LD): I refer my noble friend to the answer provided by The Minister of State, Foreign and Commonwealth Office on 3 November, Official Report, Column WA188.

There are currently no plans for a formal audit across Government to measure the foreign language skills currently possessed by civil servants.

Diesel Vehicles

Question

Asked by ***Lord Hunt of Chesterton***

To ask Her Majesty's Government whether they intend to introduce measures to reduce the use of diesel engines as compared to petrol engines because of the effects of diesel fumes on health. [HL2346]

The Minister of State, Department for Transport (Baroness Kramer) (LD): Progressively tighter new vehicle European emission standards have reduced harmful particulate matter pollution emissions from diesel vehicles to a point where they are now equivalent to those from petrol vehicles. The latest emission standard for lorries and buses, Euro VI, will in addition substantially reduce emissions of oxides of nitrogen (NOx). Government experts are working with the European Commission and other member states to ensure that the Euro 6 emission standard for diesel cars and vans will also deliver reduced NOx emissions.

In addition between 2011 and 2020 we have committed over two billion pounds to increase the uptake of ultra-low emission vehicles, on active and sustainable travel and to support green transport initiatives, which will help to improve air quality.

As such, the Government has no current plans for any specific restriction or prohibition on the production or sale of diesel vehicles.

Electricity Generation

Question

Asked by ***Lord Hunt of Chesterton***

To ask Her Majesty's Government what are the relative current delivered costs of electricity delivered to users in the United Kingdom produced respectively by nuclear fusion, offshore electricity, solar photovoltaic, gas and coal. [HL2344]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): DECC's most recently published figures for the levelised costs of electricity generation for different technologies are available in the DECC Electricity Generation Costs (December 2013) report:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269888/131217_Electricity_Generation_costs_report_December_2013_Final.pdf

Table 1 below is taken from this report, and shows a range of levelised cost estimates for nuclear offshore wind, solar photovoltaic, and gas projects commissioning in 2014 and 2020 at technology specific hurdle rates (pre-tax real). Estimates are not published for nuclear projects commissioning in 2014, or coal projects without carbon capture and storage commissioning in 2014 or 2020 given there will be no new projects commissioned in this timeframe. DECC does not publish cost estimates for nuclear fusion.

Table 1: Levelised cost estimates for different technologies, technology specific hurdle rates, sensitivities around high/low capital costs

	Projects commissioning in 2014	*Projects commissioning in 2020*
	£/MWh	*£/MWh*
Nuclear	n.a.	79 – 102
Offshore wind Round 2	131 - 168	105 – 135
Offshore wind Round 3	144 - 189	115 - 152
Large scale solar PV	114 - 131	83 - 94
CCGT (gas) *	73 - 76	79 - 83

* CCGT: Combined Cycle Gas Turbine

The levelised cost of a particular generation technology is the ratio of the total costs of a generic plant to the total amount of electricity expected to be generated over the plant's lifetime (per megawatt hour). Levelised cost estimates are highly sensitive to the assumptions used for capital costs, fuel and EU ETS allowance prices, operating costs, load factor, discount rate and other drivers and this means that there is significant uncertainty around these estimates. Estimates of levelised costs differ from the retail electricity prices that are paid by consumers (i.e. on delivery of electricity).

This Answer included the following attachment: Electricity Generation Costs Report December 2013 (Electricity Generation Costs Report December 2013.pdf)

EU Budget

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government whether they will make representations within the European Union that any spending increases will be met through countervailing spending cuts and not by increasing the financial contributions of member states. [HL2248]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): The UK has been consistently clear: at a time when governments across the EU are taking difficult decisions to manage their deficits, the European Commission should not be asking Governments across the EU for more money.

The UK strongly believes in limiting the size of the EU budget and will continue to press for necessary restraint and discipline in order to get the best deal for British taxpayers.

Eurasian Economic Union

Question

Asked by ***Baroness Suttie***

To ask Her Majesty's Government what assessment they have made of the likely political and economic impact of the Eurasian Economic Union being launched on 1 January 2015. [HL2275]

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): The UK and EU continue to engage directly with the individual countries that form the Eurasian Economic Union (EEU). Not all members have devolved the relevant trade competences to the Union and not all are World Trade Organisation members. This creates incompatibilities in EU-EEU negotiations that can only be addressed with the individual EEU member states.

European Parliament

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government what is the amount of subsidy paid to each of the European Parliament's political groups annually. [HL2232]

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): The annual accounts for all groups are available on the European Parliament (EP) website. The last year for which figures are available is 2013:

European People's Party: €21,680,180

Progressive Alliance of Socialists & Democrats (S&D): €15,387,789.85

Alliance of Liberals and Democrats for Europe (ALDE): €6,718,994.35

Greens/EFA: €4,365,639.83

GUE/NGL: €2,657,578.33

European Conservatives and Reformists (ECR): €4,046,038.85

Europe of Freedom and Democracy (EFD): €2,614,225.43

Non -Attached: €1,315,501

Link to accounts on EP website: http://www.europarl.europa.eu/groups/accounts_en.htm

European Rail Traffic Management System

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government what are their latest cost estimates for the installation of the European Rail Traffic Management System in each cab of United Kingdom trains. [HL2253]

The Minister of State, Department for Transport (Baroness Kramer) (LD): Our estimates are based upon information and assessments carried out by industry, who have used data from UK and EU deployments.

The Government uses these estimates as a benchmark only, to be used during the evaluation of those new passenger franchises affected by the European Rail Traffic Management System (ERTMS) deployment. As this information is used in commercial competitions, it would not be appropriate to put this in the public domain.

Food Banks

Question

Asked by ***Baroness Gould of Potternewton***

To ask Her Majesty's Government what estimate they have made of the percentage of people using food banks who also receive benefits; and whether they have any plans to discuss the matter with the organisers of food banks or to adapt benefits to take account of the situation. [HL2415]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): DWP does not monitor or estimate the percentage of people using food banks.

We recognise the extremely valuable work of civil society in supporting local communities. Government officials and Ministers routinely meet with a range of civil society organisations, some of which may be connected to food banks.

DWP reforms are already making the benefits system simpler and helping claimants to move into work.

High Speed 2 Railway Line

Question

Asked by ***Lord Jopling***

To ask Her Majesty's Government what are the advantages of the HS2 project, in the light of the statement in the booklet *Rebalancing Britain* at page 31 that journeys from London to York via the South Yorkshire hub would take 114 minutes plus time changing trains, and via the East Midlands hub would take 121 minutes plus time changing trains, whilst the existing direct journey from London to York takes around 120 minutes without any time changing trains. [HL2508]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The diagrams on page 31 of the *Rebalancing Britain* report published on 27 October 2014 demonstrate how far away a destination will be from the East Midlands and Sheffield. We plan to operate direct HS2 services from London Euston to York after the opening of Phase Two.

The current proposal is to operate three direct services per hour from London to York. The current expected fastest journey time would be eighty four minutes.

Housing Benefit

Question

Asked by ***Baroness Manzoor***

To ask Her Majesty's Government why housing benefit overpayments increased to £1.4 billion in 2013–14 and how they are addressing the issue. [HL2376]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): Housing Benefit is a complex benefit administered by 380 Local Authorities. It has a high proportion of in-work claimants and this caseload is more likely to undergo changes in circumstances than out-of-work claimants. If claimants fail to report changes in circumstances correctly and in a timely manner then overpayments will occur.

The rate of fraud in Housing Benefit has been stable for many years at 1.4% since 2008-09. Official error has also remained relatively stable over the last six years, currently standing at 0.6% which is the same level as in 2008-09. Claimant error has increased from 2.7% in 2008-09 to 3.8% in 2013-14.

The rise in HB claimant error is primarily earnings related and a consequence of failure to report these changes. DWP is taking action to deal with this issue through better data sharing with Local Authorities, such as the introduction of real time information (RTI) on earnings, so that local authorities are alerted to changes quickly and do not have to rely on the claimant informing them of changes.

Longer term, Housing Benefit for working age claimants will be replaced by the housing cost element of Universal Credit and will be paid as a single monthly payment with the other elements. This will reduce the opportunity for Fraud and Error and prevent overpayments from occurring.

Industrial Health and Safety: Agriculture

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what are the latest figures they have of the number of fatal and serious accidents occurring in the farming industry. [HL2414]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): These figures are published on the Health and Safety Executive's website: http://www.hse.gov.uk/statistics/industry/agriculture/index.htm. They can also be found in the published report attached, "Health and safety in agriculture in Great Britain, 2014" on pages 6 and 7.

This Answer included the following attachment Health and Safety in agriculture in Great Britain (HSE Agri Stats.pdf)

Iraq

Question

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what is their assessment of Amnesty International's reports of the discovery of unidentified bodies apparently subjected to executions and its allegations of human rights violations perpetrated by Iraqi government forces; and what discussions they have had with the new government of Iraq about entrenching fundamental human rights principles in law and practice and putting in place mechanisms to hold those responsible to account. [HL2181]

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): The Government strongly condemns any and all abuses or violations of human rights. We have received reports from Amnesty International and others that Iraqi Security Forces have committed human rights violations in Iraq. Concerns also remain around unlawful detention, as well as deficiencies within the Iraqi justice system more generally. The newly formed Government of Iraq has committed to tackling these issues. We welcome the commitments made by Prime Minister al-Abadi to reorganising the Iraqi Security Forces (ISF), integrating volunteer civilian fighters and dissolving militia groups, and his order on 13 September to ISF units fighting the Islamic State of Iraq and the Levant (ISIL) not to shell in civilian areas, with the aim of preventing civilian casualties. The UK fully supports the Iraqi government in this as well as its efforts to uphold the rule of law and bring those responsible for all violations and abuses of human rights to justice. At the Human Rights Council in September we co-sponsored a resolution which strongly condemns ISIL and also stresses the need for accountability. The resolution was passed by consensus and mandates the Office of the High Commissioner for Human Rights (OHCHR) to despatch an urgent mission to investigate and report on ISIL abuses.

Jobseeker's Allowance Sanctions Independent Review

Question

Asked by ***Baroness Lister of Burtersett***

To ask Her Majesty's Government further to the remarks by Lord Freud on 21 October that they were "taking forward all recommendations" of the Oakley Report on Jobseeker's Allowance sanctions (HL Deb, col 547), whether they will provide an implementation date for each of the recommendations. [HL2436]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): We have already published our response to the Oakley Report and a copy can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332137/jsa-sanctions-independent-review-government-response.pdf

We are considering all recommendations made by the Oakley Report and we have already implemented a number of improvements. Our response sets out a number of target completion dates for recommendations made by the Oakley Report.

We will look at the remaining recommendations and will keep the House informed on progress and implementation.

Kashmir

Question

Asked by ***Lord Ahmed***

To ask Her Majesty's Government whether they are providing any financial or material aid to Kashmir after the recent flooding there. [HL2309]

The Parliamentary Under-Secretary of State, Department for International Development (Baroness Northover) (LD): We are monitoring the humanitarian situation in the aftermath of the floods in both India Administered Kashmir and Pakistan Administered Kashmir. We have not received a request from either government for assistance, but are in close contact with relevant partners in both countries.

Migration

Question

Asked by ***Lord Kilclooney***

To ask Her Majesty's Government what are the most recent annual figures for (1) emigrants departing the United Kingdom, and (2) immigrants arriving in the United Kingdom; and how many of those immigrants were non-EU citizens. [HL2524]

Lord Wallace of Saltaire (LD): The information requested falls within the responsibility of the UK Statistics Authority. I have asked the Authority to reply.

Letter from Nick Vaughan, Director, National Accounts & Economic Statistics, Office for National Statistics to Lord Kilclooney dated November 2014.

On behalf of the Director General for the Office for National Statistics (ONS), I have been asked to respond to your Parliamentary Question To ask Her Majesty's Government, what are the most recent annual figures for (1) emigrants departing the United Kingdom, and (2) immigrants arriving in the United Kingdom; and how many of those immigrants were non-EU citizens. [HL2524]

Estimates of Long-Term International Migration (LTIM) are produced by the ONS primarily based on data from the International Passenger Survey (IPS), with adjustments made for asylum seekers, people whose intentions change with regard to their length of stay, and migration to and from Northern Ireland. LTIM estimates are based on the United Nations definition of a long-term international migrant, that is, someone who changes their country of usual residence for a period of at least one year.

The most recent provisional estimates of annual LTIM are for the year ending March 2014. These show that 316,000 emigrants left the UK, with a margin of error of +/- 20,000, and 560,000 immigrants arrived in the UK, with a margin of error of +/- 31,000. Provisional estimates for the number of non-EU citizens who arrived in the UK for the same period was 265,000, with a margin of error of +/- 19,000.

The most recent final estimates for immigration and emigration (LTIM) are for 2012. These show that 321,000 emigrants left the UK, with a margin of error of +/-20,000, and 498,000 immigrants arrived in the UK, with a margin of error of +/-27,000. The number of non-EU citizens who arrived in 2012 was estimated to be 260,000, with a margin of error of +/-17,000.

The margin of error refers to the 95 per cent confidence interval around the estimate, and is a standard measure of the uncertainty associated with making inferences from a sample survey.

Please note that final LTIM estimates for 2013 and provisional estimates for the year ending June 2014 will be published on 27 November 2014.

Ministers: Pay

Question

Asked by ***Lord Trefgarne***

To ask Her Majesty's Government how many Ministers are presently unpaid (1) in the House of Lords, and (2) in the House of Commons. [HL2235]

Lord Wallace of Saltaire (LD): I refer my noble friend to the answer I gave to Lord Jopling on 26 September, *Official Report*, Column WA399 and WA400. For reference, as of November 2014, there are three Ministers who are members of the House of Commons and ten Ministers who are members of the House of Lords who are not in receipt of a ministerial salary.

NATO

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what Royal Navy vessels are currently taking part in NATO's Operation Active Endeavour. [HL2409]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): As at 29 October 2014, HMS KENT (a Type 23 Frigate) and HMS GRIMSBY (a Mine Counter Measures Vessel) are supporting Operation ACTIVE ENDEAVOUR.

NHS: Reorganisation

Question

Asked by ***Baroness McDonagh***

To ask Her Majesty's Government what is the cost to date of the reorganisation of the National Health Service as a result of the reforms in the Health and Social Care Act 2012. [HL2241]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): I announced in my Written Ministerial Statement of 23 July 2014, columns WS135-136, that the costs of implementing policies in the Health and Social Care Act incurred to 31 March 2014 were £1,316 million. This is the latest available figure.

These costs have been more than covered by the savings arising from the Health and Social Care Act, which up to 31 March 2014, were approximately £4.9 billion.

Orthopaedics

Question

Asked by ***Lord Harrison***

To ask Her Majesty's Government what action they have (1) considered, and (2) taken, to reduce the number of preventable amputations occurring within the National Health Service. [HL2327]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Diabetes is one of the most common causes of amputations in the United Kingdom and there are a variety of mechanisms in place to support the care of people with diabetes to minimise the risk of amputations. NHS England published Action for Diabetes, which sets out that in many cases amputation as a result of diabetes is avoidable.

NHS England has also piloted a diabetes service specification in a small number of clinical commissioning groups (CCGs). Feedback has been very positive and they have now published the service specification on the NHS Commissioning Assembly website so that it is available nationally for CCGs to use.

In addition, the National Diabetes Foot Care Audit was launched this year. The audit aims to establish the extent to which national guidelines on the management of diabetic foot disease are being met, and will provide local teams with the evidence needed to tackle any

identified differences in practice which will lead in turn to an overall improvement in management and outcomes for patients.

Finally, NHS Improving Quality is supporting a project to reduce the high mortality associated with diabetic foot disease. People with diabetic foot disease are at particularly high risk of premature death, much of which is due to cardiovascular disease, with 5 year mortality for those with Type 1 or Type 2 diabetes and diabetic foot disease around 50%. The project will pilot an approach in several multidisciplinary foot clinics across the country over the next 18 months to introduce an additional clinical pathway which includes a cardiological test and subsequent actions to address risk.

Pakistan

Questions

Asked by ***Lord Ahmed***

To ask Her Majesty's Government whether they have made any assessment of the condition of internally displaced persons in Khyber Pakhtunkhwa province of Pakistan. [HL2306]

To ask Her Majesty's Government whether they have any plans to coordinate financial and material aid from the European Union and the United Nations to help internally displaced persons in Khyber Pakhtunkhwa province of Pakistan. [HL2308]

To ask Her Majesty's Government how much financial and material aid they have given to Pakistan in total to deal with the situation affecting internally displaced persons in Khyber Pakhtunkhwa province. [HL2368]

To ask Her Majesty's Government whether they are liaising with the government of Pakistan in order to assist internally displaced persons in Khyber Pakhtunkhwa province. [HL2369]

The Parliamentary Under-Secretary of State, Department for International Development (Baroness Northover) (LD): Before the military operation in North Waziristan which started in June 2014, the UK had provided £7 million to support internally displaced people in Northern Pakistan. This helped 400,000 people access safe water and sanitation; supplied 150,000 people with food packages; and supported over 6,000 families to rebuild their livelihoods.

Since the beginning of the current military operation an additional one million people have registered as displaced. In response to this the UK has provided a further £4.7 million. This will support some of the most vulnerable people who have been identified by our partners in a joint assessment run by the UN and the Government of Pakistan. We remain in close contact with the Federal Government of Pakistan, the Provincial Government of Khyber Pakhtunkhwa and all of our partners, including the EU, to ensure an efficient, coordinated response.

Asked by ***Lord Patten***

To ask Her Majesty's Government what is their assessment of the position of Ms Asia Bibi, a Christian mother of four sentenced to death in Lahore under Pakistan's blasphemy laws; and whether they intend to make representations to the government of Pakistan. [HL2283]

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): We are concerned to hear that a Pakistan court has upheld the imposition of the death penalty in the case of Asia Bibi. We support the EU's recent statement of concern and hope that the verdict will be overturned on appeal. We regularly raise at the highest levels the misuse of blasphemy laws in Pakistan both against Muslims and against religious minorities. We have consistently pressed the Government of Pakistan on the issue of the death penalty and expressed our principled opposition to it in all cases. We will continue to raise these issues.

Parliament: Veterans

Question

Asked by ***Lord Blencathra***

To ask the Chairman of Committees whether he has any plans, in conjunction with the House of Commons Commission, to identify those posts in the Palace of Westminster which could be filled by recently disabled servicemen and servicewomen and to keep those posts open, in the first instance, only for such individuals. [HL2331]

The Chairman of Committees (Lord Sewel): There are no current plans to reserve posts in the Palace of Westminster in the first instance for recently disabled servicemen and servicewomen.

Employment practice in both Houses is to recruit through fair and open competition and to welcome job applications from people with disabilities, making any reasonable adjustments to enable disabled applicants to compete equally for employment and promotion.

The bi-cameral workplace equality network ParliABLE promotes awareness and positive approaches to disability through publicity and events which continue to be well supported by Members of both Houses.

Poliomyelitis

Question

Asked by ***Baroness Manzoor***

To ask Her Majesty's Government how they are working with civil society, other donor governments, the European Union and polio-affected countries to support the global eradication of polio. [HL2390]

The Parliamentary Under-Secretary of State, Department for International Development (Baroness Northover) (LD): The Department for International Development (DFID) has committed £300m for 2013-2019 to support polio eradication efforts led by the Global Polio

Eradication Initiative (GPEI). GPEI is co-funded by a broad range of public and private donors including the European Union. It works with polio-affected countries and implementing partners, including civil society groups such as Rotary International, to eradicate polio. The Secretary of State for International Development has also engaged closely with Rotary International on its work on polio eradication and was presented with Rotary's Polio Eradication Champion award in November last year.

Prisoners: Suicide

Question

Asked by ***Lord Beecham***

To ask Her Majesty's Government what action they propose to take in relation to the growth in the number of suicides in prisons in the light of the observations of the Prison Service Ombudsman's description of the deaths as "utterly unacceptable", as reported in The Guardian on 18 October. [HL2257]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): Every death in custody is a tragedy, and the Government is committed to reducing the number of self-inflicted deaths in prisons. All prisons are required to have procedures in place to identify, manage and support people who are at risk of harm to themselves. These procedures include the Assessment, Care in Custody and Teamwork (ACCT) process, which is a prisoner-centred, flexible care planning system for prisoners identified as at risk of suicide or self-harm. Prisons are also required to ensure that they have procedures in place to learn from deaths in custody to prevent future occurrences.

We are working hard to understand the reasons for the recent rise in the number of self-inflicted deaths, but there is no simple explanation. Additional resources and support are being provided for safer custody work in prisons, and in particular to improve the consistency of the ACCT system. The National Offender Management Service has also put in place additional staff at regional level to support staff in prisons and to share good practice, and created a dedicated learning and knowledge management team at headquarters which is providing further support for safer custody work.

Data on deaths in custody is published quarterly in the Safety in Custody Statistics Bulletin, available at www.gov.uk/government/publications/safety-in-custody-statistics.

Prisons: Mental Health Services

Question

Asked by ***Lord Bradley***

To ask Her Majesty's Government which prisons in England and Wales will include a new specialist mental health centre as part of their health care provision. [HL2244]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): The Justice Secretary has recently announced that he has agreed with the Secretary of State for Health that our officials work together to ensure that any prisoner can have mental health treatment equivalent to the best they would receive in the community.

Officials are currently drawing up options for the scope of this work, including consideration of specialist mental health centres within the prison estate. Until these options have been developed, I am unable to say what form they may take and in which prisons they may operate.

Railways: Electrification

Questions

Asked by ***Lord German***

To ask Her Majesty's Government what assessment they have made of the cost difference between electrifying both the main and relief lines between Severn Tunnel Junction and Cardiff, and electrifying the main lines only. [HL2318]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The scope is to wire the mains lines and the relief's lines therefore no assessment has been undertaken on the cost difference.

Asked by ***Lord German***

To ask Her Majesty's Government what are the implications for the operation of the railway between Severn Tunnel Junction and Cardiff if only the main lines are electrified, and not the relief lines. [HL2320]

Baroness Kramer: Network Rail is currently reviewing the operational impact only electrifying the main lines between Severn Tunnel Junction and Cardiff as part of their value engineering process. Network Rail plan to complete both route sections 8 and 9 of the Great Western electrification by winter 2017.

Railways: Exeter

Question

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what is the total estimated cost of the works near Cowley Bridge to improve the resilience of the railway by removing three weirs from the River Exe, and what funding the Environment Agency is contributing to the works. [HL2245]

The Minister of State, Department for Transport (Baroness Kramer) (LD): Network Rail has allocated £13.4million from the geo-environmental resilience programme. Their preferred option involves the removal of three weirs close to Stafford's bridge and Cowley bridge.

The Environment Agency are not providing financial assistance with the scheme, but support the scheme as it complements their Exeter Flood defence scheme and their general approach of returning rivers to their natural states.

Over the coming months, Network Rail will work with the Environment Agency to work out how they deliver the scheme collaboratively.

Railways: North West

Question

Asked by ***Baroness Massey of Darwen***

To ask Her Majesty's Government what assessment they make of (1) the case for improved commuter services from Manchester to Clitheroe, (2) the case for improved commuter services from Manchester to Burnley, and (3) the case for restoring the rail link from Manchester to Rawtenstall. [HL2363]

The Minister of State, Department for Transport (Baroness Kramer) (LD): Her Majesty's Government has recently concluded a consultation on the future of the Northern and TransPennine Express rail franchises. We are currently analysing the responses and considering options for the specifications for these franchises, including those between Manchester and Clitheroe and Manchester and Burnley, which we expect to publish in the Invitations to Tender for both franchises in December this year.

The case for restoring the rail link from Bury to Rawtenstall (part of the East Lancashire heritage railway) is being considered as part of the A56/M66 Haslingden/Rawtenstall to Manchester gateway study to be carried out by Lancashire County Council and Blackburn with Darwen Council.

Renewable Energy

Question

Asked by ***Lord Hunt of Chesterton***

To ask Her Majesty's Government what allowance is made in future costings of renewable energy for weather conditions, such as when wind or solar power are not available. [HL2345]

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): Estimates of the levelised costs of electricity generation for different technologies are published by DECC. The levelised cost of a particular generation technology is the ratio of the total costs of a generic plant to the total amount of electricity expected to be generated over the plant's lifetime (per megawatt hour). Where relevant, estimates of electricity generation make an allowance for weather conditions based on estimates of when the relevant energy source is expected to be available, on average, over a plant's lifetime (load factors). This is the case for intermittent renewable technologies such as onshore wind and solar photovoltaic.

Levelised cost estimates also depend on other assumptions, including capital costs, fuel and EU ETS allowance prices, operating costs, discount rates and other drivers. This means that there is a range around levelised cost estimates.

The DECC Electricity Generation Costs (December 2013) report contains DECC's latest levelised cost estimates.

Electricity Generation Costs Report December 2013 (Electricity Generation Costs Report December 2013.pdf)

Reoffenders

Question

Asked by ***Lord Bradley***

To ask Her Majesty's Government what arrangements are in place to identify whether a person recalled to custody has (1) a learning disability, and (2) an IQ of less than 80. [HL2314]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): No specific screening is carried out by probation staff for low IQ or for learning disability. However, the Offender Assessment System (OASys) makes specific reference to whether learning difficulties have been disclosed; in addition, it invites the offender manager to consider whether there is any evidence of speech, language or communication difficulties, as well as how these might be addressed. Each offender on licence will also have a risk management plan and sentence plan, where any learning difficulties should be identified and considered.

During recall considerations, an offender manager must consider whether the offender's behaviour indicates that they present an increased "risk of serious harm" (in terms of the OASys classifications) to the public or an imminent risk of further offences being committed. Recall must also be considered in cases where contact between the offender manager and the offender has broken down. Consideration may be given to the context and intent of the behaviour that breached the licence. Thus, the offender manager must consider whether the offender understood sufficiently the breached condition and its implications. Alternatively, the offender manager should consider whether the breach arose as a result of a lack of support. In considering these things, the offender manager should take into account learning difficulties, disabilities or a low IQ.

We plan to introduce the 'Basic Custody Screening Tool' (BCST) to all prisons in January as part of the Transforming Rehabilitation Programme. Once this has rolled out, all offenders entering custody, including all those recalled to custody, will be asked whether they have a learning difficulty or disability; and if so, to specify the nature of the difficulty or disability. The answers will inform their resettlement plan.

Rolling Stock

Question

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government whether they have a policy of encouraging rail operators to convert first class carriages to standard class. [HL2273]

The Minister of State, Department for Transport (Baroness Kramer) (LD): Government specifies high level capacity requirements and expects the industry to determine appropriate operational solutions based on local demand to deliver these requirements. Where appropriate, this may include providing additional seating capacity in standard class carriages through conversion of first class carriages. While it is not our general policy to require operators to convert first class carriages to standard class, the Government would expect operators to consider the appropriate mix of standard and first class provision in meeting local demand for their services. In the case of the recent Virgin West Coast and First Great Western Direct Awards, the Government has contracted with the operators to provide additional capacity in this way.

Sexual Offences

Question

Asked by ***Lord Smith of Finsbury***

To ask Her Majesty's Government what is their current estimate of the cost to the Exchequer to date of those parts of Operation Yewtree where (1) the defendant has been acquitted, or (2) a decision has been taken not to proceed with any further action in relation to the defendant. [HL2473]

The Parliamentary Under-Secretary of State, Home Office (Lord Bates) (Con): The Home Office does not collect information of this kind. Like all investigations led by the police, Operation Yewtree is an operational matter – in this case for the Metropolitan Police Service.

Syria

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what representations they are making to the government of Turkey over the Syrian Kurds currently detained by them at Suruc and who do not wish to be returned to Kobane. [HL2238]

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): Reports from Kobane continue to be deeply concerning. We have not made representations about these specific allegations, but we maintain a close dialogue with Turkey on the evolving crisis in the region. We applaud Turkey's generosity in hosting over 170,000 refugees that have fled the fighting in Kobane in recent weeks, in addition to the 1.4 million refugees already in Turkey.

Teachers: Training

Question

Asked by ***Baroness Morris of Yardley***

To ask Her Majesty's Government what steps they are taking to ensure that there is an appropriate regional distribution of teacher training opportunities, in the light of the level of recruitment of teachers in rural and coastal areas. [HL2547]

The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con): The Department for Education's estimate of trainee teacher need is based on a number of factors, including the current stock of teachers and pupil number projections. This national estimate forms the basis of our allocation of teacher training places.

The allocation of places for the 2015/16 academic year was based on the criteria identified in our published methodology, which is published online at: www.gov.uk/government/publications/allocation-of-initial-teacher-training-itt-places-2015-to-2016

Geographical impact was considered as part of the allocation of places for 2015/16.

Tobacco: Packaging

Question

Asked by ***Lord Palmer***

To ask Her Majesty's Government whether ministerial agreement has been reached on whether the United Kingdom is to proceed with standardised tobacco packaging; and whether it had been reached when they notified the European Commission on the draft regulations. [HL2286]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Government has not yet made a final decision on whether to introduce standardised packaging of tobacco products.

Trident Submarines

Questions

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government what long lead items have already been ordered for the replacement for the Vanguard-class submarines. [HL2402]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The long lead items ordered for the Successor submarine programme comprise:

Weapons Handling and Launch System

Gearbox components and associated equipment

Material to support the manufacture of Missile Tubes

Material to support the manufacture of Integrated Tube and Hull Fixtures

A number of other long lead items for the Pressurised Water Reactor 3 reactor plant and the associated main propulsion systems have also been ordered to support the overall build schedule; however, specifics of these items are withheld for the purposes of safeguarding national security.

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government whether the design for the missile compartment of the replacement for the Vanguard-class submarine has been finalised. [HL2403]

Lord Astor of Hever: It is anticipated that the design of the Common Missile Compartment will be finalised at the whole boat design and integration review during 2019.

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government how much they estimate will have been spent on the replacement for the Vanguard-class submarine by 7 May 2015. [HL2404]

Lord Astor of Hever: The last financial year for which figures are available show that £2,068 million has been spent on the replacement for the Vanguard Class submarine up to 31 March 2014. This is consistent with the level of approval set for the Successor programme.

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