PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TRADE UNION BILL

Tenth Sitting

Tuesday 27 October 2015

(Afternoon)

CONTENTS

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Saturday 31 October 2015

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: † Sir Edward Leigh, Sir Alan Meale

† Argar, Edward *(Charnwood)* (Con)
† Barclay, Stephen *(North East Cambridgeshire)* (Con)
† Blenkinsop, Tom *(Middlesbrough South and East Cleveland)* (Lab)
† Boles, Nick *(Minister for Skills)*
† Cameron, Dr Lisa *(East Kilbride, Strathaven and Lesmahagow)* (SNP)
† Cartlidge, James *(South Suffolk)* (Con)
† Doughty, Stephen *(Cardiff South and Penarth)* (Lab/Co-op)
† Elliott, Julie *(Sunderland Central)* (Lab)
† Ghani, Nusrat *(Wealden)* (Con)
† Howell, John *(Henley)* (Con)
† Kennedy, Seema *(South Ribble)* (Con)
† Mearns, Ian *(Gateshead)* (Lab)
† Morden, Jessica *(Newport East)* (Lab)
† Morris, Anne Marie *(Newton Abbot)* (Con)
† Prentis, Victoria *(Banbury)* (Con)
† Stephens, Chris *(Glasgow South West)* (SNP)
† Stevens, Jo *(Cardiff Central)* (Lab)
† Sunak, Rishi *(Richmond (Yorks))* (Con)

Glenn McKee, Anna Dickson, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 27 October 2015

(Afternoon)

[Sir Edward Leigh *in the Chair*]

Trade Union Bill

Clause 17

Power to impose levy

2 pm

Question proposed, That the clause, as amended, stand part of the Bill.

The Minister for Skills (Nick Boles): I want to clarify a point that was made just before we adjourned this morning. The hon. Member for Cardiff Central asked whether federated employer associations such as the CBI will be covered by the levy, and I said no. Indeed, it was narrowly correct to say that because the CBI will not be caught by the levy, but it may help the Committee if I provide a little more context to my answer.

Federated employer associations would be covered by the levy, provided that they meet the statutory definition in the Trade Union and Labour Relations (Consolidation) Act 1992. The certification officer keeps a list of employer associations that have asked to be listed, as well as a schedule of those that have not applied to be listed but that the certification officer considers meet the statutory definition. The CBI is not listed, so as it stands the levy will not cover an organisation of that type. It will continue to be left to the certification officer to decide who meets the definition in the future. I will be happy to write to the hon. Lady if she would like further clarification on the statutory definitions in the 1992 Act and how they apply in practice.

Jo Stevens (Cardiff Central) (Lab): I am grateful to the Minister. If he could write to me, that would be good.

Question put, That the clause, as amended, stand part of the Bill.

The Committee divided: Ayes 10, Noes 8.

Division No. 39]

AYES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

NOES

Blenkinsop, Tom	Mearns, Ian
Cameron, Dr Lisa	Morden, Jessica
Doughty, Stephen	Stephens, Chris
Elliott, Julie	Stevens, Jo

Question accordingly agreed to.

Clause 17, as amended, ordered to stand part of the Bill.

Clause 18

Minor and consequential amendments

Question proposed, That the clause stand part of the Bill.

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): It is a pleasure to serve under your chairmanship for our last sitting, Sir Edward. I appreciate that this may be a technical clause. It brings into effect a schedule that contains many minor and consequential amendments. Will the Minister provide a little detail about those amendments, and whether there is any substantive change to Government policy in the clause?

Nick Boles: Nothing would give me greater pleasure.

Clause 18 gives effect to schedule 4, which, as the hon. Gentleman says, provides minor and consequential amendments to existing legislation to take account of the changes to legislation brought in by the Bill. Specifically, the schedule makes amendments to the Trade Union and Labour Relations (Consolidation) Act 1992 concerning the arrangements for the register of members' names and addresses; minor amendments to accommodate the changes that provide for an opt-in to the political fund, so that where there are references to members not being exempt there is a reference to members contributing; minor changes to the arrangements to ballots, including making clear that spoiled ballot papers are to be included in the count of those voting for the purpose of the 50% threshold; and minor changes to provisions to cross-refer to the additional requirements in the voting paper in clause 4.

The schedule also makes clear, by amendments to the Trade Union and Labour Relations (Northern Ireland) Order 1995, that the Northern Irish legislation will continue to apply to Northern Irish members of unions in Great Britain. It updates the language, so a decision to opt in under the Northern Irish legislation will be treated as a decision to opt in under the new provisions of the 1992 Act.

The schedule also amends the trade union administration aspects of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, which in turn also amends the Trade Union and Labour Relations (Consolidation) Act 1992.

Finally, there are other minor repeals to other employment legislation for provisions no longer needed as a result of the Bill's provisions.

Stephen Doughty: I thank the Minister for those clarifications. I am sure that, as he suggested, a number of the elements are simply technical, but as several of them relate to facilitating the passage of the rest of the Bill and the gagging Act, which the Minister referred to using its formal name, we do not want to support them.

Question put, That the clause stand part of the Bill.

The Committee divided: Ayes 10, Noes 8.

Division No. 40]

AYES

Argar, Edward	Cartlidge, James
Barclay, Stephen	Ghani, Nusrat
Boles, Nick	Howell, John

Kennedy, Seema	Prentis, Victoria
Morris, Anne Marie	Sunak, Rishi

NOES

Blenkinsop, Tom	Mearns, Ian
Cameron, Dr Lisa	Morden, Jessica
Doughty, Stephen	Stephens, Chris
Elliott, Julie	Stevens, Jo

Question accordingly agreed to.

Clause 18 ordered to stand part of the Bill.

Schedule 4

MINOR AND CONSEQUENTIAL AMENDMENTS

Amendments made: 96, in schedule 4, page 29, line 11, at end insert—

"In section 93 of the 1992 Act (effect of amalgamation), after subsection (2) insert—

"(2A) Where—

(a) subsection (1) applies, and

(b) at the time of the amalgamation there has already been a renewal date under section 84 for one or more of the amalgamating unions,

the first renewal date under that section for the amalgamated union is the earliest date after that time which would (but for the amalgamation) have been the first renewal date for any of the amalgamating unions.""

This amendment deals with the effect of an amalgamation of unions on the new opt-in rules. It fixes the "first renewal date" for the amalgamated union where at least one of the amalgamating unions has already had a renewal date at the time of the amalgamation.

Amendment 97, in schedule 4, page 29, line 39, at end insert—

"(1) Section 254 of the 1992 Act (certification officer) is amended as follows.

(2) In subsection (5A) omit "Subject to subsection (6),".

(3) Omit subsection (6)."

See the explanatory statement for amendment 95.

Amendment 111, in schedule 4, page 30, line 29, leave out from "subsection (6)" to end of line 30 and insert—

"(a) omit "24C,";

(b) at the end insert "and after "45C" insert "or paragraph 5 of Schedule A3"."—*(Nick Boles.)*

This amendment is to correct a drafting error.

Question put, That the schedule, as amended, be the Fourth schedule to the Bill.

The Committee divided: Ayes 10, Noes 8.

Division No. 41]

AYES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

NOES

Blenkinsop, Tom	Mearns, Ian
Cameron, Dr Lisa	Morden, Jessica
Doughty, Stephen	Stephens, Chris
Elliott, Julie	Stevens, Jo

Question accordingly agreed to.

Schedule 4, as amended, agreed to.

Clause 19

FINANCIAL PROVISION

Question proposed, That the clause stand part of the Bill.

Stephen Doughty: I would not normally seek to speak on the latter clauses of a Bill, but I rise to make a point and to give the Minister one last chance to answer. The Bill's provisions are clearly extensive, and a number of them are on extraordinarily shaky legal grounds. Will the Minister clarify whether the Government have set aside funds to consider any legal challenges that might arise once the legislation comes into force?

Nick Boles: I think I have pretty much answered that question already. We have not made a specific provision for public expenditure. Indeed, we expect public expenditure to be reduced by the introduction of the levy, which will ensure that the costs of the certification officer that currently fall on the taxpayer will fall on those regulated—the employer associations and trade unions.

Question put, That the amendment be made.

The Committee divided: Ayes 10, Noes 8.

Division No. 42]

AYES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

NOES

Blenkinsop, Tom	Mearns, Ian
Cameron, Dr Lisa	Morden, Jessica
Doughty, Stephen	Stephens, Chris
Elliott, Julie	Stevens, Jo

Question accordingly agreed to.

Clause 19 ordered to stand part of the Bill.

Clause 20

EXTENT

Question proposed, That the clause stand part of the Bill.

Stephen Doughty: Again, I would not normally rise to speak on such a clause, but I want to do so to underline the very many points that have been made about the potential conflict with the devolution settlement. Much of the Bill makes changes to the 1992 Act, which came into effect long before the advent of devolution in Scotland and Wales and, indeed, London, and before the increased devolution to local authorities and mayors throughout England. I merely take this opportunity to underline that point and to give the Minister another chance to say when he plans to meet his cabinet colleagues the Secretaries of State for Wales and for Scotland and when he plans to engage in discussions with the First Ministers of Scotland and Wales and the leaders of devolved local authorities across England to discuss the concerns that have been raised and whether the Bill should be amended further on Report or, indeed, in the other place.

Nick Boles: We are huge respecters of the devolution arrangements, which is why we do not propose that the Bill should apply to Northern Ireland, except in a very small measure. The position is clear: such matters are handled differently in Northern Ireland. We are equally respectful of the devolution settlement with Scotland and Wales, which is why all the provisions of the Bill apply to Scotland and Wales. They relate to employment law, which is a reserved matter.

Question put, That the amendment be made.

The Committee divided: Ayes 10, Noes 8.

Division No. 43]

AYES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

NOES

Blenkinsop, Tom	Mearns, Ian
Cameron, Dr Lisa	Morden, Jessica
Doughty, Stephen	Stephens, Chris
Elliott, Julie	Stevens, Jo

Question accordingly agreed to.

Clause 20 ordered to stand part of the Bill.

Clause 21

COMMENCEMENT

Question proposed, That the clause stand part of the Bill.

Stephen Doughty: Yet again, it is unusual for me to speak on such a clause, but it is important that I do because I want to give the Minister a chance to enlighten us as to when we might see some regulations under statutory instrument coming forward under the Bill. He refused to be drawn on this matter earlier in Committee, but the trade union community and many stakeholders in the Bill are hearing rumours circulating—the place is awash with rumours—that various draft regulations might be published in the very near future. Does the Minister plan to introduce draft or formal regulations within the next couple of weeks, the next month, the next six months or the next year? Perhaps he can give us an idea of the ballpark.

Nick Boles: I am happy to reassure the hon. Gentleman that we will bring forward draft regulations when they are good and ready.

2.15 pm

Question put, That the clause stand part of the Bill.

The Committee divided: Ayes 10, Noes 8.

Division No. 44]

AYES

Argar, Edward	Ghani, Nusrat
Barclay, Stephen	Morris, Anne Marie
Boles, Nick	Prentis, Victoria
Cartlidge, James	Sunak, Rishi

NOES

Blenkinsop, Tom	Mearns, Ian
Cameron, Dr Lisa	Stephens, Chris
Doughty, Stephen	
Elliott, Julie	Stevens, Jo

Question accordingly agreed to.

Clause 21 ordered to stand part of the Bill.

Clause 22

SHORT TITLE

Question proposed, That the clause stand part of the Bill.

Stephen Doughty: Briefly, I can think of many other names that would be suitable for this Bill, but I am sure that you, Sir Edward, would rule them out as unparliamentary. We intend to go on the way we have done throughout the Bill, and we will oppose this clause as well.

Question put, That the clause stand part of the Bill.

The Committee divided: Ayes 10, Noes 8.

Division No. 45]

AYES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

NOES

Blenkinsop, Tom	Mearns, Ian
Cameron, Dr Lisa	Morden, Jessica
Doughty, Stephen	Stephens, Chris
Elliott, Julie	Stevens, Jo

Question accordingly agreed to.

Clause 22 ordered to stand part of the Bill.

New Clause 11

PROHIBITION ON DEDUCTION OF UNION SUBSCRIPTIONS FROM WAGES IN PUBLIC SECTOR

'(1) After section 116A of the 1992 Act insert—

"Deduction of trade union subscriptions from wages

116B PROHIBITION ON DEDUCTION OF UNION SUBSCRIPTIONS FROM WAGES IN PUBLIC SECTOR

(1) No relevant public sector employer may make trade union subscription deductions from wages payable to workers.

(2) An employer is a relevant public sector employer if the employer is a public authority specified, or of a description specified, in regulations made by a Minister of the Crown.

(3) A Minister of the Crown may by regulations provide, in relation to a body or other person that is not a public authority but has functions of a public nature and is funded wholly or partly from public funds, that the body or other person is to be treated as a public authority for the purposes of this section.

(4) Regulations under this section may make provision specifying the person or other entity that is to be treated for the purposes of this section as the employer of a person who is employed by the Crown.

(5) The regulations may—

(a) deem a category of persons holding an office or employment under the Crown (or two or more such categories taken together) to be an entity for the purposes of provision made under subsection (4);

(b) make different provision under subsection (4) for different categories of persons holding an office or employment under the Crown.

(6) Regulations under this section may—

(a) make different provision for different purposes;

(b) make transitional provision in connection with the coming in to force of any provision of the regulations;

(c) make consequential provision amending or otherwise modifying contracts of employment or collective agreements.

(7) Regulations under this section are to be made by statutory instrument.

(8) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(9) In this section—

"trade union subscription deductions" means deductions representing payments to a trade union in respect of a worker's membership of the union;

"wages" has the same meaning as in Part 2 of the Employment Rights Act 1996 (see section 27);

"worker" has the same meaning as in that Act."

(2) In section 296 of that Act (meaning of "worker" and related expressions), in subsection (3), after "68(4)," insert "116B(9),"." .—*(Nick Boles.)*

This amendment would prohibit public sector employers prescribed by regulations from deducting trade union subscriptions from workers' wages and sending these to the unions concerned, a service called 'check-off'. Commencement of the ban would allow a reasonable period for affected workers and unions to make alternative arrangements to check-off.

Brought up, and read the First time.

Nick Boles: I beg to move, That the clause be read a Second time.

The Chair: With this, it will be convenient to consider amendment (a) to the new clause, line 43 at end insert—

"(10) The provisions in this section shall only apply with the consent of the Scottish Government, Welsh Government, Northern Ireland Executive, the Mayor of London and local authorities in England in their areas of responsibility."

Nick Boles: I also wish to resist the amendment to the clause tabled on behalf of the Scottish National Party. My right hon. Friend the Minister for the Cabinet Office and Paymaster General announced in August that the Government intended to end the outdated practice of check-off in the public sector. New clause 11 gives effect to that intention. It would prohibit relevant public sector employers in due course from deducting trade union subscriptions from workers' wages and sending these to the unions concerned.

Check-off is anachronistic. It dates from a time when most workers did not have bank accounts and direct debit payments did not exist. Nowadays all public sector workers have bank accounts, and trade union subscriptions can very easily be paid by direct debit. Trade unions themselves agree that filling in a direct debit form is a simple and straightforward task. Even the PCS union's own website currently promotes direct debit, saying:

"It's quick and easy to sign up for direct debit—you can do it online in a couple of minutes. You just need your membership or National Insurance number and bank account number and sort code".

Direct debits can even be set up on mobile phones. In addition to its convenience, this way of making payments gives employees the freedom to set up the direct debit arrangement with the trade union of their choice, as well as consumer protection under the direct debit guarantee. Such protection was withdrawn for check-off 17 years ago.

In any case, there is just no need for the relationship between a trade union and its members to be intermediated by the members' employer. Trade unions should have a direct subscription relationship with their members, using direct debit like any other modern member-based organisation. The collection and administration of union subscriptions is no business of the employer. It should be a matter for a union and its members to arrange between themselves.

At a time of fiscal consolidation, taxpayer-funded employers providing the important public services that we all rely on should no longer carry unnecessary burdens. These include the burden of administering check-off on behalf of those trade unions that have not yet modernised their subscription arrangements. This in turn puts employers at risk of an employment tribunal claim if they make a mistake when deducting union dues. Where an employer provides a check-off service, it puts itself under a legal obligation to do so in a particular way under the 1992 Act. An employer that makes a mistake can be taken to an employment tribunal. That should not be at the expense of the taxpayer when it could so easily be avoided by making alternative arrangements to check-off.

The majority of civil service employers have already decided to remove check-off, and trade unions affected by those decisions have been successful in making alternative arrangements for their members to pay their subscriptions by other means. The vast majority of their members have switched to direct debit.

It is important to emphasise that we are not planning to spring this change on public sector employers and trade unions overnight. We recognise that affected unions will need time to implement the change and get their members to switch to direct debit. They have been on notice since we announced the provision in August.

Furthermore, the change will be brought about by affirmative regulations that will build in a reasonable transitional period. That will allow affected unions and their members time to put in place alternative arrangements to check-off, and will be sufficient to ensure that no undue disruption is caused to the unions or their members.

Stephen Doughty: It is good to be on to the new clauses. It is intriguing that the Minister was talking about using mobile phones and the ease of doing things online—almost the very arguments that could be used in support of e-balloting and the methods connected to it—but he has chosen to apply those methods in other measures. That emphasises the debate we have been having throughout the Bill.

New clause 11 would prevent all public sector employers from deducting trade union subscriptions via payroll and would mark the end of what is called check-off.

[Stephen Doughty]

I believe that the Government are deliberately targeting trade union finances by making it harder for individuals, including lower paid workers and many women in particular, to get access to trade union representation in the workplace. That is particularly true for dispersed workforces. I was struck by the evidence I received from the Union of Shop, Distributive and Allied Workers, which works in the retail sector, about the many people working in small shops and retail outlets throughout the country who find check-off a convenient way to have their payments taken, without a complicated process. They will struggle because of the new clause.

The move is almost universally opposed, save for the Government and the TaxPayers Alliance, and we all know that the basis of the oral evidence they gave was very flimsy. It is all rather ironic when we consider that the Government's claim that the proposal will save taxpayers' money is, in fact, a red herring, given that many trade unions already cover the cost of check-off services. In some cases, the fees generated in the process and charged by Government employers for check-off provision generate a net gain for the public finances. There seems to be no sense at all in the proposals.

In pressing ahead in spite of the critics, the Government have failed to secure any substantial employer support for their proposals, as far as I am aware. Indeed, many employers, including employers in local government and the health sector—as we have heard with respect to the Scottish and Welsh Governments as well—have expressed concern that the removal of check-off arrangements could undermine constructive relations between managers and unions, which are vital to the quality of public services. Is that any wonder, when employers and trade unions were not even consulted properly?

The proposals have been introduced without a proper consultation process, engagement with the unions, or an assessment of the impact on employment relations. The proposals were not included in the Conservative party manifesto, Her Majesty's Gracious Speech, or the briefing accompanying the speech, although it would have been easy for the Government to do that. The Minister has said that everyone has long been aware of the change and has had time to prepare, but if the Government are so clear about it, why did they not make it clear when they first suggested introducing the Bill? There was no reference to the proposal in any of the BIS consultations or impact assessments that accompanied the publication of the Bill. Instead, the Government announced the plans on 6 August 2015, and published the new clause introducing the ban, which we are discussing now, only a matter of days ago.

That does not strike me as the most transparent, engaging or consultative process. Unfortunately that has been the hallmark of the Bill from start to finish. To date, the Government have failed to publish any evidence justifying the introduction of the ban, or any assessment of the potential impact of the proposal on those who would be affected.

There are also huge implementation issues. Transferring millions of members on to direct debit would create significant organisational challenges for many trade unions, particularly those operating in dispersed work forces. It will therefore be vital, if this goes ahead, that trade unions are provided with ample time to transfer members on to direct debits. We have talked about the potential unwinding of collective agreements and employment contracts in many sectors, but time will also need to be provided for employers and trade unions to renegotiate existing collective agreements, which often include aspects relating to the check-off provision.

I know many are concerned that no timetable for the introduction has been specified in the amendment. The Minister said he wants to allow a reasonable period and I hope that when he gets to his feet he will specify broadly what he has in mind. The explanatory note similarly suggests that a reasonable period will be provided, but that has no legal effect.

Tom Blenkinsop (Middlesbrough South and East Cleveland) (Lab): As I was listening to my hon. Friend's excellent speech, I was thinking about potential ramifications of this and I would be interested to hear the Minister's response. For example, if an accountant working for a council is a chartered accountant paying annual fees, does that come out of his pay packet in certain circumstances, in much the same way as check-off does? If a nurse pays annual fees to be registered as a nurse, does that come out of their pay packet as well?

Stephen Doughty: My hon. Friend makes an excellent point, one we discussed during the oral evidence sessions as well as here: there are many things that are deducted in the same format as check-off. We as MPs are allowed to make salary deductions for various things, from repayments of loans to charitable donations. Again, this is one rule for trade unions and another for everybody else and it is simply not acceptable. I hope the Minister will provide an explanation and more detail on that provision and a definition of what is a "reasonable" transition period.

The Minister will be aware of the specific concerns outlined by the TUC that trade unions will be required to sign members up to direct debit payments at the same time as needing to comply with the other significant legislative changes in the Bill. Those include encouraging millions of members within just three months to opt in to the union's political fund, even though they have voluntarily contributed for many years, gathering additional information for the certification officer and complying with the oodles and oodles of red tape and blue tape that are being put in by the Bill, let alone previous provisions such as those introduced by the gagging Act. In these circumstances, the need for significant time to allow unions to move their members on to direct debit is very clear.

As I have argued throughout this Bill, the Government are not pursuing a plan for modern and forward-looking industrial relations. They are trying to turn the clock back and offering solutions to the problems of yesteryear.

Tom Blenkinsop: I have just thought of another question. This goes back to my industrial background working with predominantly female workforces in the textile industry. Many did not have bank accounts, but were trade union members and worked on piecework rates. How will they be affected if they are disfranchised, rendered unable to join a trade union at all because they do not have a bank account?

Stephen Doughty: That is an excellent point on which I would like to hear from the Minister. Whether we like it or not, many people, particularly on low incomes or starting out on their careers, do not have bank accounts. What provision will be made for them? If they do not have a bank account, how will they be able to make these payments?

As I have said, in reality, deductions from payroll are a very common way that employers across the public and private sectors help employees to manage their finances. I mentioned examples that apply to us as Members of Parliament, but we often see things such as childcare, travel, bike loans or computer payments made through similar payroll deductions. The proposed ban on check-off for union subscriptions will affect millions who currently choose to do that through their wages. We oppose new clause 11 and call on the Government to withdraw it. At the very least, I hope that the Minister will engage with employers and trade unions in the period between Committee and Report, so that we can have some clarity when he comes back to the House on how long the transition and implementation period will be and whether accommodations can be made.

Amendment (a) enjoys the formal support of myself and my hon. Friends the Members for Wallasey (Ms Eagle) and for Edinburgh South (Ian Murray). It is an SNP amendment on securing active consent from the different parts of the UK before the ban on check-off arrangements can apply elsewhere. Were the hon. Member for Glasgow South West to push this to a vote he would certainly have our support.

2.30 pm

Chris Stephens (Glasgow South West) (SNP): It is a pleasure to serve under your chairmanship, Sir Edward.

The purpose of our amendment is to require consent from public bodies, but I wish to make some remarks about the role of check-off and the principles behind it. Our first concern is the impact on collective bargaining arrangements. An employee can pay bills through salary deductions, including council tax and rent. They can also make charitable donations—for example, in Glasgow employees can make trade union charitable donations to organisations such as Action For Southern Africa or Community HEART. Staff association subscriptions, too, can be taken off as a salary deduction. Under these proposals, however, in a collective bargaining arena where there is a staff association and a trade union or unions, the staff association would be allowed check-off, but the trade unions would not. That shows an extraordinary bias towards staff associations. I asked the Minister for the Cabinet Office about this in the evidence sessions and was advised that a staff association is internal and a trade union is not. What remarkable ignorance of how a workplace operates. Surely both organisations are internal, and employees have made a choice about who is to bargain on their behalf?

In our view, new clause 11 is designed to interfere with and unsettle those collective bargaining arrangements. I ask the Minister what is to stop a trade union reclassifying itself to become a staff association. Is that how they will be able to get round the Bill? We are asked to believe that these proposals are modernisation. In reality, they are a 19th century solution in a 21st-century world. If allowing other deductions is modernisation, then why is check-off to trade unions not modernisation? It is a fanciful and quaint notion.

We are also concerned about the legal risks that public sector employers will face in relation to these arrangements. In a recent court case, Mr Justice Supperstone said:

"I am not impressed by the argument that check off is only or primarily for the benefit of the union as such, rather than for its members in their capacity as employees. It seems to me that there is a real benefit to employees in the administrative convenience of not having to make their own arrangements for payments each month, or having to set up a direct debit or standing order and then change it or replace it from time to time as may be necessary".

Tom Blenkinsop: The hon. Gentleman makes an excellent point. Obviously, it depends on the workplace. If someone is a private sector construction worker or employed in an industry working shift patterns which are not annualised, pay will fluctuate depending upon production targets and what the market is doing. Inevitably, as a result their union subs will change, because most unions have a redistributive model for their subscriptions.

Chris Stephens: That is an excellent point. Trade unions will be denied money on that basis, as in the very example given by the hon. Gentleman. Another concern is that what we are seeing here is a situation where a voluntary agreement between a public sector body and a trade union is effectively to be banned by the state.

Julie Elliott (Sunderland Central) (Lab): Does the hon. Gentleman agree that one of the consequences—unintended, I am sure—of removing check-off will be that if there is, for instance, an industrial action ballot of a public sector workforce of many tens of thousands, with people working all over the place, it will be even more difficult for people to agree on what the bargaining unit is in that case. If people pay by direct debit—as many trade union members already do—then when they change their place of work, if they are still working for the same employer, their place of work will not necessarily notify their trade union.

Chris Stephens: That is right, and it is an excellent point. There is also the other example of someone who works for a large employer who may have two different jobs for that employer—perhaps part time in two departments. Again, the hon. Lady makes an excellent point.

If the state is banning voluntary collective agreements, I must ask the Minister at what the point the Conservative party went from being laissez-faire to Stalinist. This goes against what I consider to be the principles the Conservative Party was founded on. The arguments advanced are also irrelevant because, if income tax can be deducted at source, then why not trade union subscriptions?

The measure will also leave the public sector at risk of legal challenge. The International Labour Organisation is looking at other countries that have tried the same thing, such as Congo. In 2010 the ILO committee of experts reported

"since the check-off system was abandoned in 1991, there has been no procedure for deducting trade union dues from workers' pay. According to the Government, in practice, all unionized workers are expected to pay their dues to the trade union office. The Committee once again notes with regret that the Government has still not specified whether the abandonment of the check-off system in 1991 had the effect of barring trade unions from negotiating procedures allowing trade union dues to be deducted

[Chris Stephens]

from members' pay. The Committee once again reminds the Government that the deduction of trade union dues by employers and their transfer to the unions is not a matter that should be excluded from the scope of collective bargaining".

The ILO committee of experts is now making observations on Croatia as well. It noted that

"in general, a legal provision which allows one party to modify unilaterally the content of signed collective agreements is contrary to the principles of collective bargaining".

Its continues:

"The Committee requests the Government to provide a copy of the aforementioned Act and underlines the importance of ensuring that any future Act on the Realization of the State Budget does not enable the Government to modify the substance of collective agreements in force in the public service for financial reasons."

Those are very serious matters. The Government are leaving themselves open to risk on that basis.

Once again, the principles of consent are relevant. Some public bodies, as the shadow Minister has said, receive income from trade unions to administer check-off, and the general secretary of Unison, Dave Prentis, made it clear in his evidence that Unison pays for the facility when it is asked to. The public sector does not support the principle of banning check-off. The consent of the devolved Administrations, local authorities and other public bodies should be required, but we believe that the real intention is to make derecognition easier in the workplace. The new clause strikes at the heart of trade union organisation and is insidious.

I do not think that the Minister has yet demonstrated that he understands the principles of consent or devolution. He has made the extraordinary claim that the Government are complying with the Smith agreement, but I think that the only people who think so are the Government; no independent analysis shows that. I think that it is the right of all public bodies to institute their own arrangements for industrial relations, check-off and facility time. We appeal to the Minister once again to try to understand the principles behind those things, and I hope he will accept the amendment.

Jo Stevens: It is a pleasure to serve under your chairmanship for the final Committee sitting, Sir Edward.

In tabling the new clause on check-off, the Government seem extremely concerned to bring trade unions into the 21st century. For the second time in Committee I am forced to admit that I agree with the Minister—not on the content of the new clause, but on the aim of modernisation. The Government seem to believe that paying union subscriptions online, via a bank account, is an acceptable facet of 21st-century trade unionism, but that secure online balloting is not. We must ask ourselves why.

I had an inkling of that while looking back through a 2011 Conservative Home column—I have very exciting evenings—which, thanks to a quotation from the then Under-Secretary of State for Communities and Local Government, specifically tied the issue of check-off to the collection of a political levy. That makes me wonder whether the motive for the new clause has more to do with that issue. About 3.8 million public sector workers could be affected by the proposed changes, yet there is no groundswell of demand for the changes from anyone other than the Conservative party.

I want to set out a few inconsistencies to highlight how the new clause does not make sense. I have mentioned the Government's hypocrisy in opposing online balloting, so I begin with the fact that the use of check-off is voluntary. No employer has to offer it. As with facility time, the right should be with the employer to decide whether the practice benefits their workforce or not. In the case of local government and the devolved Governments in Wales and Scotland, the Westminster Government are imposing top-down solutions to problems that do not exist on the ground.

Secondly, this is not about taxpayers' money. In many instances, as we have heard, trade unions pay for the very small cost of administering check-off. As the Minister has pointed out, this is the 21st century: payroll is automated. As Unison noted it its written evidence to this committee, the former Chief Secretary to the Treasury in the coalition Government wrote to stop attempts to end check-off, saying that,

"Departments should be aware that there is no fiscal case for doing this, as the Unions have offered to pay any costs associated with check-off, which are in any case minimal".

As the hon. Member for Glasgow South West mentioned, Unison general secretary Dave Prentis gave us evidence on 15 October about check-off arrangements and gave numerous examples of arrangements that Unison has in place where it either pays for the check-off system, or the employer that the union works with makes money out of it. He named Fife Council, East Lancashire hospitals, Bradford City Council, and Derbyshire County Council, to name a few. If cost really were the issue here, surely the appropriate response is to ensure that the costs are met, rather than to entirely abolish the system.

That brings me to how check-off is used by other organisations. From animal welfare to cancer charities, from helping the homeless to children's organisations, payroll giving is commonplace. Workplace Giving UK says that it is the most efficient way to give to charity—it works with huge charities such as the Stroke Association and Macmillan. The Payroll Giving Centre claims that over 8,000 employers use the system, with over 1 million people donating from their salaries. It is efficient and easily understood, yet while this system of giving seems set to continue and indeed expand for charities, it is being removed for trade union members.

Finally, on transparency and accountability, check-off ensures that members do not continue to pay their subscription after they have left employment. It is a very clear and easy way for a member to pay subscriptions when in employment but not to continue doing so when they leave their job. Taken with other sections of this Bill, this new clause contributes to a new, sprawling and costly bureaucracy that is being put in place with the sole aim of impeding the ability of trade unions to organise politically and industrially. This is all that this is.

We oppose the new clause and the Bill, but if the Minister really wishes to demonstrate that he is serious about modernisation, I urge him to withdraw the new clause and instead bring forward measures to ensure that taxpayers' money is not spent on check-off, if that really is his concern, and to specify that trade unions pay for the facility themselves, as many already do.

Nick Boles: I will start by answering some of the questions raised by Opposition Members. There was a question about the transition period and how long trade unions with check-off arrangements would be

given to move people over to direct debits. My right hon. Friend the Minister for the Cabinet Office has suggested that a transition period of six months from commencement of the provisions on check-off would be appropriate.

Stephen Doughty: I am interested in that response. Why is a six-month period suggested for transition on check-off but only three months for the transition on political fund opt-ins? What is the justification for that?

Nick Boles: Probably it relates to the fact that check-off does not just involve the relationship between the trade union and the individual member, as the political fund does. It also involves the employer, so there are more administrative steps to go through. I am surprised that the hon. Gentleman does not welcome the fact that the period is longer. We could have aligned the two periods of course, but no doubt he would have attacked us for doing that. I do not expect to be thanked for these things, but a little generosity at this stage in consideration of the Bill might be nice.

Secondly, a number of hon. Members have made a big play of the fact that a number of trade unions pay for the check-off arrangement. Indeed, they are right to do so. The difficulty is that research carried out by their favourite organisation, the TaxPayers Alliance, revealed that in fact only 22% of public sector employers charge for check-off, so it is a little rich to claim that public sector organisations are somehow making a nice turn on it. I remember from the evidence sessions that the hon. Member for Cardiff Central suggested that social workers would have to be fired if the check-off arrangement were ended. There are relatively few situations in which public sector organisations are being paid for the administrative task that they fulfil.

Several hon. Members *rose—*

Nick Boles: I have clearly stirred a hornets' nest. I am spoiled for choice. I will start with the hon. Member for Sunderland Central, because we have not heard from her today.

Julie Elliott: I have made a couple of interventions. Can the Minister advise from what return the figure of 22% was derived? My understanding is that it is not based on 100%, so it is not an entirely complete figure.

2.45 pm

Nick Boles: I have no doubt that the hon. Lady quotes surveys, samples and everything else in her contributions to various debates, so she will be aware that it is possible to draw conclusions about the behaviour of organisations without necessarily interviewing every single one of them. Indeed, I believe her own party took a great deal of encouragement from various opinion polls before the election that seemed to offer predictions about voter behaviour.

The TaxPayers Alliance report in 2013 revealed that 972 public sector organisations that it had contacted and from which it received responses deducted membership subscriptions to trade unions in the check-off arrangement. Of those, 213, or 22%, charged the union for the service. Charging arrangements ranged from a proportion of the costs of subscription—between 0.5% and 6%—to a flat charge per employee or a monthly fee charged to the union. I make no claim that every single public sector employer was interviewed, but it is a reasonably large sample, and it would be surprising if the average for the whole were very different.

Chris Stephens: Since the Minister published the new clause, how many public sector employers have written to him supporting the removal of check-off? I am curious about it. If some have decided to provide it freely, there does not seem to be a lot of support in the public sector for banning it completely.

Nick Boles: Funnily enough, the hon. Gentleman's question gets to the heart of the difference between the Conservative party and the Scottish National party. We believe that the public sector employers are the taxpayers—the people of Great Britain who work and pay taxes in order to pay for us and for everybody else in the public sector, and for everything that the public sector does. They are the employers, not the board of this NHS trust, that police force or this local authority, which are charged by the taxpayer to discharge their responsibilities and handle taxpayers' money cautiously and carefully. It is entirely reasonable for us as representatives of the ultimate employers of the public sector—the taxpayers—to represent their interests and insist that they get value for their money, which they are currently not getting through check-off. I will now move to the amendment, unless—

Tom Blenkinsop *rose—*

Nick Boles: I have not heard from the hon. Gentleman, so why not?

Tom Blenkinsop: The main point that we are trying to make is that there are managers who run large public sector organisations who have HR competencies and deal with vast amounts of public sector workers: take the NHS, for example, or any hospital trust. They will be very concerned about any breakdown in recognition—the ability to know where their staff are, who represents them and who to talk to on a collective basis. There will be massive chaos if individual consultation is required on every HR matter.

Nick Boles: I am the first to defer to the hon. Gentleman on intimate knowledge of the detailed realities of working for trade unions and working in an organisation with high levels of union representation—I do not claim to be able to match him on that—but we have got rid of check-off in the civil service over the last few years. There are many issues at debate in the civil service. I am not going to suggest that everything is sweetness and light there, but it is a bit of a stretch to say that the removal of check-off specifically has caused chaos in the civil service.

Tom Blenkinsop *rose—*

Nick Boles: No, I will just finish. The hon. Gentleman can put his hand down, because I have noted that he wants to intervene. He will be well aware that some civil service unions—I mention no names—have lost members to other unions, not to no union but to other unions, because, now that there is no check-off, other unions that offer a better service, possibly at a lower cost, can get in and win the support of individuals in the civil service, whereas the legacy union was simply relying on individuals being locked in through a check-off system. I would have thought that the modern Labour party,

[Nick Boles]

which I know he always feels he is part of, would want to support the introduction of a little competition among unions in offering a consumer service to their members.

Tom Blenkinsop: Unfortunately, the Minister displays his ignorance, because inter-union competition has been going on for decades, since the Bridlington agreement. In the interest of the nation, its people, the public sector and its employees, we want proper recognition agreements so that both parties know with whom they are talking. Trying to say that this is about helping trade unions to recruit members is pathetic. That is a completely redundant argument, and it does not represent the interest of the British general public. What we want to know is that, when paramedics bring up industrial issues and health and safety concerns, they will be talking to an HR manager who knows what they are talking about, rather than having to talk to various individuals in a scattergun fashion, thereby putting services at risk.

Nick Boles: I feel that I may have touched a nerve, so perhaps I better not press that any further.

I will move on to the amendment tabled by the SNP. The Committee debated similar amendments at length last Tuesday. As I said then, all the provisions in the Bill relate to employment and industrial relations law, which are clearly reserved matters under the devolution settlements for Scotland and Wales. New clause 11 relates to the same reserved matters, so it is entirely in order for the Government to propose that its provisions should also apply to the whole of Great Britain. I see no reason why the Government should seek consent before applying those provisions in particular areas.

In Northern Ireland, on the other hand, employment and industrial relations are transferred matters so, respecting the agreement that was properly reached with Northern Ireland, new clause 11 will not apply there. Certain responsibilities are being devolved to local authorities in England and to the Mayor of London, but none of those responsibilities includes employment and industrial relations law. Amendment (a) seeks to carve out different arrangements for Scotland, Wales, London and English local authorities on matters of employment and industrial relations law, which Parliament has already determined are reserved. I therefore ask hon. Members not to press the amendment.

Stephen Doughty: We received clarification on this in the previous similar debate. Proposed new section 116B(3) of the Trade Union and Labour Relations (Consolidation) Act 1992 states that such regulations may potentially apply to bodies that are wholly or partly funded from public funds. We have talked about organisations that receive small grant funding of, say, £10,000 from public sources. Will the Minister clarify the extent to which the new clause will apply to such organisations?

Nick Boles: My understanding is that the new clause will not apply, for instance, to a charity that receives a grant from the Government—absolutely not. This is for public sector organisations, but I will happily write to the Committee to confirm that the definition will be similar to the one used for other provisions.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 10, Noes 7.

Division No. 46]

AYES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

NOES

Blenkinsop, Tom	Morden, Jessica
Cameron, Dr Lisa	Stephens, Chris
Doughty, Stephen	
Elliott, Julie	Stevens, Jo

Question accordingly agreed to.

New clause 11 read a Second time.

Amendment proposed to new clause 11: (a), line 43 at end insert—

'(10) The provisions in this section shall only apply with the consent of the Scottish Government, Welsh Government, Northern Ireland Executive, the Mayor of London and local authorities in England in their areas of responsibility."—*(Chris Stephens.)*

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 47]

AYES

Blenkinsop, Tom	Morden, Jessica
Cameron, Dr Lisa	Stephens, Chris
Doughty, Stephen	
Elliott, Julie	Stevens, Jo

NOES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

Question accordingly negatived.

Question put, That the clause be added to the Bill.

The Committee divided: Ayes 10, Noes 7.

Division No. 48]

AYES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

NOES

Blenkinsop, Tom	Morden, Jessica
Cameron, Dr Lisa	Stephens, Chris
Doughty, Stephen	
Elliott, Julie	Stevens, Jo

Question accordingly agreed to.

New clause 11 added to the Bill.

New Clause 9

STATEMENTS ON BILLS AFFECTING TRADE UNION POLITICAL FUNDS

'(1) A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill, if the Bill contains provisions which are likely to affect the machinery of Trade Union political funds:

(a) make a statement to the effect that the Bill has been introduced with the agreement of the leaders of all the political parties represented in the House of Commons, or

(b) make a statement to the effect that the Bill has been introduced without the agreement of the leaders of all the political parties represented in the House of Commons

as the case may be.

(2) The statement must be in writing and be published in such manner as the Minister making it considers appropriate."—*(Chris Stephens.)*

Brought up, and read the First time.

Chris Stephens: I beg to move, That the clause be read a Second time.

I refer to remarks I made when we were discussing the proposed schedule to the Bill that interference in political funds in this way is a democratic and constitutional outrage. Trying to suggest, or even thinking, that political advantage is to be gained by changing political funds in this way is wrong. As we have already heard, the approach being taken on this Bill breaches the Churchill convention.

The purpose of the new clause is to ensure that Government will try and seek agreement with all political parties. This is important because it is not just the Labour party that has benefited from trade union funds. Plaid Cymru candidates have received money from trade unions, as have SNP candidates, Green party candidates and candidates from various socialist parties in all their guises. We simply propose a mechanism for dealing with political fund arrangements and to take a gold standard approach to these matters.

Stephen Doughty: I support the new clause in the name of the hon. Member for Glasgow South West and to indicate our formal support, we have added our names to it. During the course of the debate on political fund opt-ins and so on, we also made it very clear that if the Bill receives Royal Assent in its current form, it will mark the abrupt end of the long-standing consensus in British politics that the Government should not introduce partisan legislation that would unfairly disadvantage other political parties. We also made reference to what is known as the Churchill convention, as raised by Professor Ewing in oral evidence to the Committee.

We support the new clause that would provide that before the Government introduce the Bill, which would affect trade union political funds, they should make a clear statement about whether it is being introduced with or without the agreement of all political parties represented in the House of Commons and that statement should be published. Certainly, I believe that that is the clear aim and that we should encourage the Government to seek political consensus with other political parties before introducing legislation that interferes with unions' ability in this respect. The hon. Gentleman has mentioned examples. This is a point of principle. We have not seen this attempted before. The Government can, of course, impose their will—they have the maths—on the Opposition if they wish to do so. We all know that that is the case. The question is whether it is right to do that. We have discussed these issues at length, but this clause will seek to make it clear that the Government will have to be very clear about their intentions in future.

Nick Boles: I love the way the Opposition seek to invent conventions whenever it is useful. It is an easy game to play because all that is needed is to find a very great person from the past—hopefully dead so that they cannot be consulted—take something they once said and declare it a convention. It is certainly something that, should I ever find myself in Opposition—God forbid—I will avail myself of.

3 pm

Stephen Doughty: I am sure the Minister will confirm that the noble Lord Hague is not deceased.

Nick Boles: Very far from it, and long may he not be.

Our manifesto stated very clearly that a future Conservative Government would ensure that

"trade unions use a transparent opt-in process for union subscriptions".

We were elected on that basis after a prolonged debate in the country of all the policies in all the different parties' manifestos. That is exactly what we are doing.

The right and proper place to consider the provisions relating to that manifesto promise is in Committee and on the Floor of the House. In that way, the debate is transparent and democratic, and the electorate can see what is agreed and whether it is indeed what they were promised in the manifesto. Those debates should not happen behind closed doors and be presented to the public as a fait accompli.

We heard from the hon. Member for Glasgow South West and other hon. Members during the Committee's deliberations about excellent campaigns such as HOPE not hate that receive support from trade unions through their political funds. I think we can all agree that those are very worthy causes that would command the support of all of us. I see no reason why they should not command the support of union members in exercising their opt-in to the political funds. I urge the hon. Gentleman to withdraw his new clause.

Chris Stephens: I am not going to press the new clause to a Division, because I think the case should be heard before the whole House, with all political parties present, so I will bring it back on Report. I beg to ask leave to withdraw the motion,

Clause, by leave, withdrawn.

New Clause 10

THE CERTIFICATION OFFICER

In section 254 of the 1992 Act (The Certification Officer) for subsections (2), (3) and (4) substitute—

"(2) The Certification Officer shall be appointed by the Judicial Appointments Commission, and the person appointed shall have expertise in trade union law."—*(Stephen Doughty.)*

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 10.
Division No. 49]

AYES

Blenkinsop, Tom	Morden, Jessica
Cameron, Dr Lisa	Stephens, Chris
Doughty, Stephen	
Elliott, Julie	Stevens, Jo

NOES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

Question accordingly negatived.

The Chair: I am told that there will be a Division in the House in less than a minute so we will suspend now. If there is only one Division, we will meet in 20 minutes. If there is a second Division, we will meet 15 minutes after the start of the second Division.

Stephen Barclay: I take due note, Sir Edward.

3.4 pm
Sitting suspended for Divisions in the House.

3.30 pm
On resuming—

New Clause 12

INDUSTRIAL ACTION AND AGENCY WORKERS

'(1) Subject to subsection (3), an employment business shall not introduce or supply a work-seeker to a hirer to perform—

(a) the duties normally performed by a worker who is taking part in a strike or other industrial action ("the first worker"), or

(b) the duties normally performed by any other worker employed by the hirer and who is assigned by the hirer to perform the duties normally performed by the first worker,

unless in either case the employment business does not, and has no reasonable grounds for knowing, that the first worker is taking part in a strike or other industrial action.

(2) Subject to subsection (3) an employer ("the hirer") shall not procure an employment agency to supply a work-seeker to perform—

(a) the duties normally performed by a worker who is taking part in a strike or other industrial action ("the first worker"), or

(b) the duties normally performed by any other worker employed by the hirer and who is assigned by the hirer to perform the duties normally performed by the first worker, unless in either case the hirer does not, and has no reasonable grounds for knowing, that the first worker is taking part in a strike or other industrial action.

(3) Subsections (2) and (3) shall not apply if, in relation to the first workers, the strike or other industrial action in question is an unofficial strike or other unofficial industrial action for the purposes of section 237 of the 1992 Act.

(4) For the purposes of this section an "employment business" means an employment business as defined by the Employment Agencies Act 1973.

(5) Breach of the provisions of this section shall be actionable against both the employment business and the hirer for breach of statutory duty.

(6) For the avoidance of doubt, the duty in subsections (1) and (2) above are owed to—

(a) any worker who is taking part in the strike or industrial action; and

(b) any trade union of which such a worker is a member.'—*(Dr Lisa Cameron.)*

Brought up, and read the First time.

Dr Lisa Cameron (East Kilbride, Strathaven and Lesmahagow) (SNP): I beg to move, That the clause be read a Second time.

It is a pleasure to appear again under your chairmanship, Sir Edward. The new clause pertains to agency workers. We have heard quite extensively from many public sector bodies about their concerns in this regard. They have very clear concerns relating, for example, to patient safety, which has been highlighted again and again.

Repealing the existing prohibition on hiring agency staff to replace workers participating in industrial action fundamentally undermines the right to strike. It reduces the impact of strike action and upsets the power balance between workers and employers. Deploying a replacement workforce during a strike serves only to prolong the dispute, delay resolution and embitter industrial relations.

A change of this nature has implications for all workers. If rogue employers can draft in low-paid temporary workers to break strikes, that is likely to drag down pay and working conditions for workers right across the economy, as fewer people will be willing to stand up for themselves when facing injustice at work because they will know that they can simply be replaced. The change could also have an adverse implication for the agency workers themselves. It places them in an extremely difficult situation. They may risk not getting further work if they refuse such placements and they would have no statutory protection. Furthermore, introducing inexperienced workers to take on the role of the permanent workforce in a workplace that they are not familiar with has implications for health and safety and the quality of the services, as we have heard. That would impact both on the workers and on the public, who may want or require to use the services.

A recent YouGov poll found that of those surveyed, 65% were against bringing in temporary agency workers to break public sector strikes, with more than half saying that they thought that that would worsen services and have a negative impact on safety. Only 8% of the public who were surveyed believed that hiring agency workers during strikes would improve services.

Chris Stephens: In the evidence sessions, we heard from passenger transport groups, which made it plain that if train or bus drivers, for example, were replaced during a strike by people who were not trained, that would have real effects on public safety. Does my hon. Friend agree?

Dr Cameron: My hon. Friend makes an extremely good point. We have heard it time and again not just from the workers to whom he refers, but from healthcare and other workers.

The drawbacks of allowing agency staff to be used in this way are recognised by other European countries. By repealing the current legislation, the UK Government would become an outlier in this regard, as the majority

of other European countries prohibit or severely restrict the use of agency workers during industrial disputes. In effect, this would be taking us back in time to the 1970s—a time when workers were pitted against one another. Often, that led to greater discord and disharmony for all, but particularly for the ordinary working person, who had difficulty sustaining their livelihood.

Again, this is partisan legislation and it is just not right. Our new clause is designed to ensure that agency workers would not be brought in. It states that a business

"shall not introduce or supply a work-seeker to a hirer to perform…the duties normally performed by a worker who is taking part in a strike or other industrial action…or…the duties normally performed by any other worker employed by the hirer and who is assigned by the hirer to perform the duties normally performed by the first worker".

The new clause is designed to give the everyday worker in public services the same rights as others. It would give them the ability to engage in right and proper action as a last resort when they have to but not have their causes undermined. As we have heard, the public do not want that and it would also potentially undermine safety. I therefore look forward to the Minister's response.

Stephen Doughty: The new clause enjoys the support of the Labour party, and I would be happy to add my name and those of my hon. Friends the Members for Wallasey and for Edinburgh South to it formally. As described by the hon. Member for East Kilbride, Strathaven and Lesmahagow, the new clause would insert into the Bill a ban on the supply of agency workers during industrial action.

The Government are planning to remove the ban through regulations. It seems they have been undertaking a consultation. Regulation 7 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 prohibits agencies from knowingly supplying agency workers to replace striking workers. The change that we understand the Government are planning to bring forward will enable employers to bring in agency workers with a view to breaking strikes, regardless of the consequences for health and safety, which the hon. Lady has gone through in some detail.

We have heard from many witnesses throughout this Committee, both in the oral evidence sessions and more recently via written evidence. It is also important to look at the evidence that many organisations submitted to the Government's consultation, much of which has been made available publicly. I will touch on a few parts of that evidence that I think are very pertinent.

In the oral evidence, the Government called a witness from an organisation called 2020 Health to support their Bill, but the witness seemed unable to confirm or was unaware that trade unions are required to provide life and limb cover. The Royal College of Midwives gave evidence. When it took strike action in October 2013, the RCM and its local representatives worked with hospitals to ensure that services were still available to women in need of essential care, such as those in labour. In light of that, many will rightly ask whether the provisions on agency workers are necessary.

Recruiters are wary of using temps and agency workers as strike-breakers. Kate Shoesmith, who is head of policy at the Recruitment and Employment Confederation, which has more than 3,500 corporate members, said:

"We are not convinced that putting agencies and temporary workers into the middle of difficult industrial relations situations is a good idea for agencies, workers or their clients."

The Chartered Institute of Personnel and Development, which we have commented on many times, represents more than 140,000 members working across the public and private sectors. It warned that the Government's plans to reform trade union laws are "an outdated response" given the challenges faced today.

Frances O'Grady, the TUC general secretary, spoke of the practical problems with the proposal. She said:

"We have very good relations and agreements with agencies and the federation representing agencies in this country. We have always worked very closely on the fair principles of employers needing flexibility to cover peaks and troughs in production, or staff absences, and doing that on the basis of equal treatment within the framework of the union agreement. This proposal is obviously quite different. We are potentially talking about employers having the right to replace wholesale workers who have democratically voted to go on strike with, potentially, untrained and inexperienced agency workers."—*[Official Report, Trade Union Public Bill Committee,* 15 October 2015; c. 148, Q383.]

I also want to refer to the TUC's response to the Department's consultation, which said:

"Ciett, the International Confederation of Private Employment Agencies, has issued a Code of Conduct which prohibits the supply of agency workers during strikes…The Memorandum of Understanding between Ciett Corporate Members and Uni Global Union on Temporary Agency Work, which was signed by several UK agencies in 2008, prohibits 'the replacement of striking workers by temporary agency workers without prejudice to national legislation or practices.'"

The TUC makes clear in its evidence that

"the ban on the supply of agency workers to replace strikers has been in place for more than 30 years and is an established part of UK industrial relations practice."

We heard some striking examples from the hon. Lady, and I want to emphasise my similar concerns, particularly over transport and railways and so on. The TUC points to how:

"Agency cleaners recruited to work in food factories may not have received the requisite safety training relating to handling chemicals or cleaning products."

That places the safety of customers, let alone that of the agency workers, at risk. There were also concerns about the potential for tensions to be created around migrant workers and all the issues surrounding that, which we have already discussed at different points.

Most people have a great deal of concern about many of the circumstances we have discussed where agency workers could be brought in. The evidence is pretty damning and the Government should be embarrassed that they are trying to force the measures through, despite the chorus of opposition to them.

As I have argued throughout our consideration of the Bill, any one of the clauses on its own is bad enough, but the cumulative impact is worse still. The Government's apparent proposals on agency workers, alongside clause 7, imply that the extended notice period is being introduced to give employers additional time to organise agency workers to undermine industrial action, as well as to prepare for the legal challenges that I think will inevitably result from the Bill. We are firmly opposed to the removal of the ban on the supply of agency workers during strikes, which will make it easier for employers to break strikes or undermine their effectiveness.

[Stephen Doughty]

The Opposition believe that the measures would be bad for safety and for service users. Because they could serve to prolong or worsen industrial action, they would be bad for the general public too. It is certainly not a model for modern industrial relations. If our colleagues choose to press the amendment to a vote, they will enjoy our full and hearty support.

Nick Boles: By seeking to enshrine in primary legislation the current ban in regulations on employment businesses supplying temporary workers to cover the duties of striking workers, as well as extend the ban to hiring or engaging such workers through an employment agency, the amendment seeks to pre-empt the outcome of the Government's response to the consultation on agency workers, the purpose of which was to understand the impact of revoking regulation 7 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003, thus making it lawful to hire agency workers to cover striking workers.

I entirely respect and understand that Opposition Members have many principled objections to the proposal. There will be another opportunity to debate the merits of the proposal after the Government have responded to the consultation, if we decide to proceed with removing the regulations. The removal of the regulations—I might be anticipating the hon. Gentleman's question—will be done by affirmative resolution, which requires a debate in both Houses of Parliament. I humbly suggest that now is not the time to anticipate the Government's response to the consultation.

Stephen Doughty: Clearly we are attempting to pre-empt in this case, because we have serious concerns. The Minister rightly points out that the Government have not yet responded to the consultation. As we have seen throughout the process, we do not have the Government responses to consultation that one would think we would have had before getting to this stage of the Bill. Can he outline what percentage or number of the responses received to the consultation so far have been in favour of the Government's intentions, and how many have been implacably opposed, as our new clause is?

Nick Boles: The hon. Gentleman does not just want to anticipate the publication of the response to the consultation and the Government's decision whether to proceed with removing the ban; he wants to anticipate the contents of the response to the consultation by asking what the responses were. I am afraid that he will have to wait until we publish the response. There were numerous responses to the consultation, which closed in September, from a wide range of respondents, including businesses, schools, local authorities, emergency services and trade unions and their members, and we are analysing those responses. We will consider all representations made, and will publish a Government response in due course.

Chris Stephens: The Minister is right that we are trying to pre-empt it. Does he not recognise the concern that some of us have? In some places, agency workers have been used during industrial action. The current law is weak in trying to stop that, and we are trying to improve the situation. Does he recognise that?

Nick Boles: I certainly recognise that the Opposition feel strongly about that position, and I have absolutely no doubt that they will return with these or similar clauses, and certainly with similar arguments, should the Government decide to pursue a change in the regulations banning the use of agency workers. However, I do not want to pre-empt the Government's position, because we have not yet decided how we will respond to the consultation. On that basis, I urge the hon. Gentleman to withdraw the amendment.

Dr Cameron: Although I find the Minister extremely eloquent with an appearance of moderation, as I have done throughout, I must say that the SNP find it disingenuous. We wish to put safety, public opinion and the ordinary worker at the fore. I therefore urge the Committee to support the new clause.

3.45 pm

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 10.

Division No. 50]

AYES

Blenkinsop, Tom	Morden, Jessica
Cameron, Dr Lisa	Stephens, Chris
Doughty, Stephen	
Elliott, Julie	Stevens, Jo

NOES

Argar, Edward	Howell, John
Barclay, Stephen	Kennedy, Seema
Boles, Nick	Morris, Anne Marie
Cartlidge, James	Prentis, Victoria
Ghani, Nusrat	Sunak, Rishi

Question accordingly negatived.

Stephen Doughty: On a point of order, I want to take this opportunity, if you will allow me, Sir Edward, to thank a number of people for the conduct of proceedings during this line-by-line scrutiny of the Bill. It has been a very fulsome and forthright debate, but conducted with good humour and respect, which is always important. I thank the Minister for his good humour despite being under significant pressure. He has had a tough gig with this, having been put in this position by some of his more sinister colleagues—as I once described them—not, perhaps, sitting in this Room, but maybe in the dark recesses of the Cabinet Office and elsewhere. He knows who I mean.

More seriously, I am sure that we will come back to many issues on Report that we are not satisfied with the Government's position on and we will continue to oppose the Bill at every stage. I thank you, Sir Edward, and your fellow Chair, Sir Alan, for excellent chairing and good humour. I thank the Clerks, in particular Glenn McKee and Fergus Reid, who have provided excellent support. It is always a tough job for an Opposition to hold a Government to scrutiny and it is important that we have the support of the apparatus of the House of Commons in doing so. I also thank *Hansard* and the doorkeepers, especially for the numerous votes when we have forced them to go out and shout about in the corridor.

I thank my colleagues on this side of the Committee. It has been good to work alongside our colleagues from the SNP on many aspects of the Bill. There is much which divides our parties, but there is much that unites us on this issue. I thank, in particular, my hon. Friend the Member for Newport East, who has whipped the Bill, for her support at all times with all the procedure. On that note, high thanks to all and I look forward to joining the debate when we return in the Chamber.

Nick Boles: On a further point of order, Sir Edward, I, too, want to thank you for your chairmanship of our proceedings and for enabling us to ensure that we have a full complement on the Government Benches at all stages of the Bill, despite some of our attempts to make it hard for you to achieve that. I also thank the Clerks, the doorkeepers and everybody who has supported us in these deliberations.

I hope it will not blight the career of the hon. Member for Cardiff South and Penarth if I say that he has conducted opposition to the Bill with exemplary precision and persistence. I am very much awed by the superb support of the Rolls-Royce that is the civil service in the Department for Business, Innovation and Skills. The hon. Gentleman has to rely on a little help from trade unions and other interested parties, but mainly on the superb work of the Clerks. He has done an admirable job which has demonstrated the support of the Clerks.

I hope that the entire Committee agrees that we have given the Bill a proper going over and the fact that we are concluding proceedings a little before time—we have until 5 o'clock this evening—shows that a full and proper consideration of all the provisions in the Bill has been achieved.

I, too, thank the hon. Members from the Scottish National party. I particularly enjoyed that way that the hon. Member for East Kilbride, Strathaven and Lesmahagow, in concluding, offered me a bouquet and then slid a blade between my ribs without so much as a heartbeat or a pause for breath. Finally, I thank the *Hansard* reporters for reporting what I have said accurately—unless I said stupid things, in which case they always seem to improve what I say.

On that basis, I thank Committee members from both sides for their contributions to the debate.

The Chair: It is my pleasure to thank you, ladies and gentlemen, on behalf of Sir Alan and myself. We both found the Committee most enjoyable. Obviously feelings run high, but you have all conducted yourself brilliantly: the Minister, the Opposition spokesman, the Opposition Whip, even the Government Whip—*[Interruption.]* I love teasing him. I love him really; he is a great man. Perhaps he is one of these sinister forces we hear so much about. Seriously though, it has been a good Bill. The fact that we have finished only an hour early shows, as the Minister said, that we have given it a good going over. We have done our job and held the Government to account. All Committee members should be proud of their efforts.

Does anyone want to say anything more?

Chris Stephens *rose—*

The Chair: Oh, we must have a last word from the SNP.

Chris Stephens: This was my first Bill Committee and it has been a most interesting experience. In any event, I have come to the conclusion that it is no way to run a country. In future, consideration should be given to having more evidence sessions, because some of them were crammed in. I am just putting that out there in general terms as the views of a new Member on proceedings.

I thank you, Sir Edward, and Sir Alan. You have both been very encouraging and explained the processes as they arose. I thank the Clerks, who have been very helpful and talked us through tabling amendments. I agree that we have tried to maintain good humour; I tried myself with cultural references to "Star Wars", "Game of Thrones" and, I think, "Rainbow" in one instance. I thank all Committee members. The Labour Members have done themselves proud in providing opposition to the Bill, while the Conservative Members have tried to justify it as best they can. I look forward to continuing the debate on Report.

The Chair: On these happy occasions I always feel like I am at a count—I feel like I should thank the returning officer and the policemen. Thank you for all being so fraternal in the best traditions of our trade union movement.

Bill, as amended, to be reported.

3.52 pm

Committee rose.

Written evidence reported to the House

TUB 36 Chair of North East Regional Employers' Organisation

TUB 37 Professor Keith Ewing - further submission

TUB 38 UNISON - further submission

TUB 39 Cllr Julian Bell, Leader, Ealing Council

TUB 40 Directors of Workforce & Organisational Development, NHS Wales

TUB 41 The Law Society of Scotland

TUB 42 Tom Flanagan Consulting

TUB 43 Sara Ogilvie, Policy Officer, Liberty

TUB 44 Dave Godson & Alan Duffell, Joint Chairs of East Midlands Social Partnership Forum

TUB 45 Councillor Dee Martin

TUB 46 Councillor Barrie Grunewald - Leader of the Council, St Helens Council

TUB 47 Councillor Tony Newman

TUB 48 GMB - further submission

TUB 49 Councillor Alan Rhodes

TUB 50 TUC – further submission

TUB 51 Cllr Doug Taylor, Leader of the Council, Enfield Council

TUB 52 Fire Brigade Union

TUB 53 John Hannett, General Secretary, Usdaw

TUB 54 Cllr Anthony Hunt, Deputy Leader at Torfaen County Borough Council

TUB 55 Cllr Jennifer Mein, Leader of Lancashire County Council

TUB 56 Dusty Amroliwala, Deputy Vice Chancellor, University of East London

TUB 57 Cllr David Perry, Leader of Harrow Council

TUB 58a Letter from the Department for Business, Innovation and Skills

TUB 58b Letter from the Department for Business, Innovation and Skills

TUB 58c Letter from the Department for Business, Innovation and Skills

TUB 58d Letter from the Department for Business, Innovation and Skills

TUB 58e Letter from the Department for Business, Innovation and Skills

TUB 58f Letter from the Department for Business, Innovation and Skills

TUB 58g Letter from the Department for Business, Innovation and Skills

TUB 59 Oldham Council

TUB 60 Derbyshire County Council

TUB 61 Derby City Council