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House of Lords

Tuesday, 8 February 2011.

2.30 pm

Prayers—read by the Lord Bishop of Chester.

Crime: Media Reporting

Question

2.36 pm

Asked By ***The Lord Bishop of Chester***

To ask Her Majesty's Government whether they will review the rules for reporting the arrest and questioning of individuals by the police before they are charged with any criminal offence.

The Minister of State, Home Office (Baroness Neville-Jones): My Lords, the principle of a free but responsible press without state intervention is fundamental to our democracy, but the right reverend Prelate's Question raises a number of important issues. On Friday, during the Second Reading of the Anonymity (Arrested Persons) Bill in the other place, the Government undertook to consider whether the contempt laws and guidance on pre-charge reporting contain any gaps that may impede justice.

The Lord Bishop of Chester: I thank the noble Baroness for that Answer. I acknowledge that this is a complex area, as emerged in the debate in the other place on Friday, but will the Government at least consider extending the post-charge restrictions on reporting contained in the Contempt of Court Act to pre-charge questioning of suspects?

Baroness Neville-Jones: My Lords, on the whole the Government take the view that we want to maintain a free but, as I said, responsible press. I do not wish at this stage to go any further than to say that the Government think that there is a potential gap in our protections and that they are more than prepared to look at whether the contempt laws and police guidance on reporting contain omissions that need to be remedied.

Lord Borrie: My Lords—

Lord Morris of Aberavon: My Lords—

Lord Lloyd of Berwick: My Lords—

The Minister of State, Ministry of Justice (Lord McNally): My Lords, I think that we shall take a question from the Cross Benches and then from the noble and learned Lord.

Lord Lloyd of Berwick: My Lords, in high-profile cases, as I am sure the Minister knows, the police are often under great pressure from the press and others to make an arrest. Does she agree that it is all the more important in such cases that the police should be scrupulous in applying the test of reasonable suspicion, which is an objective as well as a subjective test?

Baroness Neville-Jones: Yes, my Lords. I think that the police would agree that they need to be scrupulous in applying the guidance that they have in such cases. Indeed, they should apply it in relation to a person who has been detained by them but not charged. They should take care not to impugn that person's reputation.

Lord Morris of Aberavon: My Lords, while the press are usually economical in the reporting of an arrested person, would I be right in surmising that the Attorney-General would have expressed some anxieties about the extent of the reports on the arrests in the Bristol case? As Attorney-General, I sometimes had to refer to the courts cases about which I was anxious. I did so not always successfully, as it was not easy to judge where the line had been crossed. In discussions between the Attorney-General and the press, would there be any merit in revisiting the boundary lines of what is fair reporting without prejudicing an arrested person?

Baroness Neville-Jones: My Lords, the Attorney-General will obviously take his remit extremely seriously. I do not know whether he will choose that route; the view has certainly been expressed, so I have no doubt that he will take notice of it. I can assure the House that the Attorney-General is quite clear that he needs to examine this issue seriously, because it has considerable ramifications.

Lord Soley: My Lords, is the Minister worried by the increasing—

Lord Borrie: My Lords, does the noble Baroness agree that it is usually unwise to act to change the law because some unfortunate individual has been embarrassed or irritated? Does she also agree that, in this type of case, questioning and the publication of the questioning by police often encourage potential witnesses to jog their memories and assist in the successful prosecution of somebody, not necessarily the first suspect?

Baroness Neville-Jones: My Lords, the noble Lord is quite right that this can be of assistance. It obviously has to be balanced with the rights of individuals who may have been detained and subsequently not charged. The Attorney-General has not chosen to act immediately precisely because he wishes to look at the issues involved, not necessarily just at this case. The Private Member's Bill was not supported by the Government and has been withdrawn, but he is going to look at the issues.

Lord Campbell of Alloway: My Lords, in these days of severe attack, one has to be careful about these rules in the interests of the whole country. To some degree, does one not have to trust the police to exercise a fair discretion and not put everything in writing?

Baroness Neville-Jones: My Lords, the police of course have guidance in writing, but the noble Lord is quite right to say that they have to interpret that guidance in light of the operational circumstances of any case. I am sure that that is what they try to do. Clearly there are tensions in the whole question of the freedom of the press, the need for the police to conduct

[Baroness Neville-Jones]
an investigation and the rights of individuals who may be affected by that. It is that balance that we need to strike.

Lord Soley: All good things come to those who wait. This is a much wider problem and it needs to be faced. It is not just the trashing of people's private lives but also the increasing use of fishing expeditions to invade people's privacy. Is it not time that the Government said to the press that we need to discuss this in a much more serious way? It is a balance between the rights of reporting and the rights of privacy and how that is dealt with. The Government need to take the lead and maybe put it on the agenda of the next meeting in Downing Street.

Baroness Neville-Jones: My Lords, I think that many of your Lordships would agree with the proposition that there are wider issues involved. Indeed, there are wider categories of people involved, not simply the persons whom we have just been talking about. The Attorney-General wants to look at, first, the question of balance and, secondly, where you draw the line in relation to categories of people.

Baroness Harris of Richmond: My Lords, can the noble Baroness say why the Government changed their decision and dropped the proposed anonymity for those accused of rape?

Baroness Neville-Jones: My Lords, the noble Baroness asks a question that I cannot entirely answer—I do not have the depth of knowledge. I will seek an answer in writing for her. The Government have certainly been looking at this issue for some time and, in the light of this case, have decided that it needs to be gripped.

Equality

Question

2.44 pm

Asked By ***Lord Smith of Clifton***

To ask Her Majesty's Government what is their policy regarding the growing gap between the rich and the poor in the United Kingdom.

The Commercial Secretary to the Treasury (Lord Sassoon): My Lords, action taken in the June Budget and spending review has demonstrated the Government's commitment to fairness. We set out in the spending review our best estimate of the overall distributional impact of the fiscal consolidation. This shows that the top 20 per cent contribute most to the fiscal consolidation as a percentage of net income and benefits in kind.

Lord Smith of Clifton: I thank the Minister for that Answer in so far as it goes. This gap has been growing for three decades. When does the Minister think that the gap will be so great that it constitutes a threat to the social fabric? Will he also give us a progress report on the pay crackdown on bankers promised by the Chancellor of the Exchequer?

Lord Sassoon: My Lords, the Government take extremely seriously the question of fairness, which is why we introduced for the first time a distributional analysis to show the effects of not only our Budget but also our spending review decisions. In the measures that we have announced so far, in what is a very difficult fiscal situation, there is a fairness premium of £7.2 billion. The Government are putting these issues centre stage. In relation to bankers' pay, my right honourable friend the Chancellor of the Exchequer has announced today that the levy on banks will be brought forward, so that the banks will be taxed at a higher level than under the previous Government's one-off spending plans. We will await further developments in relation to discussions ongoing with the banks.

Lord Eatwell: My Lords, in the noble Lord's reference to his Government's policy on this matter and to the Budget, was he not being a little misleading, as the equality analysis in the Budget included the measures introduced by Mr Darling in March? When the measures introduced by the coalition are taken alone, they do not contribute to greater equality.

Lord Sassoon: My Lords, we took some very difficult decisions about which of the previous Government's measures we would continue with and which we would not. The principal measure of the previous Government that we did not continue with was the full national insurance tax—the jobs tax—which would have been a significant drag on the growth prospects of this economy. Of course it was right that we should take into account the distributional effect of the total package of measures that we put through as a Government this year in the Budget and in the spending review. That is just what we have done.

Lord McFall of Alcluith: Is it the Government's intention to adhere to the last Government's ambition to eliminate child poverty completely by 2020?

Lord Sassoon: My Lords, this Government are committed to the Child Poverty Act 2010. I note that the previous Government struggled somewhat with their previous child poverty target; the target to halve child poverty by 2010 was widely acknowledged to have been missed. This Government are committed to the targets in the Child Poverty Act and will bring forward a strategy by the end of March 2011.

The Earl of Listowel: My Lords, the Minister will recall that the right honourable David Cameron, the Prime Minister, appointed Frank Field MP to produce a report on child poverty, which he duly did and recommended early intervention. Is he aware of the report in yesterday's *Times* in which Frank Field said that he is very concerned at the threatened closure of many Sure Start children's centres? Will the noble Lord consider with his colleagues what might be done to prevent this? Frank Field suggests that local authorities should be made aware that shortly there will be new child poverty indices and that local authorities will fall down if they do not meet them and if they close these centres.

Lord Sassoon: My Lords, Frank Field's work will indeed inform the child poverty strategy, which, as I said, will be coming forward by the end of March this year. In relation to his reported comments in the

newspapers, the Government have introduced an early intervention grant amounting to £2.2 billion, rising to almost £2.3 billion in 2012-13. It is up to local authorities how they spend that and their other resources. We have taken away significant numbers of the ring-fenced targets that they had to meet. They have money with which to keep the existing network of children's centres open and they have obligations under the Childcare Act 2006, but it is a decision for the local authorities.

Lord Boswell of Aynho: My Lords, while I in no sense wish to minimise the realities of poverty, is it not time that we started to move at least some of the terms of this debate away from a static analysis about whether one measure is or is not helpful, or whether there is enough incentive at one point in time, towards a much more dynamic approach in which we emphasise the importance of personal development, education, training and personal responsibility so that, as people move into employment, which is the best solution for poverty, they may better themselves financially and lead a more fulfilling and satisfactory life?

Lord Sassoon: I am grateful to my noble friend and I agree completely with his analysis. That is why we have introduced the £2.5 billion pupil premium to increase the emphasis on the educational development of children from the most disadvantaged backgrounds; that is why we are introducing the £150 million per annum national scholarship fund; and that is why my right honourable friend the Secretary of State for Work and Pensions is working on the most complex and important reassessment of welfare and benefits that has been attempted for two generations in order to get away from the overcomplex system of means-tested cash benefits and the dependency of far too many families who are trapped in welfare.

Baroness Farrington of Ribbleton: My Lords, would the Minister care to answer the question put by the noble Lord, Lord Smith of Clifton, who asked not about the taxation of banks but about bankers? Does he agree with me that if I received a bonus of £100 million and were to lose even half of it, that would not be the same as being in poverty and losing £10 a week?

Lord Sassoon: My Lords, the subject of the Question this afternoon is what the Government are doing about the gap between the rich and the poor, which is something that we take extremely seriously. The best thing that we can do is to set the stable conditions for sustained growth in the economy, because that is what will improve the lot of the poorest in our society.

EU: Police and Justice

Question

2.52 pm

Asked By ***Lord Pearson of Rannoch***

To ask Her Majesty's Government whether they will exercise their right to opt out of the police and justice provisions of the Lisbon treaty after 2014.

The Minister of State, Ministry of Justice (Lord McNally): My Lords, the Government are considering carefully the many different factors and implications involved in this decision, which does not have to be taken until 31 May 2014.

Lord Pearson of Rannoch: My Lords, I am grateful to the noble Lord for that Answer, which does not quite give the full picture. The Government can opt out of all the 90 or so laws now and, if they want to, opt in to any of them individually thereafter.

Does the noble Lord remember the Prime Minister saying:

> "We will want to prevent EU judges gaining steadily greater control over our criminal justice system by negotiating an arrangement which would protect it. That will mean limiting the European Court of Justice's jurisdiction over criminal law"?

First, will the Government support that promise in any vote on this matter—in the House of Commons and in your Lordships' House—which, as the noble Lord knows, has been promised down the other end? Secondly, are not the Government faced here with a straight dilemma: is it to be the wishes of the British people or is it to be appeasement?

Lord McNally: The answer to the last question is the former. The length and complexity of the noble Lord's supplementary questions indicate why the Government are sensibly taking great care to study and consult on these matters, particularly with the committees of both this House and another place, and as he rightly said, my right honourable friend David Lidington has made it clear in a Statement to the House that when the decision is to be made on these matters, there will be a full debate and vote in both Houses of Parliament.

Lord Thomas of Gresford: Does not my noble friend agree that to scrap the co-operation in surveillance, pursuit, arrest and extradition that exists with European countries in areas such as drugs, international fraud and trafficking would be simply daft?

Lord McNally: I will have to check carefully whether "daft" is a parliamentary term, but I would have thought that such a course of action would be somewhere in that range of description.

Lord Bach: My Lords, it is very good to have the Minister back answering Questions on behalf of the Government. We missed him.

The Minister will know that, during the last Parliament, the Justice Select Committee looked at this matter with some care and, I have to say, commended the last Government for much that they did in this undoubtedly very complex field. The present Government are to be commended on their reply to the Select Committee of another place, in which they said that,

> "this Government intends to play a strong and positive role in the European Union".

We say "Hear, hear" to that.

Would the Minister agree that what are needed before we move to legislation of any kind under the Stockholm programme are evidence-based proposals

[Lord Bach]
and a long look before we actually legislate? Is it not the truth about this matter that it is necessary always to be sensible and practical about it?

Lord McNally: My Lords, yes it is. That is why we are following the pattern, as the noble Lord said, of looking at these matters in a pragmatic and practical way, with a mind to defending essential British interests and making sure that our judicial system is protected while also ensuring that we retain the many benefits of cross-border and EU co-operation referred to by my noble friend Lord Thomas.

Lord Hannay of Chiswick: Does the Minister agree that it would be a little odd to suggest that we should give up the right to decide whether to opt in? Will he confirm that the Government would opt into an EU measure only when they considered it to be in Britain's national interests? Does he not think that to be able to opt in only after the matter has been negotiated by everyone else and not by us would be the least good way in which to bring our influence to bear?

Lord McNally: Again, I agree. The practical way in which we have operated since coming into office is to look at the merits of the case, to put our decision before the two Select Committees of both Houses and to listen to their advice. It makes no sense at all to have knee-jerk reactions or to play to various galleries. We are looking at these matters in Britain's interests, consulting as far and wide as we can and listening to Parliament. That is the best way in which to get the best decisions.

Lord Vinson: My Lords, under the guise of anti-terrorism and protecting society, many measures throughout history have been introduced that chip away quietly at many of our ancient liberties as enshrined, not least, under habeas corpus. I hope that the Minister will take very seriously the widespread anxiety about the continual erosion of the rights of the British citizen, which is done possibly for good short-term reasons but, in the long run, is chipping away at many of our basic and fundamental liberties.

Lord McNally: My Lords, one of my responsibilities at the Ministry of Justice is as Minister for civil liberties. I assure my noble friend that the concerns that he expressed are never far from my thoughts. Our civil liberties will have to be protected and guarded.

Lord Foulkes of Cumnock: Can the Minister recall that, when he and I fought side by side in the Labour movement for Europe for greater co-operation among the countries of the European Community, we were exceeded in our enthusiasm only by the Liberal Democrats? Is that still the case?

Lord McNally: The last time I waited to respond to an intervention from the noble Lord, Lord Foulkes, I keeled over and spent four days in St Thomas' Hospital. But I am glad to walk down memory lane with him.

Lord McAvoy: My Lords, would the Minister not agree that using denigratory terms such as "daft" and "playing to various galleries" devalues the point made by the noble Lord, Lord Pearson of Rannoch, who, for the purposes of this Question, I will call my noble friend—that will be a first in this House, I think. There is a serious point in the thrust of my noble friend's Question. In taking these decisions, it should always be borne in mind that the British public still need to be convinced that the social and other laws coming from Europe are in tune with British national opinion.

Lord McNally: Again, I could not agree more. I am saying that successive Governments have built in methods of scrutiny and consultation that should reassure all but the most sceptical of colleagues. What we are doing now and what is before both Houses should give them that reassurance. Perhaps the noble Lords, Lord Foulkes, Lord Pearson of Rannoch and Lord McAvoy, and I could meet to discuss these matters.

Citizens Advice Bureaux

Question

3 pm

*Asked By **Lord Hunt of Kings Heath***

To ask Her Majesty's Government what assessment they have made of the impact of the reduction in grants to citizens advice bureaux on their ability to provide advice to the public.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): My Lords, the Government value highly the work of Citizens Advice and of citizens advice bureaux, but the provision of advice and the funding that goes with it are a matter that rests with local authorities based on local needs and priorities. We know how difficult it is at the moment for local authorities facing tough decisions, but we have made it clear to them that in setting budgets the voluntary sector is good value for money and should be seen as a solution, not as a problem for them.

Lord Hunt of Kings Heath: My Lords, I am grateful to the noble Baroness. She says that this falls to local authorities. Is she aware that as a result of the cuts made to the CABs in Birmingham, which has a Conservative/Lib Dem authority, all its bureaux are due for closure in the next few weeks? Is she also aware that the Law Centre is similarly affected by cuts in legal aid, which are the responsibility of central government? That is being replicated up and down the country. Where are people to turn to for advice and what price the big society?

Baroness Wilcox: The noble Lord is of course right to talk about Birmingham, because after all he comes from Hall Green in Birmingham and this is very much a local issue for him. We understand that Birmingham is changing the way in which it funds advice services to ensure greater value for money in a tougher environment. It is not taking away funding for advice services—you should not always believe what you read in the newspapers. There are four bureaux there and negotiations are going on. We will keep our telephone line open while those negotiations are going on. We understand that

there will be some transition funding to bridge the gap before recommissioning for services later this year. We hope that the people of Birmingham will support their local CAB during the intervening period until recommissioning. It is a difficult time for them and we need to help all we can.

Lord Phillips of Sudbury: My Lords, I declare an interest as one who advised Citizens Advice for many years. Will the Government pay particular attention to the needs of poor people for whom year after year this place legislates rights but who cannot access those rights without the requisite legal help and advice? I am sure that my noble friend will agree that for us not to do that makes hypocrites of us all.

Baroness Wilcox: I agree with everything that my noble friend has said. Worrying about the poorest people in the country is one of the reasons why Citizens Advice is going to be supported so well by the Secretary of State for Business, because it is nearest to the people. In terms of education, advocacy and the role of Consumer Direct, we think that Citizens Advice and Citizens Advice Scotland are nearest to the people in the street for them to be able to get the advice that they need.

Lord Touhig: My Lords, as the Government are determined to cut one very fine source of free advice in Wales by removing 25 per cent of our Members of Parliament, will the Government consider providing central funding for Citizens Advice?

Baroness Wilcox: No, this is a local issue to be dealt with in Wales, for Wales, by its local governments. I am sure that they will take on board all the noble Lord's recommendations.

Lord Elystan-Morgan: Does the noble Baroness accept that the deeper the cuts that affect citizens advice bureaux and legal aid centres, the greater will be the number of cases in our courts, both civil and criminal, that are unnecessarily taken to an elongated, bitter end, to the chagrin and distress of judges and magistrates?

Baroness Wilcox: Yes, of course I agree with what the noble Lord has said. We will do everything that we can to make sure that the advice that is needed by all our people is brought as close to them as possible. That is why local government, local work, localism and the big society are going to succeed where the previous Government failed.

Baroness Turner of Camden: Families will be particularly affected by the decision not to provide legal aid in respect of the family courts. I know that as far as domestic violence is concerned aid will still be available, but on other issues families will be left on their own without any advice. Extra care must be taken to ensure that they have appropriate advice in what are often very difficult circumstances.

Baroness Wilcox: Proposals for legal aid reform are, as the noble Baroness knows, a matter for the Ministry of Justice, which is currently consulting on Lord Justice Jackson's recommendations. It will make some announcements on this fairly soon.

The Lord Bishop of Exeter: My Lords, I declare an interest as the patron of Exeter CAB. I was interested that the noble Baroness talked about the need for value for money. Could she go further and describe the mechanisms that the Government have in place for assessing the respective value of services delivered through CABs, which in the past have been judged excellent, and those services offered through other media?

Baroness Wilcox: With the local authorities, consultation happens at all times and at all levels to make sure that money is being as well spent as possible. One of the things that we try to emphasise to local authorities is that the voluntary sector is enormously good value for money. This is one of the reasons why these bureaux have been so successful, manned as they have been for so many years by volunteers—since 1939, I think, or 70 years continuously. They certainly are to be congratulated.

Lord Young of Norwood Green: My Lords—

Noble Lords: Time.

Police and Criminal Evidence Act 1984 (Codes of Practice) (Revision of Codes A, B and D) Order 2011

Motion to Approve

3.07 pm

Moved By ***Baroness Neville-Jones***

That the draft order laid before the House on 17 November 2010 be approved.

Relevant documents: 9th Report from the Joint Committee on Statutory Instruments and 14th Report from the Merits Committee. Considered in Grand Committee on 25 January.

Motion agreed.

Parliamentary Voting System and Constituencies Bill

Order of Consideration Motion

Moved By ***Lord McNally***

That the Order of Consideration of 7 February be varied so that amendments to clause 12 be marshalled and considered before those to clause 10.

Motion agreed.

Parliamentary Voting System and Constituencies Bill

Report (2nd Day)

3.07 pm

Clause 12 : Boundary Commission proposals: publicity and consultation

Amendment 27G

Moved by ***Lord Wallace of Tankerness***

27G: Clause 12, page 13, line 30, leave out from beginning to end of line 2 on page 14 and insert—

"(1) Once a Boundary Commission have decided what constituencies they propose to recommend in a report under section 3(1)(a) above—

(a) the Commission shall take such steps as they think fit to inform people in each of the proposed constituencies—

(i) what the proposals are,

(ii) that a copy of the proposals is open to inspection at a specified place within the proposed constituency, and

(iii) that written representations with respect to the proposals may be made to the Commission during a specified period of 12 weeks ("the initial consultation period");

(b) the Commission shall cause public hearings to be held during the period beginning with the fifth week of the initial consultation period and ending with the tenth week of it.

(2) Subsection (1)(a)(ii) above does not apply to a constituency with respect to which no alteration is proposed.

(3) Schedule 2A to this Act, which makes further provision about public hearings under subsection (1)(b) above, has effect.

(4) After the end of the initial consultation period the Commission—

(a) shall publish, in such manner as they think fit, representations made as mentioned in subsection (1)(a) above and records of public hearings held under subsection (1)(b) above;

(b) shall take such steps as they think fit to inform people in the proposed constituencies that further written representations with respect to the things published under paragraph (a) above may be made to the Commission during a specified period of four weeks ("the secondary consultation period").

(5) If after the end of the secondary consultation period the Commission are minded to revise their original proposals so as to recommend different constituencies, they shall take such steps as they see fit to inform people in each of those revised proposed constituencies—

(a) what the revised proposals are,

(b) that a copy of the revised proposals is open to inspection at a specified place within the revised proposed constituency, and

(c) that written representations with respect to the revised proposals may be made to the Commission during a specified period of eight weeks.

(6) Subsection (5) above does not apply to any proposals to make further revisions.

(7) Steps taken under subsection (4) or (5) above need not be of the same kind as those taken under subsection (1) above.

(8) A Boundary Commission shall take into consideration—

(a) written representations duly made to them as mentioned in subsection (1)(a), (4)(b) or (5)(c) above, and

(b) representations made at public hearings under subsection (1)(b) above.

(9) Except as provided by this section and Schedule 2A to this Act, a Boundary Commission shall not cause any public hearing or inquiry to be held for the purposes of a report under this Act.

(10) Where a Boundary Commission publish—

(a) general information about how they propose to carry out their functions (including, in the case of the Boundary Commission for England, information about the extent (if any) to which they propose to take into account the boundaries mentioned in rule 5(2) of Schedule 2 to this Act), or

(b) anything else to which subsection (1), (4) or (5) above does not apply,

it is for the Commission to determine whether to invite representations and, if they decide to do so, the procedure that is to apply.""

The Advocate-General for Scotland (Lord Wallace of Tankerness): My Lords, these amendments provide for public hearings as part of the Boundary Commission's consultation on its initial recommendations.

In Committee last week, in response to the amendment put forward by the noble Baroness, Lady D'Souza, I undertook on behalf of the Government to bring forward amendments for a public hearing process, enabling an opportunity for the public and the parties to express their view in a way that the timetable for completion of that review is met. These amendments, which are in the name of my noble friend Lord McNally, fulfil that commitment.

Perhaps it will be useful if I start by setting out how we arrived at this position. Clearly it is vital that all those with an interest in the proposals have an opportunity to have their say. In the Bill, as it was brought from the other place and as it now stands, there is no provision at all for any oral participation. We believe, however, that the boundary reviews have taken far too long in the past. The last review in England took six years and seven months to report.

Let me be absolutely clear why the Government believe that is wrong. It is not simply a question of impatience or change for its own sake. Constituency boundaries—and this is at the heart of this part of the Bill—are the means by which representation in the other place is distributed. The point has been made on all sides of the House in debates on this Bill that they must accurately reflect that representation. That means work to increase the registration rate. The same principled concern applies to making sure that boundaries are up to date and reflect where people live, not where they used to live. If we took no action, the next boundary review may not take effect until 2020. This would mean that in 2018 there will be electors who reach voting age and register to vote who will not even have been born when the basis of the pattern of representation in the Commons was determined. That is unfair and unacceptable and drives inequality in the weight of a vote. It is one of the key principles that the Bill must address.

When we were drafting these proposals it became clear that the existing system of local inquiries was not fit for purpose. Yes, it satisfies the urges of political parties to put their case at considerable length at times, but it was rarely successful in engaging the general public. I cannot make this point forcefully enough to the House. We have, many times in these debates, traded quotes across the Dispatch Box in a

bid to claim that the weight of academic evidence supports our case. However, it is clear that the academic literature supports the view, first put forward by leading expert in the field Professor Ron Johnston in 2008, that inquiries are "far too elaborate". I accept—I think the noble and learned Lord, Lord Falconer of Thoroton, quoted this in our first debate on this—that Professor Johnston made a telling observation to the Political and Constitutional Reform Committee when he conceded that there was an argument against his view on the limited value of the public inquiry stage when he told that committee:

"This time you are going to have much more where the local people are going to be concerned because suddenly the pattern of representation is going to be very different from what they have been used to for a long time".

The observation has been made on all sides of the House that there might indeed be a far greater degree of interest in the next review on the part of local people, because there will be a greater degree of change in the constituency map. We have reflected on those concerns and we have heard concerns during our debates. I think the noble Lord, Lord Brooke of Alverthorpe, mentioned his experience, when people having the opportunity to have their say was so important. The noble Baroness, Lady Liddell of Coatdyke, referred to an inquiry in the Monklands constituency—in which the late John Smith had his last public engagement—where local communities had a valuable opportunity to have their say. However, that is not the same as an argument for restoring the old system of local inquiries. If the concern is to give people the chance to have their say on proposals, old-style local inquiries will not do that. The body of evidence on that point is emphatic.

The amendments before your Lordships' House today are the Government's response to all these issues. They provide for a new public hearings stage as part of the consultation process. Their purpose is set out in new Schedule 2A, in government Amendment 39, and could not be plainer:

"The purpose of a public hearing is to enable representations to be made about any of the proposals with which the hearing is concerned".

Representations to the commission in person will be considered in the same way as the written submissions. The commissions have sensible discretion as to how many hearings there are in each region and to vary the length of the hearing, but there must be a balance of process against the principle of up-to-date boundaries. We cannot have an unlimited number of lengthy inquiries—in some cases during the previous boundary review these lasted for 12 or 10 days—focused on one or two counties or boroughs, in which lawyers can speak at length on behalf of political parties, thereby crowding out the general public, unless they happen to suit a political party interest. We will protect the commissions by placing a clear limit of five hearings in each nation or region of a maximum of two days' duration, which between them will cover the full range of the commissions' proposals.

I should be clear that what we envisage here is genuine public engagement. The public hearings will take place during the period for written representations. They will not commence until week 5, so that everyone has time to consider the commissions' proposals and form an initial view. There are four weeks for representations under the present system. The hearings will conclude by week 10, so that there will be two weeks from the date of the last public hearing for further written submissions. Those submissions might be put forward in the light of the arguments and alternatives that have been advanced during these hearings, or they might not be; other issues might have arisen.

In addition, we have recognised that there is value in the scrutiny of others' proposals. That is why these amendments also provide that at the end of the 12-week initial consultation stage, all the representations, including the record of the public hearing, will be published. There will then follow a four-week period for counter-representations on these proposals. This will allow for the effective scrutiny of the arguments put forward by others, and will ensure that the commissioners' deliberations are better informed and that the recommendations more robust. This kind of scrutiny does not need a process akin to a court, whereby a witness is cross-examined. This part of the amendment fulfils our commitment to the noble Lord, Lord Lipsey, who brought the recommendations of the British Academy, including those of Professor Johnston, to the attention of the House. That aspect of this amendment is modelled on that British Academy report.

We recognise the legitimate stake that political parties have in this process and that they can assist in bringing the arguments of others to light. That is why the amendments provide explicitly for a role for the parties at each hearing; but they allow the chair to regulate that and not exclude other voices. I cannot emphasise enough that due process is exceptionally important.

3.15 pm

Lord Clinton-Davis: Will the commission be able to extend the period of consultation where due notice is given? I am thinking of illness or other good reasons interceding.

Lord Wallace of Tankerness: My Lords, in order to give the Boundary Commissions a clear direction on this, we have indicated that there will be a maximum of two days. I do not think that anything would prevent a postponement of two days. We are giving the commissions a degree of flexibility, but the period will be a maximum of two days to make it clear that the hearings cannot go on and on. They are intended to be public engagement, not lengthy inquiry hearings.

In response also to the point made by the noble Lord, Lord Lipsey, it is open to the commissions to set clear procedures for the hearings to ensure consistency. However, the chair will be able to ensure that the procedure for the hearings can adapt to local or unexpected circumstances. This balance of discretion for the commissions and the clear powers for the chair set out in legislation makes the procedures robust against judicial review.

Let us not forget that the Boundary Commissions are each chaired by a High Court judge—or, rather, they are chaired by the Speaker, but the deputy chairs will be High Court judges or their equivalent. I have no doubt whatever that sensitivity to due process will

[Lord Wallace of Tankerness]
be paramount among their concerns. There has been no suggestion throughout our long debates that the Boundary Commissions have been anything other than scrupulously independent and committed to fairness in their deliberations. They are guarantees of the process being fair. However, let me be clear what these amendments envisage. It is not a return to adversarial inquiries dominated by legal argument. That would be to invent what we know, from experience, does not work. It is new; it is a culture change; and we believe it is a better concept—an open hearing, neutrally and fairly chaired, at which the people can have their say. It is not a substitute for the deliberations of the Boundary Commissions, but another means for people to tell them what they think.

We will no doubt hear arguments about the importance or otherwise of legal professionals being involved in chairing hearings. The commissions will have absolute discretion to appoint individuals who may or may not be legally qualified, and we have tabled an amendment to broaden the purposes for which assistant commissioners may be engaged. If the commissions consider that there is merit in using a suitably legally qualified person to chair the hearings—and we recognise that a legal skill set may well be advantageous—it is open to them to do so. However, if there are other individuals, such as senior public servants or commission employees, who are equally able to chair these proceedings that are designed to engage the public, there is no way in which they should be disqualified from doing so—indeed, they should be allowed to do so.

It is worth considering that the Parliamentary Constituencies Act 1986 makes no provision that the existing inquiries must be chaired by a legally qualified person, or indeed be involved in any of the elaborate processes that have grown up around these inquiries. What that legislation fails to do—a failing that our proposals address—is to make the purpose of a hearing sufficiently clear. The result is that the commissions are exposed and inquiries are no longer about people having their say but about exhaustive legal arguments designed to avoid a judicial review.

I expect that we will hear also that an oral stage requires a chair who is independent from the commissions, and who must produce a lengthy deliberative report. The Government do not accept this premise. The commissions themselves are independent, so there is no need for further separation between a commission and the arguments being put forward. The representations made at the hearings will be taken into consideration by the commissions—the amendment requires them to do it—and it will be for them to consider how best to do this. Weighing the representations made in writing, and those put in person at hearings, against all the other factors in the legislation, and against the proposals made across the regions, is the point of having a Boundary Commission. We do not require a further intermediate step.

We propose something that is culturally different from what has gone before. I note the amendments to the amendment that have been tabled, and I am grateful for the dialogue that I have had with the noble and learned Baroness, Lady Scotland. However, at the end of the day it boils down to a difference in culture and approach. Several amendments state: "delete 'hearing', insert 'inquiry'". That is at the heart of what this is about.

Lord Rooker: I agree with much of what the Minister says, but if we are going to have a real culture change, it will be no good starting at 10.30 am and finishing at 3:30 pm, which is what the old culture does. If we are down to two days, let us have two real working days so that we have genuine participation even in the truncated time that I think is too short; I suggested five days. The new culture will be no good on the timescales that operated in the past.

Lord Wallace of Tankerness: I will not go down the road of wondering who the timescale was intended to suit. It is clear that Boundary Commissions have discretion in their proceedings. The comment made by the noble Lord, Lord Rooker, is very fair. We want to make sure that the time is best used and that people whose work patterns do not necessarily fit a 10.30 am to 3.30 pm programme have the opportunity to exercise their discretion, and that people have the maximum number of opportunities to contribute.

Lord Hamilton of Epsom: Perhaps my noble and learned friend would agree that the answer to this is not to have members of the legal profession chairing the inquiries.

Lord Wallace of Tankerness: My noble friend perhaps articulated the point that I was hinting at.

The government amendments complete the task of putting the public at the heart of the process, and of delivering effective public engagement with a clear but proportionate role for political parties. The complementary amendment on a counter-representations stage, suggested in Committee by the noble Lord, Lord Lipsey, will allow for the effective scrutiny of the arguments and proposals of others. People who, with the best will in the world, may not be able to attend a public hearing will still be able to make counterproposals in writing.

Also, importantly, this will be achieved on a timescale that will allow for up-to-date boundaries to be in place by the 2015 general election, and during each Parliament thereafter. This will give effect to key principle underpinning the Bill: fair and equally weighted votes throughout the UK. The amendments respond to the spirit that has been expressed in many of our debates about the public having the opportunity to have their say, without adopting an unduly legalistic view that can exclude the public. I beg to move the amendment standing in the name of my noble friend Lord McNally.

The Lord Speaker (Baroness Hayman): I have to inform the House that if this amendment is agreed to, I cannot call Amendments 27H to 27K inclusive for reason of pre-emption.

Amendment 27GA (to Amendment 27G)

Moved by ***Lord Falconer of Thoroton***

27GA: Clause 12, line 11, leave out "12" and insert "6"

Lord Falconer of Thoroton: My Lords, I propose a number of amendments to those proposed by the noble and learned Lord, Lord Wallace of Tankerness, on behalf of the Government. At the heart of the noble and learned Lord's proposals is the introduction of a process which, as he accepts, is not in any sense an inquiry but is intended to enable the public to make representations about any proposals regarding boundary changes with which the hearing is concerned.

As I understand the Government's proposal, it will be open to individuals to make oral representations. A chair will be present to govern the proceedings—presumably to determine the order in which people speak; perhaps to determine whether what they say properly relates to the proposals; and also to determine how long they speak to ensure that everyone has an opportunity to do so. A record will be kept of what is said and that will be put into a public place for people to see. It is not envisaged that there will be any resolution or that the chair will play any part in determining any issues that arise on the wisdom or otherwise of the boundary proposals. However, it is envisaged that the oral hearing process should take place before the conclusion of the written representation period, which I think ends at week 12, with the oral hearing process taking place between weeks five and 10. Therefore, what the Government propose is not in any sense an inquiry and resolution of issues in the form of a report making recommendations to the Boundary Commission; it is simply an opportunity to make oral representations, which are recorded and then made public.

Previously, the Government proposed to ban the Boundary Commission from holding public inquiries altogether. They have not moved from that position but they have introduced the public hearing process that I have described. The noble and learned Lord, Lord Wallace of Tankerness, expresses his opposition to public inquiries primarily because he is concerned that an open-ended process of public inquiries could cause a fatal delay to the timetable for completing the next boundary review before the intended 2015 general election. He was also concerned that political parties would be too involved. For that reason, the Government have reduced the process to one of only a hearing.

It is important to hear what those who have experience of this situation have said. Robin Gray, former chairman of the Boundary Commission for England, said concerning the proposals in the Bill:

> "Particularly with this first round … there is a real need for public inquiries particularly to enable those who are interested, political parties and others, to actually argue this through because these are going to be big changes".

Ron Johnston, as the noble and learned Lord fairly said, is normally an opponent of public inquiries. In this area, he said that,

> "you are drawing a totally new map with new constituencies and nearly everything will be different ... local people are going to be concerned because suddenly the pattern of representation is going to be very different from what they have been used to for a long time".

Noble Lords will form their own view of the extent to which they have received representations from members of the public about, for example, the Isle of Wight, Cornwall, Anglesey and a number of other issues relating to the proposed boundary changes.

Our initial proposals to reinstate public inquiries in their current form did not address the noble and learned Lord's concerns about the prospect of delay or the fact that there needed to be streamlined public inquiries. We agree with him that there needs to be proper control, as efficient focus as possible and a real focus on real issues. We listened to what the Government said and moved to a new amendment, which allowed for public inquiries but with significant new limitations that would give the Boundary Commissions discretion over whether an inquiry was held. It also placed a cap on the length of time that inquiries could take. During the debate on our amendment, the noble and learned Lord, Lord Woolf, who, I am happy to see, is in his place, made an important intervention. He pointed out:

> "If there is no provision for an inquiry"—

I interpose that there is no doubt that by "inquiry" he meant a proper inquiry, not the hearing process to which the noble and learned Lord, Lord Wallace, refers,

> "I anticipate that there will inevitably be an increase in applications for judicial review".—[*Official Report*, 26/1/11; col. 1067.]

The Minister, the noble and learned Lord, Lord Wallace of Tankerness, responded favourably to that first debate, which was on our amendments. He said:

> "It is not a fundamental principle of the Bill that there should be no oral inquiries".—[*Official Report*, 26/1/11; col. 1070.]

Although he did not mention it at that point, when he said "inquiries", I think he meant the sort of hearings that he has been referring to.

3.30 pm

After we had put down our amendment, and after that date, the noble Baroness, Lady D'Souza, then moved, from the Cross Benches, a revised version of our amendment, which placed even tighter limits on the time that inquiries would be allowed to take and altered the drafting on the discretion to seek to insulate the process from the threat of judicial review. In moving that amendment, the noble Baroness said:

> "The question of oral public inquiry remains pivotal ... My own feeling—my instinct, even—is that we need further clarification at this stage from the Minister on whether the Government can accept oral public inquiry in the Bill".

For our part, we responded to the spirit of compromise in which the amendment was moved, and made clear that we were prepared to accept the scheme proposed by the noble Baroness, Lady D'Souza, which was also tabled by the noble and learned Lord, Lord Woolf, and the noble Lord, Lord Pannick.

During the debate on the amendment moved by the noble Baroness, a number of very important contributions were made, including a telling intervention from the noble Lord, Lord Pannick, who said:

> "The Boundary Commission process, including public inquiries, has served this country very well. It has maintained public confidence by a transparent process which has avoided even the suspicion of gerrymandering which blights so many other democratic countries. The Boundary Commission needs to retain some form of discretion to call for an inquiry, at least in those cases where it considers that it is necessary, with appropriate safeguards. I am sure that improvements can be made to the statutory scheme to promote efficiency and reduce delays but there really is no case for abolition".—[*Official Report*, 31/1/11; cols. 1217-18.]

[Lord Falconer of Thoroton]

The response of the noble and learned Lord, Lord Wallace of Tankerness, left me with the impression that the Government were persuaded by the principle. He said:

"We remain very happy to discuss the detail of how these proposals will operate—obviously with the noble Baroness who has proposed her amendment and with the official Opposition".—[*Official Report*, 31/1/11; col. 1223.]

As it happens, the amendments were not discussed with the Opposition. The amendment makes progress but is disappointing because of this great hole in its heart.

As I have indicated, the sequencing is wrong. The whole purpose of inquiries to which written and oral evidence can be submitted is that they should occur after the initial period of written representation so that they deal with the issues that there may be in relation to a particular boundary dispute. The inquiries, where they are held, should provide an opportunity for representations to be made, but they should also provide an opportunity for those issues to be examined, to hear people respond at the hearing to what others say, to make arguments with or without lawyers as they or the chair of the inquiry sees fit and to reach some kind of conclusion in the form of a report. The government amendment fails to specify who will chair an inquiry—or "hearing", as they describe it—and it fails to say how that person's independence will be guaranteed. Above all, it fails to say whether the chair will have the power to make recommendations. However, the noble and learned Lord has made it clear that that is not his or her role.

The one thing that the government amendment is unfailingly clear about is that, although hearings will cover a whole region, they should not last more than two days. In very many cases, that might be sufficient, depending on what the issues are in a region; in others, however, it will not.

Our amendments are intended to correct those flaws. In an effort to reach a compromise, we do so while retaining much of the structure included in the government amendment. Our amendment also respects the fundamental concern of the Government, which is to ensure that the inclusion of a right to public inquiries does not prevent a boundary review before 2015. Our amendments to the Government's scheme cover roughly the same time period in total as the Government's scheme. We reduce the time limit on the initial written consultation phase from 12 to six weeks; stipulate that public inquiries cannot last for more than four months—by that, I do not mean the hearing but the process—after the close of the initial written consultation period; and reduce the period when written representations may be made after any revised proposals from eight to four weeks. Because public inquiries allow for objections and counterproposals to be made, we would remove the four-week secondary consultation period that the government amendment inserts.

We propose an identification of the issues for the written representations, an inquiry that must be concluded within four months from the closure for the first written representations, a report with recommendations from the chair or assistant chair of the inquiry and then an opportunity for people to comment on it—thereby ensuring the right for people to make representations and some response to the representations. The right to make representations which then find no conclusion or expression except in the statement of what the boundaries finally are will not be sufficient.

Lord Lloyd of Berwick: Apart from the question of timing and the chairmanship of an inquiry, or whatever we call it, what is the substantive difference between a public inquiry and what is proposed, a public hearing? Can the noble and learned Lord summarise the substantive differences for my sake?

Lord Falconer of Thoroton: I am grateful to the noble and learned Lord for that opportunity. As I am sure that the noble and learned Lord will confirm, a public hearing simply involves an opportunity for people to come to a room—a town hall or a village hall—to make or read a statement. It is recorded, and that is it. The next person then stands up and makes a statement, and then he or she sits down. It goes on like that. A record is kept of what is said, but there is no resolution of any issues. The statement of what is said is then, I assume, placed on the web so that everybody can see what was said

A public enquiry would involve Mr X saying, "I think that the boundaries should be here", and Mr Y saying, "I think that the boundaries should be there". Then the chair—having heard all the representations that people want to make, determining what the process is, having heard what everybody has said—says, "I recommend to the Boundary Commission that it should draw the boundaries there". So it is a process where issues are identified and some resolution is given. That is the fundamental difference.

Lord Thomas of Gresford: That is the weakness in the position at present and as outlined by the noble and learned Lord: there are two recommendations. There is the recommendation from the chairman of the inquiry and then the Boundary Commission makes a recommendation to the Secretary of State as to where the boundary should be. What is the need for a double decision?

Lord Falconer of Thoroton: The effect of the Bill and all previous Bills is that the Boundary Commission's conclusions are in practice final. Yes, they have to be given to the Secretary of State, but the Bill—in my view, correctly—takes away any discretion from the Secretary of State to do anything other than lay them before Parliament, so, in practice, they are final.

The Boundary Commission does not come in any shape or form from the locality; it does not hear local representations; and it does not hear argument about where the boundaries should be. It is fundamentally different; it is carrying out an administrative process.

Lord Thomas of Gresford: Is the difference, therefore, that the Boundary Commission will be the body that considers all representations, whether oral or written? Will this not be more desirable than it simply acting administratively, as the noble and learned Lord says, upon the recommendation of somebody else?

Lord Falconer of Thoroton: Absolutely not, because where, as a result of the representations made at written stage, an issue is identified that would be assisted by hearing people locally, not only do you get local engagement—which everybody thinks is important—you also focus on a particular issue with somebody hearing and resolving the arguments. Of all the people in the world who would think that that was a worthwhile process, I can think of nobody who would regard it as more so than the noble Lord, Lord Thomas of Gresford—who in all my years in the House has upheld every single aspect of such a process.

Lord Thomas of Gresford: It is important that the Boundary Commission, which has an overall view, should be the body that takes the decision and makes the final recommendation.

Lord Falconer of Thoroton: I apologise for not making this clear. It will, but with the benefit of the recommendation made by the chair after a local enquiry.

Lord Phillips of Sudbury: The noble Lord has been extraordinarily patient, but I am sure that he wants us all to understand—and I may not be the only person in the Chamber who does not from his explanation—whether cross-examination will be allowed.

Lord Falconer of Thoroton: It will be entirely a matter for the chair, probably operating in accordance with guidance given by the assistant or deputy chairs of the Boundary Commission. We will encourage a process that is streamlined and non-formal. If cross-examination would help let it be so, if it would not let it be a matter for the assistant chair hearing the inquiry on the day. I trust the right people to make the right decisions on how to get to a conclusion as shortly, as economically and as appropriately as possible.

In our amendment we propose that the chair of such a public enquiry must be a legally qualified assistant commissioner, appointed by the chair of the Boundary Commission, with the power to make recommendations. We say this must be a legally qualified person because they will have experience of ensuring short, sharp hearings, which I think is what everybody wants. Without that, the system of hearings put forward by the Government is little more than a public reading of statements. It will lead, I am sure, to a sense of frustration because there is no response of any detailed sort.

The issue of public inquiries is one of the most central concerns we have with the Bill. The Government's initial response to the debates we had on this matter was pivotal in breaking the deadlock in Committee. We have understood that they would respond favourably to this and other amendments on public enquiries; it matters hugely. However, we have put the proposal forward in a spirit of compromise. We have sought at every stage to listen to what the Government have said.

Lord Campbell of Alloway: I have not taken much active interest in this debate but I have read all the official reports. I cannot understand why one has to go into this rather complex, devious regime and not leave this matter of tremendous importance—non-political importance—to the Boundary Commission. I may have missed it, but I have been listening and I do not understand.

3.45 pm

Lord Falconer of Thoroton: I have considerable sympathy with that view. If the Bill had said, "Let there be public inquiries and let the chair or the deputy chair of the Boundary Commission determine the right course and whether or not there should be a public inquiry", I anticipate and understand that the Government would have been concerned about the delay that that might cause to the timing of the boundary review. We are prepared to enter into a scheme, whose structure is in effect proposed by the Government, that does its level best to ensure that the process will be over by 30 October 2013, in accordance with the fresh proposals now being made, so that the Government's timescale would be met. That is why the Government have taken this approach.

In an attempt to reach a conclusion, the Government's amendment, as amended by ours, would do what your Lordships' House does very well—namely, improve the Bill in a way which is both a sensible solution and a product of compromise and good sense. I beg to move.

Lord Woolf: My Lords, the Government have moved a long way but, in my view, they have not moved far enough. Indeed, some of what they propose is not constructive in the way they intend. The Government's proposals, if coupled with those put forward by the noble and learned Lord, Lord Falconer, would produce a much better result. This is very important for the public because the scale of the changes involved means that the public should have a proper hearing.

I am not surprised that the noble and learned Lord, Lord Lloyd of Berwick, asked what is the difference between a public hearing and a public inquiry. Normally a proper hearing involves the kind of matters to which the noble and learned Lord, Lord Falconer, referred. It is no use having a hearing if it does not serve its purpose. The great defect in the Government's proposals is that they arrange a hearing following which the person who has to make the decision will not have an opportunity of having any more than a record of what has occurred in the hearing.

In times out of number within our legal system—whether it be in the form of a planning or any other inquiry—a hearing has resulted in an opportunity to be heard, which is then reported upon by a neutral and independent person, normally someone with skill and experience in the area in question. Here it is quite clear that, in the end, the Boundary Commission will have to make the decision and, on both proposals, its decision will be coloured by what has happened at the public hearing. However, on the Government's case, the Boundary Commission will have only a written record. What is the purpose of having an oral hearing if there is going to be no more than that?

What should happen—I submit that this is what is intended to happen in the amendment of the noble and learned Lord, Lord Falconer—is that there should be included in the matters that go before the Boundary

[LORD WOOLF]
Commission the views of the person who is chairing the hearing. That does not mean, as was thought by the noble Lord, Lord Thomas—I say this with great respect—that there would be two decisions; there will be only one decision. The chairman will take great care to do no more than assist the Boundary Commission to reach its decision.

Those who have had the task of looking at many inspectors' reports will know how a decision that is to be made by the Secretary of State is assisted by an inspector's report. I anticipate that the chairman will say, "So and so was contended on behalf of X, but Y said so and so, which the Boundary Commission may think is the stronger argument". The chairman might say, "The Boundary Commission may submit that this point or that point was not properly considered by X in giving his evidence".

A multitude of situations could arise whereby that process could properly be dealt with by a report by the person who actually conducted the hearing. If that was allowed, you would avoid the frustration felt on the part of those appearing before the chairman that their words are apparently disappearing into the ether with no conclusion being given on them. I strongly urge the Government to think again objectively about what is proposed to avoid that situation, especially if they are concerned about delay.

The Boundary Commission can be given the task of reaching its final decision within a specific time. If, as the noble Lord, Lord Campbell of Alloway, suggested, it is given the power to control the chairman, it can ensure that there will be no undue delay, which would have the undesirable results on which the Government speculate. An important point is that there are provisions in the Government's proposal for questions to be asked of those making oral statements to the hearing—I refer to paragraph 8 of new Schedule 2A, proposed in Amendment 39, where that is made clear. That comes very close to the procedure which would normally take place before someone such as the chairman at a public hearing, as that is normally known. Therefore, you have questioning only under the control of the chairman. Answers are given and you have—and should have—the views of the chairman on what has occurred. If that is not done, a very strange animal indeed will be produced.

Lord Thomas of Gresford: Is the noble and learned Lord suggesting that the chairman should have a power to comment, or is he suggesting that the chairman should recommend, which is really where the issue lies?

Lord Woolf: It would be a preliminary recommendation to be considered by the Boundary Commission, which would make the final recommendation. The only other alternative is that the hearing should take place before the Boundary Commission and that is obviously not a practical proposition. I am sorry that I have obviously not persuaded the noble Lord, Lord Thomas, on this.

Lord Thomas of Gresford: I have been at Boundary Commission hearings, although I do not recall a judicial review. Does not the noble and learned Lord's suggestion mean that the recommendations of the chairman would be open to judicial review? Is that not one of the things that we are trying to avoid?

Lord Woolf: I certainly cannot say that in no circumstances could the chairman's recommendations be the subject of judicial review, but there is a greater risk of judicial review if you do not allow the chairman to put before the Boundary Commission the information that it will need to make a decision. I cannot anticipate what a judge would say on an application for judicial review in all cases, but, in the majority of cases, I think that the possibility of judicial review at that stage would be very slim.

As the noble Lord knows well from his experience of judicial review, what is normally judicially reviewed is the final recommendation. A preliminary recommendation made by the chairman would not be the subject of judicial review, because if it was criticised, as it would have to be, as not being in accordance of the legal requirements, the answer would be, "Well, what are you worrying about? The Boundary Commission will put that right, and, if they don't, you can come back to us then". You do not come, at this first stage, to seek judicial review of what is no more than a preliminary recommendation. I think that that is the trite law which the noble Lord would expect the court to follow on applications for judicial review.

Let us have sensible provisions; let us give the widest possible discretion to the Boundary Commission; let us have the ability to go that one step further than the Government's proposals so far and enable the person who chairs the hearing to make a preliminary recommendation. Of course, he may decide not to make a recommendation, but he should not be prevented from doing so. He may think that the situation is sufficient. I would therefore urge flexibility.

In that regard, could I also urge the Government to reconsider the requirement that there should be at least two public hearings? There may be situations where to have public hearings will serve no real purpose. That should be a matter of which the Boundary Commission should again be in charge.

Lord Campbell of Alloway: I am grateful to the noble and learned Lord for his helpful clarification, but how can judicial review, which is of general application, have any specific relationship with this particular question? Acceptance of judicial review is a matter always for the discretion of the court. You have no right to it, unless the court accepts your application.

Lord Woolf: The noble Lord, Lord Campbell, is of course absolutely right that the matter is in the hands of the judge who hears the application, but he will forgive me if I do not from these Benches seek to give my opinion as to what a judge can do and should do other than in the most cautious of terms. I have tried to assist the House by indicating that, from my experience, it is unlikely that the fears expressed by the noble Lord, Lord Thomas, would have any basis in reality.

4 pm

Lord Marks of Henley-on-Thames: My Lords, the government amendments give expression to a widespread feeling in the House, which I share, that there should

be some oral procedure in the Boundary Commission's decision-making process. The amendments give the political parties and members of the public the opportunity to give evidence, to make representations orally and in public, to develop written submissions that have already been submitted and to put forward arguments orally.

The system proposed by the government amendments achieves that in a way that is proportionate, reasonably economical and reasonably expeditious. It avoids effectively dividing the decision-making process between the recommendation of the chair of a public inquiry and the final recommendation of the Boundary Commission itself. The amendments allow for two-day hearings across the whole country, which the Boundary Commission must take into account. They have at their heart a trust in the Boundary Commission and its decision-making ability that is, in our submission, in no way misplaced.

The proposals offer a transparent system with the public having a genuine and adequate chance to participate at every stage, whereas the amendments put forward by the noble and learned Lord, Lord Falconer of Thoroton, and the noble Lord, Lord Bach, would, I suggest, revert to a cumbersome system of public inquiries that has often led to the whole system becoming bogged down. Those inquiries may be as long as four months. That is not expeditious.

Further, in answer to the point made by the noble and learned Lord, Lord Lloyd of Berwick—one which, with the greatest of respect, the noble and learned Lord, Lord Woolf, did not adequately deal with in his speech—they open up a dual decision-making process with different and distinct decision-making stages. I give way to the noble Lord.

Lord Foulkes of Cumnock: My Lords, I am sorry to interrupt but I have taken part in a number of hearings in Ayrshire. In one case, the assistant commissioner recommended something which was accepted by the Boundary Commission; and in another a different commissioner recommended something that was not accepted by it. The decision of the Boundary Commission is always final.

Lord Marks of Henley-on-Thames: My Lords, that is precisely the point. The intervention of the noble Lord illustrates that the Boundary Commission makes decisions, taking into account recommendations of the commissioners that may be inconsistent, which negates the importance or effect of the public inquiries. Amendment 43 empowers the assistant commissioner to,

"adjudicate between the arguments and to make a final recommendation on proposed boundary changes".

As the noble Lord, Lord Foulkes, explains, there is no explanation anywhere of how that would work or what the precise status or effect of the recommendation would be. Presumably, as he says, the Boundary Commission would have to take that into account but that would—again with respect to the noble and learned Lord, Lord Woolf—open up the public hearings or inquiries to judicial review, possibly not as to the content of the recommendation but as to the procedure adopted before the public inquiry.

Then there would be the difficulty that any departure by the Boundary Commission from the recommendation from a public inquiry would be challengeable as irrational. That itself would be fruitful grounds for judicial review hearings. The amendment does not state how these problems would be dealt with. I give way.

Lord Campbell of Alloway: My Lords, could the noble Lord explain what on earth a public inquiry subject to judicial review means in practice in the courts?

Lord Marks of Henley-on-Thames: My Lords, what it means is that there is a difficult and delaying process at that stage because there is the interposition of the public inquiry; that is, with a public hearing as proposed by the Government, there is a hearing which is essentially, as the noble and learned Lord, Lord Woolf, explained, an evidence- and argument-gathering procedure, orally in public, prior to a decision-making process by the Boundary Commission which, as I say, we should trust.

The government amendments quite properly exclude this unhappy intermediate stage in the decision-making process. Furthermore, the cost of the public inquiry proposed by the noble and learned Lord, Lord Falconer of Thoroton, is considerable. It cuts out a substantial and essential element of transparency from the system proposed by the government amendments. The opposition amendments would remove the requirement to publish the records of public hearings to enable informed public comment.

In terms of timing, the proposals of the noble and learned Lord, Lord Falconer, and the noble Lord, Lord Bach, would total 26 weeks in cases where there were proposals to revise recommendations—six for written submissions, 16 or 17 for public inquiries and then four for further inquiries. The proposals of the government amendments are much shorter overall—12 weeks for written submissions and public hearings, four for a period of secondary consultation and eight if revisions are proposed: so, 16 weeks rising to a maximum of 24 weeks. However, the amendments of the noble and learned Lord, Lord Falconer, keep his timetable down to 26 or 27 weeks only by cutting from 12 weeks to six the period for public written submissions; by cutting entirely the four-week secondary consultation period proposed by the Government and by allowing only four weeks instead of eight for the public to make written representations on any revised proposals.

At the heart of our position on these amendments is the notion that members of the public are more likely to make written representations than they are to attend long public inquiries, which would largely be the forum of the political parties. The amendments proposed by the Opposition favour a return to a long, cumbersome, legalistic and expensive decision-making process of public inquiries going before the Boundary Commission's recommendation, a process whose status is entirely uncertain because its effect on the final decision is not clear.

Finally, an entirely lawyerly point, Amendment 27GH of the noble and learned Lord, Lord Falconer, inserts a reference to subsection (4)(b) of government Amendment 27G which, by Amendment 27GD, they have entirely

[Lord Marks of Henley-on-Thames]
deleted. That is a small point by comparison with the central point. The public hearings proposed by the Government amendments are essentially creatures of the public with longer timescales for written representations and a shorter, simpler arrangement for public hearings with all the evidence and all the argument then considered by the Boundary Commission, which we ought to trust. I urge the House to accept the government amendments and reject those proposed by the noble and learned Lord, Lord Falconer.

Lord Lloyd of Berwick: Experience shows that where two or three lawyers are gathered together one is sure to disagree. I entirely agree with every word that has fallen from the noble Lord, Lord Marks, which I am afraid inevitably means that, with great respect, I venture to disagree with the noble and learned Lord, Lord Woolf. He suggested that the advantage of his proposals was flexibility. I suggest that the disadvantage is an absence of simplicity. I can see no possible advantage in having a double decision process in a matter such as this. On the face of it, one would think it must increase the likelihood of an application for judicial review. In any event, the question should not be decided simply by that—it was a strong argument at one stage. But now we have before us not the original amendment proposed by the Convenor, the noble Baroness, Lady D'Souza, which in its way was a very good amendment, but an amendment from the Government containing everything that was in that amendment, which, to my mind, is essential. A public inquiry as such is not essential. A public hearing is, and that is what is promised.

Lord Pannick: My Lords, I share the Government's objective here, which is to make this process more efficient. At the moment it is not efficient. It is too slow, too cumbersome and there are too many lawyers involved. I therefore share the Government's objective. However, I also share the concerns so eloquently expressed by the noble and learned Lord, Lord Woolf. The Government will abolish any effective inquiry and will introduce a procedure which will ensure that the decision-maker—and here I say to the noble Lord, Lord Marks, and the noble and learned Lord, Lord Lloyd of Berwick, that there is only one decision-maker on the opposition amendment: the Boundary Commission—does not hear the oral representations that have been made. The person who does hear those oral representations has no role in communicating to the decision-maker any advice on what he or she thinks of what he or she has just heard. It is absolutely inevitable that the introduction of such a procedure will exacerbate rather than diminish the sense of grievance that has led people to make representations in the first place.

Lord Martin of Springburn: When the noble Lord mentions the Government's proposals, is it the case that those proposals will not allow cross-examination at the inquiry?

Lord Pannick: As I understand it, that is the position. The opposition amendments will leave that to the discretion of the person who is hearing the representations, which seems to me right and proper. The proposal from the Government at the moment is a sort of legal interruptus in which the person hearing the material will end the process in a profoundly unsatisfactory way—unsatisfactory to the person who made the representations—because nothing arises from that other than communication to the decision-maker who has not actually heard what has been going on.

Lord Thomas of Gresford: Does the noble Lord not agree that the person to whom he refers, the person who would be aggrieved, would prefer that their contribution goes directly to the decision-maker and is not filtered in an intermediate stage by the chairman, who may have all sorts of views of his own and may colour the way in which that person wants his representations to be heard?

Lord Pannick: I would say to the noble Lord, Lord Thomas of Gresford, that in my experience it is most unusual indeed to arrange for oral representations, and let us not forget that this is what the Government are rightly proposing, in which the person hearing them then has no role, not even an advisory one. It is my experience in all areas of the law, and I hope that it is the experience of the noble Lord as well, that if you give people a fair hearing and then a reasoned conclusion at the end of it, even if it is only advisory in nature, they are normally—not always—prepared to accept the result, however disappointing it may be. The Government's proposals, by contrast, will inevitably raise expectations which they cannot satisfy and which will inevitably frustrate and anger people, who will inevitably feel that this is a charade. On a matter as sensitive and important as constituency boundaries, it is vital for this House to maintain some genuine process of inquiry leading to a result, even if it is only advisory. Inquiries have contributed substantially to the confidence that all sections of the public now have in the process of boundary review.

4.15 pm

People have confidence in the fairness of the process. I cannot agree with the noble Lord, Lord Marks, that the cost of providing fairness in this vital area should deter us from what the Opposition suggest. Nor can I accept that there is any realistic prospect of judicial review here, which the noble Lord, Lord Thomas of Gresford, was concerned about. I respectfully agree with the noble and learned Lord, Lord Woolf. It is most unlikely—although one can never say never—that any court will entertain in this context a judicial review challenge to an advisory recommendation. The court would say, "Exhaust your remedy—your remedy is to wait until the Boundary Commission has formed its conclusion". The noble Lord, Lord Marks, is concerned that if the chairman gives advice with which the Boundary Commission does not agree, that might provoke a judicial review. Again, in this discretionary area, it is highly unlikely—although one can never say never—that such a judicial review should succeed. I take the view that the risks of people bringing judicial reviews are all the greater if you do not give them a proper, fair process.

Lord Thomas of Gresford: Would the noble Lord not agree that if the Boundary Commission failed to follow the recommendation of the first decision-maker—

which may be provisional—that would inevitably trigger judicial review? That is the problem when you have double decision-making.

Lord Pannick: I am sorry, but I simply do not accept that. The noble Lord is very familiar with the general process of planning inquiries, when advice is regularly given that is not followed by the decision-maker. The courts are sophisticated enough to understand in this sensitive area that advice is not necessarily followed. The Boundary Commission is the decision-maker. If I were to go to the court tomorrow and rely on advice that the Boundary Commission had rejected, and if that were the basis of my judicial review, the case would not last very long, as I think the noble Lord knows.

Lord Thomas of Gresford: My Lords—

Lord Pannick: I have taken a number of interventions. This is Report, and I hope that the House will agree with me that it is appropriate that we proceed with this matter.

Even at this late stage, will the Minister and the Government please think again? They can make this process more efficient, but they should not abolish the inquiry, which is what they are in effect doing, as it serves a very valuable purpose.

Lord Faulks: My Lords, the noble and learned Lord, Lord Wallace of Tankerness, described this proposal as being culturally different from what had gone before. He is right in one sense, but I respectfully suggest that it is very much in line with the way in which a lot of procedures are developing. We are not obsessed by prolonged oral hearings with laborious cross-examination, dominated by lawyers—and here I must declare an interest as a member of that much maligned species. Rather, it is a sensible way of dealing with matters so that there can be full written representations followed by a public hearing. I think that the expression "public hearing" is an attractive one, as opposed to a "public inquiry", which sounds rather murky and obscure from the point of view of the public, for whose benefit it is supposed to be.

I hope very much that such a hearing will be "lawyer light". There is no need for the chair to be a lawyer; it might be better if they are not. What we require from the chair is someone who is capable of organising a hearing at which everyone who has a reasonable interest in a matter can have their interest properly heard and recorded. I accept the observation by the noble Lord, Lord Rooker, that there is no need to stick to strict court hours, and one hopes that the chair will allow a longer period as necessary.

We are talking about, I hope, an informal but thorough hearing. It allows what, as I understood it, the Opposition required—in effect, a day in court, an opportunity for people to say that they have said something as well as written something. This seems to be an extremely practical and fair solution, and I will support it.

Lord Rooker: I want to raise a point that only the noble Lord, Lord Pannick, has touched on. I speak as someone who was in the other place and went through two boundary inquiries. Most Members of Parliament fail when dealing with casework, and they have to give their constituents bad news. Most constituents receive that news on the basis that their case has been taken to the top; they accept that, and that is the end of the matter. That is a generalisation, but by and large it is my experience.

On both of the boundary changes that we dealt with—I am speaking only about the evidence from the city of Birmingham—we as Members of Parliament took criticism from members of the public, churches and party members, and this applied to both major parties as we were very much a two-party city in those days. The criticism was that someone had come up from London who had never been there before and was redrawing boundaries and sticking this ward into the constituency when we wanted that one instead.

I remember one particular incident, at a public community meeting separate from the boundary inquiry, that I was able to quell. It was not a riot, but it was pretty bad. I said to people, "Look, we might disagree, but we don't even know this guy's name or his background. He's a lawyer, and he has chaired the meeting, but at least we've been able to put our case and argue the case with the Tory party". There was a major argument about a big ward, with 20,000 electors, going in. We were able to say to people, "We've had our day in court"—the very phrase that has just been used. We were able to say that we had argued the toss with our political opponents and that it had been done openly and transparently. Everyone accepted that. Whether we won or lost, it probably did not materially affect the political outcome, but it was thought that it might.

There are probably far more people interested in this change than there have been in previous boundary changes, for obvious reasons. It is important to be able to report back to the interested public and say that their case has been listened to; that they have been able to put up a challenge, because there will be political arguments on this; and that they might have lost, but it was done openly and fairly. However, I do not think that it will be seen to have been done fairly. No MP will be able to do what I did and say to constituents, "You were able to argue and challenge the opposing views. We lost, but it was done in the open, and that's the way that it is done in Britain". That is something to be regretted.

Lord Tyler: My Lords, I am encouraged by the noble Lord, Lord Rooker, to make a brief intervention, because I am not a lawyer. Until he spoke, everyone was speaking with huge legal experience.

I have a practical question that your Lordships' House needs to give some attention to. It seems to me that the danger is not successful judicial review—or any sort of legal challenge—rather, it is that all over the country the opportunity will be taken to try and delay the process, for reasons that we all understand, so that the changes will not be in place ready for the 2015 election. I have appeared at inquiries and before commissions—unpaid, of course, as I was not a lawyer. I was reminded of this by the noble Lord, Lord Rooker. Imagine the circumstances when a number of MPs who see their seats being changed do not necessarily think that they could be successful at judicial review

[LORD TYLER]
but think it is worth trying to delay the process. There could be 400 applications for judicial review. That seems to be the danger.

I understand what the noble Lord, Lord Pannick, is saying. I understand what other lawyers are saying. My fear is simply that this process will be undermined not by successful judicial review but by attempts to try and delay the process. If that is the game that we have to foresee, then your Lordships' House will be blamed for delaying an important process that will give equality of votes to a lot of our fellow citizens.

Lord Pannick: Does the noble Lord understand that no judicial review may be brought without the leave of the court? Does he understand that the courts are highly experienced in hearing speedily—by which I mean within days if necessary or within weeks—any case that is urgent, as these cases, if they were brought, would clearly be?

Lord Campbell of Alloway: Very briefly, my Lords, I got involved in this affair with a lot of other members of the Bar and I have to say where I stand. I totally support the legal analysis of the noble Lord, Lord Pannick, who is totally correct. Of course, it puts me in a very odd position because I am a Conservative and part of the coalition, but I cannot help that. I know that what the noble Lord said is right.

Lord Thomas of Gresford: I intervene very briefly because the noble Lord, Lord Rooker, reminded me of appearing in the planning inquiry in mid-Wales on the drowning of Dulais valley, which was proposed by his council, Birmingham council. We were concerned because the Secretary of State for Wales, Lord Cledwyn, was to take the decision, but the person who heard the inquiry came up from London; "Who was he?" and "What does he know about Wales?". These were real concerns that affected the people who I was representing—for nothing, if it matters—in that particular inquiry. We would much have preferred to put our views before the Secretary of State for Wales directly—to the decision-maker—who we knew knew something about the issues. As it happened, the inspector held in our favour and was upheld by Lord Cledwyn, who made the final decision and announced that no valley in Wales would ever be drowned again.

That is an example of wishing to make representations not to the unknown person from London but to the real decision-maker. The government amendment would enable all the representations and the evidence given by objectors to be put in their raw condition to the boundary commissioners, without any intervening stage.

Lord Phillips of Sudbury: My Lords, while there has been a lot of anxiety in this House over recent weeks about what we are doing here, the debate that we have had on this very difficult amendment has shown just what an extraordinary resource of experience this place can provide.

I have three points to make. First, I would be most grateful if the Minister, in summing up this debate, could answer the forceful point made by the noble and learned Lord, Lord Falconer, that by having the public inquiry when he plans to have it—that is to say, after five weeks before all the written representations are in—surely deprives the oral hearing of being able to respond to the points that local citizens are making.

Secondly, I was much struck by what my noble friend Lord Marks said about the virtue of the timetable proposed by the Government, which gives a full 12 weeks for written submissions, until he rightly said that most members of the public will provide their opinions by that route and will not appear at the oral hearing.

My final point is to assist the noble Lord, Lord Martin, who asked the noble Lord, Lord Pannick, whether there could be cross-examination under the Government's system, if I can call it that. The answer to that is yes. Amendment 39 in the name of the noble Lord, Lord McNally, specifically prescribes that cross-examination will be in the gift of the person conducting the inquiry under the proposals being put forward by my noble and learned friend, Lord Wallace of Tankerness.

4.30 pm

Lord Martin of Springburn: My Lords—

Lord Shutt of Greetland: My Lords, I think an intervention is required. The Report rules are such that Members are entitled to speak once to an amendment. There is a problem when a speech is an intervention or an intervention is a speech. However, it would be helpful if people were a bit sparing with their interventions. People ought to realise that they have one turn.

Lord Martin of Springburn: My Lords, if the rule is that my intervention denies me the right to speak, I will sit down. It was a very brief intervention and it was for information. I understand the agitation of the Liberal Democrat Whip, but the Liberal Democrats were no slouches in speaking, so I wonder whether I might make a brief speech. If the noble Lord is saying that I cannot do it—

Lord Shutt of Greetland: The noble Lord may go on.

Lord Martin of Springburn: I thank the noble Lord; I am obliged. I intervened on cross-examination but it was not my interest to worry about cross-examination by solicitors or QCs in an inquiry. Like the noble Lord, Lord Rooker, I have been to three inquiries, but they were in the city of Glasgow. They were very fair indeed. People from all walks of life turned up to put their case. Sometimes people would go along and say that they represented several community organisations. No lawyer present would have known how to test the case that was being put—that they belonged to those community organisations—but someone who lived in the community would. It was lay people who sometimes brought out in cross-examination that perhaps they were not, and could not claim that they were, truly representative of the community councils or residents' associations as they claimed to be. Those lay people had local knowledge.

It is easy to talk about splitting up wards and putting one ward into another. However, often the argument for moving a ward from one constituency into another is based on where the local facilities, such

as transport and schools, are. That is often why church leaders turn up where the local churches are based. Therefore, in the course of cross-examination, lay people can paint a picture of the true local situation for the examiner. I would be just a bit worried about discretion. People should be able to cross-examine as of right.

Lord Wallace of Tankerness: My Lords, I thank all noble Lords and noble and learned Lords who have participated in this important debate. It has been a good and helpful debate, with views forcefully expressed but set out in a measured way. There is some agreement that we want to find the best way to achieve effective consultation on Boundary Commission proposals. However, it has also become clear—I made this point when I opened the debate and it was reflected on by my noble friend Lord Faulks—that the issue very much represents a choice of culture. Will we have what is essentially the old system of the local public inquiry—albeit with some timetable improvements; and I acknowledge the efforts made there—or a change of culture towards the public hearings proposed in the Government's amendment? My noble friend Lord Faulks indicated that our proposal goes with the grain of making arrangements for similar matters to be dealt with.

The process we have set out combines written representations with a new public hearing stage aimed at providing for real public engagement, and involves a counter-representation stage to allow for scrutiny. We believe that that adds up to a comprehensive and rigorous process which learns the lessons of previous reviews and allows us to achieve the key principles of the Bill, whereby constituencies will become more equal and fair and their representation in the other place will be reflected by the time of the 2015 election.

It was suggested by the noble and learned Lords, Lord Falconer of Thoroton and Lord Woolf, that the representations made at an oral hearing would disappear into the ether. However, it is it is important to recall that not only after the end of the period will there still be an opportunity for follow-up representations, but, in response to amendments in Committee from the noble Lord, Lord Lipsey, there will be an opportunity for counter-representations to be made. It is a requirement set out in the amendment that the Boundary Commission shall give consideration not only to the written representations and counter-representations, but to the record of those who engage in the oral hearings.

The process that we propose is a considerable departure from the original proposals in the Bill. That was acknowledged by the noble and learned Lord, Lord Woolf. The Government have listened to the reasonable concerns on the importance of public engagement, not least at the first review under the new rules. We have listened to the argument that our process could be strengthened if there was an opportunity for the scrutiny of arguments put forward by others. We have shown that we are willing to move in the interests of a better outcome, but not at the cost of the key principles of the Bill. That cost would include delays that could undermine those principles.

The opposition proposals—whether those of the noble and learned Lord, Lord Falconer of Thoroton, or the suggested changes to the Government's amendments—would, in effect, restore the existing inquiry process. They require a legally qualified chair and a report back to the commissions by the legally qualified person—we have had exchanges on whether there are to be two decisions or two determinations. The opposition proposals would remove the time limit on the number of days an inquiry will last. Those old-style inquiries would take place after the submission of written evidence, as they do now—albeit for a slightly longer period—in order that the parties can send their lawyers and that their legally qualified person in the chair can cross-examine them.

Even the noble and learned Lords among us can imagine that that process is unlikely to engage the general public at large. The work of academics who have researched these issues in depth means that we do not have to imagine what that would mean, because the evidence is in their reports. An in-depth study by Ron Johnston, David Rossiter and Charles Pattie in 2008 stated:

> "It would be a major error to assume that the consultation process largely involves the general public having its say on the recommendations. The entire procedure is dominated—in influence and outcome if not in terms of the numbers of representations and petitions (many stimulated by the main actors)—by the political parties".

There has been a flavour of the political parties' heavy engagement.

It has also been said that somehow or other the public inquiry system assuages pent-up local demand. Before I came to the Chamber this afternoon, I looked at the last Boundary Commission review of the constituencies for the Scottish Parliament. In the case of East Lothian, Midlothian and the Scottish Borders, the inquiry process, which led to a recommendation from the reporter, who I think was Sheriff Edward Bowen QC, was completely and utterly dismissed by the Boundary Commission. I am not sure what that would do to promote public confidence in the system proposed by the Opposition.

Lord Foulkes of Cumnock: Will the Minister confirm that there was no application for a judicial hearing in relation to that? Everyone accepted it.

4.45 pm

Lord Wallace of Tankerness: I am not aware that there was a judicial review. The noble Lord said that everyone accepted it. He should consult my noble friend Lord Steel of Aikwood about how effective he thinks the present public inquiry system is.

The role of the chair has been much debated. It was said that the chair should be legally qualified in order to provide clarity and consistency of practice, and to make the process resistant to judicial review. It was claimed also that there must be report back. We have just heard about the pros and cons of that. The Government do not agree. The hearings that we propose are about giving the public and the political parties a chance to have their say as part of the consultation process. The legislation provides that a commission shall take into account the representations made at hearings, as it does the written submissions.

Another of my concerns about the opposition proposals is that the value of the written submissions appears to be somewhat relegated. We propose that

[LORD WALLACE OF TANKERNESS]
there should be a counter-representation period. As I understand the Opposition's proposals, any written counter-representations would have to be channelled into the public inquiry: there would not be a time period for them.

It is important to remember that the commissions are independent. They exist to weigh the arguments. It will be for them to decide how best to do that. There is no need to interpose an independent lawyer between the commissions and the arguments in order to allow the public to have their say. The commissions will be chaired by a High Court judge or equivalent and will be very sensitive to those issues. It will be open to them to appoint the chair that they think best for the job. I will not detain the House at the moment by speaking to Amendment 18E in this group, save to say that we have tabled it to broaden the purposes for which assistant commissioners may be engaged.

The Opposition claim that the process is flawed because the hearings will take place at a point in the process before all the written representations are known. This point was picked up by my noble friend Lord Phillips. Again, that is a concern if one has the mindset of a public inquiry. We say that parties will be able to feed in their views of the commission's initial recommendations, and others will be able to hear them. We have provided for counter-representation that will allow scrutiny of the arguments of others. Although we do not envisage a public inquiry with a quasi-judicial cross-examination, I say to the noble Lord, Lord Martin of Springburn, that our amendment provides for the chair to put questions or allow questions to be put to a person present at the hearing and, if the question is allowed to be put, to regulate the manner of the questioning or restrict the number of questions that a person may ask. Therefore, there will be an opportunity for the kind of engagement that the noble Lord clearly feels is of value.

The noble and learned Lord stated that the Opposition are arguing that if we adjust the number of weeks for written consultation there is time for oral inquiries to be held. Putting a deadline in the Bill does not guarantee that it will be achieved. The Boundary Commission for England was set a deadline in primary legislation in 1992. However, it reported months later because it felt the need to focus on the process under the previous legislation. I do not criticise it for that: it believed that the process was important. However, I ask the House to consider that the Boundary Commissions may think that the process is important, and that whatever deadline we set may not be met. If that happens, there is a danger that one of the key principles of the Bill will be seriously undermined.

The noble and learned Lord indicated that two days was not enough for an inquiry. Past inquiries have taken 12 days, or 10 under the previous review. Under the Government's proposal, there would be a maximum of 90 days of public hearings in England: five in each region, lasting two days each. That would be the upper limit. The Opposition would remove the limit on the number of days, and the period for counter-representations, meaning that the only place for scrutinising the arguments of others would be in that oral public inquiry. Therefore, we could expect more 10 and 12-day inquiries. We believe that this proposal is simply impractical. I recognise that in toto the number of weeks is similar to ours but I fear that I am sceptical about whether it could be achieved in practice, even if it were desirable to restore the old-style, legalistic form of inquiry. I remind the House that it is not. I quote from academic literature:

> "In effect, the public consultation process is very largely an exercise in allowing the political parties to seek influence over the Commission's recommendations—in which their sole goal is to promote their own electoral interests".

The noble and learned Lord, Lord Lloyd of Berwick, indicated that he thought that all the key components were in fact ticked off with the Government's amendment.

In conclusion, the House is faced with a choice between a new mechanism for ensuring that the public can genuinely engage in the boundary review process through hearings or the recreation of the old inquiry process that we know can be alien to the public and would return us to the days of six-year boundary reviews. Even if it does not do that, it would certainly lead to a length of time which could undermine getting the boundary review through and the next election being fought on modern, up-to-date boundaries. I believe that the Government have moved a long way on this point and they have done so after careful consideration. I urge noble Lords carefully to consider the proposals that we are putting before the House today and to support them.

Lord Falconer of Thoroton: My Lords, there is a very real and important issue here. On close analysis, the noble and learned Lord's proposals are flawed, and fatally so. First, on the point about delay, I do not think that the noble and learned Lord was listening to what the noble and learned Lord, Lord Woolf, and the noble Lord, Lord Pannick, were saying. In his closing remarks, he agreed that the period of time specified for his scheme and for the Opposition's scheme is broadly the same. With ours it is 26 weeks and with his it is 24 weeks. Therefore, a scheme is being proposed to enable the process to finish by October 2013. I want to spare the blushes of the noble and learned Lord, Lord Woolf, and the noble Lord, Lord Pannick, but they are probably the two leading experts on judicial review in this country and they are saying that there will be more judicial reviews. The noble and learned Lord, Lord Wallace of Tankerness, whom I greatly respect, is shaking his head but, with respect, I am listening to them, not to him, and they are saying that there will be more judicial reviews. They say that they do not know what form they will take but there will be more of them. Therefore, the noble and learned Lord, Lord Wallace, is making his scheme more vulnerable to delay through the process that he is proposing. I say that not on the basis of my opinion but on the basis of the opinion of the noble Lord and the noble and learned Lord. Therefore, with respect, his point about a delay is wrong.

Secondly, he says that this process will engage people, in that his scheme will allow people to come and say something—a process that the noble Lord, Lord Faulks, described as a day in court. The noble Lord, Lord Faulks, spent many days in court, but I have never known a day in court where you say something but then nothing happens. As the noble Lord, Lord Pannick,

said—in my submission, entirely correctly—that will be bound to increase resentment, not reduce it. As my noble friend Lord Rooker said, someone will not be saying, "Well, I have heard your arguments and you're wrong on this and right on that". It is, with respect, a point that the noble Lord, Lord Faulks, put his finger on and it is incredibly important.

The third point that the noble and learned Lord made is that academics are all against us. They are not. They are saying, as we are saying, that we must streamline the process. We must not allow it to become abused, but we must have some process like this. The person who knows best about this is the boundary commissioner, Robin Gray, who said that if you do not have a process where the public can put their point of view and have a response to their point of view rather than complete silence, you are going to have real disquiet about an area where there is no disquiet at the moment. With the greatest of respect, I must say that the Government have moved some way, but they have moved nowhere near enough, and they have put us in a position where we have no alternative but to seek the opinion of the House. I beg to move.

4.51 pm

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5.08 pm

Amendments 27GB to 27GJ (to Amendment 27G) not moved.

Amendment 27G agreed.

Amendment 27H

Moved by ***Lord Kennedy of Southwark***

27H: Clause 12, page 13, line 40, at end insert—

"( ) of all representations received in writing or any electronic format made to a Boundary Commission, by publishing item online within 72 hours of receipt"

Lord Kennedy of Southwark: This amendment is similar to the one that I moved in Committee. The amendment in Committee required that all representations received should be published online within 24 hours; this amendment requires that they should be published online within 72 hours—three days—of receipt.

After listening to the Minister, the noble and learned Lord, Lord Wallace of Tankerness, I withdrew my amendment in Committee. However, what the Government have come back with is disappointing, because representations will be published only after the close of the consultation period. Although I accept that the majority of representations will be received towards the end of the consultation process, under the Government's proposals provisions representations could be received more than three months before they are made public. That is not good and, quite frankly, I had hoped for a little more. I also cannot find any requirement for the Boundary Commission to publish—

Baroness Anelay of St Johns: My Lords, I hesitate to interrupt the noble Lord when he is so carefully introducing his amendment. I know that the House wishes to listen to him. Therefore, I invite noble Lords who are leaving the crowded Chamber to do so quietly so that we may have the full benefit of listening to the noble Lord.

Lord Kennedy of Southwark: I thank the noble Baroness for that. I cannot find any requirement for the Boundary Commission to publish representations received in any secondary consultation. If I am wrong in that, I hope that it will be pointed out to me. Finally, my amendment is green, makes sense and would save trees.

The Chancellor of the Duchy of Lancaster (Lord Strathclyde): My Lords, I thank the noble Lord for moving his amendment and for again raising this issue, which was discussed in Committee. The Government support the idea of a good flow of information between the Boundary Commission and the public so that people can be informed about the review and have their say. The noble Lord has kindly amended his original proposal to allow 72 hours for publication. However, this is still likely to be impractical given the tendency that we have noted of people to respond to consultations just before the end of the consultation period. The Boundary Commission will no doubt publish representations as speedily as possible, but a deadline of 72 hours may be too stringent, particularly in cases where it has to deal with significant numbers of representations in paper form, which will have to be converted to an electronic version for publication.

Amendment 27G provides for a further consultation period of four weeks to comment on representations made to the Boundary Commission, which the commission shall be required to publish before that four-week period starts. I hope that that is a full explanation of how we hope to deal with the points raised by the noble Lord's amendment.

Lord Kennedy of Southwark: I beg leave to withdraw the amendment.

Amendment 27H withdrawn.

Amendments 27J and 27K not moved.

Amendment 27L

Moved by ***Lord Wallace of Tankerness***

27L: Clause 12, page 14, line 2, at end insert—

"(1A) After Schedule 2 to the 1986 Act there is inserted the Schedule set out in Schedule (Public hearings about Boundary Commission proposals) to this Act."

Amendment 27L agreed.

Amendment 28 not moved.

5.15 pm

Amendment 16HA

Moved by ***Lord Wills***

16HA: Before Clause 10, insert the following new Clause—

"Committee of Inquiry on Parliamentary constituencies

(1) There shall be a Committee of Inquiry, chaired by a High Court judge, comprising members of both Houses of Parliament, including representatives of the principal political parties in the House of Commons, as well as individuals with no party attachment, and others.

(2) The Committee of Inquiry shall—

(a) review the current rules for conducting Parliamentary boundary reviews (contained in Schedule 2 to the Parliamentary Constituencies Act 1986) considering in particular—

(i) how to address the inequality of constituency sizes;

(ii) how to stabilise the size of the House of Commons;

(iii) the relative importance of electoral equality against the specific character of individual constituencies, including the rules relating to geographical considerations, local ties and "inconveniences", and the rules on crossing borough and county boundaries; and

(iv) make recommendations;

(b) examine in this context the question of the optimum size of a constituency taking into account the need to maintain the Union, the proper role of MPs in their constituencies and in Parliament, and the implications for these roles of the responsibilities of other representative bodies including local authorities and the House of Lords, and make recommendations;

(c) consider the implications of an optimum size for the House of Commons, for an optimum size for the House of Lords, and make recommendations;

(d) review the time taken to conduct boundary reviews, particularly in England, and make recommendations;

(e) review the alignment between the timing of local and parliamentary boundary reviews to ensure that stable local government electoral boundaries can form the basis for each parliamentary review, and make recommendations;

(f) examine the question of a role for keeping the operation of the rules under review and ensuring consistency of approach by the four Parliamentary Boundary Commissions, including monitoring their standards of performance, and make recommendations; and

(g) examine the arguments surrounding the statistical basis on which electoral areas are currently constructed, in particular whether the eligible population rather than electoral statistics should be used, and make recommendations.

(3) The Committee of Inquiry established under subsection (1) shall report to Parliament annually on its progress, and deliver a final report with recommendations to the Secretary of State within three years of the passing of this Act.

(4) Within 6 months of the Committee of Inquiry's report, the Secretary of State shall lay before Parliament, for Parliament's consideration, a scheme including draft Bills to implement the recommendations of the Committee of Inquiry."

Lord Wills: My Lords, the House will be aware that I moved an identical amendment in Committee. I did not seek to divide the House then but said that I would return to this issue on Report if the Government showed no sign of engaging with the issues raised in that lengthy debate. The Government have not engaged with the issues in any serious way and so, as I said I would, I now return to this amendment. In doing so, my approach is informed not only by my experience as a Minister in the previous Labour Government responsible for these issues but as someone—a member of a tiny minority in this House—who believes in the objectives of both parts of this Bill. I support a move to the alternative vote system not as a compromise or halfway house but as a desirable end in itself. I, of course, support any attempt to make the process of boundary revisions fairer and more efficient. I am certainly not opposed in principle to a reduction in the size of the House of Commons.

In Committee, I set out the case for an independent, impartial inquiry into the important and complex constitutional issues created by Part 2. I will not rehearse the case in detail again but I stress what I stressed then: this amendment does not seek to substitute my judgment for that of the Government in addressing these issues; instead, it sets up a process for an independent, fair and principled judgment to be made, which can then inform the legislation.

Over and again, as the debates on this Bill have progressed, it has become clear that the Government have not thought through the implications of their proposals. The process has been irredeemably flawed. That is all the more worrying as the measures, technical though they may often be, are of great constitutional importance. There has been no public engagement with the issues, no attempt at elucidating any underlying principles for the changes, no consideration of the implications of a referendum held after legislation, apparently no realisation that the proposals threaten community identity and no serious attempt to address the widespread belief, which has only grown as the Bill has progressed, that the Bill has been engineered to secure partisan advantage. Instead, there has been just a breakneck rush to get these half-baked proposals into law.

That, in sum, is the case for a pause—a relatively brief pause—so that an impartial inquiry can establish the principles on which these significant constitutional reforms should proceed. The Government's response to this proposal has been, to put it at its politest, inadequate. That is why I am bringing back the amendment to the House.

In responding to my original amendment, the noble and learned Lord, Lord Wallace, said that it asked the Government to,

"wait longer to turn the Bill from a Bill that is workable and achievable into a deeply analysed but almost impossible one that would then have to be taken forward".

He referred to,

"the dangers of a perfectionist approach".—[*Official Report*, 10/1/11; cols. 1221-22.]

I believe that that accurately encapsulates the Government's resistance to the amendment. I will happily give way to the Leader of the House if he wants to correct me. He remains seated, so I assume from that and the benign expression on his face that I have accurately encapsulated the Government's position.

I understand this argument. In certain circumstances, it can be a valid one—for example, when there is some immutable deadline or when delay can cause greater damage than action. It is true that management textbooks often have chapters titled along the lines of "The best is the enemy of the good", but they also tend to have chapters titled along the lines of "Better right than quick".

The question of when speed should take precedence over deliberation is always a matter of judgment. The case has to be made every time judgment is exercised. That case has not been made here—not even remotely. The only argument for such speed that I can recall the Government making is that the Bill addresses issues that need addressing, that they have not been addressed for too long and that they must therefore be dealt with immediately. This argument does not stand up to any sort of scrutiny. It does not follow axiomatically from the fact that a problem needs a solution that the solution has to be immediate. Indeed, if a problem has persisted so long, it could equally be argued that a few months' delay is neither here nor there, particularly when the case for further impartial deliberation rests on the real improvements that it will bring to the legislation and on the way in which it will help to ensure that the legislation endures.

There are three arguments for the value of such an inquiry that outweigh any putative disadvantage arising from delay. First, it would enable the reforms to proceed on the basis of coherent principle in a way that they manifestly do not in their current form. Secondly, it would enable them to do so following the sustained engagement with the public—whom, let us not forget, our constitutional arrangements serve—which has not been possible under the rushed timetable laid down by the Government. Thirdly, the amendment would help to deal with the corrosive suspicion that the Bill is a partisan measure, motivated not by high constitutional

principle but by low self-interest. I am not in a position to make a judgment on whether that is the case, but Ministers must recognise that this suspicion was there from the start and has only grown as the Bill has progressed through both Houses of Parliament.

Let me give the House a brief example of how this might work. A principled decision on the optimum size for the House of Commons would dispel this continuing suspicion that the figure of 600 was chosen because it most advantaged the government parties. The sum of the explanations so far advanced for how this figure was decided is that both government parties were committed at the election to reducing the size of the House of Commons and so decided that the new size would be 600—a nice round number. That is a little like a child asking a parent where they came from and getting the reply, "Well, my darling, Mummy and Daddy met and fell in love, and then nine months later along you came". It may all be true but it misses out some rather crucial details about what happened in the mean time.

Why did the Conservative Party decide to increase—not decrease or reduce—the size of the House of Commons from the 585 that it pledged in its manifesto? Who suggested it? Why did the Liberals agree to it rather than insisting in the coalition agreement that the number be lower than that? They had a figure of 500. What discussions on the appropriate figure were held within the coalition? How exactly was the figure of 600 arrived at—and so on and on? We do not know the answer to any of these questions because Ministers refuse to tell us. They airily wave away all such questions as if they are not really important. They are important. The difference of 15 seats between the figure that the Conservative Party was pledged to in the election and the figure now in the Bill is the difference between one party being in government and its not being in government. It is that important. The Government must realise that, as long as they fail to produce any coherent explanation of how this figure was arrived at and why they went back on what they promised in the election, the suspicion must remain that this decision was motivated by the pursuit of partisan advantage. That suspicion could easily be dispelled by the work of the inquiry that this amendment would establish to explore the optimum size for the House of Commons.

In tabling Amendment 28A, the Government have belatedly recognised that there might be an issue here that needs to be addressed. I do not wish to pre-empt the discussion that we will no doubt have on that amendment, but it is not a substitute for this amendment. Unlike this one, that committee's remit would be imprecise and its composition vague. It would remain in the tight grip of the Executive—there would be nothing independent or impartial about it—and it would commence its work after the new system was in place. It is another ill thought-out proposal of the sort that litter this Bill.

What if this committee that the Government propose to set up decides that 600 is not the optimum size for the House of Commons? The amendment makes no commitment to action, only to publishing its finding. Will the Government act on the findings of their own committee, so inflicting further wholesale change on the electoral system, or will they ignore them, in which case the exercise is simply cynical window-dressing? Now that the Government have conceded the case for an inquiry on this issue, which is one of the most important issues in Part 2, they should abandon their amendment and support this one, which, unlike theirs, would set up an inquiry in a fair, impartial and timely way. There should be no other way.

Moreover, the relatively short delay envisaged by this amendment would also help to address deep concerns about another important issue raised by the Bill—the Government's proposals that the boundary revision should take place on the basis of a register that everybody, including the Government, accepts is deeply flawed because more than 3 million voters who would otherwise be eligible to vote are simply not on it. In doing this, they must recognise that they are creating suspicions that they are motivated by partisan considerations, as it is widely believed that doing the boundary revision on the basis of this flawed register will primarily disadvantage the Labour Party. A short delay would allow the measures that the previous Labour Government brought in to improve the register to take effect and would mean that an election could be held on the basis of boundaries on a new, truly comprehensive and accurate register.

Finally, there is no reason to think that if your Lordships' House agrees to this amendment the Government will not get their legislation in this Parliament. Under the new fixed-term Parliament proposed by the Government, they will have adequate time to digest the results of the inquiry and get the legislation through before the next election. The only cost of this delay would be that the new constituency boundaries and a new system of voting—if that is what the referendum decides—would be in place not for the next general election but for the election after that. I ask the Minister what really is so wrong about that—is that really too high a price to pay for all the improvements that just a few months' extra reflection, deliberation and public engagement could bring to this important legislation? Constitutional reforms should be built to last; they should not become subject to constant fiddling and wholesale revision from one Parliament to the next. That corrodes public trust in our democratic system because it suggests to the public that politicians are more interested in rigging the system to serve their own interests than in using it to serve the people who elect them. If these reforms are to endure, as I think they should, it should be immaterial whether they are in place for this election or the next. I ask the Government to reflect on that point.

This amendment would get the Government to the place that they want to be and with all the additional benefits that such further impartial, independent deliberation and public engagement can bring. It would help to sustain public trust in our constitutional arrangements by helping to ensure that this legislation can be viewed as genuinely principled and valuable constitutional reform rather than the product of arbitrary and partisan calculation, as so many people see it at the moment. I beg to move.

Lord Renton of Mount Harry: I confess that I was not proposing to speak to this amendment, but I have just listened to the noble Lord, Lord Wills, who I

[Lord Renton of Mount Harry]
believe was Minister for Constitutional Affairs in another place, and I have to say to him that, frankly, I have rarely read a paragraph that horrified me as much as the one on his committee of inquiry. It seems to me that he is going down absolutely the wrong route by proposing a committee of inquiry composed of,

"a High Court judge … members of both Houses of Parliament … representatives of the principal political parties in the House of Commons as well as individuals with no party attachment, and others".

That is a joke. The inquiry would go on for ever and would not reach sensible conclusions. We in this House and the other House are expert in what is required here.

Lord Falconer of Thoroton: As the noble Lord, Lord Renton, will know, my noble friend Lord Wills' provision states that they have to produce a report within three years. So it will not go on for ever.

Lord Wills: I am very grateful to my noble friend Lord Falconer for pointing that out. Perhaps I may also say to the noble Lord, Lord Renton, that this committee is based on what used to be known as a royal commission. I was told by the powers in this House that I could not refer to it as a royal commission, but the royal commission, as he ought to know, has a very long and distinguished provenance. If he has read my remarks in the earlier debate on this amendment he will have seen that the period of time provided by the amendment is pretty much the average time given to the last 12 royal commissions that have reported.

Lord Renton of Mount Harry: The noble Lord's amendment provides for three years after passage of the Act, but it does so on what basis? That is what really surprises me. He has been a Member of the other place as well as a Minister in the other place. I cannot understand why he feels that a committee composed of,

"individuals with no party attachment, and others",

is likely, even if it reports after three years, to reach a better judgment on what is needed in the two Houses than would be achieved by the Members of this House and the other place. Frankly, I think that he has no knowledge of history. Throughout history Parliament has reformed itself, starting with King John and Magna Carta; moving on, after some centuries, to 1911 when, because of the strength of Lloyd George and the Liberal Party, changes were made which stopped this House considering financial matters; and, more recently, to the 1999 Act, which greatly reduced the number of hereditary Peers. That shows the ability of both Houses to do this work sensibly themselves, and that is vitally important.

If we go down the other road of saying to the public, "Come on, everyone. Let us all have a voice in it", you will have three years of muddle without any clear knowledge of what we should be doing. It is important that these matters are now taken forward quickly, and that is surely the point of the Bill before us. We may not like bits of it, but it is a serious attempt to move reform forward within the judgment of the two Houses themselves. So I have to say that a committee of inquiry with many people on it who are not in this place would be a fatal thing to do.

5.30 pm

Lord Soley: My Lords, I shall be very brief, but I do not in any way want to underplay the importance of this amendment. So far as I am concerned, it goes to the heart of the problem of this Government. Having won the election, they have decided that they will change the number of Members of the House of Commons to suit their own party political advantage. It comes from the history of the document written by Andrew Tyrie MP and various others, where the suggestion was to reduce the number by 60 or close to that figure in the first five years and then by another 60 in the following five years in order to maximise the Conservatives' advantage in winning elections. That is what is so profoundly wrong in this.

As I have said on other occasions, it is an invitation not just for this Government but for future Governments of any political complexion to do exactly the same after every election. This is an invitation to gerrymander the House of Commons by the party that wins. I shall not labour the point, but if we were investigating an election in a country emerging from a communist regime where they were trying to assess the size of a House that would benefit the reformed communist party, we would blow the whistle. We are now, shamefully, doing the same.

Lord Garel-Jones: Does the noble Lord not consider that it might be fairer to say that what the coalition Government are doing is beginning to deal with the totally unfair built-in advantage that the Labour Party has enjoyed for many years?

Lord Soley: I do not accept that. The advantage of my noble friend's amendment is that it invites a considered response. If the noble Lord is right, although I do not believe he is for a moment, then this is the opportunity to look at it. This is the way that any future Government would, I hope, address the issue. Like my noble friend, I support a reduction of the numbers in the House of Commons, but we should not do it this way. You should not fiddle around with the constitution to suit your own party advantage. This proposal offers structure, which is very important. I give way to my noble friend.

Lord Howarth of Newport: Is it not rather remarkable that the noble Lord, Lord Garel-Jones, has just admitted that the motive of the coalition in introducing this legislation is to achieve a more favourable political structure in the distribution of constituencies to the benefit of the Conservative Party?

Lord Soley: There is a genuine argument about whether it automatically gives a bigger majority to the Conservative Party because all sorts of issues like turnout and so on have to be taken into account. However, the general view has been expressed consistently ever since Andrew Tyrie wrote his document in 2004 that this would benefit the Conservative Party. That is what it does. So I would say this, particularly to the Members opposite: bear it in mind that you will not be in power for ever and you will then not be in a position to complain about a Government who come in and do the same to you. I shall give way one last time, but I am anxious not to delay the House.

Lord Garel-Jones: I am extremely grateful to the noble Lord. Picking up on the point made by the noble Lord, Lord Howarth, will he reflect on the fact that I mentioned the word "fair"? Perhaps he may wish to reflect on why it is that in 1992 the Conservative Party achieved the largest popular vote in the history of this country and was rewarded with a majority of 21, a vote never achieved by the outgoing Labour Government who, I think I recall, achieved majorities in excess of 170.

Lord Soley: I invite the noble Lord to read the debates held during the Committee stage, where he will find that those issues were dealt with. I do not want to repeat it all again. I would also say to him that he should read his own party's literature on this matter since 2004. The arguments are very clearly put in favour of the Conservatives reducing the number of seats not just for fairness but because a reduction would increase their majority. That is a fact, and my concern about it is that any future Government could do the same.

If the Conservative Party is then in opposition, as well as the Liberal party—although why that party is pursuing this is beyond me, because if it was on this side of the House it would fight it fiercely, and its friends in the press would support it—that party would be saying that it was the Labour Party gerrymandering. This is a gerrymandering issue. What my noble friend has done is come up with a structure so that we can take our time and deliberate on very important issues related to the size of the House of Commons. We could do it over time and we would not need to delay the Government getting their Bill. This is a very important amendment that goes to the heart of the problem that the Government have on this. In my view, the position is deeply undesirable and I would love this amendment to be taken in the spirit in which it is intended. It recognises that there is a case to review the size of the House of Commons, but not doing that to the advantage of one or other political party. If my own party tried to do this, I would feel just as strongly about it.

Lord Falconer of Thoroton: My Lords, my noble friend Lord Wills' amendment is back with us by popular demand, having achieved a very supportive hearing and interesting debate in Committee. I would imagine that that is why we are being treated to a guest appearance by the noble Lord, Lord Garel-Jones. We are disappointed that he has not played more of a part in our debates. Had he been here, as my noble friend Lord Soley said, he would have discovered—because these points have been made on many occasions—that the reasons why the Conservatives do not do so well are threefold. First, it is because their vote is spread all over the country; secondly, there are lower turnouts in Labour seats than Tory seats; and thirdly, that yes, there is some inequality, but that is the third and most minor of the reasons. I am glad to see the noble Lord, Lord Garel-Jones, nodding sagely, and I am only disappointed that he has come today, because the result might have been different in the previous vote.

The amendment moved by my noble friend Lord Wills is an attempt to force the Government to face up to the reality that the issues being dealt with in this Bill need proper thought. The Parliamentary Voting System and Constituencies Bill provides for significant changes to the British constitution, significant changes that everyone agrees ought to be properly considered in due time and by those with the expertise and the means to disseminate the many views and opinions on these major constitutional issues. These are matters which everyone agrees need proper consideration and resolution, but they undoubtedly will not get that from this Government.

It is therefore right that Members of your Lordships' House—like my noble friend Lord Wills, who takes these matters seriously and has a proud record in what he has achieved as a Minister, particularly when he was responsible for constitutional matters, and who not only believes in good process and informed proposals but put those into practice when he was a Minister—should put forward amendments like the one before us now. I ask noble Lords to look at what, if I may say, is the rather idle government amendment tabled in the name of the noble Lord, Lord McNally, which can be found on page 14 of the Marshalled List. A minimum effort has been made in order to have an inquiry and it is almost contemptible in the way it has been done. No effort of any sort has been made, despite accepting the proposition which the noble Lord, Lord Renton of Mount Harry, finds so difficult.

The effect of my noble friend's amendment would be to provide time for the key questions raised by the contents of Part 2 of the Bill to be answered. It would give the time for the sort of consideration that the constitutional matters at hand deserve, and time that we on this side of your Lordships' House have been trying to provide. We have given this Bill proper scrutiny, and on this side we have forced the House to provide time to allow that to happen. There are so many things that the Government have not done properly in the Bill: no public consultation, no pre-legislative scrutiny, and no respect for the usual gaps between stages in Parliament. The consequence is that parts of the Bill were not considered at all in the House of Commons. The consequence is a shambles where correspondence from Ministers arrives after we have had a debate. That feels like a corrosive process as far as constitutional change is concerned.

But there is more—and my noble friend Lord Wills made this point very effectively. Noble Lords will know that allegations have been made, not by the Labour Party, although it does make them, but by Members of Parliament who are Conservative, for example, and "Newsnight". People like that would be regarded as not parti pris. The effect is that these constitutional changes, effectively unheralded by a manifesto and effectively unmandated, would go through with an air of suspicion. The consequence is that, for the first time since the Second World War, the method by which we determine how many Members of Parliament there should be is in the hands of the majority of the House of Commons and in the hands of the House of Lords, which has received 114 new Members since May 2010. Every single one of those Members is delightful and personable, men and women of real merit, whatever party they come from or whether they come from no party at all, but I have the deepest and most profound suspicion that if we counted the numbers we would find that they have increased the coalition's

[LORD FALCONER OF THOROTON]
majority. Looking across the House, I see many delightful new Peers, many of whom have made a major contribution to British public life, but many of them are voting in accordance with a Whip that they receive from the Government. The consequence is that the Government now have the ability to ram through their choice on the size of the House of Commons in such a way that there is real suspicion that it has been done in the interests not of the country but of a party. The consequence is that that aspect of the coalition gets into political play.

The effect of my noble friend's proposals is that there can be an independent review. We like the noble Lord, Lord Strathclyde, very much indeed, but we wonder whether his justification for there being 600 in the House of Commons—that it is a nice, round number—carries the weight that perhaps it needs when you are trying to persuade people that the reason you have reduced the number in the House of Commons is not for political but for good constitutional reasons.

We support this amendment. We think that a lot of trouble has gone into it and that it has real merit. With respect to the noble Lord, Lord Renton of Mount Harry, I think that it is entirely unfair when he said that the process would go on. I am glad that it was pointed out to him that my noble friend Lord Wills has thought about all the issues that he mentioned.

I very much hope that there will now be a change of heart and that the noble Lord, Lord Strathclyde, one of the most powerful members of the Government, will indicate that we are now going to have a committee of inquiry.

Lord Strathclyde: My Lords, that was a kind and generous invitation from the noble and learned Lord, Lord Falconer of Thoroton, but one that I shall have to resist—and therefore I shall disappoint him. However, I shall try to explain why and give some coherence to this debate, which has been an interesting one, because this issue goes to the core of the disagreement that has taken place over this Bill. The noble Lord, Lord Wills, must wake up every morning kicking himself that he did not set up this inquiry when he was a Minister a year or two ago, because now we would be anticipating its results. Maybe he did try to set it up and maybe he could tell us a bit about that when he comes to wind up.

The main accusation being made by noble Lords opposite is not so much that we are rigging the system as that the proposals raise a suspicion that we are rigging the system. Yet nobody can bring any evidence to bear that that would be the likely effects of what we are trying to do—either reducing the number of seats or reaching an equalisation in the number of voters in each seat.

The amendment would require a committee of inquiry to conduct a wide-ranging review not only of the structure of our electoral institutions and processes but of how they interrelate. The Government have accepted the argument made by noble Lords that consideration of the impact of a House of 600 seats is important. I know that the noble and learned Lord rather pooh-poohed it, but when we get to that matter, I shall explain why I believe that it is the right way in which to look at it. Why have we done it as we have? It is because we should not allow this issue to prevent a boundary review taking place, leading to boundaries that are as much as 20 years out of date if a review does not report before the next general election.

5.45 pm

I know that the noble Lord does not intend to delay the review, but it is still clear that accepting this amendment and setting up this new inquiry could not be fitted into the timetable to allow a boundary review to take place in time for the next election. That in itself creates a new partisan suspicion that the noble Lord does not wish that boundary review to take place before the next general election, because there would be a three-year deadline to report, six months to draft measures giving effect to recommendations, the time needed to legislate and then the time for the Boundary Commission to carry out its reviews on the basis of whatever rules are agreed by the committee of inquiry. That would take it beyond this Parliament.

We are still of the view that the amendment's attempt to balance the effect of almost every electoral procedure against every other one is a most difficult task at best and very likely unachievable. The chances of gaining consensus on any magic formula that resulted would be unlikely. That is why I think that the noble and learned Lord was hard on my noble friend Lord Renton, with all his experience in another place and here of seeing royal commissions operating in practice. I also think that my noble friend's main contention was right. Why should not Parliament, as it has done before, be able to reform itself in this manner? In 1944, the Speaker's Conference recommended that electoral equality across the constituencies of the UK should be an overriding principle, and we should allow the Boundary Commissions to commence that work without delay.

The arguments about whether 600 is the right number of seats should also not delay the boundary review. Issues such as the use of population in the boundary review have been debated at length in the course of the Bill's passage, and various good points have been made. No doubt, it is something that Parliament will wish to come back to in the longer term.

The proposals set out in the Bill are sensible, practicable and, in the words of the British Academy report, their implementation,

"should ensure a set of constituencies that are much more equal",

than at present. We have accepted the case for a post-legislative review, but the inequalities and unfairnesses that would be caused if this review was delayed mean that we should not conduct an inquiry prior to the commissions commencing their task. It is unnecessary to have a review that is so comprehensive that it sees the size of the House of Lords and the choice of local government election boundaries as a matter that would all have to be decided together.

I am sure that I have not given the noble Lord the satisfaction that he would like, but it is the best answer that we can give him. I hope that in withdrawing his amendment he will give us an insight into the thinking of the last Government on these issues.

Lord Wills: I am extremely grateful to the noble Lord for that, and I accept his assurance that that is the best answer that we are going to get. He is right about that.

This has been an important debate. It has been limited in contributions, but they have been distinguished by their pithiness. With great respect to the noble Lord, Lord Renton, I do not feel that I have no sense of history—I think that I have a different sense of history from him. The instances that he gave precisely illustrate the point. All the instances of these great constitutional turning points in our recent history that he evidenced did not come out of nowhere—they were the subject of prolonged and vigorous debate in and outside Parliament. Nobody with the best will in the world can say anything like that in relation to the proposals in this Bill. That is precisely the point and purpose of this amendment: to allow space for a proper consultation to take place.

I was extremely struck by what can come across only as contempt by the noble Lord, Lord Renton, and the Leader of the House, about consulting the public on this. We have heard very little about that in all the debates, but it is very important. We had a very good debate about local inquiries just a few minutes ago in this Chamber, but what about the broader issues? These are the electoral arrangements for the people of this country to determine how they elect their Government. It is not our Government—it is their Government.

We have had no consultation. We have had no Green Paper, no White Paper, no pre-legislative scrutiny, none of the more modern forms of engagement with the public that I would like to see, such as deliberative engagement where people come together and discuss these issues, sometimes for days at a time—none of that. I find the contempt for the British public shown by the Benches opposite profoundly depressing and, incidentally, at odds with all the rhetoric from the Prime Minster and the Deputy Prime Minister about a "new politics". This has been a pithy debate but rather a saddening one with regard to the way that the British public have been treated by the government Benches.

I want to comment on the point made by the noble Lord, Lord Garel-Jones, about remedying the unfairness. I understand how deeply the Conservative Party feels that the system is unfair, of course I do, and he has put it very well. However, he has to understand that there are other issues that come into play, as my noble friend Lord Soley said, and we all have a strong sense ourselves of what is fair. I am afraid that fairness is always a relative point. If we are going to command the respect of the British people that this is an impartial process, it is not, with respect, the noble Lord or I who should be judging what is fair and what is not; it should be an independent and impartial inquiry that is seen to be such. That is the point of this amendment.

Despite all this, the noble Lord, Lord Strathclyde, came up with the same old argument that this measure has to be pushed through for the next general election; it cannot wait for the election after next. The sense of history of the noble Lord, Lord Renton, is out the window, according to the noble Lord, Lord Strathclyde. I respectfully point out to him that great swathes of British history are not measured by the period from one general election to the next; they are measured by decades and generations. Given that sort of timeframe, why is he so bothered that it has to be the next general election rather than the one after it? He has no answer at all.

I am afraid that because of the poverty of the response that I have had from the government Front Benches—incidentally, before I conclude, I want to say that the noble Lord is right: I kick myself that we were not able to put this committee into place. Perhaps he could just intervene on me; in fact, I would be grateful if he would. If I had succeeded in my aim to set up this commission before the general election and the election had been the same, would he have scrapped it or abided by it? I will give way to him now. Will he tell me?

Lord Strathclyde: That is the most hypothetical of all hypothetical questions. If the noble Lord had set it up, we would have co-operated with it fully.

Lord Wills: More opacity in this debate, I am afraid. The Minister's response has been profoundly inadequate—charming, but inadequate. Because these issues are so important and go to the heart of the Bill, I am not going to withdraw the amendment. I would like to test the opinion of the House.

5.52 pm

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6.10 pm

Clause 10 : Boundary Commissions: reports etc

Amendment 16J

Moved by ***Lord Falconer of Thoroton***

16J: Clause 10, page 8, leave out lines 28 and 29 and insert ", initially by a date to be specified by the Boundary Commission, once the Electoral Commission has certified that every local authority has taken all reasonable steps to ensure that the electoral register is as complete and accurate as possible""

Lord Falconer of Thoroton: My Lords, this amendment would change the Bill so that the date of the next boundary review would be set by the Boundary Commission, rather than the Government,

"once the Electoral Commission has certified that every local authority has taken all reasonable steps to ensure that the electoral register is as complete and accurate as possible".

The amendment stems from a deep concern that has been expressed not just by Members on these Benches but by many noble Peers, and which is shared by the Government, about the incomplete nature of the current voter register. It makes it a flawed basis on which to redraw the electoral map in the way that the Bill proposes. The Bill states in rule 10(5) in Clause 11 that the basis of the next boundary review will be the electoral register as it stands two years and 10 months before the submission date of 2013. In plain English that means that the Boundary Commissions must use the 2010 electoral register in carrying out their redrawing.

We now know, and the Government have acknowledged during these debates, that this register is likely to be missing upwards of 3.5 million eligible voters. We also know, and the Government have also acknowledged, that the problem of under-registration is most acute among particular social groups in particular areas. As the Electoral Commission has reported,

"underregistration is concentrated among specific social groups, with registration rates being especially low among young people, private renters and those who have recently moved home … The highest concentrations of under-registration are most likely to be found in metropolitan areas, smaller towns and cities with large student populations, and coastal areas with significant population turnover and high levels of social deprivation".

The Electoral Commission's study was underpinned by Ipsos MORI research, which found that only 69 per cent of black and minority ethnic voters are registered, and only 44 per cent of 20 to 24 year-olds are registered, as opposed to 97 per cent of 60 to 64 year-olds. Therefore, the December 2010 register is clearly a flawed basis for the boundary review, but the Bill insists that this is the register that must be used.

The noble and learned Lord, Lord Wallace of Tankerness, explained in Committee that it was,

"the wish of the Government that constituency sizes should be of an equal size".—[*Official Report*, 10/1/11; col. 1278.]

That is a reasonable objective. We support the principle of more equal seats, but you cannot have equal seats on the basis of an unequal register. That goes against basic democratic principles. That is why our amendment stipulates that before the next boundary review—which will be very significant and widely disruptive—the electoral register should be brought to as complete a state as is reasonably possible. We suggest that this can be done by requiring the Electoral Commission to check that local authorities have taken all reasonable steps to ensure that this has happened. This does not seem an unreasonable or impossible demand. As the noble and learned Lord, Lord Wallace of Tankerness, pointed out in Committee:

"electoral registration officers are under a statutory duty to compile and maintain comprehensive and accurate electoral registers. It is not as if it is a voluntary activity; there is an obligation on local authorities to compile as best they can comprehensive and accurate electoral registers".—[*Official Report*, 10/1/11; col. 1280.]

If that is the legal obligation, what is wrong with holding those registration officers to account?

At the moment, there are self-reported performance standards, but they are not doing the trick. We know that because of the markedly different registration

[LORD FALCONER OF THOROTON]
rates across different parts of the UK, which the Electoral Commission has itself uncovered. It seems perfectly possible and reasonable to ask the Electoral Commission to take a more proactive approach to the registration of electors. The central aim of the commission is to ensure,

"integrity and public confidence in the democratic process".

That should be our aim, too. We will fail to achieve it if we do not place some safeguard in the Bill that takes into account the problem of under-registration among particular social groups in particular places. I beg to move.

The Lord Speaker (Baroness Hayman): I have to inform the House that if either Amendment 16J or Amendment 16K is agreed to, I cannot call Amendments 16L to 17 inclusive by reason of pre-emption.

Lord Campbell-Savours: My Lords, I will not speak to Amendment 26. However, I have a question to ask the noble Lord, Lord Strathclyde. The boundaries are being set on the basis of the December 2010 register. Why cannot the date be January, February or March 2011, particularly since local authorities are right now registering people all over the country? Why cannot those additional signatories—registered persons—be taken into account?

6.15 pm

Lord Foulkes of Cumnock: My Lords, I was swithering about whether to speak to Amendment 25A in my name and Amendment 26 in my name and that of my noble friend Lord Campbell-Savours. I got to my feet only because of the demands of the noble Lords, Lord Rennard and Lord Tyler, who said that they missed my contributions to this debate. I am very pleased to do this request number, as it were.

However, it is very important, as my noble and learned friend, Lord Falconer of Thoroton, said, to get as accurate a register as possible on which to carry out the revision of the boundaries. I am sure the Liberal Democrats would agree with that. They might not agree with our solutions and prescription, but I am sure they would agree with the thesis that it is important to get it as accurate as possible. My noble and learned friend Lord Falconer has suggested one option. These two amendments suggest two more. Amendment 25A suggests using the census, which fortuitously will come in 2011 and will give us a figure for those who are eligible to vote, together with updates that are available. My noble friend Lord Maxton commented in Committee on how the register could be updated.

Amendment 26 is even simpler. It would use those who are eligible to vote, not necessarily all those on the register. In Committee it was suggested that there might be some problems about identifying the numbers. With respect, I do not see how there can be when the Government cite the percentage of those in an age group who are registered. If they are able to give a percentage that is registered in each group in each constituency, they must know the number who are eligible. It would be far fairer to use figures that are more accurate and up to date, as my noble friend Lord Campbell-Savours said. I hope the Minister will respond to those two points.

Lord Howarth of Newport: My Lords, we all endorse the ambition to achieve equality between constituencies, although on this side of the House we consider that there are other factors that have been too much discounted by the Government in their proposals. However, there is the very serious question of whether the flawed data that the electoral registers provide undermine this project of seeking equalisation between constituencies. Research by Dr Roger Mortimore, investigating the 2009 electoral registers across eight study areas, found variations in the completeness of the electoral register in a range of 73 per cent to 94 cent. In some constituencies the register was thought to be that incomplete; only 73 per cent of those who should have been on the register were. His study of the accuracy of the register in those same areas found a variation of between 77 per cent and 91 per cent. In the worst instances, which could be some 50 to 100 constituencies in which the condition of the electoral register is seriously inadequate, it must cast doubt on whether the Government are realistic in seeking to achieve equality.

While we would in no way wish to discourage them from seeking to achieve equality between constituencies, we very much hope that they will conduct an energetic drive throughout the country to ensure that electoral registers are both complete and accurate. They can do this outside the terms of the legislation, so even if they do not accept these amendments they will still be free to do this if they wish. It will not be enough if they respond by saying that moving to individual registration should make a substantial contribution to solving the problem, because individual registration will improve accuracy but will certainly not improve completeness. A substantial problem will remain.

I certainly think, as we suggested in Committee, that a serious effort should be made to absorb the findings of the census, which is to be carried out next month. It would be possible for those concerned with drawing up electoral registers to begin to take account of interim findings from the census, and they should do that, just as the Government intend to use other databases to help to improve the completeness and accuracy of the register.

As it is, we are conducting this immense and controversial process of redrawing constituency boundaries on a principle that cannot in practice be carried through, given the serious inadequacy of registration. I hope we will hear from the noble Lord, Lord Strathclyde, that the Government have practical proposals as to how they will improve the condition of the registers to fulfil the objectives that we share on all sides of the House.

Lord Strathclyde: I recognise the importance of the subject raised in this group of amendments and I will speak to them all. I am grateful to noble Lords for raising their queries in the way that they have done.

Amendment 16J prohibits the first boundary review from taking place until all local authorities in the country have been certified as having taken all reasonable steps to ensure that the electoral register is as complete

and as accurate as possible. The amendment also leaves it to the Boundary Commission to decide when the first review should be completed. The Government's position has not changed on this issue since we debated it in Committee, because if we delay the implementation of new boundaries whereby they do not take effect before the general election in 2015, we end up with the absurd situation of electors in England coming on to the register in 2018 who were not born when the electoral data that are used to determine the pattern of representation across the UK was compiled. This should not be allowed.

As the Government made clear, action is being taken to accelerate progress towards individual registration. We are introducing measures such as data-matching schemes to help local authorities gain as complete a picture as possible of the eligible voters in their area. However, we cannot allow boundary reviews to be delayed, potentially indefinitely, which the amendment may do. It states that a boundary review could not take place until all—I stress, all—local authorities in the country had been certified as having completed all reasonable steps to ensure that the register was as complete and accurate as possible. This does not seem to be either reasonable or proportionate, given that the electoral register has been used as the basis for boundary reviews for decades. It is important that steps are taken to support registration, but we do not see this as an either/or situation; we should not tolerate out-of-date boundaries while the registration work is ongoing.

The noble Lord, Lord Campbell-Savours, asked a perfectly fair question as to why the register from January or February 2011 could not be used. The answer is that 1 December is the date by which the electoral register is published, following the annual census. The research that has been undertaken independently by the Electoral Commission shows that the register becomes less accurate throughout the year from that point. Therefore, by using the register that was due to be published on 1 December, we are addressing the concerns expressed about the accuracy of the register.

Lord Campbell-Savours: That is not the information that we are being given by Members of the other House. They are saying that the register now carries more registered people than at any other stage. Perhaps the noble Lord can ask departmental officials to check, prior to the debates tomorrow.

Lord Strathclyde: My Lords, I am very happy to do so; more than that, I will try to get a letter sent to the noble Lord overnight for him to study before we reach his further amendment.

Amendment 26, in the names of the noble Lords, Lord Campbell-Savours and Lord Foulkes, also seeks to require the Boundary Commission to estimate the number of people entitled to vote, based on data from the 2011 census and any other data available, and to use this as the basis for the electoral quota, or simply to estimate the number of the eligible electorate. There are practical difficulties in estimating the number of people who are eligible to register but have not chosen to do so. Again, the Electoral Commission has called estimating the completeness and accuracy of the electoral registers an imprecise science, and acknowledges that all current approaches to estimating the data are imperfect. That is not a solid basis on which to draw up constituency boundaries. Even if it were possible to make estimates of the total electorate who are unregistered to vote, this amendment proposes the use of data from the 2011 census. The census is being carried out, as the noble Lord, Lord Howarth, pointed out, on 27 March. Data will not be available until at least the end of the year. Data at local authority ward level, which would be necessary to make estimates that would be of any use in a boundary review, will not be available until well into the following year. It will be well into 2012 before the data set for the review can even begin to be compiled.

The Boundary Commission for England will not be able to conduct a review that allows for proper consultation and allows enough time for parties, candidates and administrators to prepare for an election on new boundaries in 2015 if they have barely begun the task at the start of 2013. Furthermore, any such estimates will doubtless be the subject of considerable critique and challenge by those with a vested interest, which might risk further delay and undermine confidence in the commissions. It is far better to base the review on the electoral register, because whatever the debate about the number of electors who should be on the registers, the number who actually are on them is a simple matter of fact.

If it is not possible to wait for the census and have new boundaries in place for 2015, then it seems to me—

Lord Howarth of Newport: Will the noble Lord explain why it will take such an extremely long time to get findings from the census? The Government's computers must be grinding very slowly.

Lord Strathclyde: My Lords, it is a nice idea that I would able to explain that now. My understanding is that it takes that long to get the figures out. If there were a way of speeding up the process, we would have done so, because we want the most up-to-date figures available for the review to use.

Lord Myners: In that case, will the Minister confirm that the Government have therefore taken all steps to investigate how they could speed the completion of the data collection, analysis and report of the census, as far as it would relate to electoral registration? The time taken to compute this information sounds extraordinarily long. The Minister is, I think, giving us comfort that he has taken steps to do that, but it would be helpful if that were to be confirmed.

Lord Strathclyde: My Lords, when there is a census every 10 years, there is a great debate about how quickly the information taken by that census can be applied to policy. Every 10 years, the answer is that it will come about as quickly as possible, and Ministers are encouraged to make it even quicker than that. However, it is not always possible to make the process quicker. Those who run the census do it on the basis of trying to provide the information quickly. I am very

[Lord Strathclyde]
happy try to find out from them exactly why it takes so long. I will write to the noble Lord and put a copy of that letter in the Library.

Amendment 26 proposes to amend the definition of electorate to include all those eligible to vote in the UK, even if they have not registered to do so. This would have a consequent effect on the calculation of the electoral quota of the United Kingdom, and thus the size of constituencies drawn up by the Boundary Commissions in their reviews. This is very similar to Amendment 25A. I do not need to explain its drawbacks further.

Throughout the debates on this subject, in Committee and on Report, we made it clear that we agree that it is vital that the register is as complete and as accurate as possible. That must serve our interests as well as those of Parliament and ultimately those of the people we serve. However, progress on this must sit alongside the Boundary Commission's work on updating constituency boundaries. Solving the problem of under-registration will be a long-term process in which we should all be involved. Delaying the boundary review process until it is complete would mean that the 2015 election would be likely to be fought in constituencies based on electoral data from 2000. If noble Lords are genuinely concerned that representation should reflect entitlement—and I believe that they are—they should strongly support the Government's proposals. By leaving existing boundaries in place for the 2015 election and the next Parliament, the amendments would achieve precisely the opposite. On that basis, I hope that the noble and learned Lord will withdraw his amendment.

Lord Falconer of Thoroton: I thank the noble Lord for his response. It was extremely disappointing and reflected an approach that has been taken by the Government throughout the process. They have accepted the problem but offered few proposals in relation to it. Two things need to be done. Active steps must be taken and a proposal must be made about how the date problem should be dealt with. Neither is impossible. In these circumstances, I wish to test the opinion of the House.

6.31 pm

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Doocey, B.
D'Souza, B.
Dykes, L.
Eaton, B.
Eccles of Moulton, B.
Eden of Winton, L.
Edmiston, L.
Elton, L.
Empey, L.
Falkland, V.
Falkner of Margravine, B.
Faulks, L.
Feldman, L.
Fellowes of West Stafford, L.
Ferrers, E.
Fookes, B.
Fowler, L.
Framlingham, L.
Fraser of Carmyllie, L.
Freeman, L.
Freud, L.
Garden of Frognal, B.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
German, L.
Glasgow, E.
Glentoran, L.
Goodhart, L.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Green of Hurstpierpoint, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hamilton of Epsom, L.
Hamwee, B.
Hanham, B.
Hannay of Chiswick, L.
Harris of Richmond, B.
Hayhoe, L.
Henley, L.
Higgins, L.
Hill of Oareford, L.
Hodgson of Astley Abbotts, L.
Hooper, B.
Howard of Rising, L.
Howarth of Breckland, B.
Howe, E.
Howe of Aberavon, L.
Howe of Idlicote, B.
Howell of Guildford, L.
Hunt of Wirral, L.
Hussain, L.
Hussein-Ece, B.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jenkin of Roding, L.
Jolly, B.
Jones of Cheltenham, L.
Kakkar, L.
Kilclooney, L.
Kimball, L.
King of Bridgwater, L.
Kirkham, L.
Kirkwood of Kirkhope, L.
Knight of Collingtree, B.
Kramer, B.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lawson of Blaby, L.
Lee of Trafford, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Linklater of Butterstone, B.
Listowel, E.
Liverpool, E.
Loomba, L.
Lothian, M.
Luce, L.
Luke, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Mar, C.
Marks of Henley-on-Thames, L.
Marland, L.
Marlesford, L.
Masham of Ilton, B.
Mayhew of Twysden, L.
Methuen, L.
Miller of Chilthorne Domer, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Moynihan, L.
Neuberger, B.
Neville-Jones, B.
Newby, L.
Newlove, B.
Newton of Braintree, L.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Northover, B.
Norton of Louth, L.
Oakeshott of Seagrove Bay, L.
O'Cathain, B.
Oppenheim-Barnes, B.
Palmer of Childs Hill, L.
Palumbo, L.
Pannick, L.
Parminter, B.
Patten of Barnes, L.
Perry of Southwark, B.
Phillips of Sudbury, L.
Pilkington of Oxenford, L.
Plumb, L.
Popat, L.
Ramsbotham, L.
Rawlings, B.
Razzall, L.
Reay, L.
Redesdale, L.
Rennard, L.
Renton of Mount Harry, L.
Risby, L.
Ritchie of Brompton, B.
Roberts of Conwy, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rotherwick, L.
Rowe-Beddoe, L.
Ryder of Wensum, L.
St John of Fawsley, L.
Sanderson of Bowden, L.
Sassoon, L.
Scott of Needham Market, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Sharkey, L.
Sharples, B.
Shaw of Northstead, L.
Sheikh, L.
Shipley, L.
Shrewsbury, E.
Shutt of Greetland, L. [Teller]
Skelmersdale, L.
Slim, V.
Smith of Clifton, L.
Soulsby of Swaffham Prior, L.
Spicer, L.
Stedman-Scott, B.
Steel of Aikwood, L.
Stewartby, L.
Stoneham of Droxford, L.
Storey, L.
Stowell of Beeston, B.
Strasburger, L.
Strathclyde, L.
Swinfen, L.
Taverne, L.
Taylor of Holbeach, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Swynnerton, L.
Thomas of Walliswood, B.
Thomas of Winchester, B.
Tonge, B.
Tordoff, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Trumpington, B.
Tugendhat, L.
Tyler, L.
Tyler of Enfield, B.
Ullswater, V.
Vallance of Tummel, L.
Verma, B.
Vinson, L.
Wade of Chorlton, L.
Waldegrave of North Hill, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Walpole, L.
Walton of Detchant, L.
Warnock, B.
Warsi, B.
Wasserman, L.
Watson of Richmond, L.
Wei, L.
Wheatcroft, B.
Wilcox, B.
Williams of Crosby, B.
Williamson of Horton, L.
Willis of Knaresborough, L.
Wolfson of Aspley Guise, L.
Wolfson of Sunningdale, L.
Younger of Leckie, V.

6.45 pm

Amendments 16K to 16N not moved.

Amendment 17

Moved by ***Lord Lipsey***

17: Clause 10, page 8, line 29, leave out "fifth" and insert "tenth"

Lord Lipsey: This amendment follows on from one that I moved in Committee. In that one, I favoured seven years, which was the time given in the original amendment in the name of my noble and learned friend Lord Falconer. However, I am a sinner who repenteth and have changed my mind, now believing that 10 years is the right period. I am trying to prevent perpetual revolution in constituencies, allowing MPs to be MPs and not—as they would be should the system under the Bill survive the 2013-15 experience, which it might well not—turning them into carpetbaggers, devoting their lives to finding new seats instead of doing what they and every Member of that House would want them to do, which is to serve their constituencies and our country.

The advantage of 10 years over any other period is that it would accord with the five-yearly elections proposed in the Fixed-term Parliaments Bill. I think that it provides the right balance between updating population changes and so on—which we all want because we want greater equality in constituencies—and providing a measure of stability for the Members of another place that will enable them to do their jobs properly without keeping half an eye on their next move. I beg to move.

Lord Bach: My Lords, I will speak to the one amendment in this group that has now been moved but, first, I apologise to the House. Having studied the lead amendment in this group, which is in our name, we find that it is defective. Perhaps that is partly a symptom of the absolutely ridiculous haste with which we are being asked by the Government to table amendments for Report. The noble Lord says from a sedentary position that there is no excuse at all—he says that when the gap between Report and Committee is cut from a fortnight to in effect one sitting day. Mistakes were bound to occur. We own up to having got one amendment wrong, which is why we have not moved it. However, the matters that we hoped to raise are effectively covered by my noble friend's amendment, to which I shall speak briefly.

There is a balance to be struck on the timing of the boundary review process. The more frequent the boundary reviews, the more up to date the electoral registers on which they are based. In the light of our previous amendment and concern about the accuracy and quality of the registers, we do not judge eight or 10 years to be an advisable interval between reviews. On the other hand, frequent boundary reviews lead to more frequent disruption of the UK electoral map, especially if such reviews take place on the basis of the narrow parity law contained in this Bill. Such disruption has been confirmed in evidence to the bodies that have often been mentioned during our proceedings—the Constitution Committee of this House and the Political and Constitutional Reform Committee of another place. A serious issue arises from regular and widespread disruption—one can ask any Member of Parliament about that—and that is the disconnect that it might cause between Members of Parliament and the electors they represent, many of whom will find that their constituency will change at each review in each Parliament if the Government's proposals are implemented. Therefore, we are grateful to my noble friend for moving his amendment.

Lord Strathclyde: My Lords, I thank the noble Lord, Lord Lipsey, for moving his amendment. I also thank the noble Lord, Lord Bach, for not moving his amendment, as he had spotted that it was defective. It raises remarkably similar issues, so he will get a remarkably similar answer—or he would have done if he had been able to move it.

On the question of the disconnect for Members of Parliament. I do know whether this has been said before—if it has not, it should have been—but this is not being done for the convenience of Members of Parliament; it is being done to equalise the electorate across the whole country and to try to create a fairer system. Once we have the 600 seats in place with equalisation of the electorate, I do not believe that minor changes every Parliament will be an insurmountable burden.

The amendment moved by the noble Lord, Lord Lipsey, requires the Boundary Commission to report every 10 years after October 2013 instead of every five, as laid out in the Bill. The Parliamentary Constituencies Act 1986 requires reports from the Boundary Commissions every eight to 12 years. The intention of the Bill is to increase their frequency, ensuring that boundaries are more up to date than at present. There is a cost implication to holding more frequent reviews, but this is offset by the estimated £12.2 million in annual savings made by the reduction from 650 to 600 MPs.

Many noble Lords have rightly spoken in Committee and on Report about the important issue of the accuracy and completeness of the electoral register. That work is incredibly valuable in enabling people to participate in the democratic process, but it will not be reflected in their constituency boundaries if reviews are insufficiently frequent. That is why we advocate reviews every five years. I know that noble Lords opposite might feel that we have not gone far enough on the accuracy or completeness of the electoral register, but I hope that they will accept the logic of having reviews every five years. The Government's view is that reviews can be completed once a Parliament, giving sufficient time for the commissioners to do their work and for parties and electors to familiarise themselves with new boundaries before the next general election. If that is the case, I see no reason why we should make do with more out-of-date electoral data. We should have reviews during each Parliament so that boundaries remain refreshed; and more frequent reviews will limit the degree of upheaval each time.

I know that the noble Lord, Lord Lipsey, was trying to be helpful and constructive, but I hope that he sees the force of the argument of having regular reviews every five years.

Lord Lipsey: My Lords, I see the force of the argument; I just think that the argument for a review every 10 years is a good deal stronger. However, I beg leave to withdraw my amendment.

Amendment 17 withdrawn.

Amendment 18

Moved by ***Lord Lipsey***

18: Clause 10, page 8, line 29, at end insert—

"( ) If in the event a general election is not held in 2015, or in one of the subsequent five-yearly intervals thereafter, the government shall set up an independent inquiry to recommend appropriate changes to the provisions of this Act."

Lord Lipsey: My Lords, this amendment seeks to deal with the following situation. At the moment we have a five-yearly review, and that accords with the timetable of elections every five years, which has been proposed under the Fixed-term Parliaments Bill. As I understand it, when that Bill comes to us, it will contain provision for an early election in certain circumstances: for example, a vote of no confidence in the Government in the Commons. If such a vote happens and an early election is held, the timetable in the current Bill would go awry.

We have learnt, during the passage of this Bill, to accord almost religious significance to the pronouncements of the wonderful British Academy's study of the Bill, to which the noble Lord, Lord Strathclyde, referred earlier this afternoon in kindly accepting an amendment from me that incorporated one of its suggestions. On this subject, the British Academy says:

"Parliament may wish to consider the possible implications of an early dissolution on the timetable for reviews set out in the Parliamentary Voting System and Constituencies Bill, either by an amendment or by ad hoc legislation should such an occasion arise".

In view of this rightful plea that Parliament should consider it, I asked the authors of the British Academy study what they suggested by way of an amendment, and they replied honestly, being academics: "It is beyond the wit of man, or at least the four men who wrote this pamphlet, to suggest how". I was therefore forced back to my own suggestion here, which is a quick independent inquiry. If that does not win favour with the Government, I have another main purpose in raising this: to bring the Government's attention to this possible situation so that appropriate contingency planning can be put in place for what the British Academy called an "ad hoc" solution, should the matter arise. With that, I beg to move.

Lord Strathclyde: My Lords, I thank the noble Lord, Lord Lipsey, for moving that amendment. The issue that he is pursuing here is that the Government should themselves set up an independent inquiry, as the amendment says,

"to recommend appropriate changes to the provisions of this Act".

As I said in reply to the earlier amendment, the Bill requires reports every five years after 2013. Amendment 16M, tabled by the noble Lord, Lord Foulkes, would see reports every four years. As I said earlier, the five-yearly timetable in the Bill is intended to give sufficient opportunity for the boundary commissioners to complete their task and for political parties and candidates to organise themselves ahead of the next election, which will be the case if Parliament passes the Fixed-term Parliaments Bill in its current form. We would move away from the pattern of fixed-term Parliaments starting in May 2015 if the terms in the Fixed-term Parliaments Bill were changed to something other than five years or if there was an extraordinary general election.

The noble Lord, Lord Lipsey, is right that the Government undertook to consider this issue further in Committee. Having done so, we remain of the view that it would be difficult to provide for every possible reason why an election might not occur at an exact five-year interval. We have also considered a power for the Minister to vary the arrangements, exercisable only in the event of an extraordinary election. However, this would place the decision in the hands of a Minister who would have just won an election on the basis of the new boundaries. I think all noble Lords would agree that this might not be a helpful principle and that we should allow Parliament to decide if it becomes necessary. Instead of involving such complexity, the Bill seeks a middle way that does not waste those resources.

I hope that that explains our thinking behind why we are doing what we are doing. I hope that that honours the commitment that we gave in Committee to reflect on the noble Lord's suggestion.

Lord Lipsey: I am most grateful to the noble Lord for giving it that consideration. He makes it plain that the Government have considered this issue and no doubt will be ready to respond to it should the situation arise. I take the force of the argument that he makes about new Ministers, and therefore beg leave to withdraw my amendment.

Amendment 18 withdrawn.

Amendment 18A

Moved by ***Lord McNally***

18A: Clause 10, page 9, line 8, leave out ", with or without modifications,"

Lord McNally: My Lords, this series of government amendments seeks to remove any ambiguity about the discretion afforded to the Government over the Boundary Commission reports. The noble Lord, Lord Lipsey, raised these issues in an amendment in Committee, and we thank him for this. As my noble and learned friend Lord Wallace said at the time, it is not the Government's intention that the Secretary of State should have the discretion whether to accept any modifications that the Boundary Commissions wish to make to their reports. We have always been clear that we are willing to make sensible and reasonable improvements to the Bill that do not compromise on the key principles that underpin it, and this is one such example.

A government amendment in the other place made it clear that the Secretary of State could bring forward modifications only at the request of the Boundary Commission. The amendments are intended to remove any remaining potential for confusion by specifying that if the commission requests modifications, the Order in Council laid by the Secretary of State must give effect to the recommendations with the least

[Lord McNally]
modifications. I thank the noble Lord, Lord Lipsey, and all noble Lords who raised this important matter in Committee, and I ask the House to accept the amendments.

Amendment 18A agreed.

Amendments 18B to 18E agreed.

7 pm

Clause 11: Number and distribution of seats

Amendment 18F

Moved by ***Lord Falconer of Thoroton***

18F: Clause 11, page 9, leave out lines 36 and 37 and insert—

"*United Kingdom electoral quota*

1 The United Kingdom electoral quota shall be defined as the total electorate of the United Kingdom on the designated enumeration day divided by 650."

Lord Falconer of Thoroton: My Lords, Amendment 18F would replace the current provision of the Bill to fix the House of Commons at 600 seats with an alternative rule that would anchor the size of the Commons at its current membership of 650. We have touched down on this a few times this afternoon.

We contend that the Government have failed properly to explain why the figure of 600 seats has been identified as the optimum membership in the other place. They began by claiming that the House of Commons is a "bloated" Chamber and that the UK suffers from overrepresentation, but those arguments were quickly disproved. The claim that Britain is overrepresented in comparison with other similar-sized countries is based on a simple international comparison of numbers of elected representatives per head of population. In fact, the extent to which the UK has more representatives in the national legislature per head of the national population can be exaggerated.

As a briefing note from the House of Commons Library makes clear, the UK has roughly the same ratio as France and Italy. Of course, those calculations take account only of national legislatures and do not include reference to levels of representation beneath that tier. If we look below the national level, we see that the UK has far fewer elected officeholders per head of population than almost all comparable countries. One academic study found that, at the level of local government, the population per elected member is 2,603 in the UK, 350 in Germany and 118 in France. When subnational elected representatives are factored in, it is apparent that the UK does not suffer from overrepresentation.

In any event, there is a fundamental problem in seeking to draw simple comparisons between numbers of elected representatives in different national legislatures. Some countries are unitary states; others are federal. Some have a Westminster model; some have a presidential system. As a consequence, comparison is difficult.

A more sensible basis on which to decide what level of representation is right for the UK is to examine how the size of the House of Commons has changed over time. If the number of MPs was inexorably growing out of all proportion to the size of the electorate, there would clearly be a problem. The evidence shows that that is not the case. The Commons has not grown disproportionately in recent years. It has increased by about 3 to 4 per cent—that is, 25 Members—since 1950. However, the electorate and therefore the average size of constituencies have increased by approximately 25 per cent. That has produced a significant increase in the workload of MPs, which has in any event grown out of all proportion to the increase in population as a consequence of changing social norms, political developments and new forms of communication.

There is no evidence that having fewer MPs will reduce the demand for their services. Assuming that that remains the same, the pressure on the remaining Members and their staff will increase. If the service that MPs provide to their constituencies is not to deteriorate, they will no doubt need greater resources—employing people as caseworkers and those assisting them. The savings made by a reduction of 50 Members of Parliament are then likely to be lost, or reduced, undermining the argument that this is worthy as a cost-cutting measure.

As the initial justifications for the proposed reduction in the other place have broadly collapsed, the government Front Bench has adopted other numbers: a nice round number, now famous in this House. No wonder your Lordships' Constitution Committee said in its report on the Bill:

"We conclude that the Government have not calculated the proposed reduction in the size of the House of Commons on the basis of any considered assessment of the role and functions of MPs".

That is now confirmed by the Marshalled List of amendments, which includes, on page 14, Amendment 28A, which provides for a review into the proposed reduction in the number of constituencies. Your Lordships may note that the review is not due to begin until after the election, when the reduction will have happened.

The reduction in the number of MPs is a gamble based on no proper evidence, but it will be pursued anyway. The timeline was explained to us in discussion with the Government on the basis that it would be pointless to try to assess the impact of the proposed reduction on MPs before it had happened. If the reduction turns out to have a very negative impact, it will be too late to prevent it.

In most organisations, you consider the decision first on the evidence and then you take the decision. This Government take the decision, set up a body to look at it and then decide whether it was the right decision. Their approach to whether it affects our national Parliament to the total detriment of the people is, "Who cares?". Surely the more sensible approach would be to assess the workload and responsibilities of MPs now, with a House of Commons of 650 seats, before making a change of the sort now proposed.

We believe that the case for a 650-seat Commons has not changed since the current Prime Minister, Mr David Cameron, spoke in its favour—indeed, in favour of a slightly larger elected Chamber—at the

2003 Oxfordshire boundary inquiry. Opposing proposals to alter his constituency boundaries at one of the last public inquiries to be allowed into constituency boundaries, he told that inquiry—what a valuable inquiry it was:

> "Somebody might take the view that at 659 there are already too many Members of Parliament at Westminster. They may take the view, depending on what happens in the European constitution, that Westminster has less to do, with less MPs—I certainly hope that is not the case".

Our amendment stems from a conviction that the current Commons of 650 is the most appropriate basis on which to stabilise the size of that Chamber.

Put simply, under our proposals for alternative rules, an initial UK quota would be calculated by dividing the total UK electorate by 650. That would stabilise the House at about 650, but, with a mathematical rounding up or down involved in the calculation of seats in the four parts of the United Kingdom, it would enable minor fluctuations of up to one or two seats either side of 650, which would help the Boundary Commission to deal with remainders. That will give the Boundary Commission flexibility. That seems to be plain common sense. Unfortunately, the Government have struggled to respond positively to those commonsense views.

This is an incredibly important part of the Bill. We are being asked to cut 50 seats from the primary national political body in the United Kingdom. We are being asked to fix its size in statute in perpetuity at 600 and we are not being given any proper explanation as to why that is the most appropriate size for the House of Commons. Does anyone here honestly think that that is the right way to enact such fundamental constitutional change? I beg to move.

Lord Howarth of Newport: My Lords, my noble and learned friend, as the House has come to expect of him, has laid out all the relevant issues with magisterial authority. However, I suggest that there is one issue that he may have overlooked, which is that the population of this country is projected to grow very rapidly in the next few decades. If we fix the number of constituencies at 600, or even at 650, we will shortly find that the average number of constituents is unmanageably large. My noble friend Lady McDonagh made an interesting and thoughtful speech on the subject in Committee. We will quickly find ourselves with constituencies of 100,000 voters, trending upwards. Something has to give. You cannot have a fixed quota and a fixed number of constituencies. If the fixed number of constituencies is to be the paramount consideration, the quota will have to jump up at frequent intervals. That is unsatisfactory.

That leads me to my second point, on which I slightly take issue with my noble and learned friend. I question whether it is appropriate for the Government to invite Parliament to determine the precise number of Members that there should be in the House of Commons. That has not been our practice in the past. The Boundary Commissions have had the discretion to recommend the number of constituencies that they judge to be appropriate, which I think is more practical and more proper. If we were to look at the case of a country in Africa—it might be Zimbabwe, Kenya or Rwanda, one of those countries whose political conduct we are quite apt to criticise and where the regime wins less than universal admiration from all of us around the House—

Lord Falconer of Thoroton: I think that the noble Lord slightly mischaracterises my argument. The effect of my proposal is that it will be for the Boundary Commission to determine the precise number of MPs, which might not be 650. That is the same as the current position.

Lord Howarth of Newport: I am hugely relieved as a result of my noble and learned friend's intervention. However, I do not think that we should lean particularly on the Boundary Commission; it is not for Governments or politicians to suggest a desirable norm for the precise number of constituencies. Just as we would deplore the regimes of other countries whose practices we considered to be seriously illiberal determining the number of constituencies, so we should not do so here. I acquit my noble and learned friend of any such exact intention, but it is important that no one should suffer from the same misapprehension of his purposes as I did.

Lord Foulkes of Cumnock: My Lords, I want to say a few words in support of Amendment 18H. I am sure that the Minister will say that it is defective in some way. If it is, I must apologise, but it had to be written rather quickly because of this very short period between Committee and Report, which has created tremendous problems.

Understandably, the noble Lord, Lord Strathclyde, and I have affection for nice round figures. I can quite understand why he is attracted to 600. However, he has never produced a logical argument for that figure. It was alighted on; it was plucked out of the air. This amendment, which is in my name and that of my noble friend Lord McAvoy, suggests that the figure should be between 600 and 650. The exact figure should be recommended by the Boundary Commission following consultation with all interested parties and then approved by Order in Council, or by Parliament by some method, in time for the general election in 2015. I am not suggesting anything that would hold up this review, which should be completed in time for the general election. The Boundary Commission—I should say the Boundary Commissions, to allow for Scotland, Wales and Northern Ireland as well—should consult and come up with a figure that they consider more appropriate, taking account of all factors. I considered whether the Electoral Commission should be the body to deal with this, which may be something for discussion.

As was said in Committee, it is unique, unparalleled and regrettable when a Government decide the number of those elected to the main Chamber of Parliament. It is quite outrageous for this to be suggested. My amendment would take it out of the hands of the Government and put it in the hands of a body with some degree of impartiality and respect that can take account of the wider view. The decision will still come back to Parliament and will be agreed in time for the election in 2015.

I also thought that this might be attractive to the Liberal Democrats. On the one hand, you have 650 as an option, while someone else might suggest 600;

[LORD FOULKES OF CUMNOCK]
usually the Liberal Democrats like somewhere in between and this allows for that. However, the Liberal Democrats do not seem the same as they were in the old days, when, as I remember well, they used to like these kinds of compromises and halfway houses where human rights were so important and democracy was considered to be an important element. These days, we see them trooping through in astonishingly rigid and disciplined fashion. The Liberal Democrat Whips must be by far the most successful and powerful Whips anywhere in this Parliament. They march their Members through with astonishing ruthlessness, following this great mantra set down by Mr Nicholas Clegg, who has returned from his expedition in Europe and encourages us to follow some of its patterns of activity.

I am straying. If there was a Speaker with powers—as there ought to be, by the way—he or she, more likely she, would tell me that I was entirely out of order, as indeed I am, so I had better stop.

7.15 pm

Lord Lipsey: My Lords, I declare an interest as chairman of Straight Statistics, a group working against statistical abuse by the media, companies, advertisers and the Government. The Minister, in an earlier debate, used in justification for the cut in the number of Members of Parliament by 50 an alleged saving of £12.5 million—he will correct me if I have this figure wrong, as my hearing is not as good as it was. He is nodding in approval, but I cannot approve of that statistic.

If you take the average cost of each MP and multiply it by 50, you get to the figure of £12.5 million or thereabouts. However, that is of course is an entirely phoney way to do it. There will be more constituency cases and more people for each MP to write letters to. The workload will not change. The only thing that you save by having 50 fewer MPs is the MPs' salaries, with a total saving of about £3 million. Perhaps the difference between £12.5 million and £3 million is regarded as insignificant—

Baroness Armstrong of Hill Top: My Lords, I wonder if my noble friend would take that a little further. If the Government want to save £12.5 million, they have to make sure that costs elsewhere do not rise. The level of work needed to be done by the Electoral Commission will involve the employment of more staff—a recurrent expense year on year. I do not think that the Government have thought about that. If they are going to tell us what this measure is going to save—and the only argument that I have heard from the Government is that this will save money—I think that we have the right to know precisely what it will cost in other areas, so that we can see the real costs.

Lord Lipsey: My noble friend is right. There are bags of extra costs in this Bill, including £80 million well spent on the AV referendum—well spent, that is, if it gets the result that both the noble Baroness and I would like to see. I am, however, confining myself to the saving on MPs, because that is the one argument that the Minister has made this afternoon. My point is that he has used a totally bogus figure—inadvertently, I am sure. If he wants to dispute this later, he can put a letter in the Library and we can no doubt correspond about it. It is extremely worrying if a Minister has inadvertently misled—

Lord Tyler: I know that in the past we have assumed that the noble Lord, Lord Lipsey, has been a Member of the other place, but I can assure him from my own experience that he is mistaken if he thinks that Members of Parliament are paid by results. You do not get paid more because you have more constituents; the payment is standard. I had an electorate of 87,000 constituents at one point; that constituency is now much reduced, but my successor does not get paid less just because he has fewer constituents. The whole basis of his calculation should be taken back to his statistician friends and looked at again.

Lord Lipsey: I am sorry that the noble Lord's long experience in another place has not enabled him easily to absorb points being put by people who are, no doubt, less articulate than he is.

Lord Kinnock: But more numerate.

Lord Lipsey: The point I hope to make clear is that I am not claiming that there will not be a saving in salary; I am claiming that the workload will remain the same but that there will be fewer people to do it. You will still need people to deal with that workload and letters will still need to be sent. Is the noble Lord saying that if his constituency had increased in size by 10 per cent, he would not have written to anyone in that 10 per cent; that their problems could go fly because he had not got the money to pay for it?

Lord Tyler: But the allowance—

Lord Lipsey: If the noble Lord will forgive me, we should not have multiple interventions on Report. The last intervention did not take the debate forward in the way that the House would desire.

Lord Tyler: But the allowance is not increased? The staffing allowance is not increased simply because there are more constituents.

Lord Lipsey: That often happens in this life. I was just coming to that. What will happen is that MPs will come back and find that they have got an increasing workload. Their staff are worked to the bone, anyway, and they will suddenly see that they have an opportunity to put in an irresistible bid for yet more of them. It will be impossible for a Government to resist that pressure from their own Members, and so the extra staff will be granted and staff allowances will go up. The probability is that this will swamp, dwarf and completely eliminate any saving made by having 50 fewer MPs.

The proof of this particular pudding will lie in the eating. I therefore ask the Leader of the House to put his calculations in the Library so that we can look at the facts when they emerge after the next general election. It would be a nice subject for the independent inquiry into the number of MPs to consider and would give it a good factual basis for saying that this huge error, justified on the grounds of cost, is a statistical howler of the utmost proportions.

Lord Renton of Mount Harry: I would like to pick up on one or two of the comments made by the noble Lords, Lord Lipsey and Lord Foulkes. I serve on the Constitution Committee, to which the Deputy Chairman and the Deputy Leader of the House of Commons came and told us, perfectly truly, as others have said, that there was no big explanation of why the figure was going down from 650 to 600. That has to be said. However, after listening to the debate—and particularly to the noble Lord, Lord Foulkes, whom I knew for many years in the other place—I do not believe that it has been made clear that during the time that the noble Lord, Lord Foulkes, and I were in the House of Commons the amount of expenses went up hugely.

I well remember that when I became a Member of Parliament in 1974—I know that to talk about one's past in the House of Commons is not on in this debate—I had only sufficient expenses to employ a secretary for three days a week. Now we all know that Members of Parliament have expenses which, I have heard, enable them to have five or six people in their offices. It is not for me to say the precise figure or the precise number.

Certainly an awful lot of the work that I and other working MPs such as the noble Lord, Lord Foulkes, did in our constituencies is now done by members of the office—and quite right, too. The prime job of a Member of Parliament is surely to be in Parliament, debating and making points there. However, the support that Members of Parliament now receive through their expenses is of very great value to them.

I do not know the precise reason for 600 rather than 650, but I can understand the view that there should now be fewer Members of Parliament because they have got so much support in their offices and in dealing with their constituencies. This takes away from them many of the jobs that burdened us. I see that the noble Lord, Lord Kinnock, is about to say something. Under those circumstances, having been 25 years a Member of Parliament, I do not find the move down to 600 from 650 odd or extraordinary. I support it.

Lord Kinnock: My Lords, I have been tempted to enter the debate, to some extent, by the noble Lord, Lord Renton.

A couple of fundamental points need to be made in the context of the amendment of my noble friend Lord Lipsey. First, it is well known to those Members of the House who have been following this part of the debate that, since 1950, the electorate has gone up by 25 per cent and the number of Members of Parliament has gone up by 4 per cent, and we are speaking now against a background of a guaranteed further rise in the population and, therefore, a rise in the electorate. At the same time, there is to be a radical reduction of 50 seats in the other place and an equalisation of the number of constituents in the remaining seats. The only deduction that can be taken from that is that, all other things being equal, the workload of Members of Parliament will continue to increase—and increase additionally because of the reduction in their number, the point made by my noble friend Lord Lipsey.

As the noble Lord, Lord Renton, rightly said, the workload and the character of the work typically undertaken by Members of Parliament have changed substantially over the years. I was a Member of the House of Commons for 25 years and the noble Lord for 30 years, and in those long periods of time the character and the size of the caseload changed radically. Like him, in the 1970s I could afford a secretary for three or three and a half days a week, which, given our individual efforts, was sufficient to ensure that the casework of our constituents was adequately covered. There was a period early in my parliamentary career when I found the time and opportunity to go to employment tribunals, with some success. I always wanted to continue doing so but the remainder of the workload made that impossible. Now, of course, I might have a case worker in my constituency, and with a suitably qualified person I could perhaps make extra inroads into the areas of particular concern to constituents.

In any event, as the noble Lord, Lord Renton, said, accompanying the increase and change in the nature of the workload has been an increase, to some extent, in the staff support for Members of Parliament. That is welcome. However, it is far from the number that he guesses at. Typically it will be three: usually a qualified researcher, a secretary in Parliament and a case worker in the constituency, sometimes with part-time secretarial support. That is the size of it. Some Members of Parliament, in order to guarantee the quality of service, will go into their own resources and add to the amount officially made available for staff expenditure. I used to do that and, knowing the noble Lord, Lord Renton, I guess that he would do exactly the same.

However, in this situation, no one is proposing a guaranteed increase in staffing to run in parallel with, or as a consequence of, the guaranteed increase in the workload of Members of Parliament as a result of the arbitrary reduction in their numbers. Even without that guarantee, as my noble friend Lord Lipsey suggests, if Members of the other place take account of their increased workload and put it to whatever Government of the day that their workloads have demonstrably increased, there will be additional staff. In those circumstances, any assumed savings from the reduced number of Members of Parliament will evaporate. The picture that I paint is one of a massively increased workload, a change in the quality as well as the quantity of work undertaken and a welcome increase in staff establishing a benevolent trend which will guarantee, not too far ahead in years, a further increase in staff. All that my noble friend was pleading for was the absolute dismissal of any assumed financial advantage for the public purse arising from the change in the Bill. I suggest that the House accepts the wisdom of my noble friend's words.

7.30 pm

Lord Grocott: My Lords, I can make my remarks in two minutes. I have had the enormous privilege of serving not only this House but two different parliamentary constituencies. In one the electorate was 100,000, in the other it was just under 60,000 when I retired. I simply report the situation to the House as accurately and genuinely as I can. Anyone who thinks there is no difference whatever in the level of service that you can give as a Member of Parliament when you are representing 100,000 people compared

[Lord Grocott]
with 60,000 ought to try providing that service. I have tried to provide it. I say that with feeling because part of the overall justification that has been given for the various constitutional changes with which we will have to deal is that they will reconnect Parliament with the people. I seem to recall Nick Clegg using that phrase. I do not know how on earth you can reconnect Parliament with the people when you have bigger parliamentary constituencies. The noble Lord, Lord Renton, is right to say that staff can help with some of this work, but I would find it deeply depressing if we ended up with a House of Commons that was rather like the House of Representatives in the United States, where you do not see the representative but rather a member of his or her staff. The personal connection that we have in this country is so different from the position in many other countries. That is why I am always so wary of these comparisons.

I think that I have spoken for two minutes but I shall speak for one more. One of the things that make some of us so resistant to the raft of changes being proposed is the great opposition that exists to them. I know that as a matter of reportage. This is a friendless Bill. If there is any uncertainty about that on the Government Front Benches, they should try offering a free vote on these issues in the Commons. I have never known so many Conservative MPs—I have not heard a Liberal say this yet, but perhaps one will—telling us to keep up the debate. It is dawning on them that the number of MPs will be reduced, that fights will break out between constituencies and neighbours, and that that is guaranteed to happen every five years. I was going to say that the light is dawning, but I think that it has dawned. Perhaps it is worth the Government checking that out. I may be wrong about the view of Conservative and Liberal Democrat MPs—people over the other side of the Chamber have more experience in that regard than I have—but why do the Government not do a little check behind the scenes first and then demonstrate publicly that this huge constitutional change represents the will of the House of Commons and the House of Lords, and they can prove it because they have given a free vote to the Members?

Lord Kennedy of Southwark: My Lords, I wish to make it clear to the House that I shall not move my Amendment 18G in this group in favour of the amendments tabled by my noble and learned friend Lord Falconer of Thoroton and my noble friend Lord Foulkes of Cumnock.

Lord Strathclyde: My Lords, I thank the noble Lord for that clarification. The noble Lord, Lord Grocott, as a former government Chief Whip, espouses the free vote. On the whole I agree with him, but not all the time; in fact, probably not most of the time and probably not on this Bill. The noble Lord said that I should demonstrate publicly why we are doing these things and I shall try to do that. Noble Lords opposite came forward with what I thought were entirely rational arguments. However, I will try to demonstrate that, however rational they were, they start from a false premise. I will not say to the noble Lord, Lord Foulkes of Cumnock, that his amendment is defective. I do not know whether it is or not. It is of no interest to me whether it is defective or not. I know what he was trying to achieve and I accept that he had limited time to get it right, and so I think it is unnecessary to say that. I greatly admire the quality of the research done by the noble and learned Lord, Lord Falconer of Thoroton. He went all the way back to 2003 and found a quotation from the Prime Minister himself, saying something that he would no doubt now regret. That shows just how far the noble and learned Lord has come over the past few years.

A number of amendments have been tabled to change the number of constituencies required by the Bill to more than 600. We discussed this issue at length on the ninth day of Committee, and I can understand why. I shall set out the Government's thinking for today's debate and explain why we are clear that there is a case for making what we consider to be a modest reduction in the size of the House. First, our proposal simply aims to end the upward pressure on the number of MPs and to make a modest reduction in the overall number. With the exception of the review after the creation of the Scottish Parliament, which took effect in 2005, all other boundary reviews since 1950 have seen an increase of between four and 15 seats. The fourth and fifth reviews of the Boundary Commission for England noted that the rules are currently drafted in the Parliamentary Constituencies Act 1986, which contributed to this problem. The fifth general review laid out the details of the issue and noted:

"We illustrate, in paragraph 2.11, how the consequence of the interplay of the existing Rules, other than Rule 1, is a tendency for an ever increasing allocation of constituencies in England in future reviews. This could be changed if the Rules were altered".

The Boundary Commissions have no formal role in advising on the rules that they must apply. However, as the bodies which have extensive experience of the practical result of applying these rules, their views are clearly important. The changes proposed in this Bill will address those concerns, a point underlined by the British Academy which notes that the revised rules were a very substantial improvement on those currently implemented by the Boundary Commissions, have a clear hierarchy and are not contradictory.

Secondly, making a modest reduction in the overall number of MPs will allow a saving to the public purse. We feel that it is right to lead by example at a time when the whole of the public sector is being asked to make savings. We estimate that reducing the size of the other place will save £12.2 million annually, made up of a reduced salary cost of £4.1 million and £8.1 million in reduced expenditure on MPs' expenses. I shall turn in a moment to the increased workload raised by many noble Lords. The fundamental point here is that at a time when the whole public sector is being asked to do more with less, this is a relatively modest saving but one which we think is worth making. There is no reason why MPs and the House of Commons should not be more efficient. These amendments would wipe out any prospect of reducing the cost of politics, while we believe that we should lead by example.

Baroness Armstrong of Hill Top: Will the noble Lord tell us what the Government's estimate is of the increased costs in the Electoral Commission?

Lord Strathclyde: My Lords, there is no estimate of the increase in costs. I shall answer that point when I get to the point about workload.

Lord Kinnock: On the basis that the Government want to do more with less, can the noble Lord suggest to me the reason for a very major increase in the size of this House which—setting apart the change in the allowances system—is hardly doing more for less? Secondly, as the Prime Minister was quoted earlier, perhaps I may bring the noble Lord more up to date and mention the Conservative Party manifesto and the proposed 10 per cent cut, which would take the size of the House of Commons down to 585. In those circumstances, we would have had a logical, electoral-based number to debate. In place of that and the Liberal alternative, we have the neat figure of 600. Would we not be getting more for less if we had 585, as the noble Lord's party promised?

Lord Strathclyde: We certainly would. Ten per cent is also a nice round figure and very convenient for working out what the reduction would have been. However, we did not win the election with the majority that we wished. We had to reach an agreement with our coalition partners and, on that basis, we came to the figure of 600.

Lord Beecham: Will the Government apply the principle of more for less to the number of Ministers?

Lord Strathclyde: We have accepted the case for that. We would like to do it, but it will not be in this Bill. There is a time and a place for everything.

My third point is the one that the noble Lord, Lord Kinnock, raised about the manifesto of the Conservative Party, which I explained. Of course, there is also another point—that the House of Commons has voted for the figure of 600. Perhaps it was not on a free vote, but who is to say that if there had been a free vote, the House of Commons would not have voted for it? We should therefore tread carefully in questioning that decision.

Noble Lords made an entirely rational argument about workload. The noble Lord, Lord Grocott, said that his experience has shown that the type of service that MPs can give varies according to size of constituency. We have been mindful to reflect the existing range of experience. On the basis of the 2009 electoral register data, 600 seats would create an electoral quota of around 76,000. That means that around a third of seats are already within the 5 per cent variation and will therefore generate no increase in workload. A number are considerably greater than that, and they may get a reduced workload. I wholly accept also that a number of seats will be below that. While it is logical to argue that a reduction from 650 to 600 seats will mean that everyone will have to work a bit harder, the figures do not demonstrate that.

This way of doing it would cause less disruption to current circumstances than would a reduction that is far outside the existing range of MPs and constituencies we are used to. Currently, some Members of the other place represent twice the number represented by other Members of that House. Our proposals for more equally sized constituencies will go some way to providing a more equitable workload for each MP, although I accept that different constituencies have different workloads depending on where they are and the different kinds of electorates they represent.

There are also international comparisons to be made, and the noble and learned Lord has helpfully brought those to our attention. We should decide the size of our House of Commons primarily on the basis of what is right for the specific circumstances of the UK, but we should also not reject international trends completely. The present size of the Commons makes it the largest directly elected national chamber in the EU. Six hundred seats would put us in line with some countries with comparable populations. Germany's Bundestag has 622 members and the Italian Chamber of Deputies has 630. I know that the noble and learned Lord was referring to the number of elected members right across the range, from locally elected officials up, whereas I have taken the figures for the respective countries' national Parliaments.

The Bill's key principle of delivering a more equitable value to each elector's vote in time for the next general election also informs our choosing not to provide for a sliding scale of constituencies with an independent body exercising discretion over the final number.

7.45 pm

The timetable for delivering a boundary review and all that follows it in the run-up to the general election is tight. Minimising the risk of delay for whatever reason should be our aim. Given that the UK's population is mobile, we should now press ahead with a review before the next election, as the alternative is to fight the next election on the basis of out of date information.

Noble Lords—including the noble Lords, Lord Foulkes and Lord Howarth of Newport, and the noble and learned Lord—have on many occasions asked the Government our reasons for choosing 600 as the number for constituencies. Some noble Lords have argued that it is somehow irregular for Parliament to set a finite number of constituencies. In response I would make three points.

First, the Opposition's desire to hear the reasons behind the reduction to 600 constituencies implies that we are departing from a tradition of careful and detailed weighing and benchmarking of a host of factors, including MPs' relative workloads, to arrive at an optimum number. As I explained earlier, the rules that the commissions must apply at present are predisposed to lead to increases, because the rules require them to start from the previous number of seats. Moreover, the rules are not set out in a clear hierarchy, and the way in which they been applied in the past has also led to increases.

The second point concerns Parliament setting the number of constituencies. It would similarly be useful to look more closely at the tasks given to the Boundary Commission. There are general injunctions for the number of constituencies in Great Britain not to be substantially more or less than 613, with no fewer than 25 Welsh constituencies and between 16 and 18 constituencies in Northern Ireland. However, because the commissions must approach these targets by aggregating local issues, this regional starting point means that they are effectively considering the issue

[LORD STRATHCLYDE]
from one end of the telescope, restricting their ability to take into account the overall size of the Chamber. The result is this steady upward pressure and, ultimately, inequality and unfairness between seats and nations, which we believe needs to stop.

Finally, some noble Lords have argued that as the workload has increased, 650 is a better number simply because it is larger than 600 and it does matter much how it was arrived at. The Government's position is that the results of the review that they are proposing in Amendment 28A would be a much better starting point. The noble and learned Lord did not much like that, but we shall debate it, I hope, at some stage tomorrow. Such a review would allow evidence to be gathered, weighed and made public so that many questions raised by noble Lords could be addressed while not frustrating the Bill's aims—which are to clarify the hierarchy of rules, end the upward pressure on constituency numbers, lead by example in making savings and take better account of past domestic and present international experiences.

That is a very sound basis on which to make our proposals. With this review and the Bill's other aims in mind, I invite the noble and learned Lord to withdraw his amendment.

Lord Falconer of Thoroton: The noble Lord's speech was again attractively delivered and charmingly put, but it got worse and worse as a justification for 600 being the number of seats. I listened very carefully to him: he said that there were three reasons for introducing the reduction. The first was that arguments against it imply that we are departing from well known rules; the second that the current arrangements produce a "steady upward pressure"; and the third that we have a good starting point in the commission which will meet and give its report three years after the introduction of the figure 600. What he said was risible. He said that we would have as our starting point a commission that has not yet been formed and that, in order to get rid of the "steady upward pressure" in the House of Commons, the Government were reducing its size to 600 seats. Noble Lords will know that the House of Commons has never been less than 615 in the past 160 years. When it was 615, the electorate was 20,874,000. In 2004, when the number of seats was 646, the electorate was 44,245,000. The inexorable upwards pressure has in the past 25 years led to the membership of the House of Commons increasing from 650 to—blow me down—650. The arguments being advanced are risible. We are being asked to reduce our House of Commons by 7.5 per cent.

I understand the noble Lord's dilemma. He can be the stand-up comic who says that 600 is a nice round number and he likes it—he is a nice round man, and a nice round number matches that—or he can be incomprehensible, as he was today. What he cannot give—it is not his fault—is any justification for this reduction from 650 to 600. I invite the opinion of the House.

7.51 pm

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Plumb, L.
Popat, L.
Prashar, B.
Ramsbotham, L.
Rawlings, B.
Razzall, L.
Reay, L.
Redesdale, L.
Rennard, L.
Renton of Mount Harry, L.
Risby, L.
Ritchie of Brompton, B.
Roberts of Conwy, L.
Roberts of Llandudno, L.
Rotherwick, L.
Rowe-Beddoe, L.
Ryder of Wensum, L.
St John of Fawsley, L.
Sanderson of Bowden, L.
Sassoon, L.
Scott of Needham Market, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharkey, L.
Sharples, B.
Shaw of Northstead, L.
Sheikh, L.
Shipley, L.
Shrewsbury, E.
Shutt of Greetland, L. [Teller]
Skelmersdale, L.
Slim, V.
Smith of Basildon, B.
Smith of Clifton, L.
Spicer, L.
Stedman-Scott, B.
Steel of Aikwood, L.
Stewartby, L.
Stoneham of Droxford, L.
Storey, L.
Stowell of Beeston, B.
Strasburger, L.
Strathclyde, L.
Taverne, L.
Taylor of Holbeach, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Walliswood, B.
Thomas of Winchester, B.
Tonge, B.
Tordoff, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Tyler, L.
Tyler of Enfield, B.
Ullswater, V.
Vallance of Tummel, L.
Verma, B.
Vinson, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Walpole, L.
Warsi, B.
Wasserman, L.
Watson of Richmond, L.
Wei, L.
Wheatcroft, B.
Wilcox, B.
Williams of Crosby, B.
Williamson of Horton, L.
Willis of Knaresborough, L.
Wolfson of Sunningdale, L.
Younger of Leckie, V.

Earl Attlee: My Lords, I beg to move that further consideration on Report be now adjourned. In doing so, I suggest that Report stage not begin before 9.04 pm.

8.04 pm

Sitting suspended.

9.04 pm

Amendment 18FA

Moved by ***Baroness McDonagh***

18FA: Clause 11, page 9, line 37, leave out from beginning to end of line 5 on page 10 and insert—

"1 The number of constituencies in the United Kingdom shall not be substantially more than 600.

Electorate per constituency

2 (1) A Boundary Commission must, when recommending the number of constituencies under rule 1, aim to create constituencies with an electorate of 72,000 voters, subject to rule 2(2) below.

(2) A Boundary Commission may vary the size of constituencies but must ensure that the electorate of any constituency is—

(a) no less than 7.5% less than the electorate specified in rule 2(1), and

(b) no more than 7.5% more than the electorate specified in rule 2(1).

Factors for consideration

3 When recommending constituencies under rule 1, a Boundary Commission must ensure that constituency boundaries—

(a) do not cross historic county boundaries, such as those between Cornwall and Devon,

(b) only cross London borough boundaries where absolutely necessary,

(c) in England, do not cross local government ward boundaries, and

(d) are sympathetic to local ties and natural boundaries."

Baroness McDonagh: My amendment seeks to look at all the issues that a Bill such as this needs to incorporate. Any Bill of this nature needs four parts to it: the size of the House; the size of the constituency; the things to look at when trying to establish the boundary of a constituency; and a fourth part covering how the public can complain or test the Government or their agency on the decisions that they make, particularly on an important matter such as our democratic system. The fourth part is not in my amendment because it has already been debated today. I listened particularly to noble and learned Lords on the issue. I hope that the Government will look again at the provisions on the public inquiries. It concerns me that there will be a lot of challenge to this legislation if it goes through in its current form. But I have not included that last part in my amendment.

Of the three parts that I have considered, the most important part under our democratic, first-past-the-post system with one Member per constituency that represents a community of interest, is that community and constituency, and is its size. The amendment makes it very clear that there is a principle of equal sizes for constituencies, and sets the figure at 72,000, plus or minus a variation of 7.5 per cent. So that is clear, and it is a matter that we can all agree on. It is an issue of primacy. At 72,000, that increases the average constituency by 2,000 from its current size.

The first part of the amendment, which works in conjunction with the number of voters that you have in a constituency but is slightly less important, is the overall number of seats in the House. I use the words "not substantially more than" not because of any sleight of hand here but as a basis for voters in the constituency, who are the most important thing. Since I came into the House, I have had experience of how mature and responsible this House is when scrutinising legislation. It would be immature and irresponsible for us to pass legislation that we know will be out of date by the time the ink is dry on this Bill. We know from the ONS figures that over the next 20 years the population will rise by 70 million, we know that the number of 18 year-olds will increase, and we know that over the next 20 years there is quite a high likelihood of a reduction in the voting age to 17 or 16. If the Bill called for constituencies to be increased to 100,000 or 105,000 or 110,000 or 115,000, this House would vote that down. Therefore, we should be very straightforward about the impact of this legislation. It is one thing for both Houses to pass legislation which through unforeseen circumstances at some future date becomes outdated and has to be updated. It is quite another thing to pass legislation that we know cannot work, not only over the medium term but over the short term. So I hope the House accepts the principle here. The Leader of the House said earlier that the most important thing was equalisation of constituencies.

The final issue that I have addressed, because these things work together, is that if you have 72,000 within a variation, what are the things that you look towards to try to make a community of interest work? All four things that I have laid out here can work within this size of constituency. First, historic county boundaries need not be crossed, something that we have never done. I cited Cornwall and Devon as an example but you could easily use Lancashire and Yorkshire. Secondly, London borough boundaries would be crossed only where absolutely necessary, but you could do so if required. The third point concerned not crossing local government ward boundaries in England. You could not get to this number of voters and not cross ward boundaries in Scotland or Wales because there is a different electoral system for local government there now. The fourth point was that we ought largely, wherever possible, to be sympathetic to local ties and natural boundaries. I see the importance of the individual amendments that noble Lords have tabled, but ultimately all parts of the Bill have to hang together.

I am sure that noble Lords on this side of the House have faced this on many occasions when in Government, but there are many concerns when you are trying to pass legislation. I appreciate, and I am not belittling this, that the Conservative Benches are under huge pressure from their leadership and from the other place. I also appreciate that the Lib Dem Benches are very concerned, should they err or somehow seem to be disloyal, that they may not get their AV referendum. Both parties have privately explained to me their concerns in these areas. I think that neither of those things will happen. The bigger risk that both parties face is that they will pass legislation that will not work in practice and, without meaning to, they will create a democratic system that alienates the public. I have put this amendment together as a way of showing how it could address the principles that noble Lords are seeking to address within the available parameters. I beg to move.

Lord Bach: I have some brief comments. I congratulate my noble friend on her amendment. The House knows that when she speaks, she does so with a great amount of experience and expertise in this field, and the House should take note of what she has said.

I shall concentrate on the phrase that she uses in paragraph 1 of her amendment:

"The number of constituencies in the United Kingdom shall not be substantially more than 600".

The Front Bench, as the House will know already, thinks that a number nearer 650 is to be preferred. If we put that one side for a moment, the way that my noble friend phrases that is taken—I hope she will forgive me for saying so; in fact I am sure that she will not have to forgive me for saying so, because it is obvious—from Schedule 2 to the Parliamentary Constituencies Act 1986, an Act passed by a Conservative Government and one that they should be proud of. Schedule 2, relating to the rules, says:

"The number of constituencies in Great Britain shall not be substantially greater or less than 613".

When you add the number for Northern Ireland, the total is around 630. The crucial point is that it does not say, "it shall be 600" or "it shall be 650". Subtly, and, I would say, in a pretty obvious British tradition, that Act is very cautious in its wording. I therefore congratulate my noble friend on the way she has phrased her amendment. The Government propose a blunt 600. It would not matter what the number was in one sense—a blunt 500, a blunt 700. But the fact that the Government through Parliament are trying to put forward an exact number still seems to me constitutionally offensive.

Even after all the days that we have debated this Bill, the Boundary Commission for England's Fifth Periodical Report has not been quoted from. Let me change that briefly. At the very end of the report, on page 485, paragraph 6.25, it says:

"We do not consider it right"—

this is the Boundary Commission speaking—

"for us arbitrarily to set a fixed target number of constituencies and adhere rigidly to that number".

That is the phrase it uses. It is almost as though it is a given that you would not expect an exact number to be put down in legislation. What is depressing about this Bill—one of the many things that are perhaps depressing about Part 2 of this Bill—is that, however hard we have tried and others from other parts of the House have tried, that exact number of 600 stands. That is a real shame. It marks a change in the constitution of this country. I much prefer the way in which my noble friend has phrased her amendment.

9.15 pm

Lord Wallace of Tankerness: My noble Lords, first, I thank the noble Baroness, Lady McDonagh, for her amendment. In a number of ways it brings together issues that have been debated both in Committee and this evening and, I suspect, will be debated in future groups of amendments.

On the rules of the Boundary Commission and the number of seats, as the noble Baroness indicated, her amendment has a number of parts to it. First, it would set a target of 600 seats, not to be substantially exceeded. Secondly, it would introduce a fixed electoral quota of 72,000 voters and a tolerance of 7.5 per cent on either side. Finally, it would require the Boundary Commission to draw up recommendations for boundaries that do not cross historic county boundaries or English local government wards, and cross London borough boundaries only where absolutely necessary and where sympathetic to local ties and natural boundaries. The Government have on each of these issues already made their view clear in the debates that we have already had on this Bill. I am sure that there will be other opportunities to revisit them before the Bill leaves your Lordships' House.

I start with the noble Baroness's suggestion that there should be a target of 600 seats. The noble Lord, Lord Bach, referred to the Parliamentary Constituencies Act of 1986, in which the figure of 613 seats was set using similar wording.

Lord Bach: Plus Northern Ireland.

Lord Wallace of Tankerness: Indeed. The figure is 613 for Great Britain, which, with Northern Ireland, takes it to 630. We are agreed on that. That, in many respects, just underlines the problem. Even with that wording, if you subtract the 18 Northern Ireland seats from the current 650, you get 632, so we are already some 19 seats up. Noble Lords might recall that when the 1986 legislation was passed, it also had the provision that there had to be at least 71 or 72 seats in Scotland, which is now down to 59, so we can perhaps add another 12 to that. Not only are we 19 up, we have a further 12, so we would have drifted upwards by some 31 from the target figure.

The noble Lord, Lord Bach, quoted the fifth report. I do not dispute that no one else has, but I do think that somewhere along the line there have been some quotations from it before, although that is neither here nor there. While he indicated that in the view of the Boundary Commission it was not right for it to set a fixed target or adhere to a fixed number, I rather think that, given the rules under which it operates in the 1986 legislation, that is probably a proper way for it to go about its business. The whole point is that Parliament is setting a figure of 600. It is not the Boundary Commission but Parliament that will set a fixed number.

The Government's position has been made clear; there needs to be a legislative cap on the number of seats to control the ratchet effect of the current legislation, under which the number of seats has increased at every review—with the exception of the post-devolution review—since 1950. It is likely that the target would be missed under the noble Baroness's amendment even at the first review, since the 2009 electorate divided into constituencies at an average of 72,000 would fill 631 constituencies. Indeed, she said that we would be invited to address the issue of constituencies of around 100,000, but that is wildly out of kilter with anything that is being proposed here. That is not what Parliament is being asked to address. We are looking at a quota of approximately 76,000, with a variation of 5 per cent on either side—a band of 7,600.

Setting out the size of the electoral quota in the Bill poses some problems for the way in which the noble Baroness's amendment is framed. However, the way in

[LORD WALLACE OF TANKERNESS]
which the Bill is written allows for changes in the number of registered voters while maintaining a smaller House of Commons. A specified quota, such as that proposed in this amendment, would mean that the number of seats will rise as the number of registered electors rises, making it yet more unlikely that the commissions will ever meet the target of 600 seats.

Lord Campbell-Savours: What happens if the population rises by 2.5 million and, when it is spread out as a ripple effect across the whole population, each constituency then meets the limit of 76,000 plus 5 per cent? Do we then increase the number of seats or simply increase the number of voters in each constituency?

Lord Wallace of Tankerness: My Lords, as the Bill is set out, at each relevant date the quota for the Boundary Commission—the number of registered voters—will take that into account. Given that the Bill provides for five-yearly boundary reviews, the population is unlikely to increase by 2.5 million in one boundary review, although it could happen over time. We are still talking about 600 seats. Therefore, the quota would increase, still allowing for a variation of 5 per cent either way. My point about the noble Baroness's amendment is that with the quota being set in the Bill—if her amendment were to be carried—an increase of 2.5 million in the population would significantly increase the number of seats and move further away from her other objective, stated in her amendment, of not being substantially in excess of 600.

The next issue is that of the 7.5 per cent tolerance from the parity quota. Your Lordships' House has discussed increasing the tolerance from the quota set out in the Bill on several occasions. I merely confirm that the Government are committed to the principle of equity and of equally weighted votes. Five per cent is the minimum variance necessary to ensure that the Boundary Commissions are able to take into consideration the important practical factors set out in rule 5 without undermining the principle of fairness for voters that is at the core of these reforms. A greater tolerance in these circumstances would be unfair to electors. The discretion given to the Boundary Commission by a tolerance of 7.5 per cent allows for the possibility that different Boundary Commissions could adopt different practices and, therefore, that there could be an imbalance in the number of seats in each part of the United Kingdom.

The amendment also sets up a potential for internal conflict. The provisions in the Bill have been praised as a substantial improvement on those currently implemented by the Boundary Commissions because they have a clear hierarchy and are not contradictory. However, the provisions in the amendment do not have such a hierarchy and there is no guarantee that the commissions will be able to draw constituencies of 76,000 people without crossing historic county boundaries—a term that remains undefined.

I turn to the other leg of the noble Baroness's amendment. To ensure that constituency boundaries do not cross various other boundaries, we have listened to the concerns of noble Lords and are bringing forward an amendment later this evening that will put into the Bill the local government boundaries that we know each Boundary Commission considers when drawing up constituencies. The 5 per cent variation will allow the Boundary Commission for England to use wards as building blocks in most if not all cases. We expect that it will do so. However, it is important to allow the Boundary Commission for England discretion as it carries out its independent duties. The amendment talks of historic county boundaries and specifically mentions Devon and Cornwall. I thought I heard the noble Baroness say that historic boundaries had never been crossed before. I am told that the Littleborough and Saddleworth constituency crossed the Yorkshire-Lancashire border. If there ever was an historic sensitive boundary, I suspect that it might be that one.

Lord Trimble: On the question of historic county boundaries, I do not have the precise facts, but I think I am accurate in saying that half the current constituencies in Northern Ireland cross historic county boundaries. It would be totally impossible for the amendment to operate in Northern Ireland.

Lord Wallace of Tankerness: I hear my noble friend and, although I do not have an exact figure, a significant number of county boundaries within England are crossed by constituencies. I am not quite sure whether those counties would be defined as historic.

Lord Bach: Which other examples does the noble and learned Lord have in mind? He is quite right to mention Oldham and Saddleworth. Our point is that if this Bill is passed as it stands, there will be many more Oldham and Saddleworths. Those of us who visited that lovely part of the world a few weeks ago will know that it is a constituency of many parts that are absolutely different from each other. Do the Government really want boundaries with no links at all—never mind historic links—that are just jammed together for political convenience? The Government should want to avoid that, rather than encourage it. I ask again—does the noble and learned Lord have other examples?

Lord Wallace of Tankerness: I do not have the figures immediately to hand, although before I finish I might be able to provide the number of county boundaries that are crossed by constituencies. I accept that the number of constituencies that cross county boundaries is different. From my recollection of our previous debates on this issue, a number of county boundaries are crossed by constituencies. I hope that by the time I conclude my remarks I can advise the House as to the exact number of county boundaries that are crossed. I am sure that in each case it is thought the counties are properly historic.

Lord Beecham: Does the Minister accept that if the 5 per cent threshold were adopted, only nine out of 46 county boundaries would not be crossed by new constituencies?

Lord Wallace of Tankerness: My Lords, one can only speculate at present on what the Boundary Commission will propose. I know that some efforts are being made to work out what might happen. I could not accept that because we have not seen any Boundary

Commission proposals. However, I emphasise to your Lordships the importance of wards, which the noble Baroness mentions in her amendment. We will debate this matter later, because the Government have responded to requests that wards should be one of the key building blocks. It is, of course, at the ward level that many local ties are reflected. The wards will be significant building blocks in the new constituencies.

Lord Tyler: The noble Baroness will be aware that the present constituency of Dulwich and West Norwood crosses a London borough boundary. It is therefore important to mention, for the benefit of your Lordships' House, when considering sub-paragraphs (b) and (c) of proposed new rule 3 in the amendment that, as has been pointed out on several occasions, in Birmingham it would be impossible to fulfil the requirements of sub-paragraph (c). Under the present arrangements, the constituency boundaries of local government boundaries are certainly not protected. It is important that we live in the real world.

Lord Wallace of Tankerness: My Lords, my noble friend makes the point that constituencies cross London borough boundaries. I repeat that the important building blocks are the wards. They will be the units in which local ties are best expressed.

Sixteen out of 35 shire county boundaries are crossed; 31 out of 40 unitary authority boundaries are crossed; and 19 out of 32 London borough boundaries are crossed. That is a significant number. Therefore, I cannot accept that it has never been done before.

The Bill already permits the Boundary Commission to take into consideration factors that the amendment suggests: county boundaries, London borough boundaries, local ties and natural geography. I agree with the noble Baroness that these are all important and should be considered by the commissions when they make their recommendations. That is why we have included them in the Bill. However, as we have said on numerous occasions, we do not believe that these factors should outweigh the fundamental principle of equality in the weight of votes that the Bill will provide. It was the lack of hierarchy in the past that led to a divergence and a ratcheting up from the target of 613 seats. For these reasons, I urge the noble Baroness to withdraw her amendment.

9.30 pm

Baroness McDonagh: I thank the Minister for his response. I will respond quickly. I would be surprised if it were the Government's intention to pass legislation that sets out to cross historic county boundaries. One area that has not been debated properly is the size of constituencies. It has not been debated in the context of either the amendments or the Bill as a whole. It is inaccurate to suggest that constituencies would not be reduced by my amendment, which would waive the minimum number for Welsh constituencies. The average size of a constituency would increase by 2,000, which would make a major difference to the number of constituencies and would allow their population to grow.

I will respond to the noble Lord, Lord Tyler. Sub-paragraph (b) of my proposed new rule 3 states that a constituency boundary must,

"only cross London borough boundaries where absolutely necessary".

It does not say that you cannot cross London borough boundaries. It is perfectly possible, within the constraints of a 72,000 electorate, plus or minus 7.5 per cent, to take these factors into consideration.

Paragraph (2) of my proposed new rule 2 states:

"A Boundary Commission may vary the size of constituencies but must ensure that the electorate have any constituency is",

within 7.5 per cent of 72,000 electors. That makes it clear that the primacy of the rule is the equalisation of constituencies and not the reduction in the number of Members of the House. Setting the overall number in the House is important only when one looks at a different electoral system, and in particular at PR. However, I will think about the points that the Minister made and beg leave to withdraw the amendment.

Amendment 18FA withdrawn.

Amendments 18G to 20 not moved.

Amendment 20A had been withdrawn from the Marshalled List.

Amendments 20B and 21 not moved.

Amendment 21A

Moved by ***Lord Bach***

21A: Clause 11, page 10, line 8, at end insert—

"( ) In England the Boundary Commission should where practicable have regard to the boundaries of counties and London boroughs and in any case no constituency shall include the whole or part of more than two counties or London boroughs."

Lord Bach: My Lords, other noble Lords have also tabled amendments in this group. They would insert a number of additional factors for Boundary Commissions to take into account when drawing up constituencies for the four parts of the United Kingdom. In particular, they would insist that regard should be had to the boundaries of English counties and London boroughs. It would also place greater emphasis on the importance of electoral wards in the boundary-drawing process.

At present, the new rules for drawing constituency boundaries proposed in the Bill are dominated by the overriding requirement for every constituency, with very few exceptions, to fall within the margins of 5 per cent either side of a new UK-wide electoral quota. Although in rule 5 of Schedule 2 under Clause 11 a number of further factors are listed which the Boundary Commissions may also take into account when drawing constituencies, these additional factors are of course subordinate to the numerical prerequisite.

Independent electoral experts and the heads of the four Boundary Commissions have all made it clear on the record that, in order to meet the proposed numerical targets, individual wards will almost certainly need to be divided. The four heads of the Boundary Commissions told the Political and Constitutional Reform Select Committee:

"The changes to the total number of constituencies, and the tighter limits on the number of electors in each constituency, will result in a complete redrawing of constituency boundaries ... The

[LORD BACH]

electoral parity target may require the Commissions to work with electorate data below ward level in many cases".

That statement is utterly at odds with the words of the right honourable gentleman the Deputy Prime Minister, who told your Lordships' Constitution Committee that,

"we must be able to use wards as the continued building blocks of constituency boundaries".

Splitting wards in many cases will, as the Boundary Commissioners warn, result in major changes to the established pattern of political representation, and that is true of England in particular. The secretaries of the four commissions went on to tell the Select Committee:

"The electoral parity target will result in many constituencies crossing local authority boundaries. Early modelling suggests that in Scotland between 15 and 20 constituencies (of 50), and in Wales between 23 and 28 constituencies (of 30), would cross a local authority boundary ... the application of the electoral parity target is likely to result in many communities feeling that they are being divided between constituencies".

The fracturing of wards and the crossing of county and local government boundaries would create administrative confusions that would feed into a sense of social dislocation. It would create particular problems for political parties at a structural level, especially in the case of the Conservative Party and my own party, the Labour Party, which are both organised on a constituency and ward basis. Significantly, Professor Ron Johnston, whom the Government are always praying in aid, told the Political and Constitutional Reform Select Committee that one academic study had shown that,

"when a ward was split a lot of the ward activists drifted away. They had lost their rationale to represent this place, this place no longer existed, it was in two parts and political activity declined".

That will mean, of course, very great organisational challenges for local parties, especially with the much more frequent and disruptive boundary reviews that the Bill envisages. Our amendments would provide more solidity to the boundary review process, better balance to the process for drawing constituencies and a greater understanding about the potentially damaging knock-on effect of the rigidly mathematical framework on which the Government are currently fixated.

I hope that the Government can respond favourably to these amendments and, in particular, I hope that they are able to accept Amendment 21C, which would insert into rule 5 of Schedule 2 in Clause 11 the following statement:

"Wards shall be the building blocks for parliamentary constituencies".

That is word for word what the Deputy Prime Minister said to your Lordships' Constitution Committee. I wonder whether the Minister is able to concede an amendment to the Opposition that merely requires the Government to agree with what the Deputy Prime Minister said. I beg to move.

Lord Tyler: My Lords, I shall speak to Amendments 27A, 27C and 27D. I want to pay tribute to my noble friends on the Front Bench because this responds directly to a request made in Committee by my noble friend Lord Rennard and me that we should have some very simple, practical rules in the Bill to deal with the issue to which the noble Lord, Lord Bach, has just referred. These amendments together seem to us fully to meet our concerns. I think that they are practical and sensible, but they recognise that in certain parts of the United Kingdom it will be very difficult to be precise; for example, in a big city like Birmingham where the wards are very big indeed—I believe that they run to hundreds of thousands of people. In those circumstances, obviously you cannot have a hard-and-fast rule. However, Amendments 27A, 27C and 27D meet fully the requirements of a realistic appreciation that wards will indeed be the building blocks of constituency size; but we have to have some flexibility to meet the particular concerns and needs of different parts of the United Kingdom. I am very grateful to my noble friends.

Lord Howarth of Newport: My Lords, I have three amendments in this group: Amendments 27AA, 27BA and 27BB. These are technical amendments and I do not think that they have any political implications at all. Certainly I do not think that they do anything to challenge what the Government regard as the principles of this Bill. I am rather puzzled that in the definitions of local government boundaries on page 12 in Clause 10(3)(a), reference is made to the boundaries of each county, each district and each London borough, but no reference is made to the boundaries of other unitary authorities. If the noble Lord is able to tell me that other unitary authorities are covered by these definitions as already stated in the Bill, I have no problem; but I do not think that they are. There are unitary authorities that are not counties or London boroughs. Surely it would be desirable in principle if the Boundary Commissions, in applying rule 5(1)(b) on page 10, were to seek to avoid crossing the boundaries of other unitary authorities when drawing up the boundaries of constituencies. Professor Ron Johnston made that point in his evidence to the Select Committee on Political and Constitutional Reform of another place. He suggested that it was no more than an oversight that other unitary authorities had not been included within the clarification of terms in the Bill.

Baroness Armstrong of Hill Top: My noble friend might like to know that a couple of years ago Durham County became a new unitary authority and is no longer counted as either a county or as being in any of the other categories. There is, none the less, a real pride in being the new unitary authority within the old county of Durham. It would be very weird if we had to stray from wards within that area into Tyneside, Wearside or, indeed, into Cumbria, at the top of the county, and Northumberland. It seems to me that my noble friend has hit on something important—certainly in Durham we would take it as very important indeed.

Lord Howarth of Newport: My noble friend speaks with her characteristic sensitivity to political emotions, which are very important among political realities. She speaks with pride on behalf of the historic county of Devon.

9.45 pm

Lord Howarth of Newport: Durham—forgive me, it is late in the evening. I hope that my noble friend will forgive me.

Baroness Armstrong of Hill Top: We are God's own country.

Lord Howarth of Newport: Technically, perhaps the county of Durham is no longer a county council as such; I do not know. It seems to me all the more important that there should be recognition in the Bill of the important contemporary reality of unitary authorities.

Among his observations in debate on a previous amendment, the noble Lord noted that parliamentary constituency boundaries crossed the boundaries of a significant proportion of unitary authorities. That is not a good reason to surrender those unitary authorities, assuming that there will be no concern among the people who live within them that their integrity should be preserved when drawing parliamentary constituency boundaries—and, very importantly, the working relationship between Members of Parliament and the local authorities governing the areas, the communities, which they represent. It must be desirable that Members of Parliament deal with the smallest possible number of local authorities. The complexity, the multiplication of tasks, the time-wasting and the cost involved in Members of Parliament having to deal with a proliferation of different local authorities overlapping with their constituencies is clearly undesirable. I hope that the Government will accept that the Bill should be amended on the lines of my amendments.

I say just a word on the question of wards as building blocks. If it has to be accepted that, with the tight tolerance around the electoral quota, it will be more commonly the case than it has been hitherto that individual wards will be bisected in the drawing up of constituencies, some administrative questions follow. What is to be the subdivision of wards that the Boundary Commission will need to take account of? If it is to be polling districts, how can we be sure that local authorities will not redefine polling districts so as to frustrate the purposes of the Boundary Commission?

Those administrative processes ought to be sensibly related to each other. If we are to see the fragmentation of wards, we need some sub-unit which the Boundary Commission will respect. If it is to be the polling district within the ward—which it could be—we need a guarantee that the polling districts will not be arbitrarily chopped and changed. I beg to move.

Lord Davies of Stamford: I suspect that at this stage in the proceedings and at this time of night, there is not a great appetite in the House for a long speech. I want to speak briefly to my amendment, Amendment 22, which is grouped and is about wards.

It would be churlish not to start off by saying that I recognise—and am grateful and appreciative—that the Government have moved some way in our direction. The Minister will recall that I pressed him on the matter of wards at some length in Committee. After quite a long discussion, he ended up by saying that there may be,

"some merit in placing discretionary consideration"—[*Official Report*; 24/1/11; 713.]—

of wards in the Bill. I place on record that I recognise that the noble and learned Lord has done what he promised to do and has tabled an amendment, which he has not yet had a chance to move, Amendment 27A, which puts wards in the same category as other local authority boundaries for the purposes of the Bill.

Your Lordships may say: why are you rising at all to speak to the amendment? The reason is that there is a significant difference between what the Government propose—I recognise that they have taken steps in the right direction—and what I propose. The essential phrase in Clause 5, which all of us will remember, is that the Boundary Commission "may, if it sees fit" take into account local government boundaries. Wards are now included for the first time as a local government boundary.

"May, if it sees fit," is a very weak indication or encouragement to the Boundary Commission to take ward boundaries seriously.

I have a greater degree of optimism in practice, because I have a great respect for the Boundary Commission and it is as familiar as we are with the strong arguments for respecting wards made very well by my noble friend Lord Bach. They are that wards are the building blocks of both local government and the major political parties in this country. To break them up or cut across them would be an attack on democracy at the grassroots. I am quite sure that neither the Tory party nor the Liberal Democrat party really want to do that. However, there is considerable merit in having a stronger formulation as in my amendment:

"Except in circumstances they judge to be exceptional, a Boundary Commission may not allow a ward to form part of more than one constituency".

The obligation is placed on the Boundary Commission to make a case of exceptional circumstances if it decides to split a ward. That seems a much stronger formulation and I would be grateful if the Minister could say why he cannot accept an amendment which seems to encapsulate the spirit of the debate we had in Committee.

Lord Myners: My Lords, I was not intending to speak to this series of amendments but I believe there is an important generality here of respect for established boundaries and division points that define one community from another, be they county council boundaries or wards or other forms of distinct governmental boundaries and definitions. The House should proceed with great care before we disturb natural groupings—natural directions in which people look to have influence and where decisions will be taken which affect their lives and communities.

I have added my name to an amendment about Cornwall which the noble Lord, Lord Teverson, will table tomorrow. Unfortunately I am unable to be in the House then so I will speak for one moment now. The people of Cornwall recognise it as a unit of great integrity; they are very proud of being Cornish. The six MPs from Cornwall, three Liberal Democrats and three Conservatives, are all agreed that Cornwall must remain an intact area in terms of preserved constituencies. I will not be able to speak tomorrow in support of the noble Lord, Lord Teverson, but I want to use this generality around respect for boundaries and traditional definitions of areas in relation to Cornwall. In would be a monstrous outcome if Cornwall was required to share a constituency with Devon.

Lord Wallace of Tankerness: My Lords, I thank noble Lords who have taken part in this debate, and I thank them for the amendments they have tabled. We have focused on the important issue of boundaries, particularly ward boundaries. I especially thank my noble friend Lord Tyler and the noble Lord, Lord Davies of Stamford, for acknowledging that, in response to representations they made earlier, the Government have brought forward amendments that reflect the importance of using wards in the Boundary Commission's deliberations and determinations.

The Government have listened, and I hope that our amendments will satisfy the House. They reflect the variations in local government geography in the four constituent nations of the United Kingdom. We have taken the local government boundaries that we know each Boundary Commission considers when drawing up the constituencies and the amendment puts them on the face of the Bill. The Boundary Commissions will have the discretion to consider ward boundaries along with the other local government boundaries referred to in the debate.

The noble Lord, Lord Howarth of Newport, and the noble Baroness, Lady Armstrong, mentioned the position of the unitary authorities. In the other place, the Government listened to the matter raised by the honourable Member for Slough regarding the unique position of the unitary authorities in Berkshire, which are districts. The Government listened and made an amendment to ensure that their boundaries were included. They will still be covered by our amendment which refers to all council areas in England, whether unitary or two tier, and for that reason we believe that there is no need for the amendments of the noble Lord, Lord Howarth of Newport, although I accept the rationale behind them. The government amendment already allows the Boundary Commission to consider unitary authorities.

Amendment 21A would prevent constituencies including the whole or part of more than two counties or London boroughs. I note that the honourable Member for Dumfriesshire, Clydesdale and Tweeddale, Mr David Mundell, represents a constituency which contains parts of three council areas, including my own native parts in Dumfriesshire. It shows that Members of Parliament can perform this task. Indeed, at the last general election Mr Mundell was returned with an increased majority, which, given that he is the only Conservative MP in Scotland, was no small achievement. The administrative convenience of MPs should not be set above other factors to be considered by the Boundary Commissions.

The amendment of the noble Lord, Lord Davies, would prevent wards being split except in exceptional circumstances. The difficulty with exceptional circumstances is that in some of the largest wards of around 20,000 electors, there could well be perfectly valid arguments that it might better reflect the community characteristics for it to be divided between two different constituencies. In an earlier debate the noble Baroness, Lady McDonagh, recognised that wards are already split by parliamentary constituency boundaries in Scotland, where, because of the single transferable vote system of local elections, wards are by their very nature considerably greater.

We believe that the best approach is to give discretion to the Boundary Commissions. We should not forget that the secretary to the Boundary Commission for England said in evidence to the Commons Political and Constitutional Reform Committee in September of last year:

> "We have done some modelling earlier in the year … and it appears possible to allocate the correct number of constituencies using wards. However, it may be necessary to use a geography below ward level".

So we expect wards to continue to be used as the building blocks of constituencies in England.

I am sympathetic to the intentions of opposition Amendment 21C. However, the Government favour placing a discretion on the commissions in the form of our amendment. I hope we agree that it is helpful for the commissions to be able to have regard to the boundaries of wards and other local government boundaries, and it is for that reason that we have placed them in the Bill. I urge the noble Lord, Lord Bach, to withdraw his amendment and the other noble Lords not to move theirs. I will move Amendments 27A, 27C and 27D in good time.

Lord Bach: My Lords, I am grateful to all noble Lords who have spoken in the debate, not least to the Minister for his comments. At the start of my speech I did not thank the Government for the move that they have made on this issue, which I now acknowledge from the Front Bench. Our problem is that they have not moved far enough. My amendment and the amendment of my noble friend Lord Davies of Stamford seem to be stronger, tougher and more likely to mean that wards would not be divided in the changes to come. However, we have had a full discussion on this issue today and the Government have at least moved some way in this field. I beg leave to withdraw the amendment.

Amendment 21A withdrawn.

Amendment 21B

*Moved by **Lord Bach***

21B: Clause 11, page 10, leave out lines 12 to 19.

Lord Bach: My Lords, rule 4 is designed to place a limit on the territorial extent of a constituency. That rule is deemed necessary because, if the principle of the quality of representation was continued to its logical end, we would see at least one gigantic parliamentary constituency in the highlands of Scotland. This is because the scarcity of population in that part of the United Kingdom means that a constituency would have to cover an enormous area if it was going to attain the proposed electoral quota of approximately 75,800 electors.

The electoral parity rule, born out of rules 2 and 5(3) in the Government's scheme, is clear that every seat in Britain, save for the two Scottish island seats—and now, by the will of your Lordships' House, the Isle of Wight—would have to have an electorate of between 95 per cent and 105 per cent of that UK average electorate. This would mean between about 73,000 and

80,000 voters. Rule 4 overrides that requirement. It states on the one hand that no constituency may exceed 13,000 square kilometres in size, and on the other that a constituency may be exempted from the rule requiring it to meet the electoral quota in the event that it has a land area of over 12,000 square metres.

The first question that stems from rule 4 is: what was the basis for these numbers? So far as we know, there has never been a statutory limit on the size of a constituency, still less on electorates, and an exemption from that limit based on territorial extent, so where did these numbers come from? Rule 4 can conceivably apply in only one part of the United Kingdom—namely, the Scottish highlands—but why should the geography of that area be the only geography to qualify for special recognition in the construction of parliamentary constituencies? We understand why it might be sensible to put a limit on how large a constituency should be allowed to grow territorially in pursuit of the electoral quota, but would it not be sensible to place other protections on potentially undesirable geographical entities that could be produced as a consequence of the electoral parity rule? If the Minister tries to explain the rule by referring to the accessibility of a constituency, which I suspect he might be tempted to do—for example, the ability of the MP to travel round his or her constituency—why is Argyll and Bute, with 13 islands, or St Ives, which incorporates the Isles of Scilly, not also included as exceptions to the parity rule? If he uses the accessibility argument, I should like an answer to that question.

It might be possible to prioritise either the geographical size of constituencies or the number of electors in a constituency, but the Government should not attempt to do both, so why were these figures of 13,000 square kilometres and 12,000 square kilometres chosen? The Government obviously had a particular area in mind, but we would like to hear from the Minister what led the Government to come to that view. I beg to move.

10 pm

Lord McNally: I will not refer to the accessibility argument. Amendment 21B seeks to remove the provision for an exemption for geographically extremely large constituencies provided for by rule 4 in the Bill. As the Government said when the noble Lord, Lord Bach, and the noble and learned Lord, Lord Falconer, raised this issue in Committee, this exemption exists to ensure that constituencies are not created that would be impractically large, damaging the valuable link between constituent and MP. The noble Lord asked why these numbers have been included in the Bill. We have set a limit roughly the size of the largest existing UK constituency, as the Boundary Commission for Scotland felt able to recommend a constituency of this size at the previous review, and that independent judgment seemed to us to be the best basis for a provision of this kind. The range of 12,000 to 13,000 square kilometres is simply to avoid the Boundary Commission having to draw a line resulting in a constituency at exactly 13,000 square kilometres, which might involve a very unnatural boundary.

As the noble Lord rightly says, the provision is almost uniquely applicable to the Scottish highlands. The consequences of this amendment would not, of course, be fully known until the Boundary Commission had made its report. However, it is inevitable that constituencies in sparsely populated parts of Scotland would be enlarged if rule 4 were removed. The provision at rule 4 would not preserve the boundaries of any particular existing constituency, nor was it ever intended to. Like all the Government's proposals, it is designed to allow sensible reform without departing too far from the existing experience. Some noble Lords claim that the Government are inflexible and yet support the removal of one of the provisions of the Bill designed to allow flexibility to take account of particular local circumstances. They may do so in support of an alternative scheme to deal with the highlands, although that would not be the effect of the amendment. Whatever the merits of alternative schemes, the amendment before us would simply delete sensible and practical flexibility for the Boundary Commission. On that basis, I urge the noble Lord to withdraw it.

Lord Bach: I shall withdraw the amendment; I thank the Minister for his reply. However, it seems a remarkable feature of the Bill that it picks out one constituency or part of the United Kingdom in this way. The figures referred to are those given in the Bill. I understand that the Government are unlikely to give way on this issue, and I do not think that it would be sensible to divide the House on it, so I seek leave to withdraw it.

Amendment 21B withdrawn.

Amendments 21C to 21H not moved.

Amendment 21J

Moved by ***Lord Bach***

21J: Clause 11, page 10, line 28, after "ties" insert ", including wards,"

Lord Bach: My Lords, this is a very simple amendment which we feel the Government should be able to accept without any fuss. It makes a minor textual change that does no more than include in the Bill a statement of fact made by the government Front Bench. It proposes that the reference to "local ties" in rule 5 of Clause 11 should also include a reference to local wards. There should not be much argument about this because in Committee the noble and learned Lord, Lord Wallace of Tankerness, told your Lordships that,

"wards are in many cases already the building blocks of constituencies. They are the level that can often reflect local community ties".—[*Official Report*, 24/1/11; col. 743.]

Today, he has gone further and the Government have moved an amendment, which has been passed, that will strengthen that to some extent. Therefore, the case for adding the expression set out in my Amendment 21J is sensible, clear and unarguable. I hope that the Minister will accept it. I beg to move.

Lord Wallace of Tankerness: My Lords, as I understand it, what the noble Lord intends is for rule 5, on factors which the Boundary Commission may take into account, to read:

"A Boundary Commission may take into account, if and to such an extent as they think fit … any local ties, including wards, that would be broken by changes in constituencies".

[Lord Wallace of Tankerness]
The reason for our not wishing to accept the amendment is, as has already been indicated—we have already had a good debate on wards—that "wards" will be inserted in the Bill by Amendments 27A, 27C and 27D when they are passed. As the noble Lord knows, wards will in that way be imported into the Bill, so the position would in many respects be duplicated by his amendment. I do not think that there is any dispute between us as to the importance of wards, but I believe that the amendments which the Government will move when we reach the appropriate part of the Marshalled List will address the point that the noble Lord makes.

Lord Bach: My Lords, I thank the noble and learned Lord for the speed with which he found the passage. Oh, did he not? I take back those thanks at once but thank him for his response.

He is being too cautious here. This is such a small amendment and it fits in exactly with what he told the House about how important the Government now feel that wards are in the whole structure of the new process. I will of course withdraw the amendment but ask him, please, to go back and consider whether adding those words in that part of the Bill would really not be an improvement. There is no adverse reason why that should not happen. I ask him, before Third Reading, to go back and consider that but for now I beg leave to withdraw my amendment. I am grateful to the House for its indulgence.

Amendment 21J withdrawn.

Amendments 22 to 22C not moved.

House adjourned at 10.11 pm.

Grand Committee

Tuesday, 8 February 2011.

Energy Bill [HL]

Committee (6th Day)

3.30 pm

The Deputy Chairman of Committees (Lord Geddes): I must advise the Committee, as is usual on these occasions, that 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—it says that on my brief, but it is give or take 10 minutes; it sometimes takes a little longer.

Amendment 35

Moved by ***Lord Teverson***

35: After Clause 97, insert the following new Clause—

"Geothermal power

(1) Within eighteen months of this Act coming into force, the Secretary of State shall, after a period of consultation with industry, geological experts, the devolved administrations, local authorities, energy producers and other interested parties, put into place for the United Kingdom a licensing system and regulations for the exploitation of heat from deep geothermal sources for both the direct use of that heat and for the generation of electricity.

(2) The licences shall relate to—

(a) individual geographically delineated areas on land;

(b) the heat held by rocks greater than one kilometre below the surface.

(3) Licences shall give exclusive exploration and production rights for the purpose of energy production from geothermal sources, both direct heat and electricity generation, to the licensee, for that area, and for a specific period of time.

(4) The Secretary of State shall lay down regulations for the method of allocation of licences to those organisations wishing to explore or exploit those resources, or both.

(5) The Secretary of State shall undertake the first round of allocations within six months of the licensing regulations under subsection (1) being approved.

(6) Any organisation already undertaking exploration or exploitation from geothermal sources within the United Kingdom, in that they have already undertaken, at the time the licensing regime comes into force, boring for the purpose of exploiting geothermal heat to below one kilometre, shall be entitled to hold the first licence awarded for that licence area, and any licence fee or other consideration for that licence area as a part of the licencing regime will then be determined by arbitration under rules determined by the Secretary of State reflecting the fees or other consideration paid for licences deemed to have similar potential.

(7) The holding of a licence for the exploration or exploitation of deep geothermal heat, or both, shall not convey any automatic rights in terms of planning permissions for surface development, or give any rights in terms of surface access."

Lord Teverson: My Lords, we come to a specific issue here, which is around one of the older renewable technologies in many ways—geothermal or, in this case, deep geothermal. I do not wish in any way to give noble Lords a lecture, but I would like briefly to summarise the position of geothermal energy. It is a tried-and-tested technology in many parts of the world. In the volcanic areas of our globe, hot water rises naturally—it does not need persuasion or drilling—and is used for heating directly or for generating. That part of the technology has existed for some time in places such as Italy, Japan, New Zealand and Iceland in particular. It is a fundamental part of electricity and power generation in those countries. It is also possible to have a variation where there is drilling, often down to five or 10 kilometres, with cold water pushed down and hot water coming out at the top. That is the clever bit—the bit that needs to happen. In the oil industry and other industries, drilling technology is pretty proven.

A great deal of work is taking place on geothermal in Australia, the United States and Europe to make the technology work. The good thing about it—this is where I will end my sales pitch—is that it is the one renewable technology that can produce large-scale electricity, but it is also consistent in its operation. It is not intermittent, as so many other of the renewable technologies—tidal, wave, solar and wind—can be, which is important. In many ways, the United Kingdom led the field in the 1970s and 1980s. Then, as happened with so many of these technologies, with the crash of oil prices the research stopped taking place and progress happened elsewhere in the world. Various bits of the technology are proven; it is highly desirable in its characteristics; and it is available in the United Kingdom, particularly but not only in the south-west, so it could be an important part of our renewable energy mix. Indeed, two planning permissions have been granted in Cornwall for geothermal stations of a smaller scale than the large ones that there can be. Visually, they have a small footprint and do not have great impact either.

However, as noble Lords will understand, one of the areas that must be tied up for exploitation of any energy resource is certainty for investors and the engineers who make these systems work. Elsewhere in the world, in Ireland next door, Germany, Australia and various other parts of the world, licensing regimes have been introduced. What should not happen is that if there is a strike and a well is made that produces hot water—200 degrees plus is the optimum—someone in the next field should not be able to exploit that resource and that heat for themselves because they have not had the risk or made the investment for exploration.

The amendment would do one simple thing. It would give power to the Secretary of State to consult and then put into place within a certain time period, which I will come back to, a licensing regime for geothermal. The industry feels that one key part of the jigsaw is to allow investment with some certainty on the return, so that investments can be made.

The amendment refers to 18 months in terms of the licensing regime. When I tabled this amendment for the last Energy Bill I thought it should be two years, but now that these types of agreement have moved on, I feel that 18 months is perhaps the maximum. The industry feels that it could go through this process within a year. Since the industry has said that it can cope, I would prefer 18 months.

That is why the amendment is so important. It fits very well in the Bill because it has a whole area on renewable technologies. It is something that the United

[LORD TEVERSON]
Kingdom still has an opportunity to lead on. That may be difficult because other nations have got further ahead at the moment, but it is an important technology. It works in other parts of the world and we should benefit from it in terms of meeting our own renewable energy targets—not necessarily up to 2020, although it may make a small contribution, but certainly beyond that. I beg to move.

Lord Oxburgh: My Lords, I am happy to support the amendment, to which I put my name, and I support everything that the Lord, Lord Teverson, just said. The Government have very challenging targets for renewable energy by 2020. They will achieve those targets only if there is sufficient private investment. Investment decisions depend on assessment of risk.

In the case of geothermal in this country, there is a really no doubt about the existence of the resource. Indeed, a couple of decades ago, I was co-leader of the group that produced the first geothermal map of the UK. The resource is certainly there. I declare an interest as a technical consultant to one of the companies to which the noble Lord, Lord Teverson, just referred.

We know that we have the hot rocks at depth. The real question is whether we have adequate technology to extract the heat from those rocks. Therein lies the uncertainty and the exploration risk. There is a good chance that we can do that, but if an investor is going to invest in this he really wants to see the risks minimised. As the noble Lord pointed out, after the demonstration of a successful well in one place, there is a real danger of someone else coming in and drilling nearby.

At an earlier stage in informal discussions, the Government's position was that that could probably be managed through local planning consents, but I do not think that that is the case. Modern drilling technology allows you to drill in one place, maybe 10 miles away, and then turn your well horizontal and go into anywhere within a pretty wide radius. In other words, if we are really to give investors the kind of security which I suspect they will demand in order to support this kind of investment, we really have to have a licensing regime which effectively pre-empts others who come in later and have not made the primary investment from tapping in on the risky exploration work that the initial company has done. I am not sure whether this amendment is in the exact terms that we need, but there will not be significant investment in geothermal in this country, I believe, unless something along these lines is done fairly rapidly.

What we have to bear in mind is that capital moves between countries and that any company interested in investing in geothermal will compare the opportunities in this country with those elsewhere. For example, I believe that Ireland has legislation in place to give the kind of protection that we are asking for here. Ireland has comparable geothermal possibilities; the same is true in other parts of Europe. If we do not do this, the capital will simply move elsewhere and this contribution to the 2020 target will not be realised.

Lord O'Neill of Clackmannan: Perhaps the noble Lord can help me. I understand exactly where he is going on the protection of the investment but he is being incredibly coy about telling us what the scope of the possibility would be. He said that he conducted an inquiry some years ago. How many gigawatts or megawatts of electricity could there be in the UK? I am not wanting to pour cold water on this—I stumbled into that one. However, are we going to do something here that could, at the end of the day, be worth while or are we just kidding ourselves? Perhaps this is another technology that might be appropriate in countries or areas of the world where tectonic plates are crashing. In Iceland, that is self-evident but one does not get the feeling that there are too many serious earthquake areas in the UK where you are likely to access those kind of geothermal possibilities. Can the noble Lord be a little more specific about what he would regard as the likely output from a geothermal electricity industry?

Lord Oxburgh: My Lords, that is a difficult question to answer at the moment; we would be in a better position to answer it after the Cornish exploration has gone ahead. The fact is that this work was killed around about 25 years ago, as the noble Lord, Lord Teverson, said, by the crash of the oil price and by the DTI, as it was then, simply being no longer interested in supporting this work. Until that time, we had very good support from the DTI. In fact, the one geothermal source in this country that is functioning at the moment, which is the one around Southampton, was the outcome of the PhD work of one of my students at the time.

Since that time, drilling and fracturing technology has improved enormously. The oil companies have developed that to a very fine art. One can now drill, with control of the drill tip, to about the same precision as a brain surgeon uses when operating on a brain. It can be a very fine control indeed. We really have to see how successful this is at exploiting these resources, which have been known about for quite a long time. It is very simple to tell the noble Lord how many gigawatts of energy could in principle be removed, but that is a meaningless figure until we have some feeling about how effective the new technology is going to be. I would not want to say at this stage that this will save our renewables targets. At the moment, I would say there is a good chance that it will amount to good housekeeping but it may be considerably more than that.

Lord Judd: My Lords, I would like unreservedly to congratulate those who tabled this amendment, which makes a great deal of sense. I have for a long time been a bit bemused about why the geothermal dimensions of energy policy have not had greater prominence in the UK approach. That anxiety has been greatly strengthened because I have the privilege of being a member of Court of Newcastle University and Professor Younger at Newcastle has done a lot of really important research on this.

To reassure my noble friend a bit about his anxieties, I hope, this amendment is very topical because the news has just broken that with government support there is to be a very significant project in the heart of Newcastle. There is a proposal to drill 2,000 metres in search of this form of energy. The Department of Energy and Climate Change has awarded £400,000 to Newcastle and Durham universities to take this work forward. The borehole will be the deepest ever drilled

in a UK city. Scientists believe that at that depth it will bring up hot water at a temperature of 80 degrees centigrade. It will be an unlimited source of water that will be hot enough to heat any domestic or commercial central heating system.

This project has been described not only as imaginative but as full of good prospects. The scientists concerned are saying that, depending on the mix of rock at the depth to which they are drilling, they are optimistic of reaching temperatures not short of boiling point. This will provide a fully renewable energy supply and will massively reduce reliance on fossil fuels. It will strengthen Newcastle's position as a sustainable city. The project is expected to last for six months only, and the team hopes to be able to pump out the first hot water in early June. If it is successful, it will open up all sorts of prospects not only in the north-east but across in the west in places such as Carlisle where the geology is not dissimilar. If it proves successful in Newcastle, the same techniques could apply.

Taking up the very important point made by the noble Lord, Lord Oxburgh, about the knowledge, experience and professionalism available, there are still a lot of resources from the old mining industry around in some of these parts of the world. They could be rejuvenated to play a very important part in this. I think that this amendment is very timely because it comes just as practical work is going forward. I commend it.

The Lord Bishop of Chester: My Lords, in principle we are surely all in favour of this technology playing a part in our energy policy. It is simply practicalities that I want to ask the noble Lords, Lord Teverson or Lord Oxburgh, or the Minister about. First, we have been told by the Minister that the Government will not favour subsidies for developed technologies, but for developing technologies, such as offshore wind. We are told by the noble Lord, Lord Teverson, that this is a well developed technology. Does his proposal require some structural subsidy in the regulations he anticipates? It would be helpful to the Committee to know what financial arrangements are envisaged because there is no point in going into all this work if it is never to going to happen.

Secondly, does the success of geothermal depend on some combination of electricity generation and community heating systems? Do you need to have both? If so, there has to be a big enough community near to the geothermal unit for that to be possible. I understand that Cornwall is geologically the best area in this country in which to exploit this technology, not the north-east.

Thirdly, I understand that once a well has been drilled, the heat is gradually depleted in that locality under the surface. A typical geothermal station might operate for 20 or 25 years, which is a decent length of time for some purposes, but not if you are designing a heating system for a substantial urban area. Those are some practical questions on which either the mover of the amendment or, in due course, the Minister might want to comment.

Lord Lea of Crondall: I support one of the points made by the right reverend Prelate. I am sure that the principle underlining this Bill, and other Bills, is not that we have a totally random system of subsidies but that we have a consistent system of subsidies, a point to which the Minister will perhaps respond when I move my amendment is a little later. Nothing would be more fatal than for people to think that any fool can get energy from any place they like and receive unlimited subsidy to do so. As I understand it, that is not part of the principle of a Bill, but it deals with how this consistent pattern of subsidies, or a consistent pattern of carbon taxes, for that matter—that is the reverse side of the coin—will operate, so that it is transparent to all. I am sure that the noble Lord, Lord Teverson, would agree with that principle. It would mean that we would not have the anxieties that have been revealed.

I am all in favour of geothermal, by the way; in fact I spent much of last summer in Iceland and Greenland, where one can see boiling water coming out of the earth all over the place; it is a good form of cheap energy. However, we have to look at the competing forms of energy with some consistent system of units, whether a price per kilowatt hour delivered or whatever. I am sure that this is capable of being embraced within the spirit of the amendment.

Lord Grantchester: I am grateful to the noble Lord, Lord Teverson, for tabling his amendment today, as both he and I mentioned it at Second Reading last year. The Minister replied in that debate that he was actively looking at a licensing system. I trust that he will be able to update us today with a positive proposal. As we know, the industry has spent £4 million of the £6 million allocation from our previous Labour Administration, and from the remaining £2 million, the Conservative-led Government have cut the funding by 50 per cent to £1 million with no arrangements in place thereafter.

The noble Lord, Lord Judd, has already updated us on one such proposal. My noble friend Lord O'Neill will also know that geothermal energy has been tapped into since Roman times, with the enjoyment of hot springs, and shallow geothermal projects such as ground-source heat pumps are slowly growing. Even conservative estimates calculate that deep geothermals a few kilometres down could provide 10 per cent of the UK's electricity. It operates 24 hours a day and is always hot; emission levels are virtually non-existent and it should not run out. We agree with the noble Lord, Lord Teverson, that the timing in his amendment specifying within 18 months gives an unnecessarily long leeway within which the Secretary of State could operate such a system. We would support a shorter timeframe.

I would also add to the suggestion of my noble friend Lord Lea that perhaps we could look at increasing the feed-in tariff threshold to 10 megawatts and include a deep geothermal tariff of 23p. If the Minister's plans have extended that far, he could update us on what those might be. We look forward to that.

Lord Marland: My Lords, welcome back to what I hope will be the last day of our Committee stage. I also welcome back the noble Baroness, Lady Smith of Basildon. I hope that her foot is much better. Should we have a vote later today, a number of coalition

[LORD MARLAND]
Peers will be very happy to push her into the Chamber in her wheelchair to ensure that, for once, she goes into the right Lobby.

The coalition Government welcome this amendment. I have telegraphed this before in various debates that we have had on the subject. The noble Lord, Lord Teverson, is a recognised expert and, as usual, is thumping the drum for Cornwall. I am very grateful to the noble Lord, Lord Judd, for thumping the drum for the north-east, which I looked at very closely and from where I have also had representations. The noble Lord, Lord Oxburgh, is absolutely right that capital moves within countries and, if we are to take this matter forward, we should do it as quickly as we can to look at the possibilities.

To answer a number of questions, geothermal does benefit from two ROCs. There is financial support available. As recently as December, we gave grants to Keele, Newcastle and Southampton universities to continue their activities. I hope that that deals with part of what the right reverend Prelate the Bishop of Chester said.

As I have said before, we are looking actively at the practicalities and, in particular, the legal aspects. In fact, only the other day we looked to see whether we could use the Irish licensing system, legal system and legal documents to do it, but it is a huge amount of work. It is not a question of just adopting their system and using it as a template. Unfortunately, because the UK legal system is silent on this issue, we start with a blank sheet of paper and have to create our own licensing regime, which, those of you who have been in government will know, is quite complex.

Given the potential complexity of the licensing scheme, it is my proposal that the Government continue to work on this issue and to take the matter away. I can assure noble Lords, as I have done in the past, that looking closely at trying to find a regime that suits is something that has my sympathy and support. I am very grateful that we should have the scientific evidence that the noble Lord, Lord Oxburgh, mentioned to support this excellent amendment. However, I ask the noble Lord to withdraw his amendment.

The Lord Bishop of Chester: Before the Minister sits down, I want to press one of the points I made. Imagine an electricity generating station in Cornwall, generating electricity from this source. Will the Government view this as akin to nuclear generation and offer no subsidy so that it has to stand on its own commercial feet or will it be regarded as equivalent to offshore wind, where there is an ongoing subsidy for the actual units produced?

Lord Marland: Giving it a ROC is an incentive to use it. This means that it is in a totally different category from nuclear and therefore fits into the same category as onshore and offshore wind, which also benefit from the same revenue contributions and financial support. I hope that clarifies the point.

Lord Jenkin of Roding: Following on from that question, will the Minister confirm that, if there turns out to be a need for a subsidy for geothermal energy in the way discussed, and the subsidy is in the same form as that for onshore and offshore wind, the cost would fall, as with those two generating systems, on the consumer?

Lord Marland: I cannot confirm the costs on the consumer at this early stage of the procedure. However, I can confirm that there are two ROCs already in place available for deep geothermal. Therefore, there is a system in place for rewarding the person who produces it.

Lord Grantchester: The noble Lord mentioned two ROCs as a subsidy to the industry. My understanding from submissions I have received is that the industry feels that this is insufficient. Has his department looked at increasing this? The submissions asked for these to be upgraded to four.

Lord Marland: I am sure that all industries are keen to upgrade the amount of ROCs that they get, but we consider that a very suitable figure at this point.

A noble Lord: My Lords—

Lord Marland: May I deal with one question at a time? I cannot multi-task, like women. That will appear in *Hansard*.

We feel that this is greater than some of the other technology that we use and that it is appropriate at the moment.

4 pm

Lord O'Neill of Clackmannan: I imagine that this will be part of the electricity market review. We cannot keep adding more subsidies provided by often impecunious consumers to the research fantasies of the British generating industry. There has to be some degree of control. One would imagine that the electricity market review, to which the Government are committed, will give proper consideration to this so that we do not have the creeping incrementalism that results in the submerged and disadvantaged groups in the country subsidising such research programmes.

Lord Marland: The noble Lord makes a good point. We have been looking at this matter very carefully for the past month or so. There is a framework in place; we have a deep geothermal challenge fund and have been allocating funds towards research. There is a ROC that is currently cast in stone and we are in a very adequate space to take this issue forward. I invite my noble friend to withdraw his amendment.

Lord Oxburgh: To answer a couple of points raised by the right reverend Prelate, I should say that 25 years is a perfectly reasonable time, but it might well be 35 years for the life of a field of this kind.

Lord Jenkin of Roding: We could not all hear that.

Lord Oxburgh: I am sorry. To repeat, 25 to 35 years is a plausible length of time for a field such as this to operate. There are various possibilities of rejuvenation, but it is too early to think of that.

The right reverend Prelate also asked whether there would be low-grade heat available as well. Yes, there normally is low-grade heat available after you have generated electricity. The aspiration is that a project such as this would wash its face commercially simply on the basis of electricity generation. If you can find a local use for low-grade heat associated with it, whether it is for agriculture or for district heating, that is an additional bonus.

Lord Teverson: I thank all noble Lords who have taken part in this debate. I should like to follow through on a couple of questions. The noble Lord, Lord Oxburgh, was talking about generation that was purely electricity or purely heat. If there is a demand for hot water, whether it be for market gardening or district heating, the most energy-efficient thing to do would be to use as much of it as you could for that purpose. This is primarily for electricity generation although you could theoretically have one or the other.

In terms of depletion, as I understand it—the noble Lord, Lord Oxburgh, knows about it far better than I do—that is a conservative estimate. It could be argued that there should be no depletion over time on very deep exploration; there is a chance for rejuvenation. The industry is rightly conservative regarding those estimates because ultimately the earth is being heated from the core upwards. Cornwall and Devon are particularly good in this respect because there is a layer of limestone over granite, which makes it a particularly good cocktail. I have probably got that slightly wrong. I see from the noble Lord, Lord Oxburgh, that I have. That is what someone from the industry told me, but there we are. It is not just Devon and Cornwall—this relates to other areas as well.

On remuneration, the two ROCs regime is already in place, as the Minister said. The industry would like to look at the renewable heat initiative in terms of the hot water that comes out. That is probably an area of future discussion.

I am very encouraged by the Minister. I know that these things are not necessarily easy to achieve. Other countries, particularly in Europe, have these systems in place and they are the sine qua non. Without them, you will not get development of this technology. That is why it is important to get on with it. I would have thought that setting up a licensing regime from fresh would be a civil servant's heaven—that there would probably be people queueing up in DECC to invent the British geothermal licensing system. That clearly has a cost in people power, but there is no ongoing cost to the department afterwards. Indeed, I hope that in due course revenues will come in from this technology, as in oil or whatever.

I am encouraged by the Minister's remarks. I am sure that this will be a point of discussion between now and Report, and on that basis I am pleased to withdraw my amendment.

Amendment 35 withdrawn.

Clause 98 agreed.

Amendment 36

Moved by ***Lord Whitty***

36: After Clause 98, insert the following new Clause—

"Secretary of State not to grant petroleum licence incompatible with offshore renewable energy site

(1) In this section, "offshore renewable energy site" means a site in United Kingdom territorial waters or the REZ which is developed or operated, or is intended to be developed or operated, for—

(a) generating electricity from wind, wave or tidal energy, or

(b) transmitting electricity generated in that way,

in respect of which the Crown Estates have granted a lease, licence, agreement to lease or agreement to license for that purpose.

(2) The Secretary of State may not grant a licence under section 3 of the Petroleum Act 1998 (licence to search and bore for and get petroleum) to the extent that the licence would permit an activity within an offshore renewable energy site, unless the person entitled to the benefit of the lease, licence or agreement in respect of that site so agrees in writing to the grant."

Lord Whitty: My Lords, as the noble Lord, Lord Oxburgh, said on the previous amendment, it is clearly the general target of the Government—as shown by providing the ROCs incentive—to increase the amount of renewable energy in this country by 2020, and to make offshore wind the major component of the provision of that quota. We have already done reasonably well, in that there are already 1.3 gigawatts of offshore wind operating around our coasts, and other projects are in the pipeline. However, the process takes considerable time. For it to happen—again, as the noble Lord, Lord Oxburgh, said—we need not only the incentive of the ROCs in place, but the means of mobilising substantial sums of private capital. That private capital needs to minimise risk. At the moment, the problem for an offshore wind facility, either in operation or provisional—with a lease granted by the Crown Estate or with an agreement to lease—is that the prospect of an oil or gas facility being put in the same area will kill that investment stone dead. It would certainly put off prospective investors in that scheme or potential scheme.

The amendment therefore seeks to ensure that investors in the industry and the supply industry—an important economic by-product of offshore wind—have sufficient confidence to invest sums of money in offshore facilities that are not threatened by effectively being displaced by a future oil or gas facility. That is needed because of the present disparity of provision in the rules governing offshore oil and gas consents. The amendment would prevent a forced intervention by the Secretary of State to consent to an oil and gas works on top of an existing lease, or agreement to lease, for an offshore renewable project. It would allow the offshore oil or gas project to occur were consent to be given by the operator or potential operator of the offshore activity—in other words, provided that negotiations could operate and an agreement could be reached, there could be coexistence. Although theoretically both sides of the equation recognise the need for coexistence, there is no balanced system for dealing with them.

It is not that we are creating a special, privileged position for offshore wind, because the consenting system for offshore renewables in general—tidal and wave power would also be covered by the amendment—

[LORD WHITTY]
includes a requirement to negotiate with other sea users. The offshore operator is required to negotiate with the potential gas operators and other users of the seabed. On the other hand, the current guidance from the Infrastructure Planning Commission—which, until the Government get their way, is the planning authority—requires that the views of other sea users must be sought out, that action taken in response to those views must be reported and that justification must be given where no action is taken. However, the Petroleum Act requires oil and gas activity to take due regard of other projects, such as renewables, but there is no requirement to negotiate in those circumstances. We are not talking about a level playing field at the moment, and I therefore hope that the Minister and the Government will recognise that there is an issue here.

There is particularly an issue about discouraging the substantial amounts of private investment that will be needed in these offshore technologies in order to meet the Government's targets for renewables. It is already public policy to reach those targets, but the present system threatens confidence in investments in those targets. It is certainly the case that for those seeking finance from the City and elsewhere for these projects—particularly as we go further offshore, as we will need to do—questions of confidence and the possibility of the leases being overridden by a subsequent decision on oil and gas facilities are major considerations and some of the reasons why such investment is inhibited. I hope that the Minister will at least recognise that this is a problem. If he is not prepared to accept the exact wording of this amendment, I hope that he will recognise that this is something that the Government have to address and that some degree of equal treatment will be needed down the line.

I think all sides of this Committee recognise the importance of meeting these renewable targets and want to remove any inhibition in doing so. Therefore, this amendment, or something like it, is a necessary step to ensure that the investment is there to meet those targets. I beg to move.

Lord O'Neill of Clackmannan: Is the basis for this amendment that somehow it is preferable for us to have offshore wind rather than access to oil and gas? For many of us, it is as important in this country that we have access to the reserves of oil and gas in order to sustain a number of our vital industries. They will depend on electricity for a lot of their fuel sources. If I were still speaking as a constituency MP representing a seat near Grangemouth, the last thing I would want to do would be to support offshore wind at the expense of adequate supplies of gas and oil to go into the oil refinery and the chemical processing plants that are a major source of employment for my constituents. My noble friend needs to be rather more frank with us. Is it just for the convenience of investors or it is based on the assumption that somehow oil and gas are bad and windmills are good?

Lord Whitty: I think it is just as well that the MP for Grangemouth does not determine our energy policy. It is important to recognise that there are substantial employment opportunities in renewables.

Lord O'Neill of Clackmannan: Do those jobs exist at the moment?

Lord Whitty: Indeed. Many of those jobs have the skills that will be required in renewable technologies as well. However, at the moment it is the Government's policy, the previous Government's policy and the policy of all parties in this House to reach the target for renewables in this country. That is not saying that we should close down oil and gas opportunities; it is saying that in future we should give the renewables industry, whether wind, tidal or wave, equal opportunity with gas and oil facilities. When offshore wind providers are seeking private investment in a relatively new technology, the confidence of those investors and the realisation of government policy in this area are inhibited by the threat of the oil and gas facilities trumping them. To look at it the other way around, if proposers proposing a renewables process operation are faced with the possibility of an oil and gas facility coming in, they have to negotiate. At the moment, there is no obligation on the oil and gas companies to negotiate, which is the injustice that I am addressing.

To be frank with my noble friend, I think that, yes, it is a matter of public policy to give some preference to renewable industries and that we reduce the carbon content of our energy supply. It is therefore important to reduce the reliance on carbon-based fossil fuel. But that is not quite what this amendment is addressing. It is to address the disparity of treatment between the two sectors and to ensure that confidence can be inspired for developing renewable technologies offshore.

4.15 pm

Lord O'Neill of Clackmannan: I was not going to speak on this amendment, but I have to say that there is a lot of water up in the North Sea and I am not sure why the two cannot coexist. You cannot move the oil and gas fields, but a lot of windmills can be moved because there is rather a lot of wind up there, which tends to be spread over a bigger area. I think that it is incumbent on the mover of this amendment to be more explicit about in which areas he would envisage a degree of overlap or competition. At the moment, he is seeking to legislate by assertion, not by evidence, and seeking to tell us that there could be some need for reassuring of investors. Frankly, there are lots of other reasons why investors are a bit leery of offshore wind farms. The technology, the durability of the metals and the exposure to all kinds of elements mean that the North Sea is more inhospitable than a lot of areas where offshore wind developments have taken place so far.

However, perhaps the noble Lord can tell us where there is likely to be an overlap; that is, where there is a clear need for wind power in addition to reservoirs of oil and gas. I have to come back to the point that not all the output of the North Sea is used for energy-generating purposes. A lot is used for the high-tech existing industries. We are in the process of losing Pfizer, but the petrochemical complexes across the United Kingdom are sources of high-tech, well paid employment for large numbers of people. These jobs exist and they will carry on as long as oil and gas is

coming through to be reprocessed. National security and various economic objectives would stand up just as robustly and strongly as anything in relation to renewable targets, from which I do not demur.

I have yet to see where we would find that there would be a conflict on such a scale as to require amendments of this kind. If there is a case, it has not been made. If there is not a case, I think that it is part of the anti-oil and gas mentality of certain sections of what chooses to call itself the green and renewable movements in this country. Therefore, it has to be balanced out. I do not think that the case has been made adequately for such an amendment.

Lord Oxburgh: In the interests of reducing internecine strife, I think the prospects of serious incompatibility here are quite small. There is not really as much scope for moving wind farm locations as it might appear—wind is pretty variable—but, given the kind of technology of which I spoke in relation to the previous amendment, one can now exploit gas fields or oil fields at an angle from some distance without too much difficulty. It is important to give some confidence, as far as it is needed for investors in this area, but I do not think this is going to be a big problem.

Lord Jenkin of Roding: My Lords, the noble Lord, Lord Oxburgh, is absolutely right. The more I have looked into this, the more I see that it is a very complex problem. It has been under discussion with the two industries and my noble friend's department for some years. From time to time, pressure has been brought on one or the other to try to find a solution. I am sure that the noble Lord, Lord Oxburgh, is right but the prospects of a serious overlap are pretty small.

It seems to me that often the problem is bringing the product ashore. The problems with offshore oil and gas are well known but I know that some wind farms have found difficulty in finding ways of getting their supplies ashore. It has been suggested to me—I think this has been discussed with my noble friend's department—that there might be some form of compulsory purchase onshore to ensure that the product of a wind farm can be brought ashore at the most appropriate place, even if at present the landowners are reluctant to give permission. However, it does not seem to me that this complex matter has been dealt with by a single amendment in a Bill of this sort.

I entirely take the point made by the noble Lord, Lord O'Neill of Clackmannan, that oil and gas will be very important—particularly gas—for many years ahead. It is not so long ago that there was a major discovery off the coast of Scotland—the Buzzard gas field—and that could still happen. These things are far from certain and gas has to be exploited where it is. Yes, as the noble Lord, Lord Oxburgh, implies, there is a limited capacity for drilling horizontally, if necessary, or at an angle to develop a field but my impression is that the two industries have tried over a long period to reach an accommodation about how this might be handled. I think we would be a little unwise to start legislating in the way the noble Lord, Lord Whitty, suggests and simply say that there can be a retrospective revocation or variation of a lease that has been given in respect of which a great deal of capital investment may have taken place.

On the whole, I do not support the amendment in the name of the noble Lord, Lord Whitty, but I think that the discussions should continue. If it appears to my noble friend's department that some legislative provision needs to be made, perhaps the Government could look at that for the next energy Bill, whenever it appears. My impression is that we may not see it this Session.

Lord Judd: In the cause of cohesion on this side of the Committee, might I say that it has been very intoxicating to have the thesis and the antithesis and, like others, in all humility I would like to put myself on the side of the synthesis? It seems to me that it would be tragic if we got into a vicious either/or battle. The issue is how to bring these things together constructively. I make the observation—no doubt I could be described as an unreconstructed politician of former days—that it seems to bring home to me the hazards of a market-dominated approach in these crucial strategic issues and that we really need very effective strategic planning into which the private sector can then feed its contribution. This debate brings home the need for a strategic approach, not just targets but how they are to be delivered because that is the crucial issue all the time. It is not just to spell out the aspirations; it is actually to have the mechanisms there to ensure they happen.

I take the urgency and importance of the vigorous argument of my noble friend Lord O'Neill seriously, and if I have one anxiety it is on that point. Employment, security, economy, the real immediate needs—those are all crucial and it would be naive to overlook them. However, I am fearful because we seem to keep getting caught up in the immediacy of the management situation, but the Bill should unashamedly take a visionary approach to the long-term future. I am sure that my noble friend Lord O'Neill would be the first to agree that he is talking about what we all know to be finite resources. That is crucial at this juncture. Sooner or later, this country will have to face the issue. It is not an ephemeral kind of idea; it is absolute fundamental practicality that the economy of this has to keep going at some future point without the availability—it is taken for granted—of the finite resources. If we always get into the crude argument, the long-term thinking will always be pushed to the side. We will always hear about all the difficulties and doubts.

Objective considerations about the reality of what is proposed are important, but many of these things are challenges to be overcome and to be got right; they are not excuses for delaying and pushing to one side. I for one put firmly on record that whether or not the idea is acceptable as an amendment, my noble friend Lord Whitty is to be warmly congratulated on again having brought it home to the Committee, in his characteristically firm way, that either we are serious about alternatives or we are not. If we are, we have to start putting some consistent muscle and priority behind those alternatives and stop saying that they are an also-ran to be fitted in when there are no other objections to be raised.

Baroness Parminter: I support the principle of creating a level playing field, to which the noble Lord, Lord Whitty, referred. The question seems to be about

[BARONESS PARMINTER]
whether a reasonable dispute resolution process is in place for future conflicts between renewable energy and oil and gas. That is the heart of the issue, on which the Committee ought to focus. As it stands, the law gives the Secretary of State the ability to terminate offshore wind farm leases early, which implies primacy to oil and gas developments. That is clearly not the wish of the Government or in support of the policy developments with which we seek to move.

The noble Lord, Lord Whitty, has done well to remind us that that could seriously undermine the financing of future developments. While it is fair to say that until now financing has been less controversial and difficult, it is clear that offshore wind projects are moving further offshore, are larger and are going within known oil and gas provinces. That will make the financing of those projects more complex, so we need to consider seriously any barrier to the investment for them.

We all recognise that there is an importance to the coexistence between oil and gas companies and renewable operations. I pay tribute to organisations such as RenewableUK that have put a lot of effort in, with the support of DECC, to draw up protocols and guidance so that the respective companies can work in harmony, as they have done until now, finding a way forward where there are areas of the seabed on which they both wish to operate. The issue is whether a reasonable dispute process is there for the future; we need that level playing field.

Therefore, while there might be questions about this amendment, it is right and proper that the noble Lord, Lord Whitty, has raised it. As my noble friend Lord Jenkin has mentioned, I too hope that this issue will get further consideration. If this clause is maintained, would it not be more appropriate that there should be compensation if these leases were terminated early in order that there is a degree of parity between the respective businesses in the field?

I welcome the principle of the necessity for a level playing field and I hope that ongoing discussions might look at some of the wider issues around compensation for a reasonable dispute resolution process.

4.30 pm

Lord Lea of Crondall: My Lords, now that the point has been put in terms of a mechanism, I begin by not having any knowledge about whether a conflict is likely. Assuming that it is conceivable, as in the case made by my noble friend Lord Whitty—my noble friend Lord O'Neill has questioned whether it is just either/or as regards renewables having preference—I thought that the general philosophy with which we deal with energy policy is that we put a price on market externalities. In other words, we level the playing field financially, whether that is through Kyoto, carbon tax or something else. Everyone pays the same price through a carbon tax or something like that, but once you have done that, you do not make a separate judgment about preferring renewables to hydrocarbons. That market externality to meet our medium-term targets should be incorporated into the fiscal system. We are gradually doing that through the myriad consultations about carbon price floor, entry tariffs, the document produced by the Treasury before Christmas entitled *Carbon Price Floor*, and so on.

If I could take the suggestion that has just been made a stage further, the word "criteria" is not just a mechanism because the Department of Energy and Climate Change cannot be left just holding a pup, it has to know the criteria on which it has to operate. How far is it that this famous level playing field can be made level by not treating all forms of energy alike? That is not what we mean. We are trying to make the level playing field level on the basis of market externalities which are made into financial quantities in the tax and subsidy system. We do not need to do it twice. As I understand it, that would be the criterion.

You cannot just ask the department to have a mechanism without stating so that there is no ambiguity how the market externality is translated into a level playing field price. I hope that that can also be fed into the thinking and the way in which my noble friend Lord Whitty takes forward this thought in his amendment.

Baroness Smith of Basildon: My Lords, I hope that noble Lords will forgive me for not standing up because I may fall over. I thank the Minister for his comments and for his good wishes to my foot, which were gratefully received. I hope that he will not mind if I do not take him up on his offer to take my wheelchair through the voting Lobby. I will rely on my noble friends to ensure that I get into the right place. On a serious note, I am grateful to him for agreeing to suspend last week's Committee sitting so that we could sit today and I could be here. I am grateful to noble Lords for their indulgence on that.

I thank my noble friend Lord Whitty for bringing forward this amendment. It has invoked a lively discussion. I am not sure that there is as much disagreement between us as might seem apparent from some of the debates. We are all trying to seek a sensible energy mix and to ensure that there is access for all forms of energy. The Government have targets for renewable energy. If those targets are to be met there has to be some certainty for the renewable energy industry.

It is worth reminding ourselves that my noble friend's amendment is not anti-oil or anti-gas—I did not see it in that way at all—but tries to find a way in which both can coexist sensibly on a level playing field and one does not undermine the other. Like the noble Baroness, Lady Parminter, I pay tribute to the work of RenewableUK, which has been trying to seek the kind of protocols, or guidance, required that means that problems can be addressed before they arise so that we do not have to move to the position we would have to under this amendment.

However, there may be cases where a proper disputes procedure has to be in place to ensure that we are not in the position that we are at the moment. If oil or gas is always a priority, there will be a difficulty in ensuring investment in renewables. Indeed, the amendment talks about a site that is developed or operated for renewables, or is intended to be developed or operated, or for transmitting electricity from renewables,

"in respect of which the Crown Estates that have granted a lease license, agreement to lease or agreement to license for that purpose".

It is not just a site that has been chosen, but a site that has been granted a licence already.

The proposed new clause says that the Secretary of State is not able to grant a licence for activities within an offshore renewable energy site without the agreement of the holder of the lease, licence or agreement. One problem is that, with no disputes procedure, there is no compensation for a licence-holder if their licensed renewable site is to be overridden for access to gas and oil.

I do not think that there is much disagreement. There is, and has been, a clear wish within this Committee to ensure that we maximise all our resources for all energy sources. However, I have concerns that, if some kind of dispute procedure or something along the lines suggested in the amendment is not put in place, the Government could be unable to reach their targets on many renewables. If a licence can be revoked purely on the order of a Secretary of State, that lack of certainty will lead to a lack of investment.

I understand that the Minister may have concerns about the wording and the way forward. It would extremely helpful, however, if he could take this away and give some thought to the principles behind the amendment to look for a way forward that gives certainty to licence-holders of renewable energy sites.

Baroness Northover: My Lords, the Government are committed to a rapid increase in offshore wind deployment to maintain a secure energy supply, to tackle climate change and to meet our renewable energy targets as well as to deliver green jobs for the UK, which pick up the points of both the noble Lords, Lord Whitty and Lord Judd. However, we are also committed to securing full benefit from our oil and gas resources, which remain of great potential value to our economic well-being and energy security. I hope that the noble Lord, Lord O'Neill, will be reassured by that. As the noble Baroness, Lady Smith, puts it, it is about coexistence and ensuring that this works well.

We believe that both the offshore wind industry and the oil and gas industry are needed and can successfully coexist to ensure the nation's energy needs are met. DECC is working with both industries and their trade associations to encourage effective co-ordination and co-operation in their respective development processes. Our expectation is that suitable consultation, planning and phasing of the respective operations will in most cases allow both developments to achieve their objectives in full, or with only minor compromise. I note what the noble Lords, Lord Oxburgh and Lord Jenkin, said on this.

At the stage of formal consent, an application from either industry to exploit the natural resources of our marine environment would be considered as part of the standard procedures of the relevant authority and be consulted upon with interested stakeholders. Any user of the sea—including oil and gas and offshore renewables industry players—is able to make representations at a number of stages, including the formal consent process and the environmental impact assessment. We recommend that interested parties do so, so that their views can be taken into account in any decision-making.

It is worth noting that the Government are well aware that this issue is causing concern, particularly to the offshore wind industry. Therefore, the department is working on a solution that is acceptable to all parties. I hope that that will help to reassure the noble Lord, Lord Whitty.

Clearly, in terms of the financial compensation that has been referred to, if the oil company is not prepared to offer appropriate compensation, there is no question of the Secretary of State intervening to override what is happening there.

We understand the motivation behind what the noble Lord, Lord Whitty, is proposing, and it is extremely important that there is equal treatment. I am a great believer in equal treatment. Therefore, we understand why he has brought this forward. We do not think it appropriate at this stage to agree this amendment to primary legislation—to hardwire it in—but we understand the issue. It is being looked at currently in DECC. Obviously we do not want any situation to develop that will disadvantage what we are trying to do with the Bill as a whole. As the noble Lord, Lord Judd, pointed out, it is the vision of where we are going as a whole that is important in this Bill. That is apparent from the Bill and everybody's involvement in it. If we bear that in mind, it is important that these issues are resolved and DECC is looking at that at the moment. I hope that in the light of that explanation, the noble Lord will feel able to withdraw his amendment.

Lord Whitty: My Lords, I thank the Minister and everybody who took part in what was a rather wider debate than I originally envisaged. I thank particularly the noble Baroness, Lady Parminter, and my noble friend Lady Smith for their support for the amendment. My noble friend Lord O'Neill, not for the first time and I suspect not the last, provoked me into saying more than I ever intended and more than was particularly helpful to this amendment. As my noble friend Lord Lea said, the preference or otherwise is largely a matter for the fiscal system, which is already there. But if there is in addition a disadvantage to one sector as against another in the process, we should address that as well.

I am grateful to the Minister for saying that this is at least on the radar screens of the department. But it has been on the radar screens of the department and predecessor departments for at least eight years to my knowledge. We need to hurry this up.

Whatever I may have said earlier, this is not about giving a preferential position. Nor is it dealing with the whole of the ocean. It is dealing with those areas where a licence or lease has been given or is about to be given or where a project is already operating. The rest of the ocean is open to the oil and gas industry in any case. Nor is the amendment saying that in no circumstances will oil and gas be allowed to operate there. All I am requiring them to do is to negotiate to reach an agreement. I hope that the Government can help to set up a process whereby that happens and thereby to equalise the hoops that any new developer will have to go through. There are two different forms of consenting and they are not the same. Some would say that they slightly—I think they are significantly—disadvantageous to renewables as against oil and gas.

[LORD WHITTY]

I am grateful to the department in the terms in which the Minister has responded. However, I ask her and her officials to hurry up because this is an outstanding issue. In a sense, the oil and gas industries can go to their boards—the noble Lord, Lord Oxburgh, used to sign these off himself. Yes, they have the option of going anywhere in the world, but so does the kind of City finance that, by and large, offshore, wind and certainly the newer technologies of tidal and wave will have to go for. They also have the option of going elsewhere and it is important that the element of risk is reduced and that coexistence is a reality. It must be coexistence between equal partners in the delivery of our energy mix and not one that gives an advantage to one sector as against another.

Having said that, I accept the Government's good faith in looking at this. I would be grateful if in a month or two we could complete that process and come back with a system that addresses the problem. In the mean time, I beg leave to withdraw the amendment.

Amendment 36 withdrawn.

4.45 pm

Clause 99 : Agreement about modifying decommissioning programme

Amendment 36A

Moved by **Baroness Smith of Basildon**

36A: Clause 99, page 75, line 31, leave out subsection (2)

Baroness Smith of Basildon: My Lords, this is a probing amendment. It may help the Minister to know that I am just seeking some clarification because I was puzzled. In an earlier debate, the noble Lord, Lord Jenkin of Roding, referred to the complexity of some of the legislation. We have to go back to previous legislation and previous Energy Acts to understand the Bill before us today. I did that. Section 46 of the Energy Act 2008 relates to the approval of funded decommissioning programmes and the Section 48 referred to here is about the modification of such funded decommissioning programmes. I do not understand why it is necessary—and if it is necessary, it seems rather a Henry VIII clause—to insert into Section 48 of the Energy Act that: "When approving a" funded decommissioning,

"programme the Secretary of State may agree to exercise, or not to exercise, the section 48 power … in a particular manner … within a particular period".

What on earth does that mean? If the Minister can enlighten me, I will be very grateful.

The reset of the clause goes on in the same way. It seems unnecessary because if you read Section 48 of the 2008 Act, those powers seem to be available already. "In a particular manner" and "within a particular period" are very wide and do not make much sense to enable the reader of this legislation to understand why the Minister thinks we need to insert in legislation that seems already clear to me "in a particular manner" and "within a particular period". If he is able to enlighten me, I will be very grateful.

Lord Jenkin of Roding: I have words of comfort for the noble Baroness. I have on previous occasions said that I totally share her dismay at the complexity of the legislation, and I have arranged a meeting next week with the chairman and the chief parliamentary counsel of the Law Commission to discuss the whole process of consolidation, how the Law Commission approaches it, where the initiative lies and whether it considers that the Electricity Act and the Gas Act would be a case for consolidation. I am not just talking the talk; I am, I hope, walking the walk. I hope that Ministers and officials in the department will recognise that some of us are not going to let that matter rest.

I am very glad that the noble Baroness said that this is a probing amendment because the issue is extremely simple. Section 48 of the 2008 Act gives the Government power to impose changes on a funded decommissioning programme after it has been done. It has, no doubt, been represented by the nuclear industry that it contains a considerable element of uncertainty about additional charges possibly being made after the original programme had been agreed or about changes being made to the timing of the payments. At the moment, the payments are intended to be spread over the life of a plant so that by the end of that time there will be a sufficient fund available to cover the decommissioning and waste treatment. It is absolutely right that that should not now fall on the taxpayer but is part of the cost of producing the electricity. Under that section, the Government have the power to impose a change. All this clause is doing, as I understand it, is requiring the Government to agree a change with the developer. It may well be possible for the Government to suggest there should be changes, but the developer has to agree. Given what we have been saying in earlier debates about the need to try to create certainty, I think this clause is entirely right. I am glad the noble Baroness decided to table merely a probing amendment because I think the clause should be allowed to stand in the interests of certainty for the nuclear industry.

Lord O'Neill of Clackmannan: My Lords, one thing that has struck me about this House is that although we often talk about scrutiny we rarely use the probing amendment, which is one of the regular tools of the discredited Standing Committee process in the House of Commons. It is often used there for time-wasting purposes as well. However, in today's case it is useful when there is a certain degree—in fact, a large degree—of opacity in the wording of the Bill, for quite understandable reasons. You have to work your way through the network to try and get to the point.

On the substance of the issue, speaking as the chairman of the Nuclear Industry Association, we are quite relaxed about this. We think that there will always be something which we have not anticipated—God forbid that, in terms of nuclear power generation or waste management, it was of the order of any terribly serious or dreadful prospect. My real point is that we recognise that there can be unforeseen circumstances. The Government have, on occasion, to change step for whatever reason but should do so, as far as is reasonably possible, with the agreement and understanding of those who are going to be affected by that. At the moment, with the agreement which has been reached

on waste management—in terms of both the funding of the Nuclear Decommissioning Authority and the costing programme for its long-term cost—the industry is, within reasonable bounds, happy on that issue. On that point, I hope that my noble friend is only probing and will withdraw.

4.51 pm

Sitting suspended for a Division in the House.

5.04 pm

Lord Marland: My Lords, I am grateful for this amendment because it provoked my noble friend Lord Jenkin to use the full majesty of what used to be his office, and probably should be again, to demonstrate clearly the reasoning for this subsection staying in the Bill. I am grateful that we should have the support of no greater or more august figure than the chairman of the NIA itself, the noble Lord, Lord O'Neill of Clackmannan. Both noble Lords gave extremely good reasons for it.

I will explain briefly that the real reason for this change is to remove the power to subsequently modify an approved programme that has the potential to create uncertainty for operators and investors financing significant long-term investments. The key to this is giving long-term investment commitment to those who are investing in new nuclear. I have nothing to add to what the two noble Lords have so aptly said with their greater experience of the subject, and I invite the noble Baroness to withdraw her amendment.

Baroness Smith of Basildon: I beg leave to withdraw the amendment.

Amendment 36A withdrawn.

Clause 99 agreed.

Amendment 37

Moved by ***Lord Judd***

37: After Clause 99, insert the following new Clause—

"Bodies able to produce and supply renewable energy

Production and supply of renewable energy by National Park authorities and the Broads Authority

(1) Section 11 of the Local Government (Miscellaneous Provisions) Act 1976 (production and supply of heat etc. by local authorities) is amended as follows.

(2) After subsection (1) insert—

"(1A) In subsection (1) the definition of "a local authority" shall be understood to include the Broads Authority and National Park authorities when applied to subsection (1)(a), (b) and (d) (production of heat or electricity or both; establishment and operation of generating stations for production of heat or electricity or both; and use or sale of heat or electricity)."

(3) In subection (3), after "a local authority" insert "including the Broads Authority and National Park authorities"."

Lord Judd: My Lords, I must say how grateful I am for the cross-party support and indeed the support of my own Front Bench. It is good to have that for an amendment. I should make plain that I am not a member of a park authority, but I take a close interest in their affairs both as vice-president of the Campaign for National Parks and as president of Friends of the Lake District.

The amendment would put national park authorities on an equal footing with the rest of local government in terms of the ability to generate and sell renewable energy. The current position for other local authorities is that they can sell electricity from renewable energy resources. Existing legislation—Section 11 of the Local Government (Miscellaneous Provisions) Act 1976—already allowed them to generate electricity and heat. Following the change made by the Government last summer through the sale of electricity by local authority regulations, they were given these additional powers.

This change makes it much easier from a financial point of view for local authorities to install renewable technologies, and so play their part in the transition to a low-carbon society because they can benefit in full from the Government's feed-in tariff. For their part, the national park authorities are tackling climate change on a number of fronts, including providing leadership on low-carbon innovation and national park communities, while also reducing the greenhouse gas emissions from their own activities. An important aspect of this can be the installation of small-scale renewable energy measures that are suitable for a protected landscape. Since the park authorities are not included in the relevant piece of legislation—Section 11 of the Local Government (Miscellaneous Provisions) Act 1976—it would appear that they do not currently have the power to generate or sell renewable energy. Through amending the relevant provisions of the 1976 Act to include the Broads Authority and the national park authorities as set out in this amendment, it would be possible to put this right. The prescriptions on the sale of electricity as set out in the 2010 regulations would then also apply to the Broads Authority and the national park authorities.

There might be other means of achieving the same outcome which the Government prefer. However, what is important is to put the national parks on an equal footing with other local authorities in terms of the generation of the electricity and heat from renewable energy and the potential to sell any surplus electricity from this renewable generation. I hope that the Minister will be able to respond positively. The national park authorities are keen to set an example of what can be done in an environmentally and aesthetically acceptable way. It is surely important for us all to give them every possible support.

Lord Davies of Oldham: My Lords, first, I am surprised that my noble friend is surprised that the Front Bench has signed the amendment. It would be somewhat remiss on our part if we did not see merits in it. He made an excellent case. What he kindly—for the Government—left out of his analysis of the situation is an actual feature of the national parks and the Broads Authority themselves: their powers in relation to the Public Bodies Bill that is before the House at present. Perhaps the Minister will offer some reassurance on that front. Suffice it to say that one can already see the national parks adjusting to a changed future, in

[Lord Davies of Oldham]
terms of the pressures upon them. We all know the particular circumstances of the Broads Authority, which was considered by this House only 18 months ago.

I emphasise the obvious fact that it is a good move to associate the national parks with the same capacity as local authorities. In fact, it seems somewhat surprising that this issue has not been pressed somewhat earlier than this Bill. I congratulate my noble friend on that point. I emphasise to him that we are in full support. I hope that on this constructive amendment the Minister is able to give a rather more positive response than has been the case on the most constructive amendments thus far. I look forward to his reply.

Lord Marland: I am not sure that I quite caught the end of that last sentence. Perhaps it is best that I did not. Suffice it to say that I welcome the amendment tabled by the noble Lord, Lord Judd. I am grateful that it should have the support of his Front Bench, which is excellent news. It is not the first time that his amendments have found favour with government. We are obviously extremely disposed to look at this amendment. Unfortunately, the timing was too tight for us to consult as widely as we wanted with the national park authorities before introducing this Bill, so we have to do that. Of course, like the noble Lord, I welcome their ambition to generate electricity on their own land and support that commendable ambition. With that in mind, and knowing that we will give this amendment consideration in coming days and months, I—

Lord Deben: My experience of working with the national parks was not anything like as cheerful as that presented by the noble Lord, Lord Judd. In many cases, the national parks have not been helpful for enterprises within them. I hope that when he talks to the national parks, he will make it clear that he wants them to make it as easy as possible for others within national parks to generate electricity and that this will not be another occasion for the national parks to make it extremely difficulty for anybody who is not themselves to do things within their areas.

Lord Marland: I note what my noble friend Lord Deben says. If we are going to look at the national parks and what they will do with their microgeneration, we should obviously encourage them to practise as they preach, which I think are the words he is looking to hear from us. With that in mind, I hope the noble Lord, Lord Judd, will withdraw his amendment.

Lord Judd: I thank the Minister for that encouraging and warm response. I am sure it will be noted by everybody and bodes well for the future. We look forward to what he brings forward at a later stage on the Bill, because he has indicated that he will respond to this. That is great. I say to others who have intervened that we should not tilt at windmills. I see no evidence whatever of the danger or the prospect to which the noble Lord referred. By contrast, I am very much encouraged by the Minister. I beg leave to withdraw the amendment.

Amendment 37 withdrawn.

5.15 pm

Clause 100 : Additional powers of the Coal Authority: England and Wales

Debate on whether Clause 100 should stand part of the Bill.

Baroness Smith of Basildon: I rise to speak—or not, as the case may be. One of the oddities of procedure in your Lordships' House is that sometimes it seems that we have to say the exact opposite of what we want to say in order to have the opportunity to, in this case, congratulate the Minister. I have had to give notice of my intention to oppose the Question that the clause stand part of the Bill, which is the opposite of what I want to do. In fact, I congratulate the Minister: he will recall that, under Schedule 7 to the Public Bodies Bill, I have proposed an amendment to delete the Coal Authority from that Bill. It seemed to me that any change to the functions of the Coal Authority should be undertaken not by secondary legislation—by order—but by primary legislation. That is exactly what the Minister has done in Clause 100 of this Bill, so I merely congratulate him as it is the appropriate way to make such changes. I hope that he will either support my amendment to Schedule 7 to the Public Bodies Bill or take other action to ensure that the Coal Authority is no longer in it.

Lord Jenkin of Roding: I understand from the impact statement on this that some possible competition issues will need to be addressed as to whether the Coal Authority will have, in some way, a preferred position as against other contractors that may compete for the business. I hope that my noble friend can give me some assurance that that will be taken account of.

Baroness Northover: My Lords, I am delighted to have been assigned this clause stand part debate, because therefore I am by proxy receiving congratulations that are not deserved, which is a great pleasure. My noble friend has raised another issue on the substance of the clause, so I shall spell out what it seeks to do.

This simple clause extends the Coal Authority's powers in England and Wales, which would enable the Coal Authority to use, and charge for, its existing expertise in remediating coal-related environmental and safety liabilities in non-coal related contexts. For example, it could assist other public bodies and private landowners in dealing with mine-water treatment and subsidence or surface hazard remediation outside the coal-mining sphere, but that would not take precedence over the authority's existing statutory duties.

On whether we are we talking here about non-flat playing fields again, I assure my noble friend Lord Jenkin that the clause enables the Coal Authority to work in the area without cutting across its statutory duties, but it does not give it precedence in the area. It does not even place an obligation on the Coal Authority to act in this way or on others to use it; it is just an enabling power. I hope that that reassures him. We will return to the Public Bodies Bill—maybe not, depending on what happens with the AV Bill—and no doubt we will get into further discussions on what it says. In the

mean time, I hope that the noble Baroness will be happy not to oppose the Question that the clause stand part.

The Duke of Montrose: It is nice to have an explanation given as to how the powers will affect England and Wales. It will be reassuring to the Scots on the next clause, as I am sure that the same arguments will apply there.

Baroness Northover: I confirm that Clause 101 mirrors the clause and extends the powers to Scotland, so I hope that it is not room 101.

Baroness Smith of Basildon: My Lords, I am grateful to the noble Baroness who I think has taken on board my comments about Schedule 7. I apologise if I was not more explicit when I asked the noble Baroness the question, but will there be extra funding to go with those extra responsibilities for the Coal Authority?

Baroness Northover: To clarify, this is not an extra responsibility. It extends the powers of the Coal Authority. This would not lead to an additional call on the public purse as the authority would be able to charge for this additional non-coal work if it wishes to undertake it. It is not appropriate even to be thinking about whether this should be a further charge to the public purse.

Clause 100 agreed.

Clause 101 agreed.

Amendment 37A

Moved by ***Lord Lea of Crondall***

37A: After Clause 101, insert the following new Clause—

"PART 4A

Energy revenues and taxes: price effects

Statement on energy revenues, taxes and subsidies

(1) The Treasury shall publish an annual financial statement of all fiscal instruments, including revenues, tax expenditures and subsidies, currently in force which relate to the supply of energy, and the quantum of money generated or provided by each of them.

(2) The statement shall also list any relevant regulations relating to those fiscal instruments.

(3) The Treasury shall also publish, along with the statement, an assessment of the degree to which each fiscal instrument differentially affects consumers with different levels of income.

(4) The statement published under subsection (1) must assess the effect of any revenue, expenditure or subsidy on the Energy component of the Retail Prices Index, and must specify what effect those fiscal instruments have distinct from other impacts on the energy component."

Lord Lea of Crondall: My Lords, expenditure on energy in Britain before tax is now about £76 billion. With tax, it is about £145 billion. That is of the order of just over 10 per cent of total UK expenditure. The statistical series which is the most obviously pertinent for this discussion is the annual statement produced by the Office for National Statistics called *Environmental Accounts 2010*. In 2009, environmental tax receipts—the label given by the ONS which includes hydrocarbons, unlike some other definitions of environmental tax receipts—totalled £40 billion. The tax take was £40 billion a year, which is double—I repeat, double—the amount collected in 1993. Therefore, it doubled in about 16 years.

It would be foolish to suppose that we will not see another move like that in the next 16 years, notably through the commitment to introduce carbon taxes of one sort or another. At present, by far the largest contributor to that £40 billion is hydrocarbon oils, which accounts for two-thirds of the above number—that is, £26 billion. The Institute of Fiscal Studies has a table showing all green tax receipts—on the same definition as the ONS and not the DECC definition—rising from £40 billion to £60 billion by 2015-16. That, noble Lords will notice, indicates that it will take six years for, on the face of it, the next 50 per cent increase. That shows the acceleration doubling every 12 years. It is an obvious acceleration. The GDP deflator for the six years concerned aggregates to 17 per cent, which brings the 50 per cent increase in real terms down to between 35 per cent and 40 per cent. Even so, that is an increase to £1,400 for a family presently paying £1,000 a year.

The statistical picture on taxes and transfers is becoming a jigsaw on which it is essential to get some clarity. I studied physics and mathematics—the noble Lord, Lord Oxburgh, will recognise this—and the thing you have to do is have a consistent system of units. You cannot compare apples and oranges all the time. That is true of energy finances as well. We are getting into a jigsaw where a great many of the pieces do not easily fit together. It is easier to double count or miss things out. There are things like the winter fuel allowance and a plethora of means-tested benefits. This is a pattern of complexity across the piece.

A few moments ago I referred to the treatment of energy subsidies, or quasi-subsidies of one sort or another. To give one example, right in the middle of the Bill there is a tweaking of the rate of interest for the Green Deal. You have to have a consistent system of financial accounts which treats all such moneys equally.

Dealing with regressiveness is a central purpose of my amendment, if we are to keep the people with us. There is a rather obscure publication—it was obscure to me, at least, but I am most grateful to the officials of DECC and the Treasury for drawing it to my attention at a meeting which the noble Lord, Lord Marland, kindly facilitated last Wednesday—called *Estimated Impacts of Energy and Climate Change Policies on Energy Prices and Bills*. I recommend it as bedtime reading for anyone who wants to, as it were, spend more time looking at these statistics.

The document shows the remarkable contrast between the top and bottom deciles in the impact of energy and climate change policies—particularly on what you might call home heating, because that definition does not include hydrocarbons. I shall come back to that in a minute. The tables are very vivid. They are all in the form of the steeply declining share of a household's income spent on energy as you go from the bottom decile of income distribution to the top decile. This is quite a remarkable contrast: the top decile pays 2 per cent of income on household energy bills and the bottom decile 16 per cent.

[Lord Lea of Crondall]

There are also three interesting paragraphs in the text, which I shall read out. They are paragraphs 17, 18 and 19 of this document, which was produced last July, after a very thorough and expert review of all of these quasi-subsidies, subsidies and arrangements. I am taking only these three points but noble Lords can perhaps see why I think they illustrate an important principle. Paragraph 17 says:

"The increases in gas and electricity prices accelerate closer to 2020 as the ambition of the policies that are rolled out increases. However, there are a number of policies that already have some impact in 2010 (including the",

renewables obligation—there are a lot of acronyms here—the,

"Carbon Emissions Reduction Target … Feed-in-Tariffs … and EU",

Emissions Trading Scheme.

Paragraph 18 says:

"Table 1 also shows the estimated impact of energy and climate change policies on an average domestic energy (gas plus electricity) bill. In total, policies are estimated to increase the average bill by £13 (1%) compared to a bill in 2020 in the absence of these policies. The breakdown of the energy bill into separate gas and electricity bills shows that the biggest percentage increase comes from the rise in domestic gas bills".

Now, noble Lords might say, "£13? Well, that's peanuts", but let them listen to paragraph 19:

"The impact of policies on gas and electricity prices is much greater than the impact on gas and electricity bills. This is because bills are a combination of prices and energy usage, and therefore include the impact of a range of policies which improve energy efficiency by helping households and businesses reduce energy consumption, lessening the overall bill impact. Chart 3 … shows the estimated average bill impact of individual policies in 2020".

5.30 pm

If I translate that into my English and read it aright, it is a bit rich to pray in aid that a rise in world prices, which mean that we do not have to do so much on our own carbon taxation, is a benefit to poorer people by lowering the consumption of the poor. They are lowering their consumption because they cannot afford it. They move out of the income distribution energy expenditure statistics because they no longer have a car or heat their house so much. Somebody at some point may come back to me and think I have got it wrong, but I can see no other interpretation of those paragraphs.

Let me move on but that is part of regressiveness, is it not? Likewise, a recent Institute for Fiscal Studies table showed that if a carbon tax were introduced at an average—and it has reasons for taking these numbers—of 0.22 per cent of income for all deciles, the bottom decile of the population would pay 0.51 per cent of their income, which is well over 4 per cent of the burden of the top decile, as a carbon tax. A carbon tax will grow very rapidly if that is going to be the main instrument of our Kyoto and Copenhagen responsibilities. A carbon tax will be a real game changer. It will change the balance slightly from the hydrocarbons, which a lot of people think are meeting the environmental limit of their contribution to environmental policies, quite apart from the social uproar of some of them. We have to think about how we can still have an effective low-carbon energy policy while avoiding devastating consequences for income distribution, which is already reaching a critical stage.

One issue is how we share this information on tax or price increases with the public. I will take a public bar in Burton upon Trent as my archetypal place to be on a Friday night. In a public bar in Burton upon Trent, how are people supposed to know any of this and have any buy-in to any of it? How do they know that figures are not being manipulated or double-counted—adding oranges to apples and so on? The first thing we need, in technical jargon, is an overall regressiveness table for all energy consumption before and after taxation. I do not think that is all that difficult an exercise, once you have decided how you are going to treat a whole list of things statistically. When you have done that, you just do it and publish it. The electricity market reform is more ambiguous. One point is the removal of ambiguities in press releases. For example, an important and yet everyday remark made in the press—I quote a newspaper—is:

"Consumers are facing big increases in their energy bills to pay for the £130 billion plan to build a new generation of 'green' power stations over the next decade".

Everyone agrees that these are the numbers: £100 billion for generation and £30 billion for rebuilding and extending power transmission systems.

I have two worries about the way this is explained. One is that presumably not all of this is a gross increase—that is, it is not all new money—as opposed to the earlier assumption. There must have been some level of renewal in the previous projections. Another is that it is not public expenditure. I think people are getting totally confused about what sort of money we are talking about.

Thirdly, all this is at a time when world energy prices might be on the rise again. However, that is part of another debate, even though I accept that it cannot be easily separated out in the public bar in Burton upon Trent. A further refinement, which is not a footnote, is the totally different price elasticities of demand for different types of energy. On the face of it, again because of social problems, price elasticity is very low in home heating simply because there is a limited range within which people need to heat their homes—all the electricity propaganda says it should be between 65 and 70 degrees Fahrenheit. Therefore, doubling the price of home heating would simply double the household expenditure on that element, whereas petrol taxes are far more price elastic. Unlike home heating, they will, in practice, be coupled with people at the bottom end.

Lord Teverson: In terms of home energy costs, surely price elasticity is directly related to the income group that you are relating to. In a fuel poverty area, price elasticity is extremely high, which is one of the big problems of the energy crisis that the noble Lord is talking about. At the higher income levels, price elasticity is remarkably low, which I should think is the thing that affects price elasticity rather than the particular source of energy.

Lord Lea of Crondall: I think that the noble Lord is wrong. On reading the literature, heating is inelastic is because people do not want to freeze to death, whereas they can drive less in their cars. This is the difference between the two elasticities.

Lord Teverson: I say this as a really serious point. One of the biggest obscenities in this country is that people die because they do not heat themselves sufficiently. It is a real issue and I am sure that others share my concern. Statistically, when the temperature goes down in this country, we get a significant increase in deaths, which is because people will not put on the heat.

Lord Lea of Crondall: I am comparing the price elasticity of home heating with the price elasticity of petrol for your car. That is my main point. It is precisely because people do not generally in this country freeze to death that price elasticity is different.

It is necessary to note that, in practice, the people at the bottom are stopping motoring. There is another statistical problem, or fallacy, built into the ONS statistics. Because they have disappeared from the statistics, it does not look as if the detailed distribution for motorists is as bad as it was. It is rather like saying, "The working class can no longer go to the Costa Brava for their holidays. We do not want that riff-raff going there anyway". They are out of the statistics and they are out of the motoring statistics. This is another problem with the idea that we can easily use the price mechanism to determine consumption, even though in an ideal world it might be somehow very nice if there was a big reduction in motoring or airline expenditure. As I said in an earlier intervention, the logic is to have the same market externality carbon price, whether it is for aviation or for anything else. But how do you deal with the poverty effects on home heating?

I have three other points. At Second Reading, I used the phrase, "hypothetical hypothecation", which will not get wider circulation in the bar in Burton upon Trent. We need a statistical picture which would be revealed by hypothetical hypothecation—I will not use the word again I can assure you—but would be quite separate from the actual amount of recycling of revenues within the system to deal with the actual regressiveness.

On the consultative forum, people will ask themselves intuitively, "Where is all this money going?" There is an extent to which we want to say that it is obvious how we are going to spend it. My noble friend Lord Prescott always used to say, "It doesn't matter if someone is charging £50 to drive 100 yards down Piccadilly in a Rolls-Royce. You can throw £50 notes out of it and that will satisfy the Rolls-Royce driver". But Ken Livingstone or somebody like that would put it all into new buses. That is hypothecation. There is implicitly some undercurrent of the need for hypothecation—with a less fancy word—in what we are talking about. We need a statistical picture that would be revealed by hypothecation even though that is separate from the actual amount of recycling of revenues.

Finally, on fiscal arithmetic, there is a price floor for carbon, which is currently £15 per tonne. The power industry argues that the price needs to be about £35 a tonne to provide a viable return and the noble Lord, Lord Stern, for his part, is in a different fantasyland with an assumption of £75 a tonne at 2010 prices to make his scheme work.

Putting all that together, we have to take a crack at what I am saying in my first amendment so that there is no doubt that we have an agreed statistical basis. Who is going to agree it? That is the second amendment. A consultative body, I might be told by the noble Lord, Lord Marland, is not going to be flavour of the month with a coalition Government who is scrapping public bodies right, left and centre. However, I will make a practical point that even the Government's own philosophy on the Public Bodies Bill is that it is not supposed to be the slaughter of the innocents. It is supposed to be ostensibly the slaughter of those who are not fit for purpose. I radically disagree with some of the conclusions that they make about that, but fit for purpose this would be. It would have a very clear purpose to get agreement, understanding and therefore some ownership of buy-in on behalf of their constituents—in every sense of that word—and all the different stakeholders in the country.

We have got to a point where this will literally begin to make sense in the bar in Burton upon Trent. It is those people who will complain about the price of heating, petrol, congestion taxes, parking taxes or whatever. This is where the regressiveness issue provides a bridge with the consultative stakeholder forum I referred to on Amendment 37B.

I should leave it there. I thank the noble Lord, Lord Marland, for his co-operation in getting some of these statistics sorted out with the department and the Treasury. I beg to move.

Baroness Noakes: My Lords, I rise to support the principle behind the amendment of the noble Lord, Lord Lea of Crondall. I am not sure that the wording is easy to follow because it starts with the term "fiscal instruments". The noble Lord went on to talk about a lot of the things that are leading to increased energy prices. He referred to the document put out by the department last summer showing the impact of policies on prices. Most things that have an impact on prices are not fiscal instruments in the way that you would customarily describe them in the sense of specific moneys going in or out of the Treasury. They are items that are borne by the energy companies and passed on to consumers. At the heart of what the noble Lord, Lord Lea of Crondall, was talking about is an important issue: there is a complete lack of transparency on the impact of the Government's various energy policies and the way in which they impose costs on the energy sector, which are in consequence passed on to consumers. It is important that we have greater transparency.

5.45 pm

In our previous day in Committee, I was trying to do the impossible thing of being in two places at the same time. While I was in the Chamber for the Budget Responsibility and National Audit Bill, I missed being able to speak to my Amendment 30A in Committee. I will not go into it in detail, but that amendment was about transparency in how the costs of the energy company obligation will fall on consumers via tariffs. That is just one part of the whole picture that the noble Lord, Lord Lea of Crondall, has tried to describe.

I believe that it is important that we find a way of communicating how these various costs flow through to consumers and especially, as the noble Lord said, to

[Baroness Noakes]
particular categories of consumers. That is not easy to do. The figures produced by the Department of Energy and Climate Change make some heroic assumptions about energy consumption, which tend to disguise what is happening. However, there is a case for regularly producing a comprehensive statement on how these costs are flowing through to consumers and their impact on different types of consumers. We also need some way of getting the debate into the public domain. While the former is complicated, the latter is very difficult, because it is hard to mount conversations based on complex economic interactions. However, I think that that is worth trying. An important gap in all the policies that have come forward to date is the lack of transparency about this one important fact, which is that it is consumers who are paying for the vast majority of the policies that have been pursued around energy, renewables and so on. That subject is seriously underdebated in our society. I support the principle behind the amendments, but I am not sure that I can quite sign up to them.

Lord Deben: I oppose the amendment, first, because it suggests that the Treasury will be able to do things that even it cannot do. I am always suspicious of requests for the Treasury to do something, but this seems to go beyond the normal. In the interesting discussion between the noble Lord on this side of the Committee and the noble Lord, Lord Lea, on whether one situation is more elastic than another, we missed the important point: people make very different decisions, which are not necessarily connected with their income. Many of us have had the experience of canvassing in not the richest parts of constituencies and being hit by a wall of heat. That is in circumstances where people are clearly in the quartile to which the noble Lord, Lord Lea, referred. As I said, people make very different decisions. To ask the Treasury to produce some sort of documentation in which it applies these requirements to so wide a range of individual decision-making seems to me not sensible.

Secondly, the amendment does not fit into the whole context of the Bill and what we are trying to do. I say to my noble friend Lady Noakes that of course we want to have an effect on the consumer; that is part of what we have to do. However, the idea that there is some secret thing that we are not putting forward misses the point. The point is that we do not pay the proper price of our energy because we do not pay the price for destroying our climate. I know that my noble friend does not believe that the climate is changing, but most of us do. In those circumstances, we would do great harm to a future generation if we allowed people to go on treating energy as if it did not have these costs. Therefore, those of us who believe in a marketplace have to make sure that the market pays the costs.

We ought to be a bit bolder in telling people what we are about; that we are hoping to provide alternative means which do not destroy the future for our children and our grandchildren. The idea of trying to twist the argument in order to say that it is somehow unfair on a statistical fault is one that I have always found so difficult in politics. Of course it is true that if you have a smaller income, any increase has a bigger effect. It says nothing to say that. You can put up the price of anything and it is bound to affect those on the poorest incomes by its nature. That is not a statistical statement but a fact of life which is obvious to all.

The question is: can we take alternative measures in order to help those who are most hurt by this? However, you do not do that by providing even those very erudite people who clearly speak in the pubs of Burton with the material suggested in both these amendments. I cannot believe—although it may be true of Burton, it certainly is not true of any town that I know—that this would be the subject of discussion in the saloon bar, let alone the public bar. The fact of the matter is that there would be a general moan about the increase in prices.

We have to face the problem that if we are to deliver a world in which our children are able to live comfortably, we have to change our energy arrangements. In this Bill, we are doing that to help poor people to have the kind of housing which does not need as much heat. That is part of what we are trying to do and I hope that the Minister will be extremely robust in her reply to the noble Lord, Lord Lea. This seems to me to be both out of date and not a sensible use of Treasury time. I would like to see the Treasury getting down to understanding why on earth it cannot allow sensible borrowing from the private sector to improve energy efficiency. It pretends that that is somehow or other on the books when it could quite easily be off them.

There are a lot of things that the Treasury can be doing but it should not be doing this and we certainly should not kid ourselves that we either make these changes or, in fact, leave the world a worse place. I am a Conservative; I believe in passing on to the next generation something better than I have received. That is why I am very much in favour of this Bill and I hope that we will be really tough about the proposals in this amendment.

Lord Dixon-Smith: Perhaps I might intervene after my two noble friends, partly because I would like to introduce a little bit of hope. I should say to the noble Baroness, Lady Noakes, that in fact the consumer pays for it all. We should not duck on that. Even if they do not pay for it through their use of the fuel, they do so through their taxes. The consumer has to pay the total bill, one way or another. Of course, through the tax system we share the bill out a little differently from the actual consumption figures, which are what I really want to talk about. My noble friend Lord Deben brings me to my feet, because I want to look backwards instead of forwards.

The fact of my life is that in 1960, I paid one shilling and thre'pence and three-eighths of a penny for a gallon—that is, five litres—of farm red tractor diesel. Petrol prices were commensurate but the duty rates were of course higher. In the case of petrol, prices have risen as they have with red diesel oil but the duties have risen even further.

5.54 pm

Sitting suspended for a Division in the House.

6.05 pm

Lord Dixon-Smith: My Lords, I do not need to go back to the beginning. My point was that I was paying one shilling and thre'pence and three-eighths of a penny for a gallon of tractor diesel in 1960—50 years ago. I suppose I had better convert that to metric currency, as most people here are probably not familiar with one shilling and thre'pence and three-eighths of a penny. It was about 6.25p for a gallon of fuel or a fraction more perhaps than 1.25p per litre. Currently, the price is around 61p to 62p per litre. That includes an element of tax, which of course have gone up on that as they have on everything else. That, over my lifetime—or all our lifetimes—is an energy price rise of 5,000 per cent.

If anyone had stopped to think about that in 1960, they would have thought that the world would collapse. For sure, the noble Lord, Lord Lea of Crondall, has a point when he is concerned about the future. We need to be concerned about the rise in the price of energy and about the way in which that use affects people's lives. Having said that, we have all lived already through enormous change and I see no reason to believe that we cannot continue to do that.

The Lord Bishop of Chester: My Lords, whether one takes the view that current government policies will lead to an unpleasant, unfortunate and regrettable increase in energy prices through the renewables obligation and so forth or one takes the line of the noble Lord, Lord Deben, who is not back from the vote yet, that this is all in order to save the universe, the public needs a certain amount of transparency on the issue.

Another reason it is important concerns the great increase in energy prices since the youth of the noble Lord, Lord Dixon-Smith, who must be even older than me if it was that cheap when he was young. The key question going forward is how energy prices in this country relate to energy prices in other countries. If such prices in this country get out of step internationally, that would have profound implications precisely for the people in the pub in Burton upon Trent who would find their jobs under threat if they were dependent on energy usage.

Whichever way you look at it, a consistent, annual process of reporting should be as far as possible value-neutral. We can all then make our minds up on a fair and accepted basis of available information, which is important for going forward. It would be very hard to say that that is available at the moment. As has been said, there is a great deal of confusion. One way or another, I do not doubt that this amendment is not right in its present form—perhaps this is not the Bill for it—but we need to have information or there will be misinformation. It needs to be a priority as we go forward with our energy policies.

Lord Whitty: My Lords, I broadly support the thrust of these amendments. It seems to me that there are four separate issues. First, on transparency, most people who have spoken think that there should be more transparency. The noble Lord, Lord Deben, is not in his place, but it would not be that difficult for the Treasury to provide more transparency in this area. Between DECC, the Treasury, Ofgem and DWP, a lot of information needs to be pulled together. It should be presented in such a way that debate can be focused and different policy options can be properly addressed. That does not exist as effectively as it should. The first of these amendments attempts to address that issue.

The second issue is, faced with that information, what is the policy? To address the point made by the noble Lord, Lord Deben, we clearly all agree that if you are going to have behavioural change, somebody has to bear the price. It is a question of who bears that price, what the social consequences are of bearing it, what the structure of tariffs is—to go back to the point raised a few days ago by the noble Earl, Lord Cathcart and the noble Lord, Lord Teverson—and how they affect people's behaviour and energy use. We can draw different conclusions. We can have a proper policy debate as long as we have the basic information in a form that is understandable, at least at some level, not only by us but in a public bar in Burton upon Trent.

The third dimension is the narrative. Wearing my consumer hat until very recently, I have argued that the narrative to consumers about where we are going on energy has been missing. Without that narrative, we are not going to convince the public in general that we have an energy policy that works for them and which has a clear outcome. From their different perspectives, the energy companies, consumer groups and the Government are in desperate need of a clear narrative, but it depends on having clarity of figures.

The last point addressed by the second amendment is about where we discuss this. Whether or not the exact form that my noble friend Lord Lea proposes is suitable for our approach to government, clearly there has to be somewhere where energy policy issues are addressed from the different objectives of energy policy: decarbonisation, fuel poverty, climate change, energy security, investment necessities, the structure of regulation and other government interventions. Of course, there are going to be definitional problems even with regard to the basic information. Is road fuel duty an environmental tax or not? It was started by Lloyd George when climate change was not a well known problem. It is difficult to say that it is entirely an environmental tax as distinct from a general tax-raising power. Likewise, is the winter fuel payment really to address fuel poverty or is it a supplement to social security policy?

There will be serious definitional problems, but let us get them out in the open. We can then move on to clearer policy discussion and to a narrative that the public might eventually be persuaded to understand. Although noble Lords will no doubt have some problems with aspects of the amendments as down, it would behove all of us to recognise that these four issues need to be addressed. At the moment, one of the problems of energy policy is that people have got hold of part of the problem but cannot see the totality. One of the reasons for that is the lack of agreed and clear statistics and information on the basic facts about energy.

Lord Judd: I agree with my noble friend that our noble friend has opened up huge issues, but does he not agree that what this exchange really illustrates is that we limit ourselves by talking about energy as though it were a commodity, when it is not? Like water and the atmosphere, it is a public good, in effect, because human societies simply cannot operate without it. From that standpoint, these strategic considerations and how they come together are crucial.

Lord Whitty: It is a public good, but public goods also have a price, and somebody has to bear that price. The public good of energy is a variable commodity in the form in which it comes, in the way that water and air are not. Therefore, there are more policy options and more complications.

6.15 pm

Lord Davies of Oldham: It is not often that I express thanks for the result of the last general election, but I do on this occasion. I am really glad I am not in the position of having to respond to this amendment because it raises areas of such profound complexity and objectives to which we all ought to subscribe. This is a very difficult debate to respond to and my sympathy goes out to the Minister as she prepares herself for that response.

The first and obvious fact I want to emphasise is that we owe a considerable debt of gratitude to my noble friend Lord Lea of Crondall. It is important that we address the total perspective of energy pricing which, after all, lies at the heart of everything that we are trying to do with regard to the green deal and the green revolution. It affects the whole way in which our society adjusts to the levels of consumption of energy and how we generate cheaper forms of energy. If we are not successful with the new strategies, the pressure on energy sources will be such that the increases energy prices over the past 50 years, to which the noble Lord, Lord Dixon, referred, may look absolutely marginal compared with what might obtain over the next 50 years.

However, the noble Lord, Lord Dixon-Smith, did fulfil an adage which I often use in general discussion, which is that men may not know too many prices but there is always one price that they know and that is the price of petrol or diesel for their car. That is not just because stations are obliged to put it up in lights but because men have one great consumption factor which is their cars. That does not mean to say that rational behaviour takes place. We all know those who would go the extra 15 miles to save something like 40p on filling the car up but they consume that amount and perhaps more getting there and back. One should not underestimate the issue of irrationality even when a price is transferred.

My noble friend must have taken some sustenance from the fact that the noble Baroness, Lady Noakes, offered some support for his position: she emphasised the fact that this is a plea for transparency, and we need transparency. Our present factors of production, our present modes of consumption are such as to make it extremely difficult for people to respond accurately and effectively to energy prices or to know the factors that produce the price. This is particularly the case with the householder in terms of the supply of electricity and gas. My noble friend has made a most valiant effort to try to see the way in which the Treasury might throw some light on some very dark and murky quarters in circumstances where we all appreciate that we will not get the community response to the energy transformation of the future unless people have confidence that what our society is doing, what our Government are doing on behalf of our society and what individual productive units in our society are doing is fair and reasonable and clear in terms of policy.

I listened very closely to the noble Lord, Lord Deben, who has a great deal of authority on these matters, particularly in this area to which he contributed a great deal as a Minister. He says that it is all about price signals, that we have to ensure that people recognise that the costs will increase and that people will have to knuckle under and respond to it, but we do not say the same thing about food. The Government do not put VAT on food and yet there is a world crisis in food. Many of us believe that there is considerable overconsumption of food and consumption of the wrong cheap foods in our society. Which Government would dare to talk about sending out a price signal to make food more expensive by imposing VAT? I cannot recall either side of the House or even the third part of the House—I have difficulties adjusting to the coalition even now although I do not include the noble Lord, Lord Teverson, in that—the Liberal Democrats, during the freedom they had before they joined the coalition, talking about sending out price signals for food.

We operate within a situation where the Government seek to give support to certain essential goods, of which food is obviously one, and, clearly, we have to do that for energy. We do it with fuel payments. In this Committee, we have discussed whether the tariff should change so that consumption on the early parts of the tariff should be reduced, rather than the present position where it is the most expensive. These are very real issues that my noble friend has raised.

However, all Members of the Committee have raised some reservations about it. They have seen difficulties with these proposals. I am not sure whether it is a matter of the Treasury being overworked if it takes on this objective, although it looks like a massive agenda to me. The point is whether the Treasury could hit the objectives that my noble friend identifies, particularly as it is quite clear that he would also like to see the revenues received from energy prices put into a bundle—he was very gentle about his use of the word "hypothecation"—in which they could be directed to counter the most regressive elements in the present price inquisition.

That is a pretty challenging agenda. I have spent a small amount of time on Treasury matters over the past few years in your Lordships' House and taking that on seems to be quite a challenge for policy makers. I do not have the slightest doubt that the Minister is likely to say the same thing. I emphasise to my noble friend that he has done us a service with the introduction of these two very challenging amendments and I hope that the Minister, in reply, will indicate that she thinks that from these discussions there may be strategies which we can pursue and which will be effective.

Baroness Northover: My Lords, we come back to the heart of the Bill at its conclusion. At the very start, my noble friend Lord Marland laid out the vision of this Bill. These amendments, which are about the transparency required to ensure that we deliver what we are seeking to do, have brought us back there again. Therefore, I welcome the opportunity to be able to debate this set of issues. The Government are very committed to greater transparency, thus building on what the previous Government were committed to and we seek to take that further. It is extremely important that transparency enables the public to hold politicians and public bodies to account and we are strongly committed to that. We need to be very clear and very public about where we are heading.

On these amendments, I point out that publications by the Office for Budget Responsibility, the Treasury and the Department of Energy and Climate Change already provide information relating to revenues, tax expenditures and distributional impacts similar to those suggested in the amendment. They clearly are not especially popular in the sense that not everyone is totally familiar with them all. However, I thank the noble Lord, Lord Lea, for taking the time to go over these publications with DECC and Treasury officials and for discussing his amendments with them. His opening speech showed that a tremendous amount of material is already available and it reminded me of the discussions I hear my sons—both of whom are doing PPE—having about the economic effect of this and that and whether it will happen in this direction or that. Nevertheless, the noble Lord was able to do that, I suggest, because much of that information is available.

Obviously, we need to go further and faster, as I think we would all agree. However, a great deal of information is already available. We welcome the noble Lord's suggestions about how to take this forward. I also point out that DECC produces an annual publication, alongside the annual energy statement, setting out the impact of energy and climate change policies on gas and electricity bills for households and businesses. People may not pay too much attention to that, but it is available.

The department is looking for opportunities to build on and refine the analysis so that it is more accessible to the public, and the noble Lord's contribution will feed into that. For example, we expect the next publication to include an analysis looking at the impact on illustrative energy-intensive users, which was mentioned just now. It is also extremely important to remember—the previous Government deserve credit for this—that the Equality Act, which we passed just before the general election and which we are now implementing, requires an assessment of the impact in various areas, including on those who may be in deprived groups, of various policies right across government. Wearing one of my other hats, I know that this is indeed happening and that the assessment of the impact of policies is being made in a way which I think the noble Lord, Lord Lea, would welcome. This is an early stage of the development but it is very important and will be taken forward. It is already happening.

I turn to the important elements emphasised by the noble Lords, Lord Deben and Lord Whitty, which is that we need to stand back and look at what we are seeking to do here. Clearly, we need to get the case across. Transparency helps, but do not doubt that statistics will be used by both sides in different ways as they seek to bolster their own arguments. In the end, that is why it comes down to what the Government decide should be the right strategy. There is a tremendous amount of agreement in the Committee, although there are one or two dissenting voices, but generally speaking we know where we are trying to head and we certainly wish to have greater transparency so that we can take people with us. In the end, the decision will go beyond that. Either we have to tackle climate change and we have the tools in this Bill to do that, or we do not. Generally, I think we agree that we need to do that, which is why we have introduced the Bill and why we are taking these proposals forward.

As there is already a lot of information available and as we welcome the suggestions about how we improve on that, how we take that forward and how we ensure that there is as much public discussion as possible, although not necessarily on the details of hypothecation, I hope that the noble Lord will be willing to withdraw his amendment.

Lord Lea of Crondall: My Lords, I thank everyone who has spoken, not least the Minister, for a very positive and helpful conclusion. I will disappoint her if she thinks that I am inclined to leave the matter here. Some alterations are needed and some of this material needs to be altered by an amendment on Report. I hope my Front Bench agrees, but I have yet to find out.

I will just, if I may, say that I did not know the Equality Act had been a topic in looking at this. I know that there is horizontal equality, but I did not know that vertical equality was part of the scope of the discussion arising from the Equality Act.

6.30 pm

Baroness Northover: Perhaps I can help the noble Lord by pointing out that you have to look at an impact assessment of everything you are doing to see how it might disproportionately affect different groups. Therefore, policies such as this come within that. Everything that the Government do comes within that.

Lord Lea of Crondall: I thank the Minister. She knows that I have the highest regard for her. But can I take it one by one, if I may put it that way? I am particularly grateful to the noble Baroness, Lady Noakes, for her broad support for the idea. She said that it was something that needed to be raised even though she stopped short of making it a mutual admiration society. That would be awkward for both of us. Many things that she said rang a bell with me. I will look at all the points that she raised.

We all know the noble Lord, Lord Deben, much better as Mr Gummer. He may remember Rio where I was a delegate, in 1991 or 1992. I am sorry that he adopted a slightly theological approach. I will rephrase that: it was an ideological approach. It was as if anybody raising the point that I was raising must be trying to destroy the policy. I have been on this wicket

[Lord Lea of Crondall]
batting and scoring runs for as long as he has and we will hit a brick wall—to mix my metaphors, which I always do—unless we get some more buy-in in Burton upon Trent. I am very glad that Burton upon Trent has been mentioned four or five times. I will rechristen the right reverend Prelate the Bishop of Chester, the Bishop of Burton upon Trent. That will help also the scoreline.

I take issue with the noble Lord, Lord Deben, about this point. Surely it is making a mountain out of a mole hill to say that the Treasury cannot do the work. As we have just heard from the Minister, a lot of this material is around.

6.32 pm

Sitting suspended for a Division in the House.

6.43 pm

Lord Lea of Crondall: My Lords, I rather cut short my thanks to the noble Baroness, Lady Northover, but she will perhaps forgive me for that. I think I thanked the noble Baroness, Lady Noakes, and was addressing some remarks to the noble Lord, Lord Deben. I made one remark about this being a great cost to the Treasury. I do not think it is a great cost, but I think it is a challenge, and I make no apology for mentioning Burton upon Trent once again because we have to keep in mind the audience that we have to get to if it is not going to revolt. It is not just a statistical bulletin. Statistics unfortunately do not speak for themselves. That is where spin comes in. I would rather there was a stakeholder body that agreed on certain things that needed to be done or were self-evidently true. We cannot afford to be elitist. That is a statement of the obvious. There is a huge increase in taxation in these tables.

The second point on which I would very respectfully part company with the noble Lord, Lord Deben, is about his remark that this is the wrong Bill. When two or three years ago, my noble friend Lord Rooker was summing up on the Climate Change Bill, which was not a million miles different from this Bill, he said that his job was to get the Bill through, but he was not sure that it was the right Bill. I can foresee the next 10 energy Bills never being the right Bill, so I have got my teeth into the backside of this particular elephant.

Lord Deben: I said a number of things, but I do not think I said that this is the wrong Bill. It seems perfectly reasonable to put it in; I just think it is the wrong amendment, which is rather different.

Lord Lea of Crondall: I am pleased about that. It may have been the noble Lord, Lord Dixon-Smith, and as he is not here, he cannot deny it.

I thank my noble friend Lord Whitty for his broad support. I totally take his point about the need to make some adjustment. I say to my noble friend Lord Judd that rationing by price is a rather crude but accurate way of describing the world we live in. Whether it is capitalism or socialism, rationing by price is a fact of life in the middle of India or anywhere else. We also have to bear in mind that if we cannot change the income distribution in this country to be more reasonable than the outrageous distribution at the moment, we will have to fiddle around with a lot of discounts, exceptions and adjustments. Unfortunately, the question would then be whether so many people would be excluded from the heavy incidences of some of those price rises that we would not raise the revenue or have the carbon effect that we wished. That is the moral hazard that we are into, and it requires a lot of thought.

My penultimate point is that I do not think that today is the day when Treasury officials in the Room are going to stand up and say, "We've fallen in love with hypothecation". What I am suggesting is in the Treasury's interest. The priesthood in the Treasury is not separate from the rest of society, and we want to encourage it to be part of fronting up some of these matters. The consultative body and all the stakeholders have got to be able to communicate with Burton upon Trent. I think that community needs to be brought together.

Finally, my noble friend Lord Davies of Oldham was very kind in what he said. I can assure him that we are at one in wanting to get this in a form that does not have all the teething points. I do not think the amendment as it stands states as crudely as he implied that we put all these taxes into one bundle and redistribute them in energy. I go halfway to that to make sure that the quantum is clearly identified. I recognise that this is mainly for general taxation, but in Burton upon Trent, it is a huge selling point to be able to say, "This is what we are doing with some of the money". I want to be a bit pedantic about that distinction. I hope that it is acceptable for me to say that one bundle does not quite sum up what I was trying to say. I will conclude on that note. Although I hope that we can come back to this on Report with a slightly different amendment, I would like to withdraw the amendment.

Amendment 37A withdrawn.

Amendment 37B not moved.

Clause 102 : Repeal of measures relating to home energy efficiency

Debate on whether Clause 102 should stand part of the Bill.

Baroness Maddock: My Lords, I will be very brief. I cannot let this moment pass. Clause 102 comes under the heading of "Miscellaneous". It might be miscellaneous to everybody else in the room but, to me, there is nothing miscellaneous about it. It repeals the Home Energy Conservation Act 1995, which I was lucky enough to steer through the other House when I was a Member of it. We have a little bit left: the definitions in Section 1 of the Act that have effect for the purposes of the Sustainable Energy Act 2003.

I have spoken about it before. A lot of people did a lot of work to enable that Private Member's Bill to become law. It was when the Conservatives were last in Government. Unfortunately, the Labour Government

never used it in the way that it was intended. If they had we might have more houses that were not in need of a lot of energy-efficient measures today. I pay tribute to all the people who helped and worked in local authorities as Home Energy Conservation Act officers. There was a whole army of them. It created lots of jobs. It led to homes becoming more energy efficient and I know that the Minister has said that he understands the important role of local authorities. They were particularly good at taking whole areas and rolling out programmes in streets. I hope that those are the sorts of lessons that can go forward as the Green Deal goes forward. On Report, I look forward perhaps to hearing a little bit more about the detail of the involvement of local authorities. However, I could not possibly let it go past.

Clause 102 agreed.

Schedule 3 agreed.

Clauses 103 and 104 agreed.

Clause 105 : Short title

Amendment 38 not moved.

Clause 105 agreed.

Bill reported with an amendment.

Committee adjourned at 6.53pm.

Written Statements

Tuesday 8 February 2011

Office for Nuclear Regulation

Statement

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): My right honourable friend the Minister for Employment (Chris Grayling) has made the following Written Ministerial Statement.

The Government intend to bring forward legislation to create a new independent statutory body outside of the HSE to regulate the nuclear power industry. The new statutory corporation would be known as the Office for Nuclear Regulation (ONR) and would take on the relevant functions currently carried out by the Health and Safety Executive and the Department for Transport.

The ONR would be a new independent regulator, formally responsible in law for delivering its regulatory functions. The creation of the ONR would consolidate civil nuclear and radioactive transport safety and security regulation in one place.

The proposal will not affect the current regulatory requirements or standards with which industry must comply, and the vast majority of the costs of the regulator would continue to be recovered in charges from operators in the nuclear industry rather than funded by the public purse. Additional organisational costs will be entirely met by the nuclear industry.

Pending the legislation, the Health and Safety Executive is taking steps to establish the ONR as a non-statutory body from 1 April 2011, signalling our commitment to securing an appropriately resourced and responsive regulator for the future challenges of the nuclear sector. The Government will review the functions and processes of the interim body in order to inform their planned legislation.

Search and Rescue Helicopter Service

Statement

Earl Attlee: My right honourable friend the Secretary of State for Transport (Philip Hammond) has made the following Ministerial Statement.

On 16 December I and my right honourable friend the Secretary of State for Defence announced that information had come to light regarding the preferred bid in the search and rescue helicopter competition which required clarification.

In mid-December, the preferred bidder in the SAR-H competition, Soteria, voluntarily came forward to inform the Government of irregularities regarding the conduct of its bid team which had only then recently come to light. The irregularities included access by one of the consortium members, CHC Helicopter, to commercially sensitive information regarding the joint MoD/DfT project team's evaluations of industry bids and evidence that a former member of that project team had assisted the consortium in its bid preparation, contrary to explicit assurances given to the project team.

Since December, our two departments have been working with Soteria better to understand the situation and its implications for the procurement process. In addition, the Ministry of Defence Police are investigating how the commercially sensitive information came to be in the possession of the bidder. It would be inappropriate to comment further on the details of the investigation until it has finished.

However, even without the outcome of that investigation, the Government have sufficient information to enable them to conclude that the irregularities that have been identified were such that it would not be appropriate to proceed with either the preferred bid or with the current procurement process.

Written Answers

Tuesday 8 February 2011

Armed Forces: Convicted Personnel

Question

Asked by ***Lord Ahmed***

To ask Her Majesty's Government what were the ranks of each of the British security forces personnel convicted since 1981 for crimes committed while on active service in Northern Ireland; and what offences they were convicted of. [HL6245]

Lord Shutt of Greetland: The information requested is only partially available. Data on British Army personnel convicted of offences while on active service in Northern Ireland are available only for the period 1986-2006 (with no data available for 1987). Furthermore, the noble Lord should note that this data reflect only offences committed while off duty. This information has been placed in the Library of the House.

Data relating to the number of RUC or PSNI officers convicted during the time period are not held by central government; the noble Lord may wish to write to the chief constable of the Police Service of Northern Ireland on this matter.

Aviation: Air Quality

Question

Asked by ***The Countess of Mar***

To ask Her Majesty's Government how many airline pilots have been grounded by the Civil Aviation Authority as a result of exposure to toxic fumes on aircraft. [HL6142]

Earl Attlee: The Civil Aviation Authority (CAA) advises that pilots are typically grounded (have their medical certificates suspended) on the basis of their own reports, or their doctors reports.

The CAA initially records the cause of the grounding in the same terms used by the pilot or their doctor, which may not be a standard or internationally recognised diagnosis. In the past 10 years, there have been approximately 30 initial reports which might be relevant.

After medical investigation, many cases are classified with specific recognised diagnoses, others fully recover. To the CAA's knowledge, no cases have been unequivocally attributed to exposure to toxic fumes on aircraft.

The CAA website is due to be updated to reflect these developments.

Aviation: Aviation Health Working Group

Question

Asked by ***The Countess of Mar***

To ask Her Majesty's Government, further to the Written Answer by Earl Attlee on 21 December (*WA 272*), why the Civil Aviation Authority website states: "The Aviation Health Working Group is an interdepartmental organisation, chaired by the Department for Transport with representatives from the CAA, Health and Safety Executive and the Department of Health. It meets every two months to discuss issues relevant to aviation health and was instrumental in the decision to form the AHU. At alternate meetings industry and passenger representatives attend", when no meetings have been held since 18 February 2010; and what is the reason for the differences between the website and the Written Answer. [HL5654]

Earl Attlee: The notes of the Aviation Health Working Group (AHWG) meeting on 23 April 2007 show that the group decided then to meet three times a year. However, my right honourable friend the Minister of State has recently written to the Chair of the Science and Technology Committee to communicate the Government's decision to discontinue the AHWG.

The Department for Transport, like other public sector bodies, is prioritising its research and administrative expenditure. The Aviation Health Unit (AHU) in the Civil Aviation Authority (CAA) will now be the main forum for aviation health issues. In future we would expect greater international co-operation in respect of researching any aviation health issues which are common to air travellers and airlines of all nationalities.

The CAA website is due to be updated to reflect these developments.

Barnett Formula

Question

Asked by ***Lord Wigley***

To ask Her Majesty's Government whether they have reviewed the Barnett formula to assess the adjustments required to maintain a level of public services in Wales comparable to other parts of the United Kingdom; and, if so, when such a review was last carried out. [HL6267]

The Commercial Secretary to the Treasury (Lord Sassoon): Changes in the Welsh Assembly Government's overall budget were determined in the spending review in the normal way though the Barnett formula.

The Government recognise the concerns expressed by the Holtham Commission on the system of devolution funding. However, at this time the priority must be to reduce the deficit and therefore any change to the system must await the stabilisation of the public finances.

Benefits

Questions

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Lord Freud on 24 January (*WA 88–9*), whether people residing in non-European Economic Area countries without social security reciprocal agreements are paid (a) contributory employment and support allowance, (b) long-term incapacity benefit, (c) winter fuel payment, (d) disability

living allowance (care component), (e) attendance allowance, (f) carer's allowance, (g) maternity and paternity benefits, (h) child benefit, and (i) child tax credit. [HL6271]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): Contributory employment and support allowance, long-term incapacity benefit, disability living allowance, attendance allowance, carer's allowance and maternity allowance are not payable to people who live permanently outside the EEA or in countries without a reciprocal agreement.

However, these benefits may be paid in certain circumstances for temporary absence from Great Britain.

Winter fuel payments are not payable to people who live permanently outside the EEA and Switzerland.

Statutory maternity pay, ordinary statutory paternity pay and additional statutory paternity pay are payable by employers to qualifying employees in any country provided that employer is liable to pay the employers share of UK national insurance contributions in respect of that employee.

As outlined in my previous reply of 24 January 2011 (*Official Report*, col. *WA 89*), child benefit and child tax credit are only paid to persons outside the UK in limited circumstances, principally to meet our obligations under European Community law.

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government, further to the Written Statement by Lord Freud on 25 January (*WS 31–2*), why benefit claimants are described as customers. [HL6326]

Lord Freud: The Department for Work and Pensions provides a range of services to people of working age including lone parents, jobseekers and disabled people, and to pensioners. The term customer was introduced with the establishment of the then Benefits Agency (formerly part of the Department of Social Security), to encourage an understanding that service we provided to citizens in need of our service could be and should be improved. It resulted in a change of culture in the way people who use our services were treated.

The current Government considered changing the term but decided that it was not a priority in the midst of wider departmental changes.

Chronic Fatigue Syndrome

Question

Asked by ***The Countess of Mar***

To ask Her Majesty's Government whether, in the light of the research by J Newton and others in The Newcastle NHS Chronic Fatigue Syndrome Service: not all fatigue is the same (J R Coll Physicians Edinb 2010; 40:304–7), they will establish referral networks for fatigue evaluation and management specifically for departments that commonly manage chronic diseases. [HL6260]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): We have no plans to establish referral networks for fatigue evaluation and management. It is the responsibility of primary care trusts to commission services to meet the needs of their local population living with fatigue, and based on assessment of population need and clinical evidence.

Community Relations: New Cross Fire

Question

Asked by ***Lord Boateng***

To ask Her Majesty's Government whether they will make available for publication all the papers on the New Cross fire and the death of 13 young Afro-Caribbean people on that occasion. [HL5981]

The Minister of State, Home Office (Baroness Neville-Jones): The Home Office holds a small amount of material relating to the New Cross tragedy of 1981. this does not relate to the fire itself or actions immediately following the fire as the related functions and records are now, following Machinery of Government changes, with the Department for Communities and Local Government.

The remaining material with the Home Office relates to police liaison activities associated with requests for further investigation which led to the second inquest in 2004. Of this material, the Home Office cannot see any objection, subject to usual sensitivity review, to this information being disclosed on request.

Cybercrime

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what progress has been made in recent years to deter cyberattacks on United Kingdom internet facilities. [HL6612]

The Minister of State, Home Office (Baroness Neville-Jones): Cyber security is a key priority for the Government and was recognised as a tier one risk in the National Security Strategy. Her Majesty's Government announced, as part of the Strategic Defence and Security Review, a £650 million transformative National Cyber Security Programme. The Government are also working closely with our international partners to establish norms of behaviour in cyberspace. At the Munich Security Conference on 4 February 2011, my right honourable friend the Foreign Secretary gave a speech "Security and freedom in the cyber age—seeking the rules of the road", which set out the emerging UK vision of a future cyberspace which upholds freedom and democratic values while determining cyberattack.

Embryology

Questions

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what ministerial responsibility the Secretary of State for Business, Innovation and Skills has for (a) embryo research, (b) embryonic stem cell research, and (c) adult stem cell research. [HL6398]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): The Biotechnology and Biological Sciences Research Council (BBSRC), the Medical Research Council (MRC) and the Technology Strategy Board receive their grant-in-aid from the Department for Business, Innovation and Skills. BBSRC funds fundamental bioscience research, including work to understand the basic biology of stem cells. The MRC supports the full spectrum of biomedical research, including stem cell science. The Technology Strategy Board has a number of strategic programmes to incentivise technology innovation by UK business including in the area of stratified medicine and regenerative medicine.

In keeping with the Haldane principle, prioritisation of an individual Research Council's spending within its allocation is not a decision for Ministers. Similarly, the Technology Strategy Board operates at arm's-length from government with support for research and development directed to those areas which offer the greatest scope for boosting UK growth and productivity on the basis of business and academic strength.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what discussions the Secretary of State for Business, Innovation and Skills has had since his appointment with the Secretary of State for Health about (a) embryo research, (b) the Human Fertilisation and Embryology Authority, and (c) stem cell research. [HL6399]

Baroness Wilcox: Ministers from the Department for Business, Innovation and Skills and the Department of Health speak regularly about public health issues, including matters concerning research and regulation.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government which Ministers have policy responsibility for stem cell research. [HL6400]

Baroness Wilcox: The Minister of State for Universities and Science is responsible for innovation and science and research policy and funding for the Research Councils and for the Technology Strategy Board.

The Biotechnology and Biological Sciences Research Council (BBSRC) and the Medical Research Council (MRC) and the Technology Strategy Board receive their grant-in-aid from the Department for Business, Innovation and Skills. BBSRC funds fundamental bioscience research, including work to understand the basic biology of stem cells. The MRC supports the full spectrum of biomedical research, including stem cell science. The Technology Strategy Board has a number of strategic programmes to incentivise technology innovation by UK business including in the area of stratified medicine and regenerative medicine.

In keeping with the long-standing Haldane principle, prioritisation of an individual research council's spending within its allocation is not a decision for Ministers. Similarly, the Technology Strategy Board operates at arm's-length from Government with support for research and development directed to those areas which offer the greatest scope for boosting UK growth and productivity on the basis of business and academic strength.

The Secretary of State for Health has overall responsibility for health strategy and policy and has duties and powers under relevant legislation. The Parliamentary Under-Secretary for Public Health has policy responsibility for matters relating to biotechnology, which includes haematopoietic stem cell transplantation, stem cell research and its regulation through the relevant regulators such as the Human Fertilisation and Embryology Authority, the Human Tissue Authority and the Medicines and Healthcare products Regulatory Agency. The Parliamentary Under-Secretary for Quality has policy responsibility for health-related research and development.

Energy: Non-nuclear Power

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what estimate they have made of the savings in public expenditure that would arise from the United Kingdom becoming a non-nuclear power. [HL6498]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): Successive Governments have maintained their commitment to the UK remaining a nuclear power. The Government have therefore not made any estimates of the changes to public expenditure that would arise from the United Kingdom becoming a non-nuclear power.

EU: Powers

Question

Asked by ***Lord Tebbit***

To ask Her Majesty's Government whether any powers formerly exercised by the European Union have ceased to be so exercised. [HL6252]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): This information is not held centrally and could only be provided at disproportionate cost. There have been no treaty changes which have resulted in a repatriation of competence to the member states. There is a distinction to be made between repatriation of competence and the situation where the EU repeals or terminates action taken under secondary legislation such as a directive or regulation.

EU: UK Membership

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 19 January (*WA 34*), on what evidence they base their assessment that United Kingdom membership

of the European Union is in the national interest; and whether they plan to conduct an analysis of the costs and benefits of United Kingdom membership. [HL6269]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): This Government believe that EU membership is in our interests. The Single Market is the world's most important trading zone, generating total GDP of over £10.5 trillion in 2009 and giving us access to 500 million consumers without the barriers of customs or tariffs. The resultant economic benefits for individuals are very real with approximately 3.5 million jobs, ie 10 per cent of the UK workforce, benefiting from exports to EU member states. The beneficial effect of EU trade on UK households is estimated at between £1,100 and £3,300 per year.

EU membership also gives us better leverage internationally. Collective action gives us more negotiating power and allows us to better achieve our international security objectives on issues such as conflict prevention, stabilisation, climate change, human rights and development. For British citizens, the benefits of EU membership are many and varied, from free movement across EU member states, to the option to study and work within the EU without requiring a work permit, to the European Health Card (EHIC), which enables UK holiday-makers and travellers to receive free or reduced cost healthcare on temporary visits to EU member states.

On this basis, and given the complexity and cost of measuring the many variables involved, the Government do not consider it appropriate to conduct their own cost benefit analysis of UK EU membership.

Government Departments: Websites

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Baroness Neville-Jones on 15 December 2010 (*WA 186–7*), whether government websites will, when publishing ministerial speeches with political content removed, or when a whole ministerial speech is deemed essentially party political and not posted on the relevant website, provide a link to where the speech is published in full. [HL6390]

Lord Taylor of Holbeach: Government websites should not provide links to political content. I refer the noble Lord to the response to his previous Question by Baroness Neville-Jones on 15 December for further detail on this matter.

Gulf War Illnesses

Question

Asked by ***Lord Morris of Manchester***

To ask Her Majesty's Government, further to the Written Answer by Lord Astor of Hever on 20 January (*WA 64*), how spending by the Ministry of Defence on research into Gulf War illnesses compares with the $402,172,122 spent on such research by the United States Department of Veterans Affairs. [HL6427]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): I refer the noble Lord to the Answer I gave on 20 December 2010 (*Official Report*, col. *WA 251*).

Houses of Parliament: Members

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what steps they are taking to ensure that all Members of both Houses of Parliament are paying direct taxes in the United Kingdom. [HL6423]

The Commercial Secretary to the Treasury (Lord Sassoon): Members of both Houses of Parliament are subject to the same scrutiny by HM Revenue and Customs as other United Kingdom taxpayers.

Housing Benefit

Questions

Asked by ***Lord German***

To ask Her Majesty's Government, further to the Written Answer by Lord Freud on 31 January (*WA 229*), which stakeholders have been, are being, and will be consulted on the changes to the local authority good practice guidance for discretionary housing payments. [HL6508]

To ask Her Majesty's Government, further to the Written Answer by Lord Freud on 31 January (*WA 229*), whether they propose that Appendix A of the discretionary housing payments good practice guidance will be amended. [HL6509]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): We are making amendments to the discretionary housing payments good practice guidance, which include an addition to Appendix A to specifically cover assistance for customers affected by reductions in local housing allowance rates.

We have invited representatives from local authorities, welfare rights and homelessness charities, other government departments and the devolved Administrations to comment on and contribute to a draft of the guidance.

Human Rights

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government what assessment they have made of the consequences of rulings by the European Court of Human Rights for United Kingdom businesses, individuals, government and other public authorities and the sovereignty of Parliament. [HL6441]

The Minister of State, Ministry of Justice (Lord McNally): The responsibility for responding to judgments of the European Court of Human Rights falls primarily to the government department responsible for the policy area to which it relates. Where it may be necessary to determine how to provide a remedy the Government would assess the impact in the usual way. For example, were the remedy to require legislation, an impact assessment would be carried out ahead of that legislation being introduced.

The Government periodically provide information to the Joint Committee on Human Rights on the response to human rights judgments. The Government most recently responded to a Joint Committee report on this subject in July 2010. This is available on the Ministry of Justice website at: www.justice.gov.uk/publications/responding-human-rights-judgements.htm.

Human Trafficking

Question

Asked by ***Baroness Butler-Sloss***

To ask Her Majesty's Government which non-governmental organisations they have consulted or will consult prior to the publication of the forthcoming strategy on human trafficking; and whether they plan to consult the All-party Parliamentary Group on Human Trafficking. [HL6178]

The Minister of State, Home Office (Baroness Neville-Jones): We are strongly supportive of the role played by the voluntary sector and the All-Party Parliamentary Group (APPG) in working with us to reduce the incidence of human trafficking.

Home Office officials will meet non-governmental organisations and the APPG on Human Trafficking and take account of their expertise in developing the forthcoming strategy.

Met Office

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government what is the annual cost of the Met Office. [HL6465]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): The Met Office is a trading fund and provides weather and climate services under contract to a range of government and commercial customers. In 2009-10, revenue from these services, including maintenance of the underpinning infrastructure, amounted to £192 million, of which £157.4 million was from government customers. The Met Office returned a dividend of £4.5 million to the Ministry of Defence in relation to this period.

Parking and Traffic Restrictions

Question

Asked by ***Lord Lucas***

To ask Her Majesty's Government what action they are taking to prevent local authorities granting permission within their traffic orders to their enforcement officers, agents or contractors to contravene parking and traffic restrictions in the course of enforcing those restrictions. [HL6571]

Earl Attlee: Local authorities are best placed to determine the detail of restrictions within a traffic order to suit particular circumstances, including whether there should be any provisions for enforcing those restrictions.

Pensions

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Lord Freud on 24 January (*WA 88*), what are the high-risk cohorts based on age of recipients of the state pension living abroad; and in which countries they live. [HL6276]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): Under the life certificate programme, we target those pensioners abroad who are aged 80 and over and living in all countries where they are not covered by our data-matching agreements.

Police

Question

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what is their definition of "front line police services". [HL4848]

The Minister of State, Home Office (Baroness Neville-Jones): There is no formally agreed definition of frontline police services. Consideration is being given, with the police service, to the establishment of a common definition. Although no fixed definition exists, frontline officers and staff are generally those directly involved in the public crime fighting face of the force. This includes neighbourhood policing, response policing and criminal investigation. Forces should focus on maintaining and improving frontline services, while reducing costs as much as possible in middle and back office support functions, consistent with supporting frontline services. Police forces can also maintain and improve frontline services by enabling frontline officers and staff to work more efficiently and effectively.

Police: Funding

Questions

Asked by ***Lord Laird***

To ask Her Majesty's Government what moneys from (a) the Home Office, and (b) police authorities, have been allocated to the Police Federation nationally and locally in each of the past five financial years. [HL6086]

To ask Her Majesty's Government what moneys from (a) the Home Office, and (b) police authorities, have been allocated to the Police Superintendents' Association nationally and locally in each of the past five financial years. [HL6191]

The Minister of State, Home Office (Baroness Neville-Jones): Figures for Home Office funding to the Police Federation of England and Wales and the

Superintendents' Association of England and Wales in the last five full financial years are given in the table attached.

Any police authority funding is a matter for individual authorities.

Payments to Police Superintendents' Association of England and Wales 2005-06—2009-10

	Total
2005-06	618,139.00
2006-07	711,022.74
2007-08	826,207 27
2008-09	703,991.00
2009-10	700,731.00

Payments to the Police Federation of England and Wales 2005-06—2009-10

	Total
2005-06	149,843.00
2006-07	155,105.04
2007-08	263,693.26
2008-09	208,270.00
2009-10	208,205.00

Prisoners: Sanitation

Question

Asked by ***Baroness Stern***

To ask Her Majesty's Government on how many occasions in the past six months of 2010 prisoners in HMP Bullwood Hall were required to use chamber pots at night because of the failure of the night sanitation arrangements. [HL6336]

The Minister of State, Ministry of Justice (Lord McNally): In the past six months of 2010 the night sanitation system at Bullwood Hall prison malfunctioned on three occasions. In each instance only one wing within the prison, holding 34 prisoners, was affected. Night staff were deployed to the wing and all prisoners had the opportunity to leave their cell to access sanitation. The prison does not record prisoners' use of chamber pots.

Prisons: Refurbishment

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government how much has been spent at HM Prison Ashwell on refurbishment in the past two years. [HL6345]

The Minister of State, Ministry of Justice (Lord McNally): Over the past two years (between January 2009 and January 2011), £969,183 has been spent on refurbishment at Ashwell prison. This includes maintenance and repair but excludes professional fees and contractor escort costs.

Railways: Northern Rail Franchise

Question

Asked by ***Lord Shipley***

To ask Her Majesty's Government what estimate they have made of future passenger numbers on the Northern Rail franchise; and what plans they have for the number and quality of new and existing rolling stock to meet that future demand. [HL6368]

Earl Attlee: Demand forecasting will inform commercial negotiations between the Department for Transport and the current operator to implement additional capacity. It will also inform the specification for the new Northern franchise, which is due to begin in September 2013.

In October 2010, the Chancellor confirmed government support for significant electrification in the north west. This will allow for the introduction of additional electric vehicles to the Northern franchise. This in turn will release diesel units, which could potentially be retained for use within the Northern franchise. The specific number and quality of vehicles will depend on bidder proposals.

Railways: Passenger Compensation

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government what plans they have to improve the passenger compensation scheme in new rail franchises. [HL6126]

Earl Attlee: The Passenger Charter mechanism is still in use on some older franchises. More recent franchises have included a different mechanism, whereby passengers can claim monetary compensation from a train operator in the event of substantial delays. The mechanisms for incentivising good performance, and for ensuring passengers are dealt with fairly for future franchises are still under consideration.

Transport: Motoring Costs

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what assessment they have made of the cost of motoring for car drivers doing average mileage in each of the past three years. [HL6387]

Earl Attlee: The average annual motoring cost to households in the United Kingdom, including purchase of vehicle, tax and insurance, for the most recent three years for which data are available is given in the table below:

		£ per annum
2007	*2008*	*2009*
£3,230	£3,320	£3,130

Source:
Living Costs and Food Survey, Office for National Statistics

War of Aggression

Question

Asked by ***Lord Ahmed***

To ask Her Majesty's Government whether, in investigating suspects for the crime of waging a war of aggression, they follow the definition of the offence adopted by the United Nations General Assembly in Resolution 3314 of 14 December 1974. [HL6250]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The UK has no specific statutory provision for crimes of aggression in domestic law, although depending on the details the conduct may be covered by other offences.

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