

Vol. 762
No. 17



Friday
19 June 2015

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

Airports Act 1986 (Amendment) Bill [HL] <i>Second Reading</i>	1319
Easter Trading Bill [HL] <i>Motion to Withdraw</i>	1335
Regulation of Political Opinion Polling Bill [HL] <i>Second Reading</i>	1335

£4.00

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at www.publications.parliament.uk/pa/ld201516/ldhansrd/index/150619.html

PRICES AND SUBSCRIPTION RATES	
DAILY PARTS	
<i>Single copies:</i>	
Commons, £5; Lords £4	
<i>Annual subscriptions:</i>	
Commons, £865; Lords £600	
LORDS VOLUME INDEX obtainable on standing order only. Details available on request.	
BOUND VOLUMES OF DEBATES are issued periodically during the session.	
<i>Single copies:</i>	
Commons, £65 (£105 for a two-volume edition); Lords, £60 (£100 for a two-volume edition).	
Standing orders will be accepted.	
THE INDEX to each Bound Volume of House of Commons Debates is published separately at £9.00 and can be supplied to standing order.	
<i>All prices are inclusive of postage.</i>	

The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

© Parliamentary Copyright House of Lords 2015,

this publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

House of Lords

Friday, 19 June 2015.

10 am

Prayers—read by the Lord Bishop of Birmingham.

Airports Act 1986 (Amendment) Bill [HL] Second Reading

10.06 am

Moved by **Lord Empey**

That the Bill be now read a second time.

Lord Empey (UUP): My Lords, regional policies are designed to prevent, or at least reduce, economic decline in those areas of the country that have seen their economic strength eroded as traditional industries have contracted. These regional policies have also been augmented by the European Union through numerous measures, including the ERDF and the ESF to name but two. Therefore, it is no surprise that those of us who represent regions look at government policy from time to time through the prism of regionalism to see whether our interests are being protected.

I have tabled previous QSDs and introduced an Airports (Amendment) Bill in 2012-13 that covered transport links between the regions and the London hub airport at Heathrow. A number of noble Lords drew attention to the problems faced in different areas of the UK because of poor rail or road infrastructure. Aviation issues were also mentioned.

One of the principal requirements of regional policy is to improve the competitiveness of a region. In order to do so, access to these regions is critical. This requires investment in infrastructure and it means having good communications by road, rail, air, sea and, in today's world, broadband. In this context, I commend the report by the National Connectivity Task Force, ably chaired by the noble Lord, Lord Shipley, who is not in his place today. This report, published in March 2015, sets out starkly the unique issues facing the UK and Crown dependencies. It demonstrates that our geography and pattern of development, combined with an absence of spare capacity at our major hub airport at Heathrow, creates a barrier to competitiveness unique among our European partners.

The recently proposed acquisition of Aer Lingus by BA has undoubtedly provoked interest in the matters we are about to debate. This has raised a wider question about the absence of any government powers to intervene in the trading of landing slots at Heathrow Airport. This is a critical issue because, unlike other European countries, the UK has only one major hub airport.

Even with the addition of a third runway at Heathrow, the implication is that, even with the expected easing of current capacity constraints once a new runway is built, there are no grounds or mechanisms the Government can use to ensure that some of that new capacity is reserved to help restore some of the air connectivity that many parts of the UK have lost, or to maintain the current vital connectivity to our regions.

An article in the *Independent* on 8 June 2015 reported:

“Heathrow is likely to ditch its domestic routes to Aberdeen, Glasgow, Leeds Bradford, Belfast and Newcastle if the Airports Commission does not approve its expansion”.

I am well aware that this is a likely view to come from the pro-expansion lobby at Heathrow at this time, but it highlights that nobody can predict events and that air travel to our regions is at the mercy of those who have no commercial interest in maintaining those vital hub transport links. The fact remains that if a difficulty were to arise, the Government are powerless to act.

As is the case in many policy areas, there is a major European Union dimension to our deliberations. Aviation is a matter where we have ceded a competence to Brussels that is highly relevant to this Bill. Currently, EU Council Regulation EEC95/93, as amended by Regulation EC793/2004, provides a policy umbrella for the conduct of air connections between major hub airports and regions within member states. The preamble to the regulation states:

“Whereas it is necessary to make special provisions, under limited circumstances, for the maintenance of adequate domestic air services to regions of the Member State concerned”.

In practice, this means that if a national Government believe that one region is becoming isolated from another, they may apply to provide a public service obligation so that a subsidy can be paid to an airline to provide a connection between regions. Two PSOs currently operate in the UK, one, I believe, between Newquay and Gatwick and another between Dundee and Heathrow. However, this provision does not allow for a PSO or other measure to be applied to a connection between two specific cities or between a region and a specific airport.

In the previous European Parliament, Brussels addressed a number of aviation issues. In 2011, the Commission produced a report, *Airport Package*—COM (2011) 827 final—which deals with a number of policy areas, including landing and take-off slots. On 19 December 2011, the European Parliament's Committee on Transport and Tourism produced its own draft report on the future of regional airports and air services in the EU written by the rapporteur, the late Philip Bradbourn MEP. Paragraph 8 of that report states that the committee,

“considers it essential for regional airports to have access to hubs”.

That quotation is the core rationale for this Bill.

In February 2012, I travelled to Brussels for a series of meetings with members of the Transport Committee of the European Parliament. I met with Philip Bradbourn, other members of the committee, UKRep and, lastly, the then chairman of the committee, Brian Simpson MEP. In all my meetings there was great understanding of the UK's specific issue and considerable support for the proposals in my current Bill. However, even with this support from our European colleagues, the task force report indicated:

“It seems unlikely ... that planned EU reforms will translate into a formal legislative presumption allowing the ring-fencing of slots for connecting domestic services given the level of industry opposition it would generate”.

[LORD EMPEY]

The UK has a unique problem: we have only one major hub airport and that is operating at 98% to 99% capacity. In other EU member states where there is a connectivity problem with a hub airport, most of our continental partners have the opportunity to use spare capacity to add slots to accommodate connectivity between regions and hub airports. That option is not open to the UK because of the lack of capacity at Heathrow. For example, our colleagues at Charles de Gaulle Airport in Paris have four runways so, if there are connectivity problems within France, they have extra capacity to put in the necessary slots. The slots at Heathrow are owned by individual airlines. If airlines decide to sell their slots or use them for more profitable international routes, that is presently entirely a matter for them. In 1990 there were 18 UK regional cities connected to Heathrow, but this has been reduced to seven as more lucrative international destinations have emerged. Of those seven, only the Leeds Bradford flight has more than two rotations a day.

The implications of this for UK regions could be profound. Our regions depend heavily on connectivity as a selling point and as an incentive for inward investment and tourism. Adequate access to the national hub airport is essential. What an airline may say today about its intentions is irrelevant to this legislation, but even if an airline says that it will keep a particular route open, it has the opportunity to reduce cycles and maintain that it has kept its word.

The task force report also recommends:

“The Government should recognise the importance of London airports and Heathrow in particular as a gateway to the world for air cargo from the UK regions, nations and Crown Dependencies”.

It calls for:

“A clear declaration of intent that the Government will require the promoter of a new runway to commit to ensuring that between 5-10% of new capacity (equating to 70-110 additional slot pairs) is ring-fenced for use in enhancing the connectivity from the UK's regions, nations and Crown Dependencies in the period 2025-40”.

During the debate on transport earlier this week, the noble Lord, Lord Shipley, referred many times to the issues that the task force report had dealt with, but I want to get across the point that there is a unique issue that separates us from everybody else. The European Union allows Governments to intervene to connect one region to another: in other words, they could pay for a PSO to protect a region of Scotland's links with London. However, there are many airports in the London area—Southampton, Stansted, Luton, Heathrow, Gatwick, London City and so on—but there is only one hub airport that gives international connectivity. Many regions are trying hard to attract international businesses to locate there; but if business people find that after getting from somewhere in America to London, they first have to embark on a huge journey of two to two-and-a-half hours to get to a peripheral airport, and then get to a region, they are simply not going to do it. That will be a huge disincentive. So long as this country has only one hub airport, it is essential that protection is in place for regions to get access to that hub for as long as possible; otherwise it will be a huge disincentive, and negate a lot of regional policies and the purposes for which they were introduced.

To work effectively and protect the regions' access to Heathrow, the Bill gives the Secretary of State power to direct airport operators, as well as requiring the Civil Aviation Authority to take these connectivity issues into account when exercising its functions. This may be deemed a power to ring-fence slots at Heathrow, which would have a knock-on effect on their value. However, given that Heathrow is operating at full capacity, there is simply no other way in the UK of guaranteeing adequate access from the regions to the hub.

I believe our European partners will see the logic of this argument. It is, after all, consistent with the thrust of what has been EU policy for many years: to protect and promote the regions. The report of the task force chaired by the noble Lord, Lord Shipley, demonstrates that many European countries support this point, and as a former member of the EU Committee of the Regions, I know this to be a fact. Mr Giommara Uggias, a former member of the EU Transport and Tourism Committee, drafted a legislative report specifically on the slots issue, which was brought forward in 2011.

This Bill is not region-specific: it applies to the whole of the UK. While I come from Northern Ireland, where the effects of inadequate air links to Heathrow would be felt most acutely, I am very aware that other regions would also be badly affected. I have corresponded and spoken with a number of interested groups in Northern Ireland, and I know that the Minister in the Northern Ireland Executive with responsibility for airports, Mr Danny Kennedy MLA, supports ensuring adequate access. I have a letter from him to that effect, received this week. I believe he has written to the Secretary of State for Transport in support and that the relevant Assembly committee in Belfast takes a similar view. But the point remains that communications are the key to growth in the regions and leaving the Government as spectators, unable to intervene if things go wrong with landing slots at Heathrow, is unacceptable.

This Bill amends the Airports Act 1986 to confer on the Secretary of State the power to direct airport operators in the interests of ensuring sufficient national air infrastructure between hub and regional airports. Further, it would ensure that the Civil Aviation Authority had to take into account the need to ensure adequate services between hub and regional airports when exercising its functions. I believe that these proposals are entirely consistent with current and previous government policies and with the intention of the European Union's policy, albeit that such policy would have to be modified to avoid a legal conflict with Brussels.

I thank the noble Lord, Lord Ahmad, and the noble Viscount, Lord Younger, and their officials for meeting me last week to discuss this important issue. We share the view that connectivity between the regions and our hub airport is a critical part of national infrastructure and consistent with the Government's desire to encourage regional economic growth. I ask your Lordships to consider how you would develop and sustain a northern powerhouse if it was proved to be difficult, if not impossible, to get from the northern powerhouse to the national hub airport. What impact on the success and credibility of such a policy would not having that fundamental piece of connectivity

have? While I fully understand the position that the Government are in vis-à-vis the situation in Brussels, I urge the Minister to recall that if we approach our European partners with a coherent and logical case that is entirely consistent with the general thrust of European policies, I can see no reason why the logic of the argument that we put forward should find difficulty or opposition. While I understand the Minister will be limited in what support he can offer the Bill, if the Government are prepared to support and argue the case with our European partners I can see no reason whatever why this power cannot effectively be vested in the Secretary of State. Given these facts, I believe there is a unique opportunity to deal with this issue in the immediate future, and I trust that the noble Viscount, Lord Younger, will give these proposals a fair hearing and a fair wind.

10.23 am

Lord Berkeley (Lab): My Lords, I support this Bill because it is an important element in what the noble Lord, Lord Empey, outlined so nicely: the need to ensure connectivity between the regions and hubs, as he calls them, over the whole country. This stems from the fact that this country has a structure of airports which are largely in the private sector, or at least act in the private sector, whereas on the continent most of them are not. That is a bit of a generality, but I think it is the same in the ports industry and there is a similar debate going on about the port services directive in Brussels. The involvement of the private sector is most evident in the competition we have seen over recent years. I welcome the competition between Heathrow and Gatwick in terms of services, destinations and general operational capability. Much of that is to be welcomed but it will be interesting to see how the Government—if and when they ever make a statement on the need for expansion of Heathrow or Gatwick, or neither—will take forward the necessary permissions that are obviously required to implement their decision, when there are two competing private sector operators. It will be interesting to see how much funding, if any, the Government put into it.

I want to talk a little about hubs. The noble Lord, Lord Empey, made a speech in favour of Heathrow as a hub, and I can see why, but I know many passengers who avoid Heathrow like the plague if they are want a hub through which to travel from the regions of the UK to elsewhere. Travelling through Heathrow takes a long time and is less convenient. I always go to Stansted or Gatwick if I want to travel through a hub, but that is just a personal preference.

There are several types of hub. A hub can be between one international flight and another. Heathrow says that it is very good at that and that it is the most important thing that it does. I often question who benefits, apart from the duty-free shops in the terminals. Does the UK economy benefit enormously if someone coming from South America to Moscow changes planes at Heathrow? I do not know. Then there are hubs between the regions of a European country or the UK and the centre. That is a sort of halfway hub. In the definition in the Bill there is a hub within the region. The noble Lord mentioned Newquay. I live in Cornwall, and Newquay is a hub between the Scilly Isles and the

nice new PSO service to Gatwick. The fact that the two airlines never co-operate on timetables or when there is a delay and any compensation has to be paid is a slightly different issue, but according to the definition in the Bill, Newquay is a hub.

I question how much support we need to give to one airport as a hub. If someone is making an international transfer, there is no reason why they should not fly from a region of the UK to Schiphol, Paris or anywhere else. It does not make much difference to the local economy; the important thing is convenience.

The Bill leaves the definition of a hub wide open, and that is a good thing. I cannot see any reason why the European Commission or the Government should oppose this. When you have the equivalent of a PSO, that is good. Let us make a comparison with the rail system. The Government specify rail services. I know that that is in a franchise, but they specify minimum services on particular routes. If they let a train franchise operator decide where it would run trains, they would find that many of the regions, away from the money-making inter-city routes and London, would be pretty well starved of trains because those regional routes do not make money.

Take First Great Western. It makes money on the inter-city routes and, I suspect, on the commuter routes, but I am sure that it would not make money on routes in places such as Cornwall and beyond Swansea if they were separate. It is reasonable for the Government to take a view on this. Whether it should be done through a PSO or something else, I do not know, but it is reasonable for a number of slots at airports in the centre—not just Heathrow but some other airports; maybe Manchester as well as a hub—to have some process of allocation to ensure connectivity to the regions. That would bring aviation in line with public transport on the railways. I do not think that there is such a system for shipping yet, but there might have to be in the future. It is part of the policy of ensuring that the regions are connected.

I use the PSO service from Newquay to Gatwick quite often. It is a good service. If it had closed, as looked likely, at the time when the Dawlish railway line collapsed two years ago, 2 million people in Devon and Cornwall would have been cut off from travelling to the rest of the country except by motorway. That is not a good regional policy. I know that the noble Lord cannot have a train service to the centre in Northern Ireland—that is a great shame, but it is a long way ahead—but his Bill is good, and I fully support it.

Lord Skelmersdale (Con): My Lords, the noble Lord has just explained that in his view the airport at Newquay is a hub airport. As I read the Bill, Clause 1(4) defines a hub airport as providing a connection between flights. There is no flight that I know of to the Isles of Scilly, and certainly no airport there.

Lord Berkeley: Well, I must invite the noble Lord to come to the Isles of Scilly some time because there is a very good airport at St Mary's. The runway is not that long because of the cliff at one end and a bit of a hill at the other end, but it does take two types of aeroplane: an eight-seater and a 16-seater. There are very regular flights between St Mary's and Land's End Airport,

[LORD BERKELEY]

which has now been surfaced; it is no longer a grass strip. But the flights also go to Newquay and, in the summer, to Exeter. Newquay has an enormously long runway. It used to be a US Air Force station. The flights to Newquay go two or three times a day. In the summer there are other flights from Newquay to other parts of the country. So I invite the noble Lord to move a little bit further west from where I believe he lives and visit Newquay. Its land connections are awful because it is miles from the railway; there is a good taxi service. But it is a good airport and it provides a very important link to the Scillies—in fact, the only link to the Scillies when the “Scillonian” does not run through the winter.

10.31 am

Lord Reid of Cardowan (Lab): My Lords, I support the noble Lord, Lord Empey, not because I have a grasp of the technical details of the issues that he raised—far less the flight schedules from Newquay—but because I believe there is an additional reason why everyone in this House should support the general thrust of the Bill. The noble Lord outlined the reasons, the rationale and the logic in terms of transport, the economy, business facilities, infrastructure and the general thrust of the European Union’s view on these matters. All those factors are central and pertinent. I want briefly to mention something that is much wider but, I believe, central to many deliberations of this kind for the future of the United Kingdom.

It will be obvious to everyone, from the past five to 10 years, that there is a considerable alienation of many people in this country from what is seen as the metropolitan bubble hub of politics, commerce and decision-making in London. It will also be very plain from the recent election results from my own part of the country in Scotland that there is a real questioning of what it now means to be British. I believe that that will not be responded to merely by constitutional provisions but by the application of our minds to what practical measures the Government can introduce that in real, practical terms mean that people feel more British, more part of the United Kingdom, than they do today.

I have no doubt that there will be a plethora of discussions about this subject, but I believe it should be intrinsic to consideration of the type of issue that the noble Lord, Lord Empey, has raised today. If we do not, on each one of these subjects, bear in mind that we have to reconstitute the feeling of being part of a wider entity, the sovereign state of the United Kingdom, in all our deliberations—cultural, sporting, transport, employment—ultimately, whatever constitutional arrangements we make will not be underpinned by that feeling of belonging. Central to that, surely, is the facility to move, whether in leisure or business, between parts of the United Kingdom, whether it is to stay in that part or for onward transmission to the wider world. For that wider political reason, I hope that there is a sympathetic look from the Government and a self-interested understanding that this is not a matter just of transport policy, but of the United Kingdom’s cohesion in many other dimensions too.

10.35 am

The Earl of Caithness (Con): My Lords, I congratulate the noble Lord, Lord Empey, on his perseverance and I apologise to the House for not putting my name down to speak. I spoke against his Bill before and I speak against it now. It is sheer protectionism by the noble Lord. I understand the reason: he wants to be able to fly into Heathrow from Northern Ireland. I remember bringing the 1986 Bill before your Lordships’ House. I also remember the long discussions we had—that it would be the end of the world when the Inverness-Heathrow flights stopped, but it was not. There is an Inverness-Luton flight and an Inverness-Gatwick flight that work very well.

If we force private operators to bring uncommercial flights into their operations at Heathrow, it is a very bad trend for operations and a bad signal to send out to the private sector, which is there to produce growth and improve the economy of this country. There are plenty of international airport links for people in Scotland. I could not agree more with the noble Lord, Lord Reid, about the links to the south but the links exist and they work perfectly well. A lot of people I know in Scotland actually fly to Schiphol because they get better connections there than at Heathrow. Do not let us impose this on the private sector. I congratulate the noble Lord for trying hard again, but I hope that my noble friend on the Front Bench will have no truck with this Bill at all.

10.36 am

Lord Davies of Oldham (Lab): My Lords, we have had a somewhat interesting mini-debate in the gap between the issue the Bill raises concerning national unity and connectivity, and the suggestion that everything should be left to the market: if Schiphol is a better option, why should we worry about a region? Well, I worry about regions and their development and I hope that the Government do, too. They should particularly recognise the significance of Belfast Airport and its connection with Heathrow to the Northern Ireland region. I hesitate to call Northern Ireland a region but the noble Lord, Lord Empey, pursued that route in being consistent with the nomenclature that we use for these debates.

Northern Ireland has unique issues. Think of the other forms of transport—the connections apart from that by air—between Northern Ireland and the rest of the UK, but particularly south-east England and London. If the air connection was taken away then the significance for Northern Ireland would be much more profound, dare I say it, than it would for the good people of Inverness who can enjoy the flights which the noble Earl, Lord Caithness, recommends. I take a very strong view on this, along with my noble friend Lord Reid, and I therefore hope that the House appreciates that the Bill is about a significant part of government policy regarding regional activities and the development of all parts of the United Kingdom in economic and, for that matter, cultural terms.

The noble Lord, Lord Empey, is to be congratulated on his persistence and the amount of work he has done on this issue. It does not matter how many barriers are put before him; he seeks to scale them

each time. I greatly applaud his efforts in 2012 and 2013 with regard to a Bill of this kind, his constant talks with government, his frequent personal negotiations with Members of the European Parliament and his attempts to bring these issues before the House today. He is to be greatly commended on that.

In his speech, the noble Lord covered all the points which can be adduced in support of the Bill. Of course he wants the Minister to make some kind of positive reply, but he was far too gentle with the Government on their policy. Surely we all recognise that the extraordinary delay in even taking a decision on a second runway in the south-east is costing this country dear. We know that you can use Schiphol easily, as the noble Earl, Lord Caithness, said with great approval. Well, you might be able to use Schiphol easily, but that kind of thought speaks very ill of the prospects for the British economy if we solve all our problems through successful continental economic activity. The noble Lord, Lord Empey, is gentle about how the delays over the decision on the second runway complicate this matter and perpetuate the threat that the connection with Belfast could disappear from Heathrow. As the noble Lord mentioned, we have already seen the number of connections with Heathrow for cities in the mainland UK reduced from 18 to seven. That is why we need decisions. We want an assurance from the Government that they want to see the report on the second runway as soon as possible, and we want the most prompt action consequent to the report.

On the more general issue, obviously the anxiety is that Heathrow will concentrate on the more profitable international flights, and its role serving the rest of the UK will therefore be considerably diminished. Delay has already cost Heathrow the title of being the biggest airport in the world, because Dubai now has greater activity. Dubai is some distance away and not a direct competitor in other terms, as far as economic development in this country is concerned, but it is indicative of the fact that everything is being left to a Government who believe in the market and who take no significant action at all. As a result, this country will potentially become a loser. This area requires government action.

I know the problem the Government face, because the noble Lord, Lord Empey, has already identified it for the House. He has persisted with these cogently put arguments for a number of years. It has even got to the stage where the Government are somewhat positive in their response, but they then throw up their hands when they find that European law is against the concept in this particular Bill. The noble Lord is asking for a potential exemption from European Community rules because of the rather specific nature of Northern Ireland's relationship with the United Kingdom. We should all, surely, have some sympathy with that.

I know the Government have a few troubles with the European Community. We all understand that the Prime Minister has a few arduous tasks at the moment, visiting what looks like all the member states of the European Union to persuade them of the virtues of certain aspects of the British case for change in the Community. I do not know how hopeful Lords are about the outcome of that exercise; suffice it to say that quite a few members of the Conservative Party

represented in the House of Commons have severe doubts about whether this exercise is anything but a face-saving formula for the Prime Minister.

Put into that context, the prospects of this modest little Bill look somewhat forlorn. But that has not deterred the noble Lord, Lord Empey, and it should not deter the Minister from going to Brussels again and arguing for the uniqueness of this representation and its great significance to a particular part of the UK for which the issues of connectivity loom as large as anywhere, and where links by air are of the greatest significance. That is why I hope that the Minister will speak favourably about the Bill, but also indicate that he and perhaps more senior members of his department will take these issues to Europe and get more success than they did last time.

10.46 am

Viscount Younger of Leekie (Con): My Lords, I offer my congratulations to the noble Lord, Lord Empey, on securing a Second Reading for his Airports Act 1986 (Amendment) Bill. The Bill's aims are admirable. In essence, it proposes powers for the Secretary of State for Transport to direct airport operators, in the interest of national air infrastructure, to ensure adequate services between the UK's hub airport, Heathrow, and regional airports.

By way of background, it is important to emphasise that the UK has excellent aviation connectivity. The five airports serving London offer at least weekly direct services to over 360 destinations worldwide, more than Paris, Frankfurt or Amsterdam. We have the third largest aviation network in the world after only the USA and China. Although Dubai International Airport has overtaken Heathrow to become the world's top airport for international travel, it is still behind Heathrow in overall passenger numbers: some 70.5 million passengers travelled through Dubai's terminal last year, compared with over 73 million at Heathrow. As has been mentioned today, the UK is also well connected by air domestically, with at least 54 weekly air services between UK cities in 2014, and 13 cities with services to a least one London airport. This includes seven cities with services to Heathrow.

The previous Government's aviation policy framework sets out the importance of aviation to the UK economy and the Government's proposals on how aviation can deliver for the UK economy while meeting its environmental obligations, both global and local. It stated that airports are in some ways cities in themselves, creating local jobs and fuelling opportunities for economic rebalancing in their wider region or area. New or more frequent international connections attract business activity, boosting the economy of the region and providing new opportunities and better access to new markets for existing businesses.

The aviation policy framework also recognises that airports in Northern Ireland, Scotland, Wales and the English regions make a vital contribution to local economies, and that air connectivity across the UK—and to the UK's hub airport, Heathrow—is very important. As the noble Lord, Lord Davies, said, this is particularly so for Northern Ireland, given its geographical circumstances, which means that air connectivity for Northern Ireland is an essential means of ensuring its

[VISCOUNT YOUNGER OF LECKIE]
continued links to the remainder of the UK, and is of course crucial for its developing economy. I therefore acknowledge the noble Lord's concern that the Government have limited powers—for example, in the public service obligation, to which I shall refer later—to intervene to ensure that regional air connectivity is maintained in an air services market that operates almost entirely on commercial lines. As the noble Lord, Lord Berkeley, succinctly put it, they are largely in private hands.

Ultimately this Government believe that air passengers are best served by a commercial airline market that is able to operate in a competitive environment. This allows airlines to determine the routes that they operate, and from which airports, based on their assessment of routes' viability. In this context, it remains possible that airlines currently operating domestic air services between Heathrow and the UK's regional airports could in future decide to reduce or withdraw them and use the relevant Heathrow slots for alternative services.

Noble Lords will know that the International Airlines Group, IAG, owner of British Airways, is in negotiations to acquire Irish airline, Aer Lingus. Both British Airways and Aer Lingus operate services on the Belfast-London route, and the negotiations have raised some concerns that the merger may see a rationalisation of services. However, under the proposed acquisition deal, IAG has agreed with the Irish Government to include a number of connectivity commitments on services between Irish airports and Heathrow, as well as between Belfast and Heathrow.

The noble Lord, Lord Empey, has suggested that some form of intervention is necessary to protect such services from commercial market pressures that could see them discontinued not just to and from Northern Ireland but from airports in Scotland and the English regions. However, there is healthy demand for services from airports in Northern Ireland, Scotland and the English regions to London. For Northern Ireland, in 2014 there were nearly 1 million passenger journeys between the two Belfast airports and the five main London airports, of which nearly 350,000 were between Belfast and Heathrow. British Airways and Aer Lingus together operated an average of 59 flights per week between Belfast and Heathrow.

Airline competition is also provided by services that operate from Belfast airports to the other London airports; Belfast City Airport has services to Gatwick and London City airports, in addition to Heathrow. Belfast International Airport hosts services to Gatwick, Luton and Stansted airports. We see this demand as continuing, given that Northern Ireland is a competitive destination in its own right. Noble Lords may be surprised to hear that outside London Northern Ireland is the leading UK region for attracting inward investment. This success has been seen across a range of knowledge-intensive sectors. Belfast in particular is the world's top destination city for financial services technology investments. This continued success has led to over 800 international companies locating in Northern Ireland, employing in excess of 75,000 people. The level of demand that this generates justifies the daily services that both Belfast airports maintain to London and to other European airport hubs and their connecting

networks. Belfast International Airport has existing services to Amsterdam Schiphol and Paris Charles de Gaulle, and just last month Belfast City Airport commenced a service to Schiphol.

On the long-haul front, Belfast International Airport has a daily direct flight to Newark, New Jersey, operated by United/Continental airlines. It recently celebrated its 10th year of operation, flying nearly 83,000 passengers. Later this month, Virgin Atlantic will begin operating a seasonal weekly flight to Orlando International Airport. Scotland is also well connected, with 62,000 flights in 2014 between Scottish airports and the five main London airports, carrying nearly 7 million passengers. Of these, around 25,000 flights—that is, 41%—were to and from Heathrow, carrying 3.1 million passengers.

In the broader UK context, the following airports in the English regions currently have air services to Heathrow. For 2014, the last full year of statistics that are available, Manchester had 8,500 flights, Newcastle 4,000, and Leeds-Bradford 1,900. In addition, Newcastle Airport had 500 flights to and from London Stansted and 1,200 to and from Gatwick. Again, the operators of these services have not indicated any intention to withdraw from them.

In the context of these healthy traffic levels on commercially viable and attractive routes, we do not consider that air connectivity between London and these airports is under threat. For the airlines, these domestic air services are important in feeding passengers through to their long-haul services from Heathrow. It is of course open to other airlines to introduce services to compete with incumbent airlines on these routes if they conclude that doing so would provide a commercial return.

Lord Berkeley: The Minister has explained that there are lots of services around the country, which is wonderful, but this Bill is actually about slots at hubs whether Heathrow or elsewhere. Is there a precedent anywhere else in Europe for slots being reserved in hub airports for regional services? I suspect there is not because there is no shortage of slots in most other airports. Could the Minister address the issue of slots? If it is peculiar to the UK, which I suspect it is, surely the European Commission should look at this with special favour.

Viscount Younger of Leckie: I do not have any statistics about slots around the European Union, but the noble Lord will be aware that the allocation of slots at EU airports is governed by the European Union and associated UK slot regulations. It is true that Heathrow has more of an issue because, as various noble Lords mentioned, it is at 99% capacity and other airports around Europe are at not such great capacity. Under the regulations, the process of slot allocation at Heathrow, Gatwick and other slot-coordinated airports in the UK is undertaken, as the noble Lord will know, by a slot co-ordinator entirely independent of the Government, the CAA or other interested parties. I will write to the noble Lord with details about other airports around the UK.

As I said, it is open to other airlines to introduce services to compete with incumbent airlines on these routes if they conclude that doing so would provide a

commercial return. However, introducing provisions for the Government to direct the UK's internal aviation market to ensure domestic services to a hub airport could set up distortive effects on airline competition and would be contrary to general EU and wider competition principles. Such intervention therefore carries a high risk of a legal challenge to the UK Government being raised with the European Commission by airport operators and airlines as well by the Commission itself. The consequences of a successful challenge would be substantial fines.

Government intervention to direct particular services from a regional airport to a hub airport would require the ring-fencing of specific take-off and landing slots at the hub. As the noble Lord, Lord Empey, understands, the UK's major airports, including Heathrow and Gatwick, have constrained capacity, which I have just alluded to. They are therefore subject to EU slot regulations transposed into UK law. These regulations govern the allocation, transfer and exchange of slots at congested airports in the UK. Within these regulations there is some limited scope to allow for the ring-fencing of slots at a congested airport to serve a particular route, provided that this meets the criteria for a public service obligation. However, to do this there would need to be an unused slot at the congested airport. In Heathrow's case, given that 99% of slots are currently used, as I said, it is unlikely that the regulations would enable slots to be ring-fenced.

Public service obligations are also governed by EU regulation and provide some scope to protect regional air services that may become economically unviable. They can be used to protect air services to airports serving a peripheral or development region or on low traffic routes considered vital for a region's economic and social development. The aviation policy framework made clear that the Government would be inclined to support applications by devolved and regional bodies to establish PSOs that comply with the specific EU law to protect vital air connections between other UK airports and London and help economic and social development in peripheral regions.

The previous Government announced in the 2013 spending round that £20 million would be made available over two years until 2016 to maintain regional air access to London, where there was the probability that an existing air service would be lost, by establishing a PSO on the route. The 2014 Budget increased and extended this support, which means that government can step in where necessary to maintain existing regional air links to London. As the noble Lord, Lord Empey, has mentioned, the Government have already stepped in to secure the Dundee to London Stansted route—not to Heathrow, as a noble Lord mentioned—and more recently the Newquay-London air route, which the noble Lord, Lord Berkeley, mentioned, after its operator announced last year that it would no longer operate the route, and no other airline came forward to take it on commercially.

Cornwall Council provided evidence that the route met the EU PSO requirements and undertook a tendering process to find an airline to operate the route. Subsequently, in October 2014, the previous Government announced a four-year PSO funding deal for three weekday rotations and two weekend rotations between

Newquay Airport and London Gatwick airport, providing certainty for the far south-west region. It is worth giving some background, because the Newquay-Gatwick service carried nearly 44,000 passengers in the first five months of operation, exceeding the projected take-up level by almost 10%. Therefore, it would be open to the devolved Governments in Northern Ireland, Scotland and Wales, and local authorities and other organisations in England, to apply to the Secretary of State for Transport to establish a PSO on a particular air route, should they feel that a business and legal case can be made that satisfies the PSO Regulation.

There is no other mechanism for the Government to intervene in the allocation of slots at capacity-constrained UK airports. Noble Lords will therefore appreciate that under European and UK law, the potential for ring-fencing slots at Heathrow to protect regional services could be dealt with only by reference to the PSO rules alone. Again, that was raised by the noble Lord, Lord Berkeley.

One of the principal effects of the Airports Act 1986 (Amendment) Bill is therefore contrary to EU and UK slot regulations, because it would override the strict criteria and process by which European Governments can intervene in route operations. Again, the possibility exists that intervention to ring-fence slots at a hub airport in contravention of an EU obligation could lead to a successful legal challenge.

More generally, I remind noble Lords that a key part of the Government's approach to aviation is to maintain the UK's status as a leading global aviation hub as fundamental to our long-term international competitiveness and economic growth. We are also mindful of the need to take full account of the social, environmental and other impacts of any expansions in airport capacity. We therefore look forward to the publication shortly of the final report from the independent Airports Commission. Just to reassure the noble Lord, Lord Davies, it will indeed be published shortly. Once the Airports Commission has published its final report and set out its recommendations, it will be for government to consider the full body of work. We will look carefully at all the evidence and analysis before deciding on an appropriate timetable for a decision on increasing airport capacity.

The noble Lord, Lord Empey, raised the matter of the EU airports package, quoting that it was essential for regional airports to have connectivity to hub airports. The Government are aware of the European Commission's proposed Better Airports package from 2011 and its slot provisions. Progress stalled in 2012 because of a lack of agreement over other matters. To give the noble Lord some reassurance, should an EU presidency decide to revive the package, the EU would be involved in the negotiations.

In summary, while I understand the noble Lord's commendable motivations in proposing his Airports Act 1986 (Amendment) Bill, I must conclude, on the basis that its proposals could set up distortive effects on aviation competition and would run counter to EU and UK regulations on allocations of slots at congested airports, that the Government must express their reservations and will not be able to support the Bill into legislation. I know that the noble Lord considers

[VISCOUNT YOUNGER OF LECKIE]

this to be a highly important issue and, as the noble Lord, Lord Davies, said, that he has already undertaken a great deal of hard work at the European level to press for changes that will allow greater member-state intervention in maintaining regional air connectivity. I therefore respect his intentions to pursue the issue further with the European authorities.

11.04 am

Lord Empey: I am most grateful to noble Lords who have participated in this debate. Indeed, with people intervening in the gap, one or two issues have arisen which I think have caught us all by surprise.

The noble Lord, Lord Berkeley, has a reputation in this House which is second to none. Every time you see a train or go into a railway station, you automatically connect that with the noble Lord. He raised the question of Heathrow. I am very happy at all times to take on difficult issues, but he implied that I was adopting a Heathrow-backing tactic. Actually, I was not; I was merely making the point that at this point in time, whatever the owners of other airports may think, Heathrow is the national hub. That may change with time and is another matter, but that is where the action is and therefore that is the issue.

The noble Lord, Lord Reid of Cardowan, introduced a very interesting point—one which, to be honest, I had not considered in this context. The Bill is not Northern Ireland-specific—deliberately so because I believe that connectivity is equally important in all parts of the United Kingdom. It is true that there is a widespread feeling—no more so than in the noble Lord's home country—that this is a sort of metropolitan issue, with people feeling isolated and pushed further and further away. That is a very serious political issue which, to some extent, is paralleled here. I very much appreciated his point about UK-wide cohesion. That is vital and something to which both Houses will have to give really serious consideration during this Parliament. It has to be said that our constitutional Rake's Progress in recent years has not exactly been working, and we have to look closely at that.

I hope that the noble Earl, Lord Caithness—I emphasise “Caithness”—does not get what he wishes for. I am not looking at this matter from the point of view of public money going to subsidise airports. It is not the PSO issue that bothers me. There is good, strong market demand for air services at present, as the noble Viscount pointed out, so it is not a matter of trying to seek access to the London area alone; it is a very much narrower issue than that, and it is not a PSO issue.

In many respects, the noble Viscount made my case for me. There is a specific issue that I am addressing with this legislation. To take the Belfast example, when I had ministerial responsibility in that area, I created an air route development fund, which laid the ground for the link between Belfast and Europe. Subsequently, because that link was so important, the Northern Ireland Executive negotiated with the Treasury and got control of the air passenger duty rate on that route. Part of the Northern Ireland block grant effectively goes to subsidise that air passenger duty, so that it is at a much lower level than it would otherwise be.

The Minister went on to point out that Northern Ireland has attracted very high levels of inward investment in specific areas. What we are trying to protect with that one route I want to try to protect with this legislation. The Minister has conceded that the Government have no power to intervene. We have a unique problem in the UK, with one hub airport which is full. All our European partners can solve their problem by having extra slots because they have lots of runways. We do not. We have a long, stringy island that goes from north to south and there is only one show in town at this point in time.

We need to achieve and maintain inward investment. I am pleased to say that we have significant amounts of new start-ups and job creation in Northern Ireland and we are continuously trying to get foreign direct investment. However, can we really expect the people who provide the know-how, the money and the ability to set up such companies to come from another part of the world, land at Heathrow, catch a bus out of Heathrow and drive to another, obscure airport around the London area to catch a flight to Belfast—and perhaps not even get to the airport in Northern Ireland that they want to go to in the first place? This would add hours to their journey. We are simply spectating in this. Currently there is no problem—there is good service and high demand.

The Minister made the point that BA is trying to buy Aer Lingus. The last time I introduced a similar Bill, BA was trying to buy British Midland. Perhaps the next time I introduce a Bill into the House, Emirates will be trying to buy BA. In those circumstances, do we really expect that such a big international airline, which faces in the other direction on the other side of the world, will be the slightest bit interested in flying to regional airports in the UK? Not at all.

Therefore, because I am aiming at a particular niche and because this is a unique issue in this country and in Europe, I do not believe that our European partners, if the case is put to them, will be found wanting. However, we have got to want to put it to them with enthusiasm and logic. This is not about subsidies but about building, where there is high demand, a fundamental piece of national infrastructure—just as the noble Lord, Lord Berkeley, would argue that HS2 and HS3 are fundamental pieces of national infrastructure. Sadly, no one has yet invented a means whereby those in Belfast can get on a train to go to London—but I have no doubt that the noble Lord, Lord Berkeley, will pay attention to that and come up with an idea in due course which will allow us to do so.

Perhaps the Minister and his colleagues in the Government will say to our representatives in Brussels—to UKREP and so on—that if this poor soul comes knocking at the door in Brussels, yet again, at least you will not stand in the way but give him a fair wind. That is all I am asking. I understand and appreciate the legal position and also the purpose of legislation. The Minister has conceded that that they do not have the power to intervene and I have to ask the question: why not? It concerns our airports, our infrastructure and it is vital. I believe that because it is a unique situation our European partners will be sympathetic. Bearing in mind that our Prime Minister is travelling

around the capitals of Europe at the moment explaining the unique problems that we have, I see no reason why we cannot extend that to include this issue. In those circumstances, I ask the House to give this Bill a Second Reading.

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

Easter Trading Bill [HL]

Motion to Withdraw

11.14 am

Moved by Baroness Turner of Camden

That the Bill be now withdrawn.

Motion agreed.

Regulation of Political Opinion Polling Bill [HL]

Second Reading

11.14 am

Moved by Lord Foulkes of Cumnock

That the Bill be now read a second time.

Lord Foulkes of Cumnock (Lab): My Lords, many Members of the House will recall that I introduced this Bill in the last Session. It only got to First Reading, but when I introduced it in this Session it got a much more animated welcome, for reasons that I will go into.

First, I will go back a few years to when I was a student—well, that is many, many years. I did some work on polling then, and I learnt some of the techniques of polling, such as random sampling and the importance of finding the people who were chosen for the random sample and going back to them until you actually get their views; you do not take any substitutes. I learnt about quota sampling and the importance of getting class, sex and age in the right numbers and the right groupings to represent a cross-section of society: the make-up of the whole population.

I also learnt about the inexorable margin of error, however good your polling is. Most important of all, I was told about what makes a good poll and what does not. A poll should be run in a scientific, politically neutral manner, with no influence from those who have commissioned and indeed paid for it. That means, to take just one example, avoiding leading questions and ensuring that the wording of questions is fair and unbiased.

For some time now I have been concerned at the direction in which polling in this country has been moving. Rigour and accuracy seem to be subordinated to the demands of speed in getting the poll out and keeping the cost down: instant polling and cheaper polling. The media expect polls to be completed in an extraordinarily short time, often to be ready for publication the day after the sample has been taken. That means that there has been a preference for a predominance of

internet and telephone polling, often using predetermined panels which stay the same throughout the whole of the polling period.

My concern about the dangers of this corner cutting were reinforced when I attended a seminar chaired by my noble friend Lord Lipsey, who I am glad to see is going to speak in the debate. Polling experts John Curtice and Peter Kellner were in attendance and they confirmed, in answer to a question I put, the paramouncy of speed over accuracy because of the incessant demands of the media. That is the background which gave rise to my strong determination to introduce this Bill.

What reinforced for me the point that accurate polling is an important issue for the future of our democracy was the one rogue YouGov poll held on 7 September 2014 that seemed to indicate for the first time in the referendum that the Yes campaign was ahead, by 51% to 49%. This caused a widespread panic among politicians in the Better Together campaign. It resulted in a vow set out on the front page of the *Daily Record* to go for even greater devolution of powers to Scotland and led to the creation of the Smith commission. In light of the actual result of the referendum, it is clear that the fears of a Yes victory were unfounded and that the nationalists had directly benefited from just one highly inaccurate poll. It is not right that the real issues of democratic politics should have been so materially affected by a statistical prediction that turned out to be so wrong. Indeed, the course of history was changed by that one inaccurate poll.

The general election gave further evidence of the direct and highly undesirable impact of polling on politics and on events. The constant polling—and it was constant—and the constant media coverage which resulted from that made it seem beyond doubt to the media and to all of us that the contest for the general election was going to be neck and neck. Some polls suggested that Labour would be the largest party. All of that polling shaped the nature of the debate. Members of this House will recall that throughout the election, the main topics of debate were not important policy issues such as defence, foreign affairs and the health service, it was the consequences of a Labour minority Government, with the SNP set to hold the balance of power.

Noble Lords will remember the posters of Ed Miliband in Alex Salmond's top pocket and of Nicola Sturgeon pulling the strings. All those resulted from the polls, which predicted that the election was going to be neck and neck. Consequently, major policy issues were absent from the campaign and the result of the election could well have been different if we had focused on those major policy issues. Inaccurate polls, as they turned out to be, again appear to have changed the course of history.

As a result of those manifest polling errors, I have found that when I talk to—I was going to say “comrades”—colleagues and others, there is now far greater support for the creation of some kind of regulatory body overseeing political opinion polling than ever before. That is why I have reintroduced this Bill in this Session. The political will is there to ensure that similarly damaging mistakes are not made in the future and that our democratic process is not undermined.

[LORD FOULKES OF CUMNOCK]

Even the British Polling Council realised that something went wrong and admitted it. It has set up an inquiry into why the polls in the run-up to the election were so consistently inaccurate. But the British Polling Council is a self-regulating body and will be so in carrying out the inquiry. It proposes merely a one-off investigation. Understandably, the council claims credit when the polls are correct but it needs to accept some blame now that its methods have been shown to be ineffective. To ensure that a more rigorous and accurate system is introduced, we need an independent and permanent regulator.

Contrary to what has been said in some media headlines and comment, the Bill does not legislate to ban polls but would allow the proposed regulatory authority to impose limits on their publication if it thought fit. That is already the case in Spain, France, India and Italy where, if it is thought that that could be helpful, the decision could be taken. The Bill would replace the self-regulation of the British Polling Council with an independent body which would have responsibility for issuing regulation and guidance on things such as sampling methods, the wording of questions and arrangements concerning publication, including how close to election day polls could be published.

I should answer some of the criticism made by Professor Ron Johnston of Bristol University in a letter to some noble Lords—interestingly, he did not send a copy to me—and by the Political Studies Association on Twitter. I wish that both had approached me directly. They have expressed concern that the Bill might infringe academic freedom to undertake polling on political attitudes and behaviour for the purposes of independent research. That certainly is not my intention. Clause 1(8) makes clear that the authority's regulatory powers will be restricted specifically to polling concerning voting intentions in, first, local authority elections; secondly, in parliamentary elections, including the Welsh, Northern Irish and Scottish Parliaments; and, thirdly, referenda. Academic research on other political behaviour will therefore not be affected. If there is any worry that wording changes might be needed, I would be happy to consider any amendment necessary.

It is also important that all those with an interest in polling are represented on the board of the authority. The Bill proposes that we should have representatives nominated by the British Polling Council, which would represent the industry, as well as representatives from all the political parties and the media. Indeed, I am open to other suggestions as well. Transparency is also important, and this Bill provides that the authority would publish its rules within six months of its establishment and consider amendments at least annually.

I welcome the fact that the noble Lord, Lord Cooper of Windrush, will speak in the debate—in the absence, sadly, of the super-pollster Lord Ashcroft from our midst. Are we not less spectacular and exciting in his absence? Incidentally, he is not really a pollster. He contracted organisations to carry out his polling during the election. He decided where it would be, the questions and the publication—he is a multimillionaire, of course, so he can pay for it—but he would not tell us which organisations carried out his polling.

So we have the noble Lord, Lord Cooper, from Populus, who will no doubt give us a view from the industry. I will be interested to hear what he has to say. I feel that the industry has been unduly defensive about my Bill. Given that the BBC is regulated, that we have regulators such as Ofcom, and that other organisations and industries are regulated, it surely makes sense that the multimillion-pound political opinion polling industry is brought into line with the others. I look forward to the noble Lord's comments.

In conclusion, polling has grown exponentially in recent years.

Lord Blencathra (Con): I am very grateful to the noble Lord. I do not want to be mischievous—well, not too mischievous—but has he seen the report about the Glasgow pensioner who got odds of 7:1 on an outright Conservative victory, apparently put down £30,000 and cleared £240,000? Has the noble Lord considered recruiting him to head up his polling organisation?

Lord Foulkes of Cumnock: That is a very interesting suggestion. As usual, the noble Lord is not being mischievous; he is being very helpful. It would be good to have an independent chair of the polling authority. I am not exactly sure whether it should be that pensioner. We must find out who he is and whether other predictions and suggestions he has made have been successful. We certainly should take that on board.

Lord Hamilton of Epsom (Con): Can I raise a more serious question: is there any point to polling at all? You ask people what they are going to do at the next election. They say, "The next election is not for weeks or months. I haven't even made up my mind", so their views are not even very relevant.

Lord Foulkes of Cumnock: That is a very interesting question and much wider than what I am suggesting. If the noble Lord is suggesting that the regulatory body I am setting up should have a wider remit, that is certainly something the House can look at. I would not be averse to looking at it.

As I was saying, in the general election of 2015 we saw almost daily polls for a while—it was astonishing. However, almost all of them turned out to be wrong. The media moguls, who are very rich and own most of our newspapers, commission most of those polls. They publicise them and they become a very powerful election tool. As the noble Lord implied, this has moved beyond a method of independent measurement of voting intention to having real and increasing influence over the result, with potentially serious consequences for our democracy. Polls now play a major part in deciding the future of our country. It is therefore essential that they be carried out in a rigorous and unbiased manner. That is what the minimal and independent oversight that I am putting forward in the Bill sets out to achieve. It is with that aim in mind that I beg to move.

11.28 pm

Lord Cooper of Windrush (Con): My Lords, as the noble Lord, Lord Foulkes of Cumnock, noted, following the recent retirement from your Lordships' House of

my noble friend Lord Ashcroft, I think that I am the only Member of this House who is a pollster by trade. Therefore, I declare my obvious interest and draw the attention of the House to my entry in the register. I am the co-founder of a research company. For well over a decade I have earned my living by conducting research. A very small part of that research is polling, a very small part of which is political polling. The Market Research Society says that less than 1% of all the market research conducted in this country is polling and a tiny fraction of that is political polling. The noble Lord, Lord Foulkes, exaggerates when he describes it as a multi-million pound political polling industry.

I put firmly on the record that I, of course, accept that the recent general election was a serious failure for those of us who produce opinion polls that try to capture accurately the proportions in which people support the different political parties. The polls did not get it all wrong; they were pretty accurate in describing and predicting the scale of the landslide that took place in Scotland. They got the vote share for the Liberal Democrats and UKIP about right, but they got wrong the single most important thing—the proportions of Labour and Conservative votes in England. That was a serious error.

Voting intention polls are meant to scatter either side of a mean—in other words, when you look back after the election, there should be about as many polls a bit over what each party got as there are a bit under. However, that did not happen with the recent general election. All the final polls overstated the support for the Labour Party and understated the support for the Conservatives. In fact, if we look back further, there were more than 1,000 polls in the second half of the last Parliament, and, far from scattering either side of a mean, only one of those polls put the Conservative share of the vote higher than the 38% that they eventually got.

We know that at some point between 2010, when the polls were pretty accurate, and 2015, when they were wrong, tried and tested methods suddenly failed to capture accurately a snapshot of how voters were going to vote, and in what proportions they were going to support the Labour and Conservative Parties. One of the flaws of the regulatory body proposed by the noble Lord, Lord Foulkes, is that, had it existed during the last Parliament, it would have had no point of reference and no way of detecting during that five-year period that suddenly, poll methods which had been accurate had become inaccurate. It is only after they err at an election that we can see that clearly, and at that point, obviously, they must be addressed.

There was a serious failure and the polling industry takes it seriously. Before breakfast on the morning after the election, the polling organisations had all agreed without reservation that a full and open inquiry had to be held. That inquiry was established within 24 hours under the joint auspices of the British Polling Council and the Market Research Society and under the independent chairmanship of Professor Patrick Sturgis, a highly respected academic and director of the ESRC's National Centre for Research Methods. The inquiry holds its first public evidence-gathering session this afternoon.

Since the general election, I have encountered an amazingly large number of people who are very keen to tell me that they knew all along that the polls were wrong, and they had always foreseen a Conservative victory. I struggle to recall many people who said that before the fact, but I note for the record that the Minister, my noble friend Lord Bridges of Headley, is one of the few who certainly did. As noted in yesterday's Question for Short Debate, he not only placed a bet a year ago that the Conservatives would win a majority but even correctly predicted the exact size of that majority. As the noble Baroness, Lady Hayter, said, perhaps we should all have saved ourselves the trouble and just polled my noble friend Lord Bridges. It would have been quicker, more accurate and cheaper than polling the 4,000 others whom we polled in our final pre-election poll.

However, it is important to remember that we have been here before, and more important still to remember the lessons of that history. One of the reasons why almost everybody assumed the polls were right was that they had been right for the previous four general elections. However, those four consecutive successes for the polls came after another humiliating failure. As many noble Lords will remember, in 1992 the polls were also wrong—in fact, they were even more wrong in 1992 than they were in 2015. After that failure there was a full inquiry, conducted publicly and transparently, just as there is now. Its conclusions led to a series of changes in the way that voting polls were conducted. These changes by and large fixed the problem. As I noted, at the next four elections, the polling organisations that used those post-1992 methods got the result right. They scattered either side of party vote shares and remained within their margin of error. That is about as accurate as we can expect polls to be, as the noble Lord, Lord Foulkes, noted earlier. Most if not all the changes that were adopted by the industry to fix the failure in 1992, which resulted in the polls being more accurate subsequently, would have been less likely if the noble Lord's Bill had applied and the regulatory body he proposes had existed.

The noble Lord has expressed a nostalgic attachment to face-to-face polling, as if that is the immutable gold standard of doing a poll, but the switch away from face-to-face polls was one of the central recommendations and conclusions of the 1992 inquiry. The inquiry concluded that for many different reasons it had become too difficult to get a representative sample of the whole population—of all different types of voters—by doing a face-to-face poll, so one of the recommendations was to switch to random digit-dial telephone polling. It was very controversial at the time. Many people opposed it and felt that switching from face-to-face to telephone at a time when only about 90% of households had a fixed-line telephone was a dubious step to take. After the inquiry, some pollsters switched to the phone method; some did not. Learning from the inquiry, some adopted new measures of weighting polls; others did not. At the next election in 1997, the pollsters which had made those switches were accurate and the ones that had not got the result wrong again.

The lesson from the last time the polls were wrong is that we need to define the problem openly, frankly and fully, and then innovate to solve it. The flaw at the

[LORD COOPER OF WINDRUSH]
heart of the Bill, in my opinion, is that it would obstruct this process, not help it. The noble Lord's Bill would give a new regulatory authority responsibility for, "specifying approved sampling methods". As I say, it is highly likely that in 1992 such a body would have judged telephone polling to be too risky and would have probably stopped the change that made the single biggest step towards fixing the problem and restoring accuracy to the polls. The noble Lord also wants "the wording of questions" to be governed by the new authority that the Bill would create. That seems to be verging on the Orwellian—the idea that we have a state-established body that will decide what you can and cannot ask, and in what terms, seems extraordinary to me.

Lord Foulkes of Cumnock: Just on that specific point, does the noble Lord not agree that in the Scottish referendum the wording was vital? There were discussions between both Governments about it, and wider discussions about it, but it was an absolutely crucial issue.

Lord Cooper of Windrush: I entirely accept, of course, that the wording of questions matters. Everybody who works in opinion research and everyone who does polls knows perfectly well that the way you ask the question can make a big difference to the answer you get. But my point is that on any issue of consequence, substance or controversy, where there will be impassioned views on both sides, there is no universally accepted neutral way of expressing a poll question. That goes to a central error at the heart of the Bill, which is the idea that these things are or ever could be subject to clear-cut right or wrong answers. There is no consensus—or anything close to one—among research organisations about either the best way to conduct a poll or the right way to phrase the questions that you may ask. That is why the British Polling Council was created: to ensure transparency and disclosure, rather than attempting to define the undefinable or police a supposedly objective "correct" approach, because no such approach exists. In my opinion, the state-backed regulator proposed by the noble Lord would stifle or kill the experimentation and innovation that have worked for the industry in the past, and which it still needs.

The third and final power proposed for the new regulatory authority is the power to ban the publication of polls before elections if it so chose. I think this would be an extraordinarily illiberal step, an affront to freedom of expression and one which certainly the courts of France and other places have judged to be a *prima facie* breach of Article 10 of the European Convention on Human Rights. There are two further very clear practical reasons why it is a terrible idea.

First, it would create an asymmetry of information. The Bill posits restrictions on the publication of polls. It would not and could not stop polls being conducted, certainly by political parties, which would continue to conduct private polls and would no doubt continue to talk to journalists about what those polls say. It would not stop polls being conducted by, for example, hedge funds and investment banks, and quite likely by media clients as well, as the noble Lord says. All it would do is to stop those polls being openly reported. Pollsters

would get to sell what would have become privileged information to private clients—information which, without the provisions of the Bill, they would have had to read in the newspaper like everybody else. The Bill would turn a world where everyone has the same information into one in which the powerful would know what was going on but the voters would not.

I was struck by the way that the noble Lord spoke about the supposed influence of the polls in the recent election. Most of his remarks were actually about the way that the polls were reported and the dominance in the media coverage of the picture that they were telling which, as we now know and clearly accept, turned out to be wrong. However, unless he is also proposing to circumscribe the freedom of the press to comment on what they think is going on in public opinion and how they read the state of the parties, I do not see how his Bill would in any case achieve the objectives that he set out. I assume that he would not propose to circumscribe the freedom of the press as well.

The second fundamental flaw with the Bill is that, in the internet era, it should be pretty obvious that banning the publication of polls is totally unenforceable. That fact was explicitly at the heart of the judgment of the French courts in 1998 to scrap the law that France had to ban polls in the seven days before elections because they judged even then, nearly 20 years ago, that the viability of media blackouts was fatally undermined by the emergence of the internet. There would be nothing we could do to stop foreign polling organisations conducting online surveys and publishing them online. There would be nothing we could do to stop anyone else publishing on websites with domains beyond UK jurisdiction the results of these polls, so any attempt to ban the publication of polls is simply unenforceable and futile.

I submit that the provisions in the Bill could not and would not have done anything to alter the fact that the polls were wrong, or to stop them being wrong. In fact, it would have made it much more difficult for the polling industry to respond responsibly to those problems. That is why anyone who cares about opinion polls and their accuracy, and their important role in a vibrant, free democracy, should oppose the Bill.

11.42 am

Lord Lipsey (Lab): My Lords, I am one of those whom the noble Lord identified who now claim to have got something right during the general election when the polls were getting it wrong, but in my case I can document the fact. I did not get the result right—I had a substantial bet on a Labour-minority Government, though I did get it at 5:1 before it went back down to 11:8—but I recovered my money from a small bet on the Liberal Democrats getting fewer than 10 seats. Sometimes your money goes where your heart lies.

What I did during the campaign, maddened by the overinterpretation of and reliance on the polls of the *Guardian*, was to write to point out in moderate terms—and wearing my hat as chair of the All-Party Group on Statistics—the limitations on polling, which I shall come to. So I can document it but not through showing

people the pages of the *Guardian*, because it declined to publish the letter. I was not totally surprised because it was paying out a lot of money to commission polls and then oversold them like mad, so of course the *Guardian* was not very keen to publish this letter—although senior members of editorial staff say, in retrospect, that they think they should have done. Anyway, that is quite long enough on “I was right all the time”.

The performance of opinion polls in recent elections is worse than has been appreciated. Over the last six general elections, the opinion polls have got it completely wrong twice, a 33% rate. If they used that other invaluable tool of forecasting, a pin, they would have got a 50% hit rate. The amount by which you gain in having the polls over the use of a pin is not very great, but it is worse than that. First, although they got the winner right in four cases out of six they did not get the share of the vote for each party right in those cases. For example, in 2010 they overestimated the Lib Dems’ share. Secondly, even when they got right, it was often the result of pure chance. I went to a fascinating academic conference on the 2010 election, which, to summarise briefly, showed that the polls made a series of mistakes which happened to cancel each other out.

In the light of all that, I welcome the Sturgis inquiry, whose session the noble Lord, Lord Cooper, and I are both attending this afternoon. In preparation for that, I reminded myself of the study by the Market Research Society into the failure in 1992. Funnily enough, I am not sure that this inquiry will come out with anything very different. It identified three main sources of error: first, shy Tories, or people who did not like to say that they were voting for the Tory party; secondly, failures in the quotas, which I will come back to, which meant that they were not using representative samples; and, thirdly, differential turnout. Those were the main causes. Professor Sturgis may not get much further forward, although I hope he will.

The real question underlying this is whether polls technically can achieve the degree of accuracy that is necessary when they forecast elections. We had quite a lot of polls during the election, for example, that said something like Labour 30% and the Tories 30%. That could mean, within the statistical margin of error, Tory 33% and Labour 27% or the other way round. In other words, it could mean a 6% Labour lead, a 6% Tory lead or that they genuinely were neck and neck—and that is only in 19 cases out of 20, with the 20th case being even further out, as I think was true of the famous YouGov poll in the Scottish referendum.

That is the statistical margin of error, but it is only the beginning of the margin of error, as it assumes that you have a perfect sample which is representative of the electorate as a whole. But you do not have a perfect sample; you have a less and less perfect sample, as the noble Lord, Lord Foulkes, has pointed out. If you do it by telephone, you have the increasing problem of mobile telephone ownership, which can distort the figures. You can do it on the internet, but not everyone has access to the internet. You can also have what is called panel effect, whereby because you are asking the same people they become more informed and more interested, and they move from one party to another differently from the electorate.

In the olden days, when polling worked rather better, it was of course done by face-to-face samples, as the noble Lord, Lord Foulkes, has reminded us. Pollsters were able to get it quite right because they were able to balance their samples to make up for these shortfalls. The crucial thing was that in those days voting very closely followed social class: working-class people voted for us, while middle and upper-class people voted for the other side. As a result, it was relatively easy to adjust your sample. As long as you had the right percentage of people from each class in it, you were probably not going to be far out, and therefore you could weight your samples accordingly. However, that relationship between class and voting has gradually been eroded, and there is not really a good substitute. Public versus private sector, for example, is something of a differentiator, but there is nothing as powerful as class used to be. It is very much less easy to weight a sample to get a correct one, although responsible pollsters make valiant efforts.

Another problem is that a lot of people just do not answer when you approach them: only one in five people who are rung up answer, because they do not know whether it is a push-pollster, somebody trying to sell them double-glazing or a genuine pollster. You do not know anything about those people, so you have no idea whether your sample is representative of the population as a whole. There are big margins of error. This is not of course helped by my old profession—I used to write up polls myself and I am guilty of all the offences I am about to accuse others of—in which you are forced to exaggerate. Suppose Labour has gone one month from 36% to 34%. The correct report of that is that there is no change in Labour’s standing; it is the same number. The report you will read will very likely say, “Labour slumped last month following Ed Miliband’s unfortunate incident with a bacon sandwich”. They had not fallen and there is no evidence that they had; there is even less evidence that it was due to Ed’s bacon sandwich. So journalism is more than a little responsible. Of course the two egg each other on, because the pollsters know that the more that journalists exaggerate the story the more publicity it will get, and the journalists want that publicity too, so the necessary caveats simply do not appear.

Having said that, I shall tell the House about the remark recorded in the Library Note about the problems of the polls and about my noble friend’s Bill in particular. The chairman of ComRes, on which I addressed the House in the Moses Room the other day, said that the Bill,

“acts on a problem that doesn’t exist”.

Most of the pollsters have been very upfront and honest in admitting that there is a problem, but not, it appears, all. This matters because—let us face it—the last general election was mostly about whether it was a good or bad thing if we had a Labour-minority Government backed by, or in some relationship with, the SNP, not a separate though equally important debate about whether people really wanted a Tory-majority Government or something short of that. Did it affect the result? We will never know, but it was important.

I turn briefly to the question raised by my noble friend’s Bill about the regulation of polling. You cannot very often separate my noble friend and me on these or indeed many issues, but I have a slightly different

[LORD LIPSEY]

emphasis from him on this point. The point made by the noble Lord, Lord Cooper, about the difficulties of statutory regulation was strong, as indeed were his points about the banning of polls during the run-up to an election, but there are problems with statutory regulation. My own experience of statutory regulation is that the people you are regulating spend the whole time trying to find their way around the regulations, instead of doing what you want them to do, which is to say, “We’ve got a problem and we must solve it”.

I am therefore broadly in favour of self-regulation. I sat for years on the council of the Advertising Standards Authority, which I believe to be a very effective self-regulator, though not everyone agrees. I felt that that was the right way of going about it because you have advertiser buy-in; if they had an adverse verdict from the ASA, they did not argue the toss but just withdrew the advert. Unfortunately, the existing self-regulation does not measure up. The rules of the British Polling Council, which in many ways is an admirable organisation, cover transparency only; they tell you that you have to put your samples and the questions you ask online, that sort of thing, but they do not actually cover substance at all. The Market Research Society does somewhat better; a section of its rules is about how questions should be framed so that they are neutral, but not all polling companies belong to the MRS. In the case of my own complaint against ComRes at the moment, I have to complain about the chairman as an individual rather than the company. The MRS rules are rather broad, and less specific than I would like.

So there is a shortfall in self-regulation, and this is one of the challenges that the polling industry now faces. Either it puts in place effective, wide-ranging and considered self-regulation, going beyond the very limited regulation imposed by the BPC, or it will be Foulkes. There is no doubt about it. It will not happen in this Parliament, I do not suppose, because this Government are quite well favoured by what happened when it went wrong last time, but some of us will harbour a desire for revenge. If the polling industry does not put itself right, we will put it right in a way that will be undesirable.

I have a final word to say about the banning of polls in the run-up to elections. I am afraid that here I am a feeble “don’t know”. I think that there is a case for and a case against, and although I lean towards the case against because I do not like interfering with free speech, the case for is also powerful and, as has been pointed out, other countries such as France and India already ban polls. I suggest that one or other House of this Parliament, in an appropriate committee, should look at the arguments for and against this. It would be a very useful analytic piece of work and would inform future policy-making in this field.

I very much hope that the House will give a Second Reading to this Bill this afternoon, because this is a subject that cannot be too much debated in your Lordships’ House as it is being in the polling industry. As I have said, I do not agree with every dot or comma of the Bill, but I believe that, unless the spirit of the Bill is taken on board by the polling industry, this kind of problem will arise time and again in future.

11.55 am

Baroness Hayter of Kentish Town (Lab): My Lords, yesterday we had a fairly full discussion in the Moses Room, led by my noble friend Lord Lipsey, about political opinion polling and, from the Labour Party position, the very regrettable failure of the electorate to live up to the forecasting of the polls and the expectations of our candidates. Today we have been fortunate to have further expertise from my noble friend Lord Foulkes of Cumnock and the noble Lord, Lord Cooper of Windrush, who did not speak yesterday but who enlightened us today with reminders of random sampling quotas, margins of errors, scattering, and things that some of us were taught a long time ago.

Your Lordships will, I hope, be pleased to know that I am not going to repeat what I said yesterday. There is a very full report in *Hansard* for any who are interested. All I will say is that when pollsters get it wrong, as in 1992, this year, or indeed in the Scottish referendum, it has serious consequences if the reporting of such misleading polls influences either the behaviour of parties or more seriously the behaviour of voters. The motivation behind this Bill is therefore genuine and serious, because of the influence that polling can have and for the reasons that my noble friend Lord Lipsey has just given. There is a special responsibility on pollsters, and on the media that report them, to raise their game.

Whether the answer set out in the Bill is the correct one is a matter for further debate. I certainly share some of the worries about the pre-approval of sampling and other methods, as that could stifle innovation and lead to even more clustering and huddling. I also cannot see that there could be acceptable or non-acceptable questions, and I share the concerns about the stifling of free speech if solid polling research was banned. However, as I said yesterday, there is some urgency to raising the industry’s standards, especially before we have to face the first recall ballot for an MP, where perhaps in a single constituency a vote to trigger a by-election could be heavily influenced by some local, and possibly shoddy, polling. We also need to think about how to curtail the drive for that cheap, headline-grabbing polling, undertaken clearly for commercial rather than for domestic gain—with speed being of the essence rather than accuracy, in the words of my noble friend Lord Foulkes. Furthermore, we should look at how polls are reported; they are often made the lead story rather than background intelligence.

The issues raised by this Bill are too important to be left just to pollsters, because these issues affect what information is placed before the electorate and whether that will change and influence their votes and therefore who forms the Government. I regret that the current inquiry, good though it may be as a first step, has failed to include a much wider source of expertise, both from outside the UK but also from campaigners, candidates and journalists—or perhaps, in the light of what we have just heard, bookies—who also have an interesting take on the use and relevance of polls. It is not just those who put them together who have an interest in this but those who use their outcome.

We are very strict about what candidates can say, especially about their opponents, and how much they and political parties can spend, but we give free rein to

newspapers to champion a party or campaign on an issue with no limit on expenditure. A number increasingly give coverage to their own commissioned polls which they then cover as fact. As I confessed yesterday, I was particularly wounded in 1992 and this year by having fallen for the polls, but my disappointment is of no consequence. What matters is if voters were similarly persuaded and if their subsequent vote was affected by that. For this reason, I welcome the debate that my noble friend has engineered today, and I look forward to the Minister's response.

Noon

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords, I, too, congratulate the noble Lord, Lord Foulkes of Cumnock, on securing this debate. A lot has been said about the bet I made, so let me start by offering the noble Lord a cup of coffee, or something stronger, paid for by my bet, and we can toast the pollsters together.

When I first read of this Bill, my initial reaction was that it might possibly be a case of sour grapes that the noble Lord's party did not win the general election, but then I realised I was being extremely unkind to the noble Lord. He has been talking about this for many years—I think it goes back to the 1980s—and, more to the point, he has a history of wanting to regulate and perhaps even ban things, starting with Space Invaders in the 1980s, so this is part of that.

I agree with what the noble Baroness, Lady Hayter, said about the Bill. It provokes an interesting debate, and we had a very interesting debate yesterday. I shall start by asking your Lordships a question: is this Bill good for democracy? My answer is, firmly, no. As a number of noble Lords said, the Bill is built on an assumption that the electorate should not be told what they themselves are thinking during a general election campaign, or at least during parts of it. Call me old fashioned, but I trust the people. I believe in giving them the information, however painful it might be for one party or another—and believe me, having worked in Downing Street in the 1990s, I know how painful it can be.

Let us consider the Scottish referendum. The noble Lord said that the YouGov poll set the campaign alight, and indeed it did. He called it a rogue poll. I respectfully point out that it was the first of three polls in quick succession showing that yes and no were neck and neck. The following day, TNS reported 50:50 and on 12 September, ICM reported 49:51—so three companies, all of which had reported big no leads weeks earlier, showed 50:50, plus or minus 1. Putting that key point aside, is the noble Lord saying that the public cannot be trusted with this information and that they cannot be told something that helps them weigh up how to vote in the critical weeks running up to the day they cast their vote?

Let me now ask your Lordships another question. Is the polling industry badly regulated at the moment? My answer is no. Pollsters know that the fortunes of their business rely on the credibility of their research. Unsurprisingly, therefore, the leading companies in the sector observe and abide by the code of practice that the twin regulators, the MRS and the BPC, have set out. I believe that we should leave them to regulate

the sector, but I am sure the regulators will heed the words of the noble Lord, Lord Lipsey, who speaks with such authority and experience in this sector, and the fact that we are having this debate today, and will look at their regulations.

The need to abide by these regulations explains why the industry is so concerned about its failure to forecast the result of the election in May. The terms of reference of this inquiry, which holds its first evidence meeting this afternoon, are broad and far reaching. It is,

“empowered ... to make recommendations about the future practice of polling”,

and to investigate,

“whether the findings and conduct of the polls were adequately communicated to the general public”.

That relates to the point the noble Baroness, Lady Hayter, made about reporting.

Let me turn to the opinion polling during the last general election. The noble Lord's argument seems to be that thanks to the polls the Labour Party lost the election. So he wants to shoot the messenger. We do not know that this is the case; that is the point of the inquiry. Was there a sudden switch? Were people not being straight with the pollsters when asked for whom they would vote? Were the sample sizes wrong? Was the methodology at all to blame, and for how long were the pollsters getting it wrong—might this problem have distorted their findings for months? We do not know the answers to these questions, and that is the purpose of the inquiry. However, let me summarise what we do know.

In 1992 the pollsters also got it wrong, predicting a Labour majority. They changed their ways, and as my noble friend Lord Cooper and the noble Lord, Lord Lipsey, outlined, their methodology has changed. However, as the noble Lord, Lord Lipsey, said, it can always be improved. It seemed that it had been improved, because, as we saw in the 2005 general election, the polls were the most accurate predictions ever made of the outcome of a general election. This was without a regulator being set up after 1992, which demonstrates that it is possible to get to improve without regulation of that kind. In 2010, all but one of the nine pollsters came within 2% of the Conservative share, and five were within 1%. If opinion polls have become the sat-nav of the British constitution, it is quite clear that in May the sat-nav went squiffy, predicting that the British would turn leftist. Instead, the electorate ignored that and turned right.

Therefore, I humbly suggest that we leave it to the experts to find out what has gone wrong with the systems, but the noble Lord appears to disagree. He already knows enough to tell us to legislate. I humbly argue that this would be a good case of legislating in haste, and we have seen this kind of thing happen before. I, for one, do not want to see a Dangerous Pollsters Act—and the pitfalls of entering into this terrain are highlighted by the Bill itself, which has, if your Lordships will forgive me, a strange whiff of George Orwell mixed with Inspector Clouseau about it.

First: Orwell. The opinion police—for that is what these regulators would be—would have unlimited powers; the Bill simply lists those presumably deemed important. It would specify “approved sampling methods”. Consider online polling, now conducted by many pollsters. Back

[LORD BRIDGES OF HEADLEY]
in the 2008 London mayoral elections, all the telephone polls showed Ken Livingstone was ahead. After YouGov published two online polls showing that he was trailing Boris Johnson, Mr Livingstone attacked the polling methodology. His office said:

“YouGov’s polls are misleading the public and we have therefore decided to make a formal complaint”.

Had the noble Lord’s idea of approved methods been applied by the opinion police, would they have permitted any online polls, or would they have banned them in favour of traditional polls, which got the outcome of that mayoral race so wrong? Here the speech by the noble Lord, Lord Lipsey, shows the immense debate around methodology. What evidence is there that such a debate could be resolved satisfactorily by a regulator?

Next, the Bill would provide guidance on the wording of questions—no doubt emanating from Room 101. The noble Lord raised that in an intervention. However, as my noble friend Lord Cooper said, trying to seek such agreement on wording is like chasing a will-o’-the-wisp. On the wording of questions, where is freedom of speech and debate if an unelected body is guiding pollsters on what they can and cannot ask the public? On top of that, the opinion police will have the power to ban the publication of polls “in such a period” as they consider “appropriate” before an election or referendum. What is appropriate? Might that be a week, a month, or several months before an election, and how and when is this decision to be made?

So much for Orwell. What of Clouseau? The inspector of the opinion police would have his work cut out. Consider what happened in his own country of France. As many of your Lordships may know, there had long been a ban on the reporting of opinion polls in the week before French elections. In the 1997 legislative elections some newspapers broke this regulation. One got round the ban by putting the findings of an opinion poll on its website, which was linked to a Swiss newspaper. The result: the French ban has been reduced to 24 hours. So, we can hear the hapless inspector crying, “Zut alors!”, as he realises that this law, which he is meant to enforce, was designed for an analogue age.

The Bill before us stipulates that “a person” who breaks the rules may be fined. In the digital age, what if that person, sitting in some far-flung country, sets up an online poll? What is to stop a foreign newspaper conducting a poll and publishing its results online? What is to stop a website with its servers based in another country publishing a poll? Will Inspector Clouseau chase after them? Then there is the definition of opinion polling. It is,

“intentions with regard to voting”—

that is, intentions as to how people would vote. In the jargon, this is the “top line”—the raw percentage that each party might secure.

It would appear that, even if these polls were restricted, it would be perfectly possible to publish polls related to a party’s or a politician’s competence, credibility, affability, whether they are in touch or out of touch—the list is endless. A poll giving rise to the headline “Labour not trusted to run the economy” would presumably be allowed. So, too, for that matter might be “Public

alarmed by SNP/Labour pact”. All this would be permitted by the opinion police—a loophole so large that even Clouseau might be able to get through it.

That brings me to my third question: whom would the Bill benefit? Not the British public, that’s for sure. Instead, it would benefit two groups: first, private companies, especially in finance, which have deep pockets and want to get the inside track on what the public are thinking so that they can take positions on currencies and stocks before an election; and, secondly, the polling companies themselves, which would be able to charge a fortune for these private polls. Therefore, if this House wishes to give the banks and the hedge funds insider information on the democratic process, this Bill would certainly do the trick—and make pollsters rich in the process. However, something makes me think that the noble Lord, Lord Foulkes, is not in the hedge fund fan club.

To conclude, the noble Lord has done us a great service by highlighting the enormous pitfalls of going down the route of regulation. The Bill is unnecessary. Its measures would not work, and it would dent our democracy and curb our freedom of speech. We should be free to express our opinions and to know what others think. Unsurprisingly, therefore, this Government have strong reservations about the Bill.

12.12 pm

Lord Foulkes of Cumnock: My Lords, this has been a very interesting, and at times quite exciting, debate. I loved the Orwell/Clouseau allusions.

Perhaps I may deal with the Minister’s comments first. My point about Space Invaders had nothing to do with aliens or ET; it concerned the machines that young people get addicted to. In the 1980s, it was Space Invaders; now, there are other kinds of machines and activities which young people get addicted to and which create problems. One of my colleagues in another place raised this matter very recently.

The Minister mentioned the Scottish referendum and challenged me, because not just one poll but three polls were wrong. That reinforces my argument. All three of them were wrong and that makes it even worse. I am sure that the Minister’s reply was written before he heard my speech. I did not argue that I was introducing the Bill because Labour lost the election; quite the reverse. That was not part of my argument. I will come back to the Minister shortly but I think that in the end, he gave at least a little bit of an indication that he was willing to discuss this issue further.

I welcomed the response from my noble friend Lady Hayter on the Front Bench. She made a particularly important point about recall ballots. It would be quite outrageous if opinion polls were used in the way that they have been against an MP who was facing a recall ballot. That is a very important point and I was grateful that my noble friend said that she welcomed the debate on this issue.

I was particularly grateful for my noble friend Lord Lipsey’s welcome. He and I usually agree on most things. We agreed on most of this today, and I look forward to further discussions with him, in Committee and outside, so that we can consider this whole issue further.

I think that the noble Lord, Lord Cooper, with no disrespect to the Minister, made the most effective criticism of my Bill. I respect that, because he knows exactly what he is talking about. This issue needs further discussion. He said that the pollsters got it wrong in 1992. I remind him that they also got it wrong in 1970. He may be too young to remember that far back, but I remember it very well; I was a candidate in that election. They thought that they had got it right in 1992, but they got it wrong again. It seems that they get it wrong every 22 years.

The noble Lord referred to tried and tested methods. However, it seems that the methods that were tried and tested are being abandoned, and that is my concern. He also raised a question about publication and suggested that it may be the media that need regulation. I would not disagree with that. That is being dealt with elsewhere in another context, but it should be looked at in relation to this issue as well.

I hope that we will look at this. I said in my introductory speech, and I reinforce and underline it now, that I am willing to look at amendments. I just want this to be looked at. If there is a better way—if my noble friend Lord Lipsey or even the noble Lord, Lord Cooper, can come up with a better way—I am willing to look at it and to consider a substantive amendment.

I must say that I respect the Minister—his speech was fascinating and enjoyable, especially his Orwell and Clouseau allusions—but way back in the 1980s I proposed something. I was strongly, sometimes violently, opposed by the industry, the Minister pooh-poohed me and the other place threw out my proposal. It said that it was ridiculous. Why was I suggesting it? Why was I imposing this limitation on people's freedom? I was proposing at that time to ban smoking in public places. Now it is the accepted norm. Everyone agrees with it.

Lord Purvis of Tweed (LD): I am most grateful to the noble Lord—perhaps I may call him my noble friend—for letting me intervene. I was rather struck

when listening to the Minister's contribution because I read an article from 2012 in the *Daily Telegraph* by a certain George Bridges—I am assuming that it is the same George Bridges as the Minister—in which he said:

“But politicians who are guided by polls are chasing will-o'-the-wisp in a forlorn search for popularity. They are not selling baked beans, but something more complex: vision, belief and leadership. And the more politicians change to reflect every passing fad, the less the public believes what they say, and will-o'-the-wisp flits away”.

I congratulate the noble Lord on his championing of the ban on smoking in public places at the time, which shows a bit of the vision and leadership that was not entirely deflected by the polls. I thank him for airing this issue in the Chamber today.

Lord Foulkes of Cumnock: I am really grateful to my noble friend, but I would have been even more grateful if he had given me that quotation earlier. I could have used it in my speech because it is a devastating one in relation to the Minister.

He has reminded me of something else that I was going to say to the noble Lord, Lord Cooper. He said that political polling makes up less than 1% of the income of polling and market research organisations such as Populus. However, it is a key and prestigious part. Their reputations depend on getting it accurate. The soap manufacturers and chocolate producers look carefully at how accurate these things are, so although it is only small, it is an important part.

There has been substantial criticism from the other side and support on this side, but this is something we should look at further. I shall conclude by asking the House to give the Bill a Second Reading.

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

House adjourned at 12.20 pm.

CONTENTS

Friday 19 June 2015

Airports Act 1986 (Amendment) Bill [HL]	
<i>Second Reading</i>	1319
Easter Trading Bill [HL]	
<i>Motion to Withdraw</i>	1335
Regulation of Political Opinion Polling Bill [HL]	
<i>Second Reading</i>	1335
