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**HOUSE OF LORDS**  
**OFFICIAL REPORT**

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

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## House of Lords

Wednesday, 24 June 2015.

3 pm

Prayers—read by the Lord Bishop of Bristol.

### Message from the Queen

3.07 pm

**The Lord Chamberlain (Earl Peel) (CB):** My Lords, I have the honour to present to your Lordships a message from Her Majesty the Queen, signed by her own hand. The message is as follows:

“I have received with great satisfaction the dutiful and loyal expression of your thanks for the Speech with which I opened the present Session of Parliament”.

### Retirement of a Member: Lord Luke

*Announcement*

3.08 pm

**The Lord Speaker (Baroness D’Souza):** My Lords, I should like to notify the House of the retirement, with effect from today, of the noble Lord, Lord Luke, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I should like to thank the noble Lord for his much-valued service to the House.

### Prisons: Mental Health

*Question*

3.08 pm

*Asked by Lord Patel of Bradford*

To ask Her Majesty’s Government what steps they are taking to achieve parity of esteem between mental health and physical health in prisons.

**The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con):** My Lords, achieving parity of esteem between mental health and physical health in prisons is a government priority. Following the 2009 review by the noble Lord, Lord Bradley, we ensured that prisoners can access equivalent health services to people in the community. The Government’s mandate to NHS England has objectives to achieve parity of esteem, including in health and justice settings, and to develop better offender healthcare that is integrated between custody and community, including developing liaison and diversion services.

**Lord Patel of Bradford (Lab):** I thank the Minister for that Answer. I am sure he will be aware that a great deal of effort has been made to improve data accuracy and the quality of recording of mental health diagnosis in NHS trusts, including new coding standards, all as part of preparation for a national payment tariff for mental health, similar to those for people in hospitals

with physical health conditions. Can the Minister describe, first, how this will be implemented in the prison setting? Secondly, what support will his department be giving to implement the standards for prison mental health services, which the Royal College of Psychiatrists published recently due to, as it said, the lack of a national blueprint for mental health services for people in the criminal justice system?

**Lord Prior of Brampton:** I thank the noble Lord for his two questions. On the first, about coding, it is very important that we get the tariff right and that it does not become just another measure of activity but that outcome is built into that tariff. Paul Farmer, the chief executive of Mind, is preparing a report for NHS England, which will include proposals for the tariff and payment systems. That will include health in prisons as well as outside prisons.

The second question was about the standards issued recently by the Royal College of Psychiatrists. The noble Lord, Lord Bradley, in his foreword to *The Bradley Report Five Years On*, referred to the importance of having a national blueprint, which of course is now possible given that NHS England is the commissioner of specialist services throughout the country. I will also draw those standards to the attention of Paul Lelliott, the chief inspector of mental health within the CQC. I am sure that the CQC will wish to incorporate those standards into its inspection regime

**Lord Walton of Detchant (CB):** Can the Minister say what qualifications are now required of doctors who are recruited to work in prisons? Can he further say what proportion of those who are now employed to work in prisons have had formal psychiatric training?

**Lord Prior of Brampton:** I thank the noble Lord for that question. I hope he will think it acceptable if I reply to him in writing after this session.

**Lord Dholakia (LD):** My Lords, could the Minister explain why we lock up so many mentally ill offenders in prison institutions that are not fit for the purpose? Has he read yesterday’s report by the prisons inspector, which describes one prison as containing “shocking” squalor, high levels of violence and drug abuse, and high levels of staff sickness? Would the Minister explain how many mentally ill offenders are in our prison institutions and what efforts are being made to place them where proper mental health care and social care are available?

**Lord Prior of Brampton:** There are, as the noble Lord knows, some 85,000 people in prison, of whom more than 70% have two or more mental health conditions. Many of them suffer from drug or alcohol abuse, and I think it is generally accepted that a number of those people could be better treated outside a prison environment. He will also know that the liaison and diversion services that were so highly recommended by the noble Lord, Lord Bradley, now cover 40% of the prison population. There is a proposal that that should cover the whole population by the end of the year, subject to evaluation of those pilot schemes.

**Lord Bradley (Lab):** My Lords, it is vital that a prison has all relevant information about an offender's health needs when they arrive at prison reception. Does the Minister agree that an evaluation of the current health screen should be undertaken to improve the identification of mental health problems at prison reception and that the identification of learning disabilities should be part of that screen?

**Lord Prior of Brampton:** The noble Lord raised this in his report five years ago and in the follow-up report that was published more recently. A very early assessment of a prisoner when he arrives in prison is of course extremely important.

**The Lord Bishop of Bristol:** My Lords, given the complex needs of so many prisoners and the fact that those needs have to be addressed consistently, does the Minister agree with me that the risks associated with such prisoners could be greatly reduced were all operational staff in prisons given training on mental health awareness?

**Lord Prior of Brampton:** The right reverend Prelate's comments are true throughout the whole healthcare system and would also apply to nurses in physical health surroundings. Training in how to recognise and deal with people suffering from mental health problems would be a huge benefit.

**Lord Ramsbotham (CB):** My Lords, the figures that the Minister cited come from the last survey of psychiatric morbidity in prisons, published in October 1998. Since then, the morbidity profile has changed. Is there any intention to conduct another survey so that the figures are up to date and people know the size and shape of the problem with which they must deal?

**Lord Prior of Brampton:** I am not aware of any current plans to conduct a survey similar to the one to which the noble Lord referred from 1998.

**Lord Roberts of Llandudno (LD):** My Lords, what action will the Government take in Wales, where health is devolved to the Welsh Assembly but prisons are part of the Home Office remit? How will those two different aspects of government work together?

**Lord Prior of Brampton:** The noble Lord raises an issue to which, I confess, I have not given sufficient consideration to give a proper reply today. Perhaps I may take that away and come back to him. The simple answer to that question is: dialogue.

## Renewable Energy Question

3.16 pm

Asked by *Viscount Ridley*

To ask Her Majesty's Government what estimate they have made of the cost (£/tCO<sub>2</sub>e) of greenhouse gas emissions abatement in the most recent year for which there is data from each of wind offshore,

wind onshore and solar, taking into account the additional electricity system costs appropriate to each technology.

**The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con):** My Lords, based on support provided through the renewables obligation, the estimated abatement cost in 2014 was £65 per tonne of carbon dioxide for onshore wind, £121 for offshore wind and £110 for solar PV.

**Viscount Ridley (Con):** I thank my noble friend for that reply and declare my interests in energy as listed in the register. Does he agree that the Ed Miliband/Chris Huhne energy policy that he inherited has been extremely effective at taking money from the poor and giving it to the rich but much less effective at decarbonisation—and particularly at decarbonisation in an affordable way? The numbers he gave for the abatement costs per tonne of carbon dioxide from those three technologies are higher than the numbers given for the total cost of climate change—the so-called social cost of carbon—as estimated by all economists, including even the noble Lord, Lord Stern. Would my noble friend guarantee to investigate these numbers to see whether we are getting value for money as consumers through these subsidies?

**Lord Bourne of Aberystwyth:** My Lords, it is fair to say that there is a decline in the cost of renewable generation technologies. The steepest decline is in solar PV. On my noble friend's point about the fact that the last leader of the Opposition, Ed Miliband, had a policy on energy that was not in the interests of the country, I am pleased to say that one of the first actions of the new Secretary of State for Energy and Climate Change was to write to the energy companies to say that we look forward to seeing a reduction in bills consequent on the fact that the last leader of the Opposition is not now Prime Minister.

**Lord Lawson of Blaby (Con):** My Lords, by what date do the Government expect renewables to be cost-competitive so that hard-working families and businesses will no longer have to subsidise wealthy landlords and other green investors?

**Lord Bourne of Aberystwyth:** My Lords, it is not merely a question of cost. If it were the case that renewables were the cheapest form of electricity, we would not face the same challenge on climate change that we do. As I indicated, it is true that the cost of renewables is coming down. Meanwhile, it is the policy of the Government to focus on energy that is affordable, secure and clean.

**Lord Pearson of Rannoch (UKIP):** My Lords, will the Government compensate the increasing number of British people forced into fuel poverty by the man-made climate change policy if climate change turns out not to have been man-made at all?

**Lord Bourne of Aberystwyth:** I suspect that the noble Lord may be in a minority of one in his view of the position on climate change. Obviously, we are very pleased that the fuel poverty statistics are on a downward trend and that fewer people are in fuel poverty this year than last year.

**Baroness Worthington (Lab):** My Lords, thanks to the Government's Energy Act in the last Parliament, virtually every element of our energy system is now subject to a subsidy, and we are currently paying to keep old, unabated coal stations open and paying to shut them. Is that not the real scandal, since all of this coal is now imported?

**Lord Bourne of Aberystwyth:** My Lords, the noble Baroness will be aware that by 2025 electricity generation from unabated coal will represent only 1% of our generation.

**Lord Geddes (Con):** My Lords, in the context of this Question, what is the Government's policy on tidal power?

**Lord Bourne of Aberystwyth:** My Lords, my noble friend will be aware that the Swansea tidal lagoon has had planning permission, and we are now looking at the position of tidal power in relation to contracts for difference. It certainly represents an exciting possibility and one that has a lot of support—but I had better say no more than that as I made the planning decision.

**Lord Broers (CB):** My Lords, on a simple point of clarification, would the Minister confirm that these numbers are calculated from the actual delivered power and not the gross generating capability of these sources?

**Lord Bourne of Aberystwyth:** My Lords, a bear of small brain such as myself will have to get back to the noble Lord on that point, as I am uncertain.

**Lord Richard (Lab):** My Lords—

**Lord Purvis of Tweed (LD):** My Lords—

**The Lord Privy Seal (Baroness Stowell of Beeston) (Con):** Order. This is one of these occasions when it is necessary for the House to recognise that there are a range of conventions. One is that each party in the House gets at least one go in a Question. There is also the respect that we pay to former Leaders of the House who are also trying to get in and ask a question. So I am going to sit down—bearing in mind that we have two minutes left and there is a former Leader trying to ask a question, and a Member of the Lib Dem Benches, and the Lib Dems have not yet asked a question—and leave it to the House to decide.

**Lord Purvis of Tweed:** My Lords, I am grateful to the former Leader of the House, the noble Lord, Lord Richard. The Committee on Climate Change report on the cost-effective path to 2050 indicated that nuclear and onshore wind are likely to have broadly comparable

costs to new, unabated gas. Given the fact that the predominance of the situation in Scotland has been affected by the recent government decision, should not the Government be open to amendments to the energy Bill that could be coming forward to make sure that there is a distinct case for Scotland, so that support for Scottish jobs and the Scottish economy is put on a comparable level as support for Chinese investors and the nuclear industry in the United Kingdom?

**Lord Bourne of Aberystwyth:** My Lords, when the energy Bill comes before us—it will come to this House first—we will have an opportunity to look the questions that the noble Lord raises.

**Lord Richard:** My Lords, the Minister said in answer to the Question today that unabated coal would account for 1% of electricity by 2025. On the last occasion, last week, when this was raised, he said in one column of *Hansard* what he said today, while in another column of *Hansard* he said that it would account not for 1% of electricity supply but for 1% of emissions. Both cannot be right, and I would be grateful if he could tell us which is.

**Lord Bourne of Aberystwyth:** My Lords, following a conversation with the noble Lord yesterday, I went back and checked. That is why the version that I gave today was the correct version.

**Baroness Jones of Moulsecoomb (GP):** My Lords, has the Minister considered the option, if we are going to take away subsidies from some energy sources, that we should take them away from all energy sources, including nuclear?

**Lord Bourne of Aberystwyth:** My Lords, nuclear is a vital part of the mix. We do not get through this energy situation without an important contribution from nuclear energy, not least because many of the renewables, such as wind and solar, are intermittent.

## Severn Bridge: Tolls

### Question

3.23 pm

Asked by **Baroness Randerson**

To ask Her Majesty's Government what analysis they have conducted of the economic impact of the Severn Bridge tolls.

**The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con):** My Lords, this Government and the previous Government have not made any assessment of the economic impact of the tolls on the Severn River crossings. However, the existence of the bridges, as funded by tolls, has provided significant economic benefits. The Government have announced that they will consider the future of tolls, working with stakeholders involved.

**Baroness Randerson (LD):** My Lords, tolls are rare in the UK, and the Severn Bridge tolls are by far the most expensive in the country. It costs commuters £1,500-plus per year to use the bridges. Surely that is an unfair tax on employment in the area. Does the Minister agree that these tolls should be scrapped, and does he agree with the Welsh Government report stating that the economy of Wales would benefit by £107 million a year if they were?

**Lord Ahmad of Wimbledon:** We have of course noted the Welsh Government report but I do not agree with the noble Baroness. When the crossings were put together, particularly the second one, the financing necessitated operating the tolls to recover not only the maintenance costs but the ongoing costs. The concessions agreed at that time still need to be applied. Tolls need to be applied until the end of that concessionary period.

**Lord Wigley (PC):** My Lords, does the Minister accept that employers and trade unions alike see these tolls as a direct tax on the Welsh economy that is militating against the economic development that is greatly needed? What is the Government's estimate of the cumulative backlog of maintenance costs for the bridge? After the contract period is over, who will be responsible for paying for that maintenance?

**Lord Ahmad of Wimbledon:** The noble Lord raises a valid question about the issue of maintenance costs. It is estimated that by the end of the concessionary period, £88 million of the actual costs of construction will still need to be recuperated. On current estimates, on the basis of what is currently collected, a period of one to two years will be required after that concessionary period ends. There is no specific calculation with regard to maintenance costs.

**Lord Kinnoch (Lab):** My Lords, few would argue that a toll was not justified in order to finance the construction and early development of the second Severn crossing. The question now being posed, as it has been posed by the noble Baroness, Lady Randerson, is what is to happen in future. At the very least, should not the toll be hugely modified to cover the essential maintenance costs, while no longer being at a level that will impede the development of the Welsh economy by inflicting unnecessary and abnormal costs?

**Lord Ahmad of Wimbledon:** This Government support the Welsh economy. Indeed, the usage of both crossings has actually shown a marked increase. The noble Lord raises the valid issue of the continuation of the tolling. However, if the tolls were taken away today, that would have an impact on the concession agreement that was reached. For that to be recovered, a further period of time would have to be taken into consideration. That said, at the end of the concessionary period all stakeholders, including the Welsh Government, will be part and parcel of the discussions on the ongoing maintenance and management of the two crossings.

**Lord Brabazon of Tara (Con):** I remind my noble friend that when the Dartford crossing was built, the plan was that when the thing had been paid for the tolls would be stopped. It was the party opposite who decided to continue with them, and they continue now.

**Lord Ahmad of Wimbledon:** I am always grateful for my noble friend's interventions.

**Lord Foulkes of Cumnock (Lab):** Is the Minister aware that in Scotland, all parties agreed to the abolition of the tolls? There have been no adverse effects and it has all been beneficial. If it is good enough for Scotland, why is it not good enough for Wales?

**Lord Ahmad of Wimbledon:** Crossings in Scotland are a devolved matter, as the noble Lord is aware.

**Lord Teverson (LD):** My Lords, will the Minister put travellers' minds at rest and confirm that over the period of this Parliament the Government, through Highways England, will not introduce tolls on new roads in England? Clearly, tolls are a blunt instrument and should not be used for roads because they divert traffic—just as, indeed, the tolls over the Severn have diverted a lot of traffic through the villages of Gloucestershire.

**Lord Ahmad of Wimbledon:** I am sure the noble Lord is aware that where tolls are used, there is a specific purpose. As I have already said, the issue concerning the crossing we are discussing relates to ongoing maintenance. As far as the Government's commitment to the roads programme is concerned, I am sure the noble Lord is aware that we have already committed to £24 billion-worth of road improvements, and that will continue over the next five-year period.

**Lord Forsyth of Drumlean (Con):** My Lords, following the question asked by the noble Lord, Lord Foulkes, could my noble friend assist me? Is there any reason at all why the Welsh Government could not pay for this if they chose to do so?

**Lord Ahmad of Wimbledon:** One of the crossings is actually in England. When we come to the end of the concession period, we will discuss such management issues with the Welsh Government.

**Lord West of Spithead (Lab):** My Lords, talking of Wales, Jones is a very good Welsh name, and 100 years ago today the body of Commander Loftus Jones was washed up on the shores of Sweden, his having fought to the last with his ship at Jutland, surrounded by cruisers and destroyers, manning the last gun even though his leg had been blown off and a tourniquet applied. I am sure the Minister will agree that in our country we are very fortunate to have large numbers of men and women who are willing to put their lives on the line and be brave. In the Navy's case, is it not important that they have ships if they are to look after the country?

**Lord Ahmad of Wimbledon:** As I have said previously from this Dispatch Box, the lessons of history I gain from the noble Lord are always welcome. I put that down to the pages of history, as well.

**Baroness Royall of Blaisdon (Lab):** My Lords, the economic impact of the tolls is felt not just in Wales but in the Forest of Dean. I think the Minister said that there has not been an economic impact study. Will he consider doing one, because the tolls have a huge impact on the people of the Forest of Dean?

**Lord Ahmad of Wimbledon:** The noble Baroness raises a valid point about the people of the Forest of Dean—and, indeed, further afield in Gloucestershire. There have been some calls for a third crossing. That is a case to consider at local level, and I am sure the local LEP will put forward a case. On the economic impact study, once we have reached the end of this concessionary period, we will consider the Welsh Government report and that will inform the final decision on how these crossings are managed in future.

## NHS: Immigration Rules

### *Question*

3.30 pm

*Asked by Lord Hunt of Kings Heath*

To ask Her Majesty's Government what their response is to the Royal College of Nursing report concerning the impact of immigration rules on the employment of foreign nurses within the National Health Service.

**The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con):** My Lords, ensuring we have the right number of nurses is vital. That is why we are taking the issue of nursing recruitment seriously and have prioritised and invested in front-line staff, so there are over 8,600 more nurses on our wards. Health Education England's workforce plan for England for 2015-16 forecasts that, following further increases in the number of training commissions, the proposed levels for nurse training will deliver over 23,000 more nurses by 2019.

**Lord Hunt of Kings Heath (Lab):** My Lords, the noble Lord will know that the RCN report estimates that as a result of the migration rules around 7,000 nurses will be forced to leave the NHS because they do not reach the £35,000 per annum employment threshold. Despite the modest increase in the number of training places, is he confident that that gap can be filled, alongside dealing with the current recruitment crisis, the extra nurses needed for seven-day working, the extra nurses needed for improved patient-staff ratios and the Government's indication that they want to rule out the use of agency nurses in future? When will all those policies be adopted alongside the 7,000 reduction in overseas nurses?

**Lord Prior of Brampton:** My Lords, the Royal College of Nursing figure I saw was closer to 3,000 than 7,000, but in a sense that is not what is important. What is important is that over the long run we train our own nurses in this country. Although we recruit some exceptionally wonderful nurses from places such as the Philippines, it does not seem a good long-term strategy to rely on recruiting nurses, often from third-world, quite poor countries, so I am very pleased that we are going to train 23,000 new nurses over the next five years. That is the right answer to any short-term, temporary shortage.

**Lord Fowler (Con):** My Lords, surely the central point is that we should review the policy of recruiting nurses from overseas, as I think my noble friend is indicating. Should we not in a bipartisan way now concentrate on training our own nurses in this country rather than permanently taking them from other countries, for example, in Africa, which often desperately need their care?

**Lord Prior of Brampton:** My Lords, I agree with my noble friend; it cannot be right for a rich country such as ours to recruit nurses from much poorer countries. I will just say that the Philippines, for example, produces more nurses on a deliberate basis than it needs for itself, so that they can go overseas, usually for temporary periods, not permanently. Interestingly, over the last five years, the number of non-EU overseas nurses working in this country has reduced by 41%.

**Baroness Walmsley (LD):** My Lords, if we need more home-grown nurses, what are the Government doing to address the flood of nurses leaving the profession, and the appalling attrition rate during training? My noble friend Lord Willis's report on the Shape of Caring review showed that every year 20% of student nurses do not complete the year, and 40% of nurses do not complete the first five years in the profession. Since it costs £78,000 to train a nurse, is that not a terrible waste of money, and could we not do more to support student nurses to finish their training?

**Lord Prior of Brampton:** The noble Baroness makes a strong point. The drop-out rate of nurses is between 20% and 30%; it varies hugely from one nursing school to another. I am told that the peak of the drop-out rate is after their first clinical placement, which indicates that the way some nursing schools recruit their students is far from satisfactory. I hope that Health Education England will change the way it remunerates some nursing schools to ensure that they recruit the people with the right qualifications, temperament and vocation before they offer them places.

**Baroness Emerton (CB):** My Lords, the Royal College of Nursing's underlying concern in its report was the safety of patients due to shortage of nurses. The royal college is greatly concerned that there has been a cutback in training places because of the inclusion of overseas nurses over the last three years. Can the Minister see whether the report will result: first, in an

[BARONESS EMERTON]

increase of nurses in training back to the level of three years ago; and secondly, in revisiting the levels of safe staffing?

**Lord Prior of Brampton:** As usual, the noble Baroness is more than familiar with the latest developments in the world of nursing. Health Education England is committed to commissioning an additional 23,000 nurses over the next four years. On safer standards of nursing, I know that she has taken a keen interest in the work that has been done around nurse staffing levels in relation to the numbers of patients. It is the Government's view that the actual decisions about safe staffing should be taken at a local level, based on the acuity of patients on the ward, and should largely be up to the judgment of the ward sister and senior nurses within the hospital.

**Baroness Wall of New Barnet (Lab):** My Lords, I declare an interest as chairman of Milton Keynes Hospital NHS Foundation Trust. How are we to reconcile the dilemma that we have just heard about from the Department of Health and from Monitor—cutting back on agency staff—with the impact that this legislation will have on nurses in our hospital and in many others? It will affect not just nurses; lots of people who work in hospitals, whether in ophthalmics or pharmacy, will have the same kind of issue. How do we reconcile the fact that we are trying to run a hospital that ensures the best experience for patients while this will have the opposite effect?

**Lord Prior of Brampton:** The noble Baroness makes a strong point. There is a dilemma, but we have to differentiate between the long term and the short term. In the long term, it is very important that we develop enough nurses for our own healthcare system. In the very short term, there will be ups and downs. Unquestionably, in the light of the Francis report into the awful happenings at Mid Staffordshire, there has been a spike in demand for nurses, particularly those to be employed in acute hospitals. That has caused short-term difficulties, leading to problems with the agency staffing that she referred to. It is worth pointing out that last year 3,500 nurses—largely from the Philippines—came from overseas to this country. In the short term that provides an escape—a way out, if you like—but it is not a permanent solution.

## Calais: Border Management *Statement*

3.40 pm

**The Minister of State, Home Office (Lord Bates) (Con):** My Lords, with the leave of the House, I should like to repeat a Statement made by my right honourable friend the Home Secretary in another place earlier today.

“Mr Speaker, industrial action by striking French workers yesterday caused significant disruption at the ports of Calais and Coquelles in northern France. This action resulted from a dispute between local trade unions and the owners of the French ferry operator, MyFerryLink. As a result of this disruptive

strike, the port of Calais was shut for a period of over 13 hours and train departures were suspended at the Channel Tunnel rail port of Coquelles. Sadly, the strikers damaged SNCF railway tracks outside the tunnel, which led to the cancellation of all Eurostar services until 6 o'clock this morning. More generally, the disruption caused backlogs of traffic in the Calais area, which presented existing migrants around the town with opportunities to attempt to enter slow-moving lorries.

The French and UK Governments were well prepared for this event. Tried and tested contingency plans were quickly put into place. Despite the extra pressure caused by the French strikers, Border Force maintained border security by following plans to put additional staff in place to search freight vehicles passing through the affected ports during the industrial action and thereafter. All freight vehicles passing through the Calais ports undergo searching by both the French authorities and the UK's Border Force before boarding a ferry or train. During the course of yesterday's disruption and since, the Border Force and the French authorities have successfully identified and intercepted a significant number of would-be migrants.

Last night, I spoke with the French Interior Minister, Bernard Cazeneuve. He was as grateful as I was for the strong co-operation between UK and French authorities during yesterday's incident, and I thanked him for the French police's efforts to maintain law and order in the Calais area. Our two Governments have been working closely and constructively in recent months to bolster security at the juxtaposed border at Calais and other French ports. Last September, Her Majesty's Government committed £12 million to this work. This has led to the installation of fencing around the port of Calais and the approach road and improvements to the layout of the port to speed up flows of traffic and create secure buffer zones for heavy goods vehicles. This is in addition to £3 million spent on the provision of new scanners and detection technology to assist with the searching of freight vehicles and additional dog searching undertaken by contractors. At the port of Coquelles, we have already provided significant investment in upgrading perimeter security and freight-screening technology. We will continue to work with Eurotunnel and the French authorities on installing additional security measures at the site to prevent migrants from making incursions into the port.

More broadly, the ongoing situation in Calais serves as an important reminder of why EU member states need to work together to tackle the causes of illegal immigration in source and transit countries. We are already co-operating closely with the French to tackle the organised criminal gangs that facilitate the movement of migrants into and across Europe. UK and French law enforcement organisations have already had considerable success in dismantling criminal networks behind people trafficking and smuggling on both sides of the channel, resulting in the prosecution of 223 individuals, and Monsieur Cazeneuve and I have agreed to build on this important work. As the Prime Minister and I have repeatedly made clear, the most important step to resolving the situation in the Mediterranean is breaking the link between migrants making this dangerous journey and achieving settlement in Europe.

Traffic on both sides of the channel is moving again. There will, however, continue to be a significant border security operation as the backlogs of traffic are cleared at the affected ports. The inconvenience caused by the French strikers to the travelling public and lorry drivers is deeply regrettable. Though yesterday's incident was caused by events that were beyond the control of Her Majesty's Government, our law enforcement organisations reacted to the events extremely well. I am sure the whole House will want to join me in commending the excellent work done by the Border Force, Kent Police and others on both sides of the channel who have worked tirelessly to maintain border security and minimise disruption to the travelling public. I commend this Statement to the House".

3.44 pm

**Lord Rosser (Lab):** I thank the Minister for repeating the Answer. The situation at Calais has, over time, reflected the humanitarian crisis and the activities of human traffickers, which are both issues that need to be addressed at source. Co-operation between the French and British authorities in their work is to be welcomed, but on the issue of the events of the last day or so, could the Minister say what specific action has been taken to protect British citizens delayed in northern France in the light of reports alleging harassment and threats to car and lorry drivers waiting to travel back to this country—also implied in the Answer—and reports that some hauliers no longer use Calais?

The Answer also referred to the interception of a number of would-be migrants by Border Force and the French authorities. What is the Government's current estimate of the number of would-be migrants who are likely to reach this country as a result of the recent disruption in northern France, and how does that figure compare with the estimated usual number of would-be migrants thought to reach this country through the ports of Calais and Coquelles over a similar period?

**Lord Bates:** To answer the first question, the Home Secretary has spoken to Monsieur Cazeneuve about the safety of British and other travellers travelling to the UK. There is a promise to provide extra resources during this time to help secure vehicles. It is a very fast-moving and difficult situation, as has already been mentioned.

As to the effect on the number of people arriving into the UK, the juxtaposed controls, which are at the heart of this and were actually introduced by the previous Labour Government, have worked very well in Calais, Dunkirk and Coquelles. They are staffed by a pool of about 800 Border Force officers based in France. It is estimated that, in the past year, 40,000 people have been stopped travelling into the UK. The message to take from yesterday is very clear: the UK border was not breached. There was significant disruption for travellers and freight vehicles as a result of the action, particularly for those using the tunnel, but we do not anticipate that having a direct effect on the numbers entering the UK.

**Lord Paddick (LD):** My Lords, the problems we saw in Calais yesterday did not begin with the strike; they began with the plight of people many miles away

in Africa. Will the Government continue to support spending 0.7% of gross national income on foreign aid, as provided for under the Act that was proposed by the Liberal Democrats as a Private Member's Bill and passed by this House in the last Session, to ensure that the reasons these people are seeking to move from Africa into Europe are dealt with at source?

**Lord Bates:** I am very happy to give that assurance. Reaching 0.7% was one of the great achievements of the previous Government and certainly something that we are committed to maintaining. We are providing the second-largest amount of money, in absolute terms, to Syria—some £800 million. We talk about committing £12 million to the work at the juxtaposed borders, but £800 million is going towards helping the people fleeing the awful situation in Syria. That is absolutely the right balance in trying to move this problem forward and tackle it at source.

**Lord Phillips of Worth Matravers (CB):** My Lords, I was one of those trapped in a car just outside the terminal at Calais yesterday, together with a very large number of lorries and their drivers. The road was thick with would-be migrants to this country. I did not feel at all threatened by them—they seemed to be relatively benevolent. But I had great sympathy for the lorry drivers, who were faced with attempts to break into their lorries. I also had great sympathy for this large army of would-be migrants. What steps are being taken to find a permanent solution for their plight?

**Lord Bates:** The juxtaposed controls were introduced in response to the situation at the Sangatte camp. Some interesting things are going on at an international and even a European level—for example, the idea of trying to create secure areas within north Africa where people could be safely returned to and where their applications, if they were genuine, could be processed and tested. We should certainly look more closely at an idea of that kind.

**Lord Campbell-Savours (Lab):** My Lords, in the event of the Italian authorities giving temporary residency to boat people coming in from north Africa and landing on Italian shores, what would the position be at Calais? Would we be able to turn those people back?

**Lord Bates:** There is an issue in relation to Italy. We would like to see the Italian authorities recognise that they have a major crisis on their hands and take care to ensure that, when people arrive in Italy, they are fingerprinted, registered and recorded as the Dublin regulations require. Her Majesty's Government's position is that, if that were to happen in Italy, it would reduce the flows heading north beyond that area.

**Lord Marlesford (Con):** My Lords, will my noble friend confirm that, if non-EU citizens enter the UK from France, they are not entitled to claim asylum in Britain, because the rules require non-EU citizens who arrive in the EU to claim asylum in the first country that they arrive in?

**Lord Bates:** That is what the Dublin accord or regulation requires: such people should claim asylum in the first place in which they arrive. If it is Italy, it should be Italy; if it is Greece, then it should be Greece. That is a principle which everybody has signed up to and we want to see it implemented.

**Lord Pearson of Rannoch (UKIP):** My Lords, in that case, why are these unfortunate people so desperate to come to this country rather than to stay in France?

**Lord Bates:** There could be a whole range of reasons. I am proud of this country; it is a wonderful country; it is a privilege to live here. I have no doubt that many people would want to come here. The point is that we cannot have an open-door policy; we need to have a managed immigration policy for people who have gone through the proper channels to arrive here. People who try to circumvent that clearly need to be stopped.

**Lord Higgins (Con):** Following on from the previous question, has my noble friend noticed the comments by Mr Vaz, the chairman of the relevant committee in another place, who said that the attraction of this country is not simply the benefits system but the fact that illegal immigrants are able to obtain employment?

**Lord Bates:** I do not want to stray into what might be considered a partisan point, but when a country has created 2.2 million jobs while there is still a high level of unemployment in the EU, particularly in France, that will clearly be in the minds of people who are making economic decisions. Economic migrants should be returned—that is not what we are looking for. If people are genuinely fleeing for their lives and for asylum purposes, their applications need to be considered in the proper way.

**Lord Morris of Aberavon (Lab):** My Lords, is there an answer to the question asked by my noble friend Lord Campbell-Savours?

**Lord Bates:** I tried to give one; I accept that it might not have been adequate. I was simply making the point that we would prefer the boat people to be recorded and registered in Italy, as is specified under the Dublin regulations.

**Baroness Masham of Ilton (CB):** My Lords, is there not a risk of contamination of vegetables and food coming into this country when lorries are held up and contaminated with people?

**Lord Bates:** That is a fair point. My noble friend Lord Taylor, the Chief Whip, has mentioned that a lot of that food goes to waste, which is an unfortunate and sad by-product of the industrial action which took place.

## European Union (Finance) Bill

*First Reading*

3.55 pm

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

## Cities and Local Government Devolution Bill [HL]

*Committee (2nd Day)*

3.55 pm

*Relevant document: 1st Report from the Delegated Powers Committee*

### Clause 2: Deputy mayors etc

#### Amendment 18

Moved by **Lord Beecham**

**18:** Clause 2, page 3, line 4, at end insert “, with the consent of the combined authority”

**Lord Beecham (Lab):** My Lords, the amendments in this group relate to the delegation of functions to the deputy mayor who under Clause 2 would be appointed from the members of the authority by the mayor. They relate more generally to the sweeping powers contained in Clause 3 for the Secretary of State to render any function of the authority to be exercised only by the mayor or, even more remarkably, the deputy mayor or any other member or officer of the combined authority whom the mayor might choose. That represents a massive concentration of power in the hands of an elected mayor. It is an unacceptable vesting of power, which he can delegate to anybody, in effect, whom he chooses.

The very authorities that have blazed the trail of innovation that led to this Bill in the Greater Manchester area did so without this effectively unfettered power. The great local government leaders of the past—from Joseph Chamberlain to Herbert Morrison and others, some of whom adorn the Benches to this day—did not have such power. It is unnecessary for the Bill to include that measure.

Amendment 18 would require the consent of the combined authority to the appointment of the deputy mayor and Amendment 20 would require the consent of the authority to the delegation by the Secretary of State of the functions exercisable only by the mayor. Amendment 21 would require the mayor to consult the combined authority on the further delegation of general functions by the mayor to a deputy. Amendment 22 deals with the provision of Section 107D(5) under which:

“Any general function exercisable by the mayor”, may be exercised,

“by the mayor individually, or ... by a person acting under arrangements with the mayor”,

only with the consent of the combined authority. The purpose of this group of amendments is to ensure that the combined authority has some influence over the delegation of hugely important powers otherwise left in the hands entirely of the elected mayor. I beg to move.

**Lord Shipley (LD):** My Lords, I support the main aim of Amendment 18, and will speak in particular to Amendments 19 and 37 in this group. As the noble Lord, Lord Beecham, said, the Bill proposes a massive concentration of power in the hands of the mayor. In the context of the appointment of a deputy mayor, there has to be an appointments process that is understood publicly and has public consent. We cannot have a decision just emerging from a set of private decisions. Our Amendment 19 is designed to make the process more transparent. We do that by saying that the appointment by a mayor of a deputy mayor should be, “subject to approval by the overview and scrutiny committee”, and that approval can be secured, “by a simple majority of members of the oversight and scrutiny committee”, agreeing that the appointment should be made. We also say in proposed new subsection 1(D):

“An overview and scrutiny committee may”—  
at its discretion—  
“in pursuit of making a determination ... hold a confirmation hearing for the deputy mayor”.

That is clearly defined in proposed new subsection 1(E) as meaning,

“a public meeting at which members of the overview and scrutiny committee may question witnesses and where the committee can compel—

- (a) the mayor;
- (b) the proposed deputy mayor; and
- (c) any other persons that the committee considers relevant to attend”.

This is a much better way of proceeding. There are a number of examples around the world where such confirmation hearings are held, and it seems to me that it would be justifiable in this case, given the dangers that we addressed on Monday during our first day in Committee about the creation of a one-party state. So Amendment 37 would require the approval of the appointment of the deputy mayor by the overview and scrutiny committee.

This is an important issue of principle for us, and I hope that the Government will give due weight to the need to ensure that in a Bill which is proposing such a massive concentration of power, some protection of the public interest can be secured by means of our amendment.

**Lord Adonis (Lab):** Perhaps I may ask the noble Lord to reflect on the clear problem that could arise, which is that you might well have a mayor and a deputy mayor who do not get on. The mayor of course is elected with a popular mandate and so has a clear mandate to take office under the provisions of the Bill. It is important that the executive of the combined authority should operate smoothly, efficiently and with a sense of common purpose. Given the limited number

of members of a combined authority, how does the noble Lord propose that a mayor should seek to build relations with a deputy with whom they may have little in common?

**Lord Shipley:** It is possible that the mayor would not get on with the deputy mayor, but what the amendments are trying to secure is the approval of an overview and scrutiny committee of the mayor’s nomination. If the members of the committee refuse, other people could be nominated by the mayor. It does not say much for local government if, among all the leaders of the councils which are members of the combined authority, there is not one who can get on with the elected mayor.

**Lord Tyler (LD):** My Lords, I want to support the view which has just been expressed by my noble friend Lord Shipley and to make a particular point about the process that we are now engaged in. This is an important issue of principle; in this Bill we are being asked to support a very novel procedure for which there is no precedent. I do not have a problem with major reforms, and indeed sometimes I feel that your Lordships’ House is not sufficiently radical, as other Members may be aware. But on this occasion we should pause and think carefully about what we are doing. I draw the attention of noble Lords to the recommendations made by the Constitution Committee, which says at paragraph 15 of its report:

“Although these proposals are the development of an on-going process started in the Local Democracy, Economic Development and Construction Act 2009, we note that they are being taken forward very quickly. There has been no green paper, white paper or draft bill for pre-legislative scrutiny”.

That lays upon us particular responsibilities. When, in the normal course of events, we have had a Green Paper, White Paper and even discussions between the two Houses in a Joint Committee of a draft Bill, obviously such important and valuable proposals that we have before us can be examined in considerable detail.

However, it is an unfortunate fact that shortly after a general election when there is a change of Administration, they want to get going on new legislation very quickly. That is understandable, but it lays upon this House a special responsibility, particularly when a Bill comes to us first. Again, these are new procedures and the Constitution Committee is echoing concerns that we dealt with on Monday when we were looking at the report of the Delegated Powers and Regulatory Reform Committee.

Paragraph 14 of the Constitution Committee says:

“One result is that local government in England is likely to become more complicated, as different combined authorities receive different packages of powers. This is a significant departure from past practice which has operated on the basis of a finite number of different council models. The Bill, by contrast, creates the possibility of bespoke arrangements for each combined authority. It might be argued that the proposed system is a paradigm example of demand-and-supply devolution, responsive to local needs. On the other hand there are real concerns about the complexity of the system that may result, and the degree of asymmetry which these changes may bring about. In particular, there is a potential for a significant divergence between urban and rural local government arrangements”.

[LORD TYLER]

We on these Benches very much welcome the statement constantly made by the Minister that these are bespoke arrangements, but there are potential dangers of confusion, not least in terms of the way in which the people of the areas concerned will view these new authorities. How precisely the relationship between the combined authority and the mayor will work out in practice is critical to that confidence in the new system. It is extremely important that the deputy mayor should at least be seen to be representing the confidence of choice of the wider group in that area, which is currently represented by the constituent authorities.

I entirely endorse the general concern expressed by the noble Lord, Lord Beecham, and hope that the Government will think very carefully indeed about these arrangements before Report.

**Lord Deben (Con):** My Lords, I hope that the Government will in fact do exactly the opposite. That last speech explains why I am so much in favour of what is being proposed. One of the problems with Britain is that we mistake neatness for civilisation. We constantly think that if we get everything in the same sort of box we can then defend it. I want to compliment the Government on producing something that is designed to meet the needs of particular places and which will, in fact, be different from one place to another. There is an idea that it will cause confusion—but confusion for whom, and between what? It will not concern people in one place that, if they stood outside these shores, there would be a difference between their position and some other people's position. Inside, there need be no confusion whatever. It seems perfectly reasonable to say that this is a good answer for a particular place. The Government may have the answer wrong but one cannot argue that the reason they have got it wrong is because it is different from the answer somewhere else. I believe very strongly that it is sensible to do what we are doing.

On the issue of the deputy mayor, the idea that you elect a mayor and then have a situation that makes it difficult for him to have a deputy mayor with whom he or she works is rather odd. I would much prefer to have the system that is being proposed, and if it is argued that we have not done this before, thank God, because we have not been very successful with what we have done before—so let us not be too pusillanimous about doing something new.

We should look at any of the successful cities in the rest of Europe—it is about time that we learnt from the rest of Europe instead of constantly telling them that they should listen to us. The British seem to have a very interesting one-way system: we know it all and tell them, and if they happen to have something that is more successful we complain about it. I want to learn from the rest of Europe because I think there is a great deal to learn. One thing is the way they organise cities. The urban success of most of the countries of Europe compared with us is very notable. Part of that is because we have been foolish enough to remove the local powers of finance and the rest. I accept that; I fought against it and lost, but that is one of those things.

Another part of it is that we have lost the historic position of quite distinguished individuals becoming, in a real sense, representative of their cities. It is suggested that they did that without all these powers; the noble Lord opposite made that point. But we live in a different world. I think that they did it by having those powers, whatever the law said. It is remarkable: if you look at some of the powers that these individuals used, they were very much closer to what is being presented now.

I hope that we will give this a fair wind because we need to give real expression to the feeling of place that, I am happy to see, is growing in our great cities. There has been a gap and I want that gap filled. The way to do that is to let people feel that this is their place. Let us do it differently, so that it fits each of them. Let us not be afraid of real experiment. In particular, let us not muck it all up by insisting that the elected mayor has somebody that they do not want as deputy mayor because that happens to fit some particular view of how you should run a democracy.

**Lord Grocott (Lab):** My Lords, I hope that I am not misrepresenting the noble Lord, Lord Deben. I think that he said the British have an obsession with constitutional neatness, or words to that effect. That is rather odd coming from a Member of this House. The one thing that this House does not have is constitutional neatness, but none the less it works pretty well most of the time. Certainly most of our dealings on constitutional matters show exactly the opposite, if that is an accurate reflection of what he said; we certainly are not obsessed with constitutional neatness. For example, we have accepted for a long time that the government of Scotland is different from other parts of the United Kingdom; this long predates the strong movement that exists at present for independence. But that is not the main point that I wanted to make.

I have great sympathy with these amendments, but only because they are trying to make a silk purse out of a sow's ear, if I can put it like that. They all derive from a kind of fear or anxiety of this potential authoritarian figure without qualification or checks and balances that we are creating in the form of a directly elected mayor. As I have said several times, I infinitely prefer parliamentary systems to directly elected, presidential systems. These amendments express a recognition of what I have always feared about such systems: you elect someone and they can pretty well act in an untrammelled way for the next four, five or six years, or however long it happens to be. These amendments are designed to say, "Let's be a bit worried about this now. Let's write in a number of qualifications that ensure that the mayor is not in a position to do that".

To that extent, I support amendments along the lines being proposed. But—and it is a colossal but—we must recognise that the system we have at present, both in Parliament in the House of Commons and in local authorities up and down the length of the United Kingdom, is one in which the Executive are subject to genuine, democratic checks and balances in the form of a council, or a House of Commons, that checks the Prime Minister or the leader of the local authority to make sure that they do not get too big for their boots,

if I can put it in those terms. That is the joy of that kind of system. If, for some reason or another or for some ideological principle, we decide that it works well in the United States and we ought to do it here—or whatever the motivating factors are behind the obsession that all three parties seem to have with directly elected mayors—we certainly need to make sure that a directly elected mayor is subject to some kind of ongoing scrutiny, and checks and balances on the powers that he or she decides to exercise. So I support the drift of the amendments.

4.15 pm

**Lord Adonis:** My Lords, I would have sympathy with my noble friend Lord Grocott if the mayor were able to act in an untrammelled way. Coming back to the reality of the Bill rather than grand constitutional fears about what might happen if circumstances took a different course, new Section 107C says:

“The mayor for the area of a combined authority must appoint one of the members of the authority to be the mayor’s deputy”.

In fact, the choice of deputy is very severely constrained. The deputy must be a member of the combined authority, which will limit the choice to a small number of people.

The issue before us is not a great constitutional principle of whether the choice of deputy should be constrained in a way that acknowledges the representative credentials of the combined authority—it is so constrained under the Bill—but whether there should be a further process, as proposed by the noble Lord, Lord Shipley, of consent by the scrutiny committee to the choice of one of those members as deputy. This is a practical issue, in my view, not a constitutional issue. The practical issue is that it is important that the mayor, who comes with a mandate, appoints a deputy with whom he or she gets on.

Those of us who have been engaged in these relationships all know that in practice a deputy mayor will not be appointed who significantly constrains the authority of the mayor, because the mayor is sitting there with a large mandate. There are checks and balances. The combined authority has significant powers to constrain the mayor and to agree the mayor’s actions. If the mayor does not get on with or have confidence in the deputy, what will happen in practice is that the mayor will rely on advisers rather than the deputy mayor. That is not a healthy state of affairs. The mayor has a mandate. The mayor is constrained in the choice of deputy to appoint only a member of the combined authority. It seems a constraint too far to require that choice to be agreed by the scrutiny committee. Of course, in the nature of the political relationship between the mayor and the scrutiny committee, the scrutiny committee itself may well be fairly hostile to the mayor. It is perfectly possible that that will be the position that the scrutiny committee takes.

**Lord Shipley:** My Lords, the noble Lord is referring to Amendment 19 but what does he think about his own party’s Amendment 18, which requires the combined authority to agree the appointment of the deputy?

**Lord Adonis:** I would have more sympathy with that because of course that will be the colleagues from the executive of the combined authority agreeing. But

there will still be an issue if it is not possible to appoint a member of the combined authority in whom the mayor has confidence. There are some practical issues here. The choice is already constrained. If you constrain it still further, that will not enhance accountability and democracy but may just oblige the mayor to rely on informal rather than formal officeholders.

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con):** My Lords, I will deal first with Amendments 18, 20, 21 and 22.

Amendment 18 would require the mayor to obtain the consent of the combined authority before appointing the deputy mayor. As the Bill stands, the deputy mayor is appointed by the mayor from the members of the combined authority, as the noble Lord, Lord Adonis, said. The mayor may, if she or he thinks fit, remove the deputy mayor from office and appoint a new deputy mayor. The Bill’s provisions align with a local authority mayor’s current powers to appoint a deputy mayor. In practice, a mayor will consult some or all of the members of a combined authority about a deputy mayor appointment. At the very least, the mayor will consult the person she or he is minded to appoint, and may well take the views of other members of the authority about this.

For mayoral governance to be effective the mayor and the deputy mayor must be able to work together and the mayor must have confidence in her or his deputy, as again the noble Lord, Lord Adonis, said. More significantly, the mayor has been directly elected by the people of the combined authority area and has a clear mandate, a mandate which the deputy mayor will have a role in helping the mayor to fulfil. It would be wrong in both principle and practice for the members of the combined authority to have an ultimate say over who is the deputy mayor, which would be the case if this amendment were made. It is wrong in principle since the mayor, with his or her mandate, needs to be able to have a say over who is the deputy who will assist the mayor to deliver what he or she has promised the voters. It is wrong in practice, since giving the members of a combined authority the ultimate say as to whether a person can or cannot be deputy opens up the possibility of appointments being made which would frustrate or hinder the mayor and create division almost from the outset, as the noble Lord, Lord Adonis, said.

We need to remember the purpose of all this. It is not about forms of governance for their own sake. It is about putting in place the governance needed to support that devolution of powers which is now so urgently needed, as my noble friend Lord Deben said, if this country is to achieve the economic competitiveness and productivity on which the prosperity of all depends. Requiring the combined authority to consent to the deputy mayor’s appointment is not a sensible check or balance on the exercise of executive functions. It risks creating arrangements which frustrate the exercise of these powers, and hence I invite noble Lords not to press this amendment.

Amendments 21 and 22 would likewise simply risk frustrating the exercise of the mayor’s executive functions, and hence frustrate the very purpose of a devolution

[BARONESS WILLIAMS OF TRAFFORD]

deal. These amendments would require a mayor to consult the combined authority whenever the mayor wishes to delegate a general function to the deputy mayor, another member or, indeed, an officer. As the Bill stands, the provisions relating to delegation align with the policy for a local authority mayor or leader, who may arrange for the discharge of functions by members of the executive or officers of the authority. Although the mayor may delegate functions, the mayor remains accountable for any actions taken. The mayor is accountable directly to the electorate.

I understand the motivation behind these amendments, which is to ensure that a mayor is indeed effectively held to account, that the executive actions of the mayor are transparent and that people can have confidence that the mayor will properly exercise his or her functions; in short, that while there is the capacity and scope for strong executive action, there are equally the right checks and balances to give that confidence, to ensure accountability and to deliver transparency. However, confusing executive and non-executive actions by involving members of the combined authority in decisions such as how the mayor decides to do his or her job is not providing these checks and balances. These are provided by strong and effective scrutiny, as we will discuss.

I turn back to Amendment 20, which would require the Secretary of State to obtain the consent of the combined authority before making an order providing for a function to be exercisable only by the mayor. I must make clear again that a devolution deal will be agreed only where there is consent from the combined authority or, in the case where the deal also creates the combined authority, the constituent councils. The devolution deal would set out the functions to be exercised by the mayor—the mayoral functions—and those that are to be exercised by the combined authority. The details of the deal will be implemented through an affirmative order, so the arrangements regarding the scope of the mayoral functions will also be fully scrutinised and approved by each House of Parliament, and any order creating or modifying a combined authority is made with the consent of the constituent councils. Hence, we are very clear that the combined authority and/or its constituent councils must agree which functions are mayoral functions and which functions are to be exercised by the combined authority. I am ready to look to ensure that the Bill makes this clear in every circumstance that can arise.

I turn to Amendments 19 and 37. As the Bill stands, the mayor appoints a deputy mayor from the members of the combined authority. This is an action that properly belongs to the mayor and aligns with a local authority mayor's power to appoint a deputy. The mayor has been directly appointed by the electors, with clear responsibilities and the accountability that goes along with them, and a deputy mayor will have a role in supporting the mayor to fulfil these responsibilities. For an effective partnership and the successful devolution of powers, the relationship between the mayor and deputy needs to work. The requirement for an overview and scrutiny committee to approve the appointment, and to have the power to void it, may frustrate and very much damage this relationship. In practice, a mayor will consult some or all the members of a

combined authority about a deputy mayor appointment, and may well take the views of other members of the authority about this. Adding an extra requirement of consent for a deputy mayor's appointment is to add an extra layer of bureaucracy, which we are so keen to avoid, and may obstruct the successful devolution of powers that we are trying to achieve.

The noble Lord, Lord Shipley, asked about confirmatory hearings. Those hearings are used but their place is usually where the executive is making an appointment to a public office. The appointment of a deputy mayor is not in this process; rather, it is part of the process for creating the executive.

My noble friend Lord Deben made the point about the clarity of the Bill, which I commend the Government for doing, and the need for individual areas to do exactly what fits their area; hence the bespoke nature of each deal. With these assurances and the explanations that I have given, I hope that the noble Lord, Lord Beecham, will agree to withdraw the amendment.

**Baroness Hollis of Heigham (Lab):** My Lords, maybe I should know this, and I do not, but what provision is there without going via the courts for the public removal of a mayor who is regarded as underperforming in their duties? A lot of the Minister's comments were about transparency, accountability and the authority and legitimacy that they get from direct election, and therefore that they must have a deputy who is aligned with their own views. I understand that argument, although I do not necessarily accept it. But at the moment, within Parliament and certainly within local government, most leaders—apart from having to win their elections every four years—may be required to stand for re-election annually for votes of confidence by their group. They can be removed if they are not regarded as performing appropriately.

On the assumption that a mayor may be elected only every four years or every five—we do not yet know, as we have not had that discussion—how is the accountability to the electorate to be exercised unless the Minister is willing to consider some sort of recall motion? It is clear that the combined authority does not appear to have any leverage over the mayor, in the way that a group would at the moment over the leader of their local authority. Maybe I should know this and it is in some subset of the briefing on the Bill but I cannot find out how, short of going through the courts, you could hold the mayor to account for their actions until that mayor stands for re-election, which may be four, five or six years down the line.

**Baroness Williams of Trafford:** My Lords, the noble Baroness has answered the first part of that question herself because it is indeed through the ballot box that the mayor could be removed. I do not know whether she is aware that there is an assumption now in local government that leaders have four-year terms, unless they are indeed removed at the ballot box through election.

**Baroness Hollis of Heigham:** But does the Minister agree that the leaders would have four-year terms unless their group decided that they were not appropriately

fulfilling the functions for which they were chosen, in which case there would be either quiet or less-quiet discussions, and that person would stand down?

**Baroness Williams of Trafford:** My Lords, authorities which fail to fulfil the duty of best value go into statutory intervention. If things were that bad, that would be the process but there is now an in-built assumption in local authorities that a leader has a four-year term, unless removed by full resolution of the council. However, for the mayor it would be via the ballot box. On the recall mechanism, there is no such mechanism within local authorities and this provision multiplies the local authority provisions up. If a mayor is corrupt we are on to a different level, as I think the noble Baroness understands.

4.30 pm

**Baroness Hollis of Heigham:** I understand absolutely that it is a different ball game when corruption is involved, as with some of the issues associated with Tower Hamlets. I am not talking about that. My experience of both district councils and county councils is that there may be a regular turnover of leaders within the four years if they are not driving through the agenda on which their group fought the election and they have failed to deliver the manifesto. Leaders on Norfolk County Council, in that case from the opposition party, have been overturned. In my city council, the leader has to be re-elected each and every year and there is occasionally, if not regularly, a change of leadership in the course of that because the leader has lost the confidence of their group. That is perfectly proper and usually happens because the ward councillors, one-third of whom may have had elections each year, are getting that feedback on the door-step from their constituents.

In other words, there are quite effective, if subtle, ways of ensuring that the current leaders of local authorities continue to deliver their manifesto and carry the consent of their group, who are also regularly standing for election. However, as far as I can see, once a mayor has been elected, he or she is free from any such scrutiny, let alone from recall, by his or her electorate. The leader of a group is indirectly elected, and can be recalled by that group; the mayor is directly elected but apparently cannot be recalled by the electorate. Could the Minister help me on this?

**Baroness Williams of Trafford:** I certainly can. With other mayoral systems—for example, the Mayor of London and mayors elsewhere—accountability and the way to change the status quo is via the ballot box. There is no provision for recall within local authorities that I know of. Unless something has recently been introduced, there is no mechanism of recall. In the discussion that the noble Baroness is having with me—I am sure she will tell me if I am wrong—there is perhaps an additional suspicion around a mayor which there is not around local authority leaders. I take her point that local authority leaders are removed in subtle or not so subtle ways, depending on where you are, but for mayors the ultimate accountability is via the ballot box.

**Lord Woolmer of Leeds (Lab):** Can the Minister enlighten me on one point and agree with me on a second? First, when it is said that the deputy mayor must be a member of the combined authority, does that mean a councillor on one of the local authorities that comprise the combined authority rather than someone on the board, as it were, of the combined authority? Secondly, would she agree with me that, in practice, once one moves away from London, the number of local authorities that comprise the combined authorities is relatively small? We are not talking about 30 or more—in South Yorkshire it is four and in West Yorkshire five or six. It is inconceivable that an elected mayor could make an appointment without careful consultation and discussion with the leaders of that small number of constituent local authorities. In practical terms, the mayor would have to consult carefully, as he or she would consult carefully on any policy issues, because without that the mayor could not govern effectively. There is a degree, I think, of suspicion about the mayor. If a mayor is appointed, that person is not going to be dealing, in most parts of the country, with 30 or 40 local authorities. The proposal being put forward is unnecessarily cumbersome and flies in the face of the reality of how the mayor would have to work.

**Baroness Williams of Trafford:** I thank the noble Lord for that very useful intervention. First, he asked whether choosing a deputy mayor from the combined authority would mean choosing a councillor. Yes, it would, and that councillor would in fact be a council leader. Could the mayor make an unpopular appointment? He could, but it would be a very foolish mayor who made an unpopular appointment or chose someone who did not resonate and engage with the other members of the combined authority.

**Lord Woolmer of Leeds:** I am grateful to the noble Baroness. Am I right in understanding that it must be not simply an elected councillor but a leader of one of the constituent authorities? In practical terms, that means that a mayor would look extremely foolish if he or she selected somebody as a deputy who was not accepted by the leaders of a small number of local authorities.

**Baroness Williams of Trafford:** The noble Lord is absolutely correct.

**Lord Storey (LD):** My Lords, I have a slight correction on this. In those cities with elected mayors—that is, Liverpool—those elected mayors are not councillors. They have to give up their local council position when they become the elected mayor.

**Baroness Williams of Trafford:** The noble Lord is absolutely correct.

**Lord Stoddart of Swindon (Ind Lab):** My Lords, we must take into account and deal with the important point raised by the noble Baroness, Lady Hollis, which would mean that an elected mayor, whatever he or she does, cannot be dismissed. That could be a very serious

[LORD STODDART OF SWINDON]  
 problem. After all, the House of Commons in the last Parliament decided that Members of Parliament could be recalled if they do not produce the goods or do their jobs properly. Surely an elected mayor with enormous responsibilities ought to be able to be removed under certain circumstances in the same way as Members of Parliament.

**Baroness Williams of Trafford:** My Lords, Members of Parliament can be dismissed via the ballot box. If Members of Parliament behave in a way that brings Parliament into disrepute by their actions, they can have the Whip withdrawn from them. In the same way, a mayor who behaved in a disreputable manner could see intervention by government and be dealt with in that way. There are checks and balances. We are talking about levels of unpopularity, bad behaviour or behaviour ill-fitting the position of mayor.

**Lord Stoddart of Swindon:** The point I was making was that in the last Parliament new legislation enabled electors to get rid of their MP by a certain process if they did not come up to scratch. That was something new and never done before. I cannot see why Members of Parliament should be able to be recalled but not a directly elected mayor.

**Baroness Williams of Trafford:** My Lords, there is not a process for local authority councillors to be recalled—or for local authority leaders or any other local authority mayors. This would be an anomaly were it to be introduced.

**Baroness Hollis of Heigham:** I will stop pushing on this point, but I have one last question that I am still not clear on. That may be because we have not yet got to the point about the length of the mayor's term of office and the co-terminosity or otherwise of other elections. However, one could easily see a combined authority with, say, five bodies where one or two might be NOC while the other three, because their elections do not occur at the same time as the mayoral elections, might have leaders of different political persuasions so that none of the leaders was of the same political persuasion as the directly elected mayor. I assure the Minister that, as I am sure she is aware, that will happen. We have seen it between elections for local government and elections for MPs where we get very different results. Indeed, some people quite deliberately cross-vote to get precisely that outcome. I have seen that in Norwich on many occasions. What then happens if the mayor has no leaders politically sympathetic to the views on which he was elected?

**Baroness Williams of Trafford:** My Lords, the noble Baroness makes a very interesting point. Other points have been made at length in this House about single-party states, but in terms of election periods or cycles being out of kilter because of different types of elections, I would imagine—although I will confirm this with the noble Baroness—that they are the sorts of things that would need to be ironed out when a devolution deal was done on how that combined authority's elections

would pan out. I am thinking of the Greater Manchester situation, where we are in thirds and all synchronise nicely. But I can foresee that process.

**Lord McKenzie of Luton (Lab):** My Lords, I am not sure whether I am going to be helpful to the Minister, but would it be possible that, between elections, the Secretary of State could remove all the functions from the mayor, so that they would stay with the combined authority members?

**Baroness Williams of Trafford:** My Lords, if that were to happen, the Secretary of State would have to disband the combined authority and something in its place would have to be set up.

**Lord McKenzie of Luton:** Perhaps the Minister would reflect and write on that point.

**Baroness Williams of Trafford:** I would like to correct the comment that I have just made and come back to it in a future group, because I have clearly got it wrong.

**Lord Beecham:** That just illustrates the complexity of the matters that we are discussing. I refer to one matter that the Minister mentioned, when she said that the deputy mayor must be the leader of a council which is part of the combined authority. I am not sure whence that arises, as it is not in the Bill. It may or may not be the case that combined authorities consist purely of council leaders.

**Baroness Williams of Trafford:** The noble Lord is correct, in fact—it would usually be a local authority leader, but would not necessarily always be. It has to be a member of the combined authority, but it would in usual circumstances be a leader.

**Lord Woolmer of Leeds:** That comes back to the clarification that we asked for—and we are getting a little lost in it. Is an elected councillor in one of the constituent authorities who is not a leader a member of the combined authority in the sense that it is being used? In other words, could a mayor choose somebody as a deputy who was a back-bencher in any of the local authorities, to put it simply, and not a decision-maker on the board of the combined authority? Would that be possible?

**Baroness Hollis of Heigham:** That is a good question—particularly if there were no leaders in political sympathy with the mayor and therefore he or she had to scrabble around to find a deputy and had to go to a minority party, which might be very minority indeed.

**Baroness Williams of Trafford:** My Lords, the deputy mayor has to be a member of the combined authority, not just a councillor in one of the councils.

**Lord Beecham:** So the shape and construction of combined authorities may vary, but there will be a distinct membership, as the Minister has just confirmed, of the body defined in whatever way ultimately emerges

as the combined authority. That much is clear to me—it may not be clear to others, but then so much of this debate is, I suspect, not going to be entirely clear to all of us. I think we can move on from that point, unless the Minister wants to come back.

**Baroness Williams of Trafford:** I just want to confirm that the noble Lord is correct.

**Lord Beecham:** Well, we have agreed on something. Whether there will be any more agreement before the afternoon is over remains to be seen.

Much of the discussion that has taken place has been about the appointment of deputies. The noble Lord, Lord Deben, and my noble friend Lord Adonis have spoken particularly about the question of the choice of deputies. That is an important issue, but by no means the only issue.

4.45 pm

To me, the major concern is the question of the delegation of powers by the mayor to deputies or, as the Bill makes clear, to any other member or officer of the combined authority that the mayor might choose—not just a member of the combined authority but an officer, whether a council leader or otherwise. That is a significant power that raises significant questions of accountability. It is those matters in particular that the amendments that I have moved seek to rearrange, requiring, as they would, consent to the appointment of a deputy mayor from the combined authority and, more particularly in relation to the delegation of functions exercisable only by the mayor—a decision which would be made by the Secretary of State and limited to the Secretary of State—it seems to me that they ought to be matters on which the combined authority would agree. The issue goes further than that, though, because there may well be a further delegation of general functions by the mayor to a deputy. The amendment requires only that the mayor should at least consult the combined authority about those matters; at the moment, there is no requirement to do so under the Bill.

Amendment 22, as I said, deals with the provisions in new Section 107D(5), where any general function may be exercised by the mayor or any individuals appointed by the mayor. Again, the amendment seeks to ensure that there is a degree of consent to what could be a very extensive delegation of powers. The experience of the past few years is that not all mayors have been as responsible as one might have wished. There have been a number of cases in which mayoral powers have been exercised in a way that ultimately has led people in the locality, not just councillors, to reject the mayoral role. As I say, three councils have abandoned it. We are not necessarily dealing with people whose judgment can be relied on, and all that we are seeking here is that there should be a proper measure of consultation between members of the combined authority and the person who would be vested with these very wide powers by the Bill.

**Lord Tyler:** The noble Lord of course makes a very important point. One of our difficulties at the moment is that we have not yet reached the role and responsibility

of the scrutiny committees. In addition to the point that he is making, consultation with the combined authority on these matters of delegated powers, which is absolutely valid, may well be something that we think in due course the scrutiny committee should have some sort of role in. At the moment, though, we have no idea what that role might be. I entirely endorse the point the noble Lord is making but reinforce it with my own point. As often happens in your Lordships' House, we are trying to take carts and horses in the right order but they tend to get muddled up together.

**Lord Beecham:** I am grateful to the noble Lord. He will be less grateful to me when I say that I am afraid I do not agree with the amendment that his noble friend Lord Shipley moved in relation to the role of the overview and scrutiny committee in the appointment process; I do not think that that is a proper function for such a committee. We will come later, as the noble Lord has just said, to the functions of the overview and scrutiny committee, and it seems to me that its job should be to look at how the mayor and the combined authority are working, in terms of both looking at policy as it is made and looking forward to future policy. I do not think it appropriate for those committees to play a role in making the appointments, and we will not be supporting the noble Lord, Lord Shipley, in that respect.

Between us, the noble Lord, Lord Shipley, and I led Newcastle City Council for something like 20 years—with varying degrees of success over time, no doubt. There have been many distinguished local authority leaders. Right now I am looking at a distinguished local authority leader taking his place on the Benches behind the Minister, who was herself a distinguished council leader. My noble friend Lord Woolmer was a distinguished council leader, although I detect a slight difference of opinion between us on some of these matters today—but then nobody is perfect.

It seems to me that those who see in the mayoral system something infinitely better than anything we have had before are making a great mistake. What worries many of us—certainly on the Labour Benches, I think on the Liberal Democrat Benches and perhaps in other parts of the House—is the enormous concentration of power which will be granted or withheld by the Secretary of State in a manner which diminishes accountability locally. For those reasons, we shall certainly wish to return to these matters.

**Viscount Eccles (Con):** Would I not be right to say that the noble Lord is going to have at least part of the privilege of deciding whether the north-east wants to have a system with a mayor and the devolved powers that will go with there being a mayor? If he does not like the system, I assume he is going to decide that the north-east should not have a mayor in its combined authority.

**Lord Beecham:** Much as I would like to be able to take decisions on behalf of the whole population of the north-east, I would not be able to do that. My view, which may be shared by others, is that we would much rather not have imposed upon us a requirement

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for an elected mayor for the combined authority which, as the noble Viscount well knows, would run from the Tweed virtually to the Tees and from the Cumbrian border to the North Sea coast—a very large area and somewhat different from some of those which have been mooted. Of course, the people will not be given a choice as matters at present stand. It will be a take-it-or-leave-it decision that councils or the combined authority will have to take on behalf of the people; otherwise, it is said, they will not receive the powers. That is part of the problem.

So far as the detailed arrangements are concerned, our amendments would deal with the situation where, by agreement or otherwise, a mayoral system is created within the combined authority area. We will need to return to some of these matters on Report. For the moment, I beg leave to withdraw the amendment.

*Amendment 18 withdrawn.*

*Amendment 19 not moved.*

*Clause 2 agreed.*

### **Clause 3: Functions**

*Amendments 20 to 23 not moved.*

#### *Amendment 24*

*Moved by Lord Beecham*

**24:** Clause 3, page 4, line 31, at end insert—

“( ) Where the geographical boundary of a combined authority does not correspond with the area of the police and crime commissioner in question, the Secretary of State shall bring forward proposals to make alternative arrangements.”

**Lord Beecham:** My Lords, this is a probing amendment in relation to the controversial proposal under new Section 107E to permit mayors to assume the role of police and crime commissioner. In fairness, this is not a case in which the Government are imposing that as a requirement—at this stage, at any rate—but it is an option on the table that the authorities in Greater Manchester have chosen to adopt, which is no doubt satisfactory at least to the police and crime commissioner in that area, since he has become the interim mayor of Greater Manchester. He is a very able person, and if we have to have somebody in that role I have no doubt he will do an excellent job.

However, the problem that may arise, and does arise in the case of the north-east, is that the boundaries of the combined authority include more than one police and crime commissioner area. In the north-east we have two police forces and two police and crime commissioners, one for Northumbria and one for Durham. The same difficulty may well arise in other areas, such as the West Midlands or the south-west. Not only may there be two or more distinct police forces with their own police and crime commissioners within the boundaries of a proposed combined authority; there may be police authorities and areas represented by police and crime commissioners which are only

partially within a combined authority. There may be an overlap between the boundaries of a combined authority and police authority areas.

It seems that in that event, it would be inappropriate simply to consign all or part of an existing area to the responsibility of a combined authority mayor. Therefore, the amendment calls on the Secretary of State to propose alternative arrangements to meet these geographical difficulties, if I may put it in that way. I invite the Minister to explain how the Government intend to approach the issue and what kind of parliamentary approval would be sought. For example, would further amendment to the legislation which established the position of these police and crime commissioners be required? I hope the Minister can deal with that point today, but if not, perhaps it can be discussed before we reach Report. I beg to move.

**Lord Shipley:** My Lords, I agree with the concerns expressed by the noble Lord, Lord Beecham. I want to ask the Minister about the nature of a police and crime commissioner appointment. I recall that when we debated the terms of those appointments in your Lordships' House not that long ago, these were clearly full-time appointments—substantial salaries were to be paid. Does the Minister agree with me that if a decision can be made that an elected mayor can undertake those functions along with all the other functions that may be devolved or delegated to them by the Secretary of State, it is very hard to see the basis on which a PCC appointment should be seen as full time? If it should not, what is the implication of that for other police and crime commissioners?

**Baroness Williams of Trafford:** My Lords, Amendment 24 would insert a new provision within new Section 107E to require the Secretary of State to bring forward proposals to make alternative arrangements where the geographic boundary of a police and crime commissioner area does not correspond, as noble Lords have said, with the area of a combined authority.

New Section 107E would enable the Secretary of State to provide, by order, that the mayor of a combined authority area would exercise the functions of a police and crime commissioner, subject to the necessary consent from the appropriate authorities. If such an order were made, new Section 107E would also require the Secretary of State to provide that there is no separate police and crime commissioner for the area of the combined authority. The Bill also enables secondary legislation to be made which creates the position of mayor for the area of the combined authority, while retaining a separate position of the police and crime commissioner for the policing area.

The Bill does not prevent a mayor also being given police and crime commissioner functions where the relevant combined authority area does not correspond to a single police area. Should it be considered appropriate to transfer functions to a mayor in such a case, powers in existing legislation would enable police areas to be altered to facilitate such a scenario. On this basis, mechanisms are already available to enable alternative arrangements to be made. However, as we know, Greater Manchester's devolution deal is the only one to date

which will include a directly elected metro mayor also taking the police and crime commissioner function. We also know that in this area the police force boundary corresponds to that of the combined authority.

We will consider any future proposals to transfer police and crime commissioner functions to the mayor for a combined authority area on a case-by-case basis, and will transfer these functions where appropriate. Clearly, geographic issues will be an important consideration in this regard. With these explanations and assurances, I hope the noble Lord will feel content to withdraw the amendment.

**Lord Beecham:** My Lords, I do not know whether the noble Baroness has answered the question put by the noble Lord, Lord Shipley.

**Lord Shipley:** I am quite happy to have the question answered later. We will be going on to another set of amendments that deal with the nature of the appointment of a police and crime commissioner, and I would be very happy if the Minister wanted to reply at that point.

**Lord Beecham:** My Lords, as I indicated, we will not be pressing this matter at this stage. I therefore beg leave to withdraw the amendment.

*Amendment 24 withdrawn.*

*Amendments 25 and 26 not moved.*

5 pm

*Amendment 27*

*Moved by Lord Beecham*

27: Clause 3, page 4, line 42, at end insert “all”

**Lord Beecham:** My Lords, my noble friend Lord McKenzie is resting temporarily but will occupy centre stage shortly, which will give me some relief and perhaps your Lordships as well.

This group of amendments deals not so much with the boundaries of the proposed arrangements for police and crime but with the functions of the police and crime commissioner that would be taken over by an elected mayor if a combined authority and its mayor chose to take that particular route. The amendments clearly address the controversial concept of transferring powers and functions. PCCs were created, as we have heard, with a great fanfare three years ago and were met by a public response of virtually total indifference.

The Government’s proposals in new Section 107E at least have the virtue of requiring the consent of the appropriate authorities. Amendment 27 makes it clear that this consent must be unanimous. However, the section does not deal with the issue raised in the debate on the previous amendment of where the boundaries do not coincide. That is why Amendment 24—to which we will return—requires the Secretary of State to,

“bring forward proposals to make alternative arrangements”.

It will be recalled that the turnout in the PCC elections plumbed the very depths of political engagement, barely exceeding the total share of the vote achieved by the Liberal Democrats in the recent general election. However, the notion that the mayoral role should encompass that of the police and crime commissioner gives a whole new meaning to the hallowed phrase “one man, one vote”, given the more extensive powers vested in the so-called metro mayors. One man’s vote would, as the Bill stands, effectively be the only vote that would count over a huge range of budgets, services and policies, and, if the Bill’s permissive proposal were activated, over a huge area of public policy and administration in relation to police and crime. That becomes part of the mayoral function, possibly carried out by the mayor himself or herself, or possibly delegated—and we have talked a little about delegation.

The question is: what is the Government’s long-term vision for the police service? Do they see a mix of mayoral and PCC models, and how sustainable would such a binary system be, especially in the light of hugely difficult financial pressures across all public services? Already the police service is suffering significant cuts, with more apparently to come as the Home Secretary airily dismisses concerns about what is happening to our police service.

Amendments 29 to 32 deal with a range of issues. Amendment 29 establishes the need for a proper appointment process where the PCC functions are to be exercised other than by the mayor himself. Apparently it will be for the mayor to choose whether that will be the case or not. Amendment 31 gives the Secretary of State power to allow the equivalent of the police and crime panel, which currently exists, to suspend any relevant person exercising PCC functions on behalf of the mayor. Amendment 32 applies the same disqualification procedure for a mayor’s appointee to a PCC function. There needs to be some mechanism to deal with that situation, which does not on the face of it appear to be dealt with in the Bill.

Finally—and, it might be thought, crucially—Amendment 30 requires the Secretary of State to provide for the protection of police budgets transferred to the mayor, should the mayor opt to take the police and crime commissioner functions into his functions and those of the combined authority. That would be an important safeguard, should that take place. It would effectively ring-fence the expenditure which hitherto had been the responsibility of police and crime commissioners and, before that, of the police authorities. I trust that the Minister will be able to give some assurances about that crucial financial issue. I beg to move.

**Lord Shipley:** My Lords, a number of issues arise from this group of amendments. I look forward to the Minister’s response to the point that I raised in the debate on Amendment 24. I am getting very confused about the Government’s proposals for the election or appointment of police and crime commissioners. The noble Lord, Lord Beecham, raised a set of points that need to be very carefully examined and responded to. Therefore, in addition to the question that I have already posed about whether or not these are full-time appointments, I am really very concerned about the

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public interest. For example, will the general public know when a mayoral election is taking place that the person elected as mayor may, in due course, also become the police and crime commissioner? If there is a set of elections for these full-time posts now, what are the implications and how will it work for someone standing as elected mayor who may then become the police and crime commissioner?

Interestingly, in the Bill, the Government have proposals to suspend or disqualify a PCC, but, as I understand it, the Bill does not provide similar powers for the suspension or disqualification of the elected mayor. We have to tidy this up. At the moment, we have elections for a police and crime commissioner. Will the election of a mayor include clarity in advance of the ballot that they are also a candidate to become the police and crime commissioner? We seem to be giving the Secretary of State enormous power to change the terms under which an elected mayor has been elected, to enable them to do something else—become the PCC, which is, by its nature, a full-time post.

I am absolutely at one with the noble Lord, Lord Beecham, and the amendments that ask for an appointments process. If we do not have an electoral process for the PCC, surely there should be an appointments process if the person elected mayor is also to become the police and crime commissioner.

**Lord Beecham:** My Lords, I entirely agree with the noble Lord. I apologise for omitting reference to two amendments in my name, which partially deal with the points that he has made—Amendments 31 and 32. The Bill permits the suspension of a mayor's PCC role, and Amendment 31 would allow for any person who has had a PCC function delegated to them by the elected mayor to be suspended also. Similarly, where there is a disqualification of a mayor's PCC role, the amendment would allow for the disqualification of any person who has had that function delegated to them. I apologise to your Lordships for not having referred to those points in my relatively brief opening remarks. I hope the Minister will be able to deal with them in due course.

**Lord Liddle (Lab):** My Lords, I hesitate to disagree with my noble friend Lord Beecham, for whom I have enormous respect. However, my recollection of the police and crime commissioner thing is that, when it came to this House a few years ago, on this side of the House we all thought that it was a pretty bad idea. We were rather confirmed in that view by the fact that the percentage polled by these people in the elections was pathetic and they really have very little democratic legitimacy.

Certainly in my own area, the commissioner is seen to regard himself as a very big noise, to be driven around in chauffeur-driven cars at public expense, employing advisers on his behalf. Surely we want to get rid of all this. Surely, being able to transfer those functions into the functions of an elected mayor is something we should welcome. The whole point of an elected mayor is to bring a breath of fresh air into the democratic politics of local government. I have devoted

not nearly as long a part of my life to local government as the noble Lord, Lord Beecham, but I have done about 15 years of service one way or another on local authorities and I think the elected mayor idea has the potential to bring democratic life to big cities and to introduce a new style of politics. If we are to have elected mayors, the police and crime function naturally fits in.

There are obviously boundary issues that someone has got to sort out, but that must be the Secretary of State—no one else can do it. The idea that everything has to be done by the agreement of existing authorities is a recipe for the status quo, and I feel that we are somehow on the wrong track.

**Lord Storey:** My Lords, it has to be about more than swapping the police and crime commissioner's police car for the mayoral car; the appointments process is hugely important. However, I want to speak to Amendment 28 in the name of the noble Earl, Lord Listowel. Unfortunately, he cannot be here at the moment, so I volunteered to say a few words on it. It makes perfect sense—

**Baroness Hollis of Heigham:** I wonder whether the noble Lord might withhold his comments. A very important issue is raised by that amendment, but perhaps we could continue to explore the issue that we are on and then move on to the new amendment.

**Lord Storey:** I am awfully sorry, my Lords. As I sat down, I squeezed my mobile phone and suddenly a voice was saying something into my ear, so I did not hear a word that the noble Baroness said. I mean that as no disrespect.

I shall try to continue. Amendment 28 is quite clear. If an elected mayor takes on the position of police and crime commissioner, we should be clear as to what those functions and roles are. I have, and had, grave reservations about the whole notion of police and crime commissioners, but we have them. If we look throughout the land, we see that they have interpreted and developed their powers in all sorts of interesting ways. Not only did the Select Committee's report show that there have been significant variations in the interests and approaches taken across the country; it criticised the weak accountability of the police and crime commissioners. The noble Earl, Lord Listowel, suggests in his amendment that we might have an opportunity to develop the policing and crime functions should they taken be taken up by an elected mayor.

5.15 pm

**Lord Grocott:** My Lords, having listened to the debate so far on the various amendments, I am mightily glad that I am not the Minister. I hope that this does not sound patronising, but she has handled this Committee with good humour and has attempted to answer all the questions. However, my word, if she can square this particular circle of fitting the police and crime commissioners into directly elected mayors, that would be an achievement worthy of note and a chapter in *Erskine May*.

We have to have a history lesson for a moment. I do not know where the idea for police and crime commissioners came from—whether from the Liberal Democrat part or the Conservative part of the coalition.

**Lord Shipley:** Not guilty.

**Lord Grocott:** It is always interesting to unravel these bits and pieces. We might test a few more policies on that basis. So it was a Conservative policy to have police and crime commissioners, but I think I am right in saying that it was Liberal Democrat policy to have the first election in November. I do not think we can remember that particular contribution with great affection and admiration, or wish to repeat it. But the system was set up with grand language surrounding its inception, stating that in this crucial area of policing there should be a democratically elected leader accountable to the public, so that the public know whom to go to for this defined area of public life—all police and crime activity and policy in a particular part of the country. At least that was a clear objective. It fell at the first hurdle, as some of us predicted it would, because of the appalling turnout of 15% overall—in an area I know very well, Stoke, it was 9%. But at least there was clarity about the objective and the function that was being addressed.

This is where there is complete confusion. I am sure the Minister will try to square this circle, but I fear she will find it extremely difficult. We have police and crime commissioners, which for all their faults and criticisms were about a defined, agreed policy and pattern common across England. However, the virtue, almost, of the devolution pattern that we have discussed at such length is that it will be in different areas, with different functions and different managerial styles, and arranged differently between groups of leaders and the Secretary of State. If it is not completely random, its whole strength and legitimacy is that it is enabling and there will be no common pattern.

Now an attempt is being made to graft an agreed common pattern about a specific and very important service on to the myriad different structures that are planned for devolution, largely regarding directly elected mayors. It simply cannot work for all the reasons that have already been spelled out. How on earth will people know when they are electing a directly elected mayor what pattern will be established as to when the elections will take place? I will not repeat all the questions that have already been asked, but I can at least spell this fundamental problem out. We are trying to graft a common pattern on to a randomly different pattern across Great Britain.

It is almost beyond the power of parliamentary counsel to answer all the questions that are being raised in this debate. I wish the Minister well, if just for the sheer fun of watching someone try to square this circle. But surely the time has come to acknowledge that, worthy though some of the objectives may be in having police and crime commissioners directly elected, somehow or other this needs to be started from scratch. If we are to have devolution, police and crime must be part of that devolution package and there must be some consistency in the service across the country as to the type of devolution structure that will be applied in different areas.

**Baroness Hollis of Heigham:** My Lords, I support my noble friend Lord Grocott, who is absolutely right. Let me give an example. In many of the shire counties there may well be a combined authority around the leading city of the county, together with its neighbours. There may or may not be, as part of the individual bespoke package, an elected mayor. Let us assume that the authority agrees and negotiates an elected mayor for the city and the adjacent authorities. That would mean that the rest of the county is not in such a system, although there will still be the county council, of course. In the mayoral authority the police powers would come to the mayor, but unfortunately for the rest of, say, Norfolk, the police headquarters and all the resources are in the city, along with all the senior superintendents. All of the police functions spill out from the city, but the heart and the head of the police service has just been moved out of the territory of the police and crime commissioner, who will be left to look after a scattering of marginal, rural districts with no resources, no buildings and no senior staff. I simply do not see how this is even faintly possible.

**The Earl of Lytton (CB):** My Lords, having not spoken on the Bill before, I must declare a few interests as a former president of the National Association of Local Councils, a vice-president of the LGA and a practising chartered surveyor with urban interests of all sorts. Apart from apologising for my lack of involvement in the earlier stages through a clash of diaries, my reason for intervening is to remind noble Lords that the Committee on Standards in Public Life will shortly produce a report on the subject of police accountability. I suspect that part of it will look at the role and efficacy of police and crime commissioners. Before the Minister responds, she might like to bear in mind that that particular issue is in play.

Your Lordships would not expect a comment from these Benches that is unequivocally in favour of the normal democratic processes for deciding the best way of governing accountability. I always think of my late father's nostrum that *vox populi* is not necessarily *vox Dei*—he was a man of great religious conviction—and I think that the saying may possibly apply here. I am not convinced that mixing these two functions together is necessarily a great idea. It may be, but I do not see that it is guaranteed to be so.

At the moment, I suspect that we have a growing problem that boils down to the question of who has oversight of the regulator. That is an issue where powers are extensive and largely not subject to any sort of external oversight. They gradually accrue to themselves things that perhaps should not be accrued. There is a natural tendency—it is a tendency in human nature and I do not apportion blame for that—to try to exclude those who might loosely be termed the prying eyes of external forces. The question is one of accountability: how it sits with elected mayors, who are elected on a rather different template, and how it actually keeps the two functions separate. I would hesitate to suggest that it would be appropriate for the hard-nosed commercial thrust used by the elected mayor of one of these great metropolitan combined authorities to be applied to dealing with the police. I do not think the two are quite at one.

[THE EARL OF LYTTON]

I thought that I should flag up those points—particularly the Committee on Standards in Public Life which, as your Lordships will know, is under the chairmanship of the noble Lord, Lord Bew. I think that its deliberations and its report will throw some light on this whole question of accountability.

**Viscount Eccles:** My Lords, I had concluded, perhaps wrongly, that we would not see very many combined authority mayors in any great hurry. Since the deal that will be negotiated in order for there to be a mayor of a combined authority and a transfer of powers is a complicated matter, and since this is an enabling Bill to enable those deals to take place, the question of whether the commissioner's authority is passed to the mayor will be one of the subjects of negotiation when the deal is being struck. If a combined authority—let me take the north-east—decided that it would like to see whether it could negotiate “yes” to become a mayoral combined authority but “no” to taking over the powers of the police commissioner, it would not be outside the bounds of negotiation. Some of what we are discussing comes to the point at which one would say, “Surely if a mayor is to take over the powers of the police and crime commissioner, it should happen from the start”. It should not be something which, as the noble Lord, Lord Shipley, suggested, could be done at any time in the future; it should be part of the deal.

One problem we have in debating the Bill in Committee is that from our point of view it is starting from the wrong end. It is starting from local authorities putting up their suggestions as to how their area of the country might be better governed as a matter of local government. This is not where we usually find ourselves. We are usually in the position of saying, “This is what will happen and you will obey the rules”. That is not the situation here, for better or for worse. Certainly for my part I am trying to think through as carefully as I can the implications of this change in direction. They are very complicated but I hope that we will find a way of supporting the endeavour for the devolution of much more power to local authorities.

It has been said several times in our proceedings that the problem may then become a fiscal one: where is the money coming from? I am certainly very conscious of the fact that he who pays the piper calls the tune. Perhaps I could suggest that if this whole system becomes successful in one or two places, maybe some fiscal changes will follow upon that success.

**Baroness Williams of Trafford:** My Lords, I, too, start with an apology, having not answered the point of the noble Lord, Lord Shipley, earlier. The noble Lord, Lord Riddle—Liddle, sorry—brought up the same point, which was about how police areas would be changed. Power to change police force boundaries exist in Section 32 of the Police Act 1996. I referred to that mechanism in answer to the noble Lord, Lord Shipley, a moment ago.

The noble Lord, Lord Shipley, also asked a question, which I shall answer now because he asked it previously as well, about the full-time nature of the PCC role and how we will ensure capacity to cover PCC matters.

It will be for the mayor to ensure that there are sufficient resources to fulfil all PCC functions and we have included the ability for a mayor to delegate these functions to a deputy PCC mayor. We anticipate that there will also be a wider police governance administration structure taking over the role of the PCC's office.

**Lord Beecham:** If it is convenient, could the Minister indicate whether there is any intention to make arrangements equivalent to that of the police and crime panel, as well as the two points that she has already made?

5.30 pm

**Baroness Williams of Trafford:** If the noble Lord will indulge me, I will get on to that a bit later.

Amendment 27 seeks to amend new Section 107E, which enables the Secretary of State to provide by order that the mayor for an area of a combined authority may exercise the functions of a police and crime commissioner. Subsection (4) of this new section sets out that such an order can be made only with the consent of the appropriate authorities, as defined in new Section 107B(6). Noble Lords have asked that new subsection (4) be amended to make clear that all the appropriate authorities defined by new Section 107B(6) must consent before such an order can be made.

I reassure noble Lords that, under the current draft, all the appropriate authorities in the area would, indeed, have to give consent before an order to transfer police and crime commissioner functions could be made. As my noble friend Lord Eccles neatly said, it is part of the deal. Therefore, I do not believe that such an amendment is necessary. I would be concerned that, if adopted, the amendment might suggest that consent would be required from all the different kinds of authorities set out in new Section 107B(6), not all of which would necessarily be relevant in a given area.

Amendment 28 seeks to amend new Section 107E to place a requirement on the Secretary of State to outline, in a report to be laid before both Houses of Parliament, plans to develop policing and crime functions for mayors who take on the functions of a police and crime commissioner. The principle behind the Bill is to ensure broad consistency between existing police and crime commissioners and mayors who take on police and crime commissioner functions. On this basis, we have set out in the Bill specific functions that will be applied to every mayor for a combined authority area that takes on police and crime commissioner functions. We envisage that, generally, all remaining functions will transfer across. That is the point that the noble Lord, Lord Liddle—not “Lord Riddle”—made.

However, the Bill maintains a degree of flexibility at this stage, as there may be functions that would not be relevant in the context of a mayor exercising PCC functions, and to enable transfer arrangements to be appropriately tailored to the local circumstances of the area concerned. I reassure noble Lords that there are no plans to develop the PCC functions transferred to mayors separately from the wider functions of PCCs. We will ensure that the level of accountability, transparency and service applied to a mayor taking on a PCC function will be the same as is the case for PCCs across the rest of England and Wales.

At this point, I will answer the question asked by the noble Lord, Lord Beecham, on scrutiny. The mayor will be required to establish a scrutiny panel, which will perform the same task as the existing police and crime panels. The scrutiny panel will support the effective delivery of the mayor's PCC functions, assess the police and crime plan, monitor the budgets and retain the ability to suspend a mayor from the policing functions in certain circumstances.

For the mayor of a combined authority area to take on PCC functions, the Secretary of State will be required to lay an order setting out the detail of how PCC functions will be transferred to the mayor. Parliament will have the opportunity to fully consider that.

Amendments 29, 31 and 32 would place a requirement on the mayor to implement an appointment process for any person exercising PCC functions on their behalf, and to extend the disqualification and suspension criteria to such persons. It is our policy that the arrangements for mayors with PCC functions mirror as closely as possible the arrangements for police and crime commissioners and those to whom a PCC delegates their functions, and that is what the Bill does. It ensures that the process for delegation of responsibilities from the mayor and any appointed deputy is consistent with that for the delegation of functions from a PCC and a deputy PCC.

Schedule 1 to the Police Reform and Social Responsibility Act 2011 sets out the process of scrutiny for senior appointments made by a PCC. This scrutiny process, which covers the appointment of deputy PCCs, provides the relevant police and crime panel with an opportunity to scrutinise senior appointments and to make reports to the PCC. We consider that the current arrangements work well, and it is our intention to apply them by order in areas where the mayor for a combined authority is taking on PCC functions.

The noble Lord, Lord Shipley, asked about mayoral elections. It is not the case that a person will have two roles—both mayor and police and crime commissioner. The position is that a mayor can be given the policing powers so that among his other functions he exercises the functions of a police and crime commissioner. When people vote, they will know what the mayor's functions are. They will vote for the mayor on this basis. Orders setting out the arrangements will be made so that this is clear before the mayoral election, and we will consider how, if necessary, to ensure that this is always the case.

On the issue of disqualification and suspension, I am aware that there are additional restrictions on deputy PCCs that are not set out in the Bill. However, I assure your Lordships that it is our intention to apply these provisions by order.

Finally, Amendment 30 would insert a new provision into new Schedule 5C to require the Secretary of State to make provision by order for the protection of police budgets where this responsibility is transferred to the mayor. To be clear, the transfer of functions from a PCC to a mayor will not directly change the way in which central government funding for the police is calculated. This will continue to be done in line with existing policies, with the funding transferred to the mayor rather than the PCC. It is also our intention

that the mayor will set the level of the policing element of the precept, and we have ensured that, in line with PCCs, the Home Secretary retains the power to intervene if the police budget is set at a level that would put the safety of people in the area at risk. Additionally, the mayor will be required to set up and maintain a separate fund in relation to receipts arising and liabilities incurred in the exercise of their PCC functions, and to prepare a separate annual budget in relation to the exercise of such functions.

The noble Baroness, Lady Hollis, asked about the continuity of areas and what would happen if, say, there was a combined authority with a mayor for part of a police force area and that mayor was given police and crime commissioner powers to exercise. The essential point is that if this were to happen, there would need to be an adjustment of force areas as necessary so that the mayor's area and the surrounding force area made sense in policing terms. There would not be a messy arrangement in the way that she suggested. If a mayor's area did not make sense in policing terms, the mayor would not be given policing powers.

On the basis of those explanations, I hope the noble Lord will feel content to withdraw his amendment.

**Lord Shipley:** My Lords, perhaps I might pursue the Minister's answer on the right of the general public to know in advance of a ballot for a mayor exactly what it is that they are voting for. I think she said that the public will know in advance of polling day what the duties of a mayor would be. Will she confirm that no responsibilities of a police and crime commissioner will be transferred following an election—in other words, a decision will not be made after an election by the Secretary of State, working with the combined authority—and that it will always be clear to the general public which responsibilities of the PCC will be part of the obligations of the mayor, and that they will not be changed afterwards?

**Baroness Williams of Trafford:** My Lords, I can confirm that when people vote they will know what the mayor's functions are.

**Lord Tyler:** My Lords, will the noble Baroness clear up one other point for me? She referred to the panel in new Schedule 5C. The panel has one extremely important role. Under paragraph 6—headed "Suspension"—to new Schedule 5C:

"The Secretary of State must by order provide for the panel mentioned in paragraph 4 to have power to suspend the mayor, so far as acting in the exercise of PCC functions, in circumstances corresponding to those mentioned in section 30(1) of the 2011 Act in relation to a police and crime commissioner".

This relates back to the question raised by the noble Baroness, Lady Hollis, because, of course, there is a very interesting discrepancy here. As far as the police functions are concerned, there is a body that has the right to suspend the mayor. However, will the Minister confirm that that is not, of course, the case in relation to all the other functions that the elected mayor may have? Perhaps she could clarify that at this stage as it will affect later amendments.

**Baroness Williams of Trafford:** My Lords, I can confirm what the noble Lord says. I go back to a previous question that relates to this issue which was asked by the noble Lord, Lord McKenzie, and which I did not answer, about the powers that the mayor has being prescribed by order made by the Secretary of State. We have said we will ensure that in all circumstances such an order will be made only with the consent of the local authorities. What can be done—I was not clear on this earlier—is for such an order to be revoked or amended, changing or withdrawing the functions that a mayor has. What cannot be done without abolishing the combined authority is to end the authority's having a mayor. Abolishing a combined authority requires the consent of the councils concerned. I think that the noble Lord made that point earlier.

**Lord Beecham:** My Lords, I begin by taking up the penultimate point that the noble Baroness made in relation to the question asked by the noble Lord, Lord Shipley, about the mandate, as it were, for police functions being transferred. She said that the electorate in a mayoral election for a combined authority area would know whether or not the police powers were to be transferred. However, I do not see how that fits with new subsection (1) of new Section 107E in the Bill, which states:

“The Secretary of State may by order provide for the mayor for the area of a combined authority to exercise functions of a police and crime commissioner in relation to that area”.

That looks as though the Secretary of State will take that decision before a mayoral election. If that is the position, it does not become an optional matter at all on the face of it, does it? The mayoral candidates will be stuck with a decision that has already been made and will have no choice over whether they wish to take on that role. Therefore, I am puzzled by the position which the noble Baroness described.

I am also still not entirely clear about the police and crime panel position. Is it intended that within a mayoral authority which, one way or another, ends up with the police and crime commissioner role, there should be a separate police and crime panel, as is now the case, or will that role be exercised by members of the combined authority, which is a rather different scenario? Perhaps we need that to be elucidated but, again, if the noble Baroness cannot do that tonight there will no doubt be time before Report to determine the issue.

5.45 pm

The real problem here is the one that has run through all our debates, which is about the degree of powers to be exercised by an individual. My noble friend Lord Liddle is comfortable with the concept of these powers being transferred to a mayor but many of us in your Lordships' House are not, for the reasons very effectively given by the noble Lord, Lord Shipley. These are two huge jobs. Certainly, the police commissioner job was designed to be huge and the mayoral job will be huge. In any event, it is of course a matter for the mayor whether he delegates that job—and if he does, the virtues of the combination that are lauded by my noble friend are, I submit, somewhat diminished. In effect the job would be being done by

an appointee of one individual—the mayor—as opposed to what we have now, which is an elected position, or what the position was before with the police authorities. I am afraid I do not find that I can share my noble friend's enthusiasm for this proposition. This matter seems fraught with potential difficulty and, again, I think we will have to return to it at a later stage.

There is just one other matter. The noble Baroness indicated that the boundaries might be tailored, as it were, to suit the existence of a combined authority. If there was an overlap, she appeared to suggest that the additional area would be separated out. What then happens to the policing in those areas? Will they have to have a separate police and crime commissioner or will they be consigned to an adjoining non-mayoral police authority? What will be the process for determining the policing for that area which will not be included within the combined authority area? Again, the Minister may need some time to reflect on this—or more particularly, to get others to reflect on it—and perhaps we can have that discussion before we get to Report. In the mean time, I beg leave to withdraw my amendment.

*Amendment 27 withdrawn.*

*Amendment 28 not moved.*

*Clause 3 agreed.*

***Schedule 2 : Mayors for combined authority areas: police and crime commissioner functions***

*Amendments 29 to 32 not moved.*

*Schedule 2 agreed.*

***Clause 4: Financial matters***

*Amendment 33*

*Moved by Baroness Wheatcroft*

33: Clause 4, page 6, line 18, at end insert—

“( ) enabling the mayor to raise funds for the carrying out of specified development projects by the issue of bonds to be made available only to those resident within the combined authority area.”

**Baroness Wheatcroft (Con):** My Lords, this is a broad enabling Bill. Amendment 33 is a narrow amendment, intended to enable mayors to build their local communities and enhance local democracy. The Bill, according to the Prime Minister, is intended to widen civic engagement in the UK. This amendment is geared to help in that endeavour.

The Victorians left a wonderful legacy of public assets, built with the funds of local people. In Blackheath, where I lived for a long time, the 600-seat concert hall that was opened in 1895 is a tremendous and very well-used local facility, built by public subscription. The Holywell Music Room in Oxford, built even earlier, in 1748, is believed to be the first building geared entirely to the performance of live music, and concert performances are still played there regularly. It was funded by public subscription. Elsewhere, hospitals,

village halls and sports fields have all been funded by local people and helped to build thriving local communities.

This amendment would give mayors of combined authorities the power to continue in that vein by issuing municipal bonds to fund specific schemes, thus involving local people directly in funding the developments that they want in their communities. Only local residents would be eligible to buy the bonds. This is all about local democracy. It is not a charter for extravagant mayors to rack up vast debts, imperilling the finances of city hall in order to fund their grandiose schemes. This is a way of allowing mayors to do what the local people want them to do.

It is right to be wary about a tendency to be extravagant that might exhibit itself among some mayors. Allowing mayors free rein to borrow would perhaps be dangerous, and in its extension of the Local Democracy, Economic Development and Construction Act 2009, the Bill does not include the power to borrow. In extending the Local Government Act 2003 in order to provide financing for this restructuring of local government, the Bill does provide for new authorities to have borrowing powers, but in order for the mayor to issue the municipal bonds that this amendment envisages, he or she would have to have the agreement of the new combined authority. That of course would depend on public opinion. As I say, this is all about giving local people what they want and what they are prepared to fund.

I know the Government wish to avoid putting specifics in the Bill, but sometimes there is merit in spelling out just what might be possible rather than leaving too much entirely to the discretion of the Secretary of State. Merely putting the ability to issue municipal bonds in the Bill does not in any way put a duty on mayors to issue them—but just think what might be achieved with such an option available. Your Lordships will hear from my rather sportier colleague about the sports facilities that could be provided with municipal bonds, but I like to think about the concert halls and the community centres—the buildings that might put life back into the heart of those estates and villages where there is no longer a real sense of community.

The bonds would provide the capital to enable such projects to be built. The coupon would not need to be high—certainly not with interest rates at their current level. In fact, in some cases, it may well be sufficient to say that those who subscribed would be entitled to a number of free entries or tickets every year. However, those subscribing to these bonds would be looking for far more than a meagre couple of percentage points on their investment: they would be investing in their community, which is surely what this Bill is all about. Of course, they would want to be assured that the project was workable, and those issuing the bonds would have to be able to demonstrate that the income generated from the new facility would cover the running costs and be sufficient, in the end, to pay back the capital.

Municipal bonds are not by any means a new idea, nor are they entirely in abeyance. For example, the Local Government Association is planning a new

generation of municipal bonds. However, these are a very different category: the plan is that the LGA, in the guise of a new financial corporation, will pool the demands of local authorities and issue big bonds to the usual suspects—the major institutions that will be able to take a large chunk of them. That is very different to the sort of thing that this amendment proposes, and any link between the LGA's version of municipal bonds and the actual municipality would be purely coincidental.

If we are serious about empowering local communities, devolving power away from the centre and building up mayors, surely the ability to issue bonds to build what people want to see and what they need in their local communities is something that we ought to at least be considering. Putting it in the Bill would be an encouragement to our new generation of mayors to think about what amounts to a new variation of crowdfunding. When I mentioned this at Second Reading, my noble friend said that she was “open” to all suggestions about the financing of the new structure. I hope that this is still the case—I trust that it is—and that we will therefore be able to pursue this idea. It is certainly in the spirit of the Bill.

**Lord Flight (Con):** My Lords, I support my noble friend Lady Wheatcroft's excellent amendment. If you go to America, you will find that cities have retained the right to finance infrastructure projects with municipal bonds. Indeed, income from bonds even enjoys the advantage of being tax-free. However, as she pointed out, much of the heritage of our great cities of the last century and much of their infrastructure investment were financed by municipal bond issues. That came to an end, sadly, during the Attlee Government after the Second World War. The argument was that the Government could borrow more cheaply via gilts and thus dole out the money. What actually happened was that the money never got doled out and the municipalities were unable to have their own bond issues.

For me, this subject is absolutely central to the reality of devolution to cities. It is about their ability to raise money and to invest in their own infrastructure. I, too, look forward to hearing of the opportunities in the sports world, but there is masses of scope for infrastructure investment. I raised this issue at Question Time in the House earlier this year I think, and got a response which seemed to be saying that, yes, the Government agreed with this and would include it in future legislation. Over a year ago, when I discussed the territory with the Mayor of London, he absolutely supported the idea that it should be a fundamental part of devolution to our cities.

I very much hope that the Government will accept my noble friend Lady Wheatcroft's amendment, which, quite rightly, is designed to be cautious and not to allow the ability to go overboard. It would make a start and a crucially important contribution to real devolution.

**Lord Liddle:** My Lords, I express support for the principle of the amendment moved by the noble Baroness, Lady Wheatcroft. The combined authorities need more independent power to raise money for good local

[LORD LIDDLE]

projects and I accept that we have to break away from the kind of Treasury stranglehold, as it were, that operates in this area. I would be interested to see how far the DCLG and its excellent Ministers, who are very committed to devolution, are getting on with the Treasury on this question. We look forward to the response on that. However, there are two problems, which I know the noble Baroness, Lady Wheatcroft, will have thought of. The question is what the answers are—they may be in the response to the proposal.

First, there is the question of risk if something goes badly wrong. Not only would that be a failure for the combined authority that had sponsored the proposal but it would result in severe losses for local savers. Is there any way of spreading the risk and/or any form of insurance that could maybe bring the big institutions in to bear some of the risk? I am not a finance person, but she is and I am sure she will have thought about this.

Secondly, with a proposal of this kind you need to ask how the market in these bonds would operate. After all, people might have enough money to invest £10,000 or something in the future of their city—I could imagine people being very happy to do that—but their personal circumstances can change. They might want to be able to dispose of that bond. How would a secondary market operate in something that had initially been limited to residents of the area? However, in principle, this is exactly the kind of radical thinking that we need to revive municipalism.

6 pm

**Baroness Wheatcroft:** To answer the noble Lord, insurance is always available for anything—at a price, of course—and I have no doubt that insurance could be provided for these bonds. As for a market in the bonds, there is always someone prepared to make a market.

**Baroness Janke (LD):** My Lords, I, too, welcome this amendment. As a former leader of Bristol City Council I tried to look into this possibility. As the noble Baroness said, there is always a great deal of local ambition to achieve projects within the area for which, in straitened times, it is often difficult to raise funding. At the moment, I can think of the completion of the Colston Hall building—a concert hall in Bristol—for which we are trying to raise money. That would also be a project that local people would be very proud to see achieved.

When I made investigations, I found that local finance institutions welcomed this idea. I also found that local charities felt that it would be a really good way to invest funds within the local area rather than have local funds benefit central institutions. I welcome the idea as well because, as the noble Lord, Lord Liddle, said, this is a little bit more radical than a lot of the debate, which has been about concentrations of power. I welcome the idea of world-class cities and would like to see our cities at the heart of vibrant local economies. I hope that later in the Bill we can talk a bit more about some of the powers that might be made available to the combined authorities so that they can be at the centre of their local economies and exploit

the potential that we have seen, as shown through various institutions such as Core Cities and Centre for Cities. There is great potential for economic growth.

I welcome this amendment and hope that the Government accept it. I hope that the idea may be explored further in due course.

**Lord Moynihan (Con):** My Lords, I support the amendment in the name of my noble friend Lady Wheatcroft and to which I added my name for reasons anticipated by a number of my noble friends already in this debate.

As stated at Second Reading, I support the Bill but with an element of caution. Memories of the 1980s are still strong in the minds of some of your Lordships, as was the need at that time to address the profligacy of some local politicians by bringing powers and—with them—spending decisions back to Westminster and Whitehall. Now, some 30 years on, we consider providing potentially increased responsibilities to new combined authorities and designating their chairs as mayors. Today, we seek to provide them with a platform—a very public one—for potentially wide-ranging yet still unspecified powers. There is always a danger, not least evident recently in Scotland, that with devolved powers but without some element of financial accountability the finger will be pointed at Westminster for failing to recognise the financial consequences of a devolution of functions by the same electorates we seek to empower. The politics of such a potent mix can be far-reaching.

One way the Minister can benefit from the lessons of history is to consider ways of meeting the challenge whereby our determination to empower elected communities must be met by trusting those same electorates and their representatives with at least some additional responsibilities for raising the finances required to exercise the powers with which they are entrusted. I hope that today the Minister will be able to address this issue and in so doing agree that one of the potential functions that could benefit from municipal bonds, as in the United States, could be the populist and much-needed sport and recreation facilities.

Since the Government in their legislative programme rely heavily on key manifesto commitments, the Minister would simultaneously earn acclamation and plaudits from her colleagues by implementing the sports legacy from London 2012, which was in the Conservative Party manifesto. That legacy called for: new facilities outside London; a youth and community sports strategy designed to inspire a generation to develop a sporting habit for life, and not just in London, the city that hosted the Olympic Games, but throughout the United Kingdom; increased participation at all levels; and state-of-the-art sport and recreation facilities. This area has been very London-centric and investment in our great cities to achieve these objectives can be accomplished by providing a real voice for the proposed combined authorities over the current, centrally controlled spend on sport and recreation, including the decisions currently made for the whole country by Sport England in London.

This is where the amendment of my noble friend Lady Wheatcroft could add an important and very clearly defined financing vehicle to the current precept

mechanism already enshrined in legislation. If the Minister felt that the powers in the proposed amendment go too far, municipal bonds could even be restricted specifically for this purpose as a sort of test case for the combined authorities. Whichever route is taken, we need to create the nexus between the management oversight for functions and financial responsibility and accountability to the local electorates who will be the principal beneficiaries. It is that objective that ultimately will be delivered. I predict that the Bill before us is a stepping stone on that journey. This proposal by my noble friend Lady Wheatcroft for municipal bonds is a key and important step in that direction.

**Lord Warner (Lab):** My Lords, I, too, support this amendment. I listened carefully to some of the ideas about what such a bond might be used for and hope that there would not be a narrow set of functions and services for which this kind of fundraising could be used. To some extent I am following up on the point made by the noble Lord, Lord Moynihan. In particular, some of the needs of children and young people in many of these areas require a lot more support than they currently get. Even some health facilities might be the kind of thing, particularly on the preventative health side, that these bonds could be used for. It is very important that the Government give serious attention to this and also to using these bonds to leverage other funding sources for some of the projects that might be available. I hope that, if we go down this path, the uses to which these bonds might be put would be not drawn narrowly but spread over all the functions devolved to a combined authority.

**Lord True (Con):** My Lords, I have not so far participated in this Committee and apologise to the House for that. I have just not been able to be here either for Second Reading or the first day of Committee. I declare an interest as leader of a London borough. Actually, I am rather pleased that London does not feature in the Bill in respect of the potential ideas for centralising power in London away from the boroughs. I hope we will not see any of that stuff come forward in another place at a later stage without any opportunity for debating it in your Lordships' House. I am not going to go into the broader subjects, but I have read the debates very carefully and I find it dangerously easy to restrain my enthusiasm for imposing models on people. Very important points have been raised so far in this Committee.

I shall confine myself to this amendment, as is proper. I am not part of the little posse that came in to support my noble friend's amendment, but I am glad to see that they are here. My own authority has been involved in discussions with the LGA proposals to look towards wider bond issues. But there are practical issues that need to be addressed, particularly in the difficult areas of things we all love and are potentially enthusiastic about, whether it is music or sport. It can be easy sometimes for that enthusiasm to run away a little. I can think of a number of local authorities not too far distant from my own where enthusiasm for the theatre has ended up with them having to underwrite substantial costs. So we need to proceed in this area with caution, but I hope that my noble friend will be

able to respond positively, because caution is one thing and "no" is another. It should be possible to unleash the enthusiasm of local people. Do we not all believe in localism, as my noble friends have argued? Perhaps when she replies, my noble friend might offer to have discussions with my noble friend Lady Wheatcroft and others and representatives of local authorities and see whether, in the course of the passage of the legislation, she will give a positive commitment to considering this creative and interesting idea, albeit with corners that need to be probed—although perhaps not as many as some other aspects of the Bill. It is a very good and welcome thing that my noble friend has brought this forward.

**Baroness Hollis of Heigham:** In one sense, one very much welcomes the proposal of powers that we used to have rather more freely, in recourse to raising bonds through the municipal public works board. I myself used to buy bonds from Derby and all the rest of it, and people put them to appropriate use for their savings. I am certainly not opposed to the principle at all, but I am not clear on something—and perhaps the noble Baroness, Lady Wheatcroft, can help me on this point. The mayor will have a levy over and beyond, presumably, the council tax precept run by the combined authority. What powers the mayor will have vis-à-vis the combined authority may differ with each bespoke arrangement. What does the noble Baroness expect to be funded by a bond as opposed to a levy? The levy clearly falls on all, and all have access to those services, whereas a bond would be a voluntary subscription for an additional service which, none the less, would be enjoyed by all but possibly at a fee to fund the additional interest rate over and beyond the levy. I am slightly confused about how those two things would run in parallel. Clearly, in the past what would happen is that Derby would decide to seek £10 million through a loan on capital expenditure and fund it through the interest payments through the levy on it. In other words, part of the revenue expenditure would go to fund that bond. How does the noble Baroness envisage that working in this new financial structure?

**Lord Woolmer of Leeds:** On a similar point, what has been lacking in recent years with regard to capital funding and borrowing is the difficulty for local authorities to have the freedom to borrow and, because of that, a disconnect between identifying what it is they want to invest in, enthusing people for that and saying that they will back it with the capability of borrowing. That is the kind of thing that local authorities are examining. The question is whether this proposal would be more likely to generate enthusiasm and how it would fit in to the financing and the cost of the borrowing.

The amendment relates to specific projects, and it is highly likely, to judge from the enthusiastic speeches, that most of those projects will not cover their costs. There will be deficits; the only way in which the bonds will be sellable is if they are underwritten by the local authorities, which means the taxpayers. If one sets aside the initial enthusiasm, this can be a reality only if the taxpayer underwrites the bond. I hope that that is fair to say; it may not be the case, and the noble Baroness, Lady Wheatcroft, may say so. If the bond was tied to a specific project whose finances meant

[LORD WOOLMER OF LEEDS]

that the bond stood or fell on those financial outcomes, it is highly likely that a number of those would fail. If they did not fail, that means it would have been perfectly easy to fund them, because they are profit making, and they did not need to go for this scheme. It would help me in understanding not the appeal but the practicality of this proposal, if I could understand the practicality of persuading the Treasury—among other things—that this would not ultimately rest on underwriting by the mayor. It would be the mayor, not the combined authority, who would be saying, “I’m going to guarantee that these bonds will be repaid however the projects perform”. It would be helpful to me to understand that, should the House in due course be moved to consider this issue.

6.15 pm

**Lord McKenzie of Luton:** My Lords, before discussing Amendment 35, perhaps first I could speak briefly to Amendments 34 and 36 in the name of my noble friend Lord Smith of Leigh, who cannot speak to them himself. They are self-explanatory, in that Amendment 34 makes reference to a,

“local authority member of a combined authority”,  
having,

“responsibility for finance and resource management”.

Amendment 36 calls for the Bill to specify,

“the number of local authority members within a combined authority area who can veto the draft budget”.

We would happily support each of those amendments.

The Bill enables a power of veto over the mayor’s budget, and Amendment 35 would enable the combined authority also to change that budget in circumstances that would clearly need to be spelt out in the order. That opportunity seems to be provided for in the Manchester agreement. The Bill itself makes reference to changing the budget, but it implies that that is as a result of the initial scrutiny process, not following on from the combined authority’s approval or otherwise of the draft budget. Could the Minister confirm that?

Just to recap, the Bill talks about a mayor preparing a budget; a draft to be scrutinised by other members of the combined authority and the committee, dealt with in Schedule 5A; the making of changes to the draft as a result of the scrutiny—presumably with the approval of the mayor; and the approval of the draft by a combined authority, including a power to veto the draft circumstances specified in the order and the consequences of such a veto. Our amendment proposes simply that we have not only a right to veto but a right to change the budget. There would need to be a threshold of those supporting that proposition, which is again the case in Manchester. A veto is a power, and it can be quite a weak power in certain circumstances. You could simply end up with a ping-pong type arrangement between the mayor and the other members of the combined authority, which would be unfortunate and inconsistent with the effective operation of a combined authority.

We support the thrust of Amendment 33. As some noble Lords have touched on, it raises a number of issues that need clarification. In part, those of us who

can remember municipal bonds support it with a sense of nostalgia. I am sorry to hear that my noble friend did not buy any Luton bonds in her previous investment, but perhaps next time. I am interested to understand quite how this will work when it will be available only to residents of an area. I think that that is easily dealt with at the point at which it is issued, but what happens thereafter? As my noble friend Lord Liddle said, whether that has an impact on marketability is an important issue.

As I understand the Bill as it stands, the Secretary of State can by order enable an authority to borrow for specified functions, provided that it has the consent of the constituent councils, but I do not think that that extends to mayoral functions. That could be changed, but we would like better to understand how this all fits together and how the total funding and borrowing opportunities of the combined authority sit with the existing position of those separate authorities. How does that impact on prudential borrowing and, therefore, the scope for the type of bond the Minister is talking about?

We can certainly see the benefit of raising funds for specific projects but, even if you can borrow for mayoral functions within a combined authority, it seems to me that you do not want that borrowing power to drive the functions the mayor gets; that is the wrong way round. You have to see what functions the mayor would have under these arrangements and see how they should be financed.

My understanding is that if there were associated costs—if my noble friend is right and this measure did not wash its face in all circumstances, particularly on infrastructure projects where there can be long lead times and not necessarily early returns—those would be picked up and met by a precept, not a levy, on the constituent authorities. Given the constraints that central government have hitherto imposed on increases in precepts, it could unwittingly impact on all that.

This measure needs to be unpicked so that we can better understand it. It seems to be a very helpful suggestion, and you can see the benefits that could flow from it, but it would need to sit together with the intended funding arrangements or the likely opportunities for the combined authority as a whole, quite apart from the wider issue of fiscal devolution, which we will come to in subsequent amendments, probably on Monday. We are on the side of those who would like to make this work, but it needs to fit with what we have before us.

**Baroness Williams of Trafford:** My Lords, it is refreshing to hear innovative ideas coming from your Lordships’ House. I commend my noble friends Lady Wheatcroft and Lord Moynihan on some of the suggestions that they have put forward. Amendment 33 seeks to amend new Section 107F of the 2009 Act to allow the Secretary of State by order to enable the mayor to raise funds for the carrying out of specified development projects, by the issue of bonds to be made available only to those residents within the combined authority area. I was interested to hear about the experiences of the noble Baroness, Lady Janke, in Bristol. As I have said, the intentions behind the amendment are to be commended. The Secretary of

State can by order confer a power on a mayoral combined authority to borrow. The mayor individually cannot borrow because, as the noble Lord, Lord McKenzie, said, he or she is not a corporate body. Borrowing by a combined authority where it is given the powers to borrow is secured on the revenue that that authority will receive, as the noble Lord, Lord Woolmer, pointed out. Accordingly, any borrowing by a combined authority will be under the same prudential borrowing regime that applies to local authorities. This means that the level of borrowing must reflect the level of its likely reserves.

The noble Baroness, Lady Hollis, asked what could be funded by bonds. In any case it would be a matter for the discussions leading to the bespoke devolution deal as to what might, in the art of the possible, be borrowed. As I have said, any borrowing must conform to the principles of prudential borrowing, which apply to all borrowing by local authorities.

My noble friend Lord Moynihan asked about the functions to benefit by municipal bonds. The functions that might be supported by investment and funded by prudential borrowing, which could be in the form of bonds, are a matter for the conversations with that area which lead to its bespoke devolution deal. As my noble friend Lady Wheatcroft said, this is an enabling Bill. Clause 8(3) allows the Secretary of State to specify which functions of a combined authority may come within the scope of borrowing powers given by the Local Government Act 2003. The sources of borrowing available to combined authorities include issuing bonds as well as taking out loans. The devolution deal will determine which functions the combined authority can borrow for. Decisions over whom an authority obtains their financing from are a matter for the authority.

Amendments 34 to 36 seek to alter the powers of the Secretary of State to provide for scrutiny of the mayor's draft budget. Amendment 34 would insert a new Section 107F(3)(c), which would allow the Secretary of State by order to make provision to appoint a local authority member of a combined authority to have responsibility for finance and resource management. In effect, were such provision made, it would prescribe that there must be a member of the mayoral combined authority who had finance responsibilities, and that the member with these responsibilities would be a councillor from one of the constituent councils. It is rightly the mayor who should decide to whom he or she wishes to delegate his or her responsibilities, and this includes responsibilities for finance. To return to a point that I made earlier, it is consistent with local authorities operating their cabinet arrangements at present, with the mayor deciding which member of his cabinet should hold certain portfolios with certain responsibilities. We are clear that this should also be the case for metro mayors. For mayoral governance to be effective, the mayor must have discretion to assign portfolios and delegate responsibilities to enable the effective delivery of their promises to their electorate.

I understand that the intention of this amendment may be to place checks and balances on the mayor's powers. There is of course a chief finance officer for the combined authority, also known as a Section 151 officer, whose role is to ensure compliance with all

statutory requirements for accounting and internal audit and to manage the authority's resources. The chief finance officer is under a duty to make a public report if they consider that there is, or is likely to be, any item of unlawful expenditure. An additional prescription on the creation and assigning of member portfolios is an unnecessary check or balance, and risks frustrating the exercise of the mayor's functions.

Amendments 35 and 36 seek to provide additional checks and balances on the approval of the mayor's draft budget. Amendment 36 would insert a power for the Secretary of State to provide for a specific number of local authority members within a combined authority area to be able to veto the mayor's draft budget. The Bill as it stands allows for the Secretary of State by order to make provision about the preparation of the mayor's annual budget which, in particular, may provide for the constituent council members of the combined authority to scrutinise the draft budget, to make changes to it and to have a power of veto. The circumstances in which a veto may be used, and the consequences of any such veto, would be proposed locally and provided for in the order creating the mayoral combined authority. The Bill also allows for the overview and scrutiny committee, a politically balanced committee made up of councillors from the constituent authorities, to scrutinise the draft budget and recommend changes to it.

#### 6.30 pm

To be clear, there is already provision to allow for the check of the constituent councils vetoing the draft budget. If the suggestion is that all the councillors of the constituent councils should have a role in setting the mayor's budget, in addition to any role they may have on the overview and scrutiny committee, statute does not provide for a vote to be given in an order to anyone who is not a member of the combined authority.

Amendment 35 seeks to amend new Section 107F(4)(d) of the 2009 Act to allow the Secretary of State, by order, to give the members of the combined authority the power to change the mayor's draft budget. I agree that it is entirely appropriate that the combined authority has a power to amend the draft budget, and I am happy to clarify that this is the Government's intention in new Section 107F(4)(c). As the Bill stands, new Section 107F(4)(c) allows the Secretary of State by order to make provision for the members of the combined authority to change the draft mayoral budget, other than the police budget, as a result of their scrutiny.

It will be for each authority, in discussion with the Government, to decide what form of scrutiny of the mayor's budget would be most appropriate. For example, in Greater Manchester—I cannot remember whether it was the noble Lord, Lord McKenzie, or the noble Lord, Lord Beecham, who asked about this—it was proposed by the area that the combined authority will examine the mayor's spending plans and be able to amend the plans if two-thirds of the members agree to do so. This arrangement is included in the Greater Manchester devolution agreement.

I hope I have adequately explained that the intended effect of these amendments is already provided for in the Bill, and I ask the noble Baroness to withdraw the amendment.

**Baroness Wheatcroft:** My Lords, I thank the Minister for her detailed response, which was not entirely encouraging. I thank all those who spoke in support of my amendment. In answer to the questions asked by the noble Baroness, Lady Hollis—“Why not precept?” and “How would specific schemes be chosen?”—the point of the amendment is that the precept falls on all, no matter how able they are to afford it, whereas the bonds that I am mooted would enable those who have the money to invest in a local community to do so for the benefit of all.

As for the qualms voiced by the noble Lord, Lord Woolmer, about where the penny would drop if there were not enough pennies, every scheme would have to be looked at extremely carefully. They would all have to be budgeted. I am not as pessimistic as the noble Lord about how many such schemes would fail. The point about community building is that very often you can get the community involved, so one would anticipate—looking through those rose-tinted spectacles that I do not usually wear—plenty of volunteers to organise sports facilities, youth clubs and so on, and that running costs could be covered by letting out a hall or a sports field. I agree that the sums would have to be done carefully, and as a backdrop one would be looking at insurance.

**Lord McKenzie of Luton:** Will the noble Baroness clarify whether we are talking about simply a positive mechanism to raise funding, or a mechanism to expand the total borrowing capacity that the combined authority might have?

**Baroness Wheatcroft:** I gather from the Minister that the capacity to expand borrowing would not be there, so this would just be a different way of raising money, but it would be a way of involving the local community far more. As I understand it, the Bill is aimed at building local communities and pushing power to the people. I accept that this is not without qualms. There are questions to be asked—noble Lords have raised them—but I was delighted with the support for the general direction of travel, which is after all in line with our wish to devolve more power to the community and to build those communities. I hope that there may be scope for the Minister to spend some time working with me and others who support the general drift of this amendment to try to come up with something that we might bring back at a later stage.

**Baroness Hollis of Heigham:** From the noble Baroness’s response to the Minister’s point about borrowing capacity, I am still not clear whether she expects this ability to raise what would otherwise be capital expenditure to add to the PSBR.

**Baroness Wheatcroft:** There are clearly issues to be worked out. I am very flexible about this. It is the principle of getting local people involved in funding local facilities that I really want to pursue, and I hope that I can have talks that will enable me to do that. I beg leave to withdraw the amendment.

*Amendment 33 withdrawn.*

*Amendments 34 to 36 not moved.*

*Clause 4 agreed.*

*Clause 5 agreed.*

### **Clause 6: Other public authority functions**

#### *Amendment 36ZA*

*Moved by Lord McKenzie of Luton*

**36ZA:** Clause 6, page 8, line 2, after “property” insert “and”

**Lord McKenzie of Luton:** My Lords, this is a small and narrow amendment. In fact, I contemplated whether I should move it all, but as I have written it I might as well. It is intended as a probing amendment to understand the circumstances in which the schemes for transfer of property et cetera provided for in the Bill are contemplated and whether any are on the cards in the discussions that are taking place.

I was particularly prompted to think about this because of debates we had on the Localism Bill when some of its provisions were put in place, particularly Section 17, which is referred to and imported, in part, into the provisions of this Bill. Can the Minister tell us anything about experience to date on the operation of those provisions, which very much mirror what is in this Bill? There is a particular issue around the operation of the intent to comply with TUPE arrangements. Some of the provisions in Clause 17 touch upon this and refer to the fact that the order in relation to schemes can include circumstances where the same or similar effect as the TUPE regulations so far as those regulations do not apply in relation to the transfer are taken up. As a general point, is it the Government’s intention, in so far as they are a participant in this, that where TUPE regulations for some reason do not apply, they would seek to ensure that provisions with the same or similar effect as those regulations would be imported into any scheme of which they would be a party?

As an aside, when the Child Support Agency was being restructured, a key issue was not so much to do with entitlement to pensions, because there was access, but to do with loss of Civil Service status when somebody was going to go into an NDPB. That is an issue. I do not propose an amendment in relation to the Bill, but it was probably the big issue when we were talking about restructuring the Child Support Agency and it could rear its head in these circumstances. I beg to move.

**Baroness Williams of Trafford:** My Lords, Amendments 36ZA and 36ZB seek to amend the provisions in the Bill that relate to the provision for the making of a scheme to transfer property, rights and liabilities from public authorities to combined authorities. The Bill specifies that where a function of a public authority is to be a function of a combined authority, the property, rights and liabilities of the public authority can be transferred to the combined authority. These amendments seek to change this by removing from the Bill the provisions that allow for the transfer of public authority liabilities.

These amendments would prevent liabilities from being transferred from a public authority to a combined authority. Clause 6 enables the Secretary of State, by order, to confer on a combined authority powers exercised by a public authority. If functions are transferred, there may be some instances where assets, property, rights and liabilities should also be transferred to the combined authority in order for it to be able to exercise these functions.

As we have discussed, the whole Bill is enabling legislation. No combined authority will be forced to take on powers it does not wish to have, nor will a combined authority be forced to take on a public authority's property, rights or liabilities. An existing combined authority must consent before such transfer can take place, and in the case of a new combined authority, the appropriate local authorities seeking to take on public body functions must have consented to the transfer of the property, rights and liabilities of the public authority. However, there may be times where such a transfer is necessary to give full effect to devolution deals.

Similar transfers of property, rights and liabilities from a local authority to a combined authority are already possible under Section 115 of the Local Democracy, Economic Development and Construction Act 2009. Such transfers have already happened when establishing combined authorities; for example, when the West Yorkshire combined authority was established the integrated transport authority and the passenger transport executive were both closed, and their functions, assets, liabilities et cetera transferred to the combined authority. This provision purely mirrors the existing provisions by applying the same principles to transfers from public authorities.

The noble Lord asked about TUPE. The tradition and past practice is that when transferring functions within the public sector, TUPE applies, and it always has up to now. I hope that with this explanation the noble Lord will feel able to withdraw his amendment.

**Lord McKenzie of Luton:** I am grateful to the Minister for that explanation. As I explained, the technical wording was simply to get a debate on this issue. I am grateful for that response, and I beg leave to withdraw the amendment.

*Amendment 36ZA withdrawn.*

*Amendment 36ZB not moved.*

*Clause 6 agreed.*

#### *Amendment 36A*

*Moved by The Earl of Listowel*

**36A:** After Clause 6, insert the following new Clause—  
“Homelessness and housing need: review

(1) Within six months of the passing of this Act, the Secretary of State shall order a review of the advantages and disadvantages of placing a duty on combined authorities to reduce the numbers of homeless children and families in housing need in their area.

(2) The Secretary of State shall lay the report of the review under subsection (1) before both Houses of Parliament.”

**The Earl of Listowel (CB):** My Lords, I will speak also to my Amendment 36B.

Amendment 36A introduces a review on homelessness and housing need, which would be established by the Secretary of State, to determine whether there should be targets for local authorities to reduce the numbers of homeless children and families in housing need in their area. Similarly, Amendment 36B asks the Secretary of State to order a review to look at the advantage of setting some sort of target for affordable housing in these areas and associated borrowing powers to facilitate that housing. I am thinking in particular of affordable housing for key workers, such as teachers and child and family social workers, who will have such an important role in turning around the lives of vulnerable families in housing need and of homeless children.

Before proceeding, I put on record my thanks to the noble Lord, Lord Storey, for moving my earlier amendment this afternoon. I was hosting a reception for a charity which is 250 years old this year, and it was very good to be there, so I am most grateful to him.

The Minister and many of your Lordships will be aware that in this country we have a chronic problem of child homeless and families in housing need, particularly in London and the south-east but also in other parts of the nation. The statistics from Shelter showed that over 90,000 children in England, Scotland and Wales were homeless—that is to say, living in temporary accommodation—and over 2,000 families were living in bed and breakfast accommodation last summer in England. That figure was rising in England but falling in Wales and Scotland. Therefore, it is getting worse at the moment but it has been a problem for many years, and it has not been properly addressed. These are not just statistics. The children who experience homelessness experience insecurity; they do not know where they will be living from one week to the next. That uncertainty is so disruptive to their lives, and they are often from vulnerable, problematic families.

*6.45 pm*

This morning I attended a conference in Canterbury on the education of looked-after children, and the main theme was the importance to such children and young people of a continuity of relationships. So often what our vulnerable families lack above all is that continuity of relationship, with a father or with a teacher: important figures in their life who can, over a period of time, take an interest in their welfare—and of course homelessness makes that much more difficult.

I understand also that to deal with this issue some authorities are having to uproot families and move them into other areas of England where there is more housing supply. Just when these families are getting the help they need to settle down, they can find that their support services are disrupted and they are placed in areas with many families like themselves. I hesitate to use the word “ghettos”, but it does not seem helpful to put these families with other families who are suffering similar problems. We want a much more mixed environment rather than concentrating troubled families in one place. Can the Minister therefore write to me to explain the policy of the Government around

[THE EARL OF LISTOWEL]

these issues of families in housing need and homeless children? What does she think the Bill might do to address those problems?

On affordable housing, briefly, I will say again how much I warmly welcome the Government's promise of 275,000 new affordable houses—I hope I have the figure right—by the end of these five years. That is very important indeed. I am thinking in particular of the need, as I said earlier, to have housing for teachers, social workers, prison officers and nurses where it is needed most. When I speak to teachers I hear about their long commutes into central London to do what they have to do. So often the temptation must be to move away once they have some experience to somewhere that is less costly and set up a family home there. We are talking about new powerhouses outside London, but if these sorts of problems are not already there they will develop as those powerhouses come into economic well-being. Therefore we need to think about how we are to provide decent housing for our teachers and social workers that will keep them near where they are needed. I understand that in the past, some local authorities would give a social worker a house at the beginning of their career, which would be a big incentive for that social worker to stay around.

Last night I heard Michael Spurr, who is the chief executive for the National Offender Management Service, talking about his work managing the prisons of this country. He has faced many challenges such as an increasing number of prisoners and reduced funding, but he seems to be doing an extraordinarily good job in those circumstances. I think we would all agree that he is a very admirable man. However, he is having a problem in London and the south-east in recruiting officers and filling vacancies. He did not mention it, but I am sure that one of the issues must be affordable housing in London and the south-east. I would appreciate any insight from the Minister on how she thinks the Bill might help in this area of affordable housing, particularly for key workers. On that point, I beg to move.

**Lord Shipley:** My Lords, I support Amendments 36A and 36B, moved by the noble Earl, Lord Listowel, and I do so in particular because of new subsection (1)(b) proposed in Amendment 36B. This concerns the associated borrowing powers of local authorities, about which we had a broader debate a little while ago. It is part of the issue of the powers that combined authorities and local authorities in turn will have.

I hope that in replying to these two amendments the Minister will confirm that strategic housing policy will always be part of the remit of a combined authority. However, perhaps she would also be clear about what combined authorities will have responsibility for when there are existing statutory obligations upon a local authority—not least, for example, around homelessness. In urban regions, where a number of local authorities will combine under a single combined authority, there are areas where joint working can help and add value. In terms of housing policy, homelessness policy and affordable housing, there is absolutely no doubt that working across the boundaries of current local authorities will matter a great deal.

We need to be clear—either now or at a later date if the Minister writes to the noble Earl—whether there is any plan to amend the existing powers of local authorities in relation to housing and whether the powers of the combined authority will relate to co-ordination or to leadership and policy formulation for the whole of the combined authority area. We will touch upon this when we come to Amendment 36F in the name of the noble Lord, Lord McKenzie, but we are moving towards a need to be able to demonstrate clearly what the powers and responsibilities of combined authorities will be.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, I, too, support the amendment. As has been demonstrated by the noble Earl, it is really important that homeless children and their families have somewhere to live. If children are not able to have the safety and security of a home, they are not able to take advantage of education and therefore not able to make the best use of their lives. In terms of looked-after children and those in care, we have heard that a large proportion of these very disadvantaged children end up in the justice system in one way or another and are therefore doubly penalised for something which is not within their power to alter.

Therefore, I support the amendment on homelessness and housing need, and I obviously also support the supply of affordable housing, which is a real issue and not just in areas in the east and the north. While I am not expecting this Bill to solve all the ills of the housing market, I do not think that it should make them worse.

**Lord Beecham:** My Lords, I can well see the point of having housing strategy determined at the level of the combined authorities that will potentially emerge as a result of this legislation. Personally, I rather regret that the previous Government abandoned the concept of regional housing policy. That led to what we might call the “Stevenage situation”, where a borough with very tight limits on its land was unable to secure the agreement, notwithstanding the alleged duty to co-operate under other legislation, from an adjoining authority in terms of housing. One can see that a regional—or, in this case, sub-regional—strategy is certainly a matter for a combined authority.

However, I have two problems. One is that we must not disconnect the operational workings of local authority housing and its third sector partners. Often, these partners are arm's-length management organisations from the locality. My noble friend may say a little more about that when he responds from the Front Bench.

I am also somewhat concerned about the term “affordable housing”. Affordability is capable of very elastic definitions. Under the Government's terms as it relates to housing provision, I understand that affordable rent, for example, is 80% of the current market rent. Current market rents in the private rented sector have, as we learn daily, been soaring over the last few years. Indeed, the number of private landlords has been soaring. I read—today, I think—that the proportion of housing now owned by private landlords is 20% of

the total housing stock, having more than doubled in the last few years. Of course, there are places in London where there are certainly a lot of them, but in many of the areas that we are talking about rents in the private sector have increased hugely.

To talk about 80% of the private rent level as being affordable is, to put it mildly, stretching a point where many people are concerned. Certainly the residents of the ward that I represent in the west end of Newcastle would find it very difficult to pay 80% of the rent in the private rented sector for the better housing that they would wish to occupy. All the talk about affordability in the recent election seemed to be about home ownership. Of course, we are all anxious to ensure that people have the opportunity to buy, if that is what they want, and to try to facilitate it in terms of making finance available. However, there are increasingly large numbers of people for whom that aspiration is at the moment—and, frankly, for the foreseeable future—unachievable.

The notion that here we might be looking at the provision of affordable housing on a combined authority level needs to be qualified. There needs to be an explanation of what we mean by that affordability. Of course, it is crucial that we refer to the provision of good-quality housing. I referred in previous debates to the space standards of the housing provided in this country. The space provided is much less than in most of the rest of Europe. Therefore, it may be affordable in financial terms but the new housing that is being built is not particularly good.

More particularly, my concern is with the people who will be unable to afford even well-designed, relatively modest premises on the basis of the current market and will need to rent. Unless we have a clearer definition, I cannot quite see how combined authorities will be able to influence that. If the noble Earl's intentions are acknowledged by the Government and a review of the kind that he is asking for takes place, we may have some more realistic answers, but ultimately the delivery of affordable housing will vary even within a given area. By definition, we are talking about large populations. We are also talking about—I keep repeating this, I am afraid, but it is something that we have to deal with—an area in the north-east which has a lot of rural areas within it. There, again, the pressure is very high but it is rather different from that of the urban areas.

We must be careful not to exclude or substantially diminish the role of the local housing authorities, as they are currently constituted, in the context of a combined authority's strategic plan. I acknowledge that there is a role there, but it should not be an exclusive role at the combined authority level. Local needs and what is affordable, for example, will vary significantly, not only within different parts of the housing sector but within geographical areas. It is a bit more complicated than at first sight might be thought to be the case. I am not saying that the noble Lord is not cognisant of that fact, but, necessarily, an amendment does not set out all the subtleties that one perhaps needs to get into.

I am interested to hear the Government's thinking about affordable housing, their definitions and how that might relate to the concept of the combined authority and, in any event, to housing policy generally.

7 pm

**Baroness Hollis of Heigham:** My Lords, although I am grateful to the noble Earl, Lord Listowel, for managing, with some finesse, to shoehorn housing into this debate on the cities Bill, I share some of the reservations of my noble friend Lord Beecham. In two-tier authorities and shire counties, one of the primary functions of district councils is the housing responsibility. Even if they have stock transferred their property to a housing association, as quite a high proportion has, the district council none the less remains responsible as the strategic authority, so to speak, in dealing with homelessness. That is complicated enough, and I think that the problem is going to get infinitely worse if the wretched housing association Bill progresses. That will fire an Exocet through our ability to meet housing need in localities, as we will lose not only the housing association stock but council housing stock to pay for the discounts—we will lose two rental properties to fund one discount and not one extra house will be built as a result. It will be completely disastrous, and I am sure that the noble Earl, Lord Listowel, will be fiercely engaged in that fight. I very much hope that he will be.

The problem is that, if this is the thinking of the noble Earl, I am not quite sure what distinction he is making between a combined authority and a unitary authority of three previous district councils. Housing is the main function. If this is where it is going, in alignment with the recommendations that will come with a combined authority for the development of the economy and so on, effectively, a unitary authority will be achieved in the name of adding more and more functions to the combined authorities, which are primarily about economic growth.

No one doubts that one responsibility of the combined authority will be to determine areas for housing growth, land development and land use. That is very different from taking on the responsibility for who gets what house due to local priorities. If that is taken away from the district council and given to the new combined authority, we will have effectively removed the responsibility for housing from a district council to a combined authority and would have to start inspecting houses of multiple occupation and all the rest of it to make it work. That would leave district councils virtually non-existent. That is my problem with Amendment 36A.

Although I am sure that Amendment 36B is well intentioned, my problem is with “affordable”. The research of my right honourable friend in the other place, John Healey, has shown that the two drivers of the housing benefit bill have been, frankly, the extension of the private rented sector, with its very high rents, and the displacement of social housing rents by affordable rents. Those two things alone are primarily responsible for the growth in housing benefit, neither of which adds a single property to the stock or houses a single additional person—they are displacement activities. All that is happening behind this amendment and may, I fear, be made worse by it. All the drivers will add to the welfare bill. The Government will then say that we must cut it by taking away the ability to make work pay and removing money from working tax credits because they are not willing to tackle the tax privileges

[BARONESS HOLLIS OF HEIGHAM]

of private landlords who are charging market rents or the issue of affordable rents, which is, in turn, driving up housing benefit bills in the social rented sector.

An infinitely more complicated set of problems has been opened up by the noble Earl's amendments. None of us would dispute the outcomes that he is seeking, but I do not think that he can get there through this route.

**Lord McKenzie of Luton:** My Lords, we have considerable sympathy with the thinking behind both amendments from the noble Earl, Lord Listowel. They touch upon one of the most serious issues that confront our society—our housing crisis—which must engage the action of central government and local authorities. It is also prescient, given concerns expressed in the press this morning about the figures for child poverty rising for the first time in a decade. We know that the lack of affordable housing is a key driver of homelessness and that homelessness inevitably sits at the centre of disadvantage and deprivation. The major influences on a child's life—family income, effective parenting and a secure environment—are all directly or indirectly influenced by a family's housing conditions.

The question posed by these two amendments is what the role of a combined authority should be in addressing our housing crisis and reducing homelessness. There certainly could and should be a role, and the Greater Manchester Combined Authority has shown the way. In its case, the elected mayor has control of a £300 million housing investment fund and powers over strategic planning, including the power to create a statutory spatial strategy for the CA area. There are somewhat convoluted arrangements for administration of the housing investment fund, but it has the prospect of delivering 10,000 to 15,000 homes over the period—a real contribution. Powers to create a spatial strategy for the area are particularly useful, given the demise, as my noble friend Lord Beecham said, of the former regional spatial strategies and the weakness of the duty to co-operate.

There are two issues, however, with the noble Earl's amendments. Indeed, all noble Lords who have spoken today have, in one way or another, touched upon those issues. We should be mindful of the current requirement for local authorities to ensure that local plans meet the assessed needs for both affordable and market housing and that neighbourhood plans can supplement this. Further, important legislation is already in force that places a general duty on housing authorities to tackle homelessness, however difficult that is in the current circumstances. We would not wish to undermine these important responsibilities and local priorities, but it might well be appropriate to build on these requirements at an overarching strategic level. One way or another, those points were made by the noble Lord, Lord Shipley, and my noble friends Lord Beecham and Lady Hollis.

Certainly the prospect of a combined authority having spatial planning powers across an area could be a considerable advantage in creating a coherent housing framework. However—I am sure that the Minister will make this point—the approach suggested is prescriptive. Doubtless it will be said that there is

nothing to prevent a combined authority seeking these powers by agreement, and I hope that the Minister will confirm that the Government would not be shy of agreeing such arrangements.

**Baroness Williams of Trafford:** My Lords, Amendments 36A and 36B would insert two new clauses into the Bill that place statutory duties on the Secretary of State to undertake reviews of the advantages and disadvantages of placing a duty on combined authorities to reduce the numbers of homeless children and families in housing need, and give combined authorities responsibility for affordable housing in their area and associated borrowing powers. These amendments would also require the Secretary of State to lay the report of these reviews under the clauses before both Houses of Parliament.

At the outset, I must say that housing is a priority for this Government. In our manifesto, we committed to building 200,000 starter homes and more affordable housing. We are putting in place £38 billion of public and private sector investment to help ensure that 275,000 new affordable homes are provided between 2015 and 2020. This means that we will build more new affordable homes than during any equivalent period in the last twenty years.

A couple of noble Lords asked about the definition of “affordable”. The detail is set out in the national policy planning framework, and it is, broadly:

“social rented ... and intermediate housing, provided to eligible households whose needs are not met by the market”.

However, within that, there is broad scope around what affordability means in different places to different people.

**Baroness Hollis of Heigham:** I am surprised that the Minister has adduced that definition of “affordable”, because for those of us involved in the sector—I declare an interest as chair of a housing association—affordable housing rents are very different from social housing rents. Social housing rents are running at about 40% to 50% of the market rent, while affordable rents are running at about 80%. We are required in any new building, whether funded by HCA grant or not, to charge affordable rents, which merely drives up the HB bill without any addition to the stock. It is therefore disingenuous, if I may say so, to suggest that social housing is a subset of affordable housing; it is a very different category.

**Baroness Williams of Trafford:** My Lords, because I appreciate that I have not given an acceptable definition today, perhaps I may write to noble Lords before our next day in Committee. There are a number of definitions of “affordable”. I will do that in the next few days if that is okay.

We have a good track record on preventing homelessness. Since 2010, we have sustained our investment in homelessness prevention, resulting in local authorities preventing just over 730,000 households becoming homeless. Investment since 2010 has exceeded £500 million to help local authorities prevent and tackle homelessness. This has included an £8 million Help for Single Homeless Fund, which will improve council services for 22,000 single people facing the

prospect of homelessness, and a £15 million Fair Chance Fund to provide accommodation, education, training and employment opportunities for around 1,600 of our most vulnerable young, homeless people.

The noble Lord, Lord Shipley, asked whether combined authorities would be under the same duties as local authorities in relation to functions such as homelessness. If the combined authorities wish to take on housing functions, the functions will be same as they would have been had they remained within the constituent councils. He also asked whether strategic housing policy is always part of combined authority responsibilities. What responsibilities a combined authority will have depends on the individual deal agreed with an area. That deal may include the constituent councils agreeing that certain of their powers and duties will be undertaken by the combined authority either on their behalf or concurrently with them.

I turn to an example of a devolution deal in which housing is an important element: that in Greater Manchester. It includes Greater Manchester having a housing investment fund worth £300 million over 10 years, to be administered by the mayor. The fund will support the delivery of at least 10,000 houses, some of which will be affordable, and will be subject to stringent evaluation before, during and after the 10 years come to an end. I think that it was either the noble Lord, Lord Beecham, or the noble Lord, Lord McKenzie—in fact, it might have been the noble Lord, Lord Shipley; I did not write down the name of the noble Lord—who asked whether there were any plans to alter the powers of local authorities in the Bill. The answer is no.

This Bill is an enabling Bill, creating the primary legislative framework for implementing bespoke devolution deals. It is not for the Bill to assume what might be included in a deal. Indeed, it is not for the Government to assume what might be in a deal. We are ready to have conversations with any area about what it wishes to see included in a deal for it to be able to meet its needs, develop its economy and increase the competitiveness, productivity and prosperity of the place—be it a city, a county or a town.

Including the amendments in the Bill would imply that a particular view was being taken centrally about homelessness and housing and about how those issues might be addressed in any particular area. It is not for the Secretary of State to prejudge, in advance of any conversations with areas, whether homelessness or providing affordable housing in a particular area is best dealt with by combined authorities or by local authorities, either generally or of a particular class or category.

7.15 pm

I suggest that reaching a general view on these issues is simply not practical. What might be right in one area may be far from the right approach in another—the noble Baroness, Lady Hollis, pointed out the particular circumstances of Norwich. In Greater Manchester, the mayor of the combined authority area will be responsible for the housing investment fund. In another place, the responsibility for that fund might appropriately be that of the combined authority, and in another that same responsibility might best be discharged, as the noble Baroness said, by one or more of the local

authorities. This is the reality which underpins our approach of seeking to agree with individual areas bespoke devolution deals.

When any deal is implemented through the legislative framework established by the Bill, Parliament will have the opportunity to debate and approve the secondary legislation necessary to put that deal in place. When doing this, Parliament will need to have before it information about the deal and the outcomes which it will deliver. I recognise that the standard Explanatory Memorandums accompanying secondary legislation can include much of this material, and I am ready to consider whether this is sufficient in this unprecedented process of devolution. I therefore ask the noble Earl not to press his amendments.

**The Earl of Listowel:** My Lords, I thank the Minister for her careful reply and particularly for her last comment about how secondary legislation subsequent to the Bill might be helpful. I thank all noble Lords who have taken part in the debate and taken care to consider the detail of the amendment.

In writing to noble Lords following this debate, might the Minister include a little about the Government's plans in respect of support that can be offered for social housing? That would be helpful in meeting concerns about family homelessness and housing need.

A question was asked about local authorities' capacity for borrowing which perhaps the Minister did not answer, but I understand that there was an earlier debate in which she did. Perhaps she might like to comment again on that. Did I miss her comments on what borrowing capacity new groupings might have? While I do not want to put words in her mouth, she might say that it is a matter for discussion and negotiation.

**Baroness Williams of Trafford:** I thank the noble Earl for that question because I did not pick up on that point. I spoke earlier on about prudential borrowing, but I will write to him about the Government's general policy on the points that he raised—I meant to say that at the outset.

**The Earl of Listowel:** I thank the Minister. I beg leave to withdraw the amendment.

*Amendment 36A withdrawn.*

*Amendment 36B not moved.*

#### *Amendment 36C*

*Moved by Lord McKenzie of Luton*

**36C:** After Clause 6, insert the following new Clause—

“Public authority functions

Within one month of the passing of this Act, the Secretary of State must publish a list of public authority functions which may be the subject of a transfer of functions under the provisions of this Act.”

**Lord McKenzie of Luton:** My Lords, I shall speak also to Amendment 36F. Let me say at the outset that the amendments are to an extent prescriptive.

[LORD MCKENZIE OF LUTON]

Amendment 36C would require the Secretary of State to publish a list of public authority functions which may be the subject of a transfer under the provisions of this Act. Amendment 36F goes further and would require the Secretary of State to consult combined authorities with a view to devolving certain functions and funding in certain areas. These are employment support, transport, housing, skills and business rates. We should be clear that the published list does not require any of the functions to be transferred in any particular situation; that will remain subject to whatever agreement, if any, is entered into in practice.

The amendment has been prompted in part by the first report of the Session of the Delegated Powers and Regulatory Reform Committee, which refers to the wide powers that new Section 105A would confer. It states at paragraph 10:

“But it says nothing about how in practice these powers might be used, or why it is not appropriate or practicable to include a description of the types of function covered by the power on the face of the Bill”.

We agree. If there are concerns about government at the centre trying to pull back the devolutionary process, putting down some markers must surely act as a counterweight. It might even help encourage and embolden some of those authorities that are not yet members of a combined authority and are not fully in the know.

Amendment 36F requires government to be proactive in the cause of devolution. In Committee on Monday, we got the line that the Government would wait to hear who comes knocking and then respond and engage in some fashion. The amendment requires the Government to themselves initiate consultation with combined authorities over areas of,

“employment support ... transport ... housing ... skills ... and ... business rates”,

as matters that are important for driving growth and prosperity. It does not preclude consultation over other matters, and we have a separate amendment covering strategic planning.

It may well be that consultations are already going on in a number of areas with a number of combined authorities—indeed, we know that there are. That is fine, but adopting the requirements of the amendment would ensure that opportunities are being opened up for all combined authorities. From our debates in Committee on Monday, there was no indication from the Minister that there were any capacity constraints as far as the Government were concerned on moving forward on a wide front. This would force the pace of devolution—and on a broad front. I beg to move.

**Lord Shipley:** My Lords, I am pleased in principle to support Amendments 36C and 36F. However, in Amendment 36C, on publishing a list of public authority functions, why do we need to wait to within one month of the enacting of the Bill? Surely it is known now what the functions might be. Should the House not be informed what they are before the passing of the Bill? I would be grateful if the Minister could specifically explain why it is not possible to list the public authority functions before the Bill passes rather than afterwards.

Amendment 36F is fine as far as it goes—and of course we will have the opportunity in Amendment 36 to discuss strategic planning issues, as the noble Lord, Lord McKenzie of Luton, explained. But I have two points to make in relation to this amendment. First, this is not necessarily an exclusive list; other powers and funding could be thought about. One is careers advice. It may be seen to lie within the skills head, but probably it could be treated separately. There may well be others. We should have a discussion about whether there are other areas to add to the list of matters that the combined authorities should be consulted on.

My second point relates to the use of the word “powers”. At some point we need to think more in terms of responsibilities. Powers and funding are one thing, but what you do with them is another. There is now the prospect of a very large number of functions, powers and responsibilities coming into the remit of combined authorities. I am starting to get very worried about the capacity of the combined authorities to manage all of the things that they may be asked to undertake. As part of the consultation that is asked for in Amendment 36F, I hope that the issue of capacity and resources is also addressed.

**Lord Warner:** My Lords, I support my noble friend’s Amendment 36C. It is particularly important in relation to NHS responsibilities, which we will come to a little later. There is a considerable number of laggards in the NHS who are really nervous about getting into this territory. It is important that they start to engage their brains with this, because there is a growing number of failing health economies. Too many of them are sitting waiting to see what happens in Greater Manchester rather than engaging with this issue. I hope that the Minister will address this point—the sooner the better—and not be afraid to make it clear to the outside world, particularly the NHS, that these functions could be transferred down to the combined authorities.

**Lord Woolmer of Leeds:** My Lords, these amendments go to the heart of one of the problems that we have talked about many times in this Bill—the principle of not quite open house but, “Tell us what you want and we’ll discuss it. We’re not going to reveal our hand, but we might be interested in discussing it and we will listen and talk”. I share the view of my colleagues on the opposition Front Bench that it makes a lot of sense to go further than that for many local authorities that are considering whether or not to become combined authorities—not the relatively small number of combined authorities that currently exist but those that are looking at what it might all mean.

I still think that it is a terrible waste of people’s time not to have a reasonable idea of the kinds of thing that the Government might be positively interested in. I have said this before but any local authority groups coming together will have to second-guess what the Government might be interested in devolving, which is a terrible waste of time. They have to have a dialogue and find things out while someone else has probably been through the same process already. The Government must have a view about the areas that they are prepared to see devolved. Devolution is a two-way process. It is

what local government and people in local communities would like to have, but it must also be about what central government feels it makes sense in the current climate to give a lead to—so I welcome these amendments.

To pick out one area, skills, and all that is associated with it, fewer than 2 million people go to university—full-time or part-time—but almost 3 million people are in further education. A lot of people in your Lordships' House have been to university but far fewer will have been through FE colleges. I see the noble Lord indicating that he did. It is easy to overlook the fact that far more people look to other routes into skills and education than universities. I am from a strong university background so my view of universities is not negative at all, but that is the reality. The skills of that group of people are very important to the economies of our combined authority areas. The people with low and medium-level skills are almost certainly the people who will work and live in those communities. A lot of people in universities go off elsewhere—we would like to keep more of them in West Yorkshire. These people are the key to skills and our economic development and growth. Having a strategic view on that is extremely important.

That leads me to two final points. First, my noble friend touched on health and social care, and I would like to see that on the list. Any list can be added to, and it is clearly the case in Manchester, so it ought to be on a list that is indicative of the kind of things that we would expect to be up for discussion.

Finally, it is important to bear in mind that the role of the authority's mayor is largely and overwhelmingly strategic, and where there are interventions, they are to help secure the strategic objectives. There is some temptation for local authorities to think, as the discussions go on, to think that local authority powers will be taken away from them: that while there might be some devolution from central government, powers will be taken away from local councils. Putting that kind of message out and making clear the difference between strategic powers and detailed implementation powers is extremely important. I warmly welcome the thrust of these amendments.

7.30 pm

**The Earl of Listowel:** My Lords, I wish to echo a concern expressed by the noble Lord, Lord Shipley, if I understood him correctly. This brings to mind the Queen's Speech of 2010 in which the Government said that their ambition was to move power back to doctors, teachers and front-line professionals and let whoever is closest to the patient, the pupil and so on, make the decisions. One has seen following on from that the academy schools programme, powers for head teachers, and changes in social work with more responsibility being given to social workers. The delegation of power is moving downwards to those who are closest to the particular client. I see a similarity here.

The big question that one needs to be reassured about is that, for instance, a social worker—this is of concern to me—is sufficiently experienced and supported to make the right decisions about children and families. Perhaps what the noble Lord, Lord Shipley, is saying is that in giving these responsibilities, we must make sure that the new authorities have the capacity to

make the right judgments. We do not want to tie their hands and we want them to be free, as long as they have the capacity to make the right decisions. I realise that this is bit of a chicken-and-egg situation: the more freedom one gives, the more people of the right calibre one may attract to take up those posts. But given that these are such important decisions for the lives of families in our society, it is quite fair to ask that reasonable checks be made on the quality of what is produced. I hope that that makes sense.

**Baroness Williams of Trafford:** My Lords, these amendments seek in one way or another to provide that in advance of the devolutions being implemented, some form of statement should be published by the Secretary of State or put in the Bill about the range of powers which might be devolved to areas. These are examples of the quite centralist and prescriptive approach so beloved of Governments over the last 150 years, and that is what this Bill precisely seeks to reverse. There will be no prescribed list for local authorities or combined authorities to follow. We want to hear from them; we do not want to tell them what they want or what their plans for growth are. Our approach has been to start a conversation with the areas if they want to talk to us about their aspirations and the powers and budgets they want to have devolved to them to improve their area's economy, deliver better local public services and build sustainable prosperity.

We want areas to be as ambitious as possible and we want to hear what they want, not what they think we are looking for. That is the whole point of the Bill. We do not have some preordained list of powers which we might devolve, and we do not wish to have in advance any conversations that would set limits or parameters about what may or may not be devolved or what might be an initial priority for devolution.

Noble Lords will be aware of the Manchester deal, and we have talked at length about some of the powers that Manchester wishes to see devolved. Perhaps that provides ideas for other authorities to move forward and the plans might offer them some inspiration, but we do not wish to impose the Manchester plan for growth on the Cornwall plan for growth or, indeed, the one for Norwich. We are very clear about that.

I am afraid that these amendments are simply out of step with the whole approach that this Bill is designed to deliver: agreeing bespoke devolution deals which enable individual areas to realise their potential and make the greatest possible contribution to the success of the UK as it responds to global economic opportunities and the challenges we all face.

I want to make two points. The noble Lord, Lord Woolmer, or the noble Lord, Lord Warner, made a point about local authorities being frightened that services they deliver as local authorities could be taken away—the difference between the strategic direction and the local direction of a council. That is a very important point to make because when combined authorities are thinking about their ambitions and plans, they must be focused on the big strategic issues that will benefit from the opportunity of scale across a number of local authorities.

[BARONESS WILLIAMS OF TRAFFORD]

The other point I want to deal with is that of capacity, alluded to by the noble Lord, Lord Shipley, and by the noble Earl, Lord Listowel. In a sense we are already dealing with combined authorities because we are having conversations, and obviously the Greater Manchester devolution deal took place last November, so we will continue with that. But when consulting the combined authorities on powers, their capacity to take on functions will also need to be addressed. A critical issue in the conversation with combined authorities will be to ensure that they have the capacity to deal with the matters that they wish to take on. If they are ambitious for powers to be devolved to them, they will need to be clear in the proposal they bring to us on the governance arrangements for managing and handling the power they want and how they will have the capacity to do so. With that, I ask the noble Lord to withdraw his amendment.

**Lord McKenzie of Luton:** My Lords, I thank all noble Lords who have spoken in this short debate. Every noble Lord has supported these amendments with the exception, unsurprisingly, of the Minister. I should say to the noble Lord, Lord Shipley, that there is no fix on the timing of Amendment 36C if there are benefits in being flexible, or indeed on expanding the list. I would be happy to talk about that when we return to this matter, as we certainly will.

My noble friend Lord Warner made an important point about engaging health economies where they are holding back at the moment—being proactive and prodding them into focusing and engaging. The amendments have had the strong support of my noble friend Lord Woolmer, who stressed the importance of skills and the need to be strategic in these things.

I should say to the Minister that I am not surprised at the response because it is what we have been given throughout our consideration of the Bill: “This is a broad framework and we are not going to tell anyone to do anything; we are happy to sit back and have conversations”. In a sense that is government by vacuum, with no lists, preconceptions or limits being set. That cannot be good enough. If the Government are not themselves now planning how to deal with the consequences of what might happen after devolution, it would seem that they are being derelict. None of this forces anyone to do any particular thing, apart from the Government saying, “Actually, get off your backsides and make this work. Do something proactive to engage with combined authorities so that they know what is on offer and encourage them into deals”. Otherwise, there will simply be cosy conversations on an unplanned basis, and a favoured few authorities may well get the nod of approval from the Government. But the general thrust of our position is that we want devolution to work across the board in England on a proactive basis. That is what our amendments are designed to help achieve.

I will withdraw the amendments today, but I have absolutely no doubt that we are going to return to this issue in one form or another because it is at the heart of whether we believe that devolution should work across the board and we should want it to happen, or

whether we think that it is a question of waiting to see what washes over us in due course. I beg leave to withdraw the amendment.

*Amendment 36C withdrawn.*

*House resumed. Committee to begin again not before 8.39 pm.*

## Syria

### *Question for Short Debate*

7.40 pm

*Asked by Baroness Falkner of Margravine*

To ask Her Majesty’s Government what assessment they have made of the political situation in Syria.

**Baroness Falkner of Margravine (LD):** My Lords, the war in Syria is in its fifth year. The UN estimates 200,000 dead, 100,000 injured and 10 million displaced. The whole of the Middle East is riven by sectarianism and destabilised by global jihad. The borders of the Levant are in a state of flux. It is tempting to ask how we got here; what could we have done to avert this ongoing crisis? However, this is merely a Short Debate so I will not test the patience of the House.

Let me lay out how the situation has evolved since we last debated the Middle East earlier this year. We have not seen a rout of ISIL; we have not seen a consolidation of the opposition forces around the Syrian national coalition, and we have not seen a reduction in interventions by Qatar, Saudi Arabia and Turkey on the side of the Islamists, and Iran, Russia and Lebanon for Assad.

What of the instability it is causing around the world? We know that the emergence of ISIL in control of its own territory is a pull factor for global jihadis. It is not just the threat from returning jihadis which should concern us, but also that ISIL is attracting allegiance from across various jihadi groups in the Muslim world. What started as a civil war has now become a struggle for the heart of Islam. It has become a geopolitical struggle between Saudi Arabia and Iran. With the number of external factors of different ideological positions, it is several wars. It is a Shia/Sunni war, but it is also a Sunni/Sunni war. Its reach is global, as its resolution will impact on Islam and modernity well into the future.

My question for Her Majesty’s Government is simply this: where do the Government see this taking us and our interests in the maintenance of international peace and security—the obligation that permanent membership of the United Nations Security Council imposes on us? What is their assessment of what the end will look like? In fact, do they actually have a strategic vision for the map of the Middle East when this is all said and done? Are they considering the UK’s interests with a view to the very real possibility that we may have to recalibrate our alliances quite substantially at the end of this?

Let me suggest a few possible options we might need to consider. I urge the Government not to let the war against ISIL divert their focus from trying to get peace even in a rump Syria. Defeating ISIL cannot be done without peace in what remains of Syria. A lot of

hope is placed on Iran and the potential success of the P3+3 talks culminating on 30 June. I share that hope for a successful outcome. While we hope that once Iran is inside the tent, so to speak, it will exert a more positive influence on Syria, we should not underestimate the difficulty in getting the moderate opposition—I am referring to the non al-Qaeda, non Jabhat al-Nusra and non Islamic State groupings—into peace talks.

We also have to consider the influence that Russia can bring to bear on Syria. I have been as vocal a critic of President Putin's Russia as anyone in this House but I acknowledge that, despite their role in Crimea and Ukraine, we need the Russians to use what leverage they have with the Assad regime. It will not be a surprise to the House tonight that Russia may have to be Assad's safe haven, if that is the price of peace in Syria. So my question to the Minister is: to what extent are we working with the US and Russia in trying to find a format for Geneva III? A propos peace talks, the Minister will be aware that the 37 groupings under the aegis of the revolutionary command council recently wrote an open letter to the United Nations special envoy Staffan de Mistura to say that they would not attend Geneva III, as they saw him as too close to the Assad regime.

While this is clearly unhelpful, the facts on the ground have changed and so must our analysis. From 2011 till 30 August 2013, when the House of Commons decided not to vote for limited intervention against Assad, I was clear that we could not have peace with Assad in situ. However, with the advent of ISIL, and the ongoing support by Qatar, Saudi Arabia and Turkey for Islamists—I would go as far as to say support of jihadi groups by those countries—we now have to acknowledge that Assad's people have to be part of the solution. In that regard, I make no criticism of Staffan de Mistura for seeking to bring the Syrian Government into the talks.

The interview that Bashar al-Assad gave to the US journal *Foreign Affairs* in March is instructive. Assad gets the fact that all wars end in a political settlement. As for preconditions for talks, he is no longer saying that he will speak only to representative political parties, but in fact makes it clear that he will speak to, in his words, "any political entity" or person. When asked about preconditions, he makes it clear that there will be no conditions. I am sure the noble Baroness will agree that this interview was clearly designed to send a more nuanced and calibrated message than we had from the regime until now.

I urge the Government to work towards talks even if their influence lies only with the secular moderate opposition, such that that exists. Even if we have only incremental gains towards a partial peace, it will signal the beginning of a transition. However, what of a wider strategy? I posed a question about where the pieces would fall in this kaleidoscope. If all we can achieve in Syria is only a partial peace, we must go for that. ISIL will be a feature of both Syria and Iraq as well as the rest of the Muslim world for some time. The caliphate it promotes is evidently attractive to many Muslims, and will continue to be so. In the next decade or so we might have displaced it in the Levant, only to see it emerge in poorly governed spaces in Africa or south Asia.

What is clear is that the ideology that ISIL feeds on has not come out of the blue, despite the protestations of the Saudis, Qataris and those who themselves have supported the propagation of these medieval versions of Islam. If we have a partial peace in Syria and Iraq, do we expect to continue to do business as usual with Saudi Arabia, the Gulf states or indeed Turkey? I suspect not. Those countries will have to account for their role in this ugly war to other Muslims.

The Islamic civilisation that existed before the events of 9/11 has disappeared permanently. The Muslim world can see that, hence we have seen the different reactions to the rise of Islamism in different countries. The recent elections in Turkey have provided a little hope that the fightback from modern Muslims has begun. In Egypt the reaction against the Muslim Brotherhood has been less gratifying, however popular those measures might be domestically. No liberal can say that a death sentence against Morsi is a good thing.

However, what is clear from these different developments is that the West—the United Kingdom, the European Union, the US—has no comprehensive strategic vision that can guide us. I urge the Government to start thinking about our interests from a longer-term perspective.

Since I have not used up my time, I take this opportunity to thank all noble Lords who will speak in tonight's debate and who have stayed late to do so.

7.49 pm

**Baroness Morris of Bolton (Con):** My Lords, I think that all of us speaking tonight would like to thank the noble Baroness, Lady Falkner of Margravine, for securing this important debate.

The plight of the Druze in Syria is a worrying development for those of us who place a special significance on the religious diversity and harmony that was once a hallmark of the Levant and the Middle East. In so many of the Middle East's holiest and most significant centres of religious devotion, the ability of all faiths to worship together in harmony and peaceful co-existence is much diminished. Many members of minority faiths have had to flee their homelands to survive and now live in refugee camps.

The scale of displacement across all sectors of society is quite astonishing and one of the real tragedies of the current situation in Syria. The refugee crisis in Syria is now the biggest mass movement of people since the Second World War. According to the UNHCR, almost 4 million have fled to Syria's immediate neighbours, more than half of them children. More than 6.5 million children and their families are internally displaced within Syria. This is, by any measure, the most profound humanitarian catastrophe of our time.

Save the Children reports that humanitarian access remains constrained, a result of which is that food, water and medicines are running out, putting millions at risk of sickness and malnutrition. I join Save the Children in urging the Government to use all their influence at the UN to ensure that UN agencies, as a matter of urgency, improve the delivery of aid across conflict lines and borders.

[BARONESS MORRIS OF BOLTON]

I pay tribute to Save the Children and all the other NGOs for their remarkable work inside and outside Syria. I also pay tribute to the Government. We should be proud of our £800 million contribution, the largest ever response by the UK to any humanitarian crisis. I welcome the Prime Minister's commitment to expand the UK resettlement scheme for Syrian refugees.

Only a political solution can resolve this crisis. As ever in the Middle East, it is the politics that gets in the way of peace. No simple solution presents itself. As I was once told by a friend, "If you think you understand the politics of the Middle East, it's not been explained to you properly".

What is clear, however, is that, before a political solution can even start to gain momentum, the military challenge of ISIS must be contained and defeated. Much of the burden of this challenge is being faced by our staunch allies in the region, such as Jordan—I declare my interest as the Prime Minister's trade envoy to Jordan. Our role, which remains critical, is to support them in all that they do.

Happily, in a region wracked by instability, in Jordan we have a friend on whom we can rely, not only to provide safe shelter for refugees but as an ally that is doing its utmost to drive forward a political solution to this conflict—an effort that we should all applaud.

**The Earl of Courtown (Con):** My Lords, just to remind the House that once the counter says three, you are on the fourth minute.

7.52 pm

**Lord Soley (Lab):** I congratulate the noble Baroness on getting the debate. It is tragic that it is so short, but she has done an awful lot of work on this and it is very important. I agree with much of what she has said and also with the noble Baroness, Lady Morris, too.

I will keep my three minutes to one factor, because we cannot go into all of it, which is Russia, which the noble Baroness touched on. I have felt for a long time that the role of Russia in this is far more important than we have realised. I ask the Minister if we know whether Russia is still arming Assad and whether it is still providing him with intelligence. We underestimated the importance of the intelligence from Russia. We have to remember that it has satellites over the area providing information to Assad's forces so that he can hold ground that, frankly, he would have lost otherwise. It has always been my view that Assad would not negotiate as long as Russia felt that it could keep him in place.

The third question that I would ask the Minister is this. I think that President Putin now knows that, although Assad might have to be part of the solution, as the noble Baroness said, he certainly cannot dictate it. There is no way that Assad can or should be back in control of the bulk of Syria again, even if Syria can hold together. A very important part of the policy that we have never fully debated in this Chamber is: what role is Russia playing? How close are we to Russia? Despite all the other problems with Crimea and the way that President Putin is behaving in modern Russia, there must be some shared interest in working together to solve this problem. It is not in Russia's interest to have ISIL winning in that area.

Similarly, although it might not quite see it this way, it is not really in Russia's interest to see the United Nations frozen out, as it is at the moment because of the attitude of Russia and China against intervention. Syria is a classic example of how, just as intervention can go wrong, as it did in Iraq, so non-intervention can go wrong, too, as it has in Syria—unless people think that it is some wonderful success. The role of Russia is an issue that we need to bring out to some degree. Much of what else has been said could be dealt with in a much bigger way.

My last point is that we are in acute danger of a growing major war in the region involving Saudi Arabia and Iran—and, of course, the split within Islam between Sunni and Shia—which would have a knock-on effect on many of our allies there, which are becoming destabilised. Yemen is the latest example; I always worry about Bahrain, which has been doing remarkably well and deserves a lot of credit when it is in an almost impossible position in relation to Iran and Saudi.

For tonight, I simply would like answers so that I know more about what the British Government are doing with Russia—or is it just that we cannot do very much with it?

7.55 pm

**Lord Wright of Richmond (CB):** My Lords, over the past four years there have been consistent and confident forecasts that the Assad Government in Damascus were about to fall. If I may paraphrase Mark Twain, all these forecasts have, so far, been exaggerated. In the brief time available this evening, I will limit my intervention to a number of questions.

Would the Minister tell the House what support Her Majesty's Government are still giving to the so-called "moderate rebels" in Syria? Does she think that they are a credible replacement for the Assad Government, if the Assad Government should fall? Are the Government playing any part in the reported plans of the so-called "Southern Front" to launch attacks on Damascus from the south? Is she aware of reports that all the rebel movements are now deeply infiltrated by Jabhat al-Nusra, a branch of al-Qaeda defined by the European Union and by the United States as a terrorist movement, but which both the United Nations and the United States seem increasingly to tolerate?

Is the Minister aware that the Islamic State, which now occupies a significant and growing area of Syrian territory, owes much of its support, in terms of money, men and weapons, to our Sunni friends in the Gulf? Does she accept that in supporting the so-called Syrian rebels, if that is what we are doing, we are effectively supporting the Sunni case that President Assad should go, without any apparent concern for the likelihood that the Islamic State would take over the Syrian Government in Damascus, with appalling consequences for the survival of secularism in that country? She may recall that the Christian nuns of Ma'loula, who were captured by Islamic extremists, publicly thanked the Assad Government for rescuing them. It is not only Christians who must dread the possibility of President Assad's departure; there is a significant minority of Druze both in Syria and in the occupied Golan that already has much reason to fear the threat of Islamic extremists.

Finally, I hope that the Minister will tell us how far we are co-ordinating our policy towards Syria with our partners in the European Union, and in particular whether we support the efforts of Mr Staffan de Mistura to negotiate a political solution with the involvement of the Government in Damascus. Surely our aim must be to reach a situation where Syrian refugees, who now number nearly 4 million, can return safely to their homes? Is it, even now, not too late to work for a joint international effort to drive back the Islamic State in Syria, and to persuade our Saudi friends, and our Turkish allies, that what they have helped to create presents as much of a threat to them and their neighbours as it does to us?

7.58 pm

**Lord Risby (Con):** My Lords, the tragic humanitarian crisis of biblical proportions arising out of the situation in Syria is now impacting all European countries, to add to the enormous pressures on Lebanon, Jordan and Turkey. This all arose out of a terrible misjudgment by President Assad, who, after some ambiguity, blamed social unrest on foreigners and terrorists. There were arguments as to how to respond; sophisticated voices rejected any action against the Assad regime, saying that there was no strategy. His strategy was clear: survival at any cost, no matter what the bloodshed was and despite the efforts of the United Nations and the Arab League. Today we have the incredible situation whereby ISIL is supplying President Assad with oil and he and ISIL attack moderate Syrian rebels. The notion that he is a buffer against ISIL simply is not being borne out.

Russia, which has its own preoccupations in Ukraine and elsewhere, now realises that Assad and his immediate cabal cannot win. There is a widely held view that Iran would consider sacrificing Assad if there was a nuclear deal that, in turn, would enable it to negotiate its political interests thereafter. It appears that Turkey and Saudi Arabia are willing to act as security guarantors for Syria post Assad. They appear more disposed to support the more moderate rebels—fearing ISIL more than anything else—and they might provide the best guarantee of stopping ISIL taking over Syria in totality, including Damascus.

I refer my noble friend the Minister's attention to a recent report put together by the Atlantic Council, *The Case for a Syrian National Stabilization Force*. It may well be of interest and points to a clear strategy for supporting the moderate rebels and, ultimately, looking at political reforms. Of course, the political structures that could support this do not yet exist, and we must not make the mistake of dismissing everybody with political and administrative experience, as regrettably occurred in Iraq.

Assad cannot last. Iran and Russia, for different reasons, are more open to dialogue, however tortuous, and Turkey and Saudi Arabia may well be supportive. At minimum such an approach is worth encouraging and I simply do not know of any viable alternative. I greatly look forward, therefore, to hearing from my noble friend of any role that we and other European partners can have in trying to bring about fresh thinking in resolving this tragedy. There may just be some straws in the wind now to support this.

8.01 pm

**Lord Alton of Liverpool (CB):** My Lords, Syria is the worst humanitarian catastrophe of our time, generating the largest movement of displaced people since World War II. We are all grateful to the noble Baroness, Lady Falkner of Margravine, for giving us this brief opportunity to turn a spotlight on these events. In my brief remarks, I will say something about the plight of minorities in Syria.

All faith communities and minorities, such as the Yazidis, have suffered, but the fate of the country's Christians, already referred to, is catastrophic. The Melkite Greek Catholic Archbishop of Aleppo, Jean-Clément Jeanbart, asks:

“What are the great nations waiting for before they put a halt to these monstrosities? Let me cry with my people, violated and murdered. Allow me to stand by numerous families in Aleppo who are in mourning. Because of this ugly and barbarous war, they have lost so many loved ones, fathers, mothers, brothers and sisters and cherished children”.

ISIS has murdered, plundered, raped and abducted, including whole villages of Assyrian Christians. Now that joint Kurdish and Assyrian forces have recently recaptured a number of villages, can the Minister tell us whether we are going to provide teams, especially in the Khabur River Valley area, to find and dispose of mines and make homes and villages safe again? Where ground has been recaptured, will we be supporting the proposal of my noble friend Lord Dannatt to enhance their military capability? Do we accept that more training and support are needed for the Kurdish-led alliance, which can likely even seize Raqqa, with the result of crippling ISIS in both Syria and Iraq?

Does the Minister agree that the Kurdish-Assyrian democratic self-administration governmental structure and its commitment to civil society and the rule of law should be the model for a post-Assad, post-ISIS Syria and possibly for the entire region? Will the Minister consider practical support for Bassam Ishak, the president of the Syriac National Council of Syria, who has a vision of a Syria in which rights are based on citizenship; where all people, regardless of ethnicity, religion or gender, are treated equally; and where women have a prominent role in the structures? These pillars of the DSA system should surely be the pillars of a post-Assad, post-ISIS Syria.

The overall goal must be to enable all Syrians who have left, including Christians, to return to their homes, to be safe when they return, and to participate in rebuilding the Syrian infrastructure and Government on the basis of social and political equality, with religious freedom and human rights being safeguarded. It is not perfect but the Kurdish-Assyrian coalition is the best example in this fractured region of hard-headed bridge-building and what the West should want to see in the Syria of the future.

8.04 pm

**Baroness Tonge (Ind LD):** My Lords, I congratulate my noble friend on securing this debate. Last week I was in Lebanon, visiting refugee camps there, and I want to take this opportunity to highlight the plight of the Palestinians among the millions of refugees fleeing Syria.

[BARONESS TONGE]

I met people whose families had fled Palestine during the Nakba in 1948 and found shelter in Iraq but 10 years ago had had to flee Iraq as well, following the war waged against Saddam Hussein. They had made their homes in Syria, where they were very well treated by the Government, until rebel groups infiltrated the Yarmouk camp and catastrophe occurred once more. They were refugees again, for the third time in a generation. They are now trying to live in Lebanon. Their entire support is coming from the United Nations Relief and Works Agency—UNRWA—because they are not allowed to work by the Lebanese Government; they are not given work permits. They live among other Palestinians in converted sheds and animal shelters, which I visited, that UNRWA and the NGOs have managed to make just about habitable. They have no means of support and have been dependent on monthly cash handouts from UNRWA to cover food costs and rent. Unrest is developing very quickly in the camps because UNRWA has had to tell the refugees that these cash handouts will have to stop at the end of June because it has run out of funds.

UNRWA was set up as a temporary organisation in 1948 to help refugees from the Nakba. It is still struggling to cope 60 years later. The UK is the third-largest funder of UNRWA, and we should be proud of what we have done, but we need to address this shortfall in funding before unrest spills over into serious violence and fighting in Lebanon itself. Can the Minister tell us what the Government intend to do to avert this cash shortage? For instance, will pressure be put on the Gulf states to help? Finally—she will expect me to say this—will she not admit that the creation of a secure homeland for the Palestinians is now more needed than ever, and that our Government should encourage this by recognising the state of Palestine? This would be a huge contribution to peace in the wider Middle East.

8.07 pm

**Lord Hylton (CB):** My Lords, I thank the noble Baroness, Lady Falkner, for introducing this debate because much has changed in Syria. The mainly Kurdish cantons of Kobane and Jazira are now linked up, while Afrin is still free. This means that most of the Turkish frontier is now closed to ISIS. The Kurdish and Arab militia, with US air support, has shown that it can defeat ISIS.

Will Her Majesty's Government support the three cantons in their demand for internal self-determination? Will they come out clearly in favour of common citizenship for all, as proclaimed by the elected assembly of Jazira? Will they urge Turkey to open its frontier to urgent medical and relief supplies going into Syria and grain exports coming out of it? I urge the Government to see for themselves what is happening in the cantons. It is quite easy to enter Jazira—I have done it myself.

We should help the cantons to uphold their written constitution and social charter. When fully put into practice, these can provide a model for Syria and an example to other parts of the Middle East, as my noble friend Lord Alton mentioned. If Kurds, Assyrians, Arabs and others can co-operate, why should other Syrians not do the same? Nearby Lebanon suffered a

terrible civil war but the Lebanese are now trying to live together and the country has achieved the amazing feat of absorbing more than 1 million Syrians without putting anyone into camps.

I conclude by hoping and thinking that perhaps there is still some hope for Syria.

8.09 pm

**Lord Naseby (Con):** My Lords, I, too, welcome this debate enormously. This war has gone on for 54 months; that is four and a half years. The Second World War lasted only five and three-quarter years. That puts it in context. In my judgment there are two causes. First, this is the fourth Shia/Sunni war since Syria was set up. Secondly, I am afraid that the West's idea of an Arab spring has proved to be a disaster. In fact, as my noble friend on the Front Bench will know, we were the first to recognise the freedom fighters. The trouble was we did not recognise who were the freedom fighters, and the jihadists were the largest group.

I raised this issue with the then Foreign Secretary and the Prime Minister in 2013, and was told that Assad was on the way out. However, as my noble friend on the Cross Benches said, he has spent an awful long time going. In my judgment the time has surely come to recognise reality and meet Assad, exactly as Churchill had to do with Stalin. You may not like the man but that is irrelevant in the context of what we face today. If we do not, it is my judgment that the state of ISIL will become a reality. I draw an analogy with Sri Lanka and the Tamil Tigers, a vicious, left-wing-led Hindu organisation that was only defeated by strong leadership—remember that it is democratically elected—good armed forces, and absolutely key was the help the West gave to stop supplies to the Tamil Tigers. We now need similar leadership from the West, and it has to include Assad and his forces. If we do not address this task, the West will surely suffer. ISIL state will become a reality and we, too, in the UK will suffer home-grown terrorism which may make the IRA look like beginners. We need only look at the pictures on page 30 and 31 of today's *Times* to understand what the real threats are. I say to my noble friend on the Front Bench that I have seen some of those cages at the end of the war in Sri Lanka. They are quite ghastly. If we have to sup with Assad, then we must do it soon.

8.12 pm

**Lord Kerr of Kinlochard (CB):** I too thank the noble Baroness, Lady Falkner, for this debate but, oh, how we need a standing Select Committee to regularly scrutinise policy on subjects such as this to focus our debates. I hope that the Chairman of Committees will read *Hansard* tomorrow.

The Minister will well remember the debate that took place almost two years ago when a majority in this House took the view that it would be a mistake to bomb Damascus. The principal argument that many noble Lords adduced was that it was not clear what the Government envisaged doing the day after such a bombing. The strategy was not clear—we could not discern a strategy. I must admit that I still cannot discern it.

I see no way of saying in three minutes anything that is commensurate with the scale of the tragedy that has been running for four and a half years, given the scale of the casualties and the 10 million displaced people. Therefore, I will just ask the Minister four questions. I have no time for analysis or advocacy. First, who do the British Government recognise as the legitimate Government of Syria? Are we in diplomatic relations with them? Is it still our view that President Assad's departure is essential, even if his successor was Jaish, which is al-Qaeda by another name, or ISIL?

Secondly, is the UK still conducting military operations against ISIL only in Iraq and not in Syria? If so, can the Minister cite a precedent for any previous similarly geographically constrained military operation against an enemy occupying parts of more than one country?

Thirdly, since the Syrian tragedy is a proxy war between Iran and Saudi Arabia, do the Government agree that the key to a solution must lie in Tehran and Moscow on the one hand and Riyadh, Doha and Ankara on the other? What are we saying in these capitals? What incentives are we suggesting which might encourage both sides to back down?

Lastly, is it really the case that whereas the Turks and the Jordanians are dealing with millions of refugees, and other European countries such as Germany, Sweden and the Netherlands are taking in tens of thousands of refugees, we in this country have so far admitted fewer than 200? If so, how can we reconcile that with our history, traditions and values?

8.14 pm

**Baroness Morgan of Ely (Lab):** My Lords, I, too, thank the noble Baroness for introducing this debate in a very comprehensive way. She was lucky to have 10 minutes; we are lucky to have three minutes. There is no way you can do justice to a very complicated situation in that time.

Syria, which was relatively developed, has been reduced to ruins and, as we have heard, millions have escaped the country with little more than the clothes they stood in. A key concern that we should have is that there is seemingly no strategy for dealing with this crisis. What we need is an honest and complete reassessment of British and EU foreign and security policy in this area. Piecemeal, short-term and ad hoc measures cannot replace a comprehensive, long-term foreign policy strategy—a strategy which I am afraid has been clearly lacking in recent years.

The conflict is much more complicated than a battle between those who are for or against President Assad. It now has a clear sectarian angle, with the Sunni majority fighting the Shia Alawite sect. The turmoil in the country has attracted jihadist groups, including Islamic State, as we have heard. There have been atrocious war crimes committed: murder, rape, torture, and the use of chemical weapons, sometimes in barrel bombs. There are serious threats to historic antiquity. I ask the Minister to elaborate on what we are doing to protect these irreplaceable relics. Will she indicate whether the Government support the efforts of Staffan de Mistura to establish freeze zones to allow aid deliveries in besieged areas, and give some idea of

how and when these zones may become operational? Will she also confirm whether the Government are still pressing the EU to lift the arms embargo to the rebels fighting Assad? I would like to ask the Minister a variation on the question asked by the noble Lord, Lord Kerr. There are rumours implying that the US has suggested that Assad will not have to go. Can she confirm whether that is the case?

We are aware that the British Government have been very generous in helping to fund refugees in the region, but I would be grateful if the Minister elaborated on whether a proportion of this fund is being earmarked to protect women, who are enduring extreme human rights abuses in some of the camps. Have the Government any intention of contributing to the EU trust fund for Syria, to which Germany and Italy have already contributed? It is worth underlining that by March this year the UK had resettled only 187 Syrians, while Germany has accepted 28,000. We must underline that as we have a responsibility in that regard.

Let me pick up on a point about Russia made by the noble Lord, Lord Soley. On 19 June, Putin once again underlined his support for the Assad regime, emphasising that he opposed any use of external force to try to end the civil war in a country which conveniently gives him access to a friendly Mediterranean port. What are we doing about the Russian situation? What is our plan in that regard?

We should be asking many more questions. I am afraid that my time has run out but we need to ask: where is the long-term strategic vision for this region? It is all very complicated; this is about not just Syria but the whole region, and we do not seem to have a plan.

8.18 pm

**The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con):** My Lords, like other noble Lords, I am grateful to the noble Baroness, Lady Falkner of Margravine, for tabling this debate. I thank all other noble Lords for their contributions. I take this opportunity to say how much I appreciate the way in which the noble Lady contributes to our debates. Her work is invaluable and she gives us an effective and knowledgeable voice.

In responding to the debate, I will seek to address what I think are her underlying questions, as echoed by the noble Baroness, Lady Morgan, a moment ago. Is there a strategy to assist the international community in its search for a political resolution in Syria and, if so, what is it?

First, with regard to the Syrian context, I agree with the noble Baroness, Lady Morgan, and others that the Syrian situation is clearly within the context of the wider region. Today, the Question is about Syria and I will focus on that but I am sure that we will, quite rightly, return in other debates to the wider context. The noble Baroness, Lady Tonge, referred to that, too.

As we have heard in detail today the conflict in Syria, now in its fifth year, continues to worsen. Indeed, it is arguably one of the most difficult and tragic of our generation. Just miles from his palace in Damascus, President Assad uses barrel bombs, chemical weapons

[BARONESS ANELAY OF ST JOHNS]

and siege and starvation tactics against his own people. The latest harrowing estimates are of more than 230,000 people dead, 12.2 million people in dire need of humanitarian aid within Syria itself, and 3.9 million refugees in the wider region. That is why my right honourable friend the Prime Minister has repeatedly underlined the urgency of a political solution in Syria, including recently at the G7. Doing nothing is not an option for any of us. Our national security interests are affected by Syria and regional stability is threatened. We simply cannot turn our attention from one of the most awful humanitarian situations in the world. We need to focus on it.

I am appalled by the systematic use of sexual violence by Assad's forces and their militia. I appreciate that it is not limited to them and that some of the opposition forces engage in it, but the majority of it takes place within Assad's own forces. Unspeakably brutal acts have been extensively reported by the commission of inquiry. To help mitigate and prevent further irreparable devastation, the UK already provides £800 million in humanitarian aid to support the region, as noble Lords have referred to tonight. We support the UN Population Fund, which provides services in Syria for survivors of sexual and gender-based violence. This includes providing safe spaces and psychosocial care for more than 27,000 women. Through NGOs, we are supporting holistic case management services for more than 800 survivors of gender-based violence among Syrian refugees in Jordan, and cash assistance to vulnerable refugee women in Lebanon.

We also fund two projects in Syria to improve the capacity to document crimes of sexual violence to hold perpetrators to account in the future. In my capacity as the Prime Minister's special representative on preventing sexual violence in conflict, I will be unrelenting in pursuing this and pushing for even more support for survivors of sexual violence and the need for accountability. There can be no impunity; we must hunt these people down, and Syria should be referred to the International Criminal Court.

In answer to one or two noble Lords, including my noble friend Lord Naseby, Assad cannot be a credible partner for us. Why? Because he cannot unite Syrians, cannot win broad international backing and cannot defeat ISIL. He is responsible for ISIL's rise and his presence is fuelling its growth now, as well as providing the operating space for other extremist groups, including al-Qaeda affiliates such as the al-Nusra Front. He is the cause; he is not the cure. Combating ISIL, as noble Lords have said, requires a multi-faceted approach: one that combines a tough military response with an intelligent and nuanced political strategy, degrading ISIL's access to funds, fighters and resources in both Syria and Iraq, to refer back to the regional perspective. That is why in Iraq, we are building international support for Prime Minister al-Abadi's Government, which is committed to political reform and to representing all Iraq's communities, and why we are contributing to US-led efforts to train and equip the moderate opposition fighting ISIL in Syria.

I say to the noble Lord, Lord Kerr of Kinlochard, that there is still no military action by the United Kingdom in Syria because a sovereign Parliament

took a sovereign decision in a vote two years ago. We said then that we would not commit troops to the ground to fight, unless there was a severe humanitarian catastrophe which could be solved only by military action or unless our own security interests were so threatened that we had to take immediate action. We would then return immediately to Parliament for consideration and assent.

Quite rightly, noble Lords concentrated on political settlements. Political transition in Syria is fundamental. It would, we hope, allow us a partner in Syria with whom we could work against extremists. Like noble Lords, we are under no illusion that a political transition will be easy or come in the near future, nor that Assad—despite the regime's territorial losses and the destruction he has brought upon his people—is ready to negotiate. I listened and agreed entirely with what the noble Lord, Lord Wright, said with regard to that. Assad is not going any time soon, if he has anything to do with it. There is widespread consensus that Syria's conflict cannot be resolved militarily. Equally, a collapse of all its state institutions is not in Syria's interests. That is why we seek an urgent, inclusive, Syrian-led political transition away from Assad's rule to a transitional Government agreed by mutual consent of the Syrian parties, as called for in the Geneva communiqué—the only document so far agreed by the P5 UNSC members, as well as the key regional partners.

The noble Lords, Lord Hylton and Lord Alton, referred to the Kurds, as did the noble Lord, Lord Wright, and to the work of Staffan de Mistura. We recognise the difficult circumstances that the Syrian Kurds face in the midst of the continuing civil war. We do not, however, support the Syrian Kurdish Democratic Union Party's formation of a temporary Administration in the Kurdish areas of Syria. This move was not conducted in consultation with the wider Syrian population or the international community. We believe that it will be for all Syrians to decide the exact nature of the political settlement in Syria as part of a transition process, including whether an autonomous region will be created for the Kurds in Syria.

We fully support the work of Staffan de Mistura, the UN special envoy, in his efforts to kick-start a political dialogue. I was pleased last week to be able to meet his deputy to discuss matters while Mr de Mistura was in Syria having discussions. I know that he is a very realistic and determined person. Last week, we discussed with his deputy how the UK can support Staffan de Mistura's efforts and we are engaging intensively with his team.

We are also working with international partners, which several noble Lords asked about, and the moderate opposition. We do not rule out working with anyone, including Iran and Russia. In answer to the noble Lord, Lord Soley, Russia continues to supply arms and intelligence. It continues to support the Assad regime but it could have a vital role to play in ensuring that Assad eventually makes the right decision: to allow a transition.

Key to all our efforts will be the Syrian national coalition, which represents moderate and inclusive values and remains at the heart of the Syrian opposition. It is closely engaging with Staffan de Mistura as he

seeks to initiate that whole political process. The national coalition has said that it does not regard itself as a Government in waiting. Once a transition is achieved, it has made it clear that it will disband itself in favour of free and fair elections. That is the path and the strategy that we need. But if we are to undermine extremists, the UK must support the moderates on the ground in Syria who are trying to provide services to their communities and deny opportunities for the extremists, but not with active military assistance. What we have already done is to commit more than £50 million to support governance this year, along with education, health, and sanitation in areas under opposition control. We have helped the Free Syrian Police to establish more than 70 police stations to provide communities with basic security and we are supporting volunteers in 96 civil defence teams to carry out operations in search and rescue, fire-fighting and first aid. That is where our assistance is best placed, not in lethal assistance.

Finally, I turn to humanitarian aid, asylum and migration, matters which were raised by several noble Lords including my noble friend Lady Morris and the noble Lords, Lord Alton, Lord Hylton and Lord Kerr of Kinlochard. The noble Baroness, Lady Morgan, asked about relics, which I will mention if I have time.

I agree with my noble friend Lady Morris and the noble Lord, Lord Alton, that this is the most profound humanitarian catastrophe of our time, which is why we have focused so much financial aid on Syria. I regularly discuss the funding of the United Nations and its allied organisations such as UNRWA not only with fellow Ministers but with the United Nations and its agencies, as I was doing last week in Geneva. I consistently press not only that they should be efficient but that donors should make sure their contributions are made on time.

The noble Lord, Lord Hylton, asked about refugees. I pay tribute to the work of Jordan, Lebanon and Turkey and recognise their assistance in providing a safe haven for those who flee Syria. I would also say to the noble Lord that aid is entering Syria: the Turks do not routinely close their borders to aid convoys, although they sometimes have to close them for security reasons or simply because of the sheer volume of migrants going across, for their own safety. Only last week I discussed the matter of humanitarian aid going to Syria with the ICRC. I pay tribute to the bravery of its people.

Since 2011, when the crisis began, we have granted asylum or other forms of leave to remain here to more than 4,200 Syrians under our normal asylum rules. In addition, we operate the Syrian vulnerable persons relocation scheme, and my right honourable friend the Prime Minister last week announced some addition to that.

I see that my time is up. It is essential that there is a life in the future in Syria. That includes maintaining the existence of monuments, which are a testament to the past. We have, in Syria, people who deserve a future. We can act to ensure that they have that.

8.32 pm

*Sitting suspended.*

## Cities and Local Government Devolution Bill [HL]

*Committee (2nd Day) (Continued)*

8.39 pm

### *Amendment 36D*

*Moved by Lord Bradley*

**36D:** After Clause 6, insert the following new Clause—

“Transfer of functions: health and social care

A local or combined authority which is the recipient of any transfer of functions under this Act in relation to health and social care must abide by the following principles—

- (a) they must remain part of the National Health Service and social care system;
- (b) they must uphold the standards set out in national guidance;
- (c) they must continue to meet statutory requirements and duties including those contained in the NHS Constitution and Mandate; and
- (d) they must uphold the standards that underpin the delivery of social care and public health services.”

**Lord Bradley (Lab):** My Lords, in moving Amendment 36D, I shall also speak to Amendment 36E. Both amendments are in the names of my noble friends Lord McKenzie and Lord Beecham. This is the first opportunity to debate health and social care, but it may not be the last. I declare an interest as a resident of Greater Manchester, former city councillor in Manchester and former MP for the city. My interest in devolution to Greater Manchester is particularly strong.

These are essentially probing amendments regarding the devolution of health and social care to the combined authority—initially to Greater Manchester. I say “combined authority” because it is my understanding that health and social care is not a responsibility to be exercised by the elected mayor. In fact, the memorandum by the DCLG and the Home Office specifically rules out the integration of health and social care as a mayoral function. I would be grateful if the Minister would confirm that there is no intention in future to make that a mayoral function.

The devolution of health and social care in Greater Manchester has arguably provoked the most interest among the public, stakeholders, politicians and, of course, healthcare professionals amongst others. From a position of, in principle, supporting devolution, I believe it is important to clarify some of the points about the way that this proposal will unfold over the coming weeks and months.

The legislation we are debating makes not a single reference to health and social care. That is reinforced by the fact that in the Explanatory Notes, under “Legal background”, no reference is made to any health legislation, particularly the Health and Social Care Act 2012. We know that the original Greater Manchester devolution agreement did not cover health and social care and that a very belated memorandum of understanding was agreed between the Government and the Greater Manchester Combined Authority to set in train the process of devolution of health and social care. Therefore, probing amendments have been tabled under Clause 6, “Other public authority functions”, to elicit further information in this area.

[LORD BRADLEY]

First, we seek clarification: does the Bill apply in any way to public authorities other than district, unitary and county councils? Specifically, do any NHS organisations—clinical commissioning groups, NHS trusts, foundation trusts or arm’s-length bodies, to name but a few—fall within the powers that Clause 6 gives to the Secretary of State for Communities and Local Government to transfer functions and property or rights to a combined authority? I anticipate that the answer to this is no, but that means that the Bill has no bearing on the health devolution proposals and its provisions cannot be used to enact health devolution. As I noted earlier, the Explanatory Notes do not include the Health and Social Care Act 2012, which also suggests that it has no competence in this area. I would therefore be grateful if the Minister could confirm the Government’s interpretation is the same as mine.

Secondly, having read the health devolution memorandum of understanding, I suggest that implementing many of its provisions may require, sooner or later, primary or secondary legislation. This could be desirable, not only to set out clearly the statutory basis on which responsibilities may move between existing bodies—for example, CCGs, local authorities, foundation trusts and so on—but also to frame accountability relationships. Where such arrangements are currently set out in the Health and Social Care Act 2012, it would seem that amendments to that Act, whether made using the powers of this Bill or made directly through further legislation, would be required. For example, if the Greater Manchester Strategic Health and Social Care Partnership Board required statutory powers—and many commentators are of the view that, for such bodies to really shape the services locally, they will require such powers, and this view has often been argued in relationship to health and well-being boards being the strategic body at a local level without any statutory powers—clearly, amendments to primary legislation will be required. I would be grateful if the Minister would confirm the position. We do not want to leave NHS organisations and their boards, which implement policies, open to legal challenge that they are acting outside or in conflict with legislation.

8.45 pm

Further on the subject of strategic boards, would the Minister support the view that its membership should include representatives of the criminal justice system, such as police, probation and voluntary organisations, which have a key role in shaping the health needs of local communities?

On a related matter, would the Minister also confirm that the commissioning of specialist services will remain the ultimate responsibility of the national Commissioning Board of the National Health Service? For example, again with reference to Greater Manchester, specialist cancer services delivered at hospitals such as the world-renowned Christie Hospital receive patients regionally, nationally and internationally. So they are not limited to people in Greater Manchester. We must avoid fragmentation and incoherence between Greater Manchester and the rest of the country in respect of specialist services. A view from the Minister on that important point would be welcome.

Further and crucially, without any changes to primary legislation, would the Minister confirm that the Secretary of State for Health still remains ultimately responsible to the public and Parliament for the health and social care services across Greater Manchester, or any other area that follows the path that Greater Manchester is taking on health and social care?

It would be remiss in this short debate on these probing amendments, particularly Amendment 36D, which exactly repeats the wording of the memorandum of understanding, not to mention funding. Paragraph 11.4 of the MoU, headed “Resources”, states that,

“it is recognised that the identified key workstreams will also require additional funding to support the transformation process. A programme and resourcing plan will be agreed with all parties by 13th March 2015”.

Has that plan been completed and, if so, how much additional funding has been made available to Greater Manchester either through the Better Care Fund, pump-priming money as suggested in the NHS five-year forward plan or, crucially, additional resources directed to the local authorities for social care, which have been decimated by cuts in the 10 districts of Greater Manchester over the past five years? If it has been completed, will it be published to enable public scrutiny of its plans so that there is confidence by the public in what is being proposed?

Finally, to ensure full scrutiny and accountability for the health and social care devolution, would the Minister agree that there must be robust governance structures in place in Greater Manchester—or any other similar area—to ensure full public scrutiny and accountability, particularly of the decisions of the Greater Manchester partnership board? Will the Minister confirm that all recommendations and decisions of the partnership board will be reported to the combined authority and be open to public scrutiny and accountability, and that the oversight and scrutiny committee of the combined authority will also have a robust role in such scrutiny?

Further, a report should be presented to Parliament, as we have suggested in Amendment 36E, so that the rollout of the devolution of health and social care is in place to enable Parliament to properly monitor the outcomes in terms of, among other things, the quality and standards of the delivery of a comprehensive and integrated health service by the combined authority. Our Amendment 36D makes it clear that any transfer of health and social care functions must abide by the four principles laid out in the memorandum of understanding and repeated in the amendment.

Lastly, I would be grateful if the Minister would confirm that there is no intention to vary the principles outlined in the memorandum as the devolution of health and social care unfolds. I beg to move.

**Lord Warner (Lab):** My Lords, I support my noble friend’s amendments, which provide us for the first time with an opportunity to discuss the relationship between the Bill and existing NHS legislation. I have de-grouped my own amendment on NHS responsibilities for later discussion, because I wish first to hear the Minister’s response to this group of amendments. However, I promise the Minister that I will be returning to this matter on Monday.

I decided on this approach when I heard the Minister's reply on Monday to my question about where the Health Secretary fitted in to the accountable Ministers in relation to the Bill, given the decision in February to delegate £6 billion a year of the NHS budget to the Greater Manchester Combined Authority. Her response was that Greater Manchester had agreed a memorandum of understanding with NHS England. That is true, and it may well be a good and sensible thing to do. However, it does not tell us very much about where this leaves the Health Secretary and his many duties and powers under the monster Health and Social Security Act—all 457 pages of it.

The Bill certainly does not make clear what happens when other areas come forward with their own proposals for delegating chunks of the NHS functions and budgets to combined authorities. I have read the current memorandum of understanding, which relates largely to 2015-16 as a build-up year for what will come later. The memorandum leaves a large number of loose ends relating to later years and the relationship of the combined authority with the Health Secretary under existing NHS legislation.

Having said all this, I make it clear that I am a strong supporter of the Bill and its approach to devolution. I very much share the views of the noble Lord, Lord Heseltine, about it. Unlike many of my colleagues on these Benches, I do not particularly oppose the idea of elected mayors; as a lifelong Londoner, I have experienced the benefits of a mayoralty. This year I also co-authored a policy paper for the think tank Reform entitled *Letting Go*, which discusses how English devolution could help solve the NHS care and cash crisis. Here I should declare my interests as a member of the advisory council of Reform and an adviser on health and care to the law firm Capsticks.

In the conclusion of our policy paper, my co-author and I went on to say about Greater Manchester:

“For the first time, a large city region has offered a model of healthcare in the UK that focuses on preserving and improving the health of all citizens rather than merely treating them when they are sick. It could provide a step change in health outcomes, particularly for the worst off. If successful in fixing the care model, this innovative approach could help make the NHS more financially sustainable, by controlling the numbers needing expensive acute care”.

This is a very big prize, but why are the Government so shy about putting some of this stuff in the Bill? Those are outcomes that we would all desire. We want them all for most parts of the country from our NHS, so why can we not be upfront and clear in the Bill about where the health and social care stuff—particularly the NHS functions and budgets—sits in relation to this Bill and combined authorities and sort out more precisely than at the moment the relationship between a combined authority and the Health Secretary, not just NHS England?

The key issue is how the Bill interrelates with the Health and Social Care Act 2012. If we want successfully to devolve NHS responsibilities in the way envisaged for Greater Manchester, as I hope we do, does not Parliament have to insert some provisions in this Bill which explain the relationship between those functions and the role of the combined authority and the Health Secretary and his duties and powers in the 2012 Act?

This House spent months on that Bill and had to have a pause because there was so much difficulty and controversy over that legislation.

Only three years ago, Parliament and the previous Government set the future path for the NHS in a monster of an Act. Now we seem to be going into dark corners, shuffling away, trying to undermine that Act by slipping some functions through something called a memorandum of understanding to a combined authority without being clear where that leaves the Health Secretary and his duties.

I am not normally particularly sympathetic to the Health Secretary or to the problems of the 2012 Act, which was not one of Parliament's finest hours, but the facts of life are that that is the legislation which governs the way the NHS is run in England now and for the foreseeable future, so trying to slide a set of changes through with combined authorities without being clear in the Bill what is going to happen in relation to the Secretary of State's powers is a surefire recipe for confusion in the minds of the public, of the NHS and its staff and of the combined authorities.

My key questions to the Minister are: first, what collective discussions have taken place in government on the interrelationship of this Bill to the Health and Social Care Act 2012 when NHS responsibilities, funding and assets are to be devolved to combined authorities? Secondly, will the Minister tell the Committee whether the terms of the agreement with Greater Manchester will be further amended following the passage of this Bill before the Greater Manchester changes go live in 2016-17? Thirdly, what legal advice have the Government had on whether actions could be taken by authorities or the public under the terms of the 2012 Act to overrule the terms of a memorandum of understanding with a combined authority? Fourthly, is the process used with Greater Manchester going to be the way that subsequent transfers of NHS responsibilities to combined authorities will be handled after the passage of the Bill? We need answers to questions of that kind to be certain what is going to happen when the Bill goes on the statute book with relation to any transfer of NHS responsibilities.

In conclusion, I am a supporter of this Bill and of using it to devolve more responsibility from the NHS to local and regional levels, linked to other devolution to combined authorities. I do not want the Government's proposals in the Bill to fail because insufficient thought has been given to the issues I have raised. We saw what happened with Andrew Lansley's rushed and ill-thought-through NHS legislation, when its implications were not seriously addressed before Parliament passed it. I remind the Minister that the Prime Minister had to impose a pause on the consideration of that legislation because so much of it was ill considered and undeliverable.

I would very much like to work with the Government on the Bill and try to get it right; this is not a partisan matter. I hope that the Minister will clarify, either today or later in a meeting, how we can progress this issue. In the mean time, I can promise a debate next Monday on a revised version of Amendment 44D that seeks to define how NHS responsibilities can be devolved to combined authorities in a way consistent

[LORD WARNER]

with the 2012 Act. I hope that the Government will accept in principle that something in this area has to be put in the Bill.

9 pm

**Lord Shipley (LD):** My Lords, these are very important issues. I am grateful to the noble Lords, Lord Bradley and Lord Warner, for all the points they have made, which I hope the Minister will take as constructive criticism. I anticipate that we will have a significant debate—or at least I hope we will—when we reach Amendment 44D on Monday. I simply want to say that Amendment 36D and Amendment 36E both have our support. They raise some very important issues and are a practical example of some of the issues we were discussing earlier today such as the NHS and social care, and how that works in practice in an area. This is an example of clarifying what is within scope for devolution to a combined authority and which Ministers have what powers with regard to the devolution of both resources and responsibilities. I will not detain the House any longer on this matter, but I expect that we will return to it when we debate Amendment 44D on Monday.

**Lord Beecham (Lab):** My Lords, although my political interest in social services goes back more than 40 years to the days when I was chairman of the social services committee in Newcastle—the four most productive years in my fairly long political life, which is rather a sad comment on the rest of it—I will confine myself to only one question. I have been a member of the health scrutiny committee in Newcastle since its inception, and I am not clear about the role, which is a statutory role, of the health scrutiny committee in the context of devolution. We will be debating later the question of overview and scrutiny within the combined authority, but I wonder how that will fit alongside what I take will be the continuing statutory responsibility of social services authorities at any rate to have an overview and scrutiny committee to deal specifically with health, well-being and social care.

**Lord Woolmer of Leeds (Lab):** My Lords, I listened with enormous interest to my noble friends Lord Bradley and Lord Warner, and I thank them for throwing a lot of light on the issues that as a non-specialist had left me puzzled. That is partly the result of the Government's position that they will not think about anything in advance but will react to what local authorities ask to have, and will only then think about the consequences. This is an extreme example, but easily the best, of the outcome of that. Secondly, there is a lack of any Green Paper, White Paper, any consultation or discussion at length, which would have brought all these issues out. I would not at all be surprised, not at the scale of the health service issues but if the same kind of issues do not arise with regard to some other matters of devolution. Knowing whether the Government think of the issues in advance and are able to convey that to the public, let alone to Parliament, is enormously important. I hope that this debate will lead not merely to further discussions on Monday on the health and social care side but, in due course, to a reflection on other areas, perhaps at a later stage.

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con):** My Lords, as noble Lords have said, Amendments 36D and 36E make specific provision for the transfer of health and social care and NHS responsibilities. It is probably important to say straightaway that the Government share and are committed to the views underpinning the substance of these amendments—namely, that whatever devolution arrangements are entered into in a particular area, health and social care services in that area must remain firmly part of the NHS and social care system, and the position of NHS services in the area in relation to the NHS constitution and mandate cannot change. I hope that that clarifies the position. There can be no question but that, whatever devolution arrangements for health and social care are agreed with an area, all national standards for health services, social care and public health services must, as a minimum, be complied with.

As we have discussed throughout our debates, the context in which the Bill's powers will be exercised is that of implementing bespoke devolution deals agreed with individual areas and reflecting each area's proposals and ambitions for devolution. That said, the agreement that Greater Manchester has reached with NHS England illustrates the kind of devolution of health and social care services which areas may be seeking and which the Bill will facilitate.

The noble Lord, Lord Bradley, asked whether health will be a mayoral function under the new section introduced by Clause 6. The answer is that NHS bodies are seen as public authorities for the purposes of the Bill. The Greater Manchester deal does indeed put health as a function of the combined authority and not of the mayor. However, we would not want to prejudice any other deal. We would want to hear from areas and discuss with them what they want.

Greater Manchester and NHS England have set out their agreement in a memorandum of understanding and there are several underpinning principles to that agreement. First, in the field of health and social care, all decisions about Greater Manchester will be taken with Greater Manchester. The second principle is that Greater Manchester will remain part of the National Health Service and social care system; it will uphold the standards set out in national guidance and will continue to meet statutory requirements and duties, including those of the NHS constitution and mandate.

The third principle is that new models of inclusive governance and decision-making will be created with the intention of enabling the clinical commissioning groups in Greater Manchester, providers, patients, carers and partners to shape the future of Greater Manchester together. It is in creating these new governance arrangements that the powers in the Bill may need to be drawn on, giving to local authorities, together in their combined authority, the powers to participate in the strong, collaborative partnerships that they, NHS commissioners and providers will form to deliver on the principle that all health decisions about Greater Manchester will be taken with Greater Manchester.

Without going into the detail of the Greater Manchester arrangements, I would mention that these governance arrangements will be centred on two bodies—

noble Lords have already referred to them. The first is the Greater Manchester Strategic Health and Social Care Partnership Board—for short, the GMHSPB. The membership includes the clinical commissioning groups, providers, NHS England and the local authorities. This will prepare and take forward a comprehensive Greater Manchester strategic sustainability plan for health and social care. The second is the Greater Manchester joint commissioning board, comprising the local authorities, the clinical commissioning groups and NHS England. Its role will be to commission Greater Manchester-wide services.

This is a broad, enabling Bill, and I do not believe it is necessary to include in it specific requirements about how particular powers might be devolved. Within the legislative framework that the Bill is creating, the safeguards are to be provided not by making specific provisions but by the requirement that the implementation of any particular devolution deal must be debated and approved by both Houses of Parliament. For such debates, it will be important that the full details of the deal concerned, how it was arrived at and the outcomes expected from it will be fully available to Parliament. As I said in the earlier short debate on housing, I am ready to consider whether the standard explanatory memorandums are—

**Lord Bradley:** I have a question on that point, so as to be absolutely clear. The Minister said that any of those functions will be debated in both Houses. Is she confirming that any proposals around the devolution of health and social care will be subject to scrutiny in both Houses of this Parliament?

**Baroness Williams of Trafford:** Yes, my Lords, I am. They would be done by order, and any orders will be scrutinised through the affirmative process in both Houses of Parliament.

As to reporting on how a deal is proceeding, as I said in one of our debates earlier this week, a process for evaluating the progress on each deal will be discussed and agreed with each area as part of the deal. For example, the Greater Manchester deal has an extensive programme of evaluation, with evaluations being public documents available to all Members of the House, as well as to all with an interest in the area and the progress it is making. But again, I do not believe it is appropriate in our enabling Bill to make a requirement about the reporting or evaluation of some particular aspect of a deal, indeed an aspect that may not be in all the deals that are agreed.

I turn to specific questions that noble Lords have asked. The noble Lord, Lord Bradley, asked whether I would support the view that joint board membership should include representatives of the police et cetera. In any one place, this will be a matter for the area concerned. In Greater Manchester, for example, it is for those concerned to agree who should be on the joint boards, which will reflect the responsibilities that the combined authority has. He asked the very simple question of whether the Secretary of State for Health will be ultimately responsible to the public for the delivery of health and social care. The answer is yes. He also asked about the Manchester MOU. Greater

Manchester and all the health bodies concerned, including national bodies such as NHS England, as well as the Greater Manchester clinical commissioning groups, continue to work on the full details of the arrangements that they have agreed.

**Lord Warner:** I am sorry to interrupt the Minister's flow, but I am becoming extremely confused. Twice in her response the Minister has said that all decisions about Greater Manchester will be taken "with" Greater Manchester—in other words, not "by" Greater Manchester. In this last set of responses to my noble friend, she makes it clear that the Secretary of State is responsible for decisions about health in Greater Manchester. What I am struggling with is this: what is the purpose of devolving some of these health responsibilities to the Greater Manchester Combined Authority if the Secretary of State reserves a right to overrule or vet those decisions? I thought that when the Chancellor announced the Greater Manchester project with a great song and dance, a very strong emphasis was given to the ability of local people to take the decisions that affect their area.

Let me give the Minister one example to chew on. Greater Manchester is proposing to remove a significant number of beds from acute hospitals to put more money into preventive medicine and community-based services. The Minister will know that closing hospital acute beds is a very contentious issue up and down the country. Who will take that decision? Is not Greater Manchester at risk of saying, "Our population's health would be improved by removing some of those acute beds and spending some of that money on preventive public health and community-based services"? Can the Secretary of State then simply overrule it, using his powers in the 2012 Act? That is a very practical, real example of where we could have conflict. I would like to know where the Government stand on that issue.

9.15 pm

**Baroness Williams of Trafford:** My Lords, Greater Manchester would work with clinical commissioning groups et cetera, but would not itself deliver NHS services.

**Lord Warner:** That was not my question. Perhaps I could explain to the Minister what it is. The clinical commissioning groups in Manchester could all agree that they should take a large number of beds out of acute hospitals in Manchester—not anywhere else—because it was in the best interests of and would achieve better health outcomes for that population. Could they—all the interested parties, clinical commissioning groups and even NHS England, with the combined authority—agree that that is sensible to do? Could we then have a situation in which the Secretary of State, under pressure from some bits of the local community or from the acute hospital, declined to approve that well thought-out plan by the combined authority with the clinical commissioning groups? It is a straightforward question. Is the answer yes or no to whether the Health Secretary can overrule them?

**Baroness Williams of Trafford:** My Lords, perhaps I may clarify what exactly is being devolved. Greater Manchester will have the powers necessary to participate in a collaborative partnership which will develop health strategies for the place and commission health services. It would be a partnership arrangement. If within that partnership the Secretary of State thought that all of them collectively were making the wrong decision, I am sure that he would have something to say about it.

**Lord Warner:** So the result is the Secretary of State reserving unto himself all the authority to overrule a locally reached decision. We can talk about partnership till the cows come home, but is not the reality—and this is a critical issue—that the Secretary of State, as one of the partners but the partner with the power under the 2012 Act, can simply overrule them because he thinks that is the right thing to do?

**Baroness Williams of Trafford:** My Lords, I was not saying that the Secretary of State would overrule them for overruling's sake, but if it was fundamentally a wrong decision, I am sure that he would have the power to intervene. I think that that is what the case would be. Does the noble Lord want to respond?

**Lord Warner:** I will read *Hansard* and come back on Monday, because this issue seems to me an Exocet under some of the principles in the Bill.

**Lord Woolmer of Leeds:** My Lords, surely devolution means giving power to the local level; it does not mean doing that—as long as the Government at the centre agree. Surely devolved authorities must in principle have the right to take local decisions, otherwise it is not devolution.

**Baroness Williams of Trafford:** Yes, my Lords, that is absolutely the case, but we have talked all along in this Committee about what happens if things go wrong and where the checks and balances are. We cannot have a situation where there is unfettered ability for people to do things without any checks and balances.

**Lord Woolmer of Leeds:** It is not a question of whether they have made a mistake or done something wrong, but of local choice. The Minister talked about a bad decision. To say that a local decision is a bad decision because it differs from a view that the Secretary of State takes does not seem to me to be in the spirit of devolution.

**Baroness Williams of Trafford:** My Lords, perhaps I am not being clear enough. What I meant by bad decision is a decision that is made where the consequences are negative for the end-user and have a detrimental effect, for example, on the patient or elderly person. The Secretary of State would have to intervene or call into question the decision of the collective bodies that had made it in partnership. Is the noble Lord more satisfied with that answer?

**Lord Warner:** May I suggest to the Minister that we return to this on Monday afternoon because I do not think she will satisfy us this evening?

**Baroness Williams of Trafford:** I know that we will return to it, and I look forward to that.

The noble Lord, Lord Warner, asked what legal advice had been received about the relationship between the MOU and the 2012 Act. NHS England and Greater Manchester have developed the MOU, and any draft order that the Government bring before the House to implement any arrangements agreed will of course be compliant with the relevant primary legislation. The noble Lord also asked about further change to the terms of agreement with Greater Manchester. We can envisage that, with the agreement of all concerned, devolution in Greater Manchester will develop.

The noble Lord, Lord Beecham, asked what the statutory roles of health scrutiny committees are in the context of devolution. Health and well-being boards will continue to exercise their statutory functions.

**Lord Beecham:** The scrutiny committee of the local authority is not the same as a health and well-being board. If the Minister does not have an answer now, perhaps she can advise me later.

**Baroness Williams of Trafford:** I remember the health scrutiny committees in the context of AGMA and the combined authority. I am loath to deal with this point tonight, so I will come back with a firmer reply in due course and request that the noble Lord withdraw his amendment.

**Lord Bradley:** I am grateful to the Minister for the responses she has been able to make, and I am sure she will read the debate with as great an interest as we all will and write to us with further answers to the questions she has not been able fully to address this evening. I said at the beginning that this was the first, but I suspect not the last, debate we would have on health and social care. Our exchanges so far tonight have underlined that fact. We look forward to the next stage and further debate on Monday. In light of that, I beg leave to withdraw the amendment.

*Amendment 36D withdrawn.*

*Amendments 36E and 36F not moved.*

#### *Amendment 36G*

*Moved by Lord McKenzie of Luton*

**36G:** After Clause 6, insert the following new Clause—

“Further devolution of powers and funding (No. 2)

(1) No later than three months after the passing of this Act, the Secretary of State must consult combined authorities with a view to devolving powers and funding for strategic planning including in the areas of—

- (a) mitigation of and adaptation to impacts of climate change;
- (b) natural resource use including water management;
- (c) delivery of low-carbon energy sources and infrastructure;
- (d) landscape-scale conservation, including green infrastructure.

(2) The Secretary of State may only make an order to devolve powers and funding in the areas outlined in subsection (1) with the consent of the combined authority.”

**Lord McKenzie of Luton:** My Lords, I will be brief with this amendment because I anticipate that the Minister’s response will be that it is too prescriptive and that the Government want to leave everything off the face of the Bill and see what happens along the way.

The amendment was raised with us by the RSPB and it raises a particular point that I would like to address. Specifically, it causes the Secretary of State to consult combined authorities over a number of strategic planning areas, in particular areas of,

“mitigation of and adaptation to impacts of climate change ... natural resource use including water management ... delivery of low-carbon energy sources and infrastructure ... landscape-scale conservation, including green infrastructure”.

The helpful briefing note reminds us that the NPPF contains very positive policies for planning for biodiversity, such as planning for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.

The point that the society makes is that to be effective, it is essential that devolved strategic planning powers enable combined authorities to address and plan for social, economic and environmental issues in an integrated way across England. It points out the failure of the duty to co-operate because it is simply not strong enough. The key point I would raise on this is that whether it is on a more proactive basis or just a wait-and-see approach with piecemeal devolution of some of these strategic planning issues, the opportunity actually to join up across the country will inevitably be limited. Some of these issues ought to be looked at on a basis which is wider than any particular combined authority. It seems to be a component of this debate which perhaps we need to reflect on a bit more. I beg to move.

**Baroness Janke (LD):** My Lords, I certainly support the amendment. Given that the combined authorities will cover quite large areas, I would say that it is essential that an integrated approach is guaranteed and not left to a kind of wider discretion, perhaps as part of a deal if it is less convenient for one combined authority—or, worse still, if there is disagreement within the combined authority. We need to know where these obligations will lie. There is a need for clarity here. I appreciate that we are talking about bespoke deals and that they will be different for different authorities. I am sympathetic to that because we do not have uniformity across the country. Nevertheless, these are important issues which have suffered from a piecemeal approach. There is now a real opportunity for a much more strategic approach and I am sure that the combined authorities will see this as an important matter, not least because some of these areas are quite controversial. So I hope that there will be some clarity around this, despite the need for the Secretary of State to have some kind of wider discretion. These are responsibilities and obligations, and we need to be clear about where they lie.

**Baroness Williams of Trafford:** My Lords, the noble Lord, Lord McKenzie, will obviously not be surprised to hear me say that what we do not want to be in this Bill is prescriptive—but that is in no way to belittle the importance of the issues touched on in this amendment. For example, we expect local planning authorities to adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change, and water supply and demand considerations. They must have a positive strategy to promote energy from renewable and low-carbon sources. While what we look for locally is set out in national planning policy and guidance, we have been very clear that local plans prepared by democratically accountable local councils are key to delivering sustainable development that reflects the vision and the aspirations of local communities.

Having said that, as we discussed in a number of our earlier debates, these prescriptive amendments go against the grain of the approach of the Bill, which is to start a conversation with each area about the powers and budgets that they would like to have devolved to them in order to improve their economy, deliver better local public services and build sustainable prosperity. We are definitely not in the position of trying to prescribe what they think they should be including and so we have no preordained list of powers which might devolve. In common with similar previous amendments, I am afraid that this amendment is out of step with the whole approach that the Bill is designed to deliver, and I would respectfully ask the noble Lord to withdraw it.

9.30 pm

**Lord McKenzie of Luton:** I thank the Minister for her reply and the noble Baroness, Lady Janke, for her support on this issue. I am not surprised and I do not think that the response takes us further forward. It seems to me that it does not address the fact that issues around climate change and water management do not stop at, for example, the boundaries of Greater Manchester. They transcend them, and as indeed they do international boundaries. The piecemeal approach being taken really does negate and make it more difficult to deal with these issues comprehensively and effectively.

As I said, we have the duty to co-operate in our planning framework but we know from practice that it is simply an insufficient mechanism and tool to address these issues. Given the hour, I shall withdraw the amendment, but there is a principle about how these broader national issues sit with devolution that we need to return to on some basis. I beg leave to withdraw the amendment.

*Amendment 36G withdrawn.*

*Clause 7 agreed.*

### **Schedule 3: Overview and scrutiny committees**

*Amendment 36H*

*Moved by Lord Beecham*

**36H:** Schedule 3, page 22, line 15, after “taken,” insert “or under consideration,”

**Lord Beecham:** My Lords, the amendments in this group relate to the overview and scrutiny committees of the combined authorities and concentrate on what can only be described as the extraordinary powers the Bill confers on the Secretary of State to prescribe, and indeed circumscribe, the way in which they may operate. The provisions are contained in Schedule 3 to the Bill.

Amendments 36H and 37B would establish that the committee may consider not only decisions made or action taken, which is the limit of the powers conferred by the Bill as it stands, but such matters as may be under consideration—echoing the current practice in local authorities, which can look forward as well as back. Amendment 37B applies this principle to mayoral combined authorities.

Amendment 39AA would require the guidance by the Secretary of State, which again is provided for in the Bill, on the functions of overview and scrutiny committees to be approved by the affirmative procedure.

Amendment 39C is a probing amendment to seek an explanation of the Secretary of State's extraordinary assumption of the role of determining who may or may not chair an overview and scrutiny committee or be a scrutiny officer. It is remarkable that, in an allegedly devolutionary Bill, the Secretary of State should arrogate such a power as to prescribe who might or might not perform those functions.

Amendment 40A probes the Secretary of State's power to make orders as to the publication of reports, recommendations and disclosure of information to the overview and scrutiny committee. Given that the Local Government Act 1972 already allows councils to go into private session if this should be required, subject to advance notice and public challenge, why do the Government not simply extend those provisions of the 1972 Act to overview and scrutiny committees?

Amendment 40B would require the affirmative procedure to be applied to orders relating to the membership and structure of overview and scrutiny committees, thereby ensuring continuing parliamentary scrutiny over the process. I beg to move.

**Lord Shipley:** My Lords, we have tabled Amendments 41 and 42. I will not add to what the noble Lord, Lord Beecham, has said, but I subscribe to the views he has expressed.

Our amendments in this group relate to the membership of the overview and scrutiny committee. We said in the first day of Committee that we did not want to create one-party states, so we have been seeking ways in which we can propose amendments that will deliver that outcome. This is to take the proportion of votes cast for each political party at the most recent local government election for the combined authority's constituent councils.

The reason why this matters is that, if you take seats only won under the first-past-the-post system, one particular party in most of the areas currently subject to or considering combined authorities would absolutely dominate the overview and scrutiny committee—indeed, the Conservative Party has very few seats in northern cities—so this would not be good for the democratic process. I think that the overview and scrutiny committees ought to have a significant number of opposition members

and that that should be calculated on the basis of votes cast in the last election, rather than on the number of seats that they win under first past the post.

In terms of the chair, there are a number of examples in local government where scrutiny committees are chaired by a councillor who is a member of the opposition. That principle should extend to the combined authority. Amendment 42 says that the chair of such a committee must be a member of a political party other than the party of the mayor of the combined authority.

**Baroness Williams of Trafford:** My Lords, the issue of effective scrutiny has come up a lot during the course of the Bill. As I said during the debate on the previous group of amendments, I am ready to have discussions with noble Lords across the House about their ideas for strengthening scrutiny.

Amendment 39C would remove the power for the Secretary of State to make provision about the chair of an overview and scrutiny committee and about the appointment of a scrutiny officer. I am not sure that removing the ability of the Secretary of State to ensure, if it were deemed appropriate, that all overview and scrutiny committees have a scrutiny officer, or to make provisions about the chair, would achieve our joint aim of strengthening scrutiny and safeguarding against a one-party state.

Nor am I clear that Amendment 40A would strengthen overview and scrutiny. The amendment would remove from the scope of the order-making provision on overview and scrutiny issues the publication of reports et cetera and the information which must or must not be disclosed to an overview and scrutiny committee. I am clear that strong scrutiny needs the overview and scrutiny committees to have access to all the information that they consider necessary to pursue their work. Equally, it is important that their reports and recommendations are public, transparent and properly taken into account by those making decisions. The following amendments essentially set out some of the ideas that may achieve these aims and the substance of which we will wish to consider carefully.

Amendments 36H and 37B seek to expand the scope of overview and scrutiny so that it includes the possibility of an overview and scrutiny committee examining not only decisions made or actions taken, but decisions made or actions “under consideration”.

Amendment 41 would require that any order made by the Secretary of State about the membership of an overview and scrutiny committee must ensure that such membership reflects the proportion of votes that each political party received at the most recent local government election for the constituent councils. Amendment 42 would require that any order made by the Secretary of State about the chair of the overview and scrutiny committee or committees must include provision that the chair is to be a representative of a different political party from the party of the mayor of the combined authority. Amendment 49 provides the definition of “party” for these two amendments. While I believe that there are some practical issues with Amendment 41, given that not all parties who receive votes at an election may have an elected member, I understand the concern that underpins the amendments.

Finally, Amendments 39AA and 40B seek to introduce the affirmative procedure for orders and guidance about overview and scrutiny. Given the importance that we attach to overview and scrutiny, I have some sympathy with the aims of these amendments, and, indeed, in our wider consideration of how best to strengthen overview and scrutiny. We may consider that some matters might be better dealt with on the face of the Bill, rather than through secondary legislation. In our previous short debate I highlighted some of the important issues that we will wish to consider when looking at how to make scrutiny strong and effective in all areas. This, most importantly, includes those areas where the members of the combined authority come from one party.

Given this commitment, I hope that the noble Lord will feel able to withdraw his amendment.

**Lord Beecham:** I take it from that that the Minister is offering discussions on all these amendments and not ruling any of them out.

**Baroness Williams of Trafford:** I have given my view on certain amendments and certainly where I see there is scope in others.

**Lord Beecham:** That is welcome, and I am certainly prepared to withdraw my amendment. I have to say that I am not overimpressed with at least one of the amendments tabled by the noble Lord, Lord Shipley, relating to the percentage vote of parties that may well achieve no membership at all of the local authorities they have contested but will somehow appear on the combined authority. Of course, that general view is consistent with the proposals that the Liberal Democrats made for the composition of your Lordships' House, about which I suspect we will hear very little for the next few years.

**Lord Shipley:** You could actually have a minimum threshold of, say, 5% of the vote, which would remove some of the objections that the noble Lord, Lord Beecham, has.

**Lord Beecham:** It would not, because 5% of the vote across an area may produce absolutely no councillors elected to those authorities at all; their only role in local government would then be to be appointed to the combined authority. That seems a ludicrous outcome. However, the noble Lord and I have been on good terms for virtually the whole evening and I would not like him to go away feeling too disappointed.

We will see what happens on Report, but I look forward to the discussions with the Minister on those matters which she has indicated are subject to further consideration. I beg leave to withdraw the amendment.

*Amendment 36H withdrawn.*

*Amendment 37 not moved.*

#### *Amendment 37A*

*Moved by Lord Beecham*

**37A:** Schedule 3, page 22, line 22, at end insert—

“(d) to appoint an independent chair of a committee to review and scrutinise the authority’s financial affairs;

- (e) to review and assess the authority’s risk management, internal control and corporate governance arrangements; and
- (f) to review and assess the economy, efficiency and effectiveness with which resources have been used in discharging the authority’s functions”

**Lord Beecham:** My Lords, Amendment 37A is ultimately of some importance. It seeks to establish an audit committee for authorities created under the provisions of the Bill. I cannot claim to be as well qualified in respect of matters of audit as my noble friend Lord McKenzie, a former partner in PwC and a former leader of Luton Council, in which latter capacity he was presumably an auditee rather than an auditor, but I have served for a number of years as a member of Newcastle’s audit committee, which is politically balanced, with an independent chairman who is not a member of the council and two other independent members.

Given the potential role of the combined authorities, part of whose *raison d’être* will of course be to achieve economies of scale and ensure the most effective use of resources devolved by government departments and public bodies, something akin to a local version of the Public Accounts Committee would be a highly desirable addition to the role of overview and scrutiny, especially if independently chaired. The amendment sets out a job description which should facilitate proper oversight of the combined authorities’ management and governance. It is not unduly prescriptive and I would personally welcome the inclusion of additional independent members who might be drawn from business, academia or the third sector.

Again without going so far as to lay down a requirement, I hope that the combined authorities would eventually adopt a process of peer review across their whole field of operations. This has proved its worth in the local government world and would usefully augment whatever procedures are adopted in relation to this amendment.

It would be interesting to learn what the Government have in mind for assessing their own relationships with combined authorities and the workings of the partnerships between government, public bodies and the combined authorities collectively. In any event, I urge the Minister to consider sympathetically the proposal for an audit committee, preferably one that is independently chaired, because the role is not quite the same as that of an overview and scrutiny committee. I serve on both types of body in my own authority. They have different roles and I think it is critical, given the importance of the subject matter and the amount of money that will be spent, that there should be that function embedded in the new system. I beg to move.

**Lord Shipley:** My Lords, in broad terms I very strongly support Amendment 37A. I am very glad that the noble Lord, Lord Beecham, talked in terms of the Public Accounts Committee, which is slightly different from a committee that will simply review and scrutinise the authority’s financial affairs. It is actually about the efficient and effective use of public money, and one of the objectives of devolution is to ensure that local areas spend money more appropriately so that the spending is more effective in the outcomes it achieves.

[LORD SHIPLEY]

That has to be audited in some way. The only way that that can be done is in something like a public accounts committee for the area of the combined authority. Therefore, I hope that the Minister will look at that suggestion as I think that it would help enormously, first, in ensuring that the Government's objectives are being delivered but, secondly, in giving the public confidence in the expenditure of the money that they are paying for through taxation.

9.45 pm

I say to the noble Lord, Lord Beecham, that it is always very difficult to know who should appoint an independent chair, but I think that I heard him talk about a number of independent members. I would be happier with a situation in which there were a number of independent members of such a committee because I think then you would get a spread of expertise and experience that would enable the public to have confidence in its deliberations.

There are three amendments from these Benches in this group—Amendments 38, 39 and 40. Broadly speaking, they seek to give two powers to the overview and scrutiny committee. The first is the power to delay a decision in order to enable further public consultation to be carried out where the overview and scrutiny committee believes that that is necessary, often because information that is required has not been given to it. Secondly, Amendment 40 gives the overview and scrutiny committee powers to compel other bodies, including the combined authority, to provide information to the committee and to specify what form this information should take.

I am very heartened by the Minister's response to the last group of amendments because, if the public are to have confidence in the functioning of the combined authorities, which is, in practice, an additional layer of local government, we have to get the overview and scrutiny right. Judging by what the Minister said, I think that is now the Government's intention, so I hope that between now and Report we can have the necessary discussions to progress on that.

**Baroness Williams of Trafford:** I thank both noble Lords who spoke to these amendments and will say pretty much what I said in response to the last group of amendments—namely, that we have considerable sympathy with what noble Lords are saying. Therefore, I reiterate my willingness to have discussions and hope that the noble Lord will be willing to withdraw the amendment.

**Lord Beecham:** I am delighted with the Minister's usual co-operative stance. I am happy to accept her acceptance of my suggestion and look forward, together with the noble Lord, Lord Shipley, and others perhaps, to see whether we can get something agreed between now and Report. In the circumstances, of course, I beg leave to withdraw the amendment.

*Amendment 37A withdrawn.*

*Amendments 37B to 39 not moved.*

### *Amendment 39A*

*Moved by The Earl of Lytton*

**39A:** Schedule 3, page 23, line 31, after "persons" insert " , including representatives of parish councils in the area of the combined authority,"

**The Earl of Lytton (CB):** My Lords, in speaking to this group of amendments standing in my name, my intention is to ensure that the community or neighbourhood voice is heard. I pay tribute to the National Association of Local Councils for the assistance I have received from it in preparing the amendments.

The Bill is largely silent on this next level of devolution and my amendments are designed to ensure a discussion on how we see the neighbourhood level input developing alongside the new structures it proposes. Given the hour, it may be a one-way dialogue, but I flag it up anyway. I say in advance that I do not expect a detailed reply from the Minister tonight. Devolution must not stop at the strategic, combined authority level, any more than it stops at the principal council level. We will miss an important opportunity if we overlook the neighbourhoods and do not build community capacity and engagement with the more local matters that impact directly on people's lives. A twin approach of devolution, to the strategic on the one hand and the neighbourhood on the other, is required here.

I seek to follow the direction of travel of localism and the empowerment of the 9,000 community, neighbourhood, parish and town councils up and down the country—the first tier of local government and the backbone of local democracy in England. That policy was to devolve the process of government and with it, responsibility for action to improve areas to the most local, practical level consistent with adequate standards of delivery. To the many principal councils that take their responsibilities towards the spirit of that seriously, I give due credit and many thanks. Sadly, in some principal council areas localism is taken to mean central government devolving powers to them, along with the pounds that go with that, but no further—or, if it is any further, then only devolving responsibilities shorn of the pounds that once financed them. That will not do.

My amendment serves to remind the Government, and thereby I hope the new mayoral combined authorities that will be created under the Bill, of their duties. There is good reason for this. One has only to look at the difficulties faced by the residents of Queen's Park in Westminster in gaining their historic parish council status and the continued resistance of many London boroughs and principal councils outside London to the very notion of new parish councils, with their independent money-raising powers, giving people a voice and taking action to improve community well-being and local vitality. It is not just a London issue; Andover Town Council in Hampshire also gained its status in the face of stiff principal council opposition.

I know how some principal councils are reluctant to devolve powers to local level and work more closely with our important first tier of local government. It is as if the message was, "We know that we don't really

capture the very local community element of our electorate. We aren't going to allow people to get together and do it for themselves, either". That is bad for society, democracy, political stability and the image of local government. There is every reason to be cautious as to whether the new mayoral bodies will adopt evolution through devolution or simply become centralist in their own terms. If it is the latter, localism stops midstream, the neighbourhood plan becomes a work of fiction and "community" simply a matter of a wholly-owned and controlled subsidiary of some city hall that might just as well be somewhere in Whitehall.

I turn to the detail of my amendments. Amendments to Schedule 3 provide for parish and town council engagement and involvement in overview and scrutiny committees, the purpose of which is outlined in the Explanatory Notes to the Bill. Parish councils are part of that family of local government, growing in number, role and importance. I maintain that they are about the most accountable and democratically responsive part of that family. The provision for the creation of new local councils to meet the aspirations of communities is already enshrined in legislation. I add that the more recent reforms to that process are most welcome. Amendments 39A and 39B serve as a prompt for the duty to include parish council representatives in any overview and scrutiny function. This can only strengthen the process, add value and ensure a more robust future, making sure that the strategic also relates to the local.

On Amendment 44E, I would explain that Clause 10(1) makes provision for the Secretary of State to make regulations regarding three areas: governance; constitution and membership; and structure and boundaries. My amendment would add a fourth measure to require principal councils within a mayoral combined authority area to conduct,

"a community governance review ... within two years of this Act coming into force".

The combined authorities will be afforded greater powers precisely because they feel they can serve their community better by that means. I hope that it will be seen that this amendment tries to build on precisely that point.

Amendment 50 is very much on the same tack. Schedule 4 amends, *inter alia*, the Local Democracy, Economic Development and Construction Act 2009. My amendment would insert a further criterion in relation to Section 23 of that Act. Noble Lords with instant recall will know that Section 23 relates to the, "Duty of public authorities to secure involvement". I paraphrase, but it specifically refers to "information" about the "exercise" of functions, consultation over that exercise and involvement "in another way".

Section 23(2) goes on to list the bodies to which this applies. My amendment would simply add a further reference to extend the application to the mayoral combined authorities that will be created by the Bill. I hope that the Minister will see the merit in the principle and that this is not insisting on some obsessive parish council creation approach. Instead, I hope that it will discourage some of the less satisfactory blocking procedures that seem to have been created and make sure that this goes forward as a genuine partnership within the family of local government. I beg to move.

**Lord Beecham:** My Lords, I pay tribute to the work of parish and town councils and to their national organisation, the National Association of Local Councils, I think it is called—NALC. Having said that, I do not think that the proposal that the noble Earl has made is really a very practical one. The area I live in, which I am afraid I keep citing, is enormous, and there are others like it. I do not know how many hundreds of parish councils and therefore parish councillors there are in the area between the Tees and the Tweed, but I suspect that there will be a very large number. Quite how you would appoint people from there to an overview and scrutiny committee, I am not entirely sure.

I also do not think that this is really what is needed. I have an alternative suggestion to make to the noble Earl, which perhaps will be considered by the Minister. Should there be parish councils in the area of a combined authority, there should be a requirement on the combined authority, and on the mayor if there is one, to meet at least annually with representatives of those parish councils. After all, we are talking here essentially about large strategic issues, not very specific local ones. Although there should be a local voice at some point in the process, I do not think that it is realistic to add them to an overview and scrutiny committee. It could not be very representative anyway unless you had large numbers of such people on such a committee; it would not cover the whole area.

A better way might be to require the combined authority and/or the mayor to meet on at least an annual basis—it could be more often than that—with a representative group from across the whole of the parish and town council interest in the area concerned, to discuss the overall position. It would be part of the consultations that those bodies would be having with a variety of bodies, but recognising the particular position of those who have been elected to their very important but very local office. That would meet the more important aspirations of those people better, if I may say so, than the attendance of perhaps one person, representing so many hundreds of others, on an overview and scrutiny committee. I am not moving anything at this stage, but we and the Minister may want to consider it as a possible alternative to the noble Earl's amendment when we get to Report.

**Baroness Williams of Trafford:** My Lords, I say at the outset that we value very greatly the work that parish councils do up and down our country. As the tier of local government closest to their communities, they provide a democratically accountable voice for taking community action. Parish councils provide services to their communities and have also played an important role in neighbourhood planning, setting the priorities for their local area in line with the local plan.

It is entirely right that a wide range of people from the community are able to participate in scrutiny of the combined authority in one way or another. An overview and scrutiny committee can invite parish council representatives to its meetings. We do not see, however, that it is necessary to name them on the face of the Bill, as the Bill already provides that an overview and scrutiny committee may invite any persons to attend its meetings.

[BARONESS WILLIAMS OF TRAFFORD]

We must balance the wish to have a wide involvement in overview and scrutiny with the need for a committee to be of a suitable size to be effective. Having parish councillors as members of an overview and scrutiny committee may not be the best way to achieve that, but there may be other ways to encourage parish council involvement. The noble Lord, Lord Beecham, made a good suggestion which good practice might dictate that a mayor, combined authority or scrutiny committee might wish to take up.

10 pm

I would be happy to include the noble Earl, Lord Lytton, in conversations about ensuring strong scrutiny, notwithstanding what I just said. As I said in our earlier short debate on scrutiny, I am ready to have discussions with noble Lords across the House about their ideas for strengthening scrutiny. I hope the noble Earl will therefore be happy to withdraw his amendment and take part in discussions about scrutiny.

Let me move on to Amendments 44E and 50. In essence, Amendment 44E would mean that the Secretary of State could make provision in secondary legislation about all local authorities in the area of a mayoral combined authority undertaking a community governance review within two years of the Act coming into force. In essence, this is about the regulations under Clause 10 being able to modify the existing provisions about the procedures that lead to the creation of parish councils.

Whatever the merits of parishing an area, I do not believe that this amendment is necessary or appropriate. It is open to local authorities today, if they want, to undertake a governance review and consider whether their area should be parished. The legislative reform order, or LRO, that the Conservative-led coalition Government made in the last Parliament streamlined these processes. There is nothing to prevent what the noble Earl wishes to see happen if the local authorities concerned want to do that. Moreover, the regulations under Clause 10 can be made only with the consent of the local authorities to which the regulations apply. Hence the proposed amendment would add nothing.

If it is the noble Earl's intention that the proposed amendment should in some way require councils in the area of a combined authority to undertake these governance reviews, then that is something that we could not agree to. It would be an imposition on an area. As I have made clear, we do not intend to impose anything on anyone anywhere. Having said that, let me make clear that we are not in any way opposed to parishes. Indeed, where areas wish to form parishes, there should be a simple and streamlined process for them.

On Amendment 50, again I am clear that this would be unnecessary central prescription. I appreciate the underlying intention that there should be effective

democratic involvement of local people in the decisions taken by the governance institutions of their area, including combined authorities. It is open to any combined authority to involve the communities and businesses of its area in any way it feels appropriate. It does not need this amendment to be able to do that, and the amendment does no more than that. It would mean that, where a combined authority considered it appropriate that representatives or interested persons should be involved in the exercise of its functions, it should take such steps as it considers appropriate to secure that.

With those words, I hope the noble Earl will be happy to withdraw his amendment.

**The Earl of Lytton:** My Lords, I am very grateful to the Minister for that. I would certainly like to take her up on her suggestion of further discussions. I hope to be in touch with her shortly in relation to that. I am grateful for her reply generally, which was much more extensive than I had expected given the hour.

I have just a brief word on the point raised by the noble Lord, Lord Beecham. I quite understand his point but think that he assumes that somehow underneath NALC as a national association there is nothing other than the 9,000 foot soldiers forming the parishes. That is not how it is structured; there is a series of district and county associations, and some of the county associations have come together in larger collectives. There is now a good deal of encouragement from within NALC towards such working practices.

For instance, when representatives are selected to go to national council, we cannot have 9,000 people in one room as there would be nowhere big enough to house them, so there has to be a selection process. There would be no difficulty with, for example, something the size of a county association or a multi-county association. In Sussex, I am involved with a triple association consisting of East Sussex, West Sussex and Surrey. They have come together and do a lot of these things jointly. So there would be no difficulty in arriving at a sensible way of providing a representative to be part of the discussion process, as I suggested.

The hour is late and I have spoken for long enough. I thank the Minister and the noble Lord, Lord Beecham, for their comments. I beg leave to withdraw the amendment.

*Amendment 39A withdrawn.*

*Amendments 39AA to 42 not moved.*

*Schedule 3 agreed.*

*House resumed.*

*House adjourned at 10.06 pm.*



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