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PARLIAMENTARY DEBATES
(HANSARD)

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OFFICIAL REPORT

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

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House of Lords

Monday, 29 June 2015.

2.30 pm

A minute's silence was observed in memory of the victims of the shootings in Tunisia on 26 June.

Prayers—read by the Lord Bishop of St Albans.

Disabled People: Access to Work Fund

Question

2.37 pm

Asked by ***Lord Touhig***

To ask Her Majesty's Government what assessment they have made of the effectiveness of the Access to Work fund and what plans they have to help people with disabilities into work.

The Minister of State, Department for Work and Pensions (Baroness Altmann) (Con): My Lords, last year Access to Work helped more than 35,000 disabled people to work, including almost 2,000 into self-employment. Disabled people and stakeholders consistently tell us of the effective support that Access to Work offers. A wide range of employment support programmes underpins our success. We are building on this by launching specialist employability support, expanding the Disability Confident campaign, extending work choice and expanding the use of our Access to Work mental-health support service.

Lord Touhig (Lab): My Lords, an Access to Work grant is a lifeline helping disabled people to find a job and stay in work, so I am sure I was not alone in being surprised last week when the Minister for Disabled People seemed almost to boast about the fact that his department had underspent the fund's budget by £3 million last year. In those circumstances, will the Minister tell the House why the Government are cutting the grant that disabled people can receive under the fund and why they have failed to publicise the fact that the fund even exists? How will this help the Government to honour their pledge to cut the number of unemployed people by 50%?

Baroness Altmann: My Lords, Access to Work is not being cut. We are introducing a cap, which means that the resources available can support growing numbers of people. We are determined to reduce the disability employment gap by half and to spend more money on these programmes. It is a demand-led programme. The cap will ensure that we can reach far more people, and, indeed, we did just that over the past year.

Baroness Thomas of Winchester (LD): Does the Minister accept that when the bulk of personal independence payment reassessments start in October, when thousands may lose their Motability cards, the Access to Work scheme is likely to be overwhelmed by disabled people trying to get to work, particularly in rural areas?

Baroness Altmann: As I said, Access to Work is a demand-led scheme. Nobody has ever been turned away from it. The reforms to PIP are about taking money away, but not from those who need it. Therefore, the reforms will deliver a more dynamic benefit system whereby we can tailor support to meet people's needs as they change over time, and Access to Work will be available to more people.

Lord Low of Dalston (CB): My Lords, as the Minister said, the Government aim to halve the disability employment gap so that hundreds of thousands more disabled people who can work, and want to be in work, find employment. This is an ambitious aim, and I wonder how far the Minister believes it will be assisted by capping the amount that an individual can receive from the Access to Work programme. A cap at one and a half times the mean average salary may sound generous, but it could limit the effectiveness of the scheme for those with the greatest obstacles to labour-market participation, such as deaf people who need the support of a sign-language interpreter. Will there be any flexibility in the administration of the cap to cater for cases such as these?

Baroness Altmann: I reassure the noble Lord that the cap for existing claimants will not be introduced until 2018, and we will work sensitively with all those affected to ensure a smooth transition from the support they currently get to an alternative form of support under the new arrangements. More than 35,000 people are currently in the Access to Work programme and 200 will be affected by the cap. As I said, nobody currently receiving more than the cap will lose any of their support until we have worked through the programme of transition over the next three years.

Lord Fink (Con): My Lords, does the Minister agree that misconceptions about people with disabilities, particularly mental health problems, could cause them real difficulties in finding a job? What are the Government doing to help to remove this sort of stigma, particularly among employers?

Baroness Altmann: I agree with my noble friend, and that is why the Government's campaign to make Britain disability-confident is so important. For individuals with mental health conditions, we provide a wide range of support across our programmes—and there are many such programmes—targeted at supporting work for both employers and individuals. We are very conscious that all disabled people who wish to work have a right to support from the Government to help them to do so.

The Lord Bishop of St Albans: My Lords, perhaps I may press the Minister a little about the very real concerns of many people in the deaf community about the use of British Sign Language, not least because currently four-fifths of the highest-value awards are paying for BSL services. Indeed, the DWP's own figures show that almost 90% of the users who will be affected by the cap that is to be brought in are deaf. How do the Government plan to continue to support and encourage deaf professionals on a par with the hearing community in the light of this cap?

Baroness Altmann: I reassure the right reverend Prelate that we will continue to support deaf people and people with hearing loss. Specialist teams will help customers and their employers with advice on adjustments and technological support and with personal budgets so that users can manage their support flexibly themselves when the scheme is rolled out later in 2015-16. We are also in discussions with relevant stakeholders about how best to plan the implementation. As I said, existing customers will be protected until 2018 while we work through the transition.

Baroness Wilkins (Lab): My Lords, how will the department monitor the impact of the cap on Access to Work funding from the day it is introduced?

Baroness Altmann: We will carefully monitor all our programmes. Access to Work is one of the many programmes that we have introduced and are planning to roll out to protect the disabled and help them to work if they want to, as many do. Last year, we ensured that nearly a quarter of a million more disabled people had work. That is a tremendous success, and our programmes are working.

Baroness Sherlock (Lab): My Lords, it has been rolled out. It is already out there, and the Government are limiting the budget. Will the Minister follow up on the questions asked by the noble Lord, Lord Low, and the right reverend Prelate? Of the 200 people affected, 90% are deaf. They will not be protected in the long run; they will lose the money to pay for their interpreters. Advice is helpful. Interpreters are essential. How will the Government protect them?

Baroness Altmann: We are introducing a range of programmes. Access to Work was never designed to be an unlimited-cost programme. We will ensure that all those who are potentially affected by the cap will have more flexible support to help themas they require it.

Vehicle Excise Duty: Carbon Dioxide Emissions

Question

2.46 pm

Asked by ***Lord Brabazon of Tara***

To ask Her Majesty's Government whether they plan to change the basis on which Vehicle Excise Duty rates for new cars are calculated by carbon dioxide emissions alone.

Lord Ashton of Hyde (Con): My Lords, the Chancellor keeps all fiscal instruments under review. Any changes are announced at the appropriate time.

Lord Brabazon of Tara (Con): I congratulate my noble friend on that Answer. The Budget will be with us shortly, but will the Chancellor bear in mind that the present system strongly favours diesel cars, whereas we now know that nitrogen oxide emissions are far more harmful than CO_2 emissions? Will the Government consider moving to a system that takes emissions of both gases into the equation? While they are about it, will the Government look at the testing regime? At present, this is a laboratory-based system, which bears little relationship to what one actually gets out on the road.

Lord Ashton of Hyde: My Lords, the Government do not explicitly promote diesel cars. The current tax system, introduced in 2001, covers the purchase of cars with low CO_2 emissions, regardless of whether they are petrol or diesel. I hope I can be a little more helpful on my noble friend's question about testing. I am pleased to report that work has been going on for some time, at European and international level, to provide better testing. Although they will still be laboratory tests—so that they can be replicated around the world—a more accurate database will be included, which will more accurately simulate actual driving conditions.

Baroness McIntosh of Hudnall (Lab): My Lords, will the noble Lord reconsider the answer he gave on whether the Government promote the use of diesel cars? I drive a diesel car, which I am rather ashamed to admit now that I know about the particulates that are emitted by it. However, that diesel car pays no road tax and, currently, no congestion charge. That may not be active promotion but it is certainly implicit promotion.

Lord Ashton of Hyde: I was referring to vehicle excise duty which, under the system introduced in 2001, simply addresses the amount of carbon produced. It does not promote one form of car over another: it just incentivises less carbon.

Baroness Kramer (LD): My Lords, given the goals of tackling climate change, getting clean air and developing an ultra-low-emission vehicle industry in this country, where we have a chance of becoming a leading manufacturer, would it not be wise to continue to make sure that VED benefits are targeted at the ULEV sector so that we do not lose the advantages we have gained, since we do not yet have a sustainable market?

Lord Ashton of Hyde: The noble Baroness is correct that we should encourage vehicles that produce low emissions. The Government are investing in a wide range of measures to help improve air quality. Since 2011, the Government have committed more than £2 billion in measures to reduce transport emissions. These measures will address both nitrous dioxide emissions and particulates.

Baroness Jones of Moulsecoomb (GP): My Lords, perhaps I may suggest to the Minister a way round this. The Supreme Court has suggested that the Government should produce a national plan to fix our air pollution problem. Something on the vehicle excise duty could go very nicely into that plan and make quite a lot of headway.

Lord Ashton of Hyde: The noble Baroness's interest in this subject is well known and I agree with her that there are many things that could be done. However, it is about more than just vehicle excise duty—55% of nitrous dioxide emissions come from sources other than transport. However, I take the point about the Supreme Court judgment. We are committed to working

towards full compliance with that and are reviewing the UK air quality plans, which will be finalised by the end of 2015. Consultations will take place before that.

Lord Tunnicliffe (Lab): My Lords, Defra, in its policy paper dated 8 May 2015, states:

"Air pollution, for example from road transport, harms our health and wellbeing. It is estimated to have an effect equivalent to 29,000 deaths each year and is expected to reduce the life expectancy of everyone in the UK by 6 months on average, at a cost of around £16 billion per year".

Does the Minister stand by that statement and does he agree that all future government modelling of the economic impact of changes to vehicle excise duty must consider these very significant costs?

Lord Ashton of Hyde: The noble Lord makes an important point. I agree with what Defra said; that is why the Government are investing more than £500 million between 2015 and 2020 to support the uptake of ultra-low-emission vehicles, with the aim of all new cars having no tail-pipe emissions by 2040.

UK: Number of Households

Question

2.52 pm

Asked by ***Lord Green of Deddington***

To ask Her Majesty's Government what was the increase in the number of households in England and Wales between 2010 and 2014; and, over that period, what were the number and proportion of households where the head of the household was not born in the United Kingdom.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, the most recent statistics for England, published on 27 February, include an estimate for England of 22.7 million households in 2014 compared with 21.9 million in 2010. This represents an increase of 0.8 million households, equating to a 3.6% increase over that four-year period. Government data show that, in 2014, 15% of heads of households across England and Wales were born outside the UK.

Lord Green of Deddington (CB): My Lords, I declare an interest as chairman of Migration Watch. I thank the Minister for her reply, which suggests that we are now forming new households at the rate of about one million every five years. Does the noble Baroness agree that the proportion of new households that have an immigrant head is a major factor in housing demand? Is she aware that, today, the Office for National Statistics has published a table showing that almost all households in the last four years were headed by someone born overseas? Finally, will she make sure that future publications by her department make absolutely clear the impact of immigration on housing, a major concern to the British public?

Baroness Williams of Trafford: My Lords, I thank the noble Lord for furnishing me with a figure beforehand of an increase of two-thirds. I have asked the ONS to look into this figure and if he is agreeable, I will confirm it in due course. In terms of supply and demand, we are focusing on both those things. We are doing many things to address the demand on housing in this country from overseas, including tightening the rules for family and student visas.

Lord Lamont of Lerwick (Con): My Lords, does my noble friend agree that the country has benefited from both skilled and, to some extent, unskilled immigration, but that the appropriate measure of the extent to which this is so is not GDP growth but GDP per capita? Judged by that standard, the evidence is somewhat doubtful. Does she further agree that GDP growth reflects nothing but population growth, is of no particular economic advantage and, as the noble Lord, Lord Green, has pointed out, merely adds to the pressure on infrastructure and housing?

Baroness Williams of Trafford: There is no doubt that there is pressure on housing demand from all sorts of sources, including immigration. The point that I was trying to make is that we want skilled people to come here to fill some of the skills gaps, but we do not want people simply coming here to look for work without having secured a job.

Lord Paddick (LD): My Lords, would it not be a far more positive approach to stop blaming immigration for the lack of housing and to start building more homes?

Noble Lords: Hear, hear!

Baroness Williams of Trafford: My Lords, we are building more homes. In fact, nearly 800,000 homes have been built in this country since 2009. However, I agree that, yes, we are in danger of blaming immigration for everything.

Baroness Farrington of Ribbleton (Lab): My Lords, does the Minister agree that the term "head of household" was dropped in relation to the electoral register many years ago because it was often interpreted as meaning men? Secondly, does she agree that in looking at the figures of people who were born overseas, it is important to distinguish the multifarious reasons why people are in that category? For example, until 30 years ago a British mother outside the EU was not able to pass on British citizenship unless the child was born in Britain, whereas a British father could. Can we not have a great deal more accuracy when we are looking at this issue?

Baroness Williams of Trafford: My Lords, I agree with the noble Baroness that we tend to look at things in rather a blanket way, that "head of household" suggests a certain person—namely, male—and that the reasons for immigration are many and varied. I am an immigrant myself: my family came here in the 1970s because my father got a job here. One reason may be to flee persecution. The noble Baroness is absolutely right.

Lord Forsyth of Drumlean (Con): My Lords, could the Minister answer my noble friend Lord Lamont's question about whether GDP per capita is a more sensible measure of growth? In particular, what percentage of GDP growth is accounted for by immigration?

Baroness Williams of Trafford: My Lords, I do not have those figures to hand but I am very happy to write to the noble Lord and furnish him with them.

Lord Roberts of Llandudno (LD): My Lords, are the one-third of hospital doctors who were born overseas considered when heads of household are calculated? Surely that would transform our whole idea of the value of people coming to this country.

Baroness Williams of Trafford: The noble Lord makes a very valid point about acknowledging the contribution to this country that immigrants make. As I said in my previous reply, my father came here as a doctor from Ireland. People who come to this country to fill those sorts of highly skilled jobs make a very valuable contribution to our economy.

Baroness Royall of Blaisdon (Lab): My Lords, how do the Government think that the sale of housing association homes is going to assist with the housing crisis?

Baroness Williams of Trafford: My Lords, the sale of housing association homes is going to assist in the sense that for every one that is sold, a new one is going to be built.

Noble Lords: Oh!

Baroness Williams of Trafford: The Government are very committed to that target.

Lord Hunt of Kings Heath (Lab): My Lords, on the value of migrants to the health service, does she not think it bizarre that the 2012 Immigration Rules now state that unless nurses from other countries who come to work here earn more than £35,000 a year, after six years they will have to go back home? Is that not, as I say, a bizarre change for the Government to make when we are crying out for nurses both from overseas and from this country?

Baroness Williams of Trafford: My Lords, nurses, doctors and other health workers are vital to keeping the NHS going and we would not want to do without them.

Advertising Standards Authority

Question

3 pm

Asked by ***Baroness Deech***

To ask Her Majesty's Government what is their assessment of the performance of the Advertising Standards Authority.

The Parliamentary Under-Secretary of State, Departments for Business, Innovation and Skills and for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, the Government support the system of co-regulation for broadcast and self-regulation for non-broadcast advertising enforced by the Advertising Standards Authority. Overall, we believe that this regulatory system has worked well for both consumers and advertisers, and I support the Government's assessment in the 2013 digital communications policy paper that it is an exemplar of successful self-regulation.

Baroness Deech (CB): My Lords, I declare an interest as a partly successful recent complainant. The Minister will know that the ASA is a self-regulating body and is funded at one remove by the industry. In those circumstances, does she think that it is acceptable for such a body not to have to observe the rules of natural justice when hearing complaints? There is no obligation to share material with both sides. The authority sometimes fails to seek expertise and evidence when necessary, fails to give adequate reasons for its judgments, fails to follow precedents and makes its own appointments. What assurance can she give us that the governance of this body will be brought into line with that of other complaints-handling bodies? Should it not be on a statutory basis, ensuring that justice is done to both sides?

Baroness Neville-Rolfe: My Lords, the system has been proven to work well for more than 50 years, and of course the ASA Council is chaired by the noble Lord, Lord Smith of Finsbury, who after a review in 2014 put in place a new strategy aimed at being more proactive and efficient. I think that that has improved the speed of response and customer satisfaction. ASA rulings are subject to review by the Independent Reviewer of the Rulings of the ASA Council, and if an interested party remains unhappy, they have recourse to the courts through judicial review. There are pluses and minuses to this type of system, but I believe that the advantages outweigh the disadvantages.

Baroness Eaton (Con): My Lords, what is the policy of the ASA on getting expert advice when an advertisement has been complained about, particularly when the matter involves difficult scientific or political issues?

Baroness Neville-Rolfe: My Lords, the ASA can engage external expert advice on a case-by-case basis. I think that it is on occasions when claims are capable of objective assessment and the evidence provided would merit such external expertise. Of course, the ASA itself has a bench of experts, but it is possible for it to bring in extra scientific expertise if it needs to do so, and no doubt advisers on political issues, although the make-up of the council probably means that it is quite experienced in these matters.

Lord Smith of Finsbury (Non-Afl): My Lords, as chairman of the ASA, can I ask the Minister if she agrees that, taken as a whole, the ASA's work is a good and effective example of self-regulation and co-regulation? Last year the authority dealt with 37,000 complaints about 17,000 advertisements, and its work resulted in almost 3,500 ads being changed or withdrawn. While of course we will never get absolutely everything right, we have a strong and independent review process in place which in fact worked very effectively in relation to the case brought by the noble Baroness herself.

Baroness Neville-Rolfe: I am very grateful to the noble Lord for setting out these facts so clearly and succinctly. I would add that the flexibility of the ASA, which he has not mentioned, is a big advantage—the

way it was able to jump in in the 1990s and take on online ads and look at those showed that. It also ensures a strong industry stake in maintaining the system, ensuring high levels of consumer trust and, of course, good enforcement, because the industry is involved in making this a success.

Lord Palmer of Childs Hill (LD): My Lords, the Minister has given details about what has been done. Can she tell us that they are satisfied that the ASA meets the criteria of the EU Directive 2006/114 which, as I am sure the Minister knows, requires the UK to provide,

"effective means … to combat misleading advertising",

with recourse to the courts. Despite the eloquent responses of other noble Lords, the ASA is not a court.

Baroness Neville-Rolfe: Yes, my Lords, EU Directive 2006/114 concerns misleading and comparative advertising to traders in the UK, and by agreement the ASA administers the UK advertising codes. The system works well. It is a good, collaborative arrangement, with good back-up.

Baroness King of Bow (Lab): Does the Minister agree that one of the problems here is that the ASA is called the Advertising Standards Authority, when it is not in fact a statutory body at all. As we have heard, the ASA is a body funded by the advertising industry, which rules on complaints against the advertising industry. I am a great fan of the noble Lord, Lord Smith, but surely not even he can change the fact that self-regulation rarely works. Does not its lack of statutory independence fatally undermine whatever credibility the ASA may have?

Baroness Neville-Rolfe: My Lords, I cannot agree with the noble Baroness. The system works well for all the reasons that the noble Lord, Lord Smith, articulated. We should stick with it and make sure that it continues to improve—which, I understand, is exactly what the Council is trying to do.

Baroness Oppenheim-Barnes (Con): I wonder whether my noble friend would agree—and certainly the noble Lord who is in charge—that gambling is still a big problem. As someone who could easily be on the verge of becoming a compulsive gambler in the middle of the tennis season, I point out that there is an advertisement that says, "If you know whether the person who won the first set is going to win the match, press the button. It's a free vote and we will pay you if you win". I can only confess that my finger is starting to itch when they do that. Other people must be in the same position; they must go the whole hog and stay there, losing more money than they possibly can afford. Please would they pay special attention to the gambling advertisements?

Baroness Neville-Rolfe: My Lords, the noble Baroness is right. Of course, this is not a matter for the ASA alone. Regulations governing gambling, marketing and advertising are shared with Ofcom and the Gambling Commission. The Government are committed to ensuring that people, particularly the young and vulnerable, continue to be protected from being harmed or exploited by gambling—and also, of course, people in the later stages of life.

Cities and Local Government Devolution Bill [HL]

Committee (3rd Day)

3.08 pm

Relevant documents: 1st and 2nd Reports from the Delegated Powers Committee, 2nd Report from the Constitution Committee

Amendment 42A

Moved by ***Lord Shipley***

42A: Before Clause 8, insert the following new Clause—

"Access arrangements to combined authority meetings for the press and public

(1) The Secretary of State shall, by regulations, provide that, where a meeting is held—

(a) between a mayor established under the provisions of this Act and the relevant combined authority;

(b) by the leaders of a combined authority;

(c) by an overview and scrutiny committee of a combined authority,

arrangements must be made, so far as is reasonably practicable, to allow reasonable access to the meeting for the public and the press.

(2) For the purposes of this subsection (1) "so far as is reasonably practicable" means to the extent possible to allow transparency of proceedings and decisions, while taking into account—

(a) the need for unencumbered advice from officials, and

(b) the need to protect commercial confidentiality.

(3) For the purposes of subsection (1), "reasonable access" may include but is not restricted to—

(a) attending and viewing the meeting,

(b) taking notes of the meeting, and

(c) taking a visual or audio recording of the meeting."

Lord Shipley (LD): My Lords, Amendment 42A concerns media and public access to meetings, addressing issues around the right of the press and the public to have access to the meetings of combined authorities. Existing statutory requirements enable the press, the media generally and the general public to attend, view or listen to council meetings, council committee meetings and council sub-committee meetings. These regulations are well understood in terms of their requirements and their spirit. Alongside the right to attend meetings, there are rights to receive advance notice of meetings, to see agendas in advance and to inspect relevant documents.

This amendment seeks to ensure that those rights of access cannot be diminished in the case of combined authorities. It requires reasonable access to be ensured and, in subsection (2), acknowledges the need to ensure that commercial confidentiality is protected and for officials to feel able to give essential advice to those who are charged with making decisions. Both criteria are, of course, within the existing regulations for local government.

[Lord Shipley]

Why, therefore, does the Bill fail to make any mention of an obligation on the mayoral authorities which it creates to meet in public? Members of the public and the media currently have a general right to attend council meetings, including those of the local authority executive or the cabinet and their committees. They also have the right to film, audio-record, tweet or blog from those meetings. These rights are primarily set out in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the Openness of Local Government Bodies Regulations 2014. Given the freedom that the Secretary of State will have to set up the new authorities by ministerial order, there is great potential for them to be watered down unless the rights of the public and the press are protected by being placed firmly in the Bill.

Given the importance of overview and scrutiny committees, will the Minister tell us the intention behind Schedule 3, which contains an enabling power allowing the Secretary of State to block disclosure of information to an overview and scrutiny committee and to determine what material it, in turn, can put into the public domain? This amendment seeks to address these concerns. I look forward to the Minister's confirmation that there will be no diminution of the right of the press, the media generally and the public to attend meetings of combined authorities as they currently do within local government.

Lord McKenzie of Luton (Lab): My Lords, we are fully committed to openness and transparency in the proceedings of local government and have already moved amendments to that effect. However, as the noble Lord, Lord Shipley, said, we need to be sure that nothing in or arising from the Bill could dilute or disapply existing public rights of access to meetings, records and related documents. The noble Lord has also posed a pertinent question on Schedule 3.

There may be a lack of clarity over the precise circumstances envisaged in subsection (1)(b) of Amendment 42A concerning,

"leaders of a combined authority".

Presumably, the provision applies when they are meeting as members of that combined authority rather than otherwise. Perhaps that needs clarification. We have generally argued for dealing with matters on the face of the Bill, so we look forward to assurances from the Minister that the issues raised here are already covered. To the extent that they are not, we will work with the noble Lord, Lord Shipley, to fill any gaps on Report.

Lord Storey (LD): My Lords, this amendment is in my name as well. Yes, it is important to have powerful leadership in metropolitan areas, and yes, it is important that we have transparency. In my own local authority in Liverpool, the elected mayor, in his infinite wisdom, has decided to do away with scrutiny, so there are no scrutiny committees at all. That should not happen in this case, so it is very important to clearly make the point that not only should there be transparency in all actions under the new arrangements but, where papers are relevant, the papers should be freely available to the general public—to the electors—and, where possible, those electors should be allowed to attend those meetings if they wish. If we do that it will give people real confidence about the new arrangements. They will feel that the arrangements are transparent and democratic and, above all, that nothing is being hidden from them behind closed doors.

3.15 pm

Baroness Hollis of Heigham (Lab): I, too, support the amendment tabled by the noble Lords, Lord Shipley and Lord Storey. I declare an interest. As I am sure Members of your Lordships' House may know, I was leader of Norwich City Council, but also I was a member of the Press Council for a number of years under Louis Blom-Cooper. So I come at this from both ends.

At no stage in my time on the Press Council do I recall receiving a complaint about the regional press because it was accountable to its local community for everything from advertisements to news, from fetes to weddings, funerals, baptisms and the like. All the complaints that were sensitive or difficult were about the national press, which was essentially promiscuous in the 19th century sense of the term as it was not accountable to a readership, which fluctuated from day to day and of which it had no intimate knowledge. So the regional press served its community in a way that the national press did not, and served it faithfully.

When I was leader of Norwich council an issue started boiling up while I was in Australia. The *Eastern Daily Press* would not run with the story until it had contacted me in Australia to get a countervailing view. That would have been unthinkable with the national press. That is why the amendment is so important. If we do not support the amendment and encourage the regional press to scrutinise mayoral and other meetings, as it does meetings under the existing local government structure, I fear that reportage of local government, much like reportage of court proceedings, will die on the vine. Twenty years ago we could expect our court proceedings, local council meetings and some of the important committee meetings to be reported. The press would expect to be briefed on them in advance. What we get now—in national newspapers as well—is sketches rather than reports of debates.

Political coverage is shrinking in this country because it is not regarded as sufficiently amusing for people with only 30 seconds' attention span. The regional press has held on, trying to make both Westminster and local authorities accountable and transparent to the members of their community, to whom it also feels accountable.

At the moment, the leader of a local authority will be monitored by his or her group, the opposition or the press and also by the chambers of commerce and local pressure groups and lobby groups such as the local branch of Age UK, the National Rheumatoid Arthritis Society or whatever, for example, on access to buildings. There must be stringent protection of the right of access of the press. We must not accept one person's view of what counts as confidential or private, or what he or she would rather was not made public because it might be faintly awkward or embarrassing. Without that protection, I fear that the regional press

will continue to opt out of the coverage that we absolutely need if we are to grow a healthy democracy in our localities.

Lord Brooke of Sutton Mandeville (Con): My Lords, as the speeches so far have come from the opposition Benches, I gently remind your Lordships' House that the first legislation to allow the general public to attend council meetings in committee was introduced by my late noble friend, Baroness Thatcher. I would not wish my noble friend the Minister to feel lonely at this moment. It is a notable piece of history to which I allude. The Minister for Housing and Local Government at the time was my late noble kinsman, Henry Brooke, who encouraged the new Member of Parliament for Finchley to become involved at an early stage in introducing legislation. It was her first legislative achievement, and he sat on the Front Bench throughout when she took the Bill through the House. I would not wish the metaphor to be misunderstood, but it was a good case of picking out a dark horse before it got into the limelight.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, Amendment 42A seeks to insert a new clause regarding access for the press and public to combined authority meetings. Whatever the whys or wherefores of the press's engagement with council meetings, I am happy to confirm that legislation already exists on these issues. As my noble friend Lord Brooke has pointed out, the Local Government Act 1972 provides that all meetings of a combined authority must be open to the public except in limited, defined circumstances.

A meeting of a combined authority, as with other council meetings, may be closed to the public in only two circumstances: if the presence of the public is likely to result in the authority breaching a legal obligation about the keeping of confidential information; and if the authority decides, by the passing of a resolution of its members, that exempt information—for example, information relating to the financial affairs of a particular person—would likely be disclosed.

The Conservative-led coalition Government made new regulations in 2014 to make it absolutely clear that a combined authority is required to allow any member of the public or press to take photographs, film, audio record and report on all public meetings. This openness helps to ensure that combined authorities are genuinely accountable to the local people they serve. It also ensures genuine transparency in this digital age, where our democracy can be enhanced by the use of social media and blogging to communicate widely and, as the noble Baroness, Lady Hollis, said, to capture the market that does not want to spend more than 30 seconds reading such matters.

These requirements apply equally to any committees or sub-committees of a combined authority, including any overview and scrutiny committees. Sub-section (1)(a) of the proposed amendment refers to a meeting between a mayor and the relevant combined authority. I should clarify that the mayor will be a member of the combined authority—indeed, will be the chairman—so such a meeting would simply be a meeting of the combined authority and is covered by these rules. Similarly, a meeting of the leaders of a combined authority, if I understand the noble Lord's meaning, will be a meeting of the members of a combined authority, who are most likely—although not always—to be the leaders of the constituent councils.

The noble Lord, Lord Shipley, asked about Schedule 3. This is an enabling provision which ensures that there is flexibility to decide which information can be appropriately disclosed or must be discussed. For example, certain information may be commercially confidential or contain sensitive personal information.

I hope that, with these reassurances, the noble Lord will agree to withdraw his amendment.

Lord Shipley: My Lords, can the Minister explain what the Government plan to do if all the members of a combined authority are members of the same political party and hold informal pre-meetings prior to the meeting of the combined authority which is being held in public? Let us say that the meeting of the combined authority ends up being a short meeting and the private meeting beforehand ends up being a long one. What steps do the Government plan to take to deal with such situations should they arise?

Baroness Williams of Trafford: The noble Lord raises an important point, but it has always been thus—informal meetings between people are not obliged to be held in public. The point on transparency is that the decision-making has to be in public and the public can be there to see it. However, informal meetings have never been subject to those rules.

Lord Shipley: I thank the Minister for her reply. We may need to revisit this issue on Report but, for the time being, I beg leave to withdraw the amendment.

Amendment 42A withdrawn.

Clause 8: Funding of combined authorities

Amendment 43

Moved by ***Baroness Janke***

43: Clause 8, page 10, line 2, at end insert—

"( ) The Secretary of State may by order make provision for conferring on a combined authority, upon the request of that authority in relation to its area, the full retention of business rates, business rate supplements, council tax, stamp duty land tax, annual tax on enveloped dwellings, capital gains property disposal tax, and multi-year finance settlements."

Baroness Janke (LD): My Lords, I wish to speak to Amendments 43 and 44. I know that the Bill is important to local government. Coming as I do from the city, I urge everyone to think of the world-class cities we have in our country and how we can make them even more competitive internationally.

The raising of funding locally is important. The developments in the Greater Manchester Combined Authority and the deal that has been agreed are a good step forward. I hope the Bill is the start of a journey in building capacity in our city and county regions, in order to have local economies that flourish

[BARONESS JANKE]
due to the their leadership. I have looked at some of the written material on this subject, which the London Finance Commission took evidence on. One marker it looked at is how much money central governments give to capital cities, particularly London. One report tells us that Madrid gets 37%, New York 30.9%, Berlin 20.5% and Tokyo 7.7%, but that 73% of London's budget comes from central government, as the Mayor of London made clear. I think Boris Johnson said that in this country we are comparatively "fiscally infantilised"—his quotes are fairly unique.

That shows the gap between the self-sustaining nature of other international cities, particularly capital cities, and our own. The Minister has been the leader of a council and I am sure she has had the same experience as many of us: when we meet the mayors of our twin cities or attend international gatherings, the feeling from that contingent is one of shock at the very few powers that leaders and mayors in this country have in comparison with others. We must look at this issue. When we discussed the local government bond last week, it did not receive as welcoming a response as we had all hoped. I recognise that the Government feel that they must be cautious and satisfied with the capacity of local government to take on these greater responsibilities, but the Bill's vision needs to include something on what the future may be and what is desirable. There is plenty of evidence. The City Growth Commission fully recognises in its report that not all cities, counties and regions are ready for full powers. Indeed, many are not as ready as the Greater Manchester Combined Authority is. Nevertheless, we must be ambitious and aspire to giving our regions and cities greater powers.

If we look at what is happening in Scotland and Wales, it is understandable that many people in England, particularly in our cities, feel that powers are being given away which are not available to them. The national economy could benefit from more financially independent cities leading their own economies. I urge the Government to give some thought to including something in the Bill—even if it is not as explicit as the amendments—to show what the scope, potential and ambition could be. I hope to hear some more encouraging remarks from the Minister.

I am perhaps not as hopeful about that after previous days, but I hope we can all see the potential of fiscal independence for some of the great cities and counties of this country, and that we will see as a result improved local accountability, and improved ownership and participation from the people living in those regions. Having finance and powers meted out from the centre is not a good recipe for local participation or for pride in one's area. The leaders and mayors of those international cities will have ample evidence of why we need to set some of our cities and regions free. I beg to move.

3.30 pm

Lord McKenzie of Luton: My Lords, we agree with the noble Baroness, Lady Janke, that we should give some thought to this issue, although I hope she will understand if we are unable to support the amendment as it stands. I will spell out some of the technical issues in a moment. But it does provide an opportunity to probe the Government's intention on the devolution of fiscal resources to local authorities, including combined authorities—that is, where they are going on their journey.

My noble friend Lord Beecham will set out shortly the policy position we reached before the election on the growth of business rate retention. It accords with Amendment 43 in supporting multiyear finance settlements, for the obvious reason of enabling more effective long-term planning. However, we might consider fiscal devolution over three areas. First, we should look at the current funding arrangements: business rates, council tax, revenue support grants and specific grants. Secondly, we should look at how devolution budgets are to be made available—if functions are being transferred, what is happening to the money? Thirdly, we should look at whether any national taxes are to be devolved to local authorities and combined authorities. We seek to understand the Government's policy on each of these matters.

National taxes are the thrust of Amendment 43, which appears to focus on property taxes, which have an unambiguous attribution to a specific area. This would appear to be perfectly possible for stamp duty land tax, which is levied on the purchase of residential and non-residential land and property, and for the annual tax on enveloped buildings, which applies to UK residential property put in a corporate wrapper. But capital gains tax appears to be more problematic because a tax liability could arise from netting off losses against gains—for example, a loss on a building in Birmingham against a gain on a building in Manchester—and making it more specific would be difficult. Similarly, the use of an annual allowance that is available generally against gains, and the taxation of corporations in relation to capital gains and how that is identified within an overall assessment, could also be problematic.

It would doubtless be possible to introduce rules to govern all of this, but with further significant complications to the tax system. On compliance, these taxes are geared to a national system and it would be necessary to disaggregate such matters. What is the rationale for attributing these taxes to a combined authority: is it the practicality of a ready additional source of revenue being made available, or because the focus of the combined authority's activity can positively influence the tax outcome? It is presumed, of course, that the proposition is not to change the tax rates.

Nationally, stamp duty land tax raised just short of £10 billion in 2013-14 and capital gains tax just shy of £4 billion. I do not have the figure for corporation tax on capital gains. But these taxes can be volatile. Stamp duty land tax increased that year by 36%. Of course, it is not easy to predict. Is the growth in stamp duty land tax a good thing? The volume of property transactions in an area might be indicative of a thriving local economy—which could attract investment—but in so far as it is attributable to rising prices, it might simply reflect a failure to tackle supply.

We know the total spending power of local authorities in 2014-15 was in the order of £49 billion, including—though we do not have the precise figure—£10 billion-plus

in revenue support grant. If the revenue support grant were, effectively, to be at least replaced by directly accruing property taxes and all business rates were to be devolved, what would be the mechanisms for dealing with the differing needs and resources of the local authorities? Presumably, business rates would continue to have tariffs, top-ups, levies and safety nets, which would help, but it is a little unclear whether the proposed full retention of business rates would be at individual authority or combined authority level. Is the noble Baroness suggesting that this could be done by pooling or by another mechanism? I think it could be done by pooling. The amendment refers to "business rate supplements". Do these not already accrue to the relevant county or unitary district councils? Does the noble Baroness's amendment contemplate that additional, erstwhile national revenues would substitute for devolved budgets, or eliminate the revenue support grant?

The Independent Commission on Local Government Finance set out the reasons why local government in England and the services it provides are no longer sustainable in the current form. It called for urgent devolution of powers, funding and taxes to groups of local authorities. We know from the Manchester agreement and our debates the main policy areas that central government appear to be willing to negotiate deals on for transferring functions, but we do not know whether they are willing to do anything on fiscal devolution. Is anything being contemplated, particularly with regard to existing national revenue streams such as stamp duty being devolved to local government? To what extent do the Government plan to adopt the recommendation of the noble Lord, Lord Heseltine, in brigading key national budgets and passing these as single parts to combined authorities, to do with as they see fit? In his *No Stone Unturned* report, the noble Lord argued the need to bring together separate funding streams which support the building blocks of growth into a single funding pot for local areas. He said that the model could be applied across England, but could not be introduced before 2015-16. We are now there. What are the plans? Is the noble Lord's advice being rejected?

Will the Minister also tell us whether, as part of the devolution agenda, any fundamental change is contemplated to the current business rate and council tax regimes? Will the reset of the business rate retention scheme not happen until 2020? What is the latest position on the revaluation, which had already been deferred by the previous Government?

On fees and charges, it is estimated that local authorities raise some £10 billion a year. Some of these are locally determined and some are not. Is work under way to remove central government's control over some of these? What scope would there be for a combined authority to seek increased freedom in this regard as part of a devolution deal? Addressing these fiscal issues is a test of how much central government trust local authorities and combined authorities.

Lord Brooke of Sutton Mandeville: My Lords, this is a brief intervention. One of the most attractive features underlying this legislation is the restoration of local pride up and down the country in the communities and neighbourhoods involved. I have always regretted from my time as Higher Education Minister that the relationship between universities and their surrounding communities, which had been very strong in the 19th century, gradually declined as the years went on and were not nearly as effective as they had historically been.

In the light of the amendment which has been moved, I wish to make a generic remark rather than a technical one. I can recall the circumstances in which decisions were taken at national level to reduce the amount of money retained by a local authority in terms of the resources raised within it. The local authority's powers to have that retention were diminished. I recall that those circumstances arose because of the view of local business that it was perfectly possible for the economic situation in which it had to work to be changed overnight by a large switch in the power of an authority. I shall therefore be interested in what sense emerges from the Government, when my noble friend comes to reply, of not going backwards on that consequence of the circumstances which they replaced.

Baroness Williams of Trafford: My Lords, our intention is to devolve far-reaching powers where strong, accountable and transparent governance, delivery and capability can be demonstrated. We are open to discussing proposals from all places, including towns and counties, where there are clear lines of accountability and decision-makers can properly be held to account. Amendments 43 and 44 suggest giving mayoral combined authorities access to a wide range of important taxes and charges. We have always said that we are interested in hearing proposals from authorities, and that nothing is off the table. We have also included provisions in the Bill for a council tax precept to meet the costs of functions undertaken by the mayor. This will be subject to the normal referendum principles as part of the council tax for the area, ensuring that not only will the mayoral combined authority be properly resourced but local council taxpayers will be protected.

Moreover, the Bill will mean that, in future, mayoral combined authorities will become major precepting authorities for the purposes of the local government finance regime. This means that through the existing powers that govern the rates retention scheme, to which the noble Lord, Lord McKenzie, referred, we will already be able to give mayoral combined authorities their own share of local rates income and ensure that they benefit from local growth. We do not need powers to put in place multi-year settlements for authorities; we can already do this administratively, as part of the wider local government finance settlement. Of course, any decision to make use of the existing powers to extend the rates retention scheme or put in place multi-year settlements would be taken alongside part of the wider transfer of powers and functions to mayoral combined authorities.

To devolve the wider basket of taxes referred to in Amendment 43, however, goes further and would represent a significant change to the existing tax landscape, with potentially significant legal, economic and fiscal implications. The other taxes mentioned play an important part in reducing the deficit and restoring the nation's finances to a more secure footing, so it would not be right to include in the Bill powers to direct these taxes to mayoral combined authorities.

[Baroness Williams of Trafford]

Additionally, such far-reaching powers would have potential consequences not just for the combined authorities but for other authorities, large and small businesses, and taxpayers up and down the country. Given the importance and fiscal character of such matters, we would need to consider whether any proposals would receive the correct level of scrutiny if provided through secondary legislation. I am not convinced, therefore, that it would be appropriate for these matters to be the subject of powers in the Bill or considered outside the Government's normal fiscal and budget-planning cycle. Nevertheless, we are open to proposals for the transfer of resources as well as power and would give detailed consideration to any scheme that strikes the right balance between encouraging growth and protecting taxpayers.

The noble Lord, Lord McKenzie, asked about any proposals to remove central Government influence on local fees and charges. It would depend on individual deals. The noble Lord also asked about brigading national budgets. I cannot read the writing—

Baroness Hollis of Heigham: Go on, be brave—make policy.

Baroness Williams of Trafford: I would not dare. What part of budgets is devolved and how devolved budgets might be handled are all matters for the discussion in reaching each devolution deal. What is clear is that in all cases where powers are devolved, there will be an appropriate devolution of budgets.

In conclusion, and in respect of the other amendments in this group, I assure noble Lords that we will consider all proposals for devolution deals involving the transfer of both resources and powers and that the framework that would allow for funding from business rates retention is already in place, if needed, in addition to the existing powers for a council tax precept.

Baroness Hollis of Heigham: My Lords, I suspect I may know the answer to this. Would it be possible for a local authority in the negotiations with the Secretary of State for devolution and financial arrangements to, for example, have the right to include extra tiers of council tax bands when raising their council tax for their area?

3.45 pm

Baroness Williams of Trafford: My Lords, I think they would have to have a discussion with the Secretary of State.

Baroness Hollis of Heigham: Given everything the Minister has said, that proposal, which has had a fair degree of support in this Chamber in the past, would be one way in which a local authority could raise funds within the existing structure in a way that most of us would think was fair and progressive.

Baroness Williams of Trafford: My Lords, it could indeed and it would be a matter for discussion between that group of local authorities and the Secretary of State.

Lord McKenzie of Luton: I know that we deal with situations where the best can happen in the best of all possible worlds, which is where we are on the Bill. However, could the noble Baroness confirm that in a whole range of functions being devolved to a combined local authority and the budgets to go with it, the prospects of those budgets being aggregated—with freedom for the combined authority to spend as it wishes, given those particular functions, and not have to follow the Bill above those amounts—would be perfectly possible, feasible and welcomed?

Baroness Williams of Trafford: My Lords, the noble Lord gives a theoretical example, which I am not in any position to stand at the Dispatch Box and confirm. I know I have reiterated this during the course of the Bill, but it really would be for a group of local authorities to prove that whatever proposal was put forward would result in growth and be fiscally neutral.

Baroness Janke: I thank the Minister for her response. I am perhaps not as discouraged as I thought I might be. However, I hope that the complexity of the tax system will not be a barrier to giving local powers and local accountability to achieving local projects. Transport is a particular issue in this country. To give a practical example, we in Bristol had to wait something like 15 years to be told that we were not going to get a tram whereas our twin city of Bordeaux not only conceived of its tram but built it and had it in operation within a fraction of that time.

I understand from the Minister's remarks that should a combined authority wish to make proposals that might include a tourist tax or differentiated VAT or some kinds of local tax, these would all be considered. At the moment, while there is a central allocation determined by government, there is not a great deal of incentive for those who are more entrepreneurially minded in local authorities to create revenue streams to pay for important projects. That is what I have understood. Equally, the equalisation element would need to be looked at. We have very different circumstances in different parts of the country but, again, it should not be a barrier, and we need only look at our international competitors to know that this is the case.

I hope that we can pursue this a little further and that we might revisit it on Report. In that case, I beg leave to withdraw the amendment.

Amendment 43 withdrawn.

Amendment 44 not moved.

Amendment 44A

Moved by ***Lord Beecham***

44A: Clause 8, page 10, line 2, at end insert—

"( ) The Secretary of State may by order make provision for conferring powers on a combined authority to set multi-year finance settlements and retain business rates revenue in relation to its area."

Lord Beecham: My Lords, I find myself in the somewhat unusual position of agreeing with the Minister in her analysis of the impact of what the noble Baroness, Lady Janke, proposed in Amendment 43. As my noble friend Lord McKenzie pointed out and as the Minister

implicitly confirmed, the impact of allowing the combined authorities to retain money on what is essentially a nationally based taxation would be formidable and difficult for the Wigans and Kirkleeses of this world as compared to the Westminsters and Kensington and Chelseas, and I was very glad to see her not adopting that position.

Having said that, I must say that there is a certain synergy between the amendments that we have just debated and the one that I am now moving, particularly in relation to multiyear finance agreements, which must be common sense, and to business rates growth. However, I am in another unusual position in having to confess that Amendment 44A as printed is actually in error, because it should have referred to the growth in business rates rather than the implicit retention of an entire business rate. In that way, we are agreeing again with only a part, but an important part, of the amendment that we have just debated. However, the critical factor here is that of the fairness or otherwise of the distribution of the funding. That is the subject of Amendment 44B. Of course, if we had suggested, as it appears on the Marshalled List, that the entire business rate would revert to individual councils, it would be disadvantageous. Even the 50% retention rate is inequitable, unless there are other measures to compensate those authorities in need.

The Independent Commission on Local Government Finance has illustrated this position by comparing Hillingdon, which currently collects £101 million of business rates, and Wigan—and my noble friend Lord Smith will be conscious of the fact that Wigan collects just one-third of that, at £34 million a year in business rates. If we had a more equitable system, and if it was based on need, that would result in Hillingdon receiving £42 million and Wigan £62.9 million. That was the finding of the independent commission. That is an illustration in respect of only that one area of financing, because action is desperately needed across the whole system of local government finance. Local authorities have suffered massive cuts as a result of government policy, which singled out the sector for the biggest cuts in public expenditure in the last five years, a process that is far from complete—and we may hear more next week about what is in store. In any event, even the cuts that are still inchoate and beginning to take place will lead to substantial further difficulties.

What is particularly galling is the unfairness of the way the burden has fallen on those areas with the greatest need. The 10 most deprived councils in the country, as defined by the department's own measure, have suffered cuts 10 times greater than the 10 least deprived. Liverpool, the authority with the highest deprivation score of all—I repeat that these are on the department's own measure—has suffered a loss just under 30 times greater than Hart District Council, the least deprived authority.

Interestingly, 14 councils were lucky enough to receive an increase in government funding over the past few years, and by sheer coincidence all but one of these have Conservative MPs, including Michael Gove, Chris Grayling, Philip Hammond and Jeremy Hunt. Some of us think that one or two of those have been lucky to have been in the Cabinet for these past few years, but certainly their constituents have been lucky to have received this benison from the Government.

If the Government's ambitions for cities in the context of devolution are to be carried out and are not to suffer the same signal failure as their northern rail transport policy, as was revealed last week, or, in the light of last week's belated disclosure of a three-year-old report, the fate that may be awaiting HS2, their philosophy about devolution must be accompanied by a needs-based funding formula and not rely on a continuation of the present system, which is so damaging to so much of the areas that could most benefit from the Government's well-intentioned approach to devolution. That is why Amendment 44B calls, initially at any rate, for a report on the fairness of the distribution of funding, taking into account the cumulative cuts so far—and, indeed, those that are pending—in spending power and resources per household. I beg to move.

Baroness Hollis of Heigham: Will my noble friend read into the record, if he happens to have the information to hand, the 10 most rewarded local authorities and the 10 most deprived, in terms of grant, and their political complexion?

Lord Beecham: I am afraid that I am going to have to follow the usual ministerial procedure and say that I shall have to write to my noble friend. I do not hae the information. I copied the report to my noble friend this morning and I think it runs to 163 pages. I do not have it immediately to hand, or anything big enough to contain it, but I will communicate with my noble friend.

Lord Shipley: My Lords, I am grateful to the noble Lord, Lord Beecham, for clarifying the wording of Amendment 44A: that it is about the growth of business-rates revenue. I was slightly disappointed that these two amendments were degrouped from the two amendments moved a moment ago by my noble friend Lady Janke, because they are all in the same area. They all relate to the question of whether we are dealing with decentralisation or with devolution. I have heard the Minister say that this Bill is primarily to do with decentralisation, but there is an overall context that is to do with devolution. However, I do not think that fiscal powers are about decentralisation where they can be varied from a national norm, so we are talking here about fiscal devolution.

I agree with the noble Lord, Lord Beecham, that this is set in the context partly of multiyear financial settlements, which I think all parties would benefit from, but also, crucially, of fair funding. It is therefore in part about the level of cuts that have been imposed on poor authorities, but it is also about the absolute level of funding. The issue of needs-based allocation will not go away, however much fiscal devolution we have, because even with the powers that we have set out in Amendments 43 and 44, there would clearly need to be some needs-based reassessment of the total sums involved. That is why, of course, Amendments 43 and 44 use "may" rather than "shall" in relation to the powers of the Secretary of State, as clearly there would need to be significant flexibility in those powers.

4 pm

I have talked previously in your Lordships' House about the difference between powers and responsibilities. It is one thing to give local authorities and combined authorities increased powers, but this is about them using those powers to take on additional responsibilities. We have heard the suggestion a number of times in your Lordships' House that there should be a local government finance commission. I have come to the conclusion that that is the right thing to do, because I do not think that we would get full agreement otherwise about what the devolved powers of combined authorities might be compared with those in other levels of local government. We also need to think about how we ensure that the money from central government is fairly distributed on a needs-based allocation, the basis of which everybody understands.

I hope very much that we will return to this issue on Report. Perhaps in the next two weeks we can look more broadly at this area to see what might be possible for all parties to agree on. I hope that it might be possible for the Government at least to think again about whether the issue of fiscal powers should be in the Bill. There is not much willingness to put things into the Bill. I think there should be something in relation to Amendments 43, 44, 44A and 44B in the Bill, and I hope it will be possible to enter into discussions to see how there might be agreement in all parts of your Lordships' House to deliver that.

Lord Smith of Leigh (Lab): My Lords, one of the amendments put forward by my noble friend Lord Beecham has reminded me that in Greater Manchester we had an argument with the Government about getting back our share of growth in business rates for the actions that we were taking. Through the city deal process we managed to convince Ministers that it would be a good scheme to take up, but unfortunately we then had to go to the Treasury and it took 18 months or more to get agreement on that. However, it is a model by which we can clearly demonstrate that the growth created through the work of the combined authority could be used for further investment to benefit and create further growth in the area.

I am certainly a supporter of fiscal devolution, which in a sense is the missing clause in this Bill. We need to think about what it is and what we mean to achieve. However, if we are to get the allocations of money from central government, which is a form of decentralisation, we need further freedom to agree with the Government what would be provided by the money. We can transfer funding from one field to another in a different and more effective way in some areas, provided that we do what was agreed in the deal with the Government.

I have said a number of times in this House—sometimes late at night a couple of years ago when my noble friend Lord McKenzie and I were talking to the Government about the change to business rates—that our system of local government finance in the UK is now a busted flush. There are two main taxes that we rely on. The revaluation means that business rates are no longer justifiable. There needs to be a major review and I am pleased that the Government are carrying that out. The other main form of taxation—council tax—has not been revalued since 1991, so a new house built in 2015 has to be valued as though it was built in 1991. A connection to broadband would not be a feature, because clearly in 1991 such things were not invented. There obviously has to be all-party agreement on this, because we do not want a system that is going to be changed when there is a change of government. We have to have a system, built for the 2020s, that gives local authorities the independence and freedom they need.

On fair funding, I am surprised that my noble friend Lord Beecham and the noble Lord, Lord Shipley, did not quote their former council, Newcastle City Council. It has done some wonderful work on this and produced what it referred to as a "heat map", which shows in red the areas that have had the greatest reduction in council funding and in green those that have had the least. Guess what: most of the red areas are in the north or in urban areas, and this could be substituted for political control.

Lord Scriven (LD): I wish to emphasise what my noble friend Lord Shipley and the noble Lord, Lord Smith, have just said. In Committee last week, I said that the real elephant in the room was the issue of fiscal devolution; otherwise the Bill is about decentralisation. I listened to the Minister and I agree with my noble friend Lord Shipley and the noble Lord, Lord Smith, that this will ultimately get lost unless there is something specific in the Bill. I hear what the Minister says about this being an enabling Bill, but there needs to be something in it that gives a framework—not a straitjacket—to understand the kind of fiscal autonomy that local authorities could have. If there is not, then we are, fundamentally, talking about a local government finance system that is not fit for the 21st century possibly being reallocated in a different way.

I accept that there is talk about TIF or business rate growth being able to be held at local level. However, it is fundamentally much more than this. As my noble friend Lady Janke said, it is about different approaches. Last week, the noble Lord, Lord Heseltine, spoke about the Mayor of Tokyo talking to potential international investors in his city. I am a former council leader who talked to international investors. As I said last week, they do not necessarily ask about the nameplate on your door. They want to talk about what tax incentives my area can give compared to elsewhere, rather than there being a national scheme. In the real world, those are the kind of issues being looked at.

So I ask the Minister to reconsider. This is so important; we are talking about a brand new deal for devolution and for local areas to become much stronger and authors of their own destiny. But we need some framework in the Bill. Otherwise, like the noble Lord, Lord Smith, I fear that when the Treasury gets hold of this, it will not treat it, as the Minister wishes, from a local government perspective.

Baroness Hollis of Heigham: My Lords, I support the comments made by my noble friend Lord Smith about the increasing frailty of the existing council tax

structure to bear the responsibility we ask of it. I believe I am right in saying that, had the older rates system remained in place, the most expensive properties, compared to the median average, would be in a ratio of something like 20:1. In fact, the ratio of the top band to band D—the fulcrum point on the council tax scale—is only 3:1. That shows just how narrow the redistributive effect of council tax has become.

In the past, the Government have resisted looking at council tax revaluation, even though a full-scale revaluation went through fairly smoothly in Wales, without any great hiccups in the procedures. A few years ago, some of us did some work on this. It was clear that it would be desirable to revalue all properties—but at the very least, you could fish the top band. I was advised, by the Valuers' Association and the Government's valuation service that that would represent less than the valuations which happen now whenever a flat becomes a shop, a shop becomes a flat or a house is sold and is given a new valuation. So the amount of work required to allow local authorities to increase the bands above the current top band would be quite modest—I am assured of that by the district valuers who carry out this work, day in, day out, on other use changes and so on and so forth—and would allow us to stretch more fairly and produce more revenue in a way that was more reasonable.

Certainly the compression that has come from council tax bands compared to the old rate bands is probably, in my understanding, the narrowest in the OECD. In America, Australia and most of the countries in Europe, the property range of bands is far wider than we now have in the UK as a compression of council tax. As I said, we have only about three or four bands above the band D fulcrum compared to the 20:1 ratio that we used to have under the old rates system. So it is a perfectly serious proposition that this would be a fair and appropriate way to increase revenues to local authorities and to reflect local need and local ability to pay.

Lord Beecham (Lab): My Lords, perhaps my noble friend would agree with me that a major part of the problem is that the council tax embodies a significant element of the poll tax, and that that is what leads to such narrow banding.

Lord Liddle (Lab): I agree with my noble friends on our side of the House who have spoken about these issues. Council tax is in urgent need of reform. As for anyone who defends its existing basis—it is indefensible. It needs reform, as my noble friends Lady Hollis and Lord Smith have suggested.

I applaud the Government's commitment to devolution, as I have said before in this House. But the elephant in the room is how to devise a scheme of fiscal federalism within the United Kingdom and within England. That is a very tricky question. It is tricky politically because once we start to look at these issues we see that London and the south-east are transferring considerable amounts of money to the rest of England. The transfers within England are probably much greater than the much talked-about transfers under the Barnett formula to Scotland and Wales.

Some years ago, in my own area of Cumbria, a study was done of all government spending and the estimated tax contribution from all sources. It came to some pretty alarming conclusions. In terms of total government commitment to Cumbria, roughly twice as much money was being spent by the Government in one form or another—this includes the nuclear plant at Sellafield, not just local government—as we were paying in. This issue has to be honestly addressed.

It is also the reason why there is an absolutely compelling need for local authorities to have the powers to contribute to local economic regeneration. That is the way to start building a tax base, rather than living off this drip-feed from London and the south-east.

Some very big issues are being touched on here. It would be interesting to hear from the Minister whether there is any interest from the Government in launching a major study of these questions—royal commissions are rather out of fashion, but I suggest that this would be a suitable subject for one—or whether we will continue with the terribly unfortunate "ad-hockery" that we have. I am sure the Minister agrees with me about the unfairness of the current local government arrangements. I remember, in a meeting in Cumbria County Council when the last settlement came out, quoting that the authority that did best of all was Elmbridge in Kent.

Noble Lords: Surrey!

Lord Liddle: My apologies—I meant Elmbridge in Surrey. I looked on my iPad at the description of Elmbridge, which started by saying that that part of Surrey,

"is known as the 'Beverly Hills' of England".

The Minister, who is a fair person, must admit that such extraordinary unfairness is where we end up. We need a much more independent and objective look at these questions, and that is of real importance if we are to get an effective devolution of power in this country.

4.15 pm

Baroness Williams of Trafford: My Lords, as worded, Amendment 44A would allow the Government to confer powers on a combined authority to set multiyear finance settlements and to retain business rates. In introducing this amendment, the noble Lord made clear that the intention behind it is to allow central government to put in place multiyear finance settlements, thereby allowing a combined authority greater certainty over its budget-setting process. In fact, we already have the powers we need to do this administratively as part of the wider local government finance settlement.

A combined authority is already able to set a multiyear budget; it is not necessary for central government to confer powers upon it allowing it to do so. Nor, as I have made clear in responding to Amendments 43 and 44, do the Government need new powers to allow a combined authority to retain some of its local business rates. The Bill will already set up a mayoral combined authority as a major precepting authority, and therefore

[Baroness Williams of Trafford]
we will be able to use our existing powers under the Local Government Finance Act 2012 to give the authority a share of its locally raised business rates, should we decide to do so.

Of course, any decision to make use of the existing powers to put in place multiyear settlements or to allow the retention of local business rates, or business rates' growth, would be taken alongside any wider transfer of powers and functions to mayoral combined authorities. I further assure noble Lords that we will consider all proposals for devolution deals involving the transfer of both resources and powers.

Amendment 44B would require the Government to publish a one-off report about the impact on combined authorities of how resources had been distributed through the local government settlement, particularly with regard to levels of deprivation. I do not think the amendment would add anything to the information that we already provide. By looking only at the resources distributed through the settlement, the reports required by this amendment would separate government funding from other sources of income available to local authorities. By isolating deprivation from other drivers of spend—for example, the impact that population sparsity plays in rural areas—it would fail to present a properly rounded picture of the settlement.

As noble Lords know, we already publish annually an assessment of the impact of the settlement on authorities' wider spending power and an equalities statement on the settlement's effect. Moreover, the settlement is subject to wide-ranging consultation and comes before Parliament for approval. I am not persuaded that anything further is needed.

The noble Lord, Lord Smith of Leigh, talked about Manchester's gains from economic growth. The devolution deal for Manchester illustrates what the city has gained as a result of its growth. A reformed "earn back" deal can earn up to £900 million over 30 years.

The noble Lord, Lord Beecham, talked about the relative impact of cuts in different areas. I know we could argue about this all day and all night. People have different views about cuts, but comparing regional spending in terms of spending power per household shows that in the north-east it is £2,154, in the south-east it is less, at £2,023, while in the north-west it is £2,230.

The noble Lord, Lord Smith, and the noble Baroness, Lady Hollis, talked about the revaluation of council tax. I understand the comments about this but, in practice, since 2010-11 council tax in England has fallen by 11% in real terms, and a total of £5 billion has been provided for five successive years of freezes that are worth up to £1,059 for average households. The noble Baroness mentioned the revaluation of just one band, the top band. As far as I can recall from my local government days, a simple revaluation has to be revenue-neutral. In the light of those comments, I would ask the noble Lord to withdraw his amendment.

Baroness Hollis of Heigham: I understand that a revaluation would have to be revenue-neutral, and obviously it is up to the local authority to make the total proceeds exactly the same, so that if you get more from X you can reduce the imposition on Y. However, I do not think that the noble Baroness should rejoice on behalf of local government for the freeze in council tax over the past few years. Obviously, it has helped council tax payers, but what they have gained by not having to pay council tax increases, they have lost in the social wage of the services that have been cut as a result. You need only go to cities to see exactly what that means when children with no books at home no longer have a library to which they can go because it has been cut. Their hopes of social mobility have, to that extent, been depressed. I think that was a much more contentious remark than perhaps the noble Baroness intended.

Baroness Williams of Trafford: My Lords, I do not rejoice and I did not intend to be contentious. I was simply illustrating the effect of the council tax freeze and the money the Government have given to that. In difficult times, council tax payers will have been glad of lower council tax.

Lord Beecham: My Lords, while individual council tax payers might well feel a little more comfortable, of course the impact on services for their communities has been very marked, particularly in adult care and children's services, as we are increasingly seeing. In any event, most of the £5 billion has been top-sliced from moneys that would have gone in the local government finance settlement in any event. It is a bit much for the Government to claim credit for the freeze. It is more than a freeze for some services because it is actually inflicting a cut.

That brings us to the central question about the impact of these devolution proposals between different areas. One of the objectives of the amendment, although perhaps we will need to look again at the wording, is to ensure that in the process of devolving functions and resources to the combined authorities, both of which would be welcome, fairness in respect of other areas and between the combined authorities themselves is a cardinal objective and is something that the Government will address. It is that which we want to see in terms of the report that Amendment 44B seeks to advance. Looking at it again and listening to the Minister, perhaps the objective was not made sufficiently clear in the amendment, so it is something to which we may have to return on Report.

Unless we have a fairer funding system for local government services and the people who depend on them across the piece, including those in combined authority areas, then, in our submission, the talk about devolution will prove to be more of process than of outcome, and that would be unfortunate. Let us credit the Government, and particularly the present Secretary of State, with good intentions in this respect, but unless this is accompanied by a much more rigorous examination and the necessary change in the funding of local government, including the combined authorities, those objections will not be met. Having said that, I beg leave to withdraw the amendment.

Amendment 44A withdrawn.

Clause 8 agreed.

Amendment 44B not moved.

Clause 9: General power of competence

Amendment 44C

Moved by ***Lord Beecham***

44C: Clause 9, page 10, line 7, leave out "may" and insert "shall"

Lord Beecham: My Lords, Members of your Lordships' House will have observed that I am short. I intended this speech to be equally short, but I will give it a minute or two, in order to allow this debate to be kept to five minutes or thereabouts. Then we can proceed with the very important Statement which is to follow. Between us, the noble Baroness and I will no doubt get the clock to 4.30 pm.

It would be anomalous if the existing general power of competence which applies to local government in its manifestation across the country was not to be matched with a similar power for the combined authorities. The whole point of the combined authorities is to give them a wider range of functions than local government generally enjoys and for them to take on a wider role across the provision of a range of public services. Therefore, a general power of competence would facilitate the implementation of the Government's objectives, which are shared by Members on all sides of your Lordships' House. I hope that the Minister will concur with that view at some little length. I beg to move.

Baroness Williams of Trafford: My Lords, the Localism Act 2011 provides that local authorities have the general power of competence. This is the same power to act that an individual generally has. All principal councils and eligible town and parish councils have this power. The provision in this Bill is designed to give the Secretary of State the discretion to decide whether or not to confer this same general power of competence to a particular combined authority. This is likely to go hand in hand with an arrangement in which the combined authority is to take on wider powers and functions, thus supporting the case for a general power of competence.

Flexibility, however, must remain in conferring this general power of competence to combined authorities, as it may not be appropriate to give the full power to act that an individual has to all combined authorities. For example, for combined authorities with relatively limited specific powers, it may not be appropriate to grant them a wide general power of competence. This is so given that Section 113A of the 2009 Act already gives them a power to do anything they consider appropriate for the carrying out of the specific functions that have been conferred on them.

This amendment is a further example of moving away from the enabling character of the Bill. It is an example of another centralised requirement which an area may not want, recognising that in its circumstances this would not be appropriate. So I ask the noble Lord to withdraw the amendment.

Lord Beecham: My Lords, if the noble Baroness is right, the general power of competence would seem to be more limited than, on the face of it, it appears to be. Certainly it might inhibit a kind of development across a combined authority area that might be thought to be most appropriate. For example, in another area in which I have an interest, the justice arena, a combined authority might be in a good position to develop schemes for assisting the rehabilitation of offenders. That is not a duty of local authorities at the moment but, particularly given the area involved in a combined authority, they might well have something to offer which they should be able to carry out. Their potential partners in the Prison Service or the probation service might want to join them in such an effort. I am a little puzzled as to why the noble Baroness should be reticent about extending a power in that sort of area.

Baroness Williams of Trafford: My Lords, I do not think that it is reticence; it is about flexibility and what might be appropriate in different circumstances. I hope that the noble Lord does not take it as reticence.

Lord Beecham: With that, I beg leave to withdraw the amendment.

Amendment 44C withdrawn.

Clause 9 agreed.

House resumed.

Tunisia and European Council

Statement

4.30 pm

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, with the leave of the House I will now repeat a Statement made by my right honourable friend the Prime Minister in another place. The Statement is as follows:

"It is with great sadness that I have to tell the House that we now know that at least 18 British nationals have been killed, with more injured and the death toll likely to rise still further. These were innocent British holidaymakers—people who had saved up for a special time away with their friends and family—who suddenly became the victims of the most brutal terrorist attack against British people for many years. I am sure the whole House will join me in sending our deepest condolences to the families and friends of all those who have lost loved ones. I know the whole country will want to share in a moment of remembrance. So, following the act of remembrance we have just held in this House, we will have a national minute's silence on Friday at noon, one week on from the moment of the attack. In due course, in consultation with the families, we will also announce plans for a fitting memorial to the victims of this horrific attack.

This morning, I chaired the fourth daily meeting of the Government's emergency COBRA committee. So let me take the House through three things: first, the latest on what we believe happened in Tunisia, and in the separate attacks in Kuwait and France; secondly, the immediate steps we have been taking to help the British victims and their families; and, thirdly, how we will work with our allies to defeat this evil in our world.

The events of last Friday are horribly familiar to anyone following them in the media. A radicalised university student armed with a Kalashnikov began

[Baroness Stowell of Beeston]
massacring innocent tourists on the beach at Port El Kantaoui. He continued his attack into the Imperial Marhaba hotel and on to the streets, where he was shot dead by Tunisian police. While we believe he was the sole gunman, it is thought that he may have been part of an ISIL-inspired network, and the Tunisian security forces are investigating possible accomplices who may have supported this sickening attack.

On the same day in Kuwait, a suicide bomber killed 27 and injured more than 200 in an attack on the Imam Sadiq Mosque near Kuwait City. An ISIL-affiliated group based in Saudi Arabia has claimed it was behind the attack. In Syria, ISIL executed 120 people in their homes in Kobane and, in south-eastern France, a man was murdered and two were injured in an explosion. While all these attacks were clearly driven by the same underlying perverted ideology, there is no evidence to date that they were directly co-ordinated.

Our first priority has been to help the British victims and their families. This has meant helping on site, assisting the wounded, bringing home those who lost their lives, ensuring that holidaymakers still in Tunisia who want to come home are helped to do so and gathering further evidence of what happened.

A team of consular staff was on site in Sousse within hours, and by Saturday they were complemented by additional teams of consular staff, police and Red Cross experts. We now have over 50 people on the ground helping British victims and their families. To help the wounded, we have already sent a team of military medical liaison officers to assist with medical evacuations. A C-17 has just landed in Sousse to bring home some of the seriously injured.

It is right that we do everything we can to bring home those who lost their lives as quickly as possible. We have been helping the Tunisians with what is, in some cases, a very difficult identification process. The Royal Air Force will arrange directly the repatriation of all deceased British nationals whose families wish us to do so, as soon as the identification processes are complete.

Sixty family liaison officers back here in Britain are continuing to support the relatives of those killed and injured. We are working with the tour operators to ensure that those who want to come home can do so, and more than 20 special flights have already brought hundreds home. Since Friday evening, more than 380 counterterrorism and local officers have been at British airports to meet and support travellers returning home from Tunisia and to help gather evidence of what happened.

As Assistant Commissioner Mark Rowley said yesterday, the national policing response is likely to be one of the largest counterterrorism deployments in a decade. Yesterday afternoon I visited the Foreign Office crisis centre to see first-hand the work that our teams are doing to co-ordinate our efforts at home and abroad. As I speak, my right honourable friend the Home Secretary and the Foreign Office Minister, the Member for Bournemouth East, are in Sousse in person doing everything that they can to help the British victims and their families, and talking to the Tunisian authorities about ways in which we can help strengthen their security. I have been speaking to President Essebsi over the weekend and want to put on record my thanks for the assistance of the Tunisian authorities throughout this horrific ordeal.

The Foreign Office has updated its travel advice, which continues to make clear the high threat from terrorism in the country, just as it did before Friday's events. However, it is not moving to the position of advising against all but essential travel to this part of Tunisia, so it is not advising against visiting the popular coastal resorts. This was agreed by the COBRA emergency committee and will be kept under close review. These are difficult judgments. Nowhere is without risk from extremist Islamist terrorists, and of course we take into account the capability of the country in question and its ability to counter the threat. Here in the UK, the threat level remains at severe, meaning that a terrorist attack is highly likely, but until we have defeated this threat, we must resolve as a country to carry on living our lives alongside it. Of course, making those judgments means taking sensible precautions, and where there is a specific threat we will always take action immediately. But we will not give up our way of life or cower in the face of terrorism.

These terrorists tried to strike at places of hope—in a country with a flourishing tourist industry that is on the road to democracy and at a mosque in Kuwait that dared to bring Sunnis and Shias together. But the Tunisians and Kuwaitis will not have that hope taken away from them. They will not be cowed by terror, and we will stand with them.

Defeating this terrorist threat requires us to do three things. First, we must give our police and security services the tools that they need to root out this poison. We have already increased funding for our police and intelligence services for this year and legislated to give them stronger powers to seize passports and prevent travel. Over the next two days, our security forces and emergency services will conduct a major training exercise in London to test and refine the UK's preparedness to deal with a serious terrorist attack. But we must also do more to make sure that the powers that we give to our security services keep pace with changes in technology. ISIL's methods of murder may be barbaric, but its methods of recruitment, propaganda and communication use the latest technology. So we must step up our own efforts to support our agencies in tracking vital online communications, and we will be bringing forward a draft Bill to achieve this.

We must also work with our international partners to improve our counterterrorism co-operation. I spoke to President Hollande, Chancellor Merkel and Prime Minister Michel of Belgium over the weekend and we agreed to work together to help Tunisia strengthen its security. Our ambassadors met the Tunisian authorities yesterday to put that into action, including by strengthening the protective security arrangements at coastal resorts.

Secondly, we must deal with this security threat at source—whether that is ISIL in Iraq and Syria or other extremist groups around the world. British aircraft are already delivering the second-largest number of air strikes over Iraq and our airborne intelligence and surveillance assets are assisting other countries with

their operations over Syria. We are working with our UN, EU and American partners to support the formation of a Government of national accord in Libya and will continue to do all we can to support national Governments in strengthening weak political institutions and dealing with the ungoverned spaces where terrorists thrive. And as I have said in this House many times before, if we need to act to neutralise an imminent threat to the UK, we will always do so.

Thirdly, we must take on the radical narrative that is poisoning young minds. The people who do these things do it in the name of a twisted and perverted ideology which hijacks the Islamic faith and holds that mass murder and terror are not only acceptable but necessary. We must confront this evil with everything we have. We must be stronger at standing up for our values. And we must be more intolerant of intolerance—taking on anyone whose views condone the extremist narrative or create the conditions for it to flourish.

On Wednesday, a new statutory duty will come into force requiring all public bodies—from schools to prisons to local councils—to take steps to identify and tackle radicalisation. In the weeks ahead we will go further. We will stand in solidarity with all those outraged by these events—not least the overwhelming majority of Muslims in this country and around the world. For this is not the war between Islam and the West which ISIL want people to believe. It is a generational struggle between a minority of extremists who want hatred to flourish, and the rest of us who want freedom to prosper. And together we will prevail.

Let me turn to the European Council. This discussed three issues which strongly affect our national interest. On the situation in Greece, I chaired a contingency meeting in Downing Street earlier today and the Chancellor will be making a statement straight after this. So let me deal with the other two—the need for a comprehensive approach to the migration crisis and the beginning of the UK renegotiation process.

On migration, the right course of action is to combine saving lives with tackling the root causes of this problem. That means breaking the business model of the smugglers by breaking the link between getting in a boat and getting a chance to arrive and settle in Europe. It means gathering intelligence to disrupt the smuggling gangs and using our aid budget to help alleviate the poverty and failure of governance that so often drives these people from their homes in the first place.

Britain has already played a leading role in all of this, keeping its promises on aid and saving over 4,000 lives in the Mediterranean. By contrast, focusing primarily on setting up a relocation scheme for migrants who have already arrived in Europe could be counterproductive, because instead of breaking the smugglers' business model it makes their offer more attractive. Others in the EU have decided to go ahead with these relocation schemes, but because of our opt-out from justice and home affairs matters, we will not be joining them. We will, however, enhance our plans to resettle the most vulnerable refugees from outside the EU, most notably from Syrian refugee camps, in line with the announcement I made in Bratislava earlier this month.

Finally, on the UK's relationship with the European Union, we have a clear plan of reform, renegotiation and referendum. And at this Council I set out the case for substantive reform in four areas: sovereignty, fairness, immigration and competitiveness.

First on sovereignty, Britain will not support being part of an ever-closer union or being dragged into a state called Europe. That may be for others, but it will never be for Britain, and it is time to recognise that specifically. We want national parliaments to be able to work together to have more power, not less.

Secondly, on fairness, as the eurozone integrates further, the EU has got to be flexible enough to make sure the interests of both those inside and outside the eurozone are fairly balanced. Put simply, the single currency is not for all, but the single market and the European Union as a whole must work for all. Thirdly, on immigration, we need to tackle the welfare incentives that attract so many people from across the EU to seek work in Britain. And finally, alongside all these, we need to make the EU a source of growth, jobs, innovation and success rather than stagnation. That means signing trade deals and completing the single market, such as in digital, where the Council made progress towards a roaming agreement that could cut the cost of mobile phone bills for businesses and tourists alike.

At this meeting, my priority was to kick off the technical work on all of these issues and the specific reforms that we want in each area. The Council agreed that such a process will get under way and we will return to the issue at our meeting in December. These talks will take tenacity and patience. Not all the issues will be easily resolved. But, just as in the last Parliament we showed that change could happen when we cut the EU budget for the first time in its history, so in this Parliament we will fix the problems which have frustrated the British people for so long. We will put the common market back at the heart of our membership, get off the treadmill to ever-closer union, address the issue of migration to Britain from the rest of the EU and protect Britain's place in the single market for the long term. It will not be the status quo. It will be a membership rooted in our national interest, and a European Union that is better for Britain and better for Europe, too. I commend this Statement to the House".

My Lords, that concludes the Statement.

4.46 pm

Baroness Smith of Basildon (Lab): My Lords, I thank the noble Baroness for repeating the Prime Minister's Statement. As the news came through on Friday lunchtime, it became almost too difficult to comprehend both the magnitude and the nature of the events as they unfolded in Sousse. Families and friends on holiday, relaxing and enjoying glorious weather and local hospitality, were thrown into murder and mayhem. I do not think any of us will ever forget the heartbreaking sight of sun loungers being used to stretcher the dead and the injured. With 18 British citizens confirmed dead and the death toll of British and other nationalities likely to rise, and with others seriously injured, the horror and fear of that day will never be erased from the memories of those who have survived. As we think of the pain and

[Baroness Smith of Basildon]
distress of families trying to find and identify loved ones we can only try to understand what they must be going through.

I concur with and support the comments of thanks to all those—the FCO staff, our police and other agencies and the locals in Sousse—who are trying their best to give both the practical and the emotional support that is needed and will be needed for many for months and years to come. The Home Secretary and the Minister with responsibility for the Middle East are in Tunisia today and they will understand the scale of the problem.

I am sure that, like me, the noble Baroness was deeply affected by the interviews with holidaymakers who, while clearly traumatised and visibly upset, said that they wanted to stay on, in recognition of the support that they had from the locals, who had helped them despite their own fears and distress. I understand that the Government are not issuing advice against travelling to Tunisia, but is any advice being provided to those who are booked to go on holiday there over the coming weeks?

Obviously many Tunisians are already worried about their futures, both in terms of security and economically. I know it is early days and I welcome the fact that discussions have been held with Prime Minister Hollande and Chancellor Merkel but have there been any further discussions with the Tunisian Government? I am thinking not just about security issues but also about economic issues, which can have a huge impact on the local economy and the national economy and will raise other issues around security.

At the European Council, security and defence were rightly high on the agenda. It is a stark reminder, as we reflect on the 10th anniversary of 7/7, that this week alone there have been deadly terrorist attacks not only in Tunisia, but also in Kuwait and France. Meanwhile, the death toll in Syria and Iraq continues to rise. The Prime Minister has rightly recognised that this violence stems from an extremist ideology which hijacks and perverts the religion of Islam, and that this must be tackled at home as well as internationally. We must challenge such extremism, whatever its origins, and champion the values of peace, freedom of speech, tolerance and equality.

The noble Baroness may be aware from debates in your Lordships' House on the then Counter-Terrorism and Security Bill that not only must our security forces and police have the resources, the numbers and the appropriate tools to be effective but action must be community-based, and all communities have to engage with government and other public bodies in a climate of trust. She will be aware that so many within the Muslim community are challenging ideological extremism and championing the values that lead to a more tolerant and peaceful society. In their considerations of the way forward, are the Government also giving further thought to how these individuals and communities can be supported in their work?

The noble Baroness will know that your Lordships' House has been very concerned about migration, as discussed at the European Council, both in tackling the organised criminality that fuels it and the instability in north Africa and the Middle East that leads frightened and vulnerable people to risk their lives and those of their families. One of the conclusions of the European Council meeting is:

"Further to the Commission's European Agenda on Migration, work should be taken forward on all dimensions of a comprehensive and systemic approach".

Is she in a position today to explain what that means in practice and what action will be taken? The same document refers to,

"the reinforcement of the management of the Union's external borders".

What contribution did the UK make to that discussion, given the cuts that we have seen in our UK Border Force?

Finally, on Britain's negotiations with Europe, can the noble Baroness inform your Lordships' House whether there will be any treaty changes before the referendum takes place? I understand the Prime Minister's political difficulties and the sensitivities around this but it is a really important issue. How long was he given to make his case at the summit? Perhaps she can help me: we are not clear at this stage what he is negotiating for. There is even confusion among those he is negotiating with about what he is negotiating for. British citizens, who are going to be asked to vote in a referendum, are also unclear what he is negotiating for. The Prime Minister said in his Statement that this was the first stage, "to kick off the technical work" between now and December. What exactly does that mean and what steps will be taken to keep the public informed?

It is a fact of geography that we are an island nation but all these issues impact on the lives of British citizens. Whether it is terrorism in Tunisia, refugees in the Mediterranean or the economy in Greece, these problems connect us all, and if we are to genuinely address them, we must do it together.

Lord Wallace of Tankerness (LD): My Lords, I, too, thank the Leader of the House for repeating the Statement made by the Prime Minister. I certainly join her and the Leader of the Opposition in expressing on behalf of these Benches our condolences to those families who have lost loved ones through the senseless and brutal terrorist attack in Tunisia. Our heartfelt thoughts are with those who were injured in the attack and are seeking as best they can to recover from those injuries.

Like the Leader of the House and the Leader of the Opposition, I think it is important to pay tribute to the heroic members of staff who went to the assistance of those who had been injured, and the holidaymakers who helped. As was acknowledged by the Prime Minister, there has been a considerable immediate response by Foreign and Commonwealth Office staff, consular officials, the police and the Red Cross. These are all very welcome.

The Leader of the Opposition also reflected on those who have expressed the view that they wish to stay on holiday in Tunisia. I certainly heard one of them on the "Today" programme this morning. I cannot help but reflect that it is the resilience of ordinary people to terrorism that will ultimately undermine the hate of terrorist organisations.

The Government have talked about a "full spectrum" of measures to support Tunisia and to address the consequences of the appalling events of last Friday. In his Statement, the Prime Minister referred to working with President Hollande of France, Chancellor Merkel of Germany and Prime Minister Michel of Belgium to help Tunisia strengthen security. That is a particularly welcome example of proper co-operation within Europe to help Tunisia. As well as shedding some light on what kind of help is in mind, perhaps the Leader of the House could also acknowledge that in addition to security measures, wider economic support will clearly have to be given to nurture what is a fledgling democracy. There are historic ties between our two countries. If democracy is to take root and flourish, it is very important that we not only give economic help—given the inevitable damage there will be to the tourist trade—but help where we can to support the institutional arrangements in Tunisia. Will the Leader of the House also update the House on what influence the Government are bringing to bear on those countries in the Middle East with which we have good working relations in order to undermine sources of funding to ISIL?

I heard the Prime Minister reported in the press today talking about the values of democracy, justice, freedom and tolerance. It will be these values that will prevail. I certainly wish to endorse that but there is an age-old balance to be struck between security and these values and freedoms that we cherish. Can I therefore have a reassurance from the Leader of the House that, in addressing the necessary measures, it will also be important not to undermine those values which we think are so important in winning the battle against the intolerance of extremism?

To return to the EU Council meeting, we have heard about the dynamics of the meeting. The noble Baroness, Lady Smith of Basildon, asked just how long the Prime Minister had to make his case. At the end of an eight-page communiqué issued after the meeting, there are two—or, rather, one and a half lines—that say:

"The UK Prime Minister set out his plans for an (in/out) referendum in the UK. The European Council agreed to revert to the matter in December".

It has been reported that this was done during what in other circumstances might be described as a pit stop. Some colour on how the Prime Minister presented his case would be very welcome.

The Prime Minister's Statement talks about both reform and renegotiation. If there is to be renegotiation of the treaty and there is treaty change, it will almost inevitably require referendums in France, Ireland and Denmark. Can the Leader of the House perhaps clarify whether the Prime Minister is expecting treaty change? Will the referendum which we are having here be contingent on those treaty changes having been approved in the referendums of those EU countries which require them under their own constitutions? Or is it just the case that the Prime Minister is not very clear at this stage whether he wants reform or renegotiation and is hedging his bets?

With regard to migrants, do the Government accept that many of those crossing the Mediterranean are fleeing war and persecution in places such as Syria and Eritrea and are forced to undertake dangerous journeys due to a lack of safe and legal routes to find protection? A key part of the response to the crisis must be to offer refugees safe routes into the EU so that they no longer have to make such dangerous journeys or have to use the appalling means of people smugglers. Given that there are now 20 million refugees worldwide, I am sure that the noble Baroness will accept that to resettle just 20,000 must only be a starting point. She talked about the Prime Minister making further commitments in Bratislava recently. By one estimate, we have so far resettled 187 Syrians. There are estimates of nearly 4 million Syrian refugees, most living in Lebanon, Jordan and Turkey. Can she indicate, in the light of what the Prime Minister committed to in Bratislava, what numbers we expect to see as an increase?

Finally, I acknowledge that that the United Kingdom did have and has exercised a legal right not to take part in this resettlement—the opt-out. Perhaps the Leader of the House will explain to your Lordships the moral case for that course of action.

Baroness Stowell of Beeston: My Lords, I am grateful to the noble Baroness, Lady Smith of Basildon, and the noble and learned Lord, Lord Wallace of Tankerness, for their comments about the despicable act of cruelty that occurred in Tunisia last Friday. I certainly support the tributes that they have paid not just to the officials and all those involved in supporting the people and families affected but also to the Tunisians themselves. Anyone listening to my right honourable friend the Home Secretary doing her press conference in Sousse earlier today would have heard how she paid a very big tribute to everybody there and to the local people of Sousse.

The noble Baroness, Lady Smith, mentioned those who wish to stay in Tunisia and those who wish to continue to go on holiday there. She asked about the travel advice offered by the Foreign Office. That was updated to reflect the heightened risk of terrorist attacks post the events on Friday but, as I said in the Statement that I repeated, we are not advising against travel to that area. She also asked what further support we are providing to Tunisia for it to continue to be an attractive place for people to go on holiday to. We are doing a range of things: in an immediate sense, we are sending over relevant experts to make sure that the resorts have the security that they need; we are also looking at what is possible to support the Tunisian police to take an intelligence-led approach to policing in this area. As far as financial assistance to Tunisia is concerned, since 2011 we have already made quite a considerable contribution. We have done that through the Arab Partnership initiative, and we certainly want to look at that again in the light of events. We continue to work with all partners to ensure that we tackle terrorism at source.

The noble Baroness, Lady Smith, mentioned the effect of the events on the Muslim community here in the United Kingdom. The noble and learned Lord, Lord Wallace, also asked about values of democracy and what we are doing to promote our own values. I first pay real tribute to the Muslim community and its work to tackle extremism. We are working, and want to continue working, with the Muslim community to

[Baroness Stowell of Beeston]
support it, and together to ensure that we are even more effective than we have been so far in addressing extremism.

The noble Baroness, Lady Smith, then asked some questions about the European Council and pointed specifically to the debate on the European Union's external borders. As she knows, and as the House knows, we are not part of the Schengen agreement but we play a proper part in protecting the European Union's borders. We contribute in quite a significant way to ensuring that the security around our borders is tight. One of the areas where we provide a lot of specific expertise is on asylum. She also asked about treaty change and the Prime Minister's contribution during the European Council on his move to renegotiate and reform Britain's membership of the European Union. The noble and learned Lord, Lord Wallace, asked about that too. I will say a couple of points in response.

First, it was an historic moment at the European Council on Thursday night. We have started the process to which the Prime Minister committed of Britain having a renegotiation with Europe, for reform in Europe and for us to seek a better deal for the United Kingdom. Prior to the European Council, he met and spoke to all the other European leaders. As was made clear, Thursday marked the start of this process, which will continue. He will ensure that throughout the next few months Parliament is kept informed of progress. The initial talks will be what we call technical talks at an official level. It is worth noting, for example, that my right honourable friend the Europe Minister, David Lidington, is giving evidence tomorrow to the House of Lords European Union Committee. I am sure that he will be asked about this at that time. Therefore, we will continue to keep people informed as we make progress on the start of something that the British people really want, and we will ensure that, finally, they do get their say in membership of the European Union.

As far as the questions put about Mediterranean migration and the steps on that are concerned, I say first that our contribution is very comprehensive. HMS "Bulwark" has contributed to saving 4,000 lives, as I mentioned in the Statement; 900 of those were just over the weekend. The Government have a very different view from the Labour Opposition. We are committed to a programme of resettlement of people from outside Europe—so people who are at risk in countries such as Syria and Libya. We play a big part in resettling people from those countries to the United Kingdom. However, we do not believe that it is right to follow a programme of resettlement of people who have already made the crossing over the Mediterranean to Europe. As the Prime Minister made clear in his Statement, we believe that would make the prospect all the more attractive to the gangs who create misery by promoting this as a prospect, which is not one that we believe is the right way forward. We want to support these countries with aid, and political support where that is appropriate, to make sure that they themselves—the countries that these people are seeking to leave—offer the kind of future and prosperity that all the people who live there rightly deserve. That is what we are doing and where we will continue to focus our efforts.

5.07 pm

Lord West of Spithead (Lab): My Lords, the Prime Minister made it clear that he believes that ISIL and Daesh are actually a threat to the existence of our nation at the moment. I have to say I do not see it in that way, but he has said that. Clearly that means—rather like the last time we had such a threat, which was the Second World War and the Cold War—one has to look at spending priorities in a totally different way, and things such as foreign aid, education, the National Health Service and welfare have to take a hit because we need to spend money on defence and security. However, my question is more specific. When we started our air campaign in Iraq, we said that we would not do attacks into Syria unless something specific—an atrocity or something—happened. Those of us in the military pointed out it made no military sense not to do attacks into Syria. Is this now being looked at again so that we have some more cohesive aspect to what should be a much bigger overall strategic plan, which a number of us have talked about?

Baroness Stowell of Beeston: I think what the Prime Minister said was that ISIL presents an existential threat to the United Kingdom. In response to the point that the noble Lord makes about military action and intervention and expanding on what we are already doing in the area, as he knows, the House of Commons was given an opportunity to consider whether we should get involved militarily in Syria and decided against that action. We believe that what we are doing right now is an appropriate and a very valid and important contribution to the fight against ISIL. Ultimately, we believe—and the international community feels—that to properly combat the threat of terrorism that emanates from ISIL there needs to be better governance in these countries. That is going to take a long time, and we need to support the people in the relevant countries to form the kind of representation of all the people that will lead to stability in those areas.

The Lord Bishop of St Albans: My Lords, we, too, on these Benches send our sympathies to those who have been bereaved and those who are injured. It is deeply concerning that Tunisia, a relatively peaceful haven in a part of the world in which there are many tensions, has now had this attack. Does the Minister agree that it calls for a renewed emphasis on working to strengthen community relations here in this country? The danger is that the events from Tunisia, Kuwait, Kobani and France could inflame ethnic and other violence and inspire copycat attacks here in this country.

It has been interesting over the weekend to hear of some of the fairly rapid responses that were made by community leaders. In my own diocese in Luton, we had a Britain First demonstration on Saturday. We had already planned to deploy a number of people on the streets, and that gave huge impetus to redouble our efforts. Fortunately, it went off relatively peacefully, but it had all the potential simply to bring those tensions that are overseas on to our own streets. There is really quite a pressing need to see what we can do. In some areas, community leaders including church leaders were immediately making contact with their counterparts in the Muslim community; certainly, that was going

on in some of the interfaith areas in my own diocese. I know of at least one area—for example, the diocese of the right reverend Prelate the Bishop of Leicester—where a vigil was organised.

Noble Lords: Speech!

The Lord Bishop of St Albans: Sorry, I shall ask a question. Does the Minister agree that we need to redouble our efforts to work on these relationships?

Baroness Stowell of Beeston: The right reverend Prelate touches on an important point. Certainly, with regard to the Muslim community, there has been a lot of effort over the past few years to step up and increase integration. I have a couple of recent examples of things that we have done to support them and build relations in communities. One is the Big Iftar—and I had the great pleasure of going to one of those last year when I was a DCLG Minister. There is also the Sadaqa Day, a social action day of community, which is a bit like the ones that we support with the Jewish faith. Those are to try to make sure that those communities can play their part in the wider community as they want to do so.

As for extremism more generally, one reason why we are developing the extremism strategy that we are developing and intend to bring forward the legislation that we will is because we want to tackle all forms of extremism, not just the specific extremism that we have focused on in the Statement today. That is what we will ensure that we do.

Lord Howell of Guildford (Con): My Lords, I hope that I shall be forgiven for focusing my question just on the European Union negotiations in this massive Statement that has covered so many issues, not least because so much has been said and words are almost inadequate in the face of the Tunisian horror—and, anyway, I agree totally with the Prime Minister that this is not just a western issue but a global issue requiring a global response.

I turn to the EU negotiations, which came at the end of the Statement. I admire very much the tenacity and energy of my right honourable friend the Prime Minister for getting the negotiations on the table. He has constantly said that the key issue is not so much British demands as EU reform; he has said that the EU is an "organisation in peril", and that we need,

"'the flexibility of networks, not the rigidity of blocs".

In the light of that essential insight, which is quite right, when are our negotiators going to begin to work with their allies across Europe on the fundamental redesign of the very troubled European Union today? Are not we leaving it a bit late?

Baroness Stowell of Beeston: I am grateful to my noble friend for his remarks about the Prime Minister's approach and his tenacity on this issue. He asks when the talks are going to start. They have already started. Thursday signalled the start of the technical talks, and the efforts of the very senior government representatives who will lead on this are now under way. Prior to that the Prime Minister made a round of visits and had discussions with all other European leaders. Over the past couple of years, since he made it clear that this was something that he, as Prime Minister of this country, wanted to do, he has, in my view, been able to stimulate some enthusiasm and an agreement from other European leaders that reform of the European Union is in their interests as much as it is in the interests of all people in the United Kingdom.

Lord Jay of Ewelme (CB): My Lords—

Lord Davies of Stamford (Lab): My Lords—

The Deputy Chairman of Committees (Lord Taylor of Holbeach) (Con): My Lords, in order to satisfy the interest in this subject I propose that we extend the time for questions on the Statement for another 10 minutes.

Lord Jay of Ewelme: My Lords, I am very grateful for the Statement and I agree with every word that the Leader of the House said on Tunisia. As I know only too well, terrorist attacks of this sort are immensely difficult and traumatic for those who are caught up in them and for their families and friends. I congratulate the Government on the quick response of the Foreign Office and others to the attacks in Tunisia. I very much support what the Prime Minister and the Leader have said about greater funding for the police and the security services because I fear that we are inevitably going to see further attacks of this sort around the world. Will the noble Baroness confirm that there will also be sufficient funding for the Foreign Office, and particularly its consular services, because they, too, are going to be required to provide the services that people who are attacked and affected both deserve and need?

Baroness Stowell of Beeston: I know that the noble Lord knows only too well, as a former Permanent Under-Secretary at the Foreign and Commonwealth Office, just what is involved in the reaction of the Foreign Office to such incidents, so I welcome his congratulation on the way the Government have handled this. As for funding, as he acknowledges, we do and we have ensured that not only has funding for the security services been maintained, it has increased in recent times. As for funding for consular services in the Foreign Office, our approach is always to make sure that there is adequate funding for any of our operational services to meet their needs.

Lord Davies of Stamford: My Lords—

Baroness Ludford (LD): My Lords—

Lord Gardiner of Kimble (Con): My Lords, we are trying to do this in turns, as we do at Question Time, and it is therefore the turn of the Liberal Democrats.

Baroness Ludford: My Lords, will the Leader of the House give us an assurance that we will hear more consistent messaging from the Prime Minister about the purposes of engagement with our EU partners? We have had mixed messages up to now. I was glad to hear the Statement refer to reform as well as renegotiation, but of course those require rather different styles. If we are taking about the reform of the whole EU,

[Baroness Ludford]
which will, of course, get a good degree of support across the EU, as opposed to renegotiation of Britain's relationship with the EU, which was the language in the Conservative manifesto, is the Prime Minister going to say consistently that his aim is multilateral reform of the EU? If so, he may get more than a few minutes, during what my noble friend called a pit stop, at a future European Council, to be heard on this issue.

Baroness Stowell of Beeston: I am glad to know that the noble Baroness has studied our manifesto. As far as her question is concerned, the Prime Minister will take an approach that covers both those things. As I said, this is about reform, renegotiation and a referendum, when the British people will have the opportunity to decide. The Prime Minister has been very careful to talk to all his counterparts in the European Union and he will continue to do so. As I said, I think that there is now real enthusiasm from others that this should be an opportunity that benefits the European Union as a whole.

Lord Davies of Stamford: Is it not constitutionally improper and pretentious for the Prime Minister to use the word "never" in the context of this country subscribing to the concept of ever closer union of peoples in Europe? The Prime Minister has a mandate for one Parliament, not for ever. No Parliament can bind its successor and the Prime Minister ought to know that.

On the matter of refugees coming from Africa, if the Government wish, understandably and rightly, to break the link between being rescued at sea and gaining residency rights in the European Union, why is the Royal Navy not instructed to rescue these poor people but then to take them back to wherever they came from—Libya, in most cases? Have we undertaken negotiations with those de facto in control of the various ports in Libya so that we might be able to adopt such a policy?

Baroness Stowell of Beeston: I wish the noble Lord all the very best with his approach to ever closer integration in Europe if the Labour Party gets the chance to govern on that agenda. As for his question about Mediterranean migration, at the moment we are ensuring that when people are rescued they are taken to the first available place in order to establish whether they are economic migrants or asylum seekers. At the moment it is not possible to return people to Libya in the way that the noble Lord described, but I will reflect further on what he said.

Lord Blencathra (Con): My Lords, did my noble friend see the article in yesterday's *Sunday Times* about Foreign Office expenditure on some weird and wonderful overseas aid projects? Will she now urge the Foreign Office to divert that rather wasteful expenditure to Tunisia, which is in the front line fighting extremism? The Islamic extremists know that they have to destroy Tunisia because Tunisia has opted for democracy and for keeping Islamic fundamentalism firmly in its box and out of government. Tunisia needs all the help it can get because, if it is destroyed, no other country is safe.

Baroness Stowell of Beeston: My noble friend is right that Tunisia is a great example of a country which is trying to provide the kind of future, prosperity and hope to its citizens that we want others in the area to see as a possible way forward. For that reason, it is important that we support it in its endeavours, and that is most definitely what we intend to do.

Lord Marlesford (Con): My Lords, I believe that the Prime Minister is right, as he said this morning on Radio 4, to compare the threat from Islamist terrorism with that from communism during the Cold War. Then, one of the most useful defence mechanisms that we had was enhanced positive vetting of all those in sensitive posts. First, will my noble friend assure us that the Government will make full use of positive vetting for all those who are responsible for the protection of our borders? Secondly, will the Government review the practice of using non-British local people to process visa applications in countries such as Nigeria?

Baroness Stowell of Beeston: I am not familiar with the detail of the processes that are in place these days for vetting staff. However, I am confident that there is appropriate vetting of any individual who is employed by this Government, wherever they are based, to ensure that they have the appropriate clearance for the task they are given. As to my noble friend's point about non-British nationals being locally engaged in embassies to carry out entry clearance for visas and that sort of thing, again, I would imagine that there is no reason to doubt the processes involved in recruiting local personnel.

Baroness Symons of Vernham Dean (Lab): My Lords, in answering an earlier question on the Statement, which she repeated, the noble Baroness the Leader of the House said that the issues would take time. One of the really difficult things is the feeling that we may not have an awful lot of time to deal with some of them. There are now 4 million displaced people in Syria, which is causing huge disruption and real difficulty in Jordan and Lebanon. We know that this is not just happening in Tunisia; we are seeing it split apart countries such as Syria, Iraq and Libya. What progress is being made in the work undertaken by Sir John Jenkins to look at the sources of funding and weaponry for ISIL? That very important report was announced some time ago, and it would be enormously helpful to have an idea of when we might expect publication.

Baroness Stowell of Beeston: The noble Baroness has a lot of expert knowledge of this area. I will write to her in response to her question about the report by Sir John Jenkins.

Clearly immediate action needs to be taken, and it is being taken. There is military intervention in Syria, albeit that America is taking the lead there with our Arab partners. We are providing some security and intelligence effort. We are contributing very directly in Iraq and are the second largest contributor to air strikes. Ultimately, the answer to stability in that part of the world lies in good governance. We must support these countries to get to a point where they have Governments in place who can properly represent all

the peoples of their individual nations so that together they can combat this terrible, perverted ideology. That will take some time.

Lord Pearson of Rannoch (UKIP): My Lords, on defeating Islamism, the statement rightly says that,

"we must take on the radical narrative that is poisoning young minds".

Is not one way to do that for us all to be allowed to talk openly about Islam, among ourselves and with our Muslim friends? If we try to do this nowadays, we are immediately told that it is we who are stirring up religious hatred. Surely the hatred is all in the breasts of the Islamists? It is all very well intoning that Islam is a religion of peace, but the jihadists, for instance the murderers of Drummer Rigby, believe that they are justified by the Koran and the life of Muhammad, which they quote freely. Will the Government encourage a national conversation about the nature of true Islam?

Baroness Stowell of Beeston: It is important for me to say that this is not about defeating Islamism; it is about defeating extremism and an ideology that is perverting a religion called Islam. All, I am sure, that any of us in your Lordships' House wants is for the shared values in Britain, which are all about freedom and democracy, to be the loudest message that everyone hears. We want to ensure that we say to any person who shows sympathy with extremism that that will not be tolerated. Wherever it comes from, extremism should never be part of anybody's conversation in this country. The Prime Minister is making clear in his contribution to the debate at this time that he wants all those in the Muslim community to have the confidence to know that they are right in condemning acts of extremism, that when they condemn acts of extremism they are standing alongside the rest of this country and that together we are going to defeat this extremism. Only together will we succeed.

Baroness Falkner of Margravine (LD): My Lords, the Minister speaks about the Muslim countries in the Middle East trying to achieve good governance and stability. Would she accept that the war in Syria, which by next year will be entering its sixth year, must be resolved? The European Council Statement talks about a strategic reflection to conclude by June 2016. By then, ISIL will have been in power for two years in a given territory and the Syrian war will have been going on for six years. We do not have the time or the leisure to watch all this unfold over an extremely long period. What progress are they making towards trying to bring about Geneva III, a peace process, even if that results in a partial peace in Syria? We will turn the tide back through incremental gains in peace and stability on the ground and not through a good-governance revolution in places such as Saudi Arabia and Bahrain, which are going in the opposite direction.

Baroness Stowell of Beeston: What I am trying to say is that, as the Prime Minister made clear in his Statement, this is not a situation in which just one approach will see a successful result. There has to be a combination of approaches, which includes some military intervention. We are not involved in the military intervention in Syria—the noble Baroness knows of course that the decision was taken not to pursue that course of action—but we are supporting it with intelligence. I do not have the kinds of answers that she wants from me today, but I can assure her that the Government completely agree with her desire for urgent action. We want to see progress. That is what we are working towards, and we are trying to do so at every level and with every partner that we can to bring about progress in the Middle East.

Lord Kerr of Kinlochard (CB): My Lords—

Lord Maginnis of Drumglass (Ind UU): My Lords—

Lord Taylor of Holbeach: We should listen to the question from the Cross Benches.

Lord Kerr of Kinlochard: Can I take the Minister back to her answer to the last point made by the noble and learned Lord, Lord Wallace of Tankerness, about cross-Mediterranean migration and death. She referred to the pull factor that discourages us from agreeing to receive any of these poor people if they make it. I cannot see the logic of that. I can see that there could be a pull factor when the news gets back home that somebody has made it across the water, but we do not think that is a deterrent to rescuing them, and quite right too. I do not see why it should be an additional pull factor if the postmark on the news is French, British or Danish. If they have made it across, surely if there is any pull factor it is there, so I do not see why we absolve ourselves from any moral responsibility to help. Could the Minister look at page 4 of the conclusions and help me with the footnote, which appears to say, as far as I can see, that our partners in Protocols 21 and 22 to the treaties—the Irish and the Danes, who like us have no obligation to take anybody—have decided that they will not rule out taking people, whereas we specifically chose to rule out doing so? Is she quite sure that that was wise, given that we are engaging in a negotiation that in the end will require unanimity, and that Prime Minister Renzi has a very real problem?

Baroness Stowell of Beeston: I object to the noble Lord's description of us not making a moral contribution to this crisis, because we are. As I said, we are playing our part in the rescue of those who are at risk at sea and are making a very large contribution by way of aid to the countries where people are affected by war or by other things that cause them to seek to move to Europe. We are playing a strong part. As I said, we have a point-of-principle disagreement on the resettlement of people who have made that crossing, but we are doing quite a lot in the resettlement of people from countries such as Syria before they actually make the crossing.

Lord Maginnis of Drumglass: My Lords, has there been a precedent for raising a domestic issue of the European Council in common with a Statement on an international terrorist tragedy, such as in Tunisia? Is that not strange? I can understand why government would want to cloak the impact of what has happened in Tunisia, but as somebody who has lived cheek by jowl with international terrorism for almost three decades,

[Lord Maginnis of Drumglass]
I suggest that we would not have mixed up a domestic issue with the Omagh bomb, the Ballygawley bus bomb or the Enniskillen Armistice Day bomb. Why on earth have we chosen now to take this tragedy—and I feel the injustice of that tragedy—in the way we have rather than talk about the positive, concrete steps that we might take to bolster a Government in Tunisia who are not in favour of the sort of terrorism that we see elsewhere in the Middle East?

Baroness Stowell of Beeston: The Prime Minister was due to give a Statement to the House of Commons today about the European Council, as he customarily does following his attendance at a European Council meeting—that being something that he is obliged to do. He decided, quite rightly in my view, that he should also make a Statement about the terrible events in Tunisia. This will not be the final occasion when the Government make a Statement to Parliament about our response to the most recent terrorist attacks. One reason why it was felt appropriate to combine the two is that clearly we are at the initial phase of responding to the events of last Friday. The most important and urgent thing that we are trying to do is to support the families affected by this despicable act. That is what the Prime Minister has sought to do in describing how the Government have responded. As I say, as things unfold, I am quite sure that others from the Government—my other ministerial colleagues—will make statements as they see appropriate.

Greece
Statement

5.38 pm

Lord Ashton of Hyde (Con): My Lords, with the leave of the House, I will repeat a Statement made a few minute ago by my right honourable friend the Chancellor of the Exchequer in another place:

"Mr Speaker, let me report to the House on the latest developments in the financial crisis in Greece, how they might affect British citizens and how we protect our economic security at this uncertain time.

The developments over the weekend have been well reported. Greece's financial assistance programme is due to expire tomorrow. After tense negotiations last week between the Greek Government and their eurozone partners, it looked likely that a deal to extend that programme would be agreed. On Friday, however, the Greek PM suddenly announced that there will be a referendum on 5 July on the terms of that programme extension and that he will be recommending that the Greek people vote no.

On Saturday the eurozone Finance Ministers confirmed that, as a result of this unexpected move, negotiations were at an end and the programme would expire. Yesterday the European Central Bank said that without a programme it could not extend the emergency liquidity assistance that is the life support of the Greek banking system. Last night, clearly under pressure, the Greek Government announced that banks would not open today and capital controls would be introduced.

There is considerable uncertainty about what happens next. I have spoken over the last 48 hours to fellow Finance Ministers, the chair of the eurogroup and the head of the IMF. This lunchtime, as we just heard, the PM chaired a meeting attended by the Governor of the Bank of England, myself, the Foreign Secretary and others to co-ordinate our response. Britain's attitude to the developing Greek crisis is clear: we hope for the best but we prepare for the worst.

Let me address some immediate issues that will concern people. First, our view on the overall state of the relationship between Greece and its fellow eurozone members is that, whether or not Greece should ever have joined the euro, it is now part of that single currency and an exit will be traumatic. It was the Greek Government's decision to hold a referendum that was the immediate trigger for the events over the weekend and the bank closures today.

We should plan on the assumption that this referendum will effectively be a choice for the Greek people about whether their country now leaves the euro. This is a matter for the Greek people to decide, and we respect their democratic right to decide their country's future. We also respect the right of the eurozone to set conditions of membership. That remorseless logic of integration is one of the reasons we did not join the euro and we do not want to in the future.

Secondly, there is the impact of the current events on the stability of the financial system, in the UK and across Europe. Related to that is the position of the Greek banks here in the UK. This Greek crisis has been with us in one form or another for five years. It has been one of the biggest external economic risks to the British economy, and the situation today shows that these risks remain. I do not think that anyone should underestimate the impact that a Greek exit from the euro would have on the European economy, and the knock-on effects on us. That is why I have consistently agreed that the best way to protect ourselves from these risks is to get our own house in order.

Of course, markets anticipate some of these risks. The private sector exposures to Greek banks and the Greek economy are far lower than they were, say, three years ago, so the financial market reaction today has been relatively contained. Stock prices on European exchanges have fallen by between 2% and 5% and Greek bond yields have increased by around 400 basis points to over 14%, but bond spreads in other eurozone economies have stayed broadly steady.

The eurozone authorities have made clear that they,

"stand ready to do whatever is necessary to ensure financial stability of the euro area",

and we welcome that commitment to the currency. Equally, the British Government and the Bank of England stand ready to ensure our financial stability in the UK. The four largest Greek banks—Alpha Bank, Euro Bank, National Bank of Greece and Piraeus—all have branches here. Their UK balance sheets are small; between them, their deposits total less than £225 million. The resolution and supervision of these branches is the responsibility of the Greek and EU authorities, while the protection of depositors is solely the responsibility of the Greek authorities. All four branches are open today. There is one Greek

bank with a subsidiary in the UK, Alpha Bank. This is a separate, standalone entity from its parent bank. It is small, with assets of slightly over £500 million. It is regulated by the Bank of England, and customers can be assured that their deposits are covered by the UK's Financial Services Compensation Scheme.

Thirdly, there are 40,000 British residents in Greece, including 6,000 receiving payments from the Department for Work and Pensions and around 300 receiving public sector pension payments. The Greek Government have announced a bank holiday in Greece, lasting at least until after the conclusion of the referendum on 5 July, and restrictions on withdrawals from ATMs. Withdrawals will be limited to €60 per day per account for Greek accounts. The Greek bank accounts of those British residents are subject to these restrictions. Their UK bank accounts are not affected.

International payments into Greece are exempt from the restrictions that the Greek authorities have placed on the banking system. That means that UK government payments, including state pension and public service pension payments, should be permitted, and I can confirm that those payments will continue to be made in the usual way. However, the situation remains fast-moving and uncertain; we will keep it under review and I recognise that people may be concerned.

I have asked the Department for Work and Pensions and public service pension administrators to attempt to contact people who draw a British state or public sector pension from a Greek bank account. Those people will be helped to switch these payments to a non-Greek bank account if they wish.

Fourthly, there are on average 150,000 British tourists per week in Greece in the month of July. For the time being, the Greek Government have announced that, as usual, tourists will be able to withdraw up to €600 on cards that have been issued outside Greece. However, the foreign ministry could impose limits in future, and the availability of ATMs that are stocked with cash may get increasingly patchy. I remind people that credit and debit cards are of course accepted only at the discretion of the business that you are paying.

As a result of these limited and potentially unreliable banking services, I confirm that, as I speak, the Foreign Office is updating its travel advice. We recommend that travellers should take sufficient euros in cash to cover the duration of their stay, emergencies, unforeseen circumstances and any unexpected delays. Obviously travellers should be careful and take sensible precautions against theft. The full advice is available from gov.uk, and travellers should check this regularly.

Lastly, we are taking steps to help firms doing business with Greece. There are restrictions on the settlement of payments being transferred out of the Greek banking system. The department for business is today publishing guidance for businesses that may be affected. In addition, I can announce that HMRC's Time to Pay service will be available to help to give breathing space to businesses that are experiencing cash-flow difficulties as a result of events in Greece.

So let me be clear: British pensioners are being paid as normal, British businesses trading with Greece will be supported and British holidaymakers will receive the advice and help that they need. In a rapidly changing situation, I want people to know that Britain is prepared.

To conclude, it is vital now that the Government and people of Greece act to resolve the current uncertainty, and ensure economic and financial stability across Europe. Five years ago we came to office in the first flush of the Greek crisis. At the time, Britain too was dangerously exposed and on the brink. Since then, with the British people, we have worked hard to repair our economy and ensure that we can deal with risks like this from abroad. If ever we needed a reminder of why we need to continue working through our plan to deliver economic security at home, we have it today. I will take further steps to secure our country's future in the Budget next week".

5.47 pm

Lord Davies of Oldham (Lab): My Lords, I thank the Minister for repeating the Statement made by the Chancellor in the other place. I think that we can dispense with those last few remarks comparing the British economy with the Greek position and suggesting that it is government action in the past four years that has prevented our position from being the same. We all know the particular and extremely difficult circumstances of Greek society and its economy. These are very serious times for Greece and for the eurozone, of which of course it is a member, and there are risks for Europe and indeed for our country if urgent resolution cannot be found.

The main immediate fact is of course that the Greek banking system is now closed. I shall focus my response, first, on the impact on British citizens and, secondly, on the implications for our economy and financial system. Understandably, exporters, pension funds and the many British visitors to Greece need to know that the UK Government have a thorough contingency plan. I must say that in the Statement today there is a fair amount of wishful thinking rather than clear evidence of a plan.

I turn first to the impact on British citizens. As the Minister has indicated, some 150,000 British citizens would have been expected to go to Greece in July, although of course that number may now reduce. However, it will still be a very large number because people have made their plans. How will people travelling to Greece this summer be able to obtain full information and updates about the best way to plan and proceed with their arrangements? An obvious piece of advice the Government can give is this: "Go there absolutely loaded with euros and make sure that you look after them carefully". That is wise advice, I am sure, but it is not much solace to the British traveller. What we want to know is what discussions have British officials had with the Greek authorities and banks to ensure that UK citizens are able to withdraw sufficient funds. What is the Minister's assessment of the number of British citizens with resources deposited in Greek banks who will be anxious about what this means in terms of their ability to access their funds? For many, the British embassy in Athens and the consular staff will be the first port of call. Can the Minister give us an assurance that the

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embassy is sufficiently staffed and has the resources to cope with what inevitably will be a flood of anxious calls and representations?

I turn now to the impact on our economy and financial system. What discussions have the Treasury and the Bank of England had with financial institutions both here and across the European Union about the implications for our financial system, and what structures are in place to monitor closely any emerging risks? It is clear that if there are wider ramifications for the eurozone economies in the months ahead, there will be greater risks for UK business, trade and, of course, our economy. What assessment have the Government made of the number of British firms and the volume of exports that are potentially at risk? Billions have been invested from eurozone economies in bailouts and considerable hardship has been felt by the Greek people, who are facing economic distress. Does the Minister agree that it is important that the institutions should continue to seek opportunities for a negotiated settlement with the Greek authorities during the week ahead? Time is of the essence. Does he also agree that it is important for the Greek Government to accept their part in charting a course towards a long-term resolution?

This is surely a time for all parties to pursue a responsible approach for Greece and for the wider European economy, for much is at stake.

Baroness Kramer (LD): My Lords, watching the events in Greece is like watching a car crash in slow motion, and we on these Benches hope very much that steps will be taken over the coming days and weeks to avert what is undoubtedly a lose-lose outcome for essentially everyone involved. I have a few questions for the Minister.

Everyone in the House will be concerned for British citizens who are travelling in Greece. For tourists, the advice is to carry cash. I understand that that seems to be the most obvious solution, but I do not think that anyone would recommend it for themselves or their family because it exposes one to extraordinary risk. What conversations are taking place with our consular officials in Greece to see if they can provide some better advice, and if this continues beyond a few days, on looking to work with financial organisations? American Express and Thomas Cook are organisations that come to mind in terms of going back to some of the older methods of payment like travellers' cheques, which were used before the days of credit cards.

Can the Minister give an assurance that the UK banks have passed stress tests which look not just at the immediate fall-out of the impact on the Greek banks, but on banks in other parts of the eurozone which might be the victims of knock-on effects by predatory financial traders, and indeed of the normal actions of the market looking for other weak spots? Can he also assure me that conversations have been held with the bank regulators? At times of volatility, and this crisis could lead to one, there is an obvious opportunity for misbehaviour in the financial system. We have another burgeoning crisis in the US swap market and one would hate to see those bad behaviours use the opportunity to take advantage of the volatility that may result from this crisis.

Does the Minister agree with the *Financial Times* that this,

"is a soluble problem merely cloaked in an aura of impossibility"?

Although the British Government have pointed out that they are not directly involved because they are not members of the eurozone, surely this is the time for the Government to make strenuous efforts and urge all parties back to the table. Does he not also agree that this crisis in Greece offers up some broader lessons, one of which is that EU Ministers and Governments will not put up with endless game playing? As a consequence, as he looks at the EU's own negotiations on reform, will he ask the Government to make sure that they do not focus on synthetic issues—quite frankly, like whether there are phrases about ever-closer union—but on real issues such as the standing of non-eurozone countries and whether they are on a par with others? Perhaps he will speak to members of his own Cabinet who think that playing with a no vote in a referendum is a way to strengthen Britain's negotiating hand. That is the kind of childish behaviour that we have just seen get Greece into extraordinary difficulties. This is a time when everyone needs to act like a grown-up.

Lord Ashton of Hyde: My Lords, I thank the noble Lord and the noble Baroness for their comments. I shall start with the initial remarks of the noble Lord, Lord Davies. I shall just refer back to what the Chancellor said, because I do not see any part of the Statement where he compared this country to Greece. He said:

"If ever we needed a reminder of why we need to continue working through our plan to deliver economic security at home".

Economic security at home is extremely important to deal not only with the obvious problems in Greece, which are not the same as we have here, but the other, unexpected problems that occur in the worldwide economy.

The noble Lord and the noble Baroness asked about British citizens. Of course, that is one of the most important issues as far as we are concerned. Greece is a big tourist destination, with 150,000 tourists normally going there in July. The Foreign Office updated its information both last night and again, I think, within the last hour. All British citizens should look at the information from the Foreign Office on the GOV.UK website because the situation is developing fast and that is the best way to get up-to-date information. The Foreign Office has been dealing with the Greek authorities and I can answer the noble Lord opposite directly: it has undertaken contingency plans to make sure that if the situation gets worse, adequate support will be provided for UK citizens in Greece and it will ensure that adequate resources are available.

I was asked what structures are in place in this country to monitor the situation. The Bank of England has primary responsibility for stability and is looking at this on a daily basis. The number of firms that deal with Greece is relatively minimal. The financial sector has reduced dramatically over recent months, with the latest figures for March showing that exposure levels were approaching a quarter of what they were in December last year. By way of comparison, they comprise less than 2% of the UK's financial exposure to France. Direct trade and investment links are also minimal, with only 0.6% of total UK goods and

services exports going to Greece—worth around £2.8 billion in 2013—while only $1.1 billion of Greek foreign direct investment stock comes from the UK. In fact, of all the periphery euro area economies, Greece receives the smallest amount of UK outward foreign direct investment.

I agree with the noble Lord opposite that a negotiated settlement is preferable. I also agree that the Government here will do whatever they can to help in that. They have been in touch with European institutions, but, obviously, as we are not part of the eurozone, we have less influence in this matter. But I agree with him that a negotiated settlement would be best. I have to bear in mind what the president of the IMF said: it is time to have some adults in the room when they get to negotiations.

The noble Baroness, Lady Kramer, asked about cash, which obviously is a risk. I think that it is sensible to take more cash than you would normally take. One could also take more than one card, if one has them. Of course, the problem is that those cards are no good if the banking system is not working and the ATMs have run out of cash—and I think that they will run out of cash fairly soon. She mentioned travellers' cheques. Again, they are only any good if the banking system is open and working. Hotels, I think, fairly rapidly run out of cash.

The noble Baroness asked about the stress tests and the banks in this country. I cannot answer directly whether they involved a specific reference to a situation like Greece, but all our banks have passed their stress tests. These take into account instability in the economy, which is one of the tests—and the banks passed. There is much less contagion risk in the periphery than there was a few years ago. Countries such as Spain and Italy have reduced their exposure to Greece as well—it is not just this country. As for the discussions with the bank regulator, the Bank of England—the regulator in this country—has talked to other European institutions.

The noble Baroness said that this was a soluble problem. I think it is soluble with good will on both sides, but it will be very difficult. The performance of some of the players has made that more difficult, to be frank. On reform generally and the effect that this will have on our negotiations with the EU, I do not agree that ever closer union is a synthetic issue. When you have a eurozone, ever closer union is an absolutely important part of that. That is a real issue we have to address, and the Prime Minister is determined to do so.

6.02 pm

Lord Lawson of Blaby (Con): My Lords, is it not clear that the Greek disaster is simply the most acute evidence of the fact that the European monetary union was, from the start, a fundamentally flawed enterprise, as a number of us predicted and explained very clearly at the time? Is not the best thing that we can do now to persuade our friends in the eurozone to enable Greece to exit from the eurozone in the most orderly way possible? Inevitably, it cannot be totally orderly; it will be difficult. But to facilitate the most orderly exit of Greece from the monetary union is the best service we could provide.

Lord Ashton of Hyde: My Lords, I am not sure that it is fundamentally flawed. The key is that the participants in the eurozone have the right economic fundamentals that allow them to go into it and play their part. As for exit, that is up to the Greeks. It is they who are having a referendum. It is not for us to tell them which way to vote. I absolutely agree with my noble friend that if they decide to exit by dint of the referendum, which is their democratic right, we should do all that we can to make it orderly.

Lord McFall of Alcluith (Lab): My Lords, it is clear that a Greek exit would provide an existential threat to the whole European monetary and economic framework, with knock-on effects geopolitically and also for the United Kingdom. As Angela Merkel said, if we lose the ability to compromise, we will lose Europe. Even at this late stage, is it not incumbent on the UK Government to ensure that their voice is heard and that a compromise is agreed with a degree of debt write-down and concomitant structural changes in Greece itself? That is still a possibility and every effort has to be made to ensure that before the weekend.

Lord Ashton of Hyde: I agree that we should do what we can, but it is fundamentally a eurozone problem. There is a limited amount we can do. In terms of the bailout, we would not be on the hook for that. I agree that we should do what we can. Of course, the former Leader of this House is hard at work in Europe, even as we speak.

Lord Higgins (Con): My Lords, in the present confused situation, only one thing is clear. It is inconceivable that Greece will become competitive and achieve economic recovery at the present exchange rate. Therefore it will be condemned to endless austerity, abortive negotiations and financial crisis until such time as it leaves the euro. My noble friend's Statement refers to an exit by Greece as being traumatic. The important, thing, therefore, is that we should do everything we possibly can to make it happen in an orderly way, rather than in a traumatic way, where other European countries are not taking action because they believe that it is fundamental that Greece remains in. It is not going to remain in; sooner or later, it is coming out. Therefore it is very important that we should work together with other European countries to achieve a sensible exit.

In particular it needs to be made clear that, if there is an exit of Greece from the eurozone, it does not mean that Greece exits from the European Union. From a political point of view, it is very important indeed that it should not do so. At the moment, however, I fear that we are underestimating our interest in this matter. We are of course already contributing in part to the bailout through our contribution to the IMF, and it is obviously extremely important as far as our export markets to Europe and so on are concerned. So we need to work with the other members in the European Union to seek to achieve a resolution to this crisis that is long term. That can only be if Greece exits the euro.

Lord Ashton of Hyde: My noble friend is obviously right. I would not swap economics with him. I accept that there are difficulties if your exchange rate is

[Lord Ashton of Hyde]
constrained by the euro and your interest rate policy is determined by the euro authorities. Ultimately, that is why it would be traumatic, as my right honourable friend said, if they leave—and it will be traumatic for individual Greeks, for whom we should feel a great deal of sympathy.

As far as the IMF is concerned, it is true that if Greece does not pay back its loan, it will go into arrears. There are contingency funds within the IMF which may cope with that. Ultimately, however, if that was the case, we would have about a 15% share of that. I agree with my noble friend that if we get to the stage of Greece leaving the euro, we should do all we can to help. I note that on Twitter today, President Juncker has said that, in his view, if Greece leaves the eurozone it will mean that it will be leaving the European Union.

Lord Pearson of Rannoch (UKIP): My Lords, does the noble Lord agree that it is strange that the Greek people, and indeed the Portuguese and the Spanish, blame their problems on austerity, without seeming to realise that that is caused entirely by the ill-fated project of European integration and its euro, which they think they want to keep? Do the Government agree that, as other noble Lords have suggested, the Greek people's best way out of the cruel euro trap is to leave it, devalue and gradually rebuild their economy? Would it not be nice if the Greeks were to succeed in this task and were eventually followed by the Portuguese, the Spanish and perhaps even the French? That might start to break up the whole euro project and, indeed, the project of European integration itself, which is doing so much damage to Europe.

Lord Ashton of Hyde: The noble Lord may be surprised to know that the Government do not agree with that analysis. I know that he has certain views. Austerity per se is not the cause only of the Greek's predicament. It has been a long time coming, and other European countries have dealt with it in a possibly more effective way. Austerity alone is not the answer, but nor is leaving the euro. We need to help the Greeks negotiate a position where they can face the future with a bit more optimism, and I am sure that the noble Lord will join me in that.

Baroness Falkner of Margravine (LD): The noble Lord has accepted that the United Kingdom is exposed through the IMF to a Greek default or Greece being in arrears. He has not given us a figure, but the *Times* this morning said that Greek indebtedness to the IMF was to the tune of about €21 billion. Will he tell the House what specifically the United Kingdom exposure would be in that regard?

Lord Ashton of Hyde: I do not have the exact total number, but I am told that it is about 15% to the IMF.

Lord Davies of Stamford (Lab): Would it not be a good idea for the Government, when they refer to ever closer union, to quote the phrase correctly? It is the ever closer union of peoples. It has never been a legal or an institutional matter. On Greece, I am sure that the Government have given some thought to what follows, or what might follow, from the referendum on Sunday. Presumably, if the vote is no, Greece will continue down the tube of bankruptcy, and no doubt leave the euro, have high inflation and so forth. If the vote is yes, will the package, which was so petulantly rejected by Mr Tsipras the other day, be revived and be on offer to a new Greek Government? Will our Government use their influence with our eurozone partners and the IMF to urge them to adopt that cause?

Lord Ashton of Hyde: My Lords, I do not think that the package is a matter for this Government. We would certainly take into account what would happen after the referendum, which of course is a Greek choice, but it is for the eurozone to decide what package is given to its members.

As for the ever closer union of peoples, the point is that when you have one currency, you need to have closer political union to make that one currency work. If you do not have that, you end up having some of the problems that we are seeing.

Lord Forsyth of Drumlean (Con): My Lords, given that the German Finance Minister only a month ago suggested that a referendum on the package might be appropriate, is it really acceptable that the package should be withdrawn the moment the Greek Government announce that they are going to have a referendum on whether the people should accept it? What exactly are the Greek people voting on if the package has been snatched away? When the Minister refers to the loan to the IMF being in arrears, will he explain the difference between being in arrears and being in default?

Lord Ashton of Hyde: As regards the arrears, I was merely repeating the official nomenclature of the IMF. I would not comment on the precise meaning of the IMF vocabulary, but it is true that it refers to being in arrears. If that was the case, Greece would join Zimabwe, Somalia and the Sudan. On the referendum, the negotiations are coming to an end because, despite what the German Finance Minister said, if you are to have a sensible negotiation, you need to have willingness on both sides to compromise. Walking out instead of taking the decisions that are needed, and turning around without any warning and instituting a referendum, is not the way to get proper negotiations and to achieve success.

Lord Lea of Crondall (Lab): My Lords, is not one of the difficulties of the analysis that people assume that something follows on from having a referendum, which of course must be nonsense? It is not a logically connected piece of analysis. There can be all sorts of scenarios from where we are now, but Angela Merkel has said that the referendum question is simply, "Do you want the euro? If so, vote yes. If you want the drachma, vote no". Can it be as simple as that? Are there not a number of scenarios that could follow, and should we not be thinking through a number of them, otherwise the schizophrenia in this debate about whether a referendum is a bright idea has not been followed up by thinking through the policy scenarios?

Montenegro is just up the road from Greece. It is a member of the United Nations and a singing and dancing country. It uses the euro without permission from Frankfurt. It is not obvious to me exactly what the connection is between the way the referendum is posed and the scenarios that follow.

Lord Ashton of Hyde: I can see the noble Lord's problem, but I do not think that it is a problem for the UK Government. The referendum was instituted by Greece and it is up to them what the question should be, what they are trying to address and why they are trying to have one. I completely agree with the noble Lord that there are many scenarios resulting from that. The Treasury, the Government, the Bank of England and the Foreign Office are looking at this and working out contingency plans on a daily basis.

Lord Tugendhat (Con): My Lords, the Minister said that the British Government would be preparing for the worst. I think it is quite widely thought that the worst that might come quite quickly is a humanitarian crisis within Greece. Once no cash is circulating, particularly in an economy that has such a substantial cash sector as in Greece, the difficulties for people in getting food and basic services will become very immediate. Are the British Government going to play a role, should that be required, in any EU humanitarian effort to mitigate suffering in Greece?

Lord Ashton of Hyde: My Lords, I agree with my noble friend that in preparing for the worst—I alluded earlier to the sufferings of the Greek people—a humanitarian crisis would be very serious and possible. I am afraid that I am not in a position to commit today on how we would help in that situation. I would like to, but I just do not have the knowledge to do so, I am afraid.

Lord Berkeley (Lab): My Lords, the Minister said that the Foreign Office was updating its advice to travellers to Greece hourly, daily or something, which clearly is welcome. For humanitarian reasons and for the sake of people's holidays, clearly we do not want to discourage people from going to Greece, but surely the only safe advice at a time when the banks are shutting and credit cards may not work is for people to take cash, probably in euros but any hard currency would do. Is that not the best advice to give people, rather than saying, "Well, you might be able to go to a bank or you might not?", or anything else.

Lord Ashton of Hyde: My Lords, I have not checked the latest advice. I have been informed that it was updated last night and will be re-updated today. I think that is exactly what the advice said.

Lord Stoddart of Swindon (Ind Lab): My Lords, are we not just kidding ourselves about the real situation? Does the noble Lord not agree that the eurozone is fundamentally flawed and has been so right from the beginning? The grown-ups among us recognised that when we opposed going into what was to be a flawed system. Is it not true that without the fiscal and social power, together with the monetary policy, the eurozone simply cannot work? The idea that it could work, particularly with the membership of Greece, was always an absurd idea.

Lord Ashton of Hyde: My Lords, the Government do not believe that the eurozone is fundamentally flawed as long as its members have the right economic position when they go in and go in at the right exchange rate. The euro institutions' power is adequate as long as the members go in at the right time and with the right criteria. I accept that there are different views on this, but the countries in the eurozone are varied. Greece may well leave—I do not know; it is up to the Greek people—but just because one country on the periphery leaves does not necessarily mean that the eurozone is fundamentally flawed.

Lord Empey (UUP): Does the Minister agree that politics brought the Greek people into the eurozone and that politics will be deployed to keep them in it as the week goes on? Will that not mean that the misery that they suffer continues? As the noble Lord, Lord Davies of Stamford, said, what happens if the Greek people vote yes when their Government recommended no? What policy can we expect to be implemented following such a decision?

Lord Ashton of Hyde: I completely agree that politics is very important in all these things, along with the economic arguments. Politics demands that all people in positions of power take decisions that are not just in the short-term interests of their political persuasion but in the long-term interests of the Greek people.

Lord Marlesford (Con): My Lords, it looks inevitable and is probably desirable for the euro's sake that Greece leaves the euro area. Does the Minister agree that it is very important that Greece stays in the EU, which is a more important organisation of longer standing than the euro and should be much more durable? Does he agree that Greece should not invent some Mickey Mouse currency such as a new drachma, which would not fulfil the functions of money—store of value, unit of account and medium of exchange—but should instead continue to use the euro? As the noble Lord, Lord Lea, said, a country does not necessarily have to be in the euro area to use the currency. It has been done with the dollar in South America. Tourists, who are so important to Greece, could use travellers' cheques. Hotels and so on do not have to cash them; they can accept them and keep them. As long as they have been issued by a reputable outside bank, they are as good as cash for them.

Lord Ashton of Hyde: My Lords, I am not an economist, but I accept that it is theoretically possible to use other countries' currencies. The problem is that a country does not have control over its currency if it does that. It is not up to me or to the UK Government to decide which currency Greece should use in the event that it leaves the euro. That will be up to the Greek Government.

Lord Lamont of Lerwick (Con): My Lords, has the Government's policy on the euro changed dramatically—

Baroness Evans of Bowes Park (Con): My Lords, I am afraid that the time is up for this Statement.

Cities and Local Government Devolution Bill [HL]

Committee (3rd Day) (Continued)

6.24 pm

Amendment 44DA

Moved by ***Lord Berkeley***

44DA: After Clause 9, insert the following new Clause—

"Sustainable development

After section 117 of the Local Democracy, Economic Development and Construction Act 2009 (orders) insert—

"117A Sustainable development

(1) In determining whether or how to exercise the power conferred by section 113D, a combined authority shall have regard to the effect which the proposed exercise of the power would have on—

(a) the health of persons in its area; and

(b) the achievement of sustainable development in the United Kingdom.

(2) Where the authority exercises the power conferred by subsection (1), it shall do so in the way which it considers best calculated—

(a) to promote improvements in the health of persons in its area, and

(b) to contribute towards the achievement of sustainable development in the United Kingdom,

except to the extent that the authority considers that any action that would need to be taken by virtue of paragraphs (a) or (b) above is not reasonably practicable in all the circumstances of the case.

(3) In subsection (2)(a), the reference to promoting improvements in health includes a reference to mitigating any detriment to health which would otherwise be occasioned by the exercise of the power.

(4) In deciding whether or how to exercise that power, the authority shall have regard to any guidance issued under section 118.""

Lord Berkeley (Lab): Amendments 44DA, 44DB and 44DC are probing. They mirror similar texts in the Greater London Authority Act 1999. Why do the Government not propose to include these important safeguards for devolution outside London that the 1999 Act provides for within London? That is particularly important in relation to the concentration of power that is proposed for mayors. It is also relevant to the exercise by combined authorities of the general powers of competence.

Amendment 44DA requires the combined authority to have regard to the effect on the health of persons in its area and to the achievement of sustainable development. I would have thought that the Government were keen to see those things promoted and would be in favour of the provision in proposed new subsection (3), which states that,

"the reference to promoting improvements in health includes a reference to mitigating any detriment to health which would otherwise be occasioned by the exercise of the power".

Amendment 44DB relates to consultation. All Governments say that they do not like lists of people who have to be consulted, but the list in my amendment seems reasonable. Amendment 44DC refers to transport strategies. The London mayor has produced many strategies—most of them are good, some less good—and people in the London area have been consulted on them. I was in Liverpool last week hearing people's views on the northern way, or northern powerhouse or any of the other names for the new area for development across the Pennines—from the Humber to the Tyne and Tees to Liverpool and most places in between. It is good, and surprising, that the authorities have got together and appear to be coming up with a joint strategy for the whole region. Only a few years ago, as the Minister will know from her experience there, such a strategy was a bit of a pipe dream, but it is happening now. It will need funding and it will need more detail, but it is happening.

The key is to achieve consensus without any one mayor thinking that he or she is in charge. A couple of years ago I was told that the people of Liverpool had to run everything because they were better. Perhaps Manchester is supposed to be better now, but in fact everyone is working together.

Amendment 44DA is a probing amendment to find out why the Government have not felt it necessary to replicate the text from the Greater London Authority Act in this Bill. Is it seen as an unnecessary constraint on the mayor's powers? We need some constraints, especially on health and sustainable development. The measure has not been entirely successful in London because, before the Olympics two years ago, the mayor managed to hide the statistics for air pollution by covering up the monitors. It was an easy way of doing it and he seemed to have got away with it. We were certainly said to have better air quality than Beijing, which would not have been the case if the monitors had not been covered up.

I shall be interested to hear what the Minister has to say. She may say that the amendment is not necessary, but if it is good for London, why is it not good for the rest of the UK in the circumstances that the Bill covers?

6.30 pm

Lord Teverson (LD): I support the amendment. A question has come from a number of Benches and the Minister about the problem of trying to recreate London devolution in the north and elsewhere in the country. I understand that and I concede that there might be differences in the way it is implemented which are more relevant to those areas. However, I suspect it is dangerous to talk about the north because those cities to the left of the Pennines might not see it in the same way as those on the eastern side. The fundamental thing is not necessarily to make it the same—as the noble Lord, Lord Berkeley, said, this is a probing amendment—but why should metropolitan areas outside London have a second-division method of governance in comparison to what has been trialled and used in London, to a degree successfully, although not completely?

The areas of particular importance in this are sustainable development—which ties up completely with the outline planning rules introduced by the previous Government—and transport. When we discussed the Infrastructure Act last year we asked for a transport strategy—particularly around cycling and pedestrians—

which I hope the Government and the Secretary of State are developing. It is important that this becomes part of the work of combined authorities.

This may not be the perfect amendment but it is necessary to include this kind of framework in the Bill for northern cities and combined authorities. Even though a direct comparison with and a copying of London legislation and regulations may not be completely appropriate, it is important to find something that fits the situation of combined authorities in the north and elsewhere that enables them to be successful. In that sense, I hope the Government will come forward with a different formula that meets those objectives.

Lord Deben (Con): My Lords, I know that opposition to motherhood and apple pie is always disliked in this House, but the impression put forward by these amendments is very worrying. Do we have any indication that the governance of London has been affected by this, because any sensible mayor of any denomination would do the useful things that are listed here? However, some of them mean very little. For example, what can we take from subsection (2) of proposed new Section 117B, which states that any body or person a combined authority considers consulting must include any council within its area and,

"bodies of each of the descriptions specified in subsection (3)"?

Those bodies in subsection (3) include:

"(a) voluntary bodies some or all of whose activities benefit the whole or part of its area;

(b) bodies which represent the interests of different racial, ethnic or religious groups in its area;

(c) bodies which represent the interests of persons carrying on business in its area".

Are there any bodies of any kind whatever not covered by that? It makes no sense. It is a list of things. Will a decision by the mayor be illegal which did not follow a discussion with a particular body providing for the interests of a small number of people in a particular ethnic group for whom it was not appropriate? This is a list of things which are good, valuable and helpful but totally not useful in the activities which we envisage the mayor carrying through.

It would be perfectly reasonable to say that the mayor should have serious concern about sustainable development; that he should have appropriate consultation; that it would be a good idea to ensure that transport strategies were,

"consistent with national policies and with such international obligations as the Secretary of State may notify to the mayor for the purposes of this section".

However, I have my doubts about whether it would make any difference. If there are things to be said, they should be said when they are necessary. There should not be merely a list of things about which we can all feel warm because we have voted in favour of reminding people that it is a good idea to consult.

Lord McKenzie of Luton (Lab): My Lords, the amendments of my noble friend Lord Berkeley reasonably probe the Government and focus on issues which should underpin a combined authority's operations and strategies. There are issues around the health of people in the area and around sustainable development, about which my noble friend always speaks with passion. I know the Minister's answer will be, "You can ask for all these things; you may well get these things in a deal; but you do not have to have them in the Bill"

The consultation requirements in these amendments are a little more specific than one would like, even if one were in support of putting them in the Bill. The issue here is to encourage all the deals that take place under these devolution proposals to have, as their underpinning, issues around sustainable development and the health of people in the area. I am sure the Minister will tell us there is no reason why those issues should not feature in any deal that might be entered into. If that is not the case, there is a stronger case for putting something more specific in the Bill.

As to the strategic view on transport, if there is an argument for putting measures in the Bill it might be to hold the Government to account so that we do not proceed on an assumption of a northern powerhouse, with a big debate around connectivity, and hear a few days later that the funding is not there to deliver on it. That does not help trust between government and local authorities in creating an environment where devolution can work and where issues around sustainable development and the health of people in an area are at the forefront of the strategic operations of a combined authority.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, these amendments seek to introduce into the Bill new clauses that would place on combined authorities prescriptions and requirements about how they exercise certain powers which may be conferred upon them.

Amendments 44DA and 44DB place requirements on how a combined authority which has been given the full general power of competence through the provisions of Clause 9 of the Bill is to exercise these powers. These requirements are about having regard to certain matters and having to undertake consultation with various specified authorities and other bodies. The intention of new Section 113D, which Clause 9 inserts into the Local Democracy, Economic Development and Construction Act 2009, is to allow the same power of general competence that is available to local authorities to be conferred on combined authorities. The purpose of such a general power is to give the authority concerned the same scope and freedom of action as is available to any individual, such as you or me, subject to any specific legislative restraints applying to that authority.

To seek to prescribe to combined authorities how they should exercise this power would seem to be contrary to the essence of the general power of competence. It would place combined authorities in a more restrictive regime than that which applies to local authorities generally. There are no grounds for doing this in those situations where, as part of an agreed deal, it is considered right to give a combined authority the full general power of competence.

I recognise that these amendments appear to mirror some of the provisions that apply to the Greater London Authority. In the London context, the authority has the power to do anything which it considers will further any one or more of its principal purposes. In

[Baroness Williams of Trafford]
exercising this power the authority is required to have regard, for example, to its effect on the achievement of sustainable development in the UK and on the health of persons in Greater London. However, these specific powers which are given to the Greater London Authority are of a very different nature to the general power of competence, which, as I said, is the power for an authority to do anything which an individual can do, unless it is specifically prohibited. These are particular powers about promoting economic development and wealth creation in Greater London, promoting social development in Greater London and promoting the improvement of the environment in Greater London. It may be in a particular deal that similar powers are conferred on a combined authority, using the powers in the Bill under Clause 6.

Amendment 44DC provides that in preparing or revising any transport strategy a combined authority shall have regard to the health of persons in its area, the achievement of sustainable development in the UK and certain matters relating to national policies, international obligations and the available resources for that strategy. This amendment mirrors provisions which apply to the London mayor in respect of his general duties in relation to his strategies. However, such provisions are not appropriate to be included in an enabling Bill, which does not refer to any particular powers or duties a combined authority and its mayor may have. If, as part of a particular deal, a combined authority mayor is given a power similar to the Mayor of London's in relation to certain strategies, then it may be right that, in the case of that combined authority, matters such as sustainable development and the health of the people in the area could be relevant considerations to be taken into account by the mayor when drawing up those strategies. The orders creating such an arrangement would be able to reflect this.

Whatever the importance of particular issues, and clearly the health of people in an area is of the upmost importance, it is not for this Bill to include either references to specific powers, or provisions which can relate only to specific powers. This is an enabling Bill and in our previous debates I have made very clear that the Bill is not a vehicle for setting out lists or descriptions of powers which may or may not form part of an agreed deal with particular areas. Accordingly, I hope the noble Lord will agree to withdraw his amendment.

Lord Berkeley: I am very grateful to the noble Baroness for her comprehensive explanation, which might be summed up with "good try". As I said, it is a probing amendment. It has been an interesting debate, and I accept the comments of the noble Lord, Lord Deben, about the detail. The amendment was basically copied from a GLA Act, which seemed a good place to start, but he has made some very good points.

The noble Lord, Lord Teverson, reminded the Committee that we are still waiting for the Government's strategy on cycling and walking, which came in earlier this year, and that will be good. My noble friend Lord McKenzie hit the nail on the head by saying that all this is fine but unless it is accompanied by funding—and, one could even add, an ability to raise funds locally—how important will it actually be? I will read the Minister's comments with great interest. I may come back on this again, or I may not. I beg leave to withdraw the amendment.

Amendment 44DA withdrawn.

Amendments 44DB and 44DC not moved.

Amendment 44DD

Moved by ***Lord Warner***

44DD: After Clause 9, insert the following new Clause—

"NHS responsibilities

(1) The Secretary of State may transfer to a combined authority any NHS responsibilities provided for in the Health and Social Care Act 2012 if he considers—

(a) that it is in the best interests of the authority's population in terms of health outcomes; and

(b) that it will help fulfil his duty in section 2 of the 2012 Act (the Secretary of State's duty as to improvement in quality of services) to improve the quality of health services.

(2) In making a transfer of responsibilities to a combined authority under subsection (1), the Secretary of State shall request that a memorandum of understanding between NHS England and the combined authority be agreed.

(3) The memorandum of understanding shall—

(a) be consistent with the duties and powers of the combined authority under the 2012 Act, and

(b) last for a minimum of 5 years, unless the combined authority fails to discharge its responsibilities under the memorandum, including its mandate from the Secretary of State.

(4) Any memorandum under subsection (2) shall have regard to the Secretary of State's duty under section 5 of the 2012 Act (the Secretary of State's duty as to promoting autonomy) by—

(a) promoting autonomy and avoiding placing unnecessary burdens on the combined authority, and

(b) specifying the key health outcomes to be achieved by the combined authority.

(5) The requirements in the memorandum shall be set out in regulations by the Secretary of State.

(6) A combined authority assuming NHS responsibilities under the provisions of this section shall publish an annual report on how it has discharged its responsibilities on the basis set out in the memorandum of understanding."

Lord Warner (Lab): My Lords, we return to the issue that we discussed last Wednesday, namely the ability of combined authorities to assume NHS responsibilities under this Bill. Several things emerged in our last discussion. The first was that the Government currently have no intention of making any clear provisions in the Bill for combined authorities to assume NHS responsibilities. Instead, they wish to proceed on the basis that a combined authority could negotiate a deal with NHS England that would be enshrined in a memorandum of understanding covering a number of years. However, the Secretary of State would retain all his powers in the Health and Social Care Act 2012 to overrule actions by the combined authority in accordance with the memorandum of understanding, if he disagreed with those actions. No matter how much agreement there was between local bodies such as clinical commissioning groups, health and well-being boards and a combined authority, it would still be the Secretary of State's view that prevailed. The Minister made it

clear when I taxed her on the issue of local bodies replacing acute hospital beds with more preventive and community-based services that that was the position. I have reread *Hansard* to make sure I did not misunderstand her and I did not.

6.45 pm

The second point which now seems apparent is that this position sits rather oddly both with the NHS's *Five Year Forward View*, endorsed by the Government, and the devolution claims by the Chancellor for the Greater Manchester deal, announced with much fanfare in February. The *Five Year Forward View* made it absolutely clear that:

"England is too diverse for a 'one size fits all' care model to apply everywhere".

That clearly means that NHS England expects variations between areas. Its five-year plan is very clear that the NHS balance should shift to preventive and community services and that funding incentives and systems should change. That was the purpose of my question to the Minister—what would happen if those sorts of changes took place and proved uncomfortable and controversial in some parts of the country? This is clearly a plan that moves activities and funding away from in-patient hospital care on an agreed local basis. That is very much reflected in the Greater Manchester plans, and the memorandum of understanding is consistent with that. It certainly gives the impression that once a deal is finalised with NHS England and local interests have agreed it, there will be no political interference from the centre.

The Minister's utterances last Wednesday suggested something quite different. They also suggested a total muddle in the Government's thinking on how this Bill sits with the Health Secretary's powers under the Health and Social Care Act 2012. I can understand that the Government do not want to amend the 457 pages of that Act. Who would want to go through that agony again? What I cannot understand is why they want to undermine this broadly sensible Bill by failing to make it clear how NHS responsibilities can be transferred to combined authorities on an agreed basis that is consistent with the 2012 Act. All we have to go on regarding how things might work in practice is the current memorandum of understanding between NHS England and the Greater Manchester Combined Authority, which is not even the finished article—it refers to it being the build-up year—and the prospect of a ministerial order, the terms of which we have not seen. Even if we saw such an order, as I understand it from the Minister, there is no guarantee that the same arrangements would apply to subsequent deals. These would all be bespoke negotiations. What we do have is the Minister's expressed view, which causes me the greatest concern, that the Health Secretary could overturn local agreements if he thought them wrong—or "bad", in her words. In other words, agreements hammered out locally could be overturned by a Minister in Whitehall because he did not like the look of them or he had been got at by an adversely affected particular interest. I can assure the Minister, having been a Health Minister who sat in Whitehall and dealt with hospital closures and changes, that there is no shortage of people coming forward to tell you it is a thoroughly bad idea.

That is the position we are in and it is not particularly satisfactory. I do not believe that we need to get to a point where we rewrite the Health and Social Care Act 2012 but this House is a scrutinising House. We should not allow muddled legislation to leave it without attempting to make clear how it relates to earlier relevant legislation. This means that we have to look at the Bill before us, which is concerned with the functions of combined authorities, and be clear about how those authorities could assume NHS responsibilities if that is what people at the local level wanted to do. This is very important, given the size and prominence of the NHS in British life, and means putting in the Bill processes that could be adopted across the country, not just in Greater Manchester, that are as consistent as possible with the terms of the Health and Social Care Act 2012. We should not pass the Bill with the current level of uncertainty and lack of transparency on those processes. That can only lead to confusion in the minds of the public, the NHS and its staff, and indeed in local government, and will inevitably lead to legal challenges when some interest or collection of interests does not like the look of particular local changes and tries to challenge those given the Health Secretary's powers. In all likelihood, that would mean leaving it to the courts to try to work out what Parliament intended.

This is the context in which I have drafted my amendment, which has several subsections. It starts by clearly stating that the Health Secretary has the power to,

"transfer to a combined authority any NHS responsibilities provided for in the Health and Social Care Act 2012"—

so a link is established between the two bits of legislation. However, he must be satisfied that,

"it is in the best interests of the authority's population in terms of health outcomes",

and it must be consistent with,

"his duty in section 2 of the 2012 Act … to improve the quality of health services".

I am sure the Minister is totally cognisant of all the provisions of that splendid piece of legislation. In making such a transfer,

"the Secretary of State shall request that a memorandum of understanding between NHS England and the combined authority be agreed",

that is consistent with his duties under the 2012 Act and which will last,

"for a minimum of 5 years, unless the combined authority fails to discharge its responsibilities under the memorandum".

The proposed new clause goes on to say:

"Any memorandum … shall have regard to the Secretary of State's duty under section 5 of the 2012 Act (the Secretary of State's duty as to promoting autonomy) by … avoiding placing unnecessary burdens on the combined authority, and … specifying the key health outcomes to be achieved by the combined authority".

Finally, the amendment requires the Health Secretary to make regulations setting out the requirements in the memorandum of understanding, and requires the combined authority to publish annually a report on how it is discharging its responsibilities.

I am neither a proud author nor make any claims to being a parliamentary draftsman. This amendment was crafted rather rapidly after Wednesday's discussion before I had to travel from London early the next day.

[LORD WARNER]
I am sure it can be improved. It is designed to outline the kind of provision that needs to be in the Bill setting out a process for transferring NHS responsibilities to combined authorities that both reflects the spirit of the Bill and is as consistent as possible with the Health Secretary's duties under the 2012 Act. I have retained the idea of a memorandum of understanding between NHS England and a combined authority, à la Greater Manchester. I relate the Health Secretary's powers to transfer responsibility by order to his duties under the 2012 Act. But once he has signed off that order for five years, which is the period I am suggesting, he should not interfere with the authority's actions unless it is failing to discharge its duties under the memorandum of understanding.

If we are to make a success of devolution, we cannot have agreements made in good faith between people at the local level and the centre being abrogated because of a bit of pressure put on a Health Secretary by a number of particular interests—often vested interests, some would say. It is essential to have an amendment of this kind in the Bill. I hope the Government will be prepared to discuss such a provision across the Benches. It is not intended to be a partisan amendment. Indeed, I do not even know at this stage whether it finds favour with those on the Labour Front Bench in the other place—they seem to have one or two other things on their minds. I support the purpose of the Bill and more devolution of health responsibilities to combined authorities but that has to be done through a transparency process consistent with the 2012 Act until such time as that legislation is amended. I beg to move.

Lord Hunt of Kings Heath (Lab): My Lords, I warmly welcome my noble friend's amendment. I read with interest the debate in Committee last Wednesday about this very important issue, which goes right to the heart of the relationship between the combined authority and the National Health Service, and the integrity of the NHS as a national service providing uniformity of services across the nation.

Of course, our debate is mostly about Greater Manchester. I very much support the thrust of what is happening in Greater Manchester. I want to see the same in greater Birmingham. But we have to get to the bottom of the essential relationship between local authorities, the combined authority and the NHS. This is not an academic exercise. It would be all too easy for a Chancellor faced with enormous financial pressures, as he is, to transfer responsibility to local government or combined authorities and then deny responsibility, putting the blame firmly on local government and using local government legitimacy to defend the rationing of services to an extent that the NHS has never seen.

Of course, one can go back to the foundations of the NHS, to the arguments in the post-war Attlee Government between Morrison and Bevan. Morrison had been leader of the London County Council, which before 1948 had been the largest hospital authority in the world, and wanted local government to run the NHS, but Bevan was concerned that it would be a very patchy service. Bevan won the argument and we had a national NHS. So the arguments we are having today will be very familiar throughout the history of the NHS. The key question is: how do we get the advantage of local government leadership and democratic legitimacy while ensuring that we have what we would recognise as a national NHS? That is why this is such an important debate and why the Bill lacks clarity.

The Minister was very helpful on Wednesday and spelled out a number of principles. She said first that healthcare services,

"must remain firmly part of the NHS … and the position of NHS services in the area in relation to the NHS constitution and mandate cannot change".

She said that,

"all national standards for health services … must … be complied with".

I take that to mean that the NICE technology appraisals will be fully complied with as well. She said:

"The Greater Manchester deal does indeed put health as a function of the combined authority and not of the mayor",

but that it will not prejudice arrangements elsewhere, which is a very important factor—for me, certainly—in relation to greater Birmingham, although very few of us in greater Birmingham actually want a mayor and very much object to the blackmail that is being put upon us by the Government forcing us to have a mayor in order to accept the greater responsibilities that would be given. We had a referendum in Birmingham not so long ago when we voted very clearly not to have an elected mayor. It is highly objectionable for the Government now to come along and say, "We don't really care what the public thought, we insist that you have a mayor". Significantly, the Minister went on to say that,

"in the field of health and social care, all decisions about Greater Manchester will be taken with Greater Manchester",

with,

"clinical commissioning groups … providers, patients, carers and partners to shape the future of Greater Manchester together",

and that the Bill will give local authorities within the combined authority,

"the powers to participate in … strong, collaborative partnerships".—[*Official Report*, 24/6/15; col. 1672.]

I would just say that they already have statutory freedom to enter into those partnerships.

7 pm

In principle, the key issue is that all decisions about Greater Manchester will be taken by Greater Manchester. The Minister referred to the two governance bodies which will prepare a strategic plan and commission Greater Manchester-wide services, but what is unclear is who on earth the decision-maker in Greater Manchester is. Where do decision-making authority and accountability lie? Which of the many bodies in that great region will be held accountable for NHS services and planning and strategic direction? One of the real risks here is that, far from giving Greater Manchester a huge opportunity to lead change in the health service and integration with social care using the fantastic life science base in the city of Manchester, an additional bureaucratic tier is being added.

No decision about Greater Manchester can be taken without Greater Manchester—but what does "Greater Manchester" stand for? Is it the Greater

Manchester Combined Authority or is there a different definition of Greater Manchester? Does the Greater Manchester Combined Authority have a power of veto over the strategic plans and Greater Manchester-wide commissioning decisions of NHS commissioners? If it does not, does that mean that NHS bodies in Greater Manchester can ultimately ignore what the combined authority says? Does NHS England have a performance management relationship with the Greater Manchester Combined Authority?

We come to the point raised by my noble friend Lord Warner. The Minister said that if the Manchester authorities made a wrong decision, she was sure that the Secretary of State would have to intervene. The question is how. I remind the noble Baroness of Section 47 of the Health and Social Care Act 2012. This amends Section 253 of the National Health Service Act 2006, which relates to the Secretary of State's power to direct NHS bodies and so is the crucial relationship. The 2012 Act does not give a general power to give directions to NHS bodies and an amendment was necessary to enable the Secretary of State to give power to direct NHS bodies—by reason of an emergency—in order to ensure that a service under the Act is provided. My assumption is therefore that if the Secretary of State transferred a function from an NHS public authority to a combined authority under Clause 6, the emergency power of direction in Section 47 of the Health and Social Care Act 2012 would and could be used in relation to the combined authority. However, this can happen only by reason of an emergency. The Government deliberately set the bar very high in the 2012 Act. I am not aware that this has yet been tested in the courts but my reading of the Act is that the power of intervention by the Secretary of State in relation to the combined authority is actually going to be very limited.

The Minister said on 24 June at col. 1672 that for the purposes of the Bill, NHS bodies are covered by Clause 6. That is highly significant because Clause 6 provides a very wide order-making power. Indeed, the second report of the Constitution Committee said that Clause 6 is broadly framed. It,

"would allow the Secretary of State to reallocate very extensive powers from central government to local government, … This equates to a significant extension of Ministers' powers—powers which are so broadly framed that they could potentially involve the amendment of primary legislation by order, known as Henry VIII powers".

That is why I am very suspicious of Clause 6. My reading of it is that the commissioning responsibilities in their entirety could be transferred to the combined authority and CCGs abolished. That may be a good thing—I am not arguing against it—but I want to know what the intention is. Can the Minister help with a definition of "public authority"? The clause defines public authority as including,

"a Minister of the Crown or a government department",

but,

"does not include a county council or a district council".

Can the Minister tell me which NHS bodies are included in that definition? My reading is that it would be quite possible to abolish the Department of Health, and with it, of course, Department of Health Ministers, simply by taking an order through both Houses of Parliament. My noble friend Lord Warner and I may say there is an argument for that—indeed, there is a strong argument for pulling the Department of Health and the DCLG together; I remind your Lordships that Nye Bevan was Minister for Health and Housing—but a simple order-making power which could have such a draconian impact on the way the NHS is organised does not seem to me to be the way forward.

My noble friend Lord Warner elegantly sets out the kind of strategic framework that is necessary to enable this devolution and delegation to happen. The Minister must be clear about what is likely to be delegated or potentially devolved. For instance, is national speciality commissioning to be delegated or devolved to the Greater Manchester Combined Authority? Would that also involve the cancer drugs fund? Will that be devolved to Greater Manchester? Is resource allocation to CCGs to be devolved to Greater Manchester? Is CCG performance management to be devolved or delegated to Greater Manchester? What specific powers are going to be handed over by NHS England to Greater Manchester? The memorandum of understanding is clear that it is about devolution and the eventual delegation of responsibility. It is the duty of the Government during the passage of the Bill to spell out exactly what is going to be devolved and delegated.

It would be wrong of this House to allow Clause 6 to pass in the current state of uncertainty when it could have such a dramatic effect on the National Health Service. I very much hope that the Minister will reflect on this before Report so that we can come back for a fully informed debate and deal with it broadly in the way suggested by my noble friend Lord Warner.

Lord Shipley (LD): My Lords, when I read the announcement about the decision for Greater Manchester and the fact that £6 billion of NHS funding would be devolved to that area, I asked myself two questions: how do they know it is £6 billion and who will make what decision as a consequence of this announcement? After listening to the last 20 minutes or so, I have come to the conclusion that I am none the wiser.

I pay tribute to the noble Lords, Lord Warner and Lord Hunt, for having so succinctly explained what the problems are and could be. I understand that there would inevitably be variations area by area and there needs to be some flexibility in the hands of Ministers to meet what is deemed to be right for a particular local area, but one cannot permit a situation to continue in which there is simply nothing in the Bill in relation to the powers of a combined authority. I think I noted the words of the noble Lord, Lord Warner, correctly when he said that we must make it clear how NHS responsibilities can be transferred to a combined authority and remain consistent with the 2012 Act. That seems to be one of the key points that we have to be clear about. Otherwise, a whole set of problems could arise as a consequence of that lack of clarity in the Bill. I sincerely hope that between now and Report the Minister considers the questions posed today so that we can have a set of amendments that the House might be able to agree upon.

Lord Bradley (Lab): My Lords, very briefly, I support this probing amendment which has been so eloquently moved and spoken to by my noble friend Lord Warner and Lord Hunt. I said in our debate last week that I suspected that we would need a second debate for clarification of NHS responsibilities and their relationship with the combined authority. I know that the Minister will be anxious to come to the Dispatch Box to give us much clarification this evening, because that relationship needs to ensure that there is no confusion at local level between the combined authority and the NHS.

In our debate last week, I raised 10 questions with the Minister, which I am not going to repeat. I am sure that she will be writing to me with detailed responses, but I want briefly to refer to two of the questions which my noble friends raised again tonight. First, I said that we do not want to leave NHS organisations and their boards, which implement policies by the combined authorities, open to legal challenge that they are acting outside or in conflict with legislation. I am sure that the Minister will want to clarify that point again.

Secondly, I raised the issue of whether the Greater Manchester strategic health board and its relationship with the combined authority needed any statutory powers and whether there was any requirement to amend the Health and Social Care Act 2012. Again, the issue in that general relationship has been raised tonight and I am sure that the Minister will want to clarify that point further. This probing amendment is surely to ensure that the devolution which we all support for Greater Manchester in health and social care can be effected efficiently. We will reflect further on the questions raised tonight in the light of the Minister's response as we move towards Report.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have made remarks this evening. A number of questions have been raised. Perhaps I might address the amendment generally and then come to specific questions that noble Lords asked.

Amendment 44DD makes specific provisions about the transfer of health and social care NHS responsibilities, as noble Lords have said, including a requirement for an annual report by a combined authority which has assumed NHS responsibilities. It is important to reiterate this evening what I have said in earlier debates. The Government are committed to the view that health and social care services in any area, whatever devolution arrangements are entered into, must remain firmly part of the National Health Service and social care system—the noble Lord, Lord Hunt, alluded to this—that all existing accountabilities and national standards for health services, social care and public health services will still apply, and that the position of NHS services in relation to the NHS constitution and mandate cannot change.

As we have discussed throughout our debates on the Bill, 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. The Bill is an enabling Bill and I do not believe that it is necessary to include specific requirements about how particular powers will be devolved. However, I hope that tonight I can provide more clarification on specific questions that noble Lords asked.

Within the legislative framework that the Bill is creating, the safeguards are to be provided by not making specific provision in the Bill, such as provision about any memorandums of understanding and their relationship with the National Health Service Act 2006, as amended by the Health and Social Care Act 2012. Safeguards are in fact provided by the requirement that the implementation of any particular devolution deal must be debated and approved by both Houses of Parliament.

7.15 pm

Lord Hunt of Kings Heath: My Lords, if I may intervene on that, of course I understand that an affirmative order allows Parliament to have a debate, but so what? Nothing else happens. I think that the number of affirmative orders that have been rejected is seven. It is certainly a handful, so in reality we are giving executive power to Ministers to make absolutely any decision they like. The fact is that parliamentary scrutiny is virtually nonexistent. Of course, if we were able to amend or delay statutory instruments, as the royal commission on Lords reform argued some years ago under the noble Lord, Lord Wakeham, that would be different—but we are not, so I am afraid that saying that an affirmative order is a protection simply is not true.

Baroness Williams of Trafford: My Lords, we have talked about the Secretary of State's ability to intervene, which in itself is also a check and a balance. The orders will be debated through both Houses of Parliament. I will make some progress on this, and if the noble Lord wants to intervene further, he is very welcome to.

For the debates it will be important that full details of the deal concerned, how it was arrived at and the outcomes expected of it will be fully available to Parliament. As I said in the earlier short debate, I am ready to consider whether the standard Explanatory Memorandums are sufficient to ensure that Parliament has all the information it needs in this unprecedented process of devolution. As to a requirement for a combined authority to publish an annual report on its deal in relation to health, there will be a process, as I said in one of our debates last week, for evaluating the progress on each deal agreed with each area. For example, the Greater Manchester deal has an extensive programme of evaluation, with evaluations being public documents available to all with an interest in the area and the progress being made. I do not believe that it is appropriate to make a requirement about the reporting or evaluation of some particular aspect of a deal—an aspect which may not be in all the deals that are agreed.

I turn to some specific points that noble Lords have made. The noble Lord, Lord Warner, talked about the Secretary of State for Health overturning decisions if he did not like them. It is a bit more than that. I think he could intervene if he thought that

decisions would be detrimental to people's health or well-being. That was the point I was hoping to convey, but perhaps I did not do it articulately enough.

Lord Warner: I am being totally confused by the Minister. If she is saying that the detail of a deal is enshrined in regulations, the Secretary of State has signed off that deal. That implies that if there are any controversial issues around in, say, Greater Manchester, they will be dealt with in the orders that come before both Houses of Parliament and which he will have signed off. If he has signed off those orders and they have covered the transfer of resources, for example, from hospitals to preventative services, why should he need to intervene on such a transfer from a hospital to these other services? The Secretary of State seems to want to have it every which way: you agree the deal, you put it in an order and you still reserve the right to veto things on a subsequent level. That is what the Minister seems to be saying.

Baroness Williams of Trafford: My Lords, it is what I am saying but I am also saying that the detail of the deal, which noble Lords have requested full sight of, will go through both Houses of Parliament. It is important that the Secretary of State, of whichever department, can intervene in any matter which he feels is to the detriment of the public. That is what I am saying but maybe we mean different things by "intervene".

Lord Warner: My Lords, this really goes to the heart of this matter. The Secretary of State under my amendment would have to assure himself that having a deal in the first place was for the benefit of the population of the combined authority. He is actually guided in that—also by the 2012 Act—so he cannot agree a deal that is likely to adversely affect that population. He would be in breach of his own duties and responsibilities. If he has then agreed a deal that is not abrogating NICE responsibilities or access standards or anything else, but is merely shifting the balance of resource provision and service provision between one set of services currently and another set of services that better meet that population's need—which is indeed what the *Five Year Forward View* says should be done—and he signed that all off in an order, why does he need a power to intervene again during the duration of that order because he thinks something is wrong? He has agreed what they are going to do.

Baroness Williams of Trafford: Perhaps I have not articulated this—in fact, I wonder if the noble Lord and I are talking at cross-purposes. I am not talking about the Secretary of State intervening in the process of the deal and of the order going through both Houses; I am talking about subsequently, if matters went awry in a particular area. However, that would be the obligation of the Secretary of State whether it was for local government or health or whatever area we will be talking about. Perhaps we can leave that there and return to it in due course.

The noble Lord, Lord Warner, also made the point that it will always be the Secretary of State's view that prevails. The noble Lord suggests that however great the local consensus might be, the Secretary of State has the power to override this. This argument lacks the essential element, which is how the Secretary of State will exercise his powers. These powers will be exercised reasonably, having regard to all relevant considerations, including local views and the NHS's own plans in the forward view. In terms of service reconfiguration, the Government have pledged that all service changes should be led by clinicians and patients and not be driven from the top down. The Government have outlined strengthened criteria that decisions on NHS service changes are expected to meet. The criteria are: support from GP commissioners; clarity about clinical evidence bases underpinning proposals; arrangements for public and patient engagement, including local authorities being further strengthened; and the need to develop and support patient choice.

The MoU between the NHS England and Greater Manchester makes it clear that plans for devolution will align and support the objectives set out in the *Five Year Forward View*. The forward view sets out the NHS's own plan for the next five years, supporting local areas to take forward plans for transformation, including an increased focus on prevention and integration of services. On the aspect of the 2012 Act that noble Lords have asked about, we have been very clear that existing NHS standards and accountabilities will be upheld. The NHS Act 2006 as amended by the 2012 Act sets out clear duties held by the Secretary of State in relation to the health service. For example, the 2006 Act puts a duty on the Secretary of State to,

"have regard to improvement in quality and reducing inequalities",

and the duty is exercised in a way that supports local areas. He and other noble Lords asked about the compatibility between the 2012 Act and what has been proposed here. I can confirm that they are compatible with each other.

The noble Lord, Lord Hunt, asked who actually takes the decisions in Greater Manchester. The memorandum of understanding between NHS England and Greater Manchester provides that decisions are to be taken by the partnership between the local authorities and the health bodies—in other words, the Greater Manchester joint commissioning board as a board would operate. This reflects the principle that decisions are devolved to the most local level that is most effective and beneficial for patients and communities.

Lord Hunt of Kings Heath: Who do I sue then? Who is accountable in this great mushy edifice that has been created? Who is the accountable officer? That is what we are trying to get to—who can you point the finger at and say, "You are responsible ultimately for what happens in Greater Manchester's health system"? That does not seem to be coming through at all in this.

Baroness Williams of Trafford: My Lords, there is a partnership board. Who you would actually sue on that board I do not know. It might be the chairman. I imagine that the ultimate accountable person, who you would actually sue, is the board itself because it is jointly responsible for the decision-making. It is a partnership board.

Lord Scriven (LD): In a previous life I have been both a senior NHS manager and a leader of a council. This is as clear as mud. If, for example, the partnership board decided it wanted to reconfigure local healthcare

[LORD SCRIVEN]
and a hospital was to be closed, who would be held responsible ultimately by the public for that decision? Would the Secretary of State ultimately be able to stop that decision? Coming back to what the noble Lord, Lord Hunt, said, where would specialised commissioning fit in? It would not be a national standard, but would what the Minister calls the health partnership be able to move away from decisions made by NHS England on specialised commissioning? If it did, who would be able to overturn that decision? Who would be able to ask for a review of that decision, and to whom?

Baroness Williams of Trafford: My Lords, I can confirm that the accountable body is the partnership board.

Lord Warner: We are going nowhere, my Lords. Let us have another go. Let us follow up the issue of the closure of 50 beds in a Manchester hospital because the money is going to be used for preventive services and more services in the community. The partnership board has agreed that, and the consultants in the hospital affected take umbrage at that. They wind the public up—this is a well-tried and tested form of action in the NHS—get some money from a pro-bono lawyer and, under the provision of the noble Lord, Lord Hunt, they sue somebody. The Secretary of State has signed off the partnership board's deal. Are they going to sue the partnership board? Are they going to sue the chairman of the trust affected for letting his 50 beds go? Are they going to sue the Health Secretary? Or are they going to sue the chairman of NHS England for agreeing this deal? I think we need to know who. This is not an implausible case I am giving; it is everyday bread-and-butter stuff in our British NHS.

Baroness Williams of Trafford: My Lords, as I understand it, it is the partnership board. I cannot add any more to this. As I understand it, the accountable body is the partnership board.

Lord Scriven: Is the partnership board a statutory body?

Baroness Williams of Trafford: Sorry, could the noble Lord repeat that?

Lord Scriven: Is the partnership board a statutory body or a corporate board in law, or is it just a partnership?

Baroness Williams of Trafford: I would imagine it is a statutory body. May I confirm that, because I am not entirely certain? I will confirm that either during this debate or after the dinner break on subsequent amendments.

Lord Beecham (Lab): I would like to help, if I might, because the noble Baroness is obviously in difficulty. This question is a health issue and not her department. When we are talking about suing, we are talking not about suing for damages; we are talking about judicial review. I therefore suggest that somebody gives the Minister some advice, not necessarily now but certainly before we get to Report, on where and against whom action for judicial review might be issued in relation to decisions taken around the health service by whomever is responsible under these deals. That is the best way to clarify the position. I do not expect the Minister even with the assistance of the Box to be able to answer that now, but it should be answerable before we get to Report.

Baroness Williams of Trafford: I thank the noble Lord very much indeed for that intervention.

Finally, the noble Lord, Lord Hunt, asked me to define "public authority". It is any authority in the public sector, including all public bodies and NHS bodies, Ministers of the Crown and government departments. New subsection (4) in Clause 6 provides that, in the case of the Bill, it,

"does not include a county council or district council".

With that, I ask the noble Lord to withdraw his amendment.

Lord Warner: My temptation is to say, "You must be joking". This has been a very interesting and illustrative debate. I do not think that many people, not just on the Labour Benches but on this side of the House, have found illuminating some of the answers to the questions that we asked. I want to make a helpful suggestion to the Minister. I strongly suggest that she facilitates a meeting between some of us with herself and Health Ministers—and possibly even NHS England—to explore this issue as quickly as possible. We are in danger of creating total confusion, not just among ourselves but among people in the outside world and in the NHS, who will read these debates and be thoroughly confused as to what is going to happen to them in the coming years. I suggest that we have a meeting and, on that basis, I beg leave to withdraw my amendment.

Amendment 44DD withdrawn.

House resumed. Committee to begin again not before 8.31 pm.

Sierra Leone

Question for Short Debate

7.32 pm

Asked by ***Baroness Hayman***

To ask Her Majesty's Government what is their assessment of the current situation in Sierra Leone, and what are their plans to assist the country to recover from the effects of the Ebola outbreak.

Baroness Hayman (CB): My Lords, I am grateful for the opportunity to introduce this Question for Short Debate and to the numerous organisations and individuals who have provided briefing material. In the time allotted, I fear that I cannot do justice to the breadth of issues they have raised, so I am particularly glad to see the number and expertise of other noble Lords who will be contributing tonight. I also remind the House of my interests in health and overseas development, as set out in the register.

The Ebola outbreak in west Africa has disappeared from headlines in the United Kingdom, but the devastating effects of that outbreak are still being felt every day by the people of Sierra Leone. For a start, unlike in Liberia, Ebola cases have not disappeared. For the last

few weeks, the number of cases has been bouncing along the bottom, as epidemiologists predicted, with up to 15 new cases a week being reported in June, and with a worrying number of those cases coming from unknown transmission chains. Some 1,100 people in Sierra Leone are still under quarantine restrictions, and we are now beginning to tally up the costs, not just of the epidemic itself—not only the 3,900 deaths from Ebola that we know of, and many more that we do not—but in other areas of health, where thousands more are estimated to have lost their lives because of the collapse of the already impoverished health services that existed before Ebola, and the collapse of community trust in those services.

It has been estimated that use of government health services has declined from 80% to 50% of the population since the first Ebola case was identified more than a year ago. Most experts agree that, in that year, more people will have died from the absence of treatment for malaria than from Ebola. The effects on maternal and perinatal mortality are equally if not more devastating. Services for pregnant women have virtually ground to a halt because of the particular risks for healthcare workers in treating women giving birth. There has been a terrible toll of stillbirths. The Maternal and Newborn Health Unit of Liverpool School of Tropical Medicine and VSO are even now working to bring forward a programme to build again maternity services that in the past were so inadequate that the maternal mortality ratio in Sierra Leone was the worst in the world.

There are also problems in terms of services for HIV and tuberculosis; cholera is always a risk in Sierra Leone; and there have been reports of measles outbreaks as a result of plummeting immunisation rates when patients simply stayed away from clinics. I welcome the mass drug administration programmes for malaria, and the vaccination campaigns for polio and measles that have taken place recently, but the situation remains precarious. Building sustainable universal health coverage in Sierra Leone will be an enormous long-term challenge for a country that had only 100 doctors and 1,100 health workers before the outbreak. Nearly one-third of those health workers contracted Ebola and 224 died during the epidemic.

Beyond health, the effects of the outbreak were far reaching. Schools were closed for nearly a year, and many pupils will not only have lost that part of their education but will never return to school. As so often, girl children have suffered most, with reports of increased sexual exploitation, early marriage and teenage pregnancy. Those girls will have great difficulty in ever establishing independent and free lives for themselves. Agriculture was also impacted and, while showing signs of recovery, needs further technical and other assistance if it is to contribute to economic growth and address the needs of the 35% of children in Sierra Leone who are chronically malnourished.

The effects on the wider economy were devastating—and I am sure that the noble Lord, Lord Giddens, will speak about this. The World Bank estimated that Sierra Leone will have lost $920 million from its projected GDP in 2015, and has revised its estimates of growth from 8.9% to minus 2% this year. Rebuilding that economy will be an enormous challenge, as will getting into place an appropriate tax structure, particularly in relation to the extractive industries, to provide a robust tax base for government spending on health and social services.

I should like to highlight one decision of the UK Government which contributed to the economic problems—halting direct flights to and from the country. I believe, along with the Public Accounts Committee in its report last Session, that the Government were wrong to halt those flights, not least because indirect access to the UK actually makes it more, not less, difficult to track and screen travellers. I strongly support the recommendation of the Public Accounts Committee that direct flights to Sierra Leone should be restored as soon as possible. In its response in March to the Select Committee, the Government said that they would keep the situation under review. I hope that the Minister will tonight give us some cause for optimism that licences to fly direct to Freetown will be restored in the very near future.

I visited Sierra Leone in February this year and saw for myself the commitment of UK volunteers, particularly in the health area, through UK-Med and other agencies, to helping Sierra Leonean colleagues and those from all over the world in the fight against Ebola. I know that many are keen to continue to support the health service in that country so that it can provide resilience against further outbreaks and basic health rights for the population. However, there are a number of issues about how that commitment could be maximised and how the Department of Health and the NHS could better support medical volunteers. They include looking at the impact on training programmes when people leave their jobs for a time, pension contributions, and the possibility of pre-release agreements with employing trusts.

Across the world, in the global response to epidemics such as this, every country, as well as the world community, needs to put in place resilient and immediate measures that can be brought forward in the case of need, and not have the sort of delays we saw with Ebola. The Royal College of Paediatrics and Child Health has, along with other colleges, put forward suggestions in this area, as has Dr Oliver Johnson, who led the outstanding work of King's Health Partners at the Connaught Hospital in Freetown and beyond. I hope that the Minister can tell us that discussions are ongoing between her department and the Department of Health to progress these issues.

Just as the Ebola crisis went much wider than health, so did the UK's contribution, with crucial programmes delivered by many NGOs, supported by the British public's generous response to the Disasters Emergency Committee's first ever health appeal. I particularly highlight the work of young Sierra Leoneans in the wide-ranging community-based social mobilisation programmes which were central to halting transmission through unsafe burial practices and to persuading people to notify the authorities of cases, providing food for families in quarantine, caring for some of the 8,000 thousand children who lost their parents to Ebola and supporting Ebola survivors who suffer both from stigma and from long-term health effects of the disease. No one visiting could fail to be impressed

[Baroness Hayman]
by the work of our High Commission, led by Peter West, the staff of DfID, many of whom put their own lives and families on hold for months at a time, and, of course, the British military presence, which was so crucial to setting up the national emergency response centre and district centres throughout the country.

I also visited the Sierra Leone Parliament when I was in the country, and heard of the challenges in strengthening scrutiny of government and democratic accountability in the complex society, with many parallel power structures, that is Sierra Leone. I know that the CPA UK branch and the Westminster Foundation for Democracy are looking at how they, as partners, can, together with the FCO and DfID, aid this process and support, in particular, women Members of Parliament who feel very estranged from the levers of power in their country.

President Koroma showed real and effective political leadership throughout the crisis, but institutions in the country were put to the test—as, indeed, were international institutions such as the WHO—during Ebola, and no one can deny that there were real problems of both leadership and governance. At the EU meeting in Brussels this year, the leaders of the affected countries recognised the need to improve public administration and financial compliance and requested international support for long-term recovery and development plans for the region.

Just as the challenges for Sierra Leone are multifaceted and its national recovery plan will entail long-term commitment, so are the opportunities for the UK; from our science contributing to the search for vaccines, diagnostics and medicines to health service strengthening; from governance and financial advice to promoting the rights of women and children. Some great collaborative work was carried out during the Ebola outbreak. I hope that the Minister can assure us tonight that Her Majesty's Government intend to bring all the strands together and put in place a long-term, funded and comprehensive plan of support for Sierra Leone, working alongside its Government and people.

7.43 pm

Lord Patel (CB): My Lords, I thank the noble Baroness, Lady Hayman, for securing this debate. She has already said much of what I might have said, so I will deviate from what I was going to say and pick up some of her points and hope to enlarge on them.

One lesson we must learn from the Ebola crisis is that whatever we did in the past to support poor countries to build their health systems and their societies has not worked, otherwise this would not have happened. I repeat the noble Lady's commendation of the volunteers who went from this country and others, at great risk to their own health, when the death rate from this infection was 90%. They took that risk and they need to be commended on it. Mostly, they were young people.

The noble Lady also mentioned the WHO response, which was initially poor. It did not have enough experts on the ground to do the necessary surveillance. It was slow in declaring an international emergency. It may have been preoccupied with the damage that the crisis might do the economies of these countries, rather than declaring an emergency, which would have protected citizens. Yes, the death toll could have been higher if it had not been for the international response, including the United Kingdom's, which was immediate. None the less, the WHO failed in that, so the first thing we need to ask the Minister is, what are the Government now doing to work with the WHO and the expertise that we have in the United Kingdom and countries such as the USA to help the WHO build in future a more resilient system of surveillance?

The noble Lady's next remarks were about the health system. The health system in that country, which was fragile to start with, has now collapsed. She referred to maternity services. The maternal mortality rate in Sierra Leone is 1,100 per 100,000. Last year 1,200 women died during childbirth. Neonatal mortality is 49 per 1,000. Under-5 infant deaths are running at 160 per 1,000. The maternal mortality rate has gone up by 20% due to the complete collapse of emergency obstetric services. She mentioned the Centre for Maternal and Newborn Health at Liverpool School of Tropical Medicine which is helping to build assistance and which needs to be supported. So does the Royal College of Paediatrics and Child Health, which is trying to build services and train doctors, who are now very few—200 health workers have died, some of them doctors, and others have left the country. We need to support these organisations.

Health systems are linked to the economy of the country. Sierra Leone spends $25 million on health and $32 million on education. It gives away 10 times the health budget in tax incentives to overseas companies, some of them British. These are dollars that it could use for building health and education systems, but it does not have it. Is it not perverse that while people die in these poor countries, companies from richer countries seek tax incentives? Should not part of our help in assisting Sierra Leone now to recover include some advice and assistance in the ability to use its own domestic resources, including help with tax policies, so that the country can have better financial resources to support its health system?

The noble Baroness referred to the fact that more deaths are now occurring because of the collapse in the health system due to tuberculosis, malaria and HIV/AIDS. Referrals to doctors and the health system have completely failed. Fewer than 20% of pregnant women now seek help during pregnancy or attend antenatal classes. If this is not stopped, maternal mortality will keep rising, as will stillbirths and neonatal deaths. I ask the Minister about our response to the WHO, our help in building health systems and our help in building the economy of Sierra Leone.

7.48 pm

Lord Giddens (Lab): My Lords, as the noble Baroness, Lady Hayman, has indicated, the fact that the Ebola outbreak in west Africa has gone from being everywhere in the news to nowhere is an example of the capricious nature of the media. This debate is, therefore, very timely, because we have to keep public attention focused on the issues, and I congratulate the noble Baroness for having initiated it so ably.

Unless aid and assistance continue to flow to Sierra Leone and other affected countries, far more people could die from the knock-on effects of the epidemic than have perished from the disease itself. The level of disruption to infrastructure, including but not limited to the health system, has been quite staggering. This is in spite of the wonderful work of overseas volunteers, to which other noble Lords paid tribute, including from this country.

A sustained economic recovery will be crucial but will be very, very hard to achieve. Of the three countries affected by the epidemic, Sierra Leone has suffered by far the most on an economic level. In 2013, having recovered from years of internal strife, Sierra Leone ranked second in the world in terms of GDP growth. It was an extraordinary moment. The country started from a low base of course; nevertheless, to achieve a ranking of second in the world in terms of economic growth after all those years of disruption was a quite remarkable phenomenon.

Since then, the country's economy has more or less collapsed. According to the World Bank, this year Sierra Leone faces an acute recession, with a negative growth rate of no less than 23.5%, which I can assure noble Lords is catastrophic in terms of its size and implications. Let us compare that with, for example, Liberia, which is projected to have a positive growth rate of 3%. In the case of Sierra Leone, foreign capital has mostly fled the country, as have some of its richest citizens.

I have three sets of questions that I would like the Minister to comment on, recognising that she will not necessarily be able to answer all of them. First, in April this year the World Bank promised no less than $1.62 billion for Ebola response and recovery. What is the status of this money? Is it merely a promise? Does the noble Baroness know how much of that sum is there? On the surface, it is a substantial amount but I was not able to discover its exact status. What is the timescale by which it will be invested? It is clear that upfront investment is needed and that a great deal is needed very rapidly. What proportion of that money is likely to go to Sierra Leone? I could not find that in the World Bank literature either. If the UK is making a direct contribution to that sum, how much is it contributing, and how would the questions that I have just asked in relation to the World Bank apply to the UK's contribution?

Secondly, the presidents of the three countries affected by the outbreak have requested that international donors cancel their debts. Has any progress been made on this? It is quite crucial because the level of aid was substantial. If this could be done, it would provide enormous economic leverage for Sierra Leone. If the UK Government have a position on this issue, it would be good to know it.

Thirdly, a recent UNDP report rightly emphasises that women need to be at the centre of all efforts to achieve recovery. Women made up a large majority of the labour force prior to the outbreak of the epidemic, and, as in many other countries but especially in Sierra Leone, were doing two jobs: looking after the family and working pretty much full time, especially in small-scale micro-entrepreneurial enterprises. The female labour force was absolutely crucial to the statistics that I gave earlier, which showed that the country was entering a period of quite significant economic take-off before the epidemic broke out. The latest figures show that more than 40% of women in the labour force at the time of the epidemic have withdrawn. Many have gone back to their families, devoting themselves to care rather than to the economy. Most of the women who have left the labour force were in agriculture, which is still the backbone of the economy in Sierra Leone. What strategies does the Minister know of that are in play to target investment efforts specifically at women in the labour force?

If you put these three things together, the international community seems on the surface to be coming up with substantial resources, but, as we know from many other situations, these tend to evaporate in the face of actuality. Therefore, is there anything that the Minister can say about the reality of these sums of money, especially the World Bank investment programme, which is designated as a sort of Marshall plan for the country? If that had some substance, it could be very important for Sierra Leone's future and recovery.

7.55 pm

Baroness Masham of Ilton (CB): My Lords, I thank my noble friend Lady Hayman for having secured this debate on the catastrophic epidemic and its results in Sierra Leone, one of the countries in west Africa affected by the Ebola virus. With cases of this very infectious condition still appearing, it is clear that the epidemic is far from over. The efforts to end it must not be relaxed.

The medical personnel who have been helping in Sierra Leone rightly have the admiration of many people. It was good news that the nurses who developed Ebola and came back to be treated in the special unit at the Royal Free Hospital recovered, but I take this opportunity to ask how, with all the training that they had had, they became infected. It is important that that is known so that others learn from it. Prevention of infection when working first hand with infected people is vital.

A total of 869 confirmed cases of health worker infections have been reported from Guinea, Liberia and Sierra Leone since the start of the outbreak, with 507 reported deaths. It is said that the initial response by WHO regional staff was slow and poorly targeted, and it has since been heavily criticised as one of the contributory factors in the early expansion stage of the epidemic. It is notable that the WHO Global Outbreak Alert and Response Network, which had such a pivotal role during the SARS outbreak, was mobilised at a late stage after other groups, including Médecins Sans Frontières, had been in action for weeks or months. Even at that point, the WHO concentrated on advisory support rather than mobilising logistics, clinical and diagnostic support. Several UK agencies, including Public Health England and the Defence Science and Technology Laboratory, were among the European groups to get specialist manpower on the ground at an early stage.

I cannot stress enough how important microbiology and pathology are in combating infection. I think that sometimes the value of their contribution to tackling

[Baroness Masham of Ilton]
epidemics is not highlighted enough. At the latest G7 summit, responding to lessons from the Ebola crisis, G7 leaders pledged to help strengthen the world's ability to prevent, detect and respond to disease outbreaks. I quote from the Society for General Microbiology:

> "Emerging zoonitic diseases … pose an increasing global health and economic security threat. Recent outbreaks include Ebola, H1N1 swine flu and severe acute respiratory syndrome … An interdisciplinary 'One Health' approach involving human and animal science, health and policy is vital for mitigating this threat".

There is a huge need for public health improvements. Acute infectious diseases remain the leading causes of mortality, and children under the age of five are disproportionately affected. Since the Ebola outbreak, the impact of malaria has almost certainly increased owing to reduced and/or delayed access to treatment, leading to increased case fatality rates. There is only one paediatrician in the whole of Sierra Leone. Maternal morbidity rates are very high. Over 70% of the population live in poverty and, therefore, the majority of the population's basic need for food and water is not satisfied. Half the population in Moyamba drink from unsafe water sources. There are few areas with adequate sanitary facilities. One-third of children are stunted; malnutrition is common and under-recognised. During the Ebola outbreak, when the need has been great, the supply of supplementary food has stopped. Thus, unmet nutritional needs of the population have increased.

The current Ebola outbreak is reducing and efforts will continue towards its elimination from the country, but the population will remain at risk of future outbreaks. There is a desperate need for ongoing education. Changes in behaviour such as hand-washing and safe burial practices reduce this risk but the population risk profile has not dramatically altered. There is still a high consumption of bushmeat in Moyamba and other rural areas of the country. I congratulate BBC Media Action on its programme "Kick Ebola out of Sierra Leone", which it is producing in partnership with Cotton Tree News, broadcast on 40 radio stations across the 14 districts. In recent months, the programme has evolved to focus on concerns about complacency.

I hope the Government will give money to this very poor country. There are successful, rich countries which are getting our support: why not give it to these countries in west Africa?

8.02 pm

Lord Crisp (CB): My Lords, like others I congratulate my noble friend Lady Hayman on this very important and timely debate. I also, like others, congratulate the many people from the UK who are playing, and have played, a significant part in tackling these dreadful events. I also note that this is a devastated country. The health issues go far beyond the direct effects of Ebola and there are the economic impacts which we have heard about so fluently. These impacts have been on business, tourism and trade in a country which already had a fragile infrastructure.

When I talk to friends working in Sierra Leone, they tell me that the first thing that the UK and other donors need to do is maintain continuity of support. They pick out three particular areas. The first is sustaining help for local communities to achieve better hygiene and infection control, otherwise there are—as we know—going to be continuing new outbreaks. The second thing they advocate is using some of the money which is now available to continue supporting the salaries of health workers in Sierra Leone and to redistribute some of those health workers to rural areas. The third area is surveillance. We still do not have a very clear picture of what is happening throughout the country and a major effort is still needed there. The final point which has been made—on which I have asked a Written Question and received a reply from the Minister—is about research on rapid diagnosis and other technologies which are starting to be available and the importance of deploying them. A lot of it is just about continuing what we are doing now.

My second point is about learning lessons. I congratulate everyone but I hope that the British Government and others will be listening to the frustrations and learning frankly from many people about problems that have occurred—not just the well-publicised problems with the WHO, but the problems of co-ordination and communication between different agencies and how we can do that better. I also hear some disquieting things about competition between donors and agencies for credit or resources. Those are very worrying aspects of what has happened.

In addition to the existing support, there is a real need for integrated action from the many British agencies that want to help. My noble friend Lady Masham has already mentioned BBC Media Action. Various other people have written to us to say what they can do to help with support. Perhaps the biggest need is for more health workers, a point which the noble Baroness made in introducing the debate. I note the offer from the Royal College of Paediatrics and Child Health to bring together the royal colleges on training more health workers. I will come back to that important point, because this is about Africa, not just about what we Brits can do. It is worth noting that Ebola was stopped in its tracks in Uganda, Nigeria and even in the DRC without external intervention. People had just enough skills and abilities to do that. Africans have contributed an enormous amount to this and there is some fear about directive intervention from outside as a result of these problems. There is a danger that we will—with the best will in the world and the best intentions—be imposing our solutions from outside rather than from within.

There is a considerable African response; there is great community knowledge. We should be able to draw on African leadership and not perpetuate the dependence which is too often associated with aid. It is interesting to note that the World Bank, and others, have picked up on the important point of developing and training community health workers: local people who understand local customs and are better able to institute and support changes in customs that may be dangerous and to introduce new habits and norms to promote health, well-being and hygiene. I hope the Government, and others looking at this, will think about education and training in terms of three levels. The first is the need for community health workers who are local people—very often village women—who are trained to identify and support things at a local

level. Then there is the need for classic, African, mid-level nurses and other workers who are doing things that doctors do in our country. There is also the need, proposed by the Royal College of Paediatrics and Child Health, for the specialists: more paediatricians and clinicians of various sorts. There needs to be an integrated education and training plan but, importantly, this also needs to involve the development of institutions. The noble Lord, Lord Giddens, referred to a Marshall plan. There is a need here for the sort of approach that recognises that it is not a matter of training a few health workers, or providing a few drugs and facilities: it is institution-building and supporting the development of the economy.

Finally, I hope the UK will play a major role here. We have so many people who are willing and able to help, coming from all sectors of our community. It would be interesting to hear from the Minister about how this will be handled but I suggest that there is a great deal to be gained from bringing together some of these people, who may be outside the normal DoH and Department for International Development systems, and challenging them on how they can help, always bearing in mind my point about African leadership. This is about Sierra Leone, but it could also be about showing what can be achieved by a determined global effort in a country that needs global solidarity.

8.08 pm

Lord St John of Bletso (CB): My Lords, it is always a pleasure to follow my noble friend Lord Crisp, with his deep knowledge and passion for healthcare improvement in Africa. I join him in thanking my noble friend Lady Hayman for introducing this topical debate on a subject that, sadly, has had very little media coverage of late.

Although much of the recent World Heath Organisation report on the Ebola situation in Sierra Leone makes encouraging reading, major challenges still lie ahead to eradicating the disease, particularly preventing cross-border traffic between Sierra Leone and Guinea. More needs to be done to contain the threat in the northern provinces of Port Loko and Kambia. The Sierra Leone Government, with their limited police force and army, are severely restricted in fully monitoring checkpoints.

There is no doubt that the long-term effects of the Ebola outbreak will linger for many years to come, posing challenges not just for healthcare workers but for communities right across the country that are left with many hundreds of thousands of orphans. The charity Street Child UK is to be commended for its incredibly impressive and great work supporting those orphans. For the immediate future, one of the greatest challenges facing the country will be youth unemployment. Although there have been a number of initiatives to create jobs and kick-start growth in the country, this is an uphill battle. With extensive mobile coverage right across the country, I believe that a lot more can and should be done to provide affordable broadband, particularly in Freetown.

With commodity prices having collapsed over the last few years, the mining sector in Sierra Leone is currently not sustainable, with a chronic lack of adequate infrastructure and access to power. However, as the noble Lord, Lord Giddens, mentioned, the agricultural sector has a chance for hope in the future. The agricultural sector, where most of the population works, unfortunately has very disheartening statistics showing that coffee, cocoa and all types of tropical fruit are rotting on the trees, with lots of fields remaining fallow, as local farmers do not have adequate equipment either to harvest or to take the produce to market.

My noble friend rightly mentioned the problem of malnutrition. I recommend that assistance be given to finance a form of co-operative among the farmers, not just by helping them to finance their equipment but by training them to potentially build more food processing factories for the local market. I believe that there is huge scope for more beneficiation within the country. If one goes into Freetown, one will see that the supermarkets, many of which are run by Lebanese traders, offer tropical fruit cartons and bottles, but almost all of these are imported.

Sierra Leone desperately needs more clean water, not just for Freetown but in the villages and provinces. In the dry season, the main water sources are rivers, streams and abandoned mine workings. Most of these sources are contaminated, which is a major source of high mortality for the very young, the very frail and the elderly. Solar-powered water pumps in the villages could be a major boost for the provision of clean water.

On a brighter note, Sierra Leone is blessed with some of the most beautiful beaches in the world, comparable to those in the Caribbean and the Seychelles. I believe that, in the future, once the outbreak has been tackled, there is huge potential for the tourism industry.

In conclusion, our Government, in conjunction with our European partners, have played a pivotal role in tackling the epidemic and, just as importantly, in putting measures in place to reduce the chances of another Ebola outbreak. We have been instrumental in rebuilding the political and socioeconomic infrastructure after the civil conflict that ended in 2001. In March this year, west African leaders called for a "Marshall plan" to help with regional reconstruction after Ebola, saying that the region is "coming out of a war", with its economy and public services decimated. One of the key lessons from this devastating EVD disaster is the need for the Government of Sierra Leone, as well as the international community, to take proactive measures to prevent another disaster.

8.14 pm

Lord Collins of Highbury (Lab): My Lords, I, too, thank the noble Baroness, Lady Hayman, for initiating this important debate.

The Government's response to Ebola has been positive, providing more than £200 million for treatment, facilities, expediting NHS staff who have heroically volunteered, helping to finance trials, and developing new treatments and vaccines for Ebola. The role of the volunteers has been significant, and I, too, very much welcome the Government's decision to provide a new medal that will recognise their bravery and hard work.

[Lord Collins of Highbury]

Sierra Leone is one of the poorest countries in the world and had one of the most fragile health systems. Over decades, it has had insufficient investment in infrastructure, the healthcare workforce, the health information system, and medical supplies and equipment. Therefore, has the department, in considering the lessons of the outbreak, reversed or rethought any planned funding cuts to Sierra Leone?

Universal health coverage can make countries more resilient to health concerns such as Ebola before they become widespread emergencies. I therefore welcome the clear commitment given by Ministers in the House in recent debates to support universal health coverage, free at the point of access, in the language of the health goals in the forthcoming negotiations over the SDGs.

Last week, I attended a meeting with Professor Chris Whitty, chief scientific adviser to DfID. A key part of the discussion was the impact of Ebola on other diseases, highlighted by the noble Baroness, Lady Hayman. It is clear that the gains made against malaria, for example, are at risk as health systems are pushed to breaking point and people avoid using them because they fear contracting Ebola. As we have also heard, many children have missed out on routine vaccination services, and since 2014 measles outbreaks have been reported in the country, mostly among children under five. I, too, welcome the commencement of mass vaccination programmes, including those for measles and polio for children under five, which is going into all districts and should benefit more than 1.3 million children. However, what steps have been taken to ensure that we are offering other health services alongside the strategies for containing and eliminating the Ebola virus in Sierra Leone?

According to Save the Children, nearly half the population of Sierra Leone is under the age of 18, and the impact of the Ebola crisis on their lives now and on their future opportunities has been far-reaching: no school, loss of family members and friends to the virus, and changing roles and responsibilities in the home and community. What steps has the department taken to support the Government of Sierra Leone in developing a comprehensive strategy aimed at getting the country back on track to meet development targets?

As we have heard in the debate, building the economy is another critical factor. The impacts of the Ebola crisis are likely to linger well into the future, and economic recovery will hinge on understanding which sectors and groups need the most support to get back on their feet, as highlighted by my noble friend Lord Giddens. Private-sector investment is critical, and it is good to see the CDC leading the way on this. However, when supporting the private sector, prioritising those industries that provide much-needed infrastructure to the health system, such as communications and energy providers, is important.

One other clear lesson highlighted by the noble Baroness, Lady Hayman, has been the vital role of community engagement, which all too often has been regarded as a soft and relatively non-technical add-on to medical interventions; the noble Lord, Lord Crisp, also highlighted this. The Social Mobilisation Action Consortium brought together BBC Media Action, Centers for Disease Control, FOCUS 1000, GOAL and Restless Development, all funded by DfID. Through working with young volunteers, community and religious leaders and partner radio stations covering every district in the country, it has achieved tangible behaviour change around safe burials, early treatment and the social acceptance of Ebola survivors. I urge the Minister to take the opportunity of this community engagement infrastructure and the large-scale behaviour change achieved in this crisis to address other issues such as child marriage, teenage pregnancy and female genital mutilation.

If we are to stop this threat, we must continue to support the Government of Sierra Leone to develop their capacity, address corruption and ensure that they have the technical and administrative support to work effectively.

8.19 pm

The Parliamentary Under-Secretary of State, Department for International Development (Baroness Verma) (Con): My Lords, I join noble Lords in congratulating and thanking the noble Baroness, Lady Hayman, for securing this debate, and I commend her on her long-standing commitment to international development and health. All noble Lords' contributions today have highlighted the passion and commitment that we in the UK place on the challenges and plight faced by those who face such tragic circumstances. I thank the noble Lord, Lord Collins, for his supportive opening words on the Government's response, and welcome his noting of our wish to honour those courageous people who put themselves at the forefront of supporting the recovery from such a crisis.

As we continue to work with the Government, the people of Sierra Leone and the region to defeat Ebola, it is right that we come together at this time to discuss the situation on the ground and how the UK is supporting recovery. We recognise the loss of life, and I agree with the noble Baroness, Lady Hayman, the noble Lord, Lord Patel, and other noble Lords that the bravery and personal risk taken by front-line workers in tackling this disease show the need for continuity as we continue.

As noble Lords will be aware, the UK has played a major role in successfully responding to the devastating Ebola virus in Sierra Leone. Ebola case numbers have reduced from a peak of more than 500 in the final week of November 2014 to an average of fewer than 10 new cases a week. That is still 10 cases too many, but the numbers have come down dramatically over the past two months. The UK has shown incredible leadership, mobilised the international community and efforts to tackle Ebola in Sierra Leone and helped to halt the spread of the virus within the region and beyond.

A number of questions have been asked today. Given the time, if I do not manage to get through all the responses I will undertake to write to noble Lords on the questions that have been posed. The challenging circumstances presented by this outbreak of Ebola demonstrated the UK Government's ability to work together, drawing in—as noble Lords have highlighted today—capacity and expertise from across DfID, the

MoD, the FCO and the Department of Health, delivering impact greater than the sum of its parts. These efforts have not only saved countless lives in west Africa but helped to prevent a health crisis that could have been far deadlier than it was and presented a greater health risk to the UK and the world.

Liberia was the first country to overcome the disease, with the WHO declaring it Ebola-free on 9 May this year. While the epidemic is still not over in Sierra Leone and Guinea, we are well on the way to zero and are acutely focused on finishing the job. President Koroma of Sierra Leone has ordered a renewed drive to accelerate the pace and to get to zero in chiefdoms where the disease is proving to be the most intractable due to community resistance and often very poor living conditions. Surge activities are involving paramount chiefs, traditional healers, women, religious leaders, youths and particularly social mobilisation. We will make every effort over the coming weeks to get to and sustain zero as soon as possible.

Beyond these areas, the vast majority of the country has seen no new cases for weeks, if not months, and recovery planning is getting under way. The Government of Sierra Leone have developed a transition and early recovery plan for six to nine months to get health and education services up and running again and to kick-start economic growth. It focuses on building back better and increasing the role of the private sector in economic development, a point made by a number of noble Lords. I will come to some of those comments if I have time.

I am pleased to say that we have allocated £54 million for early recovery that will focus on these areas, including a focus on women and girls, as was so rightly pointed out by the noble Lord, Lord Giddens, and the noble Baroness, Lady Hayman. We are using the upcoming UN Secretary General's International Ebola Recovery conference on 9 and 10 July to encourage partners who played an important role in tackling the epidemic to help the country to get back on its feet and commit to fund the gaps in the plan. As recovery gets under way, we will work with the Government of Sierra Leone on their longer-term development objectives and shape DfID's programming in line with those.

I also draw noble Lords' attention to the important work we are doing to learn from this crisis and improve global health security. During the Ebola crisis, DfID funded research with the Wellcome Trust, the Medical Research Council and others to develop new vaccines, therapeutics and diagnostics on a scale not seen in previous health crises. This helps to build longer-term resilience against diseases with epidemic potential and supports better identification and understanding of future epidemic and disease threats.

Improved global health security will also benefit from safe, effective and affordable health technologies and strong health systems. In Guinea, Liberia and Sierra Leone we saw the impact of weak, ineffective health systems and the failure of these countries to meet their obligations under international health regulations. Building effective national health systems is key, and DfID along with other government departments will draw on the Ebola experience to strengthen our work on global health security, which is a prime-ministerial priority. I hope that that gives the noble Lord, Lord Patel, an assurance of our commitment to a longer-term solution.

We have heard some outstanding comments on the challenges that the Ebola crisis has posed for west Africa and globally. We can be proud of how UK citizens from the Armed Forces, the health service and charities, and government officials have supported the people of Sierra Leone to combat the crisis and now begin along the road to recovery.

Before I conclude, I have time to go through some of the questions that have been posed, the first of which was a general group of questions alluded to by almost all noble Lords. The noble Lord, Lord Patel, and the noble Baroness, Lady Hayman, asked about our planning for early recovery and what our support would be. The priority for the UK Government has always been to get to zero cases as soon as possible and to prevent outbreaks in any new countries. The crisis has brought healthcare, education and economic activity to a halt in the affected countries, so we need to try to rebuild them. That is where our priority will remain: on recovery and transition plans, with the £54 million that we have committed. We will mobilise a team of people from McKinsey to work with DfID staff and UK military planners to help the President of Sierra Leone to develop the plan. We will support the building back of better services and help the Government to make the reforms needed for strong and sustainable development.

The UK is the largest bilateral donor to Sierra Leone, and as the Prime Minister set out at the G20 meeting we are committed to supporting long-term recovery across the region. We do not want to make short interventions, and we are supportive of the President's long-term plan. This is a real moment for change, because we will be able to help to define how international assistance can make the best contribution to tackling poverty and accelerating development over the coming years.

The noble Baroness asked about direct flights. The response from the Government must first and foremost be the safety of the British people. The decision not to commit to direct flights was part of the Government's overall strategy to mitigate the risk of Ebola entering the UK. The change in the Government's position is only possible once we are content that there is no risk to the British public and that the risk has been sufficiently reduced.

A number of noble Lords asked about the reform of the WHO and what we are doing. We have been driving WHO reforms since 2010 following the Ebola crisis. We have reassessed ongoing reforms and accelerated progress to improve its effectiveness alongside ongoing improvements in human-resources processes, including the adoption in January of this year of the new staff mobility policy and a much more robust performance management policy. We will continue to highlight with organisations such as the WHO, where we need to, the need to make sure that they are delivering and responding quickly and effectively to countries so they do not have to wait for assistance.

On 7 June this year, the Prime Minister announced that the UK will establish a new group of six to 10 expert staff, mainly infection control specialists and

[Baroness Verma]
infection control doctors, who will be on permanent standby, ready to help countries respond rapidly to disease outbreaks. We will ensure that the UK's rapid reaction unit and the deployment of reservists through DfID-funded UK-Med will complement WHO's global emergency workforce to ensure a co-ordinated response on the ground.

I have run out of time and I have a pile of responses yet to deliver, so I undertake to write to all noble Lords. This is a journey that we need to make together to build a better future for countries such as Sierra Leone.

Cities and Local Government Devolution Bill [HL]

Committee (3rd Day) (Continued)

8.32 pm

Amendment 44DE

Moved by ***Lord Teverson***

44DE: After Clause 9, insert the following new Clause—

"Function of making representations on transport issues

(1) The Secretary of State may by order provide that it shall be a function of a combined authority to make representations about transport issues affecting the area of that authority.

(2) If a combined authority has the function described in subsection (1), that authority shall be consulted on relevant transport issues.

(3) In this section "transport" means—

(a) rail,

(b) roads falling within the competence of the Secretary of State,

(c) airports, and

(d) ports.

(4) In this section "transport issues" includes—

(a) proposals for new transport infrastructure within the area of the authority, and

(b) changes to proposals or decisions previously announced by the Secretary of State on transport infrastructure within the area of the authority."

Lord Teverson (LD): My Lords, I speak on this amendment put forward by my noble friends Lord Shipley, Lord Scriven and Lady Pinnock. As we know, one of the key tasks of combined authorities—and one of the key areas where we expect there to be strong synergies, better co-ordination and economic stimulus—is transport and changing transport arrangements. We have seen how in London transport is absolutely essential, and an important part of the mayor's role; in fact, many people would say it is perhaps the only effective part of the mayor's role in London. Although we are not comparing London with the other metropolitan areas, it is still a very important area—we have seen that from the recent debate in terms of the northern powerhouse and all the transport arrangements around the Greater Manchester authority, and the others proposed in the north, and indeed joining up those combined authorities that are likely to happen in the north of England.

The purpose of this amendment is simple. Given that this is such a core element of any proposal for combined authorities and the relationship between the Government and those authorities, there should be a very clear form of communication, consultation and exchange of information between those authorities and the Secretary of State. As and when those combined authorities come about, there is then an obligation, once it has been entered into, for the Government and the Secretary of State to communicate transport issues—whether that be rail, roads, airports, or ports—with the combined authority, and for a consultation to take place. Clearly, this is important and part of what will happen.

This has been shown to be very important because, since we had the debate on the northern powerhouse and the transport elements and connectivity of that, already we have had a major change. The following week we heard that a core part of the northern powerhouse strategy—the electrification and improvement of the line on the TransPennine Express between Manchester and Leeds—is postponed. We hope that it is only postponed but it appears that we will all have to catch our breath and wait during the whole of the summer until Network Rail, in conjunction with the department, decides the fate of something that was seen to be absolutely core to the northern powerhouse and the new potential combined authorities.

There is no better illustration than this of why such a change in the Bill is required, in order that there will be real communication, advance warning and consultation between those authorities, the Secretary of State and the department, let alone all the public who are affected. That announcement, which was made so soon after we had the debate, and was apparently a surprise and a new announcement, came very soon after all the big promises and the energy that the Chancellor and others put into the concept of the northern powerhouse. This amendment is nothing more than a sticking plaster but we hope that it would work better for the future and ensure that such an incident does not happen again. I beg to move.

Lord Beecham (Lab): My Lords, there is a good deal of sense in this amendment. Of course, there are areas—my own is one of them—in which transport issues were effectively run, so far as the Metro system is concerned, for many years by the local authorities before the combined authority came into being. The combined authority currently oversees the function. In relation to roads in particular, I said at an earlier stage of the Bill that, in my part of the world at any rate, the experience of local authorities with Highways England—as I now understand it to be, as opposed to the Highways Agency—is far from satisfactory. What would be the relationship there? Would it be a direct relationship with the combined authorities—Highways England is not really organised on a basis comparable to local government—or would it be via the Secretary of State? It is a matter that needs clarifying. The general thrust in this is one which we would support.

Lord Scriven (LD): My Lords, I am pleased to put my name to this amendment and I thank my noble friend Lord Teverson for outlining the reason why it is

necessary. On the face of it, it would not seem necessary to have such an amendment, apart from the announcement made last week with regard to major transport infrastructure and electrification of all the rails in the north of England. Let us assume that we have this new system of decentralisation or devolution, and a number of combined authorities and mayors are making significant investments in their areas with regard to the environment and the economy, having been promised that major infrastructure will be invested in to make their rail system faster and the major cities of the north connected, and to help economic activity and to speed up the way in which commuters and people can travel.

Let us further assume that, with no consultation or prior warning, the Government pull that major investment, or pause it or kick it into the long grass—whatever phrase is used. For several years, combined authorities and mayors might have been making strategic investments about the location of economic zones or other infrastructure that fits on to the railways in which the Government said that they would invest. That is why the provision needs to be in the Bill. The Minister said that such things would of course be discussed and a requirement did not need to be written into the Bill, but we now have a real case in which dozens of leaders in the north of England have not been consulted about a major change in government infrastructure funding.

We have gone from the northern powerhouse to the northern power cut in the blink of an eye. We are talking about devolution and decentralisation in which significant responsibilities and money for transport will be handed down to local areas, and strategic decisions will be made not in a vacuum but in relation to national government infrastructure. Local areas will be not only consulted but seen as equal partners so that their investments and plans are taken into consideration when the Government invest; and so that the Government keep local areas informed truthfully, openly and honestly about decisions on infrastructure, whether roads, rail, ports or aviation. This is not a made-up scenario; it is a real scenario that happened last week. It is important that it is written into the Bill that areas that have devolved powers should be consulted or warned about government transport infrastructure decisions, and that the area's ideas are fed into the national plan.

I am happy to support the amendment and I ask the Minister to accept it. Last week shows exactly why the amendment needs to be in the Bill. We need to enable not just the Government but combined authorities, which will be making significant decisions about their local transport systems, to make strategic decisions.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I will respond first to the point made by the noble Lord, Lord Scriven. I will talk later about the Northern Hub and my perspective on it, having worked on it some years ago.

The amendment is not necessary because existing legislation already enables the Secretary of State to confer by order transport functions on a combined authority. In such circumstances, a combined authority with strategic responsibilities is able to make representations about decisions that are likely to impact on its area and how it exercises those transport functions should it decide to do so. On the point about combined authorities being consulted, I can confirm that, wherever appropriate, the Government would expect to consult all local authorities, not just combined authorities, on new infrastructure in their area, whether that be transport or otherwise.

However, the Government must have discretion to take decisions about the future and prioritisation of national assets across the country, some of which—for instance rails and roads, to which the noble Lord, Lord Beecham, referred—run through many local authority areas. Of course we would expect to engage with local areas on the impact of such changes. One of the advantages a combined authority brings is that it enables the Government to focus their engagement on issues such as transport with a single body that can represent its constituent authorities on strategic responsibilities across a wider area.

8.45 pm

The noble Lord, Lord Beecham, asked about the relationship with Highways England. The relationship would depend on the deal. For example, with the Sheffield deal agreed in December, the combined authority and the local enterprise partnership will have a key role in developing strategy with Highways England and Network Rail.

Returning to the Transport Secretary's Statement of 25 June, this followed the publication of Network Rail's annual report. To secure growth for the future the Government have set out the most ambitious programme since the Victorians—a £38 billion programme for enhancing and maintaining the current network. However, important aspects of Network Rail's investment programme are costing more and taking longer and performance should have been better. The Transport Secretary has been clear that he wants it sorted out. This is not a process about cuts: after years of long-term underinvestment the Government are focused on securing the vital benefits that these schemes will provide. The Government's enhancement programme is ambitious and stretching and needs to be replanned over a longer timescale to ensure that it remains deliverable and affordable. The Secretary of State has asked the new chair of Network Rail to report back to him in the autumn and he will update the other place.

I do not remember which noble Lord—I think it may have been the noble Lord, Lord Teverson—said that this scheme was announced very recently and has now been scrapped. As I said, I worked on the Northern Hub scheme some three or four years ago. The announcement was made in 2012 and some of it has been delivered. The noble Lord is right that it has been paused—not indefinitely delayed—at this point and I hope that there will shortly be a statement about its continuation.

Lord Teverson: No one more than me welcomed the ambitious £38 billion investment which has been shown to be overambitious. Part of that investment programme was introduced during the coalition Government and, no doubt, there were creaks in it even at that time.

[Lord Teverson]

The Minister has tried to assure me that this is not necessary but was the Midland main line and the TransPennine Express announcement as much news to the local authorities as it was to us? The momentum and rhetoric of the Government since the election, particularly out of the Treasury, has been about pushing this programme forward. This makes it even more incredible that suddenly it has hit the buffers, to use the cliché, literally within a week of this amazing government rhetoric. Did the local authorities get any inkling of this before the public and the House?

Baroness Williams of Trafford: I cannot confirm that those local authorities had any inkling—there is no one from Manchester or Leeds here this evening—but, as I tried to say earlier, the Northern Hub, as a project, is well under way. This aspect of it has been paused—not stopped—and I fully expect it to continue.

Lord Scriven: The purpose of the amendment is not to say that it has not altered. Let me give a practical example. If a local authority, LEP or combined authority agreed with a multinational investor a decision about the placing of a factory or economic unit and then out of the blue, without any consultation or pre-warning, this major transport electrification on which the investment is predicated was postponed, what would that look like to the international investor? How do the combined authority and the mayor respond? The whole purpose of this Bill is for the mayor to have some form of accountability and authority to deliver on the powers that are handed down or in partnership with national bodies.

The amendment does not ask for them to override. It says that if something like this happens, it is in the Bill that the Government, as a matter of courtesy and of strategic planning with that combined authority and mayor, will pre-warn and discuss some strategic changes that may be made so that they can reassure people who are either investing there, or there already, rather than being left startled and unable to answer the significant questions that investors will be asking.

Baroness Williams of Trafford: I take the noble Lord's point that if an international investor was reliant upon the fact that the Government had made an announcement about something and then a mayor or combined authority proceeded in that way, it would be very difficult. I have just been passed a note about the Transport Secretary, who gave evidence to the Transport Select Committee in March. He was at that point raising concerns about the cost and the programme delays on the TransPennine link and First Great Western. Transport Ministers answer questions on rail issues all the time. Uncertainty is a natural part of a huge programme; I think that all noble Lords would accept that. The timetable is subject to continuous review as plans develop and the Transport Minister has set out his plan for addressing, not scrapping, the situation. I hope that that comforts the noble Lord.

Lord Teverson: My Lords, I thank the Minister for her reply. There is a real problem here and it is something that needs to be fixed. I do not in any way question her or her department's will that this project happens or that they will communicate with the combined authorities, but the track record shows there is a need here. I will think about that further. In the mean time, I beg leave to withdraw the amendment.

Amendment 44DE withdrawn.

Clause 10: Governance arrangements etc of local authorities in England

Amendment 44E not moved.

Amendment 44F

Moved by ***Lord Shipley***

44F: Clause 10, page 10, line 25, at end insert—

"( ) Where regulations under subsection (1) apply to local authorities in areas not part of a combined authority, the Secretary of State may allow for the local authority to enter into collaborative working arrangements with a mayor or other appropriate governance structure operating in a city or metropolitan area."

Lord Shipley (LD): My Lords, I will speak to Amendment 44F very briefly. We had a helpful debate last week about the nature of a combined authority which had close to it less populated and rural areas that nevertheless were part of the urban area in terms of service provision. What we have here is a form of words which I hope the Minister may find helpful, in that it enables maximum flexibility but protects the rights of rural areas. It is a statement of principle about the opportunity for local authorities, which are not part of a combined authority but may be close to it, to enter into collaborative working arrangements with a mayor or other appropriate governance structure which operates in a city or metropolitan area. I hope the Minister finds it a helpful amendment because it is a statement of principle and would enable rural areas to feel more integrated, rather than taken over by urban areas. I hope she is able to think about this amendment and that we can pursue the matter further on Report.

Lord Liddle (Lab): My Lords, Amendments 44H, 44J, 44K and 44L are in my name. They are probing amendments, and in speaking to them I am very proud to declare an interest as a member of Cumbria County Council. I speak to these amendments with the full support of the Labour leader of Cumbria County Council, Stewart Young. I very much hope that the outcome might be some kind of constructive cross-party—I emphasise that—dialogue between the county council, the generality of local government in Cumbria and DCLG Ministers about how best to streamline what are really cumbersome arrangements for local government in our county in the wider public interest.

We desperately need a simplification of the present structures to provide better value for money at a time when things are very tight and will possibly get a lot worse; to make local government more effective at doing its job with limited resources; to improve democratic accountability and closeness to the people for the entirety of the services that we deliver; and, most importantly in the context of the Bill, to enable the people of Cumbria and the new authorities in Cumbria

to seize the opportunities for devolution of power from an overcentralised Whitehall that the Bill is all about.

The amendments are to Clause 10. We are quite far along in our deliberations but it is the clause that justifies the inclusion of "and Local Government" in the title of the Bill because it widens the scope of what we are talking about from what I think in reality initially started out as a big cities government Bill into something that can transform local government in many of our smaller city and county areas. I remind my Labour colleagues that I think this is in line with the party policy at the last election, where we stressed the importance of devolution to county regions as well as city regions.

Clause 10 does not seek to impose a single model on local authorities, and that is very welcome. That flexibility is right but the aim of the amendments in my name is to remove what we in Cumbria believe will be an insuperable obstacle to the necessary transformation of structures; that is, the requirement in Clause 10(3) that regulations can be made,

"only with the consent of the local authorities to whom the regulations apply".

This requirement for local government unanimity—in my view and, I venture to say, in the view of many people in Cumbria—gives far too much weight and leverage to what I would describe as the forces of small "c" conservatism. I hasten to add that the position I am putting forward is supported by many large "C" Conservatives in the county. This is not a party issue; this is a view that unites people across the parties in my county council.

My amendments try to offer a number of options for what could take the place of Clause 10(3) to facilitate the creation of new single-tier councils in what are at present two-tier local government areas. I emphasise that in Cumbria that would not necessarily be a single, unitary council but it would be a streamlined model of authorities. In our view, substantial consensus in the community would be necessary to support such a measure but not unanimity, which experience has shown over 25 years—it has been 25 years since this was first discussed—is impossible to achieve. I am putting these amendments forward as options. Some are mutually contradictory. We are interested to hear what the Government think and whether they are prepared to move on this question.

9 pm

We are putting forward what I would describe as a proposal to enable the Government to be permissive. It would allow progress, which is so important, and I would like briefly to concentrate on the reasons why.

First, in the age of austerity that we are in, unifying councils will save considerable amounts of money. We have to be grown-ups. We know that there is going to be an intensification of austerity, probably starting with the Budget next week. It is our duty as elected representatives in our county to try to safeguard front-line services as best we can in these circumstances. I am not trying to generate a political argument. I just think that it is the clear duty of everyone, of whatever party, to try to do their best to maintain front-line services. We commissioned a study from EY, which said that having a unitary authority for the whole of Cumbria would save at least £28 million a year in operating costs, which is about 6% of the revenue budget of the county and district authorities combined. That is a substantial saving. Even if the necessary savings might be double—or in the worst-case scenario, triple—6%, that would be a substantial chunk of the savings that the county would have to make in the process of fiscal consolidation, and I am told that the evidence is that where unitary authorities have been established the savings have been rather larger than initially anticipated.

Secondly, it is important to concentrate functions in a single authority if we are to be effective in local government. It really is a nonsense to have planning in one place and economic development in another, to have rubbish collection in one council and environmentally sustainable disposal in another, or to try to have a transport plan if one council is in control of highways and another of off-street parking. There are innumerable instances of this kind. So, for effectiveness, this change is desirable.

Thirdly, it would improve democratic accountability. The great problem with the present arrangements is that it is the under-resourced, tiny district councils that see themselves, and are seen by the public, as the local voice of the people, although they are largely powerless in reality to turn that voice into action, while the county council—which has 85% of the resources—is by definition seen as remote and people do not understand it. It is unhealthy for local democracy to have this division between a pretty meaningless local accountability and a council that is remote from the people, and it is bad for the attitude of the people who work in the authorities.

Fourthly—this is the key point in relation to the Bill—it is only through having a scheme of local reorganisation that we will be able to take advantage of the further opportunities for devolution in the Bill. I think the Minister had an exchange last Wednesday with my noble friend Lady Hollis. She outlined how there could be a local level combined authority, which could then be part of another combined authority, which could then be part of another combined authority. The Minister was very clear that this Russian doll model would not work. If in Cumbria we are to play a part in the devolution of power, we have to find a way of simplifying our local government structure. That is vital if many local problems are to be addressed. For instance, a unified council in north Cumbria could ask to become part of the combined authority being established in the north-east to try to improve east-west communications, or we could try to extend the remit of our LEP outside Cumbria by partnering with others to address issues such as regeneration, business growth and skills, where we are just too small to get a handle on those things.

One of the biggest problems, although it is outside the Minister's remit, is that we have some of the worst-performing health bodies in the country in our county. They are running up very big deficits. The solution to all the bed-blocking and the problems that exist has to be much closer integration with social care. There has to be a way of doing that, but it would be very difficult to do it with a two-tier structure.

[Lord Liddle]

For all those reasons I am hoping that this set of amendments will generate a discussion. I know that the argument has previously been made that, "We don't want to waste time on local government reorganisation, and anyway we will only consider proposals for its reorganisation if everybody is agreed on a way forward". I think that many of the noble Lords in the Chamber come from metropolitan areas. Although there have been strong competing rivalries between councils in metropolitan areas in the past, a strong mutual interest has prevailed in those rivalries. In two-tier areas, it is different. There is an inbuilt structural tension between the authorities and conflict between them. There is a debate which is existential for quite a few people, and you will never get agreement. That is why I am asking not for the Secretary of State to dictate but for an openness to incentivise local authorities to talk to each other and begin to reach an agreement by saying, "There are circumstances in which we could go ahead and streamline local government even if we don't have unanimity". I leave it there for now, in the hope that the Minister will take on board some of this unsolicited advice.

Baroness Royall of Blaisdon (Lab): My Lords, it is a pleasure to follow my noble friend. I agree with much of what he was saying, especially in relation to county regions. I apologise for not having participated in the debate beforehand, but much of it has of course been about metropolitan areas and the growth spur needed for them. I fear that in county areas we will be left behind even more, so I hope that the Government will soon come out with some ideas about what they will be doing about county regions, because those are fundamental to the well-being of our country as a whole.

The Explanatory Memorandum clearly states that the Bill is to,

"support delivery of the Government's manifesto commitment to 'devolve powers and budgets to boost local growth in England', in particular … 'economic development'".

That is absolutely fine and we could agree with it all over the Chamber. However, the potential of devolution is far more than economic. It should be about much more than our economic well-being. It should be about the devolution of power not just to local politicians but to communities and citizens. It should be about the devolution of functions and powers to the lowest possible level, and about empowering citizens. It is an opportunity to reconnect people with politics and to help restore trust in our system of governance. Like all noble Lords, I am concerned about the rise of populism in this country—indeed, throughout the European Union—and my amendment seeks to address people's feelings of distance and alienation, albeit in a very small way. This is about a new politics, a new way of doing politics, which I believe is necessary for the democratic well-being of our country.

I draw noble Lords' attention to an excellent publication by Claudia Chwalisz of the Policy Network and the Barrow Cadbury Trust entitled *The Populist Signal: Why Politics and Democracy Need to Change*. Drawing on new survey data in the UK as well as interviews and case studies, the publication shows that people are concerned with the process of politics, not merely its performance, and that they have genuine desire for greater political participation in the decision-making process. It cites examples of interactive forums such as citizens' assemblies, which allow political institutions to involve citizens in making decisions that affect them. These are not a threat to formal systems of government but much-needed additions to enrich democracy. People might not trust politics, politicians and policies, but they do want to be engaged in decision-making about the services that most affect them.

Young people in particular want a different way of doing things in place of the hierarchical, top-down ways of traditional politics and governance. It seems to me that the Bill could provide an opportunity to encourage local government to devolve powers to local communities and citizens. When people feel, as they do, that the current system does not work for them, populism comes to the fore. The devolution of power to the people is a means of countering the simplistic attractions of the populists, who are feeding off anger and a politics of grievance. This means that politicians at local as well as national level must loosen their grip on power, not just between different levels of government but directly to communities and to individuals as well. It means empowering people and giving them a voice. By this I do not mean consulting local people and then taking no notice of their views; I mean involving them in making important political decisions and enabling them to shape their local services.

There are already some excellent examples of where this sort of policy has been successful. I am sure that many noble Lords can cite examples. I know that my honourable friend Steve Reed, when leader of the council in Lambeth, shared power with, for example, tenants on local estates and with young people in respect of youth provision in their locality. I know that Councillor Sharon Taylor, the excellent leader of Stevenage Council, is doing likewise.

I recognise that it will take some time to familiarise people, including elected politicians, with the idea that "ordinary citizens" can and should be involved in making important political decisions and being properly empowered. Voting, in terms of engagement, is not working, and we have to find new ways of engaging people. It is all very well for us to consider the devolution of power and budgets, but it is the citizens of our country whose views must be taken into consideration. Their voices must be heeded. In doing so, the Government and local government would help to bridge the widening gap between people and politicians, as well as improving their citizens and their lives. The amendment before us now would go some way to addressing these problems, and I hope that the Government will take it into account.

Lord Scriven: I will very quickly say that I fully support everything that the noble Baroness, Lady Royall, said. When I was leader of Sheffield City Council, we did things such as devolution down to citizens and communities, participatory budgeting, restorative justice—all the things that gave people not just power but actually a stake in the community—and they became authors of a better communities and better well-being where they are. I fully support that,

because at times we talk about devolution but we talk about it to a body rather than actually empowering our citizens and our communities to be part of that.

Following on from that, I would just like to comment on some of the things that the noble Lord, Lord Liddle, said. He talked about not wanting to impose, but then spoke for quite a long time about one county—his own—coming around to a unitary authority, and what that might mean. He said that he did not want the Secretary of State to dictate, but that is exactly what Amendment 44L would do. The Minister has heard me for the last few days talking about things that I want in the Bill. This time I shall probably support her saying that she does not want this in the Bill. Amendment 44L would completely change everything about an empowering and enabling Bill. It says that,

"where there is no agreement by all the local authorities to whom the regulations are to apply on the arrangements under subsection (1), the Secretary of State may make provision for unitary governance arrangements based on recommendations of a body appointed by the Secretary of State".

That basically means dictation if there is no agreement in that area. That is what the amendment actually says.

9.15 pm

I would say to the noble Lord, Lord Liddle, in terms of the things that the noble Baroness, Lady Royall, said, that there are governance issues there. He said that there was confusion and that power needs to be as close to local people as possible. One thing that could happen is that you could devolve from county down to district. There is nothing stopping that, and it would be within the remit of a devolutionary-type Bill that that could happen.

Lord Liddle: Could I just make clear what I thought I had made clear in my speech? I was not saying that the only model that was possible was a unitary authority for the whole of Cumbria.

Lord Scriven: I understand what the noble Lord says, but the Bill says that when there is disagreement you would be pushing for unitary authorities or an authority—one or more—in an area where that might not be needed. That is what Amendment 44L would dictate would happen if there was no agreement. It could be one unitary or two or three unitary authorities within the area. The principle of having an amendment that forces unitary authorities on areas that do not want them is not in the spirit of how I see devolution.

Lord McKenzie of Luton (Lab): My Lords, we have Amendments 44G and 45A in this group, to which I shall speak first. Amendment 44G is an attempt to address in part the concerns expressed by the Delegated Powers and Regulatory Reform Committee at paragraph 17 of its first report this Session. Again drawing attention to the wide powers in Clause 10, the committee states:

"We are not convinced that requiring the consent of the local authorities affected is by itself a sufficient control over the very wide powers conferred by clause 10. In our view the delegation is inappropriate without the exercise of the powers being made subject to similar constraints and protections as those which apply to the establishment of a combined authority under Part 6 of the 2009 Act".

The amendment that we are talking about requires that when exercising the power under Clause 10 the Secretary of State must,

"reflect the identities and interests of local communities and to secure effective and convenient local government".

It is difficult to see why the Government should object to any of that. Since then, and only today, just before the Committee met, we had the opportunity to see the Government's reply to the committee's deliberations, in which the Minister says that these regulations are not of themselves establishing new structures or governance arrangements but modifying where all the councils concerned consent to processes for merging authorities, creating unitary authorities and reducing the number of councillors to fast-track these processes. This is not a sufficient distinction to say that we should eschew the recognition that these processes should reflect the identities and interests of local government.

Amendment 45A is also addressed by the DPRR report and would remove the subsection that removes the denial of the hybrid procedure. We know that this is not unusual in legislation. Indeed, in the case of Ebbsfleet, for a limited period, with our reluctant agreement, it was instigated, but there is normally, surely, an alternative mandatory consultation process that is laid down as a substitute. That is what happened in the case of Ebbsfleet. Where is the process in that situation? On what basis is the hybrid instrument process, if applicable, to be denied if there is no alternative procedure on offer?

Amendment 44F, in the name of the noble Lord, Lord Shipley, seems entirely reasonable to us, and the Minister may say whether it is necessary to provide specifically for this in legislation. Are not associate membership arrangements already in operation in certain circumstances?

Amendment 46A, in the name of the noble Lord, Lord Shipley, in part mirrors an early amendment that we tabled. We have no great objection to the establishment of an independent commission to review and advise on the progress of devolution, but we need to be mindful of not creating another tier of bureaucracy and a process that might drive uniformity on these matters. My noble friend Lady Royall is right to focus on how devolution is working for communities and individuals. Putting decision-making and policy formation closer to communities and individuals and getting their engagement is one of the fundamental reasons for embarking on this process, or should be. Of course, it will be an evolving process and nowhere near complete in six months, although we need to give it impetus from the beginning.

As for the issues raised by my noble friend Lord Liddle, I fully understand the desire to have a single-tier or unitary authority. I know that in our own local case in Luton it has transformed the opportunity to deliver and join up services in the town. The difficulty that we face, whether it is a county council seeking unitary status or the reverse, is that just one council holding out and not agreeing negates the opportunity of Clause 10,

[Lord McKenzie of Luton]
but I say to my noble friend that it operates in two directions. If our noble friend Lady Hollis were here she would say in no uncertain terms that having the need for unanimity has destroyed the opportunity for Norwich to get unitary status.

I think I may have a way through this, and perhaps the Minister might comment. I am not sure that the provisions are still in operation, but about six years ago there were successful attempts to get unitary status for Exeter and Norwich. The enlightened Government of the day supported it, but unfortunately it was judicially reviewed, and when the coalition Government—the coalition of Liberal Democrats and Conservatives—came in they overturned the decision. There is a serious point here: there are big towns and significant cities, such as Cambridge, Norwich and Exeter, that believe that any decent economic analysis shows that they can deliver more effectively for their communities if they are part of a unitary authority. In a sense, my noble friend's amendment to deny the need for unanimity would have its problem in one direction or the other.

I entirely accept the point that we would not want to leave it up to the Secretary of State in any unfettered way, but should we not be thinking perhaps of establishing some criteria such as those that were certainly applicable at that time, as I recall: an assessment of whether the cities involved could benefit from unitary status and whether it added value to their communities? Certainly, that was the initial assessment in the case of Norwich and Exeter. Perhaps revisiting some such criteria, if those procedures are not still around, might be worth while. I accept entirely that devolution to county regions is party policy, and heaven forfend that I should not support party policy. We can see the benefit of unitary status for counties, but it is a two-way street and it can have an impact in the other direction.

My noble friend referred to "tiny district councils" being largely powerless, but they are seemingly not so powerless when they can stop a unitary authority. However, we are not talking about tiny district councils; we are talking about significant district councils that are being denied the opportunity of unitary status and all that that could bring, just as it could to a unitary county council in Cumbria.

Lord Woolmer of Leeds (Lab): My Lords, I will address this issue in relation to combined authorities and take up the points raised by my noble friend Lady Royall. In relation to combined authorities, in reality a lot of the deals are being done in discussions between leaders of authorities, the department and the Treasury. There is a danger of a democratic deficit: that is, the deals that are being done are not necessarily devolution with the wholesale endorsement and support of the wider population. They are being done behind closed doors, with detailed and close negotiations, and afterwards people are being invited to accept that—indeed, not only to accept that but to accept an elected mayor, which in some cases fairly recently they have rejected.

So there is a problem: in order to make haste with the underlying drive of this legislation, there is a strong temptation to consult and persuade people after the event rather than beforehand. That is probably inevitable. However, I say to my colleagues, certainly in my part of the world, that ensuring that people accept this, agree with it and are enthusiastic about it will be an enormous job. They will be faced by what is pretty well a take it or leave it situation. They will not have played a great part in this. Of course, their elected representatives will have done—that is, indirect democracy—but that does not necessarily mean that people at large will have done. I said earlier that I am very enthusiastic about a combined authority for the whole of Yorkshire, which has 5 million people. However, it is enormously difficult to involve 5 million people beforehand and to find out whether they agree. Indeed, there will always be people who strongly disagree.

Therefore, there is a problem here that not merely the leaders of authorities but government Ministers have to deal with. To say to people, "We've done a deal behind closed doors and this is what the devolution package looks like", is hardly taking people with us. I say to my colleagues around Yorkshire—we have the former leader of Sheffield here—that there will be a big job to do in making the move from doing a deal with the Government to forming a large combined authority and it being something that people are enthusiastic about. I hope that in the fullness of time this will have the enthusiastic endorsement of the wider electorate and that they will be given an opportunity to express their opinion at the ballot box. There is no suggestion that there should be a referendum on a large combined authority or on a mayor, so there will be, in my terms, a democratic deficit. People will have to work hard to ensure that there is gradual and significant support for the driving aim of this legislation in the large metropolitan areas.

9.30 pm

Baroness Williams of Trafford: My Lords, I thank noble Lords who have all made interesting points this evening. On Amendment 44F, I can confirm that there is nothing at all which would prevent a local authority from working in partnership or collaborating with other authorities in its area, or across other areas. Indeed, the Government encourage collaborative working as an integral part of providing better services for local people and providing value for money for local taxpayers. However, we do not see that it is necessary for the Secretary of State to provide for any such collaborative working by order. It is for local authorities to enter into partnerships where they consider that it would be mutually beneficial and provide value for money for the taxpayer, and it is not necessary for such arrangements to be established in statute.

Amendment 44G seeks to insert a new paragraph into Clause 10(1), requiring the Secretary of State to have regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local government. In response to the debate we have just had on this, and the number of interesting points that have been raised, I hope that it may be helpful to noble Lords if I set out briefly how we envisage that the Government may use the powers being taken under Clause 10 in support of any proposals that are submitted to us in the context of devolution deals.

The regulations in Clause 10 are not themselves about creating new governance structures, for example creating new unitary councils or merging councils. Rather, the regulations are about modifying the processes in particular cases. An example would be enabling, in the case of a particular deal, the processes for establishing new governance arrangements to be fast-tracked if all the councils involved consent. The processes for establishing unitary councils and merging councils are currently set out in Part 1 of the Local Government and Public Involvement in Health Act 2007. It may be that a bespoke devolution deal is agreed with an area which involves changing the governance arrangements in the area in a way that results in a move to more unitary structures, perhaps also involving some merging of authorities.

All the councils involved have agreed these changes. Furthermore, all these changes will have been developed as part of the discussions, negotiations, and engagement by councils with their areas, which have led to the development and finalisation of the deal. With the deal agreed, all will want to see it implemented as quickly as practicable. The regulations under Clause 10 can help fast-track the processes. These regulations can modify the application of the 2007 Act processes for bringing about these governance changes in the particular circumstances of this agreed devolution deal. Such regulations, which would require the approval of both Houses of Parliament, can be made only with the consent of the local authorities to whom they apply.

However, we do not see these regulations bringing into play different fundamental principles underpinning the Secretary of State's consideration of matters as provided for by the existing statutory processes for making governance changes. We see them modifying such processes, such as the processes in the 2007 Act which I have mentioned in the example I have just described. Where the processes of governance change involve the Secretary of State being required to have regard, for example, to the need to reflect the identities and interests of local communities, and to secure effective and convenient local government, this will continue to be the case. Accordingly, the amendment proposed is not necessary and I would hope that, given this explanation, the noble Lord will agree to withdraw it.

Amendments 44H, 44J, 44K and 44L appear to envisage a situation in which a change to unitary governance arrangements is supported by the local authorities that have agreed that such restructuring should form part of a devolution deal, and in relation to which the Secretary of State would then make regulations, but they cannot agree on the detail of such restructuring. In these circumstances, it provides that the Secretary of State may nevertheless make regulations, either with the consent of the principal authorities to whom the regulations are to apply; or after consideration of any demonstration of support from key organisations and citizens in the affected area; or, where provided, on the advice of the Local Government Boundary Commission for England. On the face of it, this amendment would provide the Secretary of State with some flexibility to determine the arrangements to be put in place where these cannot be agreed by the affected council, and to do so by drawing more widely on the views of others within the authorities or, indeed, other bodies.

However, this is to suggest that it is the Secretary of State himself who in some circumstances should be determining the aspects of the devolution deal. In reality, and as we have discussed, the process that we are putting in place and the flexibilities we seek to provide are all focused on ensuring that any proposals for a devolution deal put to the Government, and which may or may not include structural change, are negotiated and agreed with the Government by all the councils concerned. The purpose of any subsequent regulations made by the Secretary of State is to implement the proposals that have been agreed as quickly and effectively as is practicable and with the consent of the local authorities to which those regulations would apply. It is not the role of the Secretary of State to use the regulations he makes to paper over any cracks or to impose any kind of solution that does not reflect the deal that has been agreed.

At this point, I say that I have a lot of sympathy for the points made by the noble Lord, Lord Liddle. I can see exactly the problems to which he is referring. In a way, it is a test of the leadership in that area to agree. To amend that in some way undermines the whole process of devolution and the fact that this is an enabling Bill. I think that we had a corridor conversation at one point, and I am very happy to talk to the noble Lord on a one-to-one basis—if he was running Cumbria, he might have sorted something out by now because he seemed to have it absolutely right on how to do it. However, it does have to be locally led, but I am very happy to sit down with him and perhaps discuss some of the issues and see whether there are other mechanisms by which Cumbria's ambitions could be realised.

Amendment 45A seeks to delete the provisions in the Bill providing that any regulations made under this clause are not to be considered to be hybrid. This approach of disapplying the hybridity processes from secondary legislation that makes provision about particular areas is well precedented. Our aim, as I have explained to the House, is to agree bespoke devolution deals with particular areas. To do this, we envisage following a process that begins with the Government having conversations with areas about their proposals, their ambitions and the aspirations of their communities. Through these conversations, agreement will be reached between the Government and an area on the deal; that is, the agreement about the powers and budgets to be devolved to the area and about the governance arrangements to be put in place to support these powers being confirmed on the area. Strictly, of course, those arrangements will be with the democratically elected representatives of that area. In developing their proposals and reaching agreement, those representatives will engage with businesses, communities and local people in that area; in short, they will engage with those who will be affected by and will benefit from the devolution deal.

The parliamentary process is to provide Parliament with the opportunity to agree or, if it sees fit, reject the devolution deal that the Government and an area have concluded. Parliament will have before it in the

[Baroness Williams of Trafford]
Explanatory Memorandums details of the devolution deal that the secondary legislation under consideration is seeking to implement. As I said in debates last week, I am prepared to consider whether it might be appropriate for further information to be made available about any devolution deal under consideration. In these ways, Parliament will have available to it all the information it needs to reach a decision on the secondary legislation, and those affected by the legislation will, through the local deal-negotiating processes, be able to make the inputs they may wish to the deal. There is thus no need in the case of these instruments to apply the hybrid procedures.

Further, and as we have discussed in previous debates, once the negotiation of any devolution deal has been concluded, we are anxious to ensure that the proposals can be implemented quickly and to the benefit of all concerned. The hybridity process would delay the delivery of those benefits. I hope that the noble Lords will agree not to press this amendment.

Amendment 48B would insert a new clause placing a statutory duty on the Secretary of State to provide a report to Parliament on the involvement of communities and local electors in the process of devolving power from central government to local and combined authorities. I completely agree that devolution proposals should show how communities will be engaged. However, the important thing here is not putting in place a tick-box requirement in legislation. Instead, the key issue is how central and local government work together to make sure that all deals include agreement on how power and responsibility will be shared with communities and individuals to mutual advantage. As with other aspects of a bottom-up exercise, obviously we would welcome applications from areas with ideas for incentives for this as part of any deal. The noble Baroness, Lady Royall, talked about the importance of counties; naturally we would love to hear from counties.

We believe that devolution to neighbourhoods can deliver better outcomes and more efficient services in many cases. We are aware of lots of examples of neighbourhoods and parishes taking on services. Cornwall, for example, has set out a framework for devolution to town and parish councils and community groups. We will be actively asking how local authorities will work with communities and neighbourhoods in delivering devolved services, and I have asked my officials to work with places in developing further ways to incentivise this.

There are already mechanisms—for example, parliamentary Questions and debates—by which Parliament can call Ministers to account. The secondary legislation to complement each deal will be scrutinised by both Houses of Parliament and approved by them. This is a process that involves a detailed Explanatory Memorandum being laid before Parliament.

A process for evaluating the progress on deals will be discussed with each area on a case-by-case basis. For example, as part of its devolution deal, Greater Manchester will be required to put in place an extensive programme of evaluation, agreed by the Treasury. Evaluations will be public documents, available to all Members of the House. Accordingly, I do not believe that it is necessary to place a statutory duty as per these amendments.

I have a final point in response to the noble Lord, Lord Woolmer, who made a crucial point about wider endorsement by the public. While this is not the London mayor, and Greater Manchester and Cornwall are not London, I see the London mayor as an example of where, as time has gone on, not only has the mayor been better understood by the public but the engagement of both Mayor Livingstone and Mayor Johnson with the people of London has enhanced that role and made it a very compelling one. In previous years it was a question of, "Who will we get to stand as mayor?", but it has now become an attractive and competitive thing to do—witness the number of people from all parties who are putting themselves forward for it. I take the noble Lord's point, and I do not think we should forget it in these discussions.

With these explanations and assurances, I hope that the noble Lord will feel content to withdraw the amendment.

Lord Shipley: My Lords, I am grateful to the Minister for her response to Amendment 44F, and in particular for her reassurance that collaborative working arrangements between a rural area and a combined-authority urban area would not be impossible if an amendment was not approved as part of the Bill.

I thank the noble Lord, Lord Liddle, for giving a very good example of what I was talking about relating to the transport corridor between north Cumbria and the north-east of England. We just need to be certain that we do not need statutory arrangements in place with a combined authority in the north-east that would enable, or make it easier for, the north of Cumbria to engage with that.

Mention was made, I think by the Minister, of the work of Cornwall. Tribute should be paid to Cornwall not only for what it has done with its governance structure—it is now a unitary council—but for the way in which it has moved forward with the devolution agenda. I hope that in the course of the next few years other areas will see that as something that can be followed. I welcome the debate that we have had on this and beg leave to withdraw the amendment.

Amendment 44F withdrawn.

Amendments 44G to 44L not moved.

9.45 pm

Amendment 45

Moved by ***Lord Shipley***

45: Clause 10, page 10, line 30, at end insert—

"( ) Before making regulations under subsection (1), the Secretary of State must be satisfied that the local government electors in the appropriate local authorities have been properly consulted by the local authorities who are consenting to the regulations under subsection (3)."

Lord Shipley: My Lords, I can be brief because the noble Lord, Lord Woolmer, has addressed part of the aim behind this amendment. As it stands, the Bill gives the power of consent on governance arrangements to local authorities. Amendment 45 requires that,

"the Secretary of State must be satisfied that the local government electors … have been properly consulted".

In one sense and at its simplest, that could be a referendum. However, it is not quite the same thing as a consultation because that enables a debate without there necessarily being a vote to follow it. But if there is not to be a referendum, and I understand the arguments against, we need to be clear that there has been a consultation which is extensive, meaningful, and results in the proposal commanding broad public support. I beg to move.

Lord Beecham: My Lords, I have to say that I regard this amendment as somewhat unreal. I had the pleasure of working in three places during the recent general election: first, in my own authority of Newcastle; secondly, in the only seat that Labour retained in Scotland, clearly thanks to my superhuman efforts; and thirdly, in Stockton-on-Tees. The relevance of the last is that more posters were exhibited in Stockton-on-Tees for the Thornaby Independent Association than there were for all the other political parties put together; it is an association for the Thornaby part of the constituency.

The notion that electors are committed to the structures which have been created over time is somewhat fanciful. The good residents of Clara Street, in the ward of Benwell in the west end of Newcastle, which I have represented for approximately a fortnight longer than the Minister has graced this earth—that is, dare I say it, just under 50 years—are not consumed with interest in the governance structures of the local authority. I shall use the phrase again: it is quite unreal. Of course they talk of nothing else but the constitution of council committees in my ward and other places. What the amendment seeks to do is prescribe that, in some undefined way, the Secretary of State has to be satisfied that local government electors have been "properly consulted", whatever that means, on the details of the procedures laid out in Clause 10. The clause covers the governance arrangements of local authorities, their constitution and membership, and the structural and boundary arrangements in relation to them. It goes on to state,

"'governance arrangements' means the executive arrangements, committee system or prescribed arrangements operated by a local authority under Part 1A of the Local Government Act 2000".

In those 48 years, I have not had a single question addressed to me by a constituent on any of these matters. It may be that I am in an unusual position, but I suspect not. It may be that the constituents of the noble Lord, Lord Shipley, in another part of Newcastle where he was a long-serving councillor, were somewhat more engaged with the minutiae of governance structures, but I am somewhat sceptical that that occurred even then. What is suggested in the amendment is effectively undefined and unworkable, and it is not something we can support. I regret to say that when the Minister, as I expect she will, says that it is not necessary or that she does not understand it, or possibly both, I will concur with her entirely.

Baroness Williams of Trafford: I am sorry to hear that the noble Lord will regret that we concur; we quite often concur. It is not at all unreasonable to consider that, as the elected representatives of those areas seeking devolutions work up their proposals, they will have considered carefully what the communities, local people and businesses in their areas want and expect. It is not at all unreasonable to believe that those elected representatives will have thought deeply about how to implement the proposals they are seeking, what those proposals will mean for those areas, and how those proposals will affect the local people who live or work in those areas. We can be confident that local representatives have ensured that they have engaged with their communities and their electorate to whatever degree, and in whatever manner, they judge necessary in respect of the many different elements that may be in the proposals they put to the Secretary of State.

In these unprecedented processes to deliver devolution, it is not right that we start inserting detailed requirements about the Secretary of State having to second-guess those democratically elected locally, or to be required to form a view as to whether, in his opinion, those democratically elected local representatives have acted as they should. Therefore, I hope that the noble Lord will withdraw this amendment.

Lord Shipley: I am grateful for the contribution of the noble Lord, Lord Beecham. I will say two things in response. First, perhaps he would like to have a conversation with the noble Lord, Lord Woolmer, who took a very different view a moment ago about the importance of consulting local people. I agree with the noble Lord, Lord Woolmer. If you want a government structure to stand the test of time with public support, the public has to be engaged at an early stage rather than a later stage. The second point I make to the noble Lord, Lord Beecham, is that some combined authorities are now undertaking the very same consultations that I was talking about. Indeed, the one very close to the noble Lord, Lord Beecham, in the north-east of England is undertaking a public consultation about future governance arrangements. I welcome that. It is hugely helpful that it does.

We will reflect on what has been said and possibly come back with something on Report, but for the moment I beg leave to withdraw the amendment.

Amendment 45 withdrawn.

Amendment 45A not moved.

Clause 10 agreed.

Amendment 46

Moved by ***Baroness Janke***

46: After Clause 10, insert the following new Clause—

"Referendums to undo change to mayor and cabinet executive

In the Local Government Act 2000, omit section 9NA (effect of section 9N order)."

Baroness Janke (LD): My Lords, I draw your attention to this anomaly because it relates to my own city of Bristol. By way of explanation I will give you an account of the circumstances that have led up to this. In 2012, there was a referendum held by order of the Secretary of State in 12 English cities about whether they would have an elected mayor. Bristol was the only

[Baroness Janke]
city that said yes to the elected mayor. In Part 1A of the Local Government Act 2000, the different permitted forms of government and the ways that local authorities can change these forms of government are set out. Section 9N refers specifically to a referendum conducted by this order. These provisions state that if people vote in favour of the mayor and cabinet at a referendum, then the local authority may not move away from that local government model. Bristol is therefore the only authority that may not change its system of governance.

I believe, as do many colleagues of all parties in Bristol, that this is singularly unfair. It is not a question of whether the mayor should be there or not: it is a question of the rights of the local population. Some were saying earlier that people are perhaps not interested in the form of governance. I say to noble Lords that people in Bristol are extremely interested in it. History tells us that not all elected mayors have been a success. Local referendums have been held; petitions have been put together; and mayors have been either reinstated or the system has been changed to ones that people feel are more suitable, more transparent or more appropriate to their area. The people of Bristol should not have that right taken away from them. If we want to be fair, consistent and transparent as we talk about this Bill, this part of the Act needs to go. If Bristol and the surrounding authorities become a combined authority, there will be very many mayors and a lack of clarity as to the roles of the different mayors. I am not against a metro mayor—a strategic mayor—but there needs to be the support of the local population and clarity about who does what, and what the powers of the people are.

We talked about trust with the local electorate and restoring the trust of politics. Many people in my city feel that they have been deceived by the Government. At the time of the referendum, they were not told that they would have no way to alter this system. They were made many promises, which turned out not to be delivered by the then Government, because only one city opted for the elected mayor. I move this amendment in the interests of correcting the situation and making the situation in Bristol as it is in all other English cities. I hope that I might find support for it. I beg to move.

Lord Beecham: My Lords, on this occasion, I am happy to support the amendment from the Liberal Democrat Benches. The noble Baroness has made a perfectly sound case and, indeed, one that should be extended wider in the sense that, as I understand it, the deal that will be offered to local authorities will be the kind that was imposed on Bristol; namely, that once a mayoral system is adopted, it will be permanent. That is wholly unsatisfactory.

If the previous amendment we debated had been confined to the issues of mayoralty, for example, as opposed to the internal workings of the authority, I would have been a great deal more sympathetic to what the noble Lord, Lord Shipley, was moving. However, it seems indefensible that a structure can be created and imposed, effectively, on a local community and its electorate with no possibility of change as the price for whatever deal the Government agree to negotiate with the combined authority. I hope again that the Government will think twice before locking local government into a system without not merely having consulted the electorate but without having their approval, let alone that of the constituent authorities.

Baroness Williams of Trafford: My Lords, I have listened with interest to the comments of the noble Baroness, Lady Janke, and the noble Lord, Lord Beecham. I know that the noble Baroness feels strongly about providing the people of Bristol with the same opportunities to change their system of governance should they so choose by means of a valid petition for a governance referendum to the council. I am aware that during the passage of the Deregulation Bill through this House in February 2015, she tabled a similar amendment. I am also aware that she introduced on 8 June a Private Member's Bill, the Referendums (Local Authority Governance) Bill, that would have the same effect.

As we have discussed in the past, we cannot accept this amendment on the grounds of both precedent and principle. The precedent for introducing mayoral governance following a referendum instigated by Parliament was set when the London mayor was established. In this case, Parliament instigated a referendum through enacting primary legislation. The electors then voted for London having a mayor and, by a further Act of Parliament, the arrangements were introduced. There is no provision in these arrangements for the people of London to vote that they no longer want a mayor.

The Government followed the same broad precedent in putting in place the legislative arrangements that have led to the establishment of mayoral governance in the city of Bristol. In this case, Parliament, through approving by a resolution of both Houses an appropriate order under the Local Government Act 2000, instigated a referendum. The people of Bristol voted for a mayor, and that form of mayoral governance was established under the Local Government Act 2000. As in the case of the London mayor, mayoral governance in Bristol can be changed only by an Act of Parliament.

10 pm

The amendment would change that. It would mean that the electors of Bristol could have a referendum by petitioning for one and if they voted to end the mayoral model, it would end. This is indeed the position where a mayor has been introduced wholly by local choice, and it is right that this is so. If it is a wholly local choice to establish the mayor, it is right that wholly local choice should be able to end mayoral governance. However, it would be wrong in principle to create circumstances in which a mayor established through a specific decision of Parliament and local choice together could be ended simply by local choice. I do not suggest that Bristol should for ever have a form of mayoral governance, but the decision to change the governance of Bristol, having been instigated in part through a decision of Parliament, should involve some parliamentary consideration of the issue and not be simply a matter of local choice.

It might be said that passing the amendment would provide the parliamentary input into such a decision, but that is a spurious argument. Whatever considerations

we are giving today, it cannot be said that we are giving serious consideration to the circumstances of a particular place—in this case, Bristol. Therefore I urge the noble Baroness to withdraw her amendment.

Lord Beecham: What particular knowledge does Parliament have about the condition of Bristol? Whence does it derive its intimate knowledge and concern for the residents of that city? Why should Parliament refuse to allow them a voice? The Government contrived a referendum, and it went the way they wanted, but is that to remain immutable? It seems a terrible proposition when Parliament can release the authority and return the decision to the people of the city.

Baroness Williams of Trafford: The point that I was making was that Parliament had created this situation so it would be for Parliament to undo it. That is not to say that it could not be undone, but it would have to be undone by Parliament.

Baroness Janke: I thank the Minister for her response. I am clear that Parliament cannot bind itself to future legislation. I am grateful that the Minister has made the case clear. I should like to be advised what parliamentary action could be taken, certainly before Report. It is important to gain trust in moving to the new combined authorities, so will the Minister consider ways in which we might change this anomalous situation and move forward on the same basis as everyone else? I beg to withdraw the amendment.

Amendment 46 withdrawn.

Amendment 46A

Moved by ***Lord Shipley***

46A: After Clause 10, insert the following new Clause—

"Independent review, support and governance

(1) It shall be the duty of the Secretary of State to lay before each House of Parliament each year a report about devolution within England and Wales pursuant to the provisions of this Act (an "annual report").

(2) An annual report shall be laid before each House of Parliament as soon as practicable after 31st March each year.

(3) The Secretary of State may by regulations make provision for an Independent Commission or Advisory Board to undertake a review and perform an advisory role in relation to—

(a) reviewing orders and procedure arising from the Secretary of State's decisions; and

(b) requests for orders received from combined or single local authorities."

Lord Shipley: My Lords, the amendment aims to help drive forward positive progress on devolution within England. It says that the Secretary of State should

"lay before each House of Parliament each year a report about devolution".

It suggests that:

"The Secretary of State may by regulations make provision for an Independent Commission or Advisory Board",

to undertake a review and perform an advisory role in assessing at a national level and across Whitehall what has been achieved.

Broadly speaking, the amendment derives from the conclusions of the City Growth Commission, which established five progress tests on devolution in England—the first on funding, the second on Civil Service and parliamentary reform, the third on partnerships, the fourth on speed and direction of travel and the fifth on cities' capacity. The aim of our amendment is to help the process and the aims that the City Growth Commission put in place. I beg to move.

Baroness Williams of Trafford: My Lords, this is an enabling Bill to put in place the primary legislative framework for the devolution of powers and budgets in England to boost local growth in England. Devolution in Wales is to be subject to separate legislation which the Government are committed to bringing before the House. The question of the devolution of powers to areas within Wales will largely be a matter for the Welsh Government and the National Assembly for Wales.

More fundamentally, as we discussed in earlier debates on this Bill, while it is important that Parliament should be able to question and hold the Government to account both on their pursuit of devolution and decentralisation and on the progress being made in those areas which have agreed devolution deals, a statutory requirement on the Secretary of State to report annually is not necessary. There are already mechanisms by which Parliament can ask Ministers to account for anything within their remit. These are opportunities that both noble Lords and Members of the other place take regularly.

A process for evaluating the progress of devolution deals will be discussed with each area on a case-by-case basis. For example, as part of its devolution deal, Greater Manchester will be required to put in place an extensive programme of evaluation agreed by the Treasury. There will be public documents available to all with an interest in the area on the progress it is making. Accordingly, it is not necessary to place statutory duties on the Secretary of State, which would be a duplication of a well-tried process.

With that explanation, I hope the noble Lord will feel able to withdraw his amendment.

Lord Shipley: My Lords, I am grateful to the Minister for her response. We will look carefully at what she has said and consider whether there is a need to pursue this matter further on Report. For the moment, I beg leave to withdraw the amendment.

Amendment 46A withdrawn.

Amendment 47

Moved by ***Lord Shipley***

47: After Clause 10, insert the following new Clause—

"Governance arrangements of local authorities in England: election of councillors

(1) Section 36 of the Representation of the People Act 1983 (local elections in England and Wales) is amended as follows.

(2) After subsection (1) insert—

[LORD SHIPLEY]

"(1A) Rules made by the Secretary of State under subsection (1) must ensure that each vote in the poll at an election shall be a single transferable vote.

(1B) A single transferable vote is a vote—

(a) capable of being given so as to indicate the voter's order of preference for the candidates for election as members for the constituency; and

(b) capable of being transferred to the next choice when the vote is not needed to give a prior choice the necessary quota of votes or when a prior choice is eliminated from the list of candidates because of a deficiency in the number of votes given for him."

Lord Shipley: Amendment 47 takes us to the heart of an issue that we have talked a great deal about over the three days in Committee. We have discussed the creation of one-party states; the need for accountability and legitimacy, and for properly functioning overview and scrutiny structures; and the need to ensure that the public back devolution and the powers and responsibilities that come with it.

We have expressed many concerns in Committee about the creation of the one-party state. One solution to the problem is to introduce proportional representation, using the single transferable vote, into local government. It would strengthen governance, increase transparency and improve accountability because there would be more opposition councillors. That might change the membership of the combined authority and would certainly alter the make-up of overview and scrutiny committees.

Amendment 47 would prevent a one-party state from arising. As more has been devolved in recent years across the UK, so the powers devolved have been accompanied by changes to more proportional voting systems. As more political parties exist and grow stronger, so our governance structures need to reflect that. Proportional representation enables that. They have it in local elections in Scotland. In England, five parties have significant public support in local elections and it is right that the electors who support those parties all feel represented. A system of proportional voting helps not only in delivering fairer overall representation but also, through STV, enables voters to choose an individual as their preference within their party of choice rather than simply having to vote for the candidate selected by that party in their ward.

Earlier, I mentioned Scotland, where the single transferable vote was used in council elections in 2007 and 2012. In Scotland there are no longer uncontested council seats and there are no one-party states that do not reflect that party's share of the vote. In England and Wales there are more than 100 councils where one party has more than two-thirds of all seats. Scotland has none. In England in 2011, 24 councils saw 10% or more of their seats uncontested. Scotland has not had an uncontested election since STV was introduced in 2007.

I want this Bill to succeed in its broad strategic ambitions but I do not think it will without public support for the governance structure. Hence our concern that local government, combined authorities and elected mayors should all command public support. The elected mayor in this Bill is to be elected by the supplementary vote system. But more broadly, the use of the single transferable vote system in elections would help us to achieve public legitimacy and accountability in the structure of governance. It will prevent a one-party state arising and it will ensure adequate overview and scrutiny. It will almost certainly increase voter turnout because everyone's vote will count. This amendment is a solution to the problems that we have identified with the democratic legitimacy of the combined authority structure. I hope it will command the Government's support. I beg to move.

Lord Tyler (LD): My Lords, I am delighted to support my noble friend. In recent years, Parliament has been prepared to find fairer voting systems for everybody else: for Northern Ireland, for Scotland and for Wales, and even for the European Parliament. But of course the House of Commons has been a step too far. That does not mean that your Lordships' House should not look carefully, in the context of this debate, at the failure of the present system to provide effective and representative local government. In recent weeks a number of Labour Peers, who have previously been opposed to electoral reform, have expressed support for it. I was taken by the contribution of the noble Lord, Lord Cormack—I am sorry he is not still here—who said in our debate on 15 June, expressing some support for my views, that,

"at the beginning of a new Parliament, there is a strong case for a commission or committee of both Houses—I am a great believer in committees of both Houses—to look at our electoral system thoroughly, dispassionately and in an unbiased way to see how we can improve it and make it clearer and more consistent, with the fundamental aim of engaging the interest of people, particularly young people and those who do not necessarily have a long history of residence in this country".—[*Official Report*, 15.6.15; col. 1061.]

The noble Baroness, Lady Royall, made a similar point about disengagement and re-engagement a few minutes ago.

Local elections in England and Wales are so badly distorted by the system, as my noble friend said, that, in theory at least, we have to look carefully at what they are doing to the confidence that our fellow citizens have in the system. But we now have hard evidence of what can be done by an improvement to the system, as my noble friend has said. Thanks to Dr Lewis Baston, who has undertaken an analysis of the two rounds of STV votes in Scotland, there has been a considerable increase in fair-minded assessment. Under the STV system in 2007 and 2012 for local authorities in Scotland, the immediate increase in the number of those who actually had an impact on the result was dramatic, going from 40% or 45% to 75%. In Dr Baston's terms, these are "happy voters"—they have had a result. Even more significantly, he goes on to show that if second and subsequent preferences are effective, the percentage of those who are satisfied can rise to 90%. There will be control freaks, in all parties, who take the view that this is dangerous territory because it gives so much choice to the electorate. Frankly, I think it is the consumers of the local democratic process who we should be interested in. It is clear that they are extremely satisfied with the way in which it now operates in Scotland. When he or she votes they get a much more representative outcome and, I think, a resultant quality of service and accountability. From an elector's point of view, this is surely the moment we have to move on.

I draw your Lordships' attention to the fact that a large number of the cities, boroughs and counties in England where a majority has been given, on a minority vote, to one particular group or party for a very long time have been the ones that have failed. That is why it is extremely important that we listen to those who have identified these problems in England and Wales and we should look particularly at the evidence given by the Electoral Reform Society to us—all those involved in this Bill—that there is a real danger of a rise in cronyism, petty corruption, undue secrecy of decision-making and widespread disenchantment with the whole political process. Unless we make some change to this Bill, that will extend to the constituent authorities and the combined authorities under the Bill.

10.15 pm

The experience in Scotland shows that the weakening of one-party hegemony has been wholly positive in reviving local democracy. If in England we could move as well, if in Wales we could move as well, I believe we can avoid what long-sighted and wise parliamentarians from Lord Hailsham to Robin Cook described and warned us about as "elective dictatorship". Persistent monopoly council control by one party over many years, often with a minority of the total vote, is a recipe for inefficiency, partisan patronage and minor corruption, just as it would be in Westminster. Good governance at all levels requires good scrutiny.

I was fascinated by the contribution of another noble Lord a few days ago, on 22 June. I will read it straight from *Hansard*:

"We hear about accountability. What accountability is there in local government today? The noble Lord referred to a 'one-party state' but two-thirds of the constituencies that elect another place never change allegiance. The battles are fought in the marginal constituencies. In a vast number of councils in this country, the councillors never change from one party to another. A significant number of councils do not change allegiance either. So if one is talking about changing, the present system does not do it".—[*Official Report*, 22/6/15; col. 1397.]

That was a very authoritative assessment and I suspect that the noble Lord, Lord Heseltine, who I am delighted to see in his place, may recognise those words because they came from him. He said, and I believe he is right, that the present situation is creating a very unpopular and inefficient system of local democracy. We have an opportunity with Amendment 47 to make a really serious attempt to remedy the very sorry state of local governance today.

Lord Beecham: Would the noble Lord like to comment on the situation in the Greater Manchester Combined Authority, where most of the councils— Manchester, Wigan, whose leader is no longer in the Chamber but is a Member of this House, and indeed Trafford—have been of a particular political colour for very many years, and yet they are the origin of the Bill that is before us?

Lord Tyler: Whether or not they are the origin of the Bill that is before us, I think the noble Lord will recognise that there are authorities in the country—he and I could both name them—where the fact that one party has controlled it for ever and a day without effective scrutiny or opposition has not been conducive to good governance. Again, as Robin Cook said—and I worked very closely with him—good governance requires effective scrutiny and good opposition.

Baroness Hollis of Heigham (Lab): My Lords, is that not the privilege of the local electorate? If they choose to return a particular colour of politics, that is their choice. Is the noble Lord not saying that he would overrule that choice in the name of some abstract transparency that is easily available through other means?

Lord Tyler: My Lords, that is nonsense. The noble Baroness should simply look at what has happened in Scotland. We now have a practical example. There no longer are these one-party states in Scotland. There are now far more effective local authorities as a result.

Lord Kennedy of Southwark (Lab): My Lords, I declare that I am an elected member of Lewisham Council in south London. This has been an interesting debate but changing the voting system to a form of PR is not something that I am in favour of, although this would be only for the election of councillors in England.

In 2011, we did of course have a referendum on moving to a new system for elections to the House of Commons. The system put forward was AV. I know that that is not a proportional system but it was the system agreed by the then coalition Government, put to a referendum of the voters of the United Kingdom and rejected. There is nothing that I have heard in this debate or elsewhere that makes me think there has been a change in the heart of the voters in England and that what people want is to elect their councillors by single transferable vote, having stuck with first past the post elections to Westminster only three years ago. I did, however, agree with the noble Lord, Lord Shipley, when he talked of looking at governance structures from time to time. I think that that is right. That does not take me down the road of moving to single transferable votes for the election of councillors.

There are issues, as the noble Lord, Lord Tyler, referred to, about the number of voting systems that we use to elect people to various public bodies, positions and Parliaments in the United Kingdom. Where a body is elected by a proportional system, it should remain a proportional system, but I would like to reduce the number of systems we use. It is very confusing for the voter to elect people when we are using, at least, first past the post, single transferable vote, closed list systems, top-up lists and the supplementary vote. Supplementary vote is one of the worst voting systems we use. I have been to many counts where the supplementary vote system was used. There are often a considerable number of spoilt ballot papers because people put the X in the second column instead of the first column so the vote is completely discarded, which is a bad thing. I do not think that these people intend to spoil their ballot papers; it is just that they have not understood that they need to put an X in the first column and then one in the second column as well.

Could the noble Baroness in her response make reference to the myriad voting systems we now have in the United Kingdom and how that could be a little less

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confusing for the voter? I am sure that from the Dispatch Box we are all agreed that changing the system for the election of councillors in England is not something that either of us supports. Nor is there evidence that it is something that the public want. At this stage, there is no need to move down that road.

Baroness Williams of Trafford: My Lords, we debated this previously in earlier debates. Amendment 47 would amend the Representation of the People Act 1983 to provide that all local elections in England and Wales would be by single transferable vote.

For the single transferable vote system to function effectively, multi-member electoral areas would be required. As many existing electoral areas in England have only one councillor representing them—for example, nearly all county councils—it would require a review of local government electoral areas in England by the Local Government Boundary Commission for England. It could therefore not be introduced, even if it were desirable, within any short timescale. It would also cost more and take longer to achieve a result because of the more complicated count processes.

The noble Lord, Lord Kennedy, asked me to list the myriad electoral systems. The Mayor of London is elected by the supplementary vote system. European elections use the d'Hondt system of PR and local government is first past the post. That is three that I can name; I am sure that there are more. But I hope that on the basis of this short debate, the noble Lord will feel content to withdraw the amendment.

Lord Shipley: My Lords, I listened to the very brief response from the Minister. This will be an issue that we will want to come back to on Report. I find it difficult to understand why this is deemed a step too far in England and Wales when it is not a step too far in Scotland and has proved to be an enormous success. There are occasions when we should learn from the Scottish experience, for example with participation rates, an abolition of uncontested elections and an end to one-party domination. Of course, in the context of first past the post at parliamentary level, we have a one-party state out of Scotland with all but three seats in the hands of one political party. If we had proportional representation using an STV system in the parliamentary elections in Scotland, that would not be the case. In local government there is STV and it has had a profound and positive effect.

Our concern throughout this Committee has been to prevent absolute power, through the elected mayor, combined authority and the overview and scrutiny function lying with the same political party. In some cases, a combined authority would have no opposition councillors of any kind on it, caused by the voting system that we are using. I give notice that I think we will come back to this on Report—but, having said that, I beg leave to withdraw the amendment.

Amendment 47 withdrawn.

Amendment 48

Moved by ***Lord Tyler***

48: After Clause 10, insert the following new Clause—

"Governance arrangements for local government: entitlement to vote

In section 2 of the Representation of People's Act 1983 (local government electors), in subsection (1)(d) for "18" substitute "16"."

Lord Tyler: My Lords, this House will do itself a real disservice if it is not prepared to look at the example that is already taking place in Scotland. This happens to be exactly my message on this amendment, too, but my noble friend Lord Shipley made that point very well just now.

I start by reminding the House of these words:

"We have heard arguments for a change in the voting age. However, my concern is that that is part of a wider debate and it would not be appropriate—as the noble Lord, Lord Beecham, said—for any such change to be implemented in these quite specific circumstances. I have concerns as well about the administrative complexity of running an election in an area based on a register that would include 16 and 17 year-olds and running other council elections or referenda in the same area, quite likely on the same day, on a different basis with a different franchise. These are circumstances in which the risk of confusing the electorate is very real and this can only weaken, rather than strengthen, our local democracy".—[*Official Report*, 22/6/15; col. 1464.]

I am sure that the Minister recognises those words, because they are hers. I compliment her not only on the wisdom of that contribution but on the fact that she used the word "referenda", which sounds much nicer than referendums.

I thought that the noble Baroness, Lady Williams, was giving an infallible answer to the Labour Front Bench about the franchise for the mayoral elections. It would indeed be confusing if 16 and 17 year-olds were allowed to vote for a mayor but not in the general or local elections that might well be taking place on that same day. I and my Liberal Democrat colleagues entirely agree. We believe that all our fellow citizens should be enfranchised on the same basis for all local authority elections. Our amendment would deal neatly with all the Government's very proper objections of practicality and potential confusion. On that basis, we can now move forward with the amendment by consensus.

Of course this will not satisfy all our fellow campaigners, since our ultimate objective is to expand the electorate in all elections in this way, but it would mean that we would have some logic, symmetry and standardisation in the continuing reform process. I have been campaigning for this extension of the franchise for many years. I have presented Private Member's Bills in a succession of Sessions and in the current Parliament. They have enjoyed widespread support across the House. I am especially grateful for the consistent support of the noble Lord, Lord Lucas, on the Conservative Benches, the noble Lord, Lord Adonis, on the Labour Benches and the noble Baroness, Lady Young of Hornsey, on the Cross Benches. Most recently, the Labour Party has officially endorsed this campaign and we are delighted that noble Lords on the Opposition Front Bench have co-signed our amendment.

I admit that my original enthusiasm for this extension of the franchise was based on my own experience of the growing maturity of this age group, their increased responsibilities and their acknowledged fact that their citizenship course should lead inexorably to voter registration and then participation in the democratic

process. There is good reason to think that young people are more likely to register to vote, and to start a lifetime of actually voting, if they are still in the home environment. Once they leave home, whether for jobs or further education, they often become more elusive. All the other distractions kick in and their involvement in the life of their home area weakens or ceases altogether. Those in the 18-plus age group all too often disappear off the electoral scene.

Of course, on average, the first vote cast by a 16 year-old in a general election would probably take place when he or she is 18. Nevertheless, once registered at 16 the likelihood is that they will continue on the register, if only because the ERO will be responsible for keeping them there and there is an obligation, backed by a fine, to continue giving the regular information needed to stay there. As the well-respected Intergenerational Foundation has identified, there is a growing democratic deficit caused by the increasing longevity of the UK population, which is well represented in this House. Quite simply, the young citizens with the most long-term interest in the consequences of their vote are outnumbered by ever larger numbers of pensioner electors.

10.30 pm

Of course, since September last year we have had hard empirical evidence from Scotland. I hope at least on this issue that colleagues on all sides of the House will be prepared to accept that this is extremely relevant to the present Bill, because in Scotland the readiness among young people for taking on this vital civic function was demonstrably most impressive. The huge success of the extension of the vote to 16 and 17 year-olds in the referendum, negotiated by my right honourable friend Michael Moore but agreed to by the whole coalition Cabinet, was thought by some to be a step too far.

I suspect some guessed that Alex Salmond was characteristically so in favour of it was because he believed it was going to help him. The interesting thing is that it did not, not in the least. In fact, the very successful levels of registration among that age group, and then their actual vote, demonstrated that those young voters took the whole democratic opportunity very seriously. There has been lots of evidence of that from other Members of the House who witnessed what happened. It is also true that that 16 and 17 year-old cohort voted very responsibly. They voted in a more mature and balanced way than some of their elders, and the blandishments of the separatists fell on very deaf ears. It was middle aged men who actually went the way of the separatists, not the young voters.

In summary, the new young voters proved themselves to be better informed, more conscientious, even more mature than many of their elders. They blew to smithereens all those misgivings and dire warnings of the doomsayers. As a result, in the debates on the Wales Bill in your Lordships' House last autumn, I successfully argued that a similar referendum in the Principality could not, rationally and in justice, exclude this age group. We should all be grateful to the then Minister and her then colleagues in government for accepting the logic of that case, and authorising the Assembly so to provide. My understanding is that all parties in the Assembly have decided that they should do so.

Since the referendum in Scotland, the Parliament in Holyrood has moved on to ensure consistency in this extension of the franchise north of the border, again, with the assent of the UK Government. I understand that the Prime Minister here has accepted that there will have to be a vote in the Commons to the same effect in respect of the EU referendum. Given the support already indicated by some Conservative MPs, I hope that this will eventually happen on a free vote.

Meanwhile, in your Lordships' House, any noble Lord who remains resistant to this logical change must ask themselves two simple questions. First, what evidence have they that the young people in this specific age group in England and Wales are less mature, less responsible and less well informed than their compatriots in Scotland? Secondly, if this is truly a United Kingdom, how can they justify discrimination in such an absolutely crucial matter as the electoral franchise, which will exclude young people south of the border? Having answered those questions, I challenge them to put on record their remaining objections to this reform. I beg to move.

Lord Kennedy of Southwark: My Lords, this proposed new clause to be inserted after Clause 10 gives effect to the policy of my own party and that of the Liberal Democrats to allow citizens upon reaching the age of 16 to vote in elections. In this case, the entitlement is for local government elections only. I suspect that this amendment is not going to receive a favourable response from the Government, which is most unfortunate.

The amendment proposed by the noble Lord, Lord Tyler, and supported by the noble Lord, Lord Shipley, my noble friend Lord McKenzie and me is one that the Government really should have a more open view of rather than the all too familiar no that we have been getting when this issue has been raised in recent times. I am well aware that the noble Lord, Lord Cormack, who is not in his place at this late hour, is not a supporter of this policy. However, when we spoke in your Lordships' House recently, he made some excellent points that I agreed with very much. They regarded the need for much more citizenship education, which I think is very important. I see a programme of that sort of education leading to actually being able to register and to vote at 16. We do not have that at the moment, which is very much to be regretted. The arguments for allowing people to vote at 16 have been rehearsed many times before. It has been a policy in the manifesto of the Labour Party and, of course, the Liberal Democrats. It is also a policy of the Scottish National Party, the Greens and, of course, the Scottish Conservative Party, whose leader, Ruth Davidson MSP, said that she was a fully paid-up member of the vote-at-16 club. I am not sure what the position of Plaid Cymru is, but I am sure that it would support the policy as well.

As the noble Lord, Lord Tyler, said, the game changer was the decision taken to allow people at 16 and 17 to allow people to vote in the Scottish referendum last year. As he said, the young people embraced their civic duty with pride and a real sense of responsibility, and they were part of the decision on

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the future path that their country decided to take. It was the right thing to do and it is generally accepted across civil society that it was a good thing. After the referendum, the Scottish Parliament voted unanimously to allow votes at 16 for all elections to Holyrood, and next year 16 year-olds will vote for the new Assembly in Scotland. I am sure that the Welsh Assembly will take a similar view. We are in a position whereby, in different parts of the United Kingdom, there are different ages at which people can vote, which is not a good place to be. It is a mess, and one that this House should address.

What is also interesting is that in the three Crown dependencies close to Great Britain, you can vote at 16: in the Isle of Man and the Bailiwicks of Jersey and Guernsey. You can also vote at 16 at certain elections in Germany and Norway. I have no doubt that this change will happen, and sooner than most people think, and for me it cannot come soon enough.

Has the Minister seen the report from the Election Commission on the progress of moving to IER? Here we are talking about votes of 16 and 17 year-olds when, due to the action of the previous Government—who of course included the Liberal Democrats, so they cannot get away with this one—as of May 2015, the number of 16 and 17 year-olds actually registered to vote has dropped by 47%. There are now only 247,705 people registered to vote as of February 2014. That is a shocking figure and one that both parties in the coalition should be rightly ashamed of. Perhaps in responding the Minister would agree with me that EROs need to take the issue of engagement properly and work particularly to get these young people back on to the register, working with schools and colleges, as takes place in Northern Ireland. It was right when the Labour Party called for EROs to be given a duty to get everybody aged 16 and 17 on to the register.

In conclusion, I support the amendment, and I am sure that the policy change will happen. However, we have a real problem with young people not being on the register, and we need to do something about that.

Lord Shipley: I add two facts for ministerial consideration. One fact that really struck me about the Scottish referendum was the very high turnout rate of 75% of 16 and 17 year-olds, when for the 18 to 24 year-old age group it was only 54%. That is very marked. What it demonstrates is a clear interest in current affairs and their futures. The question is whether an age group that can demonstrate such a commitment to thinking about their future should be denied a vote generally.

Secondly, decisions are made regularly by local councils which impact on the daily lives of 16 to 18 year-olds. A very good example is the cost of public transport for young people—the cost of bus services, urban rail systems and so on. I have come to the conclusion that the voice of those young people is not adequately heard. I am in favour of votes at 16 and have been for many years, but I am even clearer now that the time has come to implement the change that Scotland has trail-blazed.

Baroness Williams of Trafford: My Lords, there is no doubt that the Scottish referendum and debate was unique, certainly in my lifetime, in engaging the public in the way it did. Participation in that election by people from all age groups, including 16 and 17 year-olds, was like nothing we have ever seen before. We can all look at it, wonder why we do not engage better with people from all age groups and reflect upon it. Amendment 48 would change the franchise for those entitled to vote in local elections in England and Wales to include 16 and 17 year-olds. As we have discussed, the Bill provides that the franchise for electing mayors for a mayoral combined authority is the same as that for all local elections in England, where the voting age is 18.

More broadly, of course, the voting age for parliamentary elections is set at 18, and beyond that the voting age in most democracies, including most member states in the EU, is also 18. Only Austria in the EU allows voting for 16 year-olds. We have heard the argument about the franchise in Scotland, but this was decided in Scotland, as is its devolved right, just as it is right that decisions about the franchise for elections that take place in England should be decided by this Parliament. I am sorry to be a party pooper at this time of night, but the Government have no plans to lower the minimum voting age and I am clear that the Bill is not the place to take steps to change the arrangements for local elections. I am sure that even proponents of lowering the voting age to 16 agree that, were it to happen, it should be only following detailed debate.

I have not read the report on IER but I wholeheartedly agree with the noble Lord, Lord Kennedy, about EROs engaging in getting people in general registered to vote, and certainly those younger age groups. On that basis I hope that the noble Lord, Lord Tyler, will feel happy to withdraw his amendment.

Lord Kennedy of Southwark: My Lords, I am pleased about the Minister's final remarks, because I think the drop is catastrophic: 47% have dropped out in just over a year and that collapse is a consequence of IER. We have to deal with that; it is catastrophic.

Lord Tyler: My Lords, this late at night I am grateful for any crumbs that fall from ministerial tables. I suppose I should be grateful for that last comment. I shall take up, for a second, the argument that this is not appropriate legislation into which this reform should be inserted. The Long Title of the Bill includes:

"to make provision about local authority governance; and for connected purposes".

That is critical to the whole consideration of the Bill. We are trying to revive important parts of the local governance of this country, and if the franchise is not relevant to that I do not know what is. Of course, at this time of night it would not be appropriate, as the Minister said. We have not had a very full debate: I have no doubt that we will have a full debate on Report. Therefore, for the time being, I and my colleagues are happy to withdraw the amendment.

Amendment 48 withdrawn.

Amendment 48A

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

48A: After Clause 10, insert the following new Clause—

"Devolution in London

(1) Within six months of the passing of this Act, the Secretary of State must publish a report on a greater devolution of powers in London, including on whether to make provision for the Secretary of State to—

(a) transfer a public authority function to a joint committee of London councils, and

(b) establish a joint board between London boroughs and the Mayor of London to support further devolution in London."

Lord McKenzie of Luton: My Lords, this issue was brought before us by London Councils—I am grateful for its briefing. This is by way of a holding amendment, because of the time involved. Subject to the debate this evening, we envisage a more specific amendment on Report.

Over the past year it is reported that London government—London boroughs and the Mayor of London—have worked to develop a proposition for devolution in London. From this joint work it has emerged that further devolution will ideally require strengthened governance arrangements at the pan-London and sub-regional levels, without creating a layer of unnecessary bureaucracy. The Bill represents a welcome step towards greater devolution across the country but as yet does not provide a direct route to secure the statutory underpinning for the strengthened arrangements that are believed to be necessary for London. Therefore, London Councils firmly supports the proposed new clause, as it believes that it not only speaks directly to its concerns but provides a framework for developing robust governance arrangements in the capital that support further devolution to London at a pan-London and sub-regional level.

10.45 pm

London's existing governance arrangements work well, it is suggested, with London boroughs and the mayor possessing distinct executive power but maintaining a successful strategic partnership. However, governing devolution in London will require new decision-making arrangements. In particular, over the last year it has become clear that there is a need to develop a way of harnessing the best of both tiers of governance in London to manage reformed service provision without adding unnecessary bureaucracy. As such, London Councils wants arrangements that reflect both the mayor's and the boroughs' needs and allow effective agreement and decision-making. In addition, any new mechanism would have oversight and authority only over areas of newly devolved responsibility. In practice, many of the responsibilities that might be devolved to London at a pan-London level would be further devolved to individual members or groups of members.

It is expected that borough partnerships will often be the preferred operational arrangement for the newly devolved responsibilities. In order to meet the Government's tests for devolution, these partnerships would also need some form of statutory underpinning. The Bill fails to provide a direct enabling route towards the strengthened governance arrangements required to deliver further devolution to London. Specifically, it creates no provision for devolution to London government as a joint partnership between London boroughs and the mayor, and it leaves groups of boroughs unable to develop governance arrangements robust enough to meet the Government's tests for the delegation of public functions. Instead, London Councils wishes to explore amendments to the Bill that address two specific issues: strengthening pan-London governance and sub-regional arrangements.

In respect of the need to establish an underpinned partnership between London boroughs and the mayor, it is suggested that it would be necessary to explore a new clause that provides the Secretary of State with the power to establish a joint board between London boroughs and the Mayor of London to support further devolution to the capital. The board's stated purpose would be to improve statutory functions relating to economic development and public functions generally within the Greater London area, and it is proposed that the board could be established only if all the boroughs, the City of London and the Mayor of London agreed. In order to support devolution, the board should be able to take on the exercise of public functions in relation to the Greater London area. However, in order to respect the existing partnership between London boroughs and the mayor, the power would be limited so that the board could not take on any function that was currently a function of the mayor, London boroughs or the City of London.

With respect to the need to provide a sufficient mechanism for devolution to groups of boroughs, it is suggested that it would be necessary to explore a second new clause that creates provision for the Secretary of State to delegate a function of a Minister of the Crown or a government department to a joint committee of London councils, subject to consultation with and agreement by the relevant councils. The new clause would largely mirror powers in the Localism Act that permit a Minister of the Crown to delegate a function to the Mayor of London but create provision for groups of boroughs to use their existing joint committees for the discharge of delegated public functions. This probing amendment provides an opportunity to test the Government's thinking on these issues and creates a hook for further amendments potentially along the lines set out above.

The areas where it is believed that there is further scope for devolution to London are skills, employment, housing, health, crime, community safety and criminal justice, and of course business support. It is suggested that, as in Greater Manchester, a London package should include devolution to London of identified budgets to provide a genuine "common front door" via the LEP's London business growth hub. I beg to move.

Lord Tope (LD): My Lords, I added my name to this amendment but, sadly, too late to get it printed on the Marshalled List. As a long-time London councillor, I am more than pleased to support the purpose of the amendment which, as the noble Lord, Lord McKenzie, said, has come from London Councils. I am very grateful to the noble Lord for describing the briefing so fully. At this time of night I am certainly not going to repeat all that, but I would like to emphasise some of it.

At Second Reading, I made particular reference to the position in London. As currently drafted, the Bill clearly does not fit with the unique structure of

[LORD TOPE]

London government. However, that is not, in itself, a reason why we should not enable further devolution to London and within it and the Bill does not quite meet that. In response to me at Second Reading, the Minister said:

"London boroughs are absolutely not precluded from coming forward with their ideas for devolution".—[*Official Report*, 8/6/15; col. 717.]

I am sure that she intended to include the Greater London Authority as well as the London boroughs. It is all very well to say they will come forward with their proposals for devolution. As the noble Lord, Lord McKenzie, said, they have been working on this jointly for some time now and will come forward with proposals. However, the proposals may well reach agreement, not just between the boroughs and the GLA but with the Government as well, but if the legislative structure is not there to enable them to be put into place, it is going to be a very frustrating exercise. The Bill is the obvious opportunity to ensure that the legislative framework is there to enable that further devolution to happen in London.

The noble Lord, Lord McKenzie, made a couple of specific references to what the GLA and London boroughs have in mind. I will repeat it specifically, because I want the Minister to assure us tonight, either that the legislative provision is already there under existing legislation or, if it is not, that they will seriously consider ensuring that there is provision in this Bill. This is an opportunity we have to take. Specifically, as the noble Lord, Lord McKenzie, said, they want provision to enable a joint partnership between London boroughs and the mayor. This is not just permission to co-operate. They can do that without permission. It is to have the governance arrangements necessary to implement that.

Secondly, we are already familiar with a lot of joint working between a number of London boroughs, but we are talking about the creation of joint partnerships between them. Again, we are not simply saying, "It is a good thing; get on with it". That is happening already and has been for some years. We are talking now about the creation of the necessary statutory governance arrangements to make it happen.

This is the legislative opportunity to do this, if that provision is not already there. London Councils and the GLA, on whose advice I act, do not believe it is. If we do not do it in this Bill, it is a missed opportunity. It is quite likely that there will not be another opportunity in this Parliament and there is no reason at all why London should be left out of the move to devolution simply because it has a different structure to the rest of the country.

Baroness Williams of Trafford: My Lords, I am very happy to use this probing amendment to set out how I see the position in relation to London. I did indeed say at Second Reading that there was nothing to preclude London boroughs or the GLA from coming forward. Perhaps I will expand on that slightly this evening. It is for the London mayor and the boroughs to continue to work together and to agree proposals, which the noble Lord tells me are ready, for greater devolution of powers to London. These could include provision to transfer public authority functions to a joint committee of councils or the establishment of a joint board between the boroughs and the mayor. We will consider whatever the mayor and London boroughs wish to propose, and no doubt they will be making a strong case as to how any proposal they make would provide better outcomes for Londoners. As with any other area, we are ready to have conversations with them, and look forward to those proposals coming forward.

The amendment, however, would turn the process on its head, because it would be the Secretary of State who kicked things off with his report. This is not the approach that we want to follow, as I am sure noble Lords will have established by now, because we believe that such an approach is far less likely to deliver genuine and effective devolution that will improve to the greatest extent the outcomes places face and the economic performance of particular areas.

I hope that on that note the noble Lord will feel able to withdraw the amendment.

Lord McKenzie of Luton: My Lords, I am grateful to the noble Lord, Lord Tope, for his support for this amendment and to the Minister for her reply. If I understood it, I think she was saying that under what is proposed it will be perfectly feasible that the boroughs and the GLA et cetera simply need to come forward and make their case. However, is she saying that what is sought under the new arrangements does not require any change to primary legislation? That is the issue here. Perhaps she could just answer that specifically.

Baroness Williams of Trafford: My Lords, as far as I am aware, it does not. I draw noble Lords' attention to the manifesto commitments on further devolution to the London mayor as well. I hope that that reassures noble Lords.

Lord McKenzie of Luton: I am grateful for that and think that I am reassured by it. I think that it needs a quieter reading than at this hour—perhaps in the morning on the train. If, effectively, it does not need primary legislative change, that is fine. I think that we still have scope to bring something more specific back at Report if that proves not to be the case. I know that the Minister is stacking up lots of meetings at the moment, but it would be very helpful to have a specific meeting with London Councils, to make sure that the case it is making is fully heard and that it understands the technical position that she has outlined.

Baroness Williams of Trafford: My Lords, before amendments are withdrawn et cetera, I can confirm that, and have actually already started to have a conversation with one London authority.

Lord McKenzie of Luton: On that basis, I beg leave to withdraw the amendment.

Amendment 48A withdrawn.

Amendment 48B not moved.

Clause 11 agreed.

Schedule 4: Minor and consequential amendments

Amendments 49 and 50 not moved.

Schedule 4 agreed.

Clauses 12 to 14 agreed.

House resumed.

Bill reported without amendment.

House adjourned at 10.58 pm.

Grand Committee

Monday, 29 June 2015.

Charities (Protection and Social Investment) Bill [HL]

Committee (2nd Day)

3.30 pm

Relevant documents: 1st Report from the Delegated Powers Committee, 2nd Report from the Constitution Committee.

The Deputy Chairman of Committees (Lord Bichard) (CB): My Lords, welcome to the Grand Committee on the Charities (Protection and Social Investment) Bill. If there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Clauses 6 and 7 agreed.

Clause 8: Power to direct property to be applied to another charity

Amendment 6

Moved by ***Lord Hope of Craighead***

6: Clause 8, page 6, line 38, after "unwilling)" insert—

"(a) in subsection (1)(a) after "unwilling" insert "or unable";

(b) "

Lord Hope of Craighead (CB): My Lords, Amendment 6 is the sole amendment dealing with Clause 8 of the Bill, which is a comparatively short clause on the "Power to direct property to be applied to another charity". As it appears in the Bill, Clause 8 makes one amendment to Section 85 of the Charities Act 2011, which is dealing with a different matter from the one that is of concern to me. Amendment 6 seeks to insert two words into Section 85(1)(a) of the 2011 Act so that the phrase,

"persons in possession or control of any property … unwilling to apply it … for the purposes of the charity",

would also deal with those who say that they are willing to do so but are unable to do so.

The draft Bill, as it appeared before us in the Joint Committee, included the words that I am seeking to insert into Section 85. The description of the draft Bill can be seen in paragraph 141, read with paragraph 142, of the Joint Committee's report. As paragraph 141 records,

"Clause 7"—

as it was in the draft Bill—

"would amend the 2011 Act to allow the Commission to direct the application of charity property in the event that the person is either 'unwilling' or 'unable' to do so, rather than just 'unwilling' as is currently the case. The explanatory notes to the Bill refer to 'several cases in which financial institutions holding charity property were contractually unable to transfer it to secure its proper charitable application but would have been willing to do so.'"

In paragraph 142, we go on to say that,

"The evidence received by the Committee was supportive of this provision",

and the footnote refers to Professor Gareth Morgan, the Charity Commission for Northern Ireland and the Joseph Rowntree Charitable Trust. Paragraph 142 continues:

"The Charity Law Association"—

which had made a number of very helpful comments on the wording of the draft Bill—

"did not oppose this change, but questioned whether the meaning of the term 'unable' was sufficiently clear and whether banks in such situations were really 'unable' to transfer charity money or just 'unwilling' to breach a contract to do so".

Since the current Bill was published, I have had a meeting with William Shawcross of the Charity Commission, who has explained to me that he would much prefer that the words "unwilling or unable" were put in—in other words, that the words "or unable" were restored, as my amendment seeks. He explained that, from time to time, he encounters cases of this kind where a direction is proposed and the response is, "Yes, indeed, we are willing to do this, but for a variety of reasons we are simply not able to do so". As he put it to me, it would be possible by sleight of hand to fudge the thing a little bit, as it were, and treat unwillingness on such a ground as being within the scope of the section, but he would rather that the section was really upfront about the fact that both situations that he encounters in practice were actually dealt with in the wording of Section 85, so that unwillingness, which certainly occurs and is a source of concern, was dealt with but inability—where the persons involved are perfectly willing to comply with the direction but for various reasons say that they cannot properly do so—was covered as well.

This is a very short point. I am a little puzzled as to why the draft Bill which survived scrutiny by the Joint Committee should have been altered in this way. I hope that the Minister will pay attention to the wishes of the Charity Commission, which would find it useful if the amendment were accepted. I beg to move.

Lord Watson of Invergowrie (Lab): My Lords, as one who was a member of the Joint Committee under the excellent chairmanship of the noble and learned Lord, Lord Hope, I share his puzzlement as to why this change has been made to the draft Bill. I have no wish to repeat the words of the noble and learned Lord, but those of us in opposition do not fully understand why such a change should have been made and we invite the Minister to explain that if he can, and to say why, after the Joint Committee recommended acceptance of the draft proposal, and given that, as we have heard, the Charity Commission wants this change, the original wording of the draft Bill should not be reinstated. There is little more to say than that. I look forward to the Minister's response.

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords, I, too, will keep my remarks relatively brief, by reason of the conclusion that I have come to as a result of what the noble and learned Lord and the noble Lord have said.

[Lord Bridges of Headley]

The provision corresponding to Clause 8 in the Bill made reference to "unable" in the manner proposed by this amendment. The Charity Commission asked for the change following several cases where financial institutions holding charity property were contractually unable to transfer it to secure its proper charitable application but would have been willing to do so. As the noble and learned Lord said, the Joint Committee which considered the draft Bill supported the provision.

However, as is noted in the report, the Charity Law Association, while it did not oppose the change, questioned whether the meaning of the word "unable" was sufficiently clear and whether banks in such situations were really unable to transfer charity property, or simply unable to breach a contract to do so. Therefore the Joint Committee recommended that the Government consider the inclusion of some form of statutory protection for a financial institution in cases where compliance with a Charity Commission direction in these circumstances might constitute a breach of its contract with a charity. The Government therefore followed this recommendation and amended Clause 8 to provide for such statutory protection. Since the clause was aimed at dealing with financial institutions which are contractually unable to transfer property, this statutory protection was considered sufficient and the reference to "unable" was omitted.

The amendment tabled by the noble and learned Lord, Lord Hope, proposes to reinstate the reference to "unable", as we have heard, and further examples have been provided as to when this would be needed beyond the contractual liabilities of banks. I also note what the noble and learned Lord said about his conversations with the Charity Commission. In light of this, I am happy to give further consideration to the amendment and to return to this on Report.

Lord Hope of Craighead: My Lords, I am grateful to the noble Lord for his remarks. It is worth adding that the wording of Clause 85(1) is quite general—it refers to,

"a person or persons in possession or control of any property".

It does not confine the provision to banks alone. Although they may be the main aim of the provision, it is more widely cast, so whatever the banks may think is not the end of the story.

I hope that the noble Lord will bring forward something on Report without my finding it necessary to table another amendment to keep the matter alive. For the time being, however, in light of what the Minister has said, which I very much welcome, I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Clause 8 agreed.

Clause 9: Automatic disqualification from being a trustee

Amendment 7 not moved.

Amendment 8

Moved by ***Baroness Barker***

8: Clause 9, page 8, leave out lines 26 and 27

Baroness Barker (LD): My Lords, Clause 9, which gives the power automatically to disqualify somebody from being a trustee, was the subject of perhaps one of the most contentious of the joint scrutiny committee's discussions. It was certainly the point on which we received the greatest variety of opinion and which led to some of the most intense arguments from a range of witnesses.

I think that there was general agreement that there are some crimes which are of such seriousness that they should lead to automatic disqualification and that no charity would wish to have somebody who committed them serving as a trustee. We are talking about someone who had been found guilty of crimes of the order set out in Clause 9; for example, making false disclosures and false statements, and disobedience to a direction of the commission on an application to the High Court.

However, the discussion which really brought home the disquiet in the sector was on whether terrorism offences should be a cause for automatic disqualification. Part of the reason why many people in the sector have sought to question these provisions in the Bill, when you might have expected them simply to agree, is some of the past views of the Charity Commission and the way in which they have been expressed. In October 2013 and in early 2014, the current chair of the Charity Commission made statements about the biggest threat to British charities being terrorism. That was a major assertion to make. At that time and since then, there was and has been little evidence of abuse of British charities by terrorist organisations.

The particular problem with those statements was that the Charity Commission chose to make them during Ramadan, which is the biggest charitable fundraising period for Muslim charities. That caused needless and great offence, and the back-draught has coloured people's vision or view of the power which is now to be given the Charity Commission in Clause 9. That said, there is agreement across the board that there needs to be a tightening up of the grounds on which people can be disbarred.

However, lying in the middle of the clause is the regulation-making power for the Minister—it is the Minister for the Cabinet Office, not the Home Secretary, I note—to add by regulation to the list of offences for which one can automatically be disqualified from being a trustee.

We heard a wide range of views from the witnesses to whom we talked, from the commission being of the view that the provision was necessary for its regulatory functions through to organisations such as ACEVO, which felt that, on balance, the power should be on the statute book but was not likely to feature large in the life of most charities. None the less, there was across the board a sense that charities were being unfairly targeted by the Government, without much evidence that they should be, and that the provisions which relate to terrorism offences are very wide.

3.45 pm

The Joint Committee's discussion is neatly summed up in paragraphs 203 to 208 of its report. The committee said it was content that this order-making power be available but that the procedure, in particular, the requirement for the Minister to consult quite widely on whether it is appropriate and proportionate to include an offence in the list of qualifying offences, should be included in the Bill. It has not been. That has caused considerable concern around the voluntary sector.

I note that the Delegated Powers and Regulatory Reform Committee also looked at this power and said that it was content that the Minister should have this power, which is obviously to be used under the affirmative procedure. It also criticised the lack of detail, in particular in relation to commencement and the fact that someone currently serving as a trustee could suddenly find themselves automatically disqualified without much or any notice because that matter is not set out in the Bill or the Explanatory Notes.

The committee accepted, and we accept, that there is a case to ensure that charities are protected by knowing that, if somebody is convicted of any of the offences set out in Clause 9, they will automatically be barred. There are some charities in this country in particular which would find it useful to be able to cite this legislation to try to prevent some people becoming trustees of their organisation, but I wish to challenge the power in subsection (4) in new Section 178A for the Minister—the Minister in the Cabinet Office, not the Home Secretary, I note—to add to this list of offences. We need more detail on the face of the Bill to ensure that this power is used proportionately. I beg to move.

Lord Hodgson of Astley Abbotts (Con): My Lords, I understand the noble Baroness's concerns on this point and why she feels this may be a loophole which may be abused by the Charity Commission. Nevertheless, we need to give the Charity Commission additional powers, as the noble Baroness said. It has produced quite extensive guidance on how it proposes to use the power, and I cannot imagine that if the Minister, whoever it was, was to propose a change under subsection (4), the sector would allow it to go by unchallenged. The sector would surely be up in arms if it felt that its independence or its freedom to appoint trustees was being infringed. I accept what the Joint Committee on the legislation said, but we are in danger of unnecessarily trammelling the hands of the Minister. These things will need to be looked at from time to time—for example, who would have thought about terrorist fundraising five or six years ago?—and no doubt there may be other issues in the future that will need to be dealt with.

Will the Minister say whether this is subject to the affirmative resolution procedure or the negative procedure? My ability to support the noble Baroness will depend slightly on his answer to that question.

Lord Hope of Craighead: My Lords, I shall add a few words based on the Joint Committee's report. The noble Baroness, Lady Barker, is right that this is the clause which caused the committee most concern. We have before us, among other things, a very carefully worded memorandum from the House of Lords Delegated Powers and Regulatory Reform Committee, the meat of which is set out at pages 96 to 97 of the Joint Committee's report. That Delegated Powers Committee draws attention to a number of problems that subsection (4) of new Section 178A gives rise to, including the risk of retrospective legislation bringing in offences that were not in the purview of the section when they were committed, without any provision for what would happen to people who were unaware that this might cause them to be disqualified. The committee considered various other aspects, but overall its conclusion was that subsection (4) of the new section should remain in the Bill.

Although the Joint Committee discussed this very fully, we reached the same conclusion, which was put in the report. We were content that the order-making power should be available in the form and subject of the procedures that were proposed, but I draw attention to paragraph 208, which contains the recommendation, that,

"when using the power, the Minister should be required to consult fully on whether it is appropriate and proportionate to include an offence within the list of disqualifying offences".

The process of consultation would be directed to the variety of problems discussed by the Delegated Powers and Regulatory Reform Committee in its report. There is a question as to whether that requirement should be statutory, or whether it is enough that the Minister would be prepared to say that he would be content to follow what the Joint Committee recommended: that he would consult fully on whether it was appropriate and proportionate to include an offence within the list of qualifying offences. I speak only for myself, but if the Minister was prepared to give an assurance of that kind, that would go some way at least to meeting the noble Baroness's concerns.

Baroness Hayter of Kentish Town (Lab): My Lords, it is a sobering day even to discuss something with the word "terrorism" in it. I note that the House of Commons had a moment of silence at 3.30 pm, which maybe is a lesson for all of us.

On the amendment before us, the Committee will know that we have always been a bit jumpy about Henry VIII powers. However, it is very important to have this provision in the Bill because I did not move Amendment 7, which we dealt with on the first day of Committee last week, when we dealt with our attempt to include people on the sex offenders register on the list of those who are precluded—which, frankly, I take more seriously than someone who has got into a bit of debt and has an IVA. The Minister did not think that that was appropriate, and I hope very much that he is right and that we will not have a trustee who is on the sexual offenders register and then abuses someone, which would show that I was right and he was wrong. I do not want to be in that position, for fairly obvious reasons. However, if we find that the evidence is that we should have added those on the sex offenders register to those who are precluded from being a trustee, unless there is a waiver, this provision would allow the Minister, at that stage, to put right—unless we win the vote on Report—what would be an omission from the Bill.

[Baroness Hayter of Kentish Town]

There is always a problem with retrospective legislation, which would be the same now for people convicted for other things. Therefore, it will be important that the implementation date of any regulation is in good time to notify people so that they do not suddenly find themselves acting as a trustee and putting a charity at risk because of some new provision that then comes in. However, if it was something such as someone being on the sex offenders register, that is a known register and they would be able to be notified pretty easily that they could no longer act as a trustee. As a failsafe, albeit that any new measure should be by the affirmative procedure, we are content to see this power in the Bill.

Lord Bridges of Headley: My Lords, I am grateful to the noble Baroness, Lady Barker, for her explanation of this amendment, which was typically reasonable and eloquent. Subsection (4) of new Section 178A, inserted by Clause 9, would enable the Minister by affirmative procedure to make regulations to amend the list of criteria for automatic disqualification by adding or removing an offence.

The Joint Committee that undertook pre-legislative scrutiny of the draft Bill recommended that there be a requirement for any such regulations to be consulted on. The Government agreed and made provision, in subsection (21) of Clause 9, for there to be a requirement to consult on draft regulations where they add an offence.

The Delegated Powers and Regulatory Reform Committee's first report of this Session stated that the committee was satisfied with the delegation and level of scrutiny in relation to this power when it had advised the Joint Committee on the Draft Protection of Charities Bill. It recognised that the Cabinet Office may in future need to take urgent steps to specify offences that should result in automatic disqualification, and considered that the affirmative resolution procedure would provide an appropriate safeguard.

The DPRRC, however, has raised a question about the commencement of new Section 178A and any regulations made under it. The last Government's response to the Joint Committee's report on the draft protection of charities Bill stated that we,

"commit to ensuring that sufficient time would be allowed before the commencement of such provisions".

I will, therefore, happily provide a commitment to your Lordships that a disqualification would not take place under new Section 178A in relation to a person previously convicted of a specified offence until at least two months after enactment of the section and, in all but exceptional circumstances, until at least two months after the date that any regulations are made under subsection (4). We would want to ensure there was sufficient time to notify charities of the new offences.

When the Bill becomes law, we will publish an implementation plan that will set out when the different provisions of the Bill will be commenced. This will include the timetable for commencement of the automatic disqualification provisions under new Section 178A. The Charity Commission has said that it is planning a wide-ranging communications strategy in order to give those affected by automatic disqualification a fair opportunity to learn of the relevant changes before they come into force. Where we undertake any consultation, we will ensure that it is compliant with the compact.

I know that the Lords Constitution Committee has also considered the power to add offences. Its second report of this current Session states that this power to add new offences is not explicitly constrained in its scope, so perhaps I can provide some assurances to your Lordships on how the power would be used, and address a number of the points made.

First, while it may be considered unnecessary, I should nevertheless point out that there are no plans to exercise the power. Its purpose is to enable Ministers in future to amend the list of offences as new criminal offences are created which may be identified as appropriate for automatic disqualification, or criminal offences currently listed may no longer be appropriate, meaning the list needs to be updated. The prospect of a power to amend the list of offences was raised in consultation last year and was generally well supported by respondents, provided the power is subject to the affirmative procedure.

It should go without saying that, in considering any new offence to add to the list, there would need to be a clear rationale for adding that particular offence. The offence would have to be relevant to a person's fitness to act as a trustee. We would set that out in consulting on the addition of any new offence. That consultation is a statutory requirement. Of course, the safeguards of the public consultation and the affirmative resolution procedure in Parliament—a point my noble friend Lord Hodgson of Astley Abbotts raised—should also provide a significant measure of assurance.

I hope that I have been able to give sufficient assurances to your Lordships on how this power would be used, and invite the noble Baroness to withdraw her amendment.

Baroness Barker: My Lords, I thank the Minister for that characteristically considered answer. It was helpful to have this fleshed out and to have statements on the record from the Dispatch Box.

As I tried to indicate in my opening remarks, and as the noble and learned Lord, Lord Hope of Craighead, indicated on behalf of the committee, there is a widespread understanding in the sector that this is necessary. There is not such a widespread understanding, but perhaps some relief, that some charities may be able to use the provisions of this clause to deter unsuitable people from becoming trustees. That may well be a good thing. It is simply that, within the current climate and context of the debate about the nature of terrorism legislation and its ever-widening grip on our lives, those of us in opposition are beholden to pressure the Government on these matters to make sure that we are not being unduly punitive towards individuals for all the wrong reasons.

I therefore take the Minister's explanations and I listened to what he said about the extent to which there will be public consultation. With that in mind, I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Debate on whether Clause 9 should stand part of the Bill.

4 pm

Lord Watson of Invergowrie: My Lords, I argue that Clause 9 should not stand part of the Bill. I do so not because we do not wish this clause to stand part of the Bill but because we want to raise issues that have not had an airing through another amendment, and we have particular concerns over issues surrounding charities working in areas of conflict.

The Minister will remember that I raised that issue at Second Reading when I asked if he would speak with his ministerial colleague at the Home Office. I hope that he has now done so and will be able to make noble Lords aware of what that discussion produced. Again, I draw attention to the difficulties posed by current counterterrorism legislation to the protection of charities working overseas to deliver humanitarian aid. I accept that changes to the various laws that cover counterterrorism are not capable of being dealt with within the confines of the Bill. However, concerns were raised with the pre-legislative Joint Committee on these matters by several of those who gave evidence, in particular two umbrella organisations that cover NGOs that work abroad: Bond and the Muslim Charities Forum. They would welcome greater clarity from the Government, which would be helpful for all of us.

In response to the Joint Committee's report the previous Government stated:

"Terrorism legislation is in no way designed to prevent the legitimate humanitarian work of charities, but it needs to be widely drawn to ensure that it captures the ever diversifying nature of the terrorist threat".

That is understandable, not least in light of the unspeakably appalling events in Tunisia, Kuwait and France three days ago. However, in his evidence, the Government's Independent Reviewer of Terrorism Legislation, David Anderson QC, told the Joint Committee that the use or suspected use of property for the purposes of terrorism was "monstrously" broadly defined in legislation. Coming from that source, such a comment carries significant weight, and you do not leave yourself open to charges of being weak or soft on terrorism—which we in the Labour Party most certainly are not—by seeking comment on a matter previously highlighted by the Government's own Independent Reviewer of Terrorism Legislation.

Indeed, Mr Anderson pointed the Joint Committee in the direction of Australia and New Zealand, where specific exceptions exist in terrorism law to cover charities involved in the delivery of humanitarian aid. I am not comparing the UK to either of those countries with regard either to their size or the level of terrorist threat they face. However, given the similarities of the legal systems of all three countries, the possibility that such legislation might prove of value means that it should at least be examined. Again, I mention that the man who drew it to the attention of the Joint Committee can hardly be characterised as being other than committed to ensuring that the UK's counterterrorism measures are as tight and effective as they possibly can be.

We acknowledge that the Charity Commission has been proactive on this subject and has meet with some of those NGOs faced with the kind of difficult circumstances to which I have referred, and the commission issues alerts and seeks to make charities as aware as possible of the risks involved. However, the current counterterrorism legislation, despite the fact that no prosecutions have been brought against UK NGOs that operate in conflict zones, is having a chilling effect on them, and undoubtedly makes it more difficult for those NGOs to deliver humanitarian aid.

The pre-legislative scrutiny Joint Committee highlighted this matter to the previous Government, who said in their response that they would,

"draw the Committee's recommendation to publish guidance relating to prosecutions under counter-terrorism legislation … to the attention of the Director of Public Prosecutions".

Given that three months have now elapsed and that—I think I can say this to the Minister—a clear line exists between the previous Government and the current one, will the Minister tell the Committee whether that has been done and, if so, what conclusions have emerged?

Finally, we believe that the commission and those charities which presently fear to tread in certain situations would welcome a form of words which went some way to providing more clarity—perhaps even legal certainty—on this important matter.

Baroness Warwick of Undercliffe (Lab): My Lords, I support the probing questions of my noble friend Lord Watson of Invergowrie. At several stages in our pre-legislative scrutiny of the Bill, we became anxious about the breadth and vagueness of the powers which it bestows on the Charity Commission. These concerns were reinforced by a letter from the chairman of the Joint Committee on Human Rights, Dr Hywel Francis MP, in which he said:

"In the absence of further definition in the Bill itself, or other guidance, such broad and vague language significantly increases the power of the Commission and provides insufficient certainty to both individual trustees and charities about the possible consequences of their conduct".

At each stage, when we had these concerns, we looked carefully at the evidence and concluded, as noble Lords will see from the report, that the powers were indeed justified in that they were likely to help to increase public trust and confidence in charities.

However, when it came to the inclusion of terrorism offences, as my noble friend has indicated, we received evidence that disturbed us. As noble Lords will know from our report, a number of witnesses expressed concerns over the difficulties presented by terrorism legislation in relation to the operational requirements of NGOs in challenging circumstances overseas. They were particularly concerned about charities operating in dangerous parts of the world for humanitarian purposes. My noble friend referred to the chairman of the Muslim Charities Forum, Dr Hany El-Banna, who told us that he thought counterterrorism legislation was,

"preventing us from having access to the neediest people".

David Anderson QC, the Government's Independent Reviewer of Terrorism Legislation, who has already been referred to, said concepts such as the provision of "indirect support" to terrorist organisations had,

"an impact on humanitarian charities, particularly when working abroad and when working in areas that are under the de facto control of a proscribed or designated group".

[Baroness Warwick of Undercliffe]
He went on to say that charities operating in these areas ran the risk of falling foul of terrorism law by, for example, delivering relief to a general population which might include individuals or groups designated as terrorists. He suggested that an increased risk could deter charities and their trustees from delivering humanitarian support. Bond, the umbrella group, went on to suggest, in our words, that,

"the withdrawal of banking services exposed donor assets to greater risk because international NGOs had no option other than to use less secure money service bureaux or to carry sums of cash across borders".

Nothing in what I have said undermines the need to deal with terrorism offences and to address legitimate concerns about the abuse of charitable funds in connection with terrorism. It does, however, raise questions about the uncertainty surrounding the application of terrorism legislation when it comes to charities operating in dangerous circumstances overseas. The pre-legislative scrutiny committee was offered the examples of Australia and New Zealand as places where Governments had addressed this issue and where specific exceptions in law existed to meet this point. We thought that this was worth pursuing, but when we raised it with the Minister for Civil Society, he said it fell outside his remit and was essentially a matter for the Home Office. He went on to say that it could be,

"chasing a problem that does not exist",

since,

"no one has been prosecuted".

I do not think that that is good enough. Clearly these charities are expressing real anxieties about the risks they might face and about the chilling effect of this legislation. The difficulties facing these charities are already enormous in Afghanistan, Iraq, Chechnya and Somalia, among other places. If it is possible to provide them with greater certainty in pursuing their important work and overcome this worrying and chilling effect, then we should try to do that.

Like my noble friend, I was disappointed with the Government's response. The Government recognise that there are concerns, but points only to the problems of creating loopholes without even addressing the suggestion that they might look at the examples of Australia and New Zealand to see whether and how those countries have overcome this danger. I ask the Minister to think again and at least to consider whether other countries can provide some inspiration about whether there are ways to provide greater legal certainty.

Finally, the Government have said they will draw to the attention of the Director of Public Prosecutions our recommendation to publish guidance. I hope they will agree to do rather more than that and to put their weight behind the need for guidance to address the current uncertainty, which was revealed in our evidence and which the Government acknowledge.

Lord Hope of Craighead: My Lords, I draw attention to the last two sentences of paragraph 183 of the Joint Committee's report, at pages 53 and 54. They refer to an exchange between me and the Minister speaking for the Home Office, the noble Lord, Lord Ashton of Hyde. I pointed out to him the difficulty faced, according to the evidence we received, by people who are trying to gain access to areas where people are in dire need of food, warm clothing or whatever else when somebody there is, in effect, a gatekeeper and refuses any transit to the areas where these people are without some form of payment.

One would of course support what the noble Lord, Lord Ashton, said as a general rule—one does not want people to pay money to terrorists for any reason—but the New Zealand legislation has addressed the problem by putting in the phrase "without reasonable excuse". Something of that kind would go some way to addressing this problem, because a hard-edged refusal to contemplate any situation where money is paid by somebody—not to assist terrorist activity but simply to get access for a humanitarian purpose—would seem to be too severe. I would have thought that there is a need for some degree of flexibility, although like everyone else I recognise that this is a very sensitive issue and the last thing one wants to do is encourage terrorism. There is a conflict of two diametrically opposed interests here, and the hard-edged and uncompromising line, as described in the noble Lord's reply when I put forward my suggestion, is prejudicing those who are in need of humanitarian assistance.

Lord Hodgson of Astley Abbotts: My Lords, having also been a member of the Joint Committee, I support the need for flexibility on this. I used the example at Second Reading of the Yazidi women who have been enslaved by ISIS and whom it is allegedly possible to ransom for $10,000. Clearly that money is going if not directly then indirectly to ISIS and these charities are faced with an incredibly difficult decision. On the one hand, morality drives you towards wishing to rescue these wretched women who are in a state of sexual slavery. On the other, there is the danger that if you do it, you may end up being prosecuted for the reasons that we have been discussing. I support the need to find some way through this thicket. Whether it is a DPP statement of guidelines or whatever else, I do not know, but we should not let it just ride through our Committee without having a real go at getting clarity as to how charities can operate, not only for the benefit of the individuals concerned but for the reputation of this country. Our soft-power reputation for making an important contribution to providing humanitarian aid in various parts of the world is important to us, and we need to spend time making sure that we maintain it.

Baroness Barker: My Lords, it is worth noting that this issue is not new. Anybody who can remember the 1970s knows that similar decisions had to be made then about whether charities raising money for organisations in Ireland were legitimate charities. I go back to the point raised by the noble and learned Lord, Lord Hope of Craighead, when he talked about reasonable excuse. If a charity is raising money in pursuit of its charitable objects, the question becomes how it pursues its charitable objects, not whether it is therefore deemed to be supporting terrorism. The Charity Commission, having raised the temperature around this issue, is under an obligation to work with the sector to come up with the guidance for charities, which is obviously necessary, on how they can pursue

their legitimate charitable objects in the difficult parts of the world in which they have to work. This is not new, and it is not beyond the Charity Commission to facilitate an answer.

4.15 pm

Lord Bridges of Headley: My Lords, this debate is clearly overshadowed by the horrific and terrible events in Tunisia, France and Kuwait last week. I, too, express my condolences to those who lost loved ones. I would certainly not wish to imply that anyone who raises the issues that we have been discussing is in any way soft on terrorists.

Rather than rehearse all the arguments about this clause, let me address directly the point about the so-called chilling effect that some have spoken of. I recognise fully that this is a concern for some charities operating in some of the most difficult parts of the world. I will come on to explain why I disagree with the need for carve-outs. My belief is that we need to develop a clear understanding of NGOs' concerns and see examples of where difficulties occur. We also need to avoid seeing the Bill as a means to tamper with or revise counterterrorist legislation itself—not that any of your Lordships have suggested that, but it is worth bearing in mind.

The noble Lord, Lord Watson, asked what I have been doing about this since Second Reading. I assure him that I have not been totally idle. I have been turning over the stones and seeing what is going on, and it is clear that there is a considerable amount of activity within government. I will not bore the noble Lord with a long laundry list but several government departments and other bodies, including the Home Office, the Treasury, DfID, the Charity Commission and the Cabinet Office, have been engaging with NGOs to understand their concerns and to ensure wherever possible that their concerns are properly covered by and in guidance. In 2014-15, for example, the commission engaged with more than 100 charities that operate internationally, and it regularly meets the Disasters Emergency Committee.

In many cases, there is already detailed guidance dealing with the points that have been raised, although I fully accept it may well be the case that better signposting, better explanation and more discussion are needed. The Charity Commission has produced and published a range of specific guidance for charities on managing the risks of operating overseas and on the abuse of charities for terrorist purposes. This includes the risks of links to or association with terrorist activity or abuse. This guidance is published on the commission's website and includes the requirements for charities under UK counterterrorism legislation and charity law.

What I am taking from this debate is that we need to have more communication with these charities in a more targeted way. The Government's assessment is that neither existing terrorism legislation nor other legislation prevents organisations, including charities and NGOs, operating in the UK or overseas. The legislative framework is deliberately drawn widely to capture the ever-diversifying nature of the terrorist threat faced. The chances of prosecution of an individual for a terrorism-related offence as a result of their involvement in legitimate humanitarian efforts are considered to be low, as was referred to a moment ago, although this can be determined only on a case-by-case basis and on the particular circumstances of each case.

It is not possible to provide assurances to the charitable sector or to those engaged in humanitarian efforts about possible prosecutions, as doing so might obviously fetter the discretion of the Crown Prosecution Service. Equally, doing so could create a loophole that could be exploited by the unscrupulous. In the interests of fairness, every case must be treated on an individual basis by the independent prosecution authorities, subject to the evidence available and their judgment on whether it is in the public interest to proceed with a case.

There has been one recent case involving a charity and connected individuals being investigated on suspicion of breaching UK counterterrorism legislation. The alleged offence related to the charity's humanitarian efforts in Somalia. The normal police and prosecution decision-making processes were followed, and the Attorney-General accepted the CPS's recommendation that prosecution in this instance was not in the public interest. Therefore it did not proceed. Furthermore, the Government do not consider it necessary for there to be a carve-out or exemption for charities because there is no evidence of a significant number of prosecutions against them, which suggests that the protections already in place are adequate. For example, the public interest test, as set out in the Code for Crown Prosecutors, sets out the factors considered when prosecution is appropriate.

Some have argued that the disqualification provision should not apply to people designated under terrorist-asset freezing legislation, as this is not a criminal offence and is not subject to the same standard of proof. I disagree. The Terrorist Asset-Freezing etc. Act provides the Treasury with powers to freeze the funds and economic resources of those suspected of, or believed to be involved in, terrorist activities and restricts the making available of funds, financial services and economic resources to or for the benefit of such persons. These are highly targeted measures. The latest consolidated list of those designated under the UK's terrorist asset-freezing legislation contains 23 individuals. Furthermore, if the case is serious enough to designate an individual under this legislation, it is impossible to see how such a person could be considered fit to serve as a charity trustee or manager. It would be an absurd position for an individual to have their own funds frozen but to be in a position to fundraise for a charity or to control a charity's funds or activities. Nevertheless, as a safeguard, a person who was disqualified by virtue of designation would be entitled to apply to the Charity Commission for a waiver from disqualification, and the commission's decision would be appealable to the Charity Tribunal.

Clause 9 agreed.

Clause 10: Power to disqualify from being a trustee

Amendments 9 to 11 not moved.

Clause 10 agreed.

Clauses 11 and 12 agreed.

Amendment 12

Moved by ***Baroness Hayter of Kentish Town***

12: After Clause 12, insert the following new Clause—

"Disposal of assets

Charities may not, and may not be compelled to, use or dispose of their assets in a way which is inconsistent with their charitable purposes."

Baroness Hayter of Kentish Town: My Lords, Amendment 12 stands in my name and that of my noble friend Lord Watson. It effectively just states the existing legal position. It is here to remind trustees of their existing duties for when the Government later mandate them to sell their charitable property under right to buy. As the Minister knows, the Opposition is not against right to buy. Indeed, we want those who desire to be home owners to achieve that. Likewise the National Housing Federation and housing associations want to help tackle the housing crisis, but in their view a compulsory right to buy would make it more difficult. It is not the right way to achieve it.

In his maiden speech, the noble Lord, Lord Kerslake, said that forcing charities to sell off their property is wrong in principle and in practice. At a subsequent event, he said it would work entirely counter to the overwhelming priority of promoting new supply. The debate in the Chamber on Thursday saw Tories, Lib Dems and Cross-Benchers line up to condemn the proposal, and surely that will make the Government think again. Housing associations, which are mostly charities, provide 2.5 million homes for some 5 million people on affordable rents. They are rented privately, and many enable people with disabilities or care needs to live independent lives. Others are for shared ownership to help those on lower incomes to buy their homes. Housing associations build 45,000 homes a year and would like to build 120,000, matching what private builders are able to do. This aim could be undermined by them being forced to sell off their stock.

We know that civil servants warned Downing Street about the cost, which I think is at least £5 billion but could be more, and about the difficulties of replacing those sold, leading to a shortage of affordable homes. We know that in local government terms only one in 10 homes sold under RTB were replaced. Furthermore, any diminution of housing stock can harm housing associations' borrowing powers. As the NHF has said:

"With a nation in the throes of a housing crisis, it is key that housing associations are in full control of the assets against which they borrow to build homes".

The NHF obviously wants to increase home ownership, but it is concerned that the right to buy will make it more difficult to tackle the housing crisis. Right to buy could make it harder for the housing associations to deliver their charitable objective, which is, of course, providing for people in greatest housing need.

We know that housing associations lever in private finance in order to meet their charitable objectives and to manage their assets effectively. Forcing them to sell properties would give them less control over these decisions and, importantly for this Bill, would make it more difficult for them to meet their charitable purpose.

The National Housing Federation also worries that such interference sets a dangerous precedent for government intervention in independent charities. It cannot support giving government a role which should be the preserve of housing associations' own charitable trustees. The NCVO similarly fears that the compulsory sale of charity assets through right to buy sets a worrying precedent of government interference in the running of independent charities. It would also, says the NCVO, contradict the rule that charities cannot dispose of assets other than in pursuit of their charitable objectives. In other words, using such assets for charitable rather than for political or private benefit. Hence, the NCVO supports Amendment 12.

There are other concerns about the policy, such as whether any bequests could be invalidated in the circumstances of a forced sale. We should remember the history of major providers of social housing. Peabody, close by here, was founded in 1862 by an American banker, diplomat and philanthropist, George Peabody, to,

"ameliorate the condition of the poor and needy in this great metropolis".

Peabody's mission remains much today as it was in 1862: to help make London,

"a city of opportunity for all",

by helping people have a good home with a feeling of belonging which grows from involvement in the neighbourhood and the spirit of togetherness. Furthermore, Peabody strives to ensure that the landlord service is tailored to the individual, and residents are supported in their daily lives and in their aspirations. So not only would the forced sale of this property counter the bequest's terms but, as those houses were sold on—perhaps let to the private sector—the charity's aims could not be met.

During Second Reading, the Minister said that there was a precedent for housing association tenants accessing discounts to buy their own home. However, the preserved right to buy, which I assume he was referring to, applies to homes transferred from a local authority—and which thus have been built with public money—to a housing association. Charitable law is overruled in that case only because the charity was aware when it acquired these homes that right to buy applied. It is therefore a little misleading to suggest that this is similar to what is now being proposed, which will cover all housing association homes, whether donated to the charity, perhaps by special deeds setting out the purpose of the gift, or funded by money raised to house a particular client group.

The policy would reduce the supply of affordable homes. Given that such right to buy for housing associations would be funded through the forced sale of council properties, this would itself reduce the number of affordable homes. There are 2 million people on waiting lists due to the dearth of homes at affordable rents for low earners. Expecting the sale of a council home to both fund its replacement and reimburse the housing associations sounds to me like double-counting, and in London, of course, a complete impossibility.

The National Housing Federation, which is, of course, the expert in this field, calculates that the taxpayer's money could be much better targeted at ending the

housing crisis. On its assumption that there will be about 220,000 eligible tenants who could afford to take up the right to buy, the discount would be £11.6 billion—for 220,000 people. That amount could provide 660,000 homes for shared ownership, which would give three times as many people a foot on the ladder. Housing associations already help people to buy their own homes, with some 250,000 now in shared-ownership homes.

4.30 pm

Rent to own is a good idea, so long as it is clear from the start what is meant and it is not taking charitable assets away from their original purpose. Housing associations want to fulfil their charitable purpose and deliver more homes for people on all incomes. They also want to continue their long-standing successful relationship with the public sector, where each £1 of public investment in housing associations is matched with £6 of their own money, which gives value to the taxpayer and affordable homes to rent and buy. To ensure that charities can continue their work, will the Government commit to consulting with the sector on plans to extend right to buy before publishing legislation?

I shall raise a couple of questions regarding forcing a charity to sell. First, some tenants might be connected persons—someone, or their partner or relative, closely associated with a charity, the trustees or donors. Any sale to a connected person has to be authorised by an order. Will the Minister confirm that all such charitable requirements would be fully met?

As the Minister knows, trustees can sell property only in a way that is: compatible with their trust deed; in compliance with Sections 117 to 121 of the Charities Act; and in compliance with the standard of care set out in the Trustee Act 2000. Will the Minister confirm that no trustee will be expected to act in contradiction to any such requirement? Some charities' governing documents might expressly prohibit trustees from selling. This would probably require an order or scheme to give them power to sell. Have the Government considered such cases?

Where a trustee holds designated land—that is, required by the terms of the gift to be used to carry out the charity's purposes—and where such land cannot be replaced by other relevant property or land, will the charity be excused the demands of the right-to-buy provisions? This might be the case where a charity holds a house once owned by a particular local figure, or associated with a former convent or almshouse sponsor. Those types of charities might need a scheme to change their objects, should they be compelled to relinquish the land because they can no longer carry out the purpose for which the land is held. This also means giving the public notice of the proposed sale. Can I assume that all those considerations will be carefully weighed by the Government?

It is clear that trustees can sell property only where it would be in the best interest of the charity. Will the Minister outline the Government's thinking as to when such "best interests" are in conflict with the aims of the new policy? How, then, will the Government deal with that?

Governments also have to consider who else could be affected by the disposal. This might be the generality of the beneficiaries, or, indeed, public support for the charity. In particular, if the home forms part of a supported community—for example, for the elderly or the infirm, or for those with learning difficulties—where the whole is much more than a collection of residences, the sale of one or more of those units, where, obviously, later on other non-affected owners could move in, could have a considerable impact on the viability of the community and on its shared values and resources. Will such supported properties be excluded from right to buy?

We support helping families to own their own home, but too often right-to-buy homes then just get resold, especially as the subsidy offers the former tenants a nice big bonus to be realised. Many rapidly become rented out by private landlords at full market rent. They sometimes, of course, then attract housing benefit. Our concern with the Bill is that the Government want to interfere with the duties of charitable trustees to put their beneficiaries first and to comply with the trust deed. Housing associations can delight in the right-to-buy option for their tenants where that accords with their charitable objects. The problem arises where it conflicts: where trustees' duties risk being overridden by the Government. The amendment therefore seeks to prevent them being compelled to do something that is not in the charity's best interests. I beg to move.

Lord Campbell-Savours (Lab): My Lords, my noble friend has put a powerful case before the Committee. I have to say to the Minister that what he has to say will be circulated throughout the country and will be read by thousands of people and by many involved in the churches. Many would have been here to witness what he has to say if they had known this debate was to take place.

We had an early canter round the course last Thursday during a housing debate. Even on that occasion, with very little notice of the debate having been given, the speeches were circulated widely because everyone is waiting for the Government to take a decision to exempt at least certain categories. I am not going to refer specifically to the contribution that I made in that debate other than to say that I read out a letter from Mr Bill Bewley. I do not know whether the Minister has been given a copy of Mr Bewley's correspondence. He nods to indicate that he has not seen it. I hope that he or his civil servants have time to read col. 1758 of *Hansard* of 25 June on the debate on affordable housing. A number of contributions were made on this issue.

The amendment says:

"Charities may not, and may not be compelled to, use or dispose of their assets in a way which is inconsistent with their charitable purposes".

I speak to this amendment on behalf of a charity whose function is mirrored by hundreds of charities nationally. The Government's objective, as set out, would require that charity to dispose of its housing assets. These assets have been built up by volunteers working in small communities without remuneration. They have built houses in Keswick in the Lake District, where I was once the Member of Parliament, and where, until recently, I had a home. They are but one

[Lord Campbell-Savours]
of 175 community land trusts across England. In this case, I am referring to the Keswick Community Housing Trust. By 2020, those community land trusts will build some 3,000 homes. Most of them are charities and they do not want to be forced to sell off their assets. They are not going to solve the nation's housing supply problem but they will certainly make a meaningful contribution to resolving the crisis.

These community land trusts are local organisations, set up and run by local people unpaid to develop and manage homes as well as other assets important to a community, such as community shops, pubs or work spaces. Their primary objective is to develop homes that are genuinely affordable, not this nonsense that we hear in London in particular, where they talk about affordable rents being £1,600 a month or whatever. It is just ludicrous what is going on in London; what is described as affordable there makes a nonsense of the whole principle.

As I said, these community land trusts' primary objective is to develop homes that are genuinely affordable based on what people earn in an area and to ensure that those homes remain affordable in perpetuity. I set out in last week's debate the wages paid in Keswick over recent times and they bear no resemblance whatever to the so-called affordable rents that are being paid in many parts of the country. This housing trust in Keswick set out to provide affordable rents that people could actually afford—people who earn not £30,000, £40,000 or £50,000 a year but maybe £15,000, £18,000 or £20,000: a completely different market. That is where its concern is focused, but it is worried that the properties it has built will have to be sold off.

Last week I gave the House a description of what is going on in the Keswick community land trust in the Lake District. However, there are CLTs—community land trusts—in towns and cities around the country where the lack of affordable housing is just as much an issue as it is for popular rural communities like Keswick. I am trying to make the point that the very purpose of CLTs like Keswick Community Housing Trust is to develop homes that are affordable for local people in perpetuity. These CLT homes are not supposed to benefit just one generation but every future occupier. That very purpose of a CLT motivates local people such as Mr Bill Bewley of Keswick CLT, who I spoke of on Thursday, to spend thousands of hours volunteering their time to bring forward new homes.

Mr Bill Bewley is an active Quaker, and the Quakers are involved nationally in this kind of work, as are many other religious groups, which very often give of their time and form part of the membership of those trusts. In the case of the Keswick trust, it involved two people from the Church of England, one Methodist, one person from the Kings Church, a couple of Quakers, an Orthodox Christian and Catholics—in other words, a body of people who are committed by their religious beliefs and who get together and act in the public interest to produce houses that people can afford. Now they are fearful that their right to carry on with the brilliant work they do will effectively be removed because of a policy which they believe is ill-conceived.

Many community land trusts have developed homes for rent or are currently in the process of doing so. That work is going on all over the country. They are now vulnerable to the right to buy, either because they have had to register as a registered provider with the Homes and Communities Agency to receive an affordable homes programme grant or because they own freehold of a site and have leased the properties to a registered provider; that is, a housing association. The right to buy will not only affect those homes because it goes against the ability of a CLT to ensure that the homes remain affordable, but it could have a chilling effect on the whole sector.

If this measure is introduced for CLTs we will not see landowners being willing to dispose of land on favourable terms. I will explain what that means. The churches in Keswick—in this particular case it was the diocese in Carlisle—said to the trust, "You can have this piece of land, and we will charge you only £10,000 a plot". Therefore they took it, and spent £110,000 on 11 plots. If that land had gone on the open market—in Keswick, in the Lake District, where there are very strict planning rules and where land is at a premium—it would have fetched a much higher price. In the event that those properties will be sold off, the beneficiaries of that charity will be individuals. I think that is completely wrong, as do probably many Conservative Members of Parliament in the other place, who I understand have privately indicated their concerns to Ministers, because they are under pressure from the lobbyists.

A family in Keswick called the Speddings—a local family, well known in the area for their charitable work—have sold a piece of land to the local housing trust for £12,500 per plot. Again, they are effectively giving that land away. Why should the benefit of that charity be passed to individuals? It is staggering madness that the Government are embarking on by going down this route.

4.45 pm

We certainly will not see people such as Bill Bewley being so willing to spend their evenings and weekends to develop much-needed affordable housing if it is only to be lost to the open market. Why should an individual who is motivated by his Christian beliefs, who spends his time, his life, involved in public works, go to all that effort, spending hundreds, perhaps thousands of hours building up and motivating the community to get together to produce such housing stock if suddenly the Government decide that they effectively want to give it away because of some political advantage that they think they may gain? Again, it is staggering madness.

The CLT sector has seen significant growth in the past four years, rising from 40 community land trusts in 2010 to now more than 170. As I said, they will not resolve the housing crisis in isolation, but they can make a very big contribution. I appeal to Ministers: do not take away the motivation. Those people must remain motivated. If the stock is sold off, they will be demotivated, and none of us wants that.

I therefore urge the Government to ensure that all CLTs, whether small or large, rural or urban, are made exempt from the right to buy. There must be exemptions.

I know that the Minister cannot just say today that that is going to happen—or perhaps he has been briefed to say that; I should like to think so, but I do not suppose that he will say that—but I want him and his department, with his civil servants, to go back to talk to people in other departments to see whether they can knock this policy on the head early on before it gets off the ground.

The Minister in the Commons spoke of engaging with the community land trust sector on the development of the right-to-buy policy. I put it to this Minister, responsible for charities, speaking here in the House of Lords, that he, along with the noble Baroness, Lady Williams of Trafford, who has responsibility in another department, might call in people from the community land trusts to talk to them about their problems and see whether a way around this can be found. I ask whether Ministers are making contact with the National CLT Network as the national charity for CLTs to discuss the implications of the right to buy for those organisations, and whether the Government might look sympathetically on an amendment, or even table their own amendment, to ensure that this particular sector of the housing association movement is exempt from what I can only refer to once again as this staggering nonsense which should be stopped at birth.

Baroness Warwick of Undercliffe: My Lords, I support my noble friend Lady Hayter in her amendment to reaffirm the independence of charities and of charity trustees. I declare an interest, in addition to others I have previously declared, as the chair-designate of the National Housing Federation.

The purpose of the Bill is to strengthen public trust and confidence in charities. The public will have that confidence only if charities are well run, live their values, fulfil their stated aims, deliver what they were set up to do and achieve value for the money entrusted to them to deliver services. Charity trustees have an obligation to act in accordance with their trust deed or governing document and to deliver their charitable outcomes for the benefit of the public. They are independent bodies, set up under a range of legal arrangements: they might be trusts, as we have learnt, companies limited by guarantee, incorporated by royal charter, or charitable incorporated organisations, all of which have different legal personalities.

Like my noble friend, I am concerned about one group of charities, housing associations, whose governance requirements might fall into any of the categories I just mentioned. However, they have one characteristic in common: all of them are independent of government at either local or national level, but they will be affected by a government policy, the right to buy, which could make them unable to deliver their stated aims, because they will be constrained in their freedom to make independent decisions about the use of their assets. As I have said, trustees have a fiduciary duty to use their charitable funds and assets reasonably and only in furtherance of the charity's objects. They must avoid activities that might place the charity's endowment, funds, assets or reputation at undue risk. However, the right to buy will ride roughshod over trustees' responsibilities to take strategic responsibility for the disposal of their property assets.

I will not repeat the points I made in the debate about affordable housing on Thursday or the statistics highlighted so strongly by my noble friend, but I do want to emphasise the wide range of tenants and communities with which these housing associations work: those paying social and affordable rents, private renters, those with disabilities, those who need care and those in properties for shared ownership or outright sale. Housing associations are extremely flexible in response to tenants' needs and, as has been said, are hugely ambitious to build more homes. It is clear that they will be critical to delivering the national response to the current housing crisis, yet they may be hobbled in trying to do so.

Trustees have to balance their charitable goals of building homes for those in greatest need with delivering homes right across the market. They have become extraordinarily adept at leveraging in private finance because finance companies have confidence in the trustees' effective management of assets. If trustees' control over their assets were to be undermined, that would make investors nervous and therefore less inclined to invest. Housing associations' ability to build enough houses to meet national need will then be undermined.

To add to that downturn, there are nearly 2 million people on housing waiting lists and there is a real shortage of homes at affordable and social rent. While replacing homes sold, housing associations will have less capacity to build the new affordable homes needed. Meanwhile, local councils will be selling their high-value homes to fund the process and ostensibly replacing them one for one. But this has proved a challenging target in the past and there is every expectation it will be so in the future.

The charities Bill is not the place to sort out these policy problems, nor is it the place to decide whether historic charity law in all its variety might need to be tested. But it is the place to reaffirm the centuries-old principle of the independence of charities and the overarching duty of trustees to act only to fulfil the charity's purpose. I urge the Minister to let that ring out loud and clear by agreeing to include the proposed new clause in the Bill.

Lord Bridges of Headley: My Lords, I thank all noble Lords for their contributions, which were clearly eloquent and heartfelt. I note your Lordships' concerns and will ensure that they are brought to the attention of my honourable friend the Minister for Housing. I say that because the extension of the right to buy is being taken forward, as the noble Baroness just said, in another Bill, which is yet to be presented to the House. That Bill is the right place to have the debate on these issues. My noble friend Lady Williams of Trafford, the Parliamentary Under-Secretary of State for Communities and Local Government, explained to the House that our honourable friend in the other place—the Minister, Brandon Lewis—is already leading the engagement with the sector on our housing commitments as set out in our manifesto and is happy to meet Members of this House and others.

I turn specifically to the noble Baroness's amendment. Under charity law, charities are already required to obtain the best price available when an asset is sold in most cases and the proceeds of the sale must be used

[Lord Bridges of Headley]
to further the charity's purposes. Amendment 12 seeks to prevent charities from using or disposing of assets in a way that is inconsistent with their charitable purposes. That would cause problems. Many charities hold property investments that are not directly used to further the charity's purposes, some of which may not be consistent with the charity's purpose. Instead, the investments are used to generate an income which is then used to further the charity's purposes. What is relevant in this context is the income the charity can obtain, not whether its property is being used in a manner consistent with the charity's purposes. Of course, many charities can and do use property assets directly or indirectly to further their purposes—but the point is that there are many that do not and which instead view property solely as a financial investment.

There is another problem with the noble Baroness's amendment: it seeks to prevent charities being compelled to dispose of assets. There are already circumstances where charities can be compelled to sell an asset. They can be subject to compulsory purchase orders like any property owner. The Charity Commission and courts have powers to require charities to dispose of assets in certain circumstances and for the proceeds to be applied for the same or similar charitable purposes, although not necessarily in the same charity.

As the noble Baroness mentioned, there is also the preserved right to buy in relation to housing associations, which 630,000 tenants enjoy, and the right to acquire, which 800,000 tenants already have and which, when exercised, would compel the charity to sell assets. These existing rights would be undermined by the noble Baroness's amendment.

I am sure that it was not the noble Baroness's intention to frustrate with this amendment the existing right to buy, planning laws, or the powers of the court or the Charity Commission. I hope that she will accept that the proper time and place to debate the right-to-buy policy will be when the legislation on that subject is brought before the House.

Lord Campbell-Savours: On that matter, the Minister invited Members of this House and others to meet the Ministers involved in this whole debate regarding housing associations. Could he give us an assurance that he will approach the noble Baroness, Lady Williams of Trafford, to ask her to invite representatives of the community land trust network nationally to discuss this matter? All we need is an assurance that they will be invited to the department to meet Ministers before that Bill reaches the Commons.

Lord Bridges of Headley: My Lords, I am happy to give the noble Lord an assurance that I will raise this matter with the noble Baroness, Lady Williams of Trafford, and will draw her attention to his clearly heartfelt views. I repeat that I will pass on to my honourable friend the Housing Minister all the points that have been made to ensure that he considers them when developing the policy further.

Baroness Hayter of Kentish Town: My Lords, I thank noble Lords who have contributed to this debate. The Minister should really thank us for doing this now. If he has not picked up that this measure is going to be one of those things that will be extremely hard to get through this House, then he has heard nothing. I realise that he is new to the House, but if he listened to what was said on Thursday, including from his own party, he will know that this one ain't going to happen. Therefore, I think that he will in the long term be grateful to us for having given due warning and enabled him to steer his colleagues off a track which will be highly bumpy for them.

If the Minister hears nothing else from today, he should listen to what my noble friend Lord Campbell-Savours said. These homes were built not just for one lot of lucky people; they were built not just for one generation but in perpetuity. He has given no answer on that point, because once you sell them off, they are gone. I was disappointed that the Minister said that it was all about income. No, this is not about income; it is about communities. They could be homes rented out, for example, to a community of retired actors or retired nurses—I think that there is a housing association near Bournemouth where all its residents were in nursing and worked in that community together. If you sell that off, you do not just sell off a house and have the money back; you no longer have that shared understanding of the people who have been given a stake in that way. No, it is not just about money and I am sorry that the Minister used that phrase.

This issue is not just about charities; it goes wider. Loan sharks are already circulating. Most of the people who can take advantage of this measure have to be fairly rich, because, even with the £100,000 that the Government are going to give you from local government, you still have to get the other £100,000. On the whole, you have to be fairly rich; it is not the £15,000-a-year earners that my noble friend referred to. So it is already the top end of that market who can use it. For the ones below who cannot, the loan sharks are there saying, "You're going to get £100,000 if you get this, so how about this? I give you the money, you get the mortgage for the other £100,000, you take the £100,000 that is coming, and in three years' time I'll be back and we'll share it out. I'll get £50,000 and you'll get £50,000". We know those people are there. That is not particularly about the charity aspect, but if the Government do not understand that that is what happens, they have learnt very little.

5 pm

There are issues about land being given free, and a Bishop—not the right reverend Prelate who is here today—mentioned rural land which has been given specifically to help the provision of affordable housing in rural areas. There is an iceberg about London, but there are enormous shortages of land in London. The issues are partly about this being for more than one generation, and partly that charity should go not just to one group of beneficiaries, including loan sharks. Partly there is the issue of the independence of charities, which my noble friend Lady Warwick spoke about, and partly I think the Minister misunderstood or did not read my amendment correctly. I said that charities should not be compelled to sell. They may well want to sell, and that is fine, but they should not be compelled to sell. He said they already can be. Normally, if there is a compulsory sale, it is to the state because the state

is about to put in a railway or a new sewage works. What is being suggested here is that properties should effectively be nationalised and then reprivatised, so the state is going to nationalise the private asset of a charity and then give it away at a reduced price to a tenant. That is quite new.

I am possibly taking the biggest decision I have taken in 30 years; I might be moving house, which is very scary, and I am looking at a flat in a shared development. There is some social housing, some shared ownership, and the stuff for the filthy rich, which is what I am going to buy—I may not be filthy rich—and the attraction is that I will not be living simply with the filthy rich group who can afford to buy, but it will be a shared community. It will have social housing, shared ownership and us lot. The thought that in 10 years' time it will all be people like me and there will be nobody in social housing or shared ownership because the Government will have forced a sell off makes me ask whether that is what I want. I might just go and live somewhere else.

This policy has big implications, and I hope that the Minister will take this amendment very seriously, partly to save his Government getting defeated on this, and partly because this is right for charities. I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendment 13

Moved by ***Baroness Hayter of Kentish Town***

13: After Clause 12, insert the following new Clause—

"Regulation of fundraising

(1) All fundraising charities must be members of the Fundraising Standards Board and abide by their Code of Fundraising Practice.

(2) In section 64A of the Charities Act 1992, as inserted by section 69 of the Charities Act 2006 (reserve power to control fund-raising by charitable institutions)—

(a) in the title omit "Reserve";

(b) in subsection (1) for "may" substitute "must"."

Baroness Hayter of Kentish Town: My Lords, this amendment is also in my name and that of my noble friend Lord Watson of Invergowrie. When we are discussing it, we refer to it by the shorthand "Olive's Law" as it arises from the complaints about somewhat overpushy fundraisers in the wake of the tragic suicide of 92 year-old poppy seller, Olive Cooke.

As the Minister knows, hundreds have since reported how they, too, came under pressure, with particular concerns about the elderly, some with dementia, being targeted. At Second Reading, I referred to the *Mail on Sunday* story of the underhand methods of a private company which appeared to break every rule in the book to make money for itself as well as for charities that were employing it. Cold calling is a particular curse of the housebound and risks damaging trust in charities. We also see charities, having secured one donation, ratcheting-up demands, leading people to fear that if they give they will just be asked for more.

The issue is whether the existing self-regulation is working. Our view is that it is not. A third of fundraising charities are not even members of the Fundraising Standards Board, and charities or the private companies they use can continue to fundraise even if expelled from the board.

The Fundraising Standards Board self-regulation system, which is effectively funded and run by and on behalf of those it seeks to regulate, has, we say, failed to work. It has not done the monitoring to check up on its members. Indeed, without the tragic case of Olive Cooke and the exposé by the *Mail*, we might know nothing of these practices other than from the anecdotal complaints we all hear about in our personal lives. I was with some elderly friends last night, and without me even raising the question it was one of the things that kept coming up in conversation. However, it was not coming to us from the board that should have monitored this.

The Fundraising Standards Board has not publicised its existence, meaning that those with complaints never took them to it, and it has not outlawed unacceptable practices. This, of course, is not just my view. The Minister for Civil Society, Rob Wilson, calls this,

"a critical time for charity fundraising".

He concludes:

"Charities' hard won reputation is at serious risk".

His "last chance saloon" warning was for charities to show that their fundraising was "beyond reproach" quickly, as they

"do not have the luxury of time".

He called on the sector to respect the wishes of householders who do not want to be disturbed at home and to respect "no cold caller" stickers on doors. He also acknowledged that many of us question the self-regulation model. Although it appeared that he favoured one last period of grace, he warned that the,

"window of opportunity … may not remain open for much longer",

and advised the sector to change rather than,

"allow others to do it for you".

I do not think that Minister had it quite right with that final warning, but I think he may have moved on since then.

We have concluded that the time has passed for charities to be able to choose whether they want to join the Fundraising Standards Board, or to abide by the code of conduct set by the Institute of Fundraising, by which the FRSB adjudicates complaints, and to put their own house in order—hence, the first part of Amendment 13, which would oblige large charities to belong, thus making their expulsion a matter for Charity Commission intervention. We do not have all charities in mind, but those raising more than, say, £1 million a year. On Report, we will find a form of words to either include a specific figure, or to have the figure set out in regulations, but the principle is clear.

The NCVO, which obviously speaks for many charities, usually prefers effective self-regulation to statutory regulation, as, normally, do we, because it is flexible, responsive, and cost-effective. However, it accepts that the regulatory regime must secure public trust and agrees that there is clear public concern over fundraising. It therefore agrees that self-regulation should be strengthened,

"to a point where an objective observer would say beyond doubt that the interests of the public are sufficiently represented".

[Baroness Hayter of Kentish Town]

Sir Stuart Etherington of the NCVO said that,

"the correct regulatory regime is not one that is convenient for those who are being regulated, but one that … balances the interests of the public and the regulated. … fundraising self-regulation can be successful … but … only … when it is … sufficiently robust and seen to be sufficiently robust".

The NCVO concludes that change is required, including giving the Fundraising Standards Board a remit over large fundraising charities. It therefore supports Amendment 13, which would require charities to be members of the Fundraising Standards Board, and to abide by the code of fundraising practice. Crisis—which I think of as Crisis at Christmas, although it is a long time since it was called that—one of the charities which would be covered, favours a greater investigative role for the fundraising regulator, with action taken on identifying and dealing with bad practice. It would therefore favour the institute's code of conduct applying to all large fundraising charities.

The public are with us. More than two-thirds agree that charities should be regulated more. That was before Olive's case was publicised, so they already had concerns. We are not the first to identify the need to strengthen the regime. There is already a reserve power ready and waiting that allows the Charity Commission to regulate fundraising. It is time to implement this, hence the second part of the amendment, on which we have reason to believe the Government have now reached the same conclusion. Yesterday's *Sunday Telegraph* reported that:

"Charities have been given until the middle of this week"—

tomorrow, 30 June—

"to curb their pressure selling techniques to raise money or face action from the charity regulator … Section 64A of the Charities Act 2006 gives",

the Minister,

"a 'reserve power to control fund raising', including imposing 'good practice requirement' on charities.

We want good charity fundraising to continue. We salute the British public, who give more than £12 billion a year—more than the Government's aid budget. However, we owe it not just to Olive, but to all the many hundreds who have been hassled by charity fundraisers to stamp out malpractice. This amendment is the way forward. I beg to move.

Lord Hodgson of Astley Abbotts: My Lords, I have listened carefully to the noble Baroness, and I understand the frustration and disappointment that underlines much of her speech. Before I go any further, I remind the Committee of my tangential connection to Pell & Bales, which is involved in the charity fundraising sector.

My review had a whole chapter—15 pages or more—concerning fundraising. It is one of the areas which caused the most angst, difficulty and comment. The conclusions were that we need to drive forward ways to improve self regulation because that is probably the most flexible and cost-effective way of regulating the sector, that there needs to be changes in the way that public charitable elections take place and that there needs to be a clear programme for implementing change and monitoring progress towards it.

I shall be making some relatively disobliging remarks about the charitable fundraising sector in the next few minutes. However, before doing so, there is a case for the defence which ought to be put on the record this afternoon. The first point is that charities must have the right to ask. If they cannot ask, then the amount of fundraising that charities will be able to do will fall dramatically. That is balanced by the right of the public not to be unduly hassled. It is that nexus which we are seeking to find in any fundraising regulatory system.

Secondly, the public do not really like any money being spent on fundraising. They would like every pound that they give to go straight to the beneficiary of the charity, not even to be used by the administration of the charity—hence the concerns about the salaries of chief executives in the sector. That is an issue which the sector has not been able to address. There is an argument for explaining to the public that, in order to have effective fundraising, it is possible that you will need to pay someone money for it. The statistics are that a direct debit signed on the street—the so-called "chuggers"—on average lasts for four years or 48 months, and the charities expect to pay 10 to 18 months of that for the work that is done to get the donation in the first place, which amounts to between 20% and 33%. The public would say that it is outrageous that it costs that amount of money, but from the charity's point of view, they are getting 67p to 80p in the pound that they would not be getting otherwise. There is a difficult philosophical balance to be established.

Thirdly, the legislation is very uneven. The cash collection—the tin-rattling, as we might call it—dates from 1916, and the charitable collections door-to-door regulation dates from 1939, but local authorities have entirely different standards. Some local authorities will give permission in a week or two, others want two years' notice, and of course in London local authorities do not do it at all as the Metropolitan Police are the licensing authority. Meanwhile, while we are agonising, quite appropriately, about charitable collections, commercial collections have no regulation whatever. They are free to behave as they wish.

5.15 pm

Therefore there is a more complicated issue here than first appears. I will just explain how it looks. Essentially, four different types of collections and appeals take place. There are what we might call episodic national collections; that is to say, you have an earthquake in Nepal, or a tsunami, and you need to have a national appeal quickly; in six or eight weeks the need for the appeal is probably dying away. The public are interested at the time the disaster takes place, but it is a short-tail event. Then there are the national collections, which go on all the time—for example, cancer charities—or others which come round at a certain time of year, such as poppy day. Then there are regional collections, such as to save the local hospice, which may cover two or three parliamentary constituencies, and perhaps four or five local authorities. Finally, there are local collections: Mrs Jones of 27 Acacia Avenue, who is raising money to repair the village hall roof. It is an excepted charity. Everybody knows and likes Mrs Jones—with the possible exception of Mrs Hunt

who lives at 15 Acacia Avenue and who hates her beyond poison because they fell out many years ago—and she is well known in the community.

Therefore you have four different types of fundraising appeal, and then you have the ways you can raise the money. You can raise it door-to-door; by collecting on the street, either on public property—on the highway—or on private property, when there is tin-rattling in the local supermarket or in a railway station; by direct mail; by telephone; or by email and the internet. Therefore there are six ways you can raise the money, and we can see that there are 24 regulatory boxes to fill in. That is quite a complicated thing to do. With respect to the noble Baroness, when she says that that all charities belong to the Fundraising Standards Board, Mrs Jones in Acacia Avenue can never join the Fundraising Standards Board and probably does not even know what it is. To try to find ways to get her to comply with some national arrangement would be almost impossible. She is fundraising for a charity—it will be an excepted charity, but certainly a charity. Therefore while I understand what the noble Baroness is driving at, she has a sledge-hammer here which is not hitting quiet the right—

Baroness Hayter of Kentish Town: Will the noble Lord accept that when I moved the amendment, I said that I was talking about charities that raise £1 million a year? It would be very nice if Mrs—I've forgotten her name—does—

Lord Hodgson of Astley Abbotts: That is absolutely right. The noble Baroness did say that, but her amendment says, "All fundraising charities". I know she slightly shifted the ground in the middle of her speech, and I accept that.

What, then, is the problem? There is reluctance in the sector to accept that every problem is everybody's problem. There is a tendency to push the pea round the plate and to blame another sector, so the chuggers in the street blame the telephone collectors, who blame the direct mail people, and so on. They say, "It's not our problem—it's somebody else's". There is also reputational pride in individual charities: "We don't do that sort of thing—other people do that". Therefore there is a real need for the sector to understand that it is judged by the weakest link, and unless it takes steps to remedy it, the sorts of results the noble Baroness talked about will occur.

Secondly, there is a failure to see that the alphabet soup of regulatory bodies—the IoF, FRSB, the PFRA and the Charity Retail Association—is confusing to the public. They often appear to be acting quite separately; the FRSB's report on Mrs Cooke said:

"Fundamentally, the FRSB Board believes that the IOF Code must be strengthened",

as if they are completely separate organisations, way away from each other. It seems much neater to collaborate and work closely together.

There are three things that we should encourage the sector to do. The public need a single point of entry into the system—whether they wish to approach it by phone, by email or by letter—by which complaints or concerns can be addressed. All the bodies involved in charity fundraising regulation and all charities need to pool their sovereignty into a single charity self-regulating organisation, called, say, the charity fundraising authority. That would be tasked with producing national guidelines and model rules with which local authorities should comply. If they do not comply they should explain why they are not complying. They should also provide internal best practice rules for fundraising, in particular about things like passing on names of donors to other charities, because the Olive Cooke case was about the pressure built up by repeated approaches from charities. The Government need to oversee this, either directly or through the Charity Commission.

This will be a challenge to the sector, which has not found it easy to accept change and responsibility for one another. I accept and agree that the situation is not satisfactory and action needs to be taken, but I wish good luck to whoever takes it on and suggest that they pack a tin hat.

Baroness Barker: My Lords, I agree to a certain extent with what the noble Lord, Lord Hodgson, said. He has wrestled with this particular issue for the best part of six years now and he bears some of the scars accordingly. There is no doubt that the voluntary and charitable sector is acutely aware that this particular case has raised this matter to a point where it can no longer be ignored or shunted around between different bodies. Some noble Lords were present at a national event held by the NCVO two weeks ago, at which Sir Stuart Etherington stated in terms to the great and the good of the voluntary sector there assembled that they cannot dodge this issue anymore and that the voluntary sector has to come up with some strong self-regulation. If it does not, it will find itself on the receiving end of regulation from government.

It really is quite tough for the voluntary sector to do that, not least because the noble Lord, Lord Hodgson, is right: there are completely different types of organisations doing different things in different ways, which are all subsumed under the catch-all of "fundraising". It is sometimes the bigger organisations—the multimillion pound organisations—that have the resources with which to emulate practice in the private sector, which is sometimes pressurised but which actually works. That is the problem: emotional appeals and pressure work.

Equally, very small charities that work locally and in a face-to-face way, raising small amounts, quite often have a higher level of ethical practice because they have to: they work in communities where, if they work even remotely unethically, they do not raise money. There are then those charities that operate in the middle, which sometimes are some of the most innovative organisations of all but which would be the ones that would fall foul of regulatory requirements, just because they do not have vast teams of people overseeing their compliance.

A fundamental problem for charities is that when they are open and transparent about their fundraising costs, they put themselves in the firing line for all sorts of comment. It makes them incredibly reluctant to do that—not because they want to deceive anybody but because the very same people who have taken it upon themselves, quite rightly, to criticise in cases such as

[Baroness Barker]
this take the charities to task for doing that. You cannot run a compliant, ethical and effective fundraising operation on thin air. You cannot do it.

The noble Baroness is right to do her bit to up the temperature on the voluntary sector at this moment, but I am not sure she is absolutely right with the amendment that she has put forward. I believe that the voluntary sector should be allowed one last chance in the last chance saloon to put itself right. The noble Lord, Lord Hodgson, is also right that there are too many different bodies all hovering around the same thing, clogging up the decision-making, and there needs to be a rationalisation of that. I would suggest that there should be a time limit, say of a year. If the voluntary sector does not come forward with a new code of conduct within that year, the Government would be absolutely right to step in at that point and exercise their powers.

Lord Bridges of Headley: My Lords, we are all understandably concerned about the reports of the fundraising activities used by a small number of charities. There is certainly no complacency on behalf of the Government on this issue; the debate and the possible disagreement are over what should be done. I hope, as the noble Baroness, Lady Barker, just said, that the self-regulatory bodies note the fact that everyone wants action to be taken and to be taken soon.

Last week my honourable friend from the other place, the Minister for Civil Society, Rob Wilson, addressed fundraisers and made it clear that the clock is ticking for them to get a grip on self-regulation. He said:

"I am giving selfregulation an opportunity to demonstrate it can work effectively and make the short term and long term reforms necessary. I urge you to take that window of opportunity seriously as the window may not remain open for much longer … Change is essential. You should embrace it and lead it, rather than wait and allow others to do it for you".

The noble Baroness, Lady Hayter, cited a report in the *Daily Telegraph*. The *Daily Telegraph* is obviously a fantastic newspaper but I would not believe everything that I read in it. I am not sure where that particular date has come from, but I should stress that, as I have said, self-regulatory bodies have a relatively short opportunity to demonstrate that they are getting to grips with self-regulation.

It has been less than two months since poor fundraising practices were thrust into the media spotlight following the sad and tragic death of Olive Cooke. The extent to which she was influenced by poor fundraising practices is not entirely clear, but the issue, as the noble Baroness so rightly said, has clearly struck a chord with the public. Since then there has been a steady stream of media reports about unacceptable fundraising practices—whether direct mail, telephone fundraising or door-to-door fundraising.

As I said, I think almost everyone agrees that there needs to be change. The question is what change and who should lead it. It strikes me that there are three questions that need answering: first, whether the standards fundraisers have set themselves are high enough; secondly, whether the structures for self-regulation are the right ones; and thirdly, whether fundraisers and the charity trustees who oversee them accept the need for change to ensure that donors are treated with honesty, respect and decency.

On the first question, whether the standards for fundraisers are high enough, the answer is a clear no in relation to some fundraising practices. That is why the Minister for Civil Society met the regulators at the beginning of June and set them a challenge to improve standards in a number of areas. This work is continuing but it must bear fruit.

I welcome the announcement by the Institute of Fundraising, on 24 June, that it is strengthening its code of fundraising practice by requiring door-to-door fundraisers not to knock on doors that have a "no cold calling" sticker. However, that is something it should have done proactively some time ago. I know that several review groups have been established and are looking at various issues, including options for opt-in and opt-out, frequency of contact, and whether there can be a one-stop shop for people who want to come off all fundraising contact lists.

5.30 pm

The second issue is structures: is the current system of self-regulation fit for purpose? We cannot have any blame-shifting or buck-passing between the three self-regulatory bodies. They need to work together and show that they can do so in the public interest. A good start would be revisiting the many sensible recommendations put forward by my noble friend Lord Hodgson in his 2012 Charities Act review. That said, I welcome the announcement last week that an independent chair and new independent board members will be recruited to the institute's standards committee—the body that sets practice in fundraising. That is a good start.

The final issue is perhaps the most important of all. Fundraising charities need to put the donor's needs at the centre of fundraising and not treat donors and the donations simply as a line on a spreadsheet. How would a charity's trustees feel if they were on the receiving end of their own charity's fundraising practices where they fall below what is expected? Good fundraising charities already put their donors in control of the level of engagement they have with the charity and do not engage in high-pressure fundraising tactics.

We all accept that charities need to ask in order to raise funds for their vital work, as my noble friend Lord Hodgson said, but this must be done responsibly if it is to be sustainable. Otherwise, there is a real risk to public trust and confidence in charities. As the noble Baroness, Lady Barker, said, Sir Stuart Etherington, the chief executive of the NCVO, put it well last week when he said that fundraisers are "overfishing the waters", and:

"If the public's experience of fundraising is negative, it will over time erode trust in charities, our most precious commodity".

Once again, this is an issue of balance. Clearly, charities need to raise funds, but they also must ensure that donors are treated with the same values and respect as they would treat their beneficiaries.

Those responsible for self-regulation of fundraising are taking steps to address the public's concerns about unacceptable fundraising practices, but there is a long way to go. Others have a role to play here, too.

Responsibility for fundraising, like all charities' activities, ultimately sits with a charity's trustees. Trustees need to take a much more active interest in their charity's fundraising, not just in the income it brings in but in how it portrays their charity. Fundraising is often the public face of a charity, and hard-won trust can be quickly lost if a charity gets it wrong.

The Charity Commission, too, has an important role. Where there is deliberate abuse of fundraising, persistent poor practice or misleading of the public in a way that benefits the fundraising organisation disproportionately, and which could undermine public trust and confidence, the Charity Commission can and does take action against charities' trustees for failing to fulfil their duties.

Indeed, only recently the commission intervened in a case of poor fundraising practice, where only a very small proportion of money raised by an external fundraising company went to the charity. The vast majority went to individual fundraisers, the fundraising company and on administration costs. The commission, concerned about damage to the charity's reputation and to public trust and confidence more widely, sought an account for the fundraising practices employed, examined accounts and instructed it to provide the charity's financial controls, among other documents, to determine what had happened. Ultimately, the charity terminated the contract with the fundraising company. This activity is now undertaken by volunteers. The commission has published a case to highlight the wider lessons for the sector.

Furthermore, the commission is revising and strengthening its own guidance on fundraising and trustees duties. A draft version of the revised guidance is expected to be published for consultation later this year. It will set out more clearly the expectations of how trustees of fundraising charities should meet their responsibilities, including to the care and protection of donors.

Therefore, we do not think the time has yet come for statutory regulation. There are difficult legal questions about the feasibility of using secondary legislation to mandate self-regulation against a standard set by a private body. My concern is that the amendment as it stands would trigger an irreversible slide to statutory regulation. Whether such a slide can ultimately be avoided depends upon the will and leadership in the charity sector to address this issue satisfactorily soon. I welcome the announcement today that new guidance will be produced by sector bodies for charities on the management and governance of fundraising to help strike the right balance in this area. This guidance will sit alongside and complement the commission's.

As the noble Baroness, Lady Hayter, said, we have the reserve power which would enable Ministers to introduce statutory regulation should the sector fail to rise to the challenge, but we do not believe that it should be exercised now. It is worth pointing out that most of the charities that have been in the media recently for poor practices are already members of the FRSB, so while there is a need to increase membership, it is just as important that bodies responsible for regulation must raise the standards themselves. I hope that on that basis the noble Baroness will withdraw the amendment.

Baroness Hayter of Kentish Town: I thank the Minister, the noble Baroness, Lady Barker, and the noble Lord, Lord Hodgson. Before I respond—I hope I will take only a couple of moments—I have a particular view that some of this forgets who are the people affected. They tend to be vulnerable. It is not just charities that treat them that way. I shall very briefly tell the Committee something that happened over the weekend. I have an aunt and an uncle aged 91 and 93. My uncle's Alzheimer's is quite bad, and seven weeks ago he had to move into a home. Two weeks after that, my aunt, who is 91, had a very bad stroke. The NHS was completely brilliant, and she is back home. They are highly vulnerable people. This is not a story about a charity. It is about Barclays Bank, which on Saturday wrote to them informing them that it was going to close their account. It had failed to contact them—actually it had not tried—and was going to close their account. It said that,

"we will not be prepared to offer you any new banking services",

and would not give them a reference for any other bank. If a body such as Barclays, which is regulated by the FCA, can so mistreat elderly people, my concern is that it is not just charities that are affecting them. The vulnerable are getting this from everywhere. Therefore the standards have to be particularly high. They are not for you and me. I have talked to lots of people around the House since we raised this, and they have said, "I've cancelled my standing order. I just can't do those phone calls any more". We are robust enough to cancel standing orders, to say boo, or in this case to get on to Barclays, which is emailing me at this moment saying "Please don't mention our name", "We promise we'll put it right shortly" and "We didn't really mean to send the letter". It is outrageous behaviour. Like the charitable stuff, it is particularly the vulnerable who we need to protect. I think the only difference between us is whether we are in the last chance saloon. My view is that we are already there, and we need to get out and do something about it. I think what the noble Lord, Lord Hodgson, said was actually close to me, although he may not have thought that. By saying that there should be a single point of entry and that the Government should oversee the process either directly or via the Charity Commission—if I have got his words down correctly—that is one stage further on than the last chance saloon. Perhaps he and I should get an amendment together for Report because we really need that extra little bit now.

Lord Hodgson of Astley Abbotts: The danger about moving as the noble Baroness says is that when in two years from now there is a charge from the Government for regulating the sector, there will be an enormous outcry, so what looks attractive to begin with will be inflexible, expensive and even more unpopular than the present system. It would be better from every point of view, accepting all the points about vulnerable people, if the sector could be persuaded to take up the challenge, find the will, find the money and make it happen, because it will make it happen in an effective way. The problem at the moment is that it has not really accepted that there is a fundamental problem and thinks that if there is a problem, it is not its problem but somebody else's.

Baroness Barker: My Lords, I would like to follow that up by saying that I think that the noble Baroness, Lady Hayter, is absolutely right that one of the big issues—in this field in particular, but it is a big issue right across our society that we have not got to grips with—is how we will include people with dementia in all sorts of aspects of our life. This is true in terms of the NHS, and social care, and here.

The voluntary sector ought to be the one place in our society where we can go and talk to the Alzheimer's Society and ask what a proper code of conduct and practice might look like. It is self-evident from what the noble Baroness, Lady Hayter, said, that the commercial sector has not got this right yet. Organisations such as banks are the bodies in our society that should be at the forefront of dealing with transactions with individuals, even more than government. Banks have millions of transactions every day with millions of individuals, including older people. They clearly have not got it right. We should have one go in our sector at getting it right for everybody else. If that does not work, then by all means go down the route that the noble Baroness wants to go.

Baroness Hayter of Kentish Town: It is clear that the distance between us is very small. My worry concerns the idea that we will not have another charity Bill in this Parliament. If I had an absolute commitment that we would have another Bill in two years' time, so that if we had not done it we could do it then, that would be fine, but my fear is that this will be the only such Bill and this is the chance that we should take.

Having said that, I agree with a lot of what the Minister said. In terms of his plea—or threat; I do not know—to trustees to take a more active interest in this, his words were well chosen. The words from the noble Lord, Lord Hodgson, on a single point of entry were very good, too. However, there must be some way of overseeing that it happens. Even if the noble Lord, Lord Hodgson, does not want to come back with a suggestion on Report, we will try to see whether there is a way that puts an extra little voomph—sorry, *Hansard*—behind this, so that we do not have to wait. The real problem is that we had to wait for Olive to know that this was going on. That showed the Fundraising Standards Board that it was not just a matter of standards but a matter of enforcement. One disagreement that I have with the noble Lord, Lord Hodgson, is when he says that it will be very expensive. I think that some money must be spent on this, because the Fundraising Standards Board, even if it is still self-regulated, must do some monitoring, and that always costs money. If we do not do that, the long-term problem will be that we no longer have this very precious sector, which I think all of us agree is one of the great prides of this country.

Having said that, we will seek a way to come back that gets maximum support. For the moment, I beg leave to withdraw the amendment.

Amendment 13 withdrawn.

Viscount Younger of Leckie (Con): I believe that this may be a convenient moment for the Committee to adjourn until 3.45 pm on Wednesday 1 July.

Committee adjourned at 5.44 pm.

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