Vol. 765
No. 57

Tuesday
27 October 2015

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

£4·00

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

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

This issue of the Official Report is also available on the Internet at
www.publications.parliament.uk/pa/ld201516/ldhansrd/index/151027.html

PRICES AND SUBSCRIPTION RATES

DAILY PARTS

Single copies:
Commons, £5; Lords £4

Annual subscriptions:
Commons, £865; Lords £600

LORDS VOLUME INDEX obtainable on standing order only.
Details available on request.

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies:
Commons, £65 (£105 for a two-volume edition); Lords, £60 (£100 for a two-volume edition).
Standing orders will be accepted.

THE INDEX to each Bound Volume of House of Commons Debates is published separately at £9·00 and can be supplied to standing order.

All prices are inclusive of postage.

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

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

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

House of Lords

Tuesday, 27 October 2015.

2.30 pm

Prayers—read by the Lord Bishop of Portsmouth.

Introduction: Baroness McIntosh of Pickering

2.38 pm

Anne Caroline Ballingall McIntosh, having been created Baroness McIntosh of Pickering, of the Vale of York in the County of North Yorkshire, was introduced and took the oath, supported by Lord Plumb and Baroness Byford, and signed an undertaking to abide by the Code of Conduct.

Introduction: Lord Oates

2.44 pm

Jonathan Oates, Esquire, having been created Baron Oates, of Denby Grange in the County of West Yorkshire, was introduced and took the oath, supported by Baroness Parminter and Baroness Suttie, and signed an undertaking to abide by the Code of Conduct.

Death of a Member: Lord Noon

Announcement

2.48 pm

The Lord Speaker (Baroness D'Souza): My Lords, I regret to inform the House of the death of the noble Lord, Lord Noon, today. On behalf of the House I extend our condolences to the noble Lord's family and friends.

Cybersecurity: Encryption

Question

2.49 pm

Asked by ***Lord Strasburger***

To ask Her Majesty's Government what assessment they have made of the case for the use of the strongest encryption standards online, with no back door access, in order to protect the integrity of the global digital infrastructure for all organisations and citizens who rely on it.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Baroness Shields) (Con): My Lords, the Government recognise the essential role that strong encryption plays in enabling the protection of sensitive personal data and securing online communications and transactions. The Government do not advocate or require the provision of a back-door key or support arbitrarily weakening the security of internet applications and services in such a way. Such tools threaten the integrity of the internet itself. Current law requires that companies must be able to provide targeted access, subject to warrant, to the communications of those who seek to commit crimes or do serious harm in the UK or to its citizens.

Lord Strasburger (LD): My Lords, I am reassured that the noble Baroness understands how absolutely essential strong encryption is for the integrity of everyday online activities such as banking, retailing, financial trading and also the conduct of government business. Strangely, Mr Cameron does not seem to get it yet, having three times said that he intends to ban any communication "we cannot read", which can only mean weakening encryption. Will the Minister bring the Prime Minister up to speed with the realities of the digital world?

Baroness Shields: The Prime Minister did not advocate banning encryption; he expressed concern that many companies are building end-to-end encrypted applications and services and not retaining the keys. The Prime Minister has repeatedly said that there cannot be a safe place for terrorists, criminals and paedophiles to operate freely, with impunity and beyond the reach of law. This is not about creating back doors; this is about companies being able to access communications on their network when presented with a warrant.

Lord West of Spithead (Lab): My Lords, recently, ISIL has been using WhatsApp as part of attacks in Iraq and we have seen terrorists get more on to the net than ever in the past. I understand the point made by the noble Lord, Lord Strasburger, but is it not absolutely essential that we have the law enforcement capability, legally controlled, to be able to get access so that no enemies of the state who wish to destroy us and kill our people are able to operate in an environment where they know that they will never be monitored by law enforcement?

Baroness Shields: The noble Lord raises a very important point. There is an alarming movement towards end-to-end encrypted applications, such as those that he mentioned. It is absolutely essential that these companies which understand and build those stacks of technology are able to decrypt that information and provide it to law enforcement in extremis.

Lord Reid of Cardowan (Lab): We have all seen reports of the recent events at TalkTalk, a commercial organisation that has every interest in maintaining its own security. How confident are the Government and the Minister on the protection of that part of our infrastructure that is based on industrial operating systems—in other words, software systems—including, but not exclusively, our future nuclear power stations?

Baroness Shields: My Lords, the events of the past week demonstrate the importance of robust cybersecurity plans and encryption to protect our citizens and our national infrastructure. As Minister Vaizey said yesterday in the other place, the Government—and, indeed, the previous coalition Government—have worked to ensure that companies have the tools they need to protect themselves against cyberattack. We have invested £860 million in a five-year national cybersecurity programme and set up the National Cyber Crime Unit

[Baroness Shields]
inside the National Crime Agency. Our Cyber Essentials scheme sets out basic controls for all organisations, including the national grid, which they must have in place to protect against cyberattacks.

Lord Clement-Jones (LD): My Lords, I welcome much of what the Minister has said. Can she absolutely confirm that there is no intention in forthcoming legislation either to weaken encryption or provide back doors to it?

Baroness Shields: I can confirm that there is no intention to do that; that is correct.

Lord Winston (Lab): Perhaps the Minister might comment on the fact that the Select Committee on Science and Technology has recently heard evidence about the national grid. Since it has been privatised, the national grid is now split into lots of different agencies and there is a serious problem, not only with nuclear power stations but with the potential of cyberattack on our power supply in Britain as a whole. One can see how that could be disastrous. Can she explain what the Government intend to do about that?

Baroness Shields: I thank the noble Lord for the question. It is beyond my area of expertise and knowledge at this stage, but I will find out that information and come back to him.

The Earl of Erroll (CB): My Lords, I have noticed that when my wife gets communications from local authorities, they start quite correctly with the words "official-sensitive", which is a security classification for documents to encrypt them. However, they are using a particularly complicated method of doing it. Will the Minister please urge the Government—where they, very sensibly, are going to start sending out sensitive communications in this way—to look at using the easier and simpler forms of encryption that exist?

Baroness Shields: The noble Earl raises a very important point. Fortunately, encryption technology is moving on to the point at which even military-grade encryption is available in easy format. We will look into that and make those recommendations in the guidelines.

Lord McFall of Alcluith (Lab): My Lords, it is universally acknowledged that UK banks' infrastructure is in a very poor state; some 90% of their IT spending is on legacy issues—namely, keeping the old systems going. One consequence is that there is an incomplete view of the customer. There was a dramatic example of that last week when Deutsche Bank put £6 billion into a single customer's account. For the sake of clarity I should inform the House that that was not my account, but something needs to be done.

Baroness Shields: I am not familiar with that particular case but I wish I were. It is important to acknowledge that substantial mistakes can be made and that cybersecurity is at that level of risk. Day-to-day operation is very important to consider.

Lord Stevenson of Balmacara (Lab): The noble Baroness mentioned resilience, which is very important as we face the extraordinarily large scale of cybercrime, but the resources seem to be pouring into the criminal gangs, not into the agencies that are trying to protect citizens. What can the noble Baroness tell us about the CSR coming up, and will it be able to protect and enhance those law enforcement agencies that are seeking to stamp out this crime?

Baroness Shields: I am sorry; I am not familiar with that—what is CSI?

Lord Stevenson of Balmacara: The noble Baroness does not understand my terminology. The CSR is forthcoming, involving public expenditure for the whole of the public sector.

Baroness Shields: I thank the noble Lord for bringing the comprehensive spending review to my attention, and I will look into it.

Nepal
Question

2.57 pm

Asked by ***The Earl of Sandwich***

To ask Her Majesty's Government what discussions they have had with the government of Nepal following its adoption of a new constitution on 20 September.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, the chargé met the Prime Minister on 15 October and relayed our key messages: that the adoption of a new constitution is a milestone; that we hope dialogue continues to reach an agreed position that meets the concerns of all Nepali citizens; and the importance of resolving border blockages to enable the distribution of humanitarian assistance. My right honourable friend Hugo Swire wrote to former Prime Minister Pandey on 24 September and my right honourable friend Desmond Swayne made a statement on 13 October.

The Earl of Sandwich (CB): I thank the Minister for her reply. I know that she will join me in congratulating the Nepalese Government after many years of civil war, an earthquake this year and virtual political stagnation in this bicentenary year. However, is she not concerned about the effects of the fuel blockade on the Indian border and New Delhi's possible interference? Does she agree that the UK needs to help Nepal to reassert her independence and to restore the confidence that business and tourism now demand?

Baroness Anelay of St Johns: My Lords, it has been the policy of this Government and preceding Governments to encourage a peaceful resolution of power and to support the development of a new constitution. With regard to the blockade to which the noble Earl refers, our acting ambassador in Nepal, along with EU and other like-minded countries' heads of mission, has regular dialogue with the Indian ambassador to Nepal. Our British high commissioner to India, James Bevan, called on Indian Foreign Secretary

Jaishankar on 7 October and raised with him the question of Nepal. We agreed that we would continue to engage with India and seek to work with it to help resolve the crisis of the blockade.

Baroness Northover (LD): My Lords, I start by thanking Oxford University for translating the Nepalese constitution for me. Is the noble Baroness as pleased as I am to see gender rights and—for the first time in the region, as I understand it—LGBT rights enshrined in the constitution? Will the UK Government congratulate the Nepalese Government on this major step forward in human rights?

Baroness Anelay of St Johns: I entirely agree and endorse what the noble Baroness has said. Of course, our remaining concern must be to ensure that the constitution is put into effect. Because of the recent elections, that is still a matter to be resolved.

Lord Hamilton of Epsom (Con): Will the Government be the first in discouraging the Nepalese Government from imposing massive tariffs on aid flows into their country?

Baroness Anelay of St Johns: My Lords, it is true that the Nepali Government rely very heavily on the charges on goods going into their country. My noble friend is right to point out that Nepal relies heavily on aid from others, including from the UK, and I am sure it respects the importance of that. For example, on 25 June at the international donors' conference in Kathmandu, the DfID director for Asia, Beverley Warmington, announced a commitment of £70 million in total from the UK. It is important that the Nepali Government work closely with us in delivering that.

Baroness Kinnock of Holyhead (Lab): My Lords, is the Minister aware of the concerns that were recently expressed by the United Nations about the potential effects, as winter sets in, of the current fuel and food shortages in Nepal, and the likelihood of a very serious humanitarian crisis? Does she share the widely held view that the Nepalese Government are slow to approve aid distribution and are leaving the earthquake victims to fend for themselves?

Baroness Anelay of St Johns: My Lords, I have seen reports such as those that the noble Baroness has carefully described. The World Food Programme has an agreement with the Minister for Supplies to fly in fuel from Calcutta—that is a recent development—but there would still be challenges in storing and distributing the fuel once it had arrived. The noble Baroness points very properly to the importance of the Nepali Government ensuring that there is fair distribution.

Lord Harries of Pentregarth (CB): My Lords, the Minister may be aware that the Dalits, who were expecting much greater representation under the new constitution, are bitterly disappointed by it. They represent some 13% of the population and have suffered centuries of discrimination and marginalisation. Will Her Majesty's Government, in their relationships with the Nepalese Government, encourage them to take positive steps—economic, political and social—to ensure that the Dalits and other minorities are fully included in the development plans for the country?

Baroness Anelay of St Johns: My Lords, the noble and right reverend Lord raises a very important point. As I alluded to briefly in my first Answer, our view is that the constitution must be right for all the people of Nepal, not only the Dalits but the various groups along the Terai area of the border with India. I am aware that there are serious matters in that regard which still need resolution.

Baroness Morgan of Ely (Lab): My Lords, we are very pleased that the new constitution has improved the position of women in Nepalese society, but can the Minister say whether it is true that under the new constitution it will be difficult for a single mother to pass on her citizenship to her child? Have the Government conveyed any opinion on this matter to the Nepalese Government?

Baroness Anelay of St Johns: My Lords, I am glad that the noble Baroness has raised that issue because we are concerned that the provision on citizenship by descent remains gender-discriminatory in its present form, and I hope that there will be further discussions about that. We are also concerned that the wording on religious conversions could be used to prosecute free expression by religious groups. So a good start has been made but there is much still to do.

The Earl of Sandwich: There are unresolved human rights violations left over from the civil war. Will the Government support the idea of a truth and reconciliation commission?

Baroness Anelay of St Johns: Indeed, there are such concerns, and the UK has always supported the peace process in Nepal. We fully support the idea of a truth and reconciliation commission provided that it is independent and competent and that it abides by international law. We welcome the Supreme Court ruling earlier this year on the amnesty provisions of the Truth and Reconciliation Act, and we encourage the Government in Nepal to comply with this ruling.

Families: Work Incentives

Question

3.04 pm

Asked by ***Baroness Sherlock***

To ask Her Majesty's Government what progress is being made on work incentives for families with children.

The Minister of State, Department for Work and Pensions (Lord Freud) (Con): Universal credit improves incentives to enter into and progress in work. Early results show that current UC claimants do more to look for work, enter work quicker and earn more than current JSA claimants. Childcare costs are a key issue for working families, which is why we are increasing support and provision.

Baroness Sherlock (Lab): My Lords, I thank the Minister. I appear to be inadvertently topical, for which I apologise.

[Baroness Sherlock]

As well as the tax credit cuts of recent celebrity, the Government have announced that they are reducing the work allowances in universal credit. The Work and Pensions Select Committee in the Commons heard yesterday that when the minimum wage is fully rolled out in 2020 a single parent, who is now able to work 22 hours a week before losing universal credit, because of these changes will be able to work only 10 hours a week before losing universal credit.

Increasingly, commentators are worried that the Government's vision that universal credit would make work pay is getting eroded by a series of changes, so I shall ask the Minister's for reassurance on two points. First, can he assure the House that when universal credit comes in fully the gains to work will be as strong as the Government promised us when the Welfare Reform Bill went through? Secondly, would he consider running a briefing session—perhaps after the CSR—to unpick some of the detail about how work incentives work in practice with all the changes that are going on? I am aware of the complexity with which many noble Lords have wrestled in recent debates, and that might be a useful way forward.

Lord Freud: Universal credit is a wide-ranging transformation of the welfare system, so it is difficult to pick isolated elements. It is now rolling out rapidly. At the same time, we are building a support network incorporating, among other things, universal support delivered locally. One of the key factors is that it delivers a gross value to this society of £7 billion every year. One reason it does that is that it directs its support far more efficiently at the people who need it most. The other thing it does is to make sure that it is always worth working and it is always worth working more. Finally, I try to keep the House up to date with universal credit developments because it is a really important transformation. I commit again to do that. I would like to find a way to do that in the Chamber, as I did a couple of months ago.

Lord Flight (Con): My Lords, does the Minister agree that 30 hours of free childcare is one of the biggest incentives available? A huge disincentive has been where working mothers have to pay for childcare out of after-tax earnings and what is left over is scarcely worth having, so for mothers with children, free childcare is fundamental.

Lord Freud: Clearly one thing that has happened in universal credit is that the work allowances, as the noble Baroness pointed out, have come down. On the other hand, we have increased some of the costs that are directly tied to work incentives around childcare. As my noble friend pointed out, the effect of doubling free childcare from 15 hours to 30 hours is worth £2,500 per child per year. Another element of universal credit—childcare support going up from 70% to 85%—is worth in excess of £1,000 per child per year. There are real supports coming in for parents who need them.

Baroness Manzoor (LD): My Lords, fewer than one in 10 people with learning disabilities are in work. The Government's welcome objective is to halve the disability employment gap. Will the Minister say what progress the Government are making in order to hit their target?

Lord Freud: The target to halve the disability employment gap implies that we need to find work for 1 million more people in this category. We are currently working pretty hard on the strategy for that. It was announced by the Secretary of State in August, and we are now consulting with the various interest groups to find out the optimal way of achieving it. One group that is particularly important is people with learning disabilities; they have had a tough time in the work market.

Baroness Lister of Burtersett (Lab): The Minister acknowledged that work allowances have "come down" as if that was somehow an act of God. The fact is that the Government first froze them and are now abolishing them for non-disabled workless households and reducing them for most other households. Yet when the Welfare Reform Bill was going through this House, the Minister constantly told us that the new improved work allowances were absolutely key to making work pay. Will he explain why they have been cut back so drastically?

Lord Freud: As the noble Baroness will know, a reduction and a cost saving are going on in this part of the benefits system. We had to make a decision about how to structure that. We decided that the taper was critical because it moved people right the way down at 65%. We have maintained that level. We have taken it out and reduced the work allowances in other areas. In particular, in our experience, for singles the removal has meant that people move straight through the work allowance out of UC. We have tested people carefully and seen a significant, measurable increase in the amount of work that they do and in their earnings. The work allowance impact seems to be less in those areas.

Baroness Walmsley (LD): My Lords, in some disadvantaged areas parents are finding it difficult to access 15 hours of good quality childcare. Can the Minister guarantee that all parents, in all areas, will receive 30 hours of free, good quality childcare, to enable them to go to work confident that their children will be very well looked after?

Lord Freud: It is clear that when you put up people's rights, the provision has to catch up. It has been doing so, but there is some way further to go and we will be working on that.

Baroness O'Cathain (Con): My Lords, my noble friend is surely right. You cannot just manufacture people from the ground and say, "you will be a childcare assistant". If this 30 hours of free childcare is to be a new thing—and it seems to be—it will be an incentive for people to go into childcare. However, you cannot ask the Government to guarantee it.

Lord Freud: It is important that we have a dynamic economy with real work incentives. That is what we are trying to create, and childcare is part of it. My noble friend is right; we need to set up the incentives to make sure that that part of the market grows. In a dynamic economy, guarantees are something that you cannot necessarily time.

Syrian Refugees
Question

3.12 pm

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government what plans they have to ensure that they meet the Prime Minister's objective that 1,000 Syrian refugees should be brought to Britain by Christmas.

The Minister of State, Home Office (Lord Bates) (Con): My Lords, the Government have said that we want to see 1,000 Syrian refugees brought to the UK by Christmas. We are working closely with local authorities, international delivery partners—chiefly the UNHCR—and the voluntary sector, putting in place the plans and structures that will deliver this.

Lord Roberts of Llandudno (LD): My Lords, I thank the Minister for his Answer and the Prime Minister for his initiative. I also wish Tim Farron a good visit to Lesbos today. If they are coming under present regulations, does that mean that they will not be able to work for their first 12 months in this country? Does it mean that they will receive a subsistence allowance of £36 a week? Or is it a different regime?

Lord Bates: It is a different regime. The whole point is that these people will be taken from the region, pre-cleared and identified as eligible for leave to remain in the UK. When they get here, they will have the status not of asylum seekers but of people who have leave to remain. They will have access to the benefit system and the labour market.

Lord Dubs (Lab): What sort of help are the Government going to give local authorities and voluntary organisations to provide the support that newly arrived asylum seekers would need? I speak from some experience from when I was with the Refugee Council, where we ran through a similar programme on behalf of Bosnians. They do need that sort of help.

Lord Bates: The noble Lord is absolutely right that they need that sort of help. We have said that, for the first year, all the costs for people on this scheme, particularly those associated with housing, healthcare, social care and welfare will be reimbursed to the local authority from the overseas aid budget, under its rules. A discussion about year 2 onwards is going on between the Minister for Syrian refugees and local authorities which volunteered to be part of the scheme.

Baroness Helic (Con): Does the Minister agree that the only long-term solution is a political solution to the Syrian problem? Will he update the House on any new efforts made by Her Majesty's Government either to revive or to replace the Geneva process, which has been dead since February 2014?

Lord Bates: My noble friend is absolutely right about this. We are treating the symptoms, but we need to address the cause, which is the carnage that is happening in the wider Middle East and particularly in Syria. A political solution has to be brought about by the international community working together in harness. So far, some 16 million people are in need of development assistance and 11 million people are displaced. At some point we need to get back to our focus of resolving the situation in Syria so that people can live there peacefully.

The Lord Bishop of Bristol: My Lords, I detect a kind of frustration at the moment around the fact that a good many people are very happy to help and willing to give homes to these refugees but find the process of working that out a little opaque and, frankly, at times overbureaucratic, while recognising that there need to be some bureaucratic safeguards. Will my noble friend comment on what the Government propose to do to make the process transparent and easily accessible to those who want to give genuine care to those in great need?

Lord Bates: I recognise, of course, that the right reverend Prelate is absolutely right that many people have been touched by the needs of people fleeing the violence in the region. Of course, many of the people that we are particularly looking at have been victims of torture and violence, have acute medical needs and are some of the most vulnerable and the offers that have been made may not be appropriate in those cases. However, Richard Harrington, the Minister with responsibility for Syrian refugees, is working to compile a register of churches, faith groups and charities which want to make that generous offer of assistance. We want to make sure that it is as easy as possible for people to take advantage of that.

Lord Green of Deddington (CB): My Lords, does the Minister agree that the most effective thing that the British Government can do is to help those Syrians in refugee camps around Syria? Much as we would like to have many thousands of refugees here, that is peanuts compared with the number actually suffering. To pick up the point he made earlier about the politics of this, we must work for some kind of solution in Syria. However, does he agree that if the Alawite regime in Damascus were to fall, there would be three dreadful consequences: the first would be the most appalling revenge killings; the second would be a massive increase in refugees; and the third would be a huge boost for ISIL, which is our enemy, which the regime in Damascus is not?

Lord Bates: On the first point, about what we are doing to help in the country, of course, that is absolutely right. That is the position which the British Government have taken. We are saying that we do not want people to make this perilous journey across sea and land. We want people to stay in safe places within those countries. That is the reason why we are giving £1.1 billion—more than any other country in cash terms apart from the United States—and why we are urging our European partners to give another €10 billion to help in that area. We want to stop people feeling the need to make that journey and put themselves and their families at risk.

Lord Clinton-Davis (Lab): What I cannot quite understand is what the Government are doing to raise this issue specifically in Europe. It is absolutely essential

[Lord Clinton-Davis]
that people who have suffered dire treatment should be treated with more humanity than is the case at present.

Lord Bates: I assure the noble Lord that that is exactly what the Government are doing. We are urging our European partners to do more at source in this area. We are working with international partners, for instance in the UN Security Council, to pass the resolution which enabled our HMS "Richmond" to go into Libyan waters to start tackling the people smugglers at source before people make that dangerous crossing, so we are absolutely committed to working with European and international partners to try to find a solution to this awful, heart-wrenching situation.

Electoral Registration and Administration Act 2013 (Transitional Provisions) Order 2015

Motion to Annul

3.21pm

Moved by ***Lord Tyler***

That a Humble Address be presented to Her Majesty praying that the Order, laid before the House on 16 July, be annulled (SI 2015/1520).

Lord Tyler (LD): My Lords, in moving this Motion I must make it clear that it is wholly different to those we debated in your Lordships' House last night. In the first place, I remind noble Lords of the very special status of the Electoral Commission. The Electoral Commission was set up following the fifth report by the Committee on Standards in Public Life in October 1998, under the chairmanship of the noble Lord, Lord Neill of Bladen. It concluded that there was a need for,

"a totally independent and authoritative Election Commission with widespread executive and investigative powers".

The commission was then established by the Political Parties, Elections and Referendums Act 2000. In the debate on that Bill, the prospect of a fiercely independent commission enjoyed substantial cross-party support. Speaking from the Conservative Front Bench, the then Sir George Young MP—I am very pleased to see him in his place here in a different capacity today—paid tribute to the Neill Committee, saying that,

"they have managed to build consensus out of the bricks of political contention. We accept the establishment of the Electoral Commission".—[*Official Report*, Commons, 10/1/2000; col. 46.]

In Committee, the Front Bench Conservative spokesperson in the other place, Mr Robert Walter MP, went further, saying:

"We have stated our belief that there should be a powerful and independent Commission".—[*Official Report*, Commons, 14/02/2000; col. 692.]

Also on the Conservative side, the then Mr John MacGregor MP—now also a very senior member of your Lordships' House—endorsed it too, saying,

"I hope that the broad framework of the Neill report will stand the test of time".—[*Official Report*, Commons, 10/01/2000; col. 63.]

The most supportive quote of all was as follows:

"We heard protestations earlier from the Under-Secretary about the absolute need for the commission to be wholly independent. That theme has been reiterated throughout our debates, and it is regarded as of great importance by Honourable Members on both sides of the House".—[*Official Report*, Commons, 14/02/2000; col 655.]

That was the then Sir Patrick Cormack MP. So, with that strong support from the then Conservative Opposition, Parliament legislated to create a totally independent, non-partisan and authoritative commission with its own unique Speaker's Committee, answerable and accountable directly to both Houses of Parliament—not to the Government.

Thus, we must listen very closely to its careful, balanced, evidence-based recommendations. In that context, I very much welcome the amendment tabled by the noble Lord, Lord Kennedy of Southwark, which will strengthen my Motion. He and I both have past direct experience of working with the Electoral Commission, although of course none of us can speak on its behalf.

As Members of your Lordships' House will have noted, the commission has now given clear advice on three occasions, most recently just yesterday. I will quote its advice briefly, but I remind your Lordships' House just how important it is. It said back in June:

"Taking into account the data and evidence which is available to us at this point and the significant polls which are scheduled for May 2016, we recommend Ministers should not make an order to bring forward the end of the transition to IER. We recommend that the end date for the transition should remain, as currently provided for in law, December 2016".

That was in June. It said the following when the Government issued their announcement:

"We are disappointed at the Government's announcement and still recommend that the end of the transition should take place in December 2016 as set out in law. We therefore recommend that Parliament does not approve this order".

I am now in the 25th year of service in Parliament, and have seldom heard the commission so crystal clear in its view. Indeed, I have not heard any statutory body expressing advice with such clarity to your Lordships' House or the other place.

What will be the effect of the government order if it goes ahead unchallenged? The official estimate is that up to 1.9 million people who are currently on the register, and were on it at the general election in May, will be dropped off it. At a stroke, Ministers are prepared to disfranchise huge numbers of electors—for example 415,013 in London, 231,345 in Scotland and 68,042 in Wales. It is of course possible that these figures may be squeezed down as we approach the important elections in 2016, but it is still highly likely that people who think they are on the register will find themselves unable to vote when the time comes.

The Government, apparently, are prepared to risk legal challenges to the results of the London mayoral and Assembly elections as well as those for the Scottish Parliament and Welsh Assembly. No doubt the Minister will be able to inform the House what answers were received from the Scottish Parliament and the Welsh and London Assemblies when they were consulted before this order—which is of such vital significance to those bodies—was tabled. However, I have to tell the House that so far the Parliamentary Answers on this issue to my noble friend Lord Rennard have been less than satisfactory; he will deal with that crucial

issue of consultation during this debate. For an even fuller analysis of the effects in each of the nations and regions in the United Kingdom, I refer Members of your Lordships' House to the excellent report prepared by the well-respected voluntary campaigning organisation HOPE not Hate, which we have all received.

There is yet further long-term significance to this decision. As the commission points out, the sleight of hand involved in this order impacts profoundly on the parliamentary boundary review which is due to commence next year. If this order is allowed to slip through, the register in December 2015, which will be used as the basis for the next round of constituency boundary changes, will be missing large numbers of voters. Although these people could re-register between December and April to vote in the elections next year, to which I have referred, these voters will be irrevocably wiped off the face of our democracy for the purposes of the constituency boundary review. They simply will not count when the new constituencies are drawn up. With those potential voters removed—up to one in five in some of the London boroughs—there will be a knock-on effect on the number of constituencies in each place. It is calculated that the number of constituencies in London might be reduced by up to 10.

Lord Forsyth of Drumlean (Con): Is the noble Lord not skating on rather thin ice, given that the boundary review and the Boundary Commission report were prevented from being implemented in the last Parliament because he and his colleagues voted, against the clerks' advice, on an amendment which was out of order?

Lord Tyler: My Lords, if the noble Lord had actually read what the Electoral Commission has advised this House, I do not think he would be adopting that position. This means fewer seats in densely populated, highly mobile urban areas, and proportionately more seats in rural areas with more stable populations. Thus, without cross-party consultation or consent, Conservative Ministers have introduced a deliberately self-interested, partisan order in direct conflict with the recommendations of the independent commission which is appointed by Parliament to ensure fair play. No wonder they slipped this out shortly before the Summer Recess with the absolute minimum of publicity.

What reasons have they given for this demonstrably improper and unprecedented action? Two excuses have been given to me and others, and will presumably feature again today. First, it is said that the Association of Electoral Administrators is happy that the period of transition could be foreshortened by 12 months. Frankly, that is not persuasive. The association does good work but it is the shop steward of electoral registration officers. Crossing all these voters off the register at the stroke of a pen will reduce its workload. By contrast, the Electoral Commission is the shop steward, answerable to Parliament, for the voter—for the integrity of our democracy. It is abundantly clear that we have a duty to listen to it. Since when did Ministers think that they should attach more importance to the self-interested views of a trade union than to the careful assessment of the statutory body tasked by Parliament to provide independent advice?

3.30 pm

The commission rightly recommends that the additional resources available and the imperative of the 2016 election campaigns should be allowed to boost the total on the register and reduce the current serious shortfall. Additionally, the annual canvass is bound to improve the accuracy of the register. However, as the commission rightly says in this week's briefing to us,

"taking this decision before the outcome of the annual canvass means the Government has acted without reliable information".

The second excuse is even more ludicrous. Ministers claim that some or many or most of those 1.9 million entries on the electoral register may be false and potentially fraudulent—what? This is the register on which the general election was fought. Are Ministers really now saying that the whole election could have been based on a wildly inaccurate, potentially fraudulent register? What is the evidence for that? Why have the commission or the Government not demanded an inquiry? Are Ministers now challenging the outcome of the election on those grounds? Anyone can see that claiming now that the electoral register used this year is somehow so defunct as to be an instrument of fraud is a pretty thin veil over the real reasons for this blatant gerrymander.

Lord Garel-Jones (Con): Is it not the case, for example, that the Council of Europe has made it very clear that household registration is an open door to corruption?

Lord Tyler: That is precisely why we are moving towards IER, which my party and I personally have warmly supported and, during the coalition Government, sought to make sure was being effectively implemented at the local level.

I turn to the propriety of this Motion. There was much talk yesterday of what this House can and cannot do and what it should and should not do. This Motion is our one chance to do our duty to the voters. There is no middle way of delay or prevarication.

In any case, this Motion is quite distinctly different from any of those we debated yesterday. First, both Houses agreed primary legislation in 2013 which insisted that any order made to end the transitional period early might be, must be or could be annulled by either House of Parliament. This specific protection was built into the legislation precisely to withhold from the Executive an unfettered right to tamper with the electoral register. Secondly, of course, there is a precedent for the Lords voting down secondary legislation on matters of election law. Indeed, Conservative and Liberal Democrat Peers voted together to defeat such an order in 2000 when the then Government attempted to deny candidates for the Greater London Authority the chance to mail electors. Thirdly, in opposition Conservative Peers moved several other Motions to kill off similar secondary legislation. As is also apparent, the Conservatives made absolutely no mention of this change in their manifesto.

Parliament has a special responsibility to listen to the Electoral Commission—by law. It reminds us that we have not just a right but a duty to oppose this order. Ministers should be ashamed of this unilateral

[Lord Tyler]
attempt to undermine the IER transition process, to skew the boundary review and, in so doing, to challenge the authority and integrity of the statutory independent commission set up precisely to advise us all on these issues. They hoped they would get away with it unnoticed. But they have been found out and now we in this House must, on behalf of voters, do our duty. I beg to move.

Amendment to the Motion

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

At end insert "on the grounds that it goes against the advice of the Electoral Commission."

Lord Kennedy of Southwark (Lab): My Lords, I declare an interest as an elected councillor and chair of the registration working party in Lewisham. Previous to that, I was a member of the Electoral Commission.

I am speaking both in support of my amendment and in support of the Motion moved by the noble Lord, Lord Tyler, and I strongly endorse the points he made today. The Labour Party, the Conservative Party, the Liberal Democrats and, I am sure, other parties as well are in favour of individual electoral registration. Originally, the last Labour Government put it on the Statute Book and the coalition Government brought the process forward by bringing into law the Electoral Registration and Administration Act 2013. As the noble Lord, Lord Tyler, has said, the Act, which is less than two years old, has a transition period aimed at full implementation of IER by December 2016. The Government want to scrap that and bring forward the end of the transition period to December 2015, a mere six weeks away.

Let us be clear: the Government are making a rash decision here—a decision that is not supported by the Electoral Commission, which has urged Peers to vote for the Motion in the name of the noble Lord, Lord Tyler. My amendment just incorporates the fact that what the Government are doing goes against the commission's advice. The commission did not take the decision lightly to recommend that we vote for the Motion in the name of the noble Lord, Lord Tyler. As the noble Lord explained, the commission was set up by Parliament 15 years ago and it gives independent, non-partisan advice to the Government and Parliament on issues concerning electoral registration, party finance and election matters. The commission includes experts in this field, who have been leading advocates for the introduction of IER almost from the day it was set up. They played a leading role in persuading the then Labour Government first to put it on the Statute Books. It was right to make those changes to ensure that our elections were secure.

The transition period is an important part of the full implementation of IER. It should ensure that we have a period of time when work can be done to make electoral registers both accurate and complete. The Government have not made a convincing case as to why this process should be shortened by one year. The Electoral Commission is saying that 1.9 million people are presently being retained on the electoral register who have not been matched. I accept that that figure might go down, but there are still too many people who have not been matched. If the Government bring forward the deadline, we could have up to 1.9 million people taken off the register on 1 December, and that is simply not democratic.

It is worth pointing out that the commission has published research showing that we actually have an under-registration problem in Great Britain, not an overregistration problem. It is also interesting to note the difference between various groups being registered or not registered to vote. The commission produced figures showing that about 4.6% of people over 65 are not registered to vote. That figures leaps to 29.8% for people aged 20 to 24. The highest proportion of unregistered voters is among 16 and 17 year-old attainers, of whom 49% are not registered to vote. Only 6.4% of home owners are not registered to vote, while the figure is 36.4% for those living in rented accommodation. Of the unemployed, 23.6% are not registered to vote. These figures show the wide disparity of registration figures between groups, and that should be of grave concern to us all.

The Electoral Commission is clear that taking the decision before the outcome of the annual canvass means that the decision that the Government are proposing to take is risky because they are acting without reliable information, as we have heard today, on how many redundant entries there will be, how many entries will be removed and how many eligible entries will go back on again for the elections in May 2016—we have massive elections at that time, as we all know. This is not appropriate for the Government, and it is most regrettable. By retaining the cut-off date to the one which we have agreed means we are giving time to the EROs—the professionals—to do more work on improving the accuracy and completeness of the register. I do not think the Government have made a compelling case for bringing forward by one year the date to remove people from the register. I hope the House rejects their proposals today. I beg to move.

Lord Mackay of Clashfern (Con): I have tried to understand the reports of the Electoral Commission published before this and have just seen the one that came out today—I am not sure what the method of transmission to people was but that does not matter. I am concerned that the commission said repeatedly in its advice, as I understood it, that by bringing forward the date of termination of the transition period there is a potential benefit to the accuracy of the register. I have tried to understand it and read the detail. Could the noble Lord, Lord Kennedy, help me on what that amounts to?

Lord Kennedy of Southwark: All I can say to the noble and learned Lord is that the commission briefing says there is a benefit of accuracy but also, of course, a risk to completeness—which it ranks as of equal importance.

Lord Lexden (Con): My Lords, I will strike a more positive note in relation to this order than noble Lords who spoke from the opposite side. This is an important order. It has a clear and explicit purpose: to complete the transition to a new system of electoral registration that is infinitely superior to the one it replaces.

The great majority of those registered electors carried over from the old system have now done what was required to make themselves a full and enduring part of the new arrangements. All those who have not done so have now been reminded at least nine times in one way or another of the need for action. Through the deadline that the Government set in July, as they were empowered to do under the 2013 Act, they have in effect issued a final call for action, one that was rather usefully publicised widely over the national media last weekend.

This deadline of 1 December has been strongly endorsed by a body referred to perhaps unduly dismissively by the noble Lord, Lord Tyler, namely the Association of Electoral Administrators, which represents the people who run our elections. A report it published in July concluded that,

"the end of IER transition should be December 2015 to provide certainty for the important elections in 2016 and the European Referendum whenever that is held".

The organisation's chief executive, Mr John Turner, added that,

"it is crucial to have the most accurate register possible and have confidence that everyone on the register is who they say they are".

There are names of people on the existing electoral registers who would not heed any call for action or respond to any deadline, whether that was 1 December 2015, 1 December 2016 or 1 December 2026. This is because the names relate to people who do not exist. One of the great merits of this order is that it bears down on electoral fraud. Deep disquiet has existed for years in our country about electoral fraud and malpractice. It is unquantifiable, but recent well-publicised cases before the courts exhibited it in its full ugliness. Judges in some of these cases have expressed the gravest concern. The Conservative general election manifesto promised to ensure that,

"the Electoral Commission puts greater priority on tackling fraud".

This order can perhaps be regarded as the first step in giving effect to that most welcome manifesto commitment.

No one will be robbed of the right to vote by this order. Anyone qualified to vote can register at any point, either before or after 1 December. One of the great benefits of the new system is that registration can be accomplished online in a matter of moments, as nearly half a million people found on registration deadline day before this year's general election.

3.45 pm

Of course we must have electoral registers that are as complete and accurate as possible. Substantial funds have been allocated by the Government for that purpose. In February 2015, another £20 million was made available on top of substantial, existing resources.

I am deeply conscious of the need to galvanise young people into registering, as are other noble Lords in all parts of this House. Far too many youngsters are missing from the registers. In this connection, I—and others—have drawn the attention of the House on a number of occasions to the success of the now well-established schools initiative of which the Electoral Office for Northern Ireland is rightly proud. The Chief Electoral Officer for Northern Ireland said recently that the initiative is the most productive aspect of his community engagement programme and is likely to remain so. The visits to schools require a substantial commitment of staff time and resources; the outcome, however, is well worth the effort.

The excellent organisation Bite The Ballot, well known to many in this House, has supplied me with the latest evidence of Ulster's success. Some 75.6% of its 18 and 19 year-olds are registered to vote and the total is expected to rise further. This will ensure that the young are well represented, as they should be, in helping to shape a better future for our fellow men and women in their part of our country. The rest of us must surely learn from this success. Will the Government pledge to work with the Electoral Commission to install an effective schools initiative, along the lines pioneered in Northern Ireland, throughout the local electoral registration offices in the rest of our country?

Our country has never had a taste for frequent alterations to the fundamental features of its electoral registration arrangements. Indeed, this is only the second time that they have radically changed since their first appearance in the 1832 reform Act. This Government are putting the finishing touches to a radically improved system which should help to restore the trust and confidence in our democracy that has been badly eroded in recent years.

Lord Wills (Lab): My Lords, I did not support the fatal amendment put forward by the Liberal Democrats last night because I thought that it was constitutionally inappropriate. However, I shall support this one, not least because, arguably, the constitutional issue at stake today is even more important than the ones that your Lordships debated last night. Those constitutional issues concerned the respective legitimacies of your Lordships' unelected House and the elected House of Commons. The issue today concerns the legitimacy of the elected House of Commons and, as such, is of profound importance to our constitutional arrangements.

Electoral registration is often a highly technical issue but it is always an important one. The struggle for the right to vote defines the history of our democracy and electoral registration makes that right a reality. Individual electoral registration is desirable and, as we have already heard, the previous Labour Government legislated to introduce it. However, it is generally accepted that, for all its merits, the introduction of individual registration carries with it the severe risk that significant numbers of people who are eligible to vote will not register and so will be unable to do so. For all the good work done in recent years by successive Governments, the Electoral Commission and local authorities, we can see these risks being realised as individual registration is introduced across the United Kingdom.

There is already a serious problem with the electoral register. The most recent assessment, last year, by the Electoral Commission estimated that the register was only 85% complete. More than 8 million voters are eligible to vote but cannot do so because they are not on the register. The fact that so many people who should be on the register are not, despite all the measures taken by previous Governments to increase registration, shows how intractable this problem is. The improvements that individual registration is likely to bring to the

[Lord Wills]

accuracy of the register are undoubted, but they have to be balanced by the deterioration that it is bringing and is likely to bring to the coverage of the register. I hope that that helps to address the point raised by the noble and learned Lord, Lord Mackay. This is a difficult issue and we are trying to balance competing priorities.

The Labour Government tried to do that by linking the introduction of individual registration to the achievement of a comprehensive and accurate register. In opposition, that approach was supported by both the Conservative Party and the Liberal Democrats. The coalition Government could have continued that approach, but they did not; they rejected it, for reasons that they have never adequately explained. They rushed forward with a timetable for individual registration, removing that key safeguard of the requirement of a comprehensive and accurate register.

This Government are now trying to make this bad situation worse, increasing the risk of disfranchising millions of voters by rejecting a carefully argued and proportionate recommendation from the independent Electoral Commission. Why might the Government be doing that? They have suggested systemic threats to the integrity of the register as a reason for this haste. We have just heard a very well-argued speech by the noble Lord, Lord Lexden, on precisely that point. There is undoubtedly localised fraud—there is no question about that—but how serious an issue is it? The independent bodies tasked with safeguarding the integrity of our electoral system do not share the assessment suggested by the noble Lord, Lord Lexden. They do not share the Government's assessment of fraud. The analysis carried out by the Association of Chief Police Officers and the Electoral Commission into the 2010 election, for example, found,

"no evidence of widespread, systematic attempts to undermine or interfere with the May 2010 elections through electoral fraud".

The report stated that,

"we are not aware of any case reported to the police that affected the outcome of the election to which it related nor of any election that has had to be re-run as a result of electoral malpractice".

No analysis is yet available, at least in public, of the 2015 general election but, as the noble Lord, Lord Tyler, said, if the Government want to make their case for this statutory instrument on the basis of widespread fraud, that raises fundamental questions about the general election that put them into power. If the Government are so worried about the integrity of the system, why do they not bring in this legislation and agree to rerun the general election so that it can be run on the basis of an electoral register that everyone agrees is complete and accurate? I look forward to the Minister's response to that suggestion, but I think I can guess what it is.

There is never any justification for any complacency about even a single incident of malpractice, but the evidence does not suggest that the spread of electoral malpractice justifies the risk that the Government are running with the electoral register. An extensive Joseph Rowntree Reform Trust report in 2008—some time ago, admittedly—concluded:

"It is unlikely that there has been a significant increase in electoral malpractice since the introduction of postal voting on demand in 2000",

and that what malpractice there was,

"related to a tiny proportion of all elections contested".

What evidence does the Minister have that suggests that that 2008 analysis now needs to be revisited?

Nor will individual registration address all cases of electoral malpractice—it is not a panacea. The Association of Chief Police Officers and the Electoral Commission concluded that the nature of recorded electoral malpractice changes as measures to combat it change. As one form of electoral malpractice is tackled, another rises to take its place.

Your Lordships can see just how seriously the Government take the issue of fraud by their response to the recommendation by the Electoral Commission in January 2014 that a key way to tackle fraud would be for voters to be compelled to produce proof of ID. After an extensive analysis, that is what the Electoral Commission suggested in January 2014. I understand that the Government have still not responded to that proposal. That is how seriously they take this issue of fraud.

The weakness of the Government's case for their approach is matched by the damage it risks doing. It risks excluding millions from their democratic right to vote. It junks the principle followed for very good reasons by successive Conservative and Labour Governments that fundamental constitutional change such as this should proceed, wherever possible, only on a bipartisan basis.

We now look at why the Government are doing this. What they are doing matters for specific electoral reasons as well as on grounds of general democratic principle. Most agree that eligible voters who are not registered to vote are most likely to vote Labour when they do vote. The Liberal vote in the inner cities, such as it still is, is also likely to be affected. The Electoral Commission found over and over again that underregistration is notably higher than average among the young, private sector tenants and black and minority British residents, and that:

"The highest concentrations of under-registration are most likely to be found in metropolitan areas".

The evidence suggests that the party that will suffer least, if at all, from such a flawed electoral register is the Conservative Party. Electoral registration has been significantly lower in Labour areas than in Conservative areas. It is significant that, despite the fact that the register is still only 85% complete, the only action that the Government proposed to take in their 2015 manifesto to increase that figure was to increase registration among British citizens living overseas. There was not a word about British citizens living in British inner cities, which we know are likely to be significantly underregistered. I am sure that I do not need to remind your Lordships that British citizens living in British inner cities do not tend to vote Conservative in large numbers.

The noble Lord, Lord Tyler, has also pointed out, as I did at length in another debate, that conducting the boundary reviews on the basis of this sort of flawed register is likely to benefit the Conservative Party. Sadly, the reason that the Government have rejected the Electoral Commission's recommendations about individual registration seems all too clear.

Parliament and politicians have been falling into disrepute in recent years. I ask your Lordships, therefore, to consider the impact on the health of our democracy if it turns out that the outcome of a future general election has been determined by the fact that millions of eligible voters could not vote because they were not registered to do so, and that this was the result of a government policy deliberately pursued, despite all the evidence that it would have precisely this consequence. I give way to the noble Lord.

Lord Dobbs (Con): I am very grateful to the noble Lord. We keep hearing about these extraordinary numbers who will be denied the vote. The noble Lord, Lord Tyler, said that 1.9 million people will be wiped off the face of our democracy. Surely that is a fantasy. Yesterday we listened to a very fine speech by the noble Baroness, Lady Hollis—almost too effective a speech, from my point of view—in which she was able to quote time and again the individuals who believed that they would suffer from the tax change that we were discussing yesterday. Today, I have listened to all these speeches and so far not a single individual has come forward to say that they believe they will suffer, despite the fact that apparently 1.9 million are going to be wiped off the face of our democracy. Surely this is fantasy. Where are these mythical hordes that the noble Lord keeps talking about?

Lord Wills: I am grateful to the noble Lord for that characteristically energetic and vivacious intervention, but we have to make policy on the basis of the evidence available to us. Of course the noble Lord is right that we cannot look into the future, and maybe magically, in the next few months, the electoral register will go from 85% up to, say, 95%, which is probably as close to being comprehensive as one can reasonably hope. Maybe it will but, on the basis of all the evidence that we have, it is unlikely to happen.

I quote to the noble Lord the experience of Northern Ireland. When it introduced individual registration, the independent Electoral Commission of Northern Ireland found that:

"The new registration process disproportionately impacted on young people and students, people with learning disabilities, people with disabilities generally and those living in areas of high social deprivation".

It concluded—this is the sort of evidence on which we have to make policy—

"While these findings relate directly to Northern Ireland, they are not unique and reflect the wider picture across the UK. They present a major challenge to all those concerned with widening participation in electoral and democratic processes".

There is the evidence that something has happened, and we have to learn from that.

4 pm

We have had experience over several years of trying to increase the register to tackle precisely these sorts of problems. Sadly, despite all the efforts made by the coalition Government, who spent millions of pounds on this and went to a great deal of effort to try to increase the levels of registration—I pay tribute to the noble Lord, Lord Wallace of Saltaire, who was the Minister responsible and who stood up many times in this House and told us precisely what the coalition Government were doing—they are still not having an impact. This is known to the Government, and despite these problems being known to them on the basis of historical fact—I cannot predict the future, as the noble Lord rightly pointed out, but we can go on the basis of the evidence available to us—and despite all the problems that are faced, the Government are proceeding.

Lord Dobbs: I will try to be brief on this. The noble Lord is talking about individuals who are not on the register. This whole order is about names that are on the register but should not be. That is a completely different argument from the one that he is putting forward.

Lord Wills: No, my Lords. As I have already said, this is a difficult issue because we are trying to balance competing priorities. Of course the accuracy of the register is important, which is why all sides support the introduction of individual registration and why as a Minister I legislated to bring it into play. There is no question about the importance attached to accuracy. However, it has to be balanced by a comprehensive register, for all the reasons I have endeavoured to set out today. The Government could have done a very simple thing: they could have accepted the Electoral Commission's recommendations. It would not have solved all the problems—they are too intractable for that—but it would have helped. The Government have decided to reject that. The risks are clear but, for no good reason, the Government have ignored them. Despite the eloquence of the noble Lord, Lord Lexden, and what I am sure will be the eloquence of the Minister in due course, no good reasons have been given for doing this.

The last time I spoke in a debate with the Minister at the Dispatch Box, I recommended that he read Aristotle. I am sure that, with his very heavy workload, he has not managed to pull down that well-thumbed volume from his bookshelves, so perhaps I may remind him of the words of that great Greek philosopher. He said that,

"constitutions which aim at the common advantage are correct and just without qualification, whereas those which aim only at the advantage of the rulers"—

or, in this case, only at the advantage of the Conservative Party—

"are deviant and unjust because they involve despotic rule which is inappropriate for a community of free persons".

Once again, I recommend those words to the Minister; and to your Lordships' House, I also recommend the conclusion of the royal commission, in 2000, that your Lordships' House should act as a "constitutional long-stop" to ensure that,

"changes are not made to the constitution without full and open debate and an awareness of the consequences".

That is why I will support this Motion.

Lord Empey (UUP): My Lords, the noble Lord, Lord Wills, used the word haste, but this process has been going at a snail's pace for years. We introduced individual electoral registration in 2002. As my noble friend Lord Lexden pointed out, the solution in dealing with the inevitable groups who tend to be underrepresented on every electoral register is not just to sit back and

[Lord Empey]
leave on the register loads of people who may or may not exist; as my noble friend Lord Lexden said, you target those groups. You form a schools initiative and go round the universities and the schools. We had a mobile unit that went round housing estates knocking on doors and to community centres to give people photographic ID cards so that they could use them at the electoral office if they did not have passports or driving licences. You target the people who you know are traditionally not on the registers.

As the noble Lord, Lord Tyler, said, the Electoral Commission is a body that the whole House respects. However, it is not a body that we take instructions from; it is a body that we listen to and consider. Take the Scottish referendum: I do not think that that was a particularly great example of good advice.

Nevertheless, we are talking about a balance of risk: the risk that people who are currently on the register will be denied a vote in the future versus the risk that people will be on the register and constituency boundaries drawn up on the basis of people who are not there at all.

There is another category of person that has not been identified. We talked about a figure of 1.9 million people. But even on the figures that we are getting more recently, that number will have reduced substantially, one way or the other, by the time that we come to December. However, that does not mean that those 1.1 million or 1.2 million people, as it will be by that stage, will not be on the electoral register; it just means that they will not be on the register at the address that they were knocked off it from.

In Belfast, there was a transition period when the process came in, and the register was printed including the names of those who were not individually registered. That is perfectly sensible and reasonable. However, a point came at which we decided to draw the line. At that point, people had to be individually registered or else they were taken off the register. In the Botanic ward in Belfast, near the university—my noble friend Lord Lexden will be very familiar with it—the number of people on the electoral register dropped by 27%. The reason was that the students, nurses, junior doctors and others in the area who occupied many of the dwellings were not there. However, they were registered at their home address in various other parts of the country. Just because a number of people are taken off the register, that does not mean that they are not voting somewhere. That is an issue that has to be taken into account, but which has not been in this debate so far.

The Act that the Minister has used to bring this provision forward provided him with the opportunity to do so. It could have said "2016", but it included the provision that it could be brought in earlier. Presumably, therefore, at that stage, the Minister and the House saw circumstances in which there could be a variation in the timing of this process.

As I said to someone rather light-heartedly, even with these measures being introduced, it was lily-livered legislation. For example, it does not deal with the barking mad idea of postal votes on demand. Also, people still need to have photographic ID—there are huge gaps. However, I do not believe in the blood-curdling prognosis that the noble Lord, Lord Tyler, has brought forward as the risk factor here. In a transition from one system to another, there is always risk. It is a question of finding out what the balance is. There is substantial time and still opportunity to do that.

A big push should be made between now and the end of the year for publicity and action at local level. I also believe that the opportunity will still exist after 1 December for people to register. They should do what we did and target groups—it works. We have the proof, in that we got young people on to the register at a very high level. Target the schools, universities and community centres, particularly those in urban areas, because we all accept that the same profile of individual tends to be off the register in most places.

There is also another category of person: those who do not wish to be on the register. That can be for a variety of reasons: they could be "doing the double", avoiding moneylenders or all sorts of things. People deliberately take themselves off the register. In my view, there is no way that we are going to deal with that, unless we change the law dramatically.

On balance, the risk here is that there are grossly inaccurate registers in certain places. There is no point in persisting and saying, "Well, we'll keep it going for longer and longer", because that will not fix anything. If you identify a problem in a particular area, you go and target the area. The local councils know where these areas are. We know where the schools are and where the universities are. Target those places instead of this blunderbuss approach where you just carry on and hope that, over time, it will get it more accurate. It will not.

Lord Greaves (LD): The noble Lord tells us a story of the wonderful things that have happened in Northern Ireland and the way in which many of these problems have been tackled, but given the present state of local government resources and the view taken of some of these things in England and Wales, does he think that there is a chance at all that in the next six months they will happen here?

Lord Empey: That is a perfectly reasonable and sensible point. I absolutely agree that it does need resources. I understand that there have been some additional funds—my noble friend Lord Lexden mentioned one example, and a further £3 million has been put in—and I would be entirely supportive if the Government felt the need to put more money into local authorities. I do not know what applications there have been from local authorities. Perhaps the Minister can tell the House what responses he has had. As I understand it, although the aid is targeted at certain boroughs, it is open to others to apply. Perhaps the Minister can give the House an assurance that, should the applications outreach the supply, the Government will look at that. That is a very sensible suggestion from the noble Lord, Lord Greaves. All I am saying, from our experience, is that by bringing it to a conclusion you force people to do something. If you combine it with the special measures that I have outlined, together perhaps even with additional resource, we will end up in six months' time with a very effective register.

Lord Tyler: I am very sympathetic to the point that the noble Lord is making. However, that is not the timescale. It is just five weeks to 1 December. That is the vital date. All he is talking about, which could happen in five or six months, simply will not happen in five weeks. He also said that some people who are not on the register wish to be on the register. These are people who are on the existing register but are not being transferred on to the new register. They want to vote, they want to be registered and they want to be part of the electoral process.

Lord Empey: I say to the noble Lord, Lord Tyler, that people can be on the register in a particular constituency, but that does not mean that they are not on the register in a different constituency. That is the point that I made in the student example. We found that people registered in their place of residence at home registered again when they came up to the university area. When they had to produce a national insurance number we could tell that people were registered in two different places and they got knocked off in one place but were still on the register in another. That practice is widespread and well known.

Lord Purvis of Tweed (LD): Does the noble Lord acknowledge that the Electoral Commission report which has been cited has taken all that into consideration? It did a very good and nuanced report that looked at the risks and benefits. It concluded, as my noble friend Lord Tyler indicated, that given the five weeks' notice and potentially the 250,000 people affected by this in Scotland alone, it was not right to bring forward the closure of the transition period. The more targeted approach that he is asking for is best conducted over the normal timeframe which the Electoral Commission and the EROs have operated under existing processes.

Lord Empey: First, I do not accept that the scale of the problem is as large as the noble Lord suggests. As to the five weeks, our experience is that this process has been going on for quite some time—it is not as if it has come from nowhere. We are talking about the opportunity at least to bring it to a conclusion. However, the period after 1 December is not a period in which nothing can happen. People can continue to register. I hope the Minister has listened seriously to what the noble Lord, Lord Greaves, has said. It has been done before and it works if it is targeted. If we are drawing up new boundaries in parallel, the best thing to do is get on with it, draw the line, bring it to a head and provide the resources to target the groups that are traditionally underrepresented. If the effort is made we will end up with a very accurate register. However, the Government should go further. The noble Lord, Lord Wills, made a fair point when he mentioned ID. I do not understand why people should not be asked for their identity when they go to a polling station. It is a very basic thing to do. The postal voting system is mad. There is a lot of work to do and the problem with this process is that the Government are not going far enough.

4.15 pm

Lord Rennard (LD): My Lords, two very different arguments are being advanced today about the purpose of this statutory instrument. The government position, if I may paraphrase it, is that it is simply a tidying-up of the voting registers. However, the position of most of the parties and of the independent Electoral Commission is that it is wrong in principle to remove people from those registers prior to elections in much of the country next May, and in particular in advance of the start of the Boundary Commission's work on drawing up new constituency boundaries. All the measures just proposed by the noble Lord, Lord Empey, are welcome but could not be done within the next five weeks, before the Boundary Commissions start work on the new boundaries based on the electoral registers as of 1 December 2015. That date cannot be changed.

The Government's position must be called into question because of the suddenness with which they laid this order before Parliament, at almost the last possible moment specified in the legislation, only a few days before the Summer Recess, without consulting any of the bodies with elections next May, and in the face of unequivocal opposition from the Electoral Commission, which advises us independently on such matters.

Three years ago, work by the Cabinet Office showed that our electoral registers were far less complete than we had been led to believe. We now know that today's registers are no more complete than they were then. Perhaps 8 million people who should be on them are missing. The evidence for this—I say this to the noble Lord, Lord Dobbs—is that we know from the census figures how many people there are aged over 18 in the United Kingdom, and we know that there are far fewer people on the voting registers. The advice of the independent Electoral Commission is that, even with these 1.9 million people included, there may be another 8 million who exist but are not yet included. The Government are seeking to make that problem worse by removing from the register up to 1.9 million people who are currently on the register before the end of this year.

In our debates in the House about electoral registration and administration almost three years ago, it was generally recognised that there is a small but not very significant problem with a few people who are on the register but should not be. There is a much bigger problem, however, with people who should be on the registers but are missing from them. This House decided, after much debate and on the basis of the government amendment, that the appropriate date for finally removing people from the electoral register if they had not completed the individual registration process was 1 December 2016. Much is made in our debates in this place about the need for compromise and consensus, and the date of 1 December 2016 was agreed as a compromise to allow the process of individual registration to proceed. At the same time, the compromise amendment, which came from the Government, gave specific power to either House of Parliament to say no if a future Government sought to speed up the process in the way that is being proposed, which would exclude a significant number of people from the voting registers, unless it was convinced that the process of individual electoral registration was so successful that it could be brought forward.

We know that the electoral register is no more complete now than three years ago. It is suggested that none of these 1.9 million people are real people and

[Lord Rennard]
that they should not be included on the electoral rolls, but that is not the case, as is evidenced by the fact that the other 8 million people, who we know exist, should be on the registers but are missing from them. Many of these 1.9 million people will have voted in the general election in May, and it is possible to check from the marked registers who actually voted in that election. The Government have acted with suspicious and unseemly haste in suddenly proposing that these people be excluded from next year's elections and, perhaps most importantly, from consideration when new constituency boundaries are proposed.

Part of the problem is that many of these 1.9 million people do not understand that they need to return the forms that are sent to them. The forms do not properly explain the obligation to co-operate with the process or the benefits in doing so. Independent research by the Electoral Commission shows that most people believe that the electoral registration process is automatic and does not require any action at all on their part. Most people not on the register do not know that they are not on the register and will not receive polling cards telling them how to vote in a future election.

Those of us with experience of canvassing in elections—and there are many of us across the House—know that more than one or two calls at the door are required in order to speak to every individual within a household, especially if those calls are being made to properties in multiple occupation and when people are unlikely to be at home. It may be cheaper and easier for some returning officers to have to deal with fewer people on the voting lists, but that would be the wrong priority because it would mean effectively excluding many people from the democratic process. The Electoral Commission advises us from its independent viewpoint that it is not safe in democratic terms to remove these people from the electoral rolls prematurely. If the Government were, as they say, simply seeking to improve the accuracy of the electoral registers, they might have consulted the Scottish Parliament, the Welsh Assembly, the London Assembly or local government in advance of proposing changes to the registers that will be used for elections next year, but they did not, and they have subsequently not received backing from any of those bodies.

Many of the people who will be removed from the registers are in urban areas and in London in particular. The London Assembly debated this very issue, overwhelmingly rejected these plans and asked us to do so as well. It may be argued that making changes to our democratic processes and the rules for the conduct of elections are not our business, but it was our business that insisted three years ago on the date of 1 December 2016 for full implementation of the new voter registration system, not the date that is now proposed. We agreed then with a government amendment that the date could not be brought forward if either House objected. What is now proposed follows from the fact that we have a Government who were elected with the support of less than 25% of the electorate. Instead of trying to increase that level of support, the Government now seek to remove people less likely to support them from the voting registers. Most importantly, in the long run, they seek to ensure that in future there will be fewer constituencies that can be won by their opponents. They seek to make the system less fair, not the other way round.

It is clear that many, if not most, of the people to be removed from the electoral registers are young or living in the private rented sector or may not have English as their first language or are simply the least literate. Those people who would be omitted from the register are concentrated in urban areas and they are known to be less likely to vote Conservative. I suggest that the biggest reason for the proposed change is to ensure that more Conservative parliamentary seats are created in future while people who do not vote Conservative are represented by fewer MPs.

Lord Dobbs: I promise not to interrupt again, but this is a very important point which goes to the heart of this matter. The noble Lord has talked at great length about all of these people who will be disenfranchised. Can he please identify a single real person? Otherwise, we have to dismiss this as simple hyperbole. It is a little rich for us to have a lecture from the noble Lord's mouth about electoral advantage as he is well known for his love of electoral advantage. Can he please nominate a single, real, living, flesh-and-blood individual? If he could identify one, I would welcome changing my mind.

Lord Rennard: My Lords, as I was saying only a few moments ago, it would be technically simple and easy to prove the existence of these people. As the noble Lord will know from his vast experience of elections, the marked register of exactly who goes to a polling station and marks their X on a ballot paper is publicly available afterwards. Returning officers know these people—there are 20,000 of them in the London Borough of Lambeth alone—and it would not be difficult to look and see how many of them actually voted. We know that there are very few people on the register who should not be there compared to the millions whom we know, from independent advice, are missing. They do exist.

The primary purpose of the Government's proposal is to change the way in which the Boundary Commissions would propose new constituencies. This is happening now because the four UK Boundary Commissions all have to work on the basis of the electoral register as it is on 1 December 2015. If up to 1.9 million people are removed from the registers, there will be fewer constituencies in future which are unlikely to return Conservative MPs. It is as simple as that. The proposal is grossly unfair. We know that millions of people in these categories are missing from the electoral rolls, and their existence should be taken into account if we really want to have fairness in terms of constituencies of equal size, which is a Conservative manifesto commitment from the last election.

The Electoral Registration and Administration Act 2013 specifically gave either House of Parliament the power to say no if a future Government sought to bring forward the agreed date for full implementation of electoral registration. The electoral register is not any more complete, in terms of including all those who should be on it, than it was then. It would be much less complete if this proposal, which undermines democratic principles, goes ahead. We should not let it.

Lord Cormack (Con): My Lords, I find it a little difficult to be lectured on political rectitude by the noble Lord on the Liberal Democrat Benches. He has, of course, fought many elections, and so have I. I canvassed in every one since 1959. He is not the only one who understands what is implied. Until a few months ago, the noble Lord, Lord Tyler, was, my noble friend. I was flattered by the quotation which he gave the House and I would not withdraw a single word. At that stage, I was speaking as the Conservative Front Bench spokesman on constitutional affairs in the other place and of course I welcomed the establishment of the Electoral Commission. However, as my noble friend Lord Empey said in a powerful speech, the commission is there to advise. We are not always obliged to take the advice. The commission would be better employed, not just in the next five weeks, but in the months afterwards—because it is possible to register within a very short period—in exhorting and encouraging young people and those of all ages to ensure that they are registered. I am sure that the Minister will give us the appropriate facts and figures, but many reminders have already been delivered to those who have not registered. It is important that we have confidence in the integrity of the electoral register.

I am one of those who has favoured compulsory registration. I have raised this point in the House on many occasions with considerable support from the Benches opposite and, indeed, from many of my noble friends. I would still like to see that. I also agreed emphatically with the noble Lord—

Lord Greaves: My Lords—

Lord Cormack: Just a moment. I also agreed emphatically with my noble friend Lord Empey when he agreed with the noble Lord, Lord Wills—who made an extremely persuasive and very fine speech—that proof of identity at the polling station is something we could all reasonably demand.

4.30 pm

Lord Greaves: I am grateful to the noble Lord and I agree with his last remarks. However, is not registering to vote a legal responsibility and duty, and the problem that, when people do not register, nobody takes any action against those who refuse to do so?

Lord Cormack: Of course, that is entirely true and it is a point I have made in both this House and in another place. I would like to see us get tougher on that. But the fact of the matter is—

Lord Wills: My Lords—

Lord Cormack: They are coming at me right, left and centre.

Lord Wills: I am very grateful to the noble Lord who, with all the authority of his experience and wisdom, raises a very important point about the importance of belief in the integrity of the electoral system. I think everyone agrees with him on that. But does he accept that the integrity of the electoral system involves both the accuracy of the system and its comprehensive coverage? The system cannot be thought to be replete with integrity when so many voters who are eligible to vote are simply not on the register.

Lord Cormack: For a start, we do not know exactly how many are not on it. The figure of 1.9 million has been quoted. It is inevitable that by the time we reach 1 December, that figure will shrink considerably and between then and the crucial elections that will take place in Scotland and elsewhere next year, I believe that the figure will be much smaller still, and I very much hope that it is. But we also have this balance between completeness and total accuracy. The noble Lord, Lord Wills, made this point in his very fair speech. We know from experience in Tower Hamlets and elsewhere that there have been occasions when the electoral register has been manipulated and democracy has been brought into disrepute. We know that for a fact. What we want is a register of total integrity. That is why I agree with the noble Lord and my noble friend Lord Empey that proof of identity should be a requirement. I also believe that postal votes should not be supplied on demand because that lends itself to abuse.

It has been said that this is a very different debate from yesterday's. Of course, it is. Given the opportunity to speak yesterday, I would have argued that the constitutional priorities should be the most important ones for this House. But the House spoke as it spoke and, even though I may regret that, I had sympathy with the arguments advanced so brilliantly by the noble Baroness, Lady Hollis, and others. We are where we are, as they say, and we must see what happens. However, I use this opportunity to say to the House that we must be very careful about using the power that we have. Today, we quite rightly have it, and that was referred to by the noble Lord, Lord Rennard, when he quoted from the Act. Of course, we have the right to reject this order today if we choose to do so. However, as one who believes passionately in this House and its integrity, and who believes equally passionately—nay, perhaps more so—in the supremacy of the other place, where I had the honour to serve for 40 years, I say to the House that we must be very careful how we use our power.

Although I have very considerable respect for the noble Lord, Lord Tyler, and many of his colleagues on the Liberal Democrat Benches, I say this to them: they believe in a number of things very firmly and, I accept, with complete honesty. They believe in the supremacy of the House of Commons, as they tell us repeatedly. They believe in proportionality and many of them do not believe in your Lordships' House, but some do—

Lord Lea of Crondall (Lab): My Lords—

Lord Cormack: I will not give way at the moment. I wish to complete what I am saying. What I say to him, very quietly and in a spirit of collegiality, is that they must be a little careful how they use their votes because if they were proportionately represented in this House following the last general election, there would at the most generous estimate be 60 of them and more likely 50. I think 83, 84 and 81 voted in Divisions last night.

[Lord Cormack]
Had they led by example, practised a self-denying ordinance and put only 55 into the Lobby—that being the difference between 60 and 50—the last Division would have gone in favour of the Government. The previous one would have been very finely balanced. I say to them, please be careful how you overuse the power you have accidently got when you are speaking in the House where you have 104 more Members than in the elected House. That is something everyone in this House should take into account. When we come to address—

Lord Greaves: My Lords—

Lord Cormack: I just want to complete this. When we come to address the size of the House, which I believe we will do shortly, we will have to bear in mind the numbers of those represented in another place, the number of votes garnered by the parties represented in another place and always preserve that distinguishing feature of this House: the 20% or thereabouts of Cross-Benchers. We should bear in mind that this House should never have an overall majority for any Government, whatever its political complexion. We should address the issue not only of underrepresentation but of overrepresentation. The debate we are having today—

Lord Greaves: My Lords—

Lord Cormack: I will give way in a second to the noble and impatient Lord. He has already had one go—

Noble Lords: Oh!

Lord Cormack: The issue we are debating today is the franchise for another place: the supreme House of Parliament. It is very important that we, as Members of this House—

Noble Lords: Oh!

Baroness Chisholm of Owlpen (Con): My Lords—

Lord Cormack: I am not obliged to give way and at the moment I am not giving way. I will in a moment. When we are debating the franchise for another place, we have to be especially careful how we exercise our judgment as well as our vote. I will give way.

Lord Lea of Crondall: I am most grateful to the noble Lord for giving way. He has on two or three occasions emphasised the supremacy of the House of Commons. I understand that the House of Commons, despite the enormous importance of this question, did not discuss it at all. This House is discussing it. Can he confirm that that is his understanding?

Lord Cormack: Yes, but I am not in charge of Government business. The other House has the opportunity to accept or reject. As the noble Lord, Lord Rennard, perfectly rightly pointed out, so do we. All I am doing is saying that we should be particularly careful when exercising judgment on an issue that pertains wholly and entirely to the elected House. We need to bear that always in mind. I will give way to the noble Lord, Lord Tyler.

Lord Tyler: My Lords, as has been made clear by a number of Members of your Lordships' House this afternoon, the immediate concerns about the electorate are nothing to do with the other place. This is about the Scottish Parliament, the London Assembly, the Welsh Assembly—the other bodies that will be elected in 2016. They have not been consulted; they have not even been asked their views on this extremely important issue. The noble Lord is precisely wrong.

Lord Cormack: No, I am not precisely wrong at all. We are dealing with the electoral register for the United Kingdom as a whole, a country in which I believe. I have to say again, with great charity—difficult as it is to summon it up on occasions—that the party that prevented the boundary changes going through, in a fit of petulance and pique, has no right to talk to us on this.

Baroness McDonagh (Lab): My Lords, can I bring the House back to the matter under debate? That is what I would like to speak about this afternoon. I speak in favour of the annulment and the amendment.

Much has been said about Northern Ireland. The real story of Northern Ireland is that when individual electoral registration was introduced, the register collapsed. The registration officers then had to find people, without speaking to them, and put them on the register—a very unsafe process. It has taken several years for them to reach their current situation; we have five weeks. Northern Ireland is a small, homogeneous society in terms of housing tenure, the mobility of the population and so on; we have much more complex problems in terms of registration.

We already know that some 8 million voters are not registered, and we may be in the process of knocking off a further 2 million. We know about those people—real people—because we know the census data, the gaps in properties and the number of young people in school. If the noble Lord opposite would like to meet some of these people, I will be going out and knocking on doors this Sunday. If we meet outside the Chamber, I will arrange to bring him to some of these households to understand some of the problems with registration. This is about 10 million people versus this secondary issue, which has become a bit of—

Lord Dobbs: Since the noble Baroness raises the point, what we are talking about is those who are on the register, who she claims are going to be knocked off the register. We all want those who are not on the register, but who ought to be, to be on it. The whole House wants as complete a register as possible, but this is not what we are talking about. We are talking about these ghost votes, which should not be there in the first place.

Baroness McDonagh: I am not talking about these ghost votes—I do not believe them to be ghost votes. We know that they have not returned a registration

form but we know that they continue to pay council tax. We know that they are there. If the noble Lord does not agree with me, I ask him again to accept my invitation to come out on Sunday and we can talk to these voters together. I can reassure him that they do exist. We know they exist.

We have the problem affecting in the region of 10 million voters versus this smokescreen of fraud, which is the obsession that has hindered us from properly scrutinising this regulation. When has there ever been a case of registration fraud—ever? How many people have registered wrongly? Tell me the numbers we are talking about. Can any noble Lord tell me when they have ever met such a voter? I have been knocking on doors since 1978 and have never come across anybody who has fraudulently completed a registration form. Nor have I spoken to a registration officer who has seen this taking place. I think your Lordships are getting confused with postal vote fraud. Even the impact assessment for the Bill from which this regulation was drawn up says that it is a very rare occurrence, yet it does not name any occurrence ever happening. There has never been a proven case of registration fraud in this country.

4.45 pm

There are three reasons why I think we should go for this annulment and allow the regulations to come in in December 2016—three things that the Government need to concentrate on. The first is data matching. The data matching is not working in practice. On several occasions during the general election, I knocked on doors where I had voters. The people who came to the door were different voters. When I asked them why they had not registered, they told me they had but had then got a letter from the local authority to say that their data had not matched and they would have to call with their passports.

One woman I spoke to said, "I have just moved up from Southampton a few months ago. I registered to vote. I got a letter from my local authority. I was asked to bring in my passport. I asked my manager"—she was a middle manager in the Home Office—"for time off and I was allowed to take my passport into the registration office yesterday". She was registered and able to vote. We are talking about somebody who works in the Home Office. When I asked all the other people I spoke to—shift workers, manual workers, people who were not in the sorts of jobs where they could get time off—why they did not take their passports to the registration office, they looked at me as if I had gone completely mad. There was no way they would be able to do that.

Those are individual cases, so what is the problem on a statistical level? I contacted two local authorities after those experiences. One had not been able to data match just over 1,000 voters using its computer systems but when it went to do it manually—for example, by cross-referencing on the council tax register—it found them to be there. Another local authority could not data match because the systems were not working for more than 2,500 voters. That is just two local authorities. If you scale those numbers up, you see the extent of the problem, and 12 months would allow us to make sure that those systems were in place.

The second problem is identity theft. This is not a safe system. We are asking the public to put a piece of paper through the post—not even in an envelope—with their date of birth, national insurance number, phone number and address. A lot of people are scared of doing that. We recently saw the problems and the opprobrium that TalkTalk faced when it was the victim of a crime. This is something the state is asking the public to do. Before we can sort this problem out, the Government will have to reassure voters about this identity theft problem, and they will need the 12 months to do it.

The third issue is the objective of completeness. We must all want a complete register. We must all feel really dreadful that there are currently 8 million people missing and there could be a further 2 million. I will quote from the impact assessment that was done by the Government when the legislation was introduced:

> "IER should improve the accuracy of the register to allow us to address the current level of completeness and help people currently missing to get on the register".

We have not been able to do it so far. We need another 12 months to make this happen.

Lord Alton of Liverpool (CB): My Lords, your Lordships' House wants to reach a conclusion on this matter, so I will try to be very brief.

I want to counter something that the noble Lord, Lord Cormack, said a few minutes ago about the danger of your Lordships' House exceeding its powers. In 2013, we specifically wrote into this legislation—without dissent in your Lordships' House and without any disagreement between the two Houses of Parliament—the right for either House to dissent if the transition period should in any way be altered. Therefore, no one is exceeding their powers by introducing this Motion, as the noble Lord, Lord Tyler, has done, or the amendment to it that the noble Lord, Lord Kennedy, has introduced today. We should not confuse these questions, and I hope that the noble Lord will agree with me that that is wide of the argument.

The integrity of the process—a point referred to by the noble Lord, Lord Wills, in his timely and excellent speech earlier today—is the key factor. I agreed with the noble Lord, Lord Cormack, when he talked about the integrity of the electoral register; I agree with him about issues of electoral fraud; I am in favour of individual registration; and I also agree that it is important to have timely Boundary Commission reviews. We are in agreement about all of that. However, I think that the legitimacy of the process is the key question that your Lordships have to address this evening. The legitimacy of the process can only ever be guaranteed by the independent Electoral Commission. That is why I disagree with my noble friend Lord Empey.

The noble and learned Lord, Lord Mackay of Clashfern, when he intervened on the speech of the noble Lord, Lord Kennedy, reminded us of what the Electoral Commission said about the benefits. I have the entire quotation here; it is not long:

> "If the transition ends in December 2015, there is a potential benefit to the accuracy of the register—with any retained entries which are redundant or inaccurate being removed—",

but it goes on to say that there is also,

"a risk to the completeness of the register and to participation",

[Lord Alton of Liverpool]
in the important set of elections in May 2016,

"with retained entries relating to eligible electors being removed".

The commission concludes that the risks outweigh any benefits, and argues that, before overturning the original timetable agreed in your Lordships' House and in another place,

"there should be a compelling case for bringing forward the end of the transition",

from the date originally agreed by Parliament.

The commission—not the political parties or many of us who sit as independents in this House may have had political allegiances or might be supporters of parties—says that the case has not been made. This is not about party advantage; this is about ensuring that the process is above any suspicion. It is ensuring that no one is a loser or a gainer as a direct result of changing the regulations and agreements that were originally made.

For 25 years, I represented inner-city communities, either as a city or county councillor or as a Member of the House of Commons. I also saw two parliamentary constituencies disappear—it might be thought that to lose one might be regarded as carelessness—and I recognise that demographic changes have to be reflected in fair electoral arrangements. My own experience tells me that the really crucial point is that any changes have to be seen to be disconnected to party advantage and must always be one step removed from party politicians; otherwise, they lead to the devaluation of our electoral arrangements. Inevitably, the short-circuiting has given rise to the charge that the normal arrangements are politically motivated. Whether or not that charge of trying to score political advantage is true, perception, of course, is all. Anything that casts doubt on the legitimacy of our electoral arrangements, or the fairness of how elections are conducted, is bound to poison the wells of our democracy, and so should be resisted at all costs.

The independent and impartial Electoral Commission says that,

"taking this decision before the outcome of the annual canvass means the Government has acted without reliable information on how many redundant entries will be removed".

I say to the noble Lord, Lord Dobbs, that he does not know, and I do not know, what the numbers are. The commission says to us that there is no reliable information and therefore, we should not proceed in this way. Acting without reliable information is no way for any Government to proceed. It says:

"We therefore recommend that Parliament does not approve this order".

That is the best possible advice we could have been given.

Although my noble friend Lord Empey is right that we are entitled to reject that advice if we wish, we put it into the legislation for a purpose, and we would have to have very good and compelling reasons for overturning it. Frankly, I have not seen those good and compelling reasons. We must safeguard our electoral process by ensuring that it is above any suspicion of any kind of cynicism or manipulation. I therefore urge your Lordships to support the Motion in the name of the noble Lord, Lord Tyler, and the amendment in the name of the noble Lord, Lord Kennedy.

Lord Hayward (Con): My Lords, I rise having listened to the full debate and, like many in this place, having fought many elections. In fact, my noble friend Lord Cormack referred to having canvassed in every election since 1959. I have fought a fair number of elections and the House of Lords Information Office has been good enough to produce biographical details on me. According to its information, I first fought Kingswood in January 1900 and in the same month it says I fought Christchurch, so, according to the Information Office, I somewhat outdo most Peers in this House. That will be corrected at some point.

I start on an aspect of harmony. A number of noble Lords on both sides, but originally the noble Lord, Lord Wills, identified that we should produce ID in voting. I wholeheartedly agree with all those who made those points.

On elections, a number of those who know me know that I have been interested in this subject for many years. In fact, and this is to some extent an admission of guilt but I hope of impartiality as well, I was the second new entry in the 1983 intake into the other House to vote against a government three-line whip. I did so on the paving Bill in relation to the abolition of the GLC because I thought it inappropriate. My comments today in support of what the Government propose are against the background that I have taken and still take a very dispassionate view on these matters.

I will pick up a number of points covered by other Members of this House. First, the noble Baroness, Lady McDonagh, commented on registration fraud. Unfortunately, it would appear that she has not read the verdict, statements and analysis of the recent case in Tower Hamlets where there is clear identification of that position. Also, the Electoral Commission in 2012 made the point that there should be improvements in electoral registration in Tower Hamlets. It identified that Tower Hamlets had a policy and administration that were above the practice of many of the London boroughs.

I turn to the question of "ghost" voters. I choose to call them that because having tried to contact these people nine times, they must be pretty close to being ghosts. The noble Lord, Lord Rennard, referred to the fact that there may well be people among that 1.9 million—dropping to 1.4 million or 1.2 million—who voted in May. I could understand it if the noble Lord, Lord Tyler, had made particular reference to that and said that this order should not be introduced until there had been that sort of matching process. Instead, we have a catch-all that we will do away with it completely or delay it until 2016.

However, these people have been called on nine times. I now speak from personal experience. I currently live some 200 yards from where the noble Lord, Lord Kennedy, went to primary school. When I attempted to be a candidate in the last London elections, I visited my neighbours. They were not on the electoral roll. I visited the neighbours four doors down, and they were not on the electoral roll either. When I first moved into my current address, I had eight years of having somebody on the electoral roll who had never lived there. That is the essence of this debate. We are talking about removing people who we have attempted to contact nine times as

against those people who a number of noble Lords have said we need to get on the electoral roll. Those are two different groups of people, and that should be recognised in this debate.

I also listened to a number of contributions in which there have been criticisms of what happened in Northern Ireland. They said, "It happened like this", or "It happened like that". That seems to be a justification not for delaying but for not having IER in the first place. You cannot have both. If you are to have IER, then you will face some of those problems. They have to be tackled through better collecting of registration.

In his opening remarks, the noble Lord, Lord Tyler, made comments about shop stewards which a number of people who have backgrounds as shop stewards would consider a little unfortunate. He suggested that the AEA was the "shop stewards' fora"—I think that was the phrase he used. He then went on to quote the Electoral Commission's report. On page 3, under acknowledgements, there is only one acknowledgement and it is to that same group of people for their work.

I turn to the question that he identified about primarily urban or rural communities and their retained electors. Taking the top 20 authorities with the worst record on retained electors, it is not, as has been suggested, filled purely with Scottish or London boroughs, although there are a lot of London boroughs among them. The deprived London borough of Kensington and Chelsea is third on the list. The equally deprived borough of Windsor and Maidenhead comes out 12th. Harrow and Scarborough appear in the same block. None of them is an area that one would identify as being either deprived or necessarily totally urban.

Lord Wills: The noble Lord raises the question of statistics. Is he aware of the relative registration rates in Conservative and Labour constituencies? I should be interested to know what his figures are for those national data.

Lord Hayward: I am, but I have not got them with me. I am happy to write to the noble Lord with the answer. They are not particularly relevant to the point I am making which is the one cited by the noble Lord, Lord Tyler about the difference in registration from one place to another in relation to those who would suffer if those ghosts were removed. I have just mentioned those areas where the level of retention would appear to be worst, if I may use that word.

On the other hand, there are authorities at the other end of the spectrum which have tackled this issue incredibly well, including the deprived areas of Hartlepool, Halton, Redcar and Cleveland, Barrow-in-Furness, Chesterfield and Bridgend. I am pleased to follow the noble Lord, Lord Alton, because one of the authorities with a reasonably good record so far is Liverpool. Knowsley, which nobody can argue is anything other than deprived, has a strikingly good record. So there is no correlation between the two. There is a correlation between some parts of the country and others. I would like to identify some of the other places—

Lord Wills: Actually, I know the answer to the question I asked the noble Lord. I was about to tell him. There is roughly a 6% difference between registration levels in Conservative-held seats and Labour-held seats. That might have changed a little in the last general election, but I doubt by very much. There is a significant difference.

Lord Hayward: I do not challenge that. The noble Lord has made the point for me. We are talking about people who are registered or not registered and not about the ghost voters whom we are talking about in this debate.

There are other areas of deprivation where they have cleansed the register very effectively. There is a whole series of authorities in Wales—places such as Bridgend, Cardiff, Swansea and Rhondda Cynon Taff. All of them have low figures of problems, if I may use the term, in cleansing their registers. I have not raised this, but if it is right that it was possible in Wales to have cleansed the registers in those sorts of authorities, why is it not the case in London? If it is suggested that this is to do with boundaries, then the places that will suffer are the valleys of Wales because they have cleansed their registers. The boroughs of London which have not cleansed theirs will benefit.

In conclusion, we have been talking about this group of people—these ghosts—as if there is no burden. There is a substantial burden on local authorities. They have to print the electoral rolls with all these people on them, many of whom should not be there. They issue polling cards. They issue ballot papers. There has to be freepost provision for these people for some elections. There is an attendant burden. No wonder the AEA makes its views clear on what it thinks would be the best position. It recognises that there is an unnecessary burden on a large number of local authorities. If one removes retained voters from the register, we will not be sending out all the unnecessary cards, ballot papers, freeposts, et cetera, during the upcoming election.

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords—

Lord Greaves (LD): My Lords, I have been trying to get in for some time—

Lord Bridges of Headley: My Lords, I hope that the noble Lord will forgive me. A lot has been said this afternoon. It has been an excellent debate, and there have been very good contributions from all sides, although I profoundly disagree with some of what has been said, as I will come on to. It is always nice to be reminded by the noble Lord, Lord Wills, that I have not read my Aristotle. He firmly puts me in my place.

I shall start by taking a step back to make two fundamental points, on which I hope we can all agree. First, we all agree that we want more people to engage in the democratic process and register to vote, but those who are not on the register today will clearly not be affected by the measure we are discussing, which is the removal of ghost entries. Secondly, as my noble friend Lord Lexden said in his excellent speech, nobody will lose their right to vote as a result of the government proposals that we are debating today.

[Lord Bridges of Headley]

Instead, the core of what we are debating comes down to the accuracy of the new electoral register. Do we keep on the new register ghost entries—entries of people who may have moved house or died or may never have existed in the first place? Are these ghost entries living, breathing voters, as the noble Lord, Lord Tyler, calls them, or hundreds of thousands of database errors which need to be removed ahead of the important elections next year? As the noble Lord, Lord Alton, rightly pointed out—let us not disguise this fact—for the sake of completeness, the Electoral Commission wants to keep those entries on the register, even if this means that the accuracy of the register is undermined. It judges the risk of fraud to be acceptable, and the Government disagree.

First, we believe that after 18 months of transition and more than a decade of waiting, as we enter a year of elections and possibly a referendum on Europe—possibly—the time has come to move fully to the new system. Secondly, we see the risk of fraud as unacceptable. Thirdly, we believe that people have been given ample opportunity to register on the new system. That said, fourthly, we entirely agree with those who want more people to register to vote and participate in the elections, but we do not make the register more complete by stuffing it with inaccurate registrations.

I shall take those points in turn. As the noble Lord, Lord Empey, said, we have been waiting for the full transition to individual electoral registration for more than a decade. As the current chair of the Electoral Commission said:

"This change is something we've been calling for since 2003 and is an important step towards a more modern and secure electoral system".

To give the former Labour Government their due, they legislated to introduce individual electoral registration in 2009. The coalition Government further legislated in 2013 and, finally, in the summer of 2014, the new system was introduced. I remind your Lordships that at the general election, in its manifesto, the Conservative Party committed that:

"Building on our introduction of individual voter registration, we will continue to make our arrangements fair and effective by ensuring the Electoral Commission puts greater priority on tackling fraud".

This Government believe that it is time to finish the process, and finish it now. This decision is not, as the noble Lord, Lord Kennedy, said, rash.

Let us consider the progress that has been made. Back in May, 96% of the electorate was successfully registered under the new system. It is the remaining 4%—the so-called "carry forwards"—that the Government believe should be removed from the register at the end of December. It is not the entire register that we are questioning, as the noble Lord, Lord Tyler, seems to suggest; it is the 4%. Then we have to ask ourselves: what do these entries represent; who are they; do they exist? The reality is that neither we nor the Electoral Commission know who they are. They may be people who have moved or have died, or they may never have existed in the first place. However, we have gone the extra mile to find out whether these entries actually are people living at the registered address. Electoral registration officers have been working tirelessly to confirm whether the remaining entries are real people or whether they are merely ghosts.

These people will have first been sent three invitations to register. If they had not done so by last autumn, an electoral registration officer would have visited the address linked to the entry. If this failed to elicit a response, a further letter would have gone to the address earlier this year. Where carry-forward still exists, these addresses will receive three further letters and another visit from an electoral registration officer this autumn. That is the second fact that I would ask noble Lords to remember. These people, if they are people, will have been contacted at least nine times by December. I ask noble Lords to compare that with the number of times people are contacted about renewing their TV licence—four times. These people, if these entries do indeed represent people, have been contacted nine times. On top of this, as the noble Lord, Lord Empey, said, the Government made available to councils up to £3 million of additional funding to support extra efforts targeted specifically at carry-forward entries, and £1.2 million of that was drawn down.

Lord Purvis of Tweed: I am grateful to the Minister for giving way. He has always been very courteous when we have been debating issues of the constitution. He will be aware that the Electoral Commission has taken everything that he has said into consideration, yet, as the noble Lord, Lord Alton, has said, it has still given a very clear recommendation that the transition period should not come to an end early. One reason is the significant polls scheduled for May 2016. The Minister knows that I was a Member of the Scottish Parliament. On an issue of principle such as this, it is inconceivable to me that the Government would not have consulted the Scottish Parliament in bringing forward the transitional period, given the significance of the polls in May 2016. Can he confirm formally, at the Dispatch Box, whether the Government did or did not consult the Scottish Parliament? If they did, what was the view of the Parliament?

Lord Bridges of Headley: My Lords, the timetable for the start of IER was agreed with the Scottish Government and allowed the referendum to take place before IER got under way. There is no legal requirement to consult on this order, and electoral registration is at present within the competence of the UK Government. I will come back in a moment to the other points raised by the noble Lord.

I refer those who argue that we should wait for another year to the Electoral Commission itself. It said that such efforts are likely to see:

"Diminishing returns because a greater proportion of these electors are no longer resident at that address".

On the point that the current canvass will address this issue, I agree entirely. The canvass going on at the moment means that we can be even more sure that the vast majority of these entries are ghost entries.

I come to the next point. Where are these ghost entries? Six of the local authorities with levels of carry-forwards above the national average have been identified as among the authorities more at risk of electoral fraud. As my noble friend Lord Hayward

said, one of these boroughs is Tower Hamlets. There, the election judge slammed the "extremely lax" registration rules of the previous system as opening the door to electoral corruption. It is worth noting that the London Borough of Tower Hamlets was awarded top marks in the Electoral Commission's performance standards for electoral integrity.

In Hackney, which is not even one of those six authorities, there were in May 43,000 carry-forwards. That is 23% of its electorate—I repeat: 23%. It is worth noting that in Hackney the register has increased by 10% since the introduction of individual electoral registration. The Electoral Commission states that the increment in the number of entries,

"may have therefore been inflated by a high volume of inaccurate entries".

What might be the cause of those inaccuracies?

Hackney, and many other areas where there are large numbers of ghost entries, share a common characteristic: their population is, as has been mentioned, mobile—and in mobile populations many people rent their homes. Again, the Electoral Commission itself has suggested that those who rent private sector accommodation are more likely to have been carried forward. Why is that? One in three households in the private rented sector moves every year. It is therefore hardly surprising that we see a high percentage of carry-forwards in these areas given that the entries to the register are over a year old, dating from February 2014, which was before the introduction of the new system. As my noble friend Lord Hayward pointed out, these numbers are not just in Labour areas; the last time I looked, Kensington and Chelsea, Wandsworth and Windsor were blue.

5.15 pm

Lord Wallace of Saltaire (LD): The noble Lord has quoted the Electoral Commission several times. As a matter of process, the opinion of the Electoral Commission is extremely important. As a member of the coalition Government, my clear understanding was that we had agreed that we would complete the process by December 2016 unless there was—as the Electoral Commission has confirmed there is—compelling evidence that it was not necessary to go that far. The Electoral Commission has said, very clearly, that it thinks we are mistaken in what we are doing. Is the Minister saying that the Government consider the commission not to be relevant in this crucial area, although he is using it to support his argument in other areas? Why do the Government not regard the Electoral Commission's argument? I repeat that this is a matter of the rules of politics, which have to be seen as fair.

Lord Bridges of Headley: I completely agree with the noble Lord that the rules of politics must be seen to be fair, which is why we are taking this action today. We believe that it is wrong to have so many inaccurate ghost entries on this register and that the facts have changed, in that by December these four out of 100 voters will have been contacted at least nine times. I will go on.

Lord Wills: The Minister keeps referring to this figure of 96%. Can he be absolutely clear that he accepts that 85% of the eligible population has registered to vote? In other words, 15% of those eligible are not registered. Many noble Lords have made the point in this debate that the process now under way, which the Government are hurrying forward in this way, will prejudice attempts to get that other 15% on to the register.

Lord Bridges of Headley: My Lords, I completely agree that we need to get more people on the register. However, let us not confuse apples and oranges—these are two separate things. If people are not on the register, there is absolutely no way they can be taken off the register, which is what we are saying today. I do not understand—maybe I am not explaining it clearly enough. However, I will go on, if I may.

When people move, we should not leave their entries on the register. That increases the risk of not only electoral fraud but benefit and financial fraud. In advance of Northern Ireland moving to a system of individual electoral registration in 2002, the police said that it would,

"go a long way to eliminating the opportunities for fraudsters to commit the offence of personation".

The noble Baroness, Lady McDonagh, asked about fraud. Let us just remind ourselves that since 2002-03, courts have imposed jail sentences for electoral fraud in Ashford, Blackburn, Bradford, Bristol, Burnley, Coventry, Derby, Guildford, Oldham, Peterborough, Slough and Walsall.

Lord Greaves: Will the Minister agree that in I think all those cases, but certainly in almost all of them, the fraud was linked to postal vote and proxy vote fraud, not registration fraud?

Lord Bridges of Headley: My Lords, it is electoral fraud; we are trying to make sure here that—

Noble Lords: Oh!

Lord Bridges of Headley: No—I am absolutely clear. We need to make sure that we take every step possible to cut down on electoral fraud. Therefore, after such an effort to contact the ghost entries, which puts pestering PPI calls in the shade, and given these facts, the Government believe that the time has come to remove these entries from the register.

I will repeat a crucial point which I made at the start. Even if someone is removed inadvertently from the register, he or she has not lost the right to vote, as some would have it. Indeed, as I have said before, we want more people to register. A number of noble Lords, such as the noble Lord, Lord Rennard, have highlighted the number of those who are not on the register already. I agree—they are right—there are too many of them, and we need to encourage them to register, as I said at the start. Individual electoral registration will help them do that. It is now easier to register than ever before and takes minutes to do online: 460,000 applications were made on the registration deadline for the general election alone—that is five applications a second.

As the Minister for Constitutional Reform said in his speech last week, the approach to registration needs to be updated and modernised, building on the

[Lord Bridges of Headley]
success of online registration. This will help to meet the challenges of finding and registering those currently missing from the register and build on the excellent work that was done under the coalition.

The key point is this: the need to encourage voter registration has nothing to do with removing the inaccurate carry-forward entries on the register. As I just said, if a person is not on the register already, they obviously cannot be affected when these ghost entries are removed from the register. As I said at the start, the answer to underregistered groups, such as young people or expatriates, is not to stuff the electoral roll, and potentially the ballot boxes, with the names of people who do not exist but, instead, to encourage more people to vote.

A number of your Lordships referred to the boundary review, which, as your Lordships will know, begins its work early in the new year, fulfilling the Conservative Party's manifesto commitment to cut the number of MPs and make votes of more equal value. If we are to create constituencies of equal size, the electoral registers used for the boundary review must be accurate across the UK. Otherwise, areas with large numbers of carry-forwards will get more MPs than those with small numbers.

This should not be a partisan point, despite what the noble Lord, Lord Tyler, said. Areas with high carry-forwards include Conservative authorities such as Windsor and Maidenhead, and Kensington and Chelsea. It is right that overregistration be tackled in these areas. Equally, Labour councils such as Barrow, Cardiff and Hartlepool have below average numbers of carry-forwards. Surely it cannot be right that we leave 17,000 carry-forwards on the register in Kensington and Chelsea, according to May's figures, while there are just 558 in Hartlepool. If we allow this to happen, it will distort the distribution of seats, hitting, in particular, Wales and Northern Ireland, where there are no carry-forwards as they already have individual electoral registration. A full transition to the new system will ensure fairness—something we all should want.

As we enter a year of elections, the Government believe that we should not retain these ghost entries on the register, making it inaccurate and perhaps making elections open to fraud. As has been said, we are not alone in thinking this. As my noble friends Lord Lexden and Lord Hayward said, the Association of Electoral Administrators supports ending the transition this year for primarily this reason, saying that:

"It is crucial to have the most accurate register possible".

All democracies depend on a weighing up of interests and a careful consideration of the facts. This is no less true of our electoral system. As the noble Lord, Lord Alton, said, we must take an approach that strikes the right balance between safeguarding the integrity of the register and ensuring that the electors registered to vote for the elections next May are accurate. The Government believe that we are past the tipping point. Remember, 96 out of every 100 electors have successfully registered on the new system. By December, at least nine attempts will have been made to contact those entries that were carried forward. The chance of a large number of the remaining carry-forward entries being eligible to register to vote is vanishingly small. No one is losing the right to vote and registering is easier than ever before. This is why the Government oppose the Motions today.

Although I heed the words of the noble Lord, Lord Alton, I would like to echo the words of my noble friend Lord Cormack. Having broken a convention yesterday by failing to respect the primacy of the other place, the House supporting these Motions would defeat a statutory instrument, not on the grounds that it has been improperly made but because the noble Lords who tabled them disagree with it. It is up to your Lordships to make your decision clear, but it would be killing a statutory instrument—something this House has done only five times since World War II. With a further fatal Motion on the Order Paper for later today, the House is being invited to withhold its approval to three statutory instruments in two days; doing in two days what this House did in the 13 years between 1997 and 2010.

Lord Wallace of Saltaire: The House will be doing so partly because the Electoral Commission has advised us to do so. That is the question the noble Lord has not answered.

Lord Bridges of Headley: As the noble Lord, Lord Empey, said, the Electoral Commission is an independent body but we are not bound to observe it. As I have set out very, very clearly, we believe that we have a strong case for proceeding as we have.

Although this House is unelected, I believe that we should be doing our utmost to protect the integrity and accuracy of our electoral system. That is the duty we have to voters. We believe that it is time to finish the transition to individual electoral registration in December 2015 so that we can all be confident in our electoral register.

Lord Kennedy of Southwark: My Lords, this has been an excellent debate. I think the noble Lord, Lord Tyler, is going to accept my amendment, so I am grateful to him for that. The Minister has not made a convincing case to the House this afternoon. The Government also failed to persuade the Electoral Commission, an independent body set up by Parliament which is expert in this field, to which a number of noble Lords referred, particularly the noble Lord, Lord Alton.

As has been said, the Electoral Commission urged the House to support the Motion in the name of the noble Lord, Lord Tyler. My noble friend Lord Wills made a powerful contribution, particularly pointing out that the Electoral Commission recommended the use of ID cards at polling stations. The Government have not moved on that and they should do so if they have concerns about electoral fraud.

The noble Lords, Lord Empey and Lord Lexden, made reference to the Northern Ireland schools initiative. I agree that it is a very good initiative and I have repeatedly said from the Dispatch Box that the Government should introduce it in Great Britain, but to no avail so far. I know that EROs target groups, and supporting the Motion today will be giving more time to EROs to do more work on the register.

The noble Lord, Lord Rennard, made an excellent point about the completeness of the register, which underlines the underregistration problem we have in Great Britain today. It is important to note that a cut-off date of 1 December 2016 was in a government amendment. It has been mentioned here before and nothing has changed since then. No one suggested here today that it is so successful that we can take a year off the period. From my time on the Electoral Commission, I can assure the noble Lord, Lord Cormack, that it worked with great determination on IER. It was the champion initially and worked really hard on completeness. When it says that this is a risk, we need to look at that very carefully.

My noble friend Lady McDonagh made an excellent contribution, highlighting the data-matching issues that have been experienced across the country. The case has not been made today.

Lord Mackay of Clashfern: I wonder whether the noble Lord can help on a question I asked earlier. I am obliged to him for his reference in the amendment to the Electoral Commission's view, because it made me interested to see what it had said. I understand the second part perfectly—there is no question about why it thinks there is a degree of risk to completion—but I do not understand how shortening the transition period contributes to the accuracy of the register.

Lord Kennedy of Southwark: We discussed this point earlier. The commission looked at all these factors—risk, accuracy and completeness—and it still says in its paper that,

"taking this decision before the outcome of the annual canvass means the Government has acted without reliable information".

It looked at all the figures and decided that if Government go ahead with this, they will be making the wrong decision.

5.28 pm

Division on Lord Kennedy's Amendment

Contents 267; Not-Contents 257.

Lord Kennedy's Amendment agreed.

Division No. 1

CONTENTS

Adams of Craigielea, B.
Addington, L.
Adonis, L.
Allen of Kensington, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashdown of Norton-sub-Hamdon, L.
Avebury, L.
Bach, L.
Bakewell, B.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L. [Teller]
Beecham, L.
Benjamin, B.
Berkeley, L.
Bhatia, L.
Blackstone, B.
Blair of Boughton, L.
Blood, B.
Bonham-Carter of Yarnbury, B.
Boothroyd, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brennan, L.
Brooke of Alverthorpe, L.
Brookman, L.
Burnett, L.
Campbell of Surbiton, B.
Carter of Coles, L.
Cashman, L.
Clancarty, E.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clement-Jones, L.
Clinton-Davis, L.
Collins of Highbury, L.
Colville of Culross, V.
Corston, B.
Cotter, L.
Crawley, B.
Davies of Oldham, L.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Desai, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Dubs, L.
Dykes, L.
Evans of Temple Guiting, L.
Evans of Watford, L.
Falconer of Thoroton, L.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Fearn, L.
Flather, B.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Fox, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
German, L.
Gibson of Market Rasen, B.
Giddens, L.
Glasgow, E.
Goddard of Stockport, L.
Golding, B.
Goudie, B.
Gould of Potternewton, B.
Grantchester, L.
Greaves, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hameed, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haworth, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hilton of Eggardon, B.
Hollick, L.
Howells of St Davids, B.
Howie of Troon, L.
Hoyle, L.
Hughes of Woodside, L.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hutton of Furness, L.
Irvine of Lairg, L.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones, L.
Jones of Cheltenham, L.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Kerslake, L.
Kidron, B.
Kilclooney, L.
King of Bow, B.
Kinnock, L.
Kinnock of Holyhead, B.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Lea of Crondall, L.
Lee of Trafford, L.
Leitch, L.
Lennie, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Loomba, L.
Low of Dalston, L.
Ludford, B.
McAvoy, L.
McConnell of Glenscorrodale, L.
McDonagh, B.
Macdonald of Tradeston, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Mallalieu, B.
Manzoor, B.
Marks of Henley-on-Thames, L.
Massey of Darwen, B.
Maxton, L.
Mendelsohn, L.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Morgan, L.
Morgan of Ely, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Morris of Yardley, B.
Newby, L.
Nicholson of Winterbourne, B.
Northover, B.
Nye, B.
Oakeshott of Seagrove Bay, L.
Oates, L.
O'Neill of Clackmannan, L.
Owen, L.
Oxford and Asquith, E.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel of Blackburn, L.
Patel of Bradford, L.
Pendry, L.
Pinnock, B.

Pitkeathley, B.
Plant of Highfield, L.
Prescott, L.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Radice, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Richard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rooker, L.
Rosser, L.
Rowlands, L.
Royall of Blaisdon, B.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Sherlock, B.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Clifton, L.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Snape, L.
Soley, L.
Steel of Aikwood, L.
Stephen, L.
Stern, B.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Suttie, B.
Symons of Vernham Dean, B.
Taylor of Blackburn, L.
Taylor of Bolton, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornton, B.
Tomlinson, L.
Tope, L.
Touhig, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L. [Teller]
Turnberg, L.
Turner of Camden, B.
Tyler, L.
Uddin, B.
Verjee, L.
Wallace of Saltaire, L.
Walmsley, B.
Warner, L.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Williams of Baglan, L.
Williams of Crosby, B.
Williams of Elvel, L.
Willis of Knaresborough, L.
Wills, L.
Worthington, B.
Wrigglesworth, L.
Young of Hornsey, B.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Balfe, L.
Bamford, L.
Bates, L.
Berkeley of Knighton, L.
Berridge, B.
Best, L.
Bew, L.
Bichard, L.
Blackwell, L.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brookeborough, V.
Brougham and Vaux, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Browning, B.
Buscombe, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Byford, B.
Caithness, E.
Callanan, L.
Cameron of Dillington, L.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chalker of Wallasey, B.
Chisholm of Owlpen, B.
Coe, L.
Colwyn, L.
Condon, L.
Cooper of Windrush, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Craigavon, V.
Crathorne, L.
Crickhowell, L.
Crisp, L.
Cumberlege, B.
Curry of Kirkharle, L.
De Mauley, L.
Dear, L.
Deben, L.
Deech, B.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dundee, E.
Dunlop, L.
Eames, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fellowes of West Stafford, L.
Fink, L.
Finkelstein, L.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Glendonbrook, L.
Glentoran, L.
Goldie, B.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Green of Hurstpierpoint, L.
Greengross, B.
Greenway, L.
Griffiths of Fforestfach, L.
Hamilton of Epsom, L.
Harris of Peckham, L.
Hay of Ballyore, L.
Hayward, L.
Helic, B.
Henley, L.
Heyhoe Flint, B.
Higgins, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hollins, B.
Holmes of Richmond, L.
Hooper, B.
Hope of Craighead, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jay of Ewelme, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Kalms, L.
Keen of Elie, L.
King of Bridgwater, L.
Kinnoull, E.
Kirkham, L.
Knight of Collingtree, B.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leach of Fairford, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Listowel, E.
Liverpool, E.
Livingston of Parkhead, L.
Lothian, M.
Lucas, L.
Luce, L.
Lyell, L.
Lytton, E.
McCluskey, L.
McColl of Dulwich, L.
Macfarlane of Bearsden, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering , B.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marland, L.
Marlesford, L.
Masham of Ilton, B.
Maude of Horsham, L.
Mawhinney, L.
Mobarik, B.
Mone, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
O'Loan, B.
O'Neill of Bengarve, B.
O'Neill of Gatley, L.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Palumbo, L.
Patel, L.
Pearson of Rannoch, L.
Perry of Southwark, B.
Phillips of Worth Matravers, L.
Plumb, L.
Polak, L.
Popat, L.
Prior of Brampton, L.
Rawlings, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Rogan, L.
Rose of Monewden, L.
Rotherwick, L.
Rowe-Beddoe, L.
Russell of Liverpool, L.
Ryder of Wensum, L.
Saatchi, L.
St John of Bletso, L.
Sanderson of Bowden, L.
Sandwich, E.
Sassoon, L.
Scott of Foscote, L.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharples, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.

Shields, B.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Somerset, D.
Spicer, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stevens of Ludgate, L.
Stewartby, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Sutherland of Houndwood, L.
Swinfen, L.
Taylor of Holbeach, L. [Teller]
Trees, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Trumpington, B.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Walpole, L.
Warsi, B.
Wasserman, L.
Wei, L.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Wilson of Tillyorn, L.
Wolfson of Aspley Guise, L.
Wolfson of Sunningdale, L.
Woolf, L.
Young of Cookham, L.
Younger of Leckie, V.

5.45 pm

Division on Lord Tyler's Motion, as amended.

Contents 246; Not-Contents 257.

Lord Tyler's Motion, as amended, disagreed.

Division No. 2

CONTENTS

Adams of Craigielea, B.
Addington, L.
Adonis, L.
Allen of Kensington, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashdown of Norton-sub-Hamdon, L.
Avebury, L.
Bach, L.
Bakewell, B.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Benjamin, B.
Berkeley, L.
Blackstone, B.
Blair of Boughton, L.
Bonham-Carter of Yarnbury, B.
Boothroyd, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brennan, L.
Brooke of Alverthorpe, L.
Brookman, L.
Burnett, L.
Carter of Coles, L.
Cashman, L.
Clancarty, E.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clement-Jones, L.
Clinton-Davis, L.
Collins of Highbury, L.
Cotter, L.
Crawley, B.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Desai, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Dubs, L.
Elder, L.
Evans of Temple Guiting, L.
Evans of Watford, L.
Falconer of Thoroton, L.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Fearn, L.
Flather, B.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Fox, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Goddard of Stockport, L.
Golding, B.
Goudie, B.
Gould of Potternewton, B.
Grantchester, L.
Greaves, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hameed, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haworth, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hilton of Eggardon, B.
Hollick, L.
Howie of Troon, L.
Hoyle, L.
Hughes of Woodside, L.
Humphreys, B. [Teller]
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Irvine of Lairg, L.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones, L.
Jones of Cheltenham, L.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Kerslake, L.
Kilclooney, L.
King of Bow, B.
Kinnock, L.
Kinnock of Holyhead, B.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Lea of Crondall, L.
Lee of Trafford, L.
Leitch, L.
Lennie, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Loomba, L.
Low of Dalston, L.
Ludford, B.
McAvoy, L.
McConnell of Glenscorrodale, L.
McDonagh, B.
Macdonald of Tradeston, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Mallalieu, B.
Manzoor, B.
Marks of Henley-on-Thames, L.
Massey of Darwen, B.
Maxton, L.
Mendelsohn, L.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Morgan, L.
Morgan of Ely, B.
Morris of Handsworth, L.
Morris of Yardley, B.
Newby, L. [Teller]
Nicholson of Winterbourne, B.
Northover, B.
Nye, B.
Oakeshott of Seagrove Bay, L.
Oates, L.
O'Neill of Clackmannan, L.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel of Blackburn, L.
Patel of Bradford, L.
Pearson of Rannoch, L.
Pendry, L.
Pinnock, B.
Pitkeathley, B.
Plant of Highfield, L.
Prescott, L.
Prosser, B.
Purvis of Tweed, L.
Radice, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Richard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rosser, L.
Rowlands, L.
Royall of Blaisdon, B.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Sherlock, B.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Clifton, L.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Snape, L.
Soley, L.
Steel of Aikwood, L.
Stephen, L.
Stern, B.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Suttie, B.
Taylor of Blackburn, L.
Taylor of Bolton, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornton, B.
Tomlinson, L.
Tope, L.
Touhig, L.
Triesman, L.
Tunnicliffe, L.
Turnberg, L.
Turner of Camden, B.
Tyler, L.

Uddin, B.
Wallace of Saltaire, L.
Walmsley, B.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Williams of Baglan, L.
Williams of Crosby, B.
Williams of Elvel, L.
Willis of Knaresborough, L.
Wills, L.
Wrigglesworth, L.
Young of Hornsey, B.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Balfe, L.
Bamford, L.
Bates, L.
Berkeley of Knighton, L.
Berridge, B.
Best, L.
Bew, L.
Blackwell, L.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brookeborough, V.
Brougham and Vaux, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Browning, B.
Buscombe, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Byford, B.
Caithness, E.
Callanan, L.
Cameron of Dillington, L.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chalker of Wallasey, B.
Chisholm of Owlpen, B.
Coe, L.
Colville of Culross, V.
Colwyn, L.
Cooper of Windrush, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Craigavon, V.
Crathorne, L.
Crickhowell, L.
Crisp, L.
Cromwell, L.
Cumberlege, B.
Curry of Kirkharle, L.
De Mauley, L.
Dear, L.
Deben, L.
Deech, B.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dundee, E.
Dunlop, L.
Eames, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fellowes of West Stafford, L.
Fink, L.
Finkelstein, L.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Glendonbrook, L.
Glentoran, L.
Goldie, B.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Green of Hurstpierpoint, L.
Greengross, B.
Greenway, L.
Griffiths of Fforestfach, L.
Hamilton of Epsom, L.
Harris of Peckham, L.
Hay of Ballyore, L.
Hayward, L.
Helic, B.
Henley, L.
Heyhoe Flint, B.
Higgins, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hollins, B.
Holmes of Richmond, L.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jay of Ewelme, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Kalms, L.
Keen of Elie, L.
King of Bridgwater, L.
Kinnoull, E.
Kirkham, L.
Knight of Collingtree, B.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leach of Fairford, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Listowel, E.
Liverpool, E.
Livingston of Parkhead, L.
Lothian, M.
Lucas, L.
Luce, L.
Lyell, L.
McCluskey, L.
McColl of Dulwich, L.
Macfarlane of Bearsden, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering , B.
Mackay of Clashfern, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marland, L.
Marlesford, L.
Masham of Ilton, B.
Maude of Horsham, L.
Mawhinney, L.
Mobarik, B.
Mone, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
O'Loan, B.
O'Neill of Bengarve, B.
O'Neill of Gatley, L.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Palumbo, L.
Patel, L.
Perry of Southwark, B.
Phillips of Worth Matravers, L.
Plumb, L.
Polak, L.
Popat, L.
Prior of Brampton, L.
Rawlings, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Rogan, L.
Rose of Monewden, L.
Rotherwick, L.
Rowe-Beddoe, L.
Russell of Liverpool, L.
Ryder of Wensum, L.
Saatchi, L.
Sanderson of Bowden, L.
Sandwich, E.
Sassoon, L.
Scott of Foscote, L.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharples, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Somerset, D.
Spicer, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stevens of Ludgate, L.
Stewartby, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Sutherland of Houndwood, L.
Swinfen, L.
Taylor of Holbeach, L. [Teller]
Trees, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Trumpington, B.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Walpole, L.
Warsi, B.
Wasserman, L.
Wei, L.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Wilson of Tillyorn, L.
Wolf of Dulwich, B.
Wolfson of Aspley Guise, L.
Wolfson of Sunningdale, L.
Young of Cookham, L.
Younger of Leckie, V.

Finance Bill

First Reading

6.01 pm

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

Asylum Support (Amendment No. 3) Regulations 2015

Motion to Annul

6.02 pm

Moved by ***Baroness Hamwee***

That a Humble Address be presented to Her Majesty praying that the Regulations, laid before the House on 16 July, be annulled (SI 2015/1501).

Relevant document: 8th Report from the Secondary Legislation Scrutiny Committee

Baroness Hamwee (LD): My Lords, we should be proud that we have legislation to support asylum seekers who are likely otherwise to be destitute, so should we not be concerned if the reality of that support fails to achieve that? This House has always taken a measured, thoughtful and insightful perspective and has a particularly good track record of protecting children, who are a focus of this Motion.

In 2000, for "essential living needs"—the technical wording of the underlying primary legislation—support was set at 70% of income support plus accommodation and utility bills for asylum seekers, who are prevented from working and therefore dependent on handouts through what is often a lengthy application process. Last year, the High Court found that the Government's assessment of the amount needed to avoid destitution was flawed and ordered a review. That review concluded that the rate for a single person without dependants was too low, so these regulations increase it for adults by 33p.

Crucially, a flat rate, at just under £37 a week, was introduced for each asylum seeker regardless of age. This change was to "simplify" the arrangements, which I suggest is a weasel word. The Government argued that families have been receiving,

"significantly more cash than is necessary to meet their essential living needs",

because more is paid for children in a household. So now a single parent with one child receives £73.90, a reduction of £26 each week, and for a couple with two children the total has gone down by more than £30, from £178 to £147. The reductions for the main family groups range from £14 to £39 or in percentage terms from 12% to 26%. I acknowledge that accommodation and the payment of utility bills are also provided.

Let me again stress that asylum seekers are precluded from working and that asylum support, to quote Mr Justice Popplewell in the judicial review to which I have referred,

"is not 'temporary' in a sense which justifies any meaningful distinction from the position of those on income support",

save as regards the non-cash items.

Noble Lords will be concerned about the cost to the public purse of any rate higher than those provided by the regulations, but that cost cannot be significant. The Explanatory Note to the regulations states that no impact assessment has been prepared because no impact on the public, private or voluntary sector is foreseen.

I realise that some noble Lords may be concerned that a fatal Motion is inappropriate, given that these regulations deal with expenditure, but the thrust of my argument will be about how essential needs are assessed and whether the assessment meets the points raised by the judgment. Whatever one thinks about the reference to there being no impact on the voluntary sector, the statement from the Government that there is no impact on public expenditure seems to answer a constitutional concern very neatly.

These changes were introduced in March but were revoked on the insistence of the then Deputy Prime Minister. They were reintroduced just before the Summer Recess. I tabled this Motion after thinking about the impact of arriving in the UK with nothing but the clothes you stand up in, which are probably inadequate for our climate, probably in a fragile state of health, mentally and physically, not being allowed to work and living on sums which I am told are 60% below the poverty line.

Following the judgment, the Home Office reviewed its calculations, and I am very grateful to the Minister for sending me details of the basic clothing that has to be bought and the food, toiletries, travel costs and other basic items that the Home Office has considered. The sample weekly grocery bills included in the package, which are said to reflect the need to eat healthily, would stand some analysis. I do not have time to include all the material sent to me by organisations which work with asylum seekers, for which I thank them, but I am struck by Refugee Action's research: 45% of respondents reported an inability to buy fresh fruit and vegetables. Concern about a lack of healthy food was very evident, as well as dietary, cultural and religious requirements, including halal meat, and parents forgoing meals in order that their children could eat. It is not the main part of my argument that with few clothes one needs adequate drying as well as washing facilities and, unless you shop frequently, incurring the cost of travel, a fridge.

The court highlighted that the Secretary of State had not included nappies, formula milk and other special requirements of very young children. The Home Office does acknowledge that babies and children have needs different from those of adults, but there is no assessment, only a rough and ready setting-off against the economies of scale one can achieve in a family. For instance, the sample grocery lists are designed for adults and adolescents. Children's clothes do not feature. Non-prescription medicines for infants are not included. Colic and teething were the second things mentioned by one of my fellow Baronesses; the first was how fast children grow out of shoes and they, similarly, do not get a mention. Perhaps the Home Office was defeated, as I was, by trying to find a ballpark figure for how many nappies a baby gets through. Of course, it depends, but the number cannot be negligible and certainly is not nil. There is additional support of £3 to £5 a week for babies and children under three. It has not increased since 2003 but, in any event, as the court case showed, it is intended for nutrition. To quote the judgment again,

"nappies, baby clothes and shoes which need to be replaced regularly, baby wipes, creams, soap and shampoo suitable for babies, formula milk, bottles and teats",

[Baroness Hamwee]

were,

"recognised as essential living needs for this group",

that is, babies and children, but were,

"left out of account by the Secretary of State in setting the level of support for them".

It may be my misreading, but I cannot identify these essential living needs for babies and young children in the assessment which underlies these regulations.

If simply existing within these constraints is so difficult, living a life in which a child can develop, learn and grow is close to impossible. Noble Lords will be familiar with the duty on Governments to safeguard and promote children's welfare and with the UN Convention on the Rights of the Child which include a right to a standard of living adequate for physical, mental, spiritual, moral and social development, as well as a right to play and rehabilitation. Toys and books are other items that do not feature in the Home Office calculations. While it may seem counterintuitive to older generations, access to the internet is an issue, as are the cost of transport to a library or to leisure and religious centres and school-related costs. I understand from the Children's Society that as families now have to prioritise food above all else, social isolation is increasing.

I have focused on children, but I must add that adults in 2014 reported problems in buying clothes, toiletries, sanitary items, kitchen utensils and so on and in making the journeys that would have given them access to sources of information and advice and that they were forced to employ risky and unreliable survival strategies. These problems must continue following the 33p increase provided by the regulations.

The Secondary Legislation Scrutiny Committee has drawn these regulations to the special attention of the House on the grounds that the explanatory material laid in support provides insufficient information to gain a clear understanding about the policy and intended implementation. My noble friend Baroness Humphreys will, I hope, be able to speak to its report. I refer to a letter to the committee from the Minister for Immigration, who wrote that,

"any extra needs particular to children are comfortably offset by the economies available to a larger household".

He also referred to economies of scale being part of the approach to support for destitute asylum seekers in Sweden, Germany and France. However, the evidence from the Home Office itself in the case last year, quoted in the judgment of the court, was that,

"other EU systems are not directly comparable because EU law allows for a wide variation in practice".

Having had access to the explanatory material, I am even more concerned about the simplistic setting-off of items essential for babies and children on the basis of economies of scale.

Finally, I am glad to note that when the Home Office undertakes its next review, it will be holding discussions with organisations working in this area. Given the knowledge that they have and the expertise among academics and others, I urge the fullest consultation, not information by another name. The support is designed to avoid destitution. Does it do so? These regulations clearly do not avoid misery. Some noble Lords might consider a third fatal Motion in two days to be a surfeit of opportunities to express our views, but as a citizen, as well as a Member of your Lordships' House, I am very concerned. I beg to move.

Lord Rosser (Lab): My Lords, I have tabled a regret Motion in this debate. Although I do not want to repeat everything that the noble Baroness, Lady Hamwee, said, I do wish to make some comments.

As we know, under the Immigration and Asylum Act 1999, support is provided to asylum seekers who have made a claim for asylum, in the form of accommodation and/or cash. The Government first laid regulations introducing a flat rate of support for all asylum seekers of £36.95, regardless of age, in March this year. They reversed those regulations some two weeks later, on the final day of the last Session, as a result of what the then Government described as "reflection". On 16 July, the Government laid the regulations again; and once again, they provided for changes in the amount of money that could be paid weekly to asylum seekers, and introduced a flat rate for all asylum seekers, regardless of age, of £36.95 per week.

Previously, children under 16 and asylum-seeking families received £53.96 per week, so the reduction represents a cut of—in round figures—about 30%. Yet it has been estimated that bringing up a child in Britain costs an additional £89 per week for the first child of a couple, and an additional £81 for a second child, excluding housing and childcare. Research by Refugee Action shows that 40% of people on asylum support interviewed said they could not afford to feed themselves or their children. Rates of support for asylum-seeking families have effectively been frozen since 2011. Given that asylum seekers are able to work only in exceptional circumstances, the reduction imposed by these regulations can hardly be said to be aimed at removing welfare dependency.

6.15 pm

Of course, the regulations are already in effect: they came into effect on 10 August. In addition to the cash allowances, which in respect of children under 16 have been considerably reduced, asylum seekers are provided with fully furnished and equipped accommodation, with no utility bills or council tax to pay, and free access to healthcare and education.

As the noble Baroness, Lady Hamwee, said, the regulations were considered by your Lordships' Secondary Legislation Scrutiny Committee. That committee decided to draw them to the special attention of the House on the grounds that explanatory material laid in support provides insufficient information to gain a clear understanding of the instruments, policy and intended implementation. The committee took the view when considering the initial statutory instrument that the change it brought about had been poorly managed, particularly given the sudden change to claimants' income as there were no transitional provisions. The committee was also concerned that there was no indication of how the change was to be communicated to those affected.

As I mentioned, the Home Office reversed the proposed changes on the final day of the last Session. In its second report of this Session, the committee criticised the Home Office for,

"another example of a correcting instrument being required due to a policy not having been properly thought through before the Regulations were made".

The regulations we now consider were laid just before the Summer Recess and are identical to the original instrument, proposing the same reduction in payments by the introduction of a per capita rate. When the Secondary Legislation Scrutiny Committee considered this further, identical instrument, it commented that although the Explanatory Memorandum had been rewritten in several places, it was disappointed that the new version made no reference to the concerns it raised in its earlier report about transitional provisions and how the decision was to be communicated to recipients. The committee also noted that the Explanatory Memorandum lacked the sort of information that it would regard as standard, such as a cost-benefit analysis, the number of households that would be affected by the change and the definition of the key term "essential needs".

As a result, the committee wrote to the relevant Minister in the Home Office for clarification. In that letter, it also pointed out that for many years it had made clear its view about the undesirability of laying controversial instruments such as this one on the cusp of a recess, leaving no time for debate in Parliament before the legislation came into effect. In the letter, the chairman of the committee went on to say that he had made that point clearly in a recent discussion with the noble Lord, Lord Bates, and asked for an explanation why the further instrument had not been laid earlier, particularly as no redrafting had been required.

In his response, the Home Officer Minister, James Brokenshire, says that it was not considered appropriate for the implementation of the rate change made by this statutory instrument to be the subject of transitional provisions in respect of existing recipients affected by it. Frankly, as to why the Government did not consider it appropriate, there is no explanation. The letter from the Minister is silent on that point. In other words, the reply says, "We have decided, and we do not accept that we must give a reason or explanation for our decision to anyone"—certainly not, apparently, to either Parliament or the House of Lords Secondary Legislation Scrutiny Committee.

The reason certainly cannot be that there was not time to consider the matter, since later in his reply the Home Office Minister tells us the reason for the second instrument, identical to the first, being laid on the cusp of a recess and leaving no time for a debate in Parliament was due to the full consideration that the Government had given to whether to make this change to the payment rate for asylum support, which the Minister says necessarily took some time to resolve.

I hope that the Minister will be able to say why, after fully considering and deciding to continue with the rate change, the Government did not even consider it appropriate for implementation to be the subject of transitional provisions. No doubt, the Minister will also be able to tell us the sum expected to be saved by the significant cuts provided for in this instrument, which is another area on which the Government have been less than forthcoming.

The Government have also indicated that their decision to reduce the cash payments provided to destitute asylum seekers in family groups was communicated in writing to members of the National Asylum Stakeholder Forum. Was any response received, particularly since the Government were only advising the forum of a decision already made? If so, what was that response? Can the Minister also say what consultation there was with the forum before the Government made their decision and what responses were received?

The noble Baroness, Lady Hamwee, referred to the legal judgment last year and to some of the surveys calling into question the validity of the Government's view as to how much financial support an asylum seeker needs to survive. I do not intend to take up the time of the House by repeating either the terms of that legal judgment or what is—or, more relevantly, what is not—included in the Home Office figures to which the noble Baroness, Lady Hamwee, referred. However, our firm view is that these regulations will have a detrimental effect on families and punish the children of those seeking asylum through the removal of the higher rates of allowance for child and adolescent asylum seekers. I suspect that there will be no meeting of the ways on this point and that the Minister will reiterate the figures that are no doubt in his brief and which were included in a letter from the Home Office to the members of the National Asylum Stakeholder Forum and in a letter from the Minister to the noble Baroness, Lady Hamwee. I hope, though, that Ministers have looked at their official figures and actually asked themselves whether £36.95 per week per head seems a credible amount on which people can live, based on their own knowledge of the cost of the weekly shop and travel and what might be regarded as necessary to spend without—can I put it this way?—living like a lord. I find it difficult to believe that they have, particularly in relation to the significant reductions for children under 16. These significantly reduced figures bear the hallmark of being strong on theory and living in something of a dream world when it comes to reality. This applies in respect of each item that makes up the list of essential living needs.

The cut in the support rate means that destitute asylum-seeking families with children are now living on rates that are some 60% below the poverty level. In addition, on the basis of the time taken to deal with claims and appeals, many asylum seekers will be on these reduced cash allowances for a considerable time. I understand that, as at the end of June this year, more than 3,600 asylum seekers had been waiting for more than six months for an initial decision on their applications. During this time and any subsequent appeal, asylum seekers are prohibited from working to support themselves and are totally reliant on this support.

As we know, the Government have lost control of our borders. That is one reason why the statement that they would bring net migration down to the tens of thousands has proved so embarrassing in the light of what has actually happened. However, it seems somewhat callous now to make destitute asylum seekers in family groups pay for the Government's failure through a policy that is clearly designed to seek to reduce their numbers—and thus net migration—by pushing more

[LORD ROSSER]
of them further into destitution primarily by virtually eliminating additional expenditure that may be required for children under 16.

Having to get by on inadequate levels of support has an impact on mental and physical health by causing illness and complicating existing health problems. The British Medical Association—not, I accept, currently the Government's favourite organisation—has noted that asylum seekers often have specific health problems, related to the effects of war and torture, and a higher incidence of illnesses such as tuberculosis and hepatitis. The Royal College of Psychiatrists has also stated that the psychological health of refugees and asylum seekers worsens on contact with the UK asylum system. The reductions in support rates, particularly for children, are hardly likely to improve the situation, to put it mildly. The Government ought to reconsider their decision, which has had the effect of reducing the payment made to a destitute asylum-seeking couple with two children from £178.44 per week to £147.80 per week, as from 10 August. It is no wonder that the Government wanted to make sure that the statutory instrument implementing the decision came into effect and could not be debated by Parliament before it did so—the exact opposite of being transparent. The Government's explanation of why the instrument was laid so close to a recess did not fool the Secondary Legislation Scrutiny Committee, which said that it found the explanation "unconvincing", and commented that,

"both this instrument and its predecessor were laid on the cusp of a recess".

We are aware that the issue of support for destitute asylum seekers will continue to be the subject of intense debate and discussion, because the Government intend further to reduce such payments in some situations under the terms of the Immigration Bill currently in the Commons. We cannot, though, support the fatal Motion moved by the noble Baroness, Lady Hamwee, as it does not in our view meet the criteria for such Motions set out in the 2006 report of the Joint Committee on conventions between the two Houses. We have tabled our regret Motion to enable us to place squarely on the record our strong concern about the Government's decision, in particular their decision to remove the higher rates of allowance for child and adolescent destitute asylum seekers, which is likely to have a serious adverse impact.

Although I do not hold out any great hope of a helpful response from the Government tonight, I will of course listen to their response with interest. The case for the Government changing their approach towards a group of highly vulnerable people is very strong. Whether they will do so is of course a totally different matter, but not doing so will certainly say a great deal about the attitude of this Government to a group of people in our midst currently in real need and whose position over the past two and a half months has become significantly worse.

Lord Alton of Liverpool (CB): My Lords, I want to say a few words in support of the Motion of the noble Baroness, Lady Hamwee, to annul the regulations which cut asylum support rates to children and which, according to the Children's Society, will,

"force over 10,000 children seeking safety from war and persecution",

to live in severe poverty. I should say that I am patron of Asylum Link Merseyside.

It is usually a pretty good test of the decency of any society to examine how it treats its most vulnerable. By anybody's reckoning, you do not come much more vulnerable than children who are members of families seeking safety from persecution or war. Searing images of an 18 month-old baby wrenched to safety from the seas last weekend, or the corpse of a young boy washed ashore, not having made it, are a graphic reminder of the dangers facing families seeking refuge from the horrors being rained down upon them.

It is always sobering to imagine yourself in the place of a family forced to leave everything behind in countries such as Syria or Eritrea. Last week, the noble Baroness, Lady Hamwee, and I heard first-hand accounts from refugees who had escaped from Eritrea. Witnesses cited a United Nations report which concludes that the things that the Afwerki regime does to its population probably constitute crimes against humanity. We were told of deaths by torture, arbitrary detention, enforced disappearances, indefinite military conscription, forced labour and the persecution of religious believers. The country's population is haemorrhaging, as those who are able to try to escape, seeking asylum in countries like ours if they are able to get here, but more often than not in transit countries such as Libya, facing further persecution. A group of Eritreans was recently beheaded by ISIS in Libya as they were fleeing to try to claim asylum.

Every month, up to 5,000 people leave Eritrea. More than 350,000 have done so so far, about 10% of the entire population. Some 46% of those who try to make the perilous Mediterranean crossing from Libya come from either Eritrea or Syria. The tragedy of those countries must of course be tackled at source, but in the mean time, we must respond with humanity and a sense of justice and compassion for those caught up in these appalling situations.

Eritrea is one country and one example, but I mention it to give some context to today's debate. As we have heard, under Section 95 of the Immigration and Asylum Act 1999, asylum seekers who reach the UK and would otherwise be destitute may access support while their protection claim is being considered. Those provisions were already set at 70% of income support, while separate provision would be made for asylum seekers' accommodation and utility bills. The freezing of support rates, followed by a flat rate of £36.95 a week, regardless of age, has left asylum seekers in a state of destitution.

With a mere £5 a day, asylum seekers must pay for their food, clothing, toiletries, transport and other essential needs, as the noble Baroness, Lady Hamwee, reminded us. The effect on children, who since August have had their support cut by £16 a week, is draconian. The noble Lord, Lord Rosser, made that point eloquently in his remarks a few minutes ago. The Children's Society says:

"The internationally recognised poverty threshold, or 'poverty line', is defined as living on less than 60% of the median UK household income".

Families living on asylum support fall well below this level. For example, a couple with a child will now receive just under £111 per week, 60% below the poverty line of £279 per week.

6.30 pm

Every parent knows that bringing up children carries significant costs. Child Poverty Action estimates—as the noble Lord, Lord Rosser, has reminded us—that, after excluding housing and childcare, the cost of bringing up a child in Britain adds £93.03 per week for the first child and £86.37 for a second child. Beyond food, shelter and clothing, additional resources are needed if a child is to grow, develop and learn effectively, but these regulations mean that children will be treated the same as adults, without any recognition of their additional needs. Charities working with asylum seekers and refugees say that there will be increased social isolation, as families are unable to afford public transport —ending trips, for instance, to libraries and child-centred facilities—along with the inability to pay for everything from children's birthday parties to TV or school uniforms.

It is hard to see how this approach meets our obligations under the United Nations Convention on the Rights of the Child, to which we are a signatory, and which insists that every child has the right to a standard of living adequate for their physical, mental, spiritual, moral and social development, as well as a right to play and to rehabilitation. Perhaps the Minister will tell us how this makes us compliant with our convention obligations as well as complying with our statutory duty under Section 55 of the Borders, Citizenship and Immigration Act 2009 to safeguard and promote children's welfare.

Asylum Link Merseyside is based in the neighbourhood that I represented, as a city councillor and Member of the House of Commons, for 25 years. Since its foundation in 2001 it has supported many destitute asylum seekers. It currently supports more than 40 destitute clients, housing 20 of those and supporting others with cash grants and food parcels. Over the past three years, it has seen more than 400 destitute clients, with two or three new referrals every week. ALM says:

"Most people living in Britain cannot believe that anyone here would be forced to live in absolute poverty, begging at churches for handouts and parcels of food, sleeping on the streets or worse being forced into prostitution to survive".

But that is a reality.

Asylum Link Merseyside also says:

"This government policy of making asylum seekers destitute works on the assumption that by forcing people into extreme poverty they will choose to return to countries from which they have fled in fear of their lives".

What they have found in Liverpool is that this assumption is wrongheaded, because 98% of failed asylum seekers choose to stay, surviving on handouts, sleeping on floors or sleeping rough. ALM says that, over the past three years, it has come into contact,

"with over 400 destitute asylum seekers out of which only 8 have chosen to return home voluntarily".

Independent research has concluded that 70% of income support is the absolute minimum required to meet basic needs of asylum seekers, and that was before support levels for children were cut by £16 a week. In 2013, Refugee Action interviewed 40 clients who were in receipt of Section 95 support and found that 70% of interviewees were unable to buy either enough food to feed themselves, or fresh fruit and vegetables, or food that met their dietary, religious or cultural requirements. Refugee Action research indicated that asylum seekers usually had to sacrifice one essential item in order to meet another one. Again, that was before support levels for children were cut by £16 a week.

Perhaps the Minister will reflect again on the April 2014 High Court judgment to which the noble Lord, Lord Rosser, referred, in which the judge found that the Government's assessment of the amount needed by asylum seekers to avoid destitution was flawed. He ordered that the decision be taken again. That ruling required the Government to take account of essential items—such as non-prescription medication, nappies, formula milk and other requirements of new mothers—and to re-examine the errors in calculating the amount required to meet essential living needs. Although the Government responded to the judgment by reviewing their policy, I doubt that it had in mind that the Government should cut support levels for children by £16 a week. Surely that is the central point we are debating tonight.

The statistical basis on which the review was conducted failed to take into account fundamental issues, such as how asylum seekers often arrive with nothing and do not have a support network that they can rely on. In the context of how minors are treated, the Home Office reliance on Office for National Statistics data makes no provision for additional expenditure that may be required for children. To put it mildly, this is bizarre. According to Still Human Still Here,

"the net effect is that asylum seeking families with children are now living on rates that are some 60% below the poverty line and many of these families will spend a considerable period of time on this support".

Of course, such families are totally prohibited from working to support themselves and are completely reliant on Section 95 support. Surely we should give some consideration to that issue.

Little wonder that the Royal College of Psychiatrists has concluded:

"The psychological health of refugees and asylum seekers currently worsens on contact with the UK asylum system".

All too often for these desperate families it is a case of no money, no house, no permission to work. In the 21st century, in the fourth-richest country on earth, people are being reduced to absolute destitution, not by accident or personal tragedy but by deliberate act of policy—and we should therefore certainly reconsider these regulations today by supporting the Motion in the name of the noble Baroness, Lady Hamwee.

Baroness Lister of Burtersett (Lab): My Lords, I support the noble Baroness, Lady Hamwee, and my noble friend Lord Rosser. I apologise if I cover some of the same ground. I am particularly grateful to the noble Baroness for having moved so quickly to ensure that we were able to debate these regulations. I believe that your Lordships should oppose them on two main grounds: the manner in which they were introduced and the impact that a cut of £16 a week in the

[Baroness Lister of Burtersett]

allowance for each child will have on a particularly vulnerable group of children and families, as is spelled out in the regret Motion.

As we have already heard, these regulations replicate regulations that were originally laid on 12 March, just a fortnight before the end of the last parliamentary Session. To my knowledge, no Statement, oral or written, was made to Parliament that the regulations had been made, despite the significant change in asylum support policy they represent and despite the considerable interest in that policy that had been expressed, particularly in your Lordships' House. As I understand it, the stakeholder forum of voluntary organisations working with asylum seekers was informed on 23 March, just two weeks before the regulations were due to come into force. I learned of the regulations the following day by pure chance. No other parliamentarian whom I contacted, Front Bench or Back Bench, knew anything about them. It is thanks only to the behind-the-scenes intervention of the former MP Sarah Teather, who was a great parliamentary champion of asylum seekers, that they were withdrawn as they had not been agreed by the coalition partners.

It was shoddy behaviour on the part of the Home Office to sneak out controversial regulations in this way at a time when Parliament could do nothing about them. I do not address this criticism to the Minister, because I am quite sure that he personally would not have countenanced such behaviour. However, I hope that he will relay to the Home Office our dismay at it.

Although the official reason given for the withdrawal of the original regulations was "further reflection", the suspicion was that they would be relaid in the new Parliament, so I tabled a Written Question to ask whether the Government planned to do so. The response on 8 June was that:

"The matter is under consideration".

Five weeks later, identical regulations were laid just a week before the House rose for the Summer Recess. Therefore, once again there was no time for them to be debated before they came into effect in August. It is difficult not to conclude that this was deliberate.

Not surprisingly, the Secondary Legislation Scrutiny Committee, as has already been referred to, was pretty scathing. It found "unconvincing" the explanation given for an instrument containing such a "controversial policy change" being laid "so close to a recess". It expressed its disappointment that,

"gaining an understanding of the … background",

to the policy change required such,

"persistent questioning of the Government".

One aspect of the background to the policy change that was not addressed is the consistent picture painted by organisations working with asylum-seeking families of the severe poverty and hardship they have experienced living on the existing allowances. As we have already heard, these were set in 1999 at 70% of income support rates. However, since 2011, they have been frozen, resulting in a cut of nearly 7.5% in their real value.

Income support rates are far from generous. A study of the cost of a child for the Child Poverty Action Group by Loughborough University's Centre for Research in Social Policy—I declare a double interest as the honorary president of the CPAG and emeritus professor at Loughborough—concluded that,

"a family on benefits is left well over a third short of being able to afford a socially acceptable minimum".

Back in 2010, before the rates were frozen, Still Human Still Here analysed the basket of basic goods used by the Joseph Rowntree Foundation for its minimum income standard research but stripped it down to include only goods needed to avoid what it termed "absolute poverty". It concluded that 70% of income support was the absolute minimum necessary to meet asylum seekers' basic needs.

We have already heard about the research conducted by Refugee Action. Respondents to that research expressed deep concern about the impact that deprivation was having on the health, well-being and physical development of their children. The point was made that, whereas income support recipients might be able to turn to family or social networks for help in getting by, this was rarely an option for asylum seekers. Overall, its conclusion was that the support system,

"fails to meet essential living needs or ensure a dignified standard of living for those in its care".

In 2013, I sat on an all-party parliamentary inquiry into asylum support for children and young people, chaired by Sarah Teather and supported by the Children's Society. We were shocked by some of the evidence received of the hardship faced by asylum-seeking families. We took evidence from a range of experts, social workers, local authorities and families themselves and concluded that the current levels of support provided to families are too low to meet children's essential needs. Furthermore, these rates do not enable parents to provide for their children's wider needs to learn, grow and develop, especially if they have a disability.

It is difficult to square all this evidence with the Home Office's conclusion that the previous levels of asylum support for families with children,

"significantly exceed what is necessary to meet essential living needs".

This conclusion is based primarily on ONS expenditure data for the lowest 10% income group, supplemented by various other data on the cost of essential items. But taking expenditure data for the lowest decile begs the question as to whether people at that level of income are able to spend enough for a healthy and decent life—a point made by the Secondary Legislation Scrutiny Committee. We know that many of those living on a lower income are not able to afford an adequate diet. It therefore does not provide an appropriate benchmark for costing a healthy diet. Also, I am not convinced that the adjustments made to the ONS data take adequate account of the extra costs involved for people new to the country, often living in poor accommodation.

The advice that I have received from Donald Hirsch, whose evidence was cited in the 2014 High Court judgment on asylum support, and from Professor Jonathan Bradshaw, both respected experts who work on minimum income standards and the costs of children, is that it is not good enough to rely on multiple strands of evidence to corroborate the questionable figures taken from the ONS data, when each of the strands is, in their words, "flimsy and selectively chosen". They focus in particular on the evidence used to argue that

the food budget is adequate, pointing out that it provides little more than half of what has been calculated is required to achieve a minimum income standard deemed necessary for decent living by the general public. That is in the context of greater access to kitchen facilities and transport than is likely to be the case for asylum seekers on the Government's assumptions.

One piece of evidence is misrepresented hearsay taken from quotes from a nutritionist. Another is based on the spending habits of a member of the Home Office team. The example for one day is: "breakfast: cereal; lunch: garlic baguette; dinner: pasta with peppers". That does not sound like a very healthy diet for a growing child. Would it not have been more appropriate, when determining the level of support for a particularly vulnerable and sometimes traumatised group of families for whom, as we have heard, paid work is not a committed option, for the Home Office to have employed a nutritionist and to have made a proper scientific costing of a weekly menu, as done by proper academic research in this area?

6.45 pm

What really puzzles me is why the methodology used did not address directly the needs of children, given that it is children's allowances that are being cut so savagely. I did not see any mention of the body of research in this country into the cost of children and the needs of children. The Explanatory Memorandum states that in taking the decision to cut the children's rate by £16 per child,

"we have fully considered our legal duty to have regard to the need to safeguard and promote the welfare of children".

However, when I asked whether the Government now plan to publish their detailed assessment of the compatibility of the regulations with the UN Convention on the Rights of the Child, I received only a bland reply stating that they are compatible. On the face of it, such a cut in support for a particularly vulnerable group of children appears as a regression in their rights. I find it difficult to believe, as do other noble Lords, that pushing families to about 60% below the poverty line is compatible with promoting the welfare and the best interests of children, or that the new level of support will provide a standard of living adequate for their physical, mental, spiritual, moral and social development, as required by the UN convention, or that it will be sufficient to ensure the opportunity to maintain relationships and have a minimum level of participation in society, as ruled by the High Court in the judgment that has already been discussed.

Indeed, I received information from the Children's Society, which, through its project in the north-east, is supporting families already affected by this cut. The families accessing the services reported how they could no longer afford food for their children or shoes. One mother said that her children now go to sleep hungry. Others talked about the difficulties of paying for travel for their children to take part in activities, such as going to the local library or leisure centre, leading to social isolation. They are being denied the minimum participation in society required by the High Court.

One of the parents that the Children's Society supports described the situation in this poignant way, "It's just like a plant and we give them water, that's all". Research by Coram Children's Legal Centre into local authority rates of support highlighted just how difficult it is to survive on them as they are akin to the new asylum support rates, and how their children are unable to participate in activities outside school. Refugee Action has sent me a case study of a refused asylum seeker who has children and is continuing to get asylum support and is therefore affected by this. The child has special needs. This situation has caused a great deal of stress. It is important that the child is able to interact with other children and take part in extracurricular activities but, following the reduction in support, the mother is now finding it near impossible to fund these activities. This is having a detrimental effect on her daughter's well-being and development. This is just one example of the kind of effect that this measure is having. Such isolation and exclusion are not conducive to the integration of asylum seekers once they are granted refugee status—a point made in an email that I received from a concerned member of the public.

I welcome the fact that, as mentioned by the noble Baroness, Lady Hamwee, there is to be a further review of the support next year. As part of that review, will the Minister undertake to monitor the impact on families—not just take second-hand evidence but monitor the impact on this very vulnerable group? I fear that these regulations can only intensify the poverty experienced by children in asylum-seeking families.

At the Conservative Party conference, the Prime Minister promised an all-out assault on poverty, yet two days running we are debating statutory instruments which will increase and intensify poverty and which lack a credible evidence base. I cannot support these regulations and I hope that other noble Lords will not do so either.

Lord Eames (CB): My Lords, I support the noble Baroness, Lady Hamwee. Listening to her speech a few minutes ago I was reminded of the first occasion on which I sat on a committee of this House with her. I was struck immediately not just by how she mastered facts and figures but by her compassionate heart, and tonight we have seen these two features in her presentation. For that, I thank her.

I come from a part of the United Kingdom which has reached out to asylum seekers to an extent out of all proportion to its size. Its record deserves scrutiny left, right and centre. Despite all our difficulties over the years—I need not reiterate them to this House—the compassion that our people have shown to asylum seekers is first class. Unfortunately, what we are debating tonight—particularly in relation to the Motion tabled by the noble Baroness, Lady Hamwee—is the adequacy or otherwise of what we are left with to put that compassion into reality.

One of the problems that we have seen locally in Northern Ireland is that what we are allowed to spend on support for families in this terrible condition is inadequate for children, particularly younger children. If noble Lords will forgive me for being specific, I will long remember a priest telling me that he was still haunted by the words of a mother of a disabled child who had become an asylum seeker, and was accepted into our local society. She looked at what she had to

[LORD EAMES]
spend for the upkeep of the rudiments—not luxuries—for a week and asked: "Is this really the promised land?". Where is our conscience? Where is our reality?

We have heard technical points in this debate and objections to the way in which Her Majesty's Government have effected this current situation, and we could argue all night over the rights and wrongs. The noble Lord, Lord Rosser, has reminded us that there is a doubt in his mind about the legality, so to speak, of the words of the Motion tabled by the noble Baroness, Lady Hamwee. I am not concerned about that but about the common denominator of both these Motions which is that behind facts and figures are human beings: men, women and children, and the children are absolutely vulnerable. A recent medical report spoke of the value of providing reasonable nutrition for children, but what is offered to them by society and local authorities is totally inadequate to meet that basic level of nutrition.

I am also reminded—this is the point that I would urge the House to remember about both Motions—that one of the practical consequences of the inadequacy of what we are able to give to these families is that they will turn to other sources of support. They will turn to charities, charitable organisations and churches. I speak from more than 40 years of experience of that sector. The problem I foresee, while listening to the emotion of this debate, is that there will be a limit to how far charities can meet the demands that they are faced with. For local authorities, charities, churches and well-meaning individuals there is a limit. Society will then have to turn back and ask, "What has brought us to this point where the line has been drawn in the sand and these sources can no longer meet the demand?". When that time comes, I respectfully suggest to your Lordships' House that it will not be parliamentary niceties that will concern us as a nation: it will be the crying need of a generation of refugees and asylum seekers—knowing the distinction between the two, of course. That generation will judge us, and it will judge that we have failed it.

Baroness Humphreys (LD): My Lords, I will make a very brief contribution to this debate and concentrate on aspects of the report of the Secondary Legislation Scrutiny Committee regarding these regulations. My noble friend Lady Hamwee and the noble Lords, Lord Rosser and Lord Alton, have already covered most of the points that I wanted to make, and I hope that the noble and right reverend Lord, Lord Eames, will forgive me for being slightly emotionless in what I am about to say and concentrating on what the committee thought.

The committee had concerns with the original set of regulations that came before us. When the Government introduced this new set of regulations in July, we were surprised that there was no reference to our original concerns. Even in the new Explanatory Memorandum, to which the noble Lord, Lord Rosser, has already referred, we were presented with no cost-benefit analysis. I would be grateful if the Minister could give us some information about whether a cost-benefit analysis has been made. There was no indication of the number of households affected by the changes and, again, I would be grateful for the Minister's comments on those. There was no indication of the sum expected to be saved, and I would like the Minister's comments on that. There was also no real definition of the term "essential living needs", although we all know that the sum has been based on them.

I want to press the Minister on the term "essential living needs". Reference was made to it in the original regulations, which were subject to judicial review in 2014, and the courts adversely commented on the items overlooked by the Government. Some noble Lords have already referred to theme, but I make no apology for repeating them. Our report stated:

> "Among other things, the court identified particular categories of essential living costs that had been overlooked by the Government when setting the rates of support: for example, nappies, baby clothes and other baby products, non-prescription medication, washing powder and cleaning products".

It was not until we received the letter that the Government had written to NASF members that we had some idea of the methodology that was to be used.

The one figure that stands out for me as a grandmother in the methodology that the Government are using is the expenditure budgeted for clothing and footwear, which is £2.51 per week. I would love to be able to tell my children that clothing and footwear for their children could cost just £2.51 per week. That is just one point that I wanted to make.

I would be grateful if the Minister could give the House a definitive definition of essential living needs, on which these regulations are based. How confident is he that this definition will not be subject to another judicial review?

7 pm

The Earl of Listowel (CB): My Lords, I suspect that the House will soon want to vote on this. I thank the noble Baroness and the noble Lord for presenting their Motions so powerfully. Listening to the debates, I thought back to my father. For some time he was the Father of your Lordships' House: he took his seat in 1932 and died in 1977. He was an aristocrat from a land-owning family, and he felt it important to go to live at Toynbee Hall in the East End, in order to understand how people from a different background lived. In his late eighties, he continued to take public transport because he was concerned about losing touch with how most people live. I have to say with the greatest respect to the Government that considering yesterday's Motions and today's, I am concerned that perhaps they may be losing touch with what goes on with some of the families in our country. The families we are talking about, the ones which would be most touched today and yesterday, are lone parent families. Some 90% of them will be mothers bringing up children on their own without the support of a father. They will be most penalised financially by what we are looking at today.

I have not had the opportunity to thank the Government since the publication of the latest employment figures. I say to the Government and to the members of the coalition Government that it is an extraordinary and very welcome achievement to have the lowest rate of unemployment since 2008. Employment brings important economic benefits to us all but it also

brings a purpose and a way of breaking through isolation. I know how important this is, as a carer of a man who is mentally ill and has been unemployed for a long time. Sadly, the families that we are talking about today are not permitted to work. I do not wish to take up too much of the House's time, but I would like to say a little bit about the importance of isolation. Several noble Lords have referred to the finding, by the Royal College of Psychiatrists, that coming into contact with the UK's provisions for asylum seekers has an adverse effect on the mental health of families. Some time ago, I listened to a psychiatrist talking about post-natal depression. He said to me afterwards that one can withstand almost any adverse experience as long as one does not have to do it on one's own. I hope noble Lords will consider that we are denying these families the opportunity to work. They can do voluntary work but they need to pay for transport to do that job. In so many ways, we are working to isolate these families.

I return to my original point. I know that the noble Lord has a large brief, but if he has not yet had the opportunity to go to visit some of these families where they live, I encourage him, or his ministerial colleagues, to do so. Then, the next time we have a debate like this, he can say that he has spoken with these families; that he understands their concerns because he has heard them himself; and he can assure the House that every precaution has been taken, when bringing forward regulations, to think about their needs. Having read the report of the Joint Committee on Statutory Instruments, I am concerned that there seems to have been a careless approach to this very important matter. I look forward to the Minister's response, but from what I have heard so far I am moved to support the Motion in the name of the noble Baroness, Lady Hamwee.

Lord Avebury (LD): I wish to ask the Minister two very brief questions. First, the comment has been made, but not in this debate, about the length of time that people remain on Section 95 support. In 2013, Mark Harper, who was then the Minister in charge of immigration, gave a series of figures, including an average length of time that people are on this destitution support of 525 days. That is part of the most iniquitous feature of this system—that not only do we keep people on the very bottom of the economic heap, but we leave them there indefinitely with no limit on the time that people can remain on this destitution support.

The other question I want to ask the Minister is whether the Government intend to publish a response to the Secondary Legislation Scrutiny Committee, which has been quoted many times during this debate, and the criticism it made of failing to give full details of the number of families who are on this level of support and what is included in it. Can we have answers to those questions in the Minister's wind-up speech?

The Earl of Sandwich (CB): I promise to be brief as much has been said already, but I cannot help saying that the Government have shown a generous face to the public on Syrian refugees under the UN's Gateway scheme, responded properly to public pressure then, and may do more. However, at the same time, they are prepared to let down and make more destitute refused asylum seekers who may be unable to return home. There is a clear moral principle here and this Minister will recognise that. These are people who have already suffered greater hardship than the rest of the community and yet they are in effect being punished for remaining in this country, as the noble Lord has just said.

Under Sections 95 and 4(2) of the 1999 Act, this category who have been unable to convince the Home Office of their case are already regarded as destitute. That is why they come under these sections. If the House of Commons Library is correct, and 3,600 out of some 4,900 individuals on Section 4(2) support have been living on it for more than 12 months, there must be a very good reason why they cannot return to their home country.

Keeping asylum seekers at destitution level must have two objectives, which have not been mentioned. The first is to act as a deterrent to people who are determined to avoid removal. The second is to show the sceptical public that no cushions are being supplied to asylum seekers. On the deterrent argument, to expect that by reducing their income by as much as 30% in some cases they will immediately be able to take off to another possibly unsafe country is completely to ignore their present insecure situation. As to cushions, it is unlikely that the general public will ever be aware of people with no future, living precariously, possibly in hiding and in temporary accommodation. But apart from that, the evidence seems overwhelming. I am grateful to the Still Human Still Here campaign for its helpful summary. I was startled, as others were, by Refugee Action's finding in 2013 that 90% of interviewees on Section 95 support could not afford sufficient or adequate food or clothing. My noble friend and the noble Baroness, Lady Humphreys, mentioned this.

It appears that the Home Office is coming down heaviest on footwear, clothing and communications. Leaving mobile phones aside, has anyone living on £5 a day on an Azure card ever tried to buy a pair of shoes or a sweater? Of course, they will not be able to afford anything but charity handouts, if they can get them, as my noble and right reverend friend Lord Eames said. Should the Government be counting on them finding handouts and, still worse, should they be taking these into account in their calculations? Has any research been carried out on handouts and whether they come into official calculations? The Home Affairs Committee took a dim view of this in 2013, and then came the very serious High Court judgment that the Government had got it wrong and needed to rethink their whole case. That is why we are discussing the new ONS figures.

I will not repeat what has been said about the UN convention. I accept the principle that migrants or overstayers who fail the asylum seeker test need to be returned to their country of origin. I have been involved with this subject in Portsmouth and agree with the Government's policy. This becomes even more important with the new Syrian arrivals, when there will be renewed pressure on resources. But that does not mean that you penalise a whole section of society who may be forced to live below the standard of the population as a whole.

Baroness Janke (LD): My Lords, I contribute to this debate as somebody from Bristol, which is a city of sanctuary. Bristol has a proud record of having many volunteers, who welcome asylum seekers and refugees. I take an interest in many of these organisations. Visiting them recently, I was made aware of just how bad things have become for asylum seekers and refugees. Over recent years, these people depend more and more on volunteers for essential services as cuts hit local government. English language learning has been cut systematically. On the one hand, we say we would like these people to learn English, yet the service is constantly cut. Volunteers are now delivering food bags to people every week. Volunteers are providing legal aid because that has been cut too. I heard one person say last week, "I have worked in this organisation for a long time and I never really thought I would have to look at providing free nappies and raising sponsorship from the private sector to provide essential goods for these people". So it is not just about these regulations, which I believe penalise the most vulnerable in our society, but against a background of continuous cuts to services for these people.

This country has a proud record of welcoming refugees. Many of our most successful people have come from immigrant families. We are talking about children, who have no say in what happens to them. They did not choose to be born in Syria or Eritrea. They did not choose to move. They have no voice, and we have spoken this week about democracy, accountability and the rights of the people of this country. It seems to me that the regulations we are discussing are absolutely and totally damaging to the rights of children, who are among the most vulnerable in our society.

We have heard about the effect on diet. Many of these people cannot afford to buy proper, fresh food. On the one hand, public agencies tell us we should have a healthy diet, and how we should bring up our children and avoid disease. Yet there is one rule for our children and another rule for other people's children. We hear that they cannot afford essential living items. My colleague spoke about the ridiculous amount paid for shoes, and the fact that children grow. Their shoes may not even wear out, but they have to be replaced. We hear that the cost of travel in many of our cities is absolutely punishing, so many of these people, when they try to get advice from volunteers about their legal position, are prevented from doing so because they cannot afford to eat and to pay the travel costs.

I believe we can do better than that. I believe that some of the judgments in these regulations are arbitrary and not based on proper information. I would like the Government and all of us to feel that we could work with the agencies that provide these services and arrive at something acceptable that gives respect and allows our children, and the children of other people, to have the same protection, the same rights, the same democracy and the same civilised country that I believe we have. They do not have it at the moment and I believe they must. So I will support the Motion and I hope we get support for that.

Lord Woolf (CB): When the Minister replies to this debate, which I have found extraordinarily disturbing, I hope he will deal with the situation created by the High Court's decision that has a direct bearing on the facts of this case. I would like him to ask himself whether, as a Minister of the Crown, he can say that the situation revealed in the argument before us is one which does or does not comply with the standards set in that judgment. I understand it was not appealed. If the standards do not begin to meet the standards indicated in that judgment, does he agree that this situation reveals deeply disturbing breaches of the rule of law? I am very sad to feel that that could happen in this jurisdiction.

7.15 pm

Lord Berkeley of Knighton (CB): My Lords, I will just add something very briefly to that. I was extremely disturbed personally by what happened in this House yesterday: my heart was very much with a lot of the opposition amendments but my brain said that I should observe the conventions I signed up to when I joined this House in 2013, although we can all interpret those in different ways. However, in the light of that, I say to the Government that there is a limit to how much one can feel pushed, to a certain extent, in relation to humanitarian concerns. I look to the Minister to show the human face of this Government. We have heard some very disturbing facts, and I want to be reassured that this Government are a humanitarian Government —as they have often boasted they are and as I believe is essentially the case—and do care about these issues and about people who are clearly suffering.

The Minister of State, Home Office (Lord Bates) (Con): My Lords, first, I thank the noble Baroness and the noble Lord for their Motions and all noble Lords who have contributed to this debate. It has been a very difficult debate to listen to from the Front Bench. There is no mistake about that. I preface my remarks by saying that I am acutely aware that we are talking here about some of the most vulnerable people—not just in the country but on the planet—who have sought refuge in this country. I have no qualms about that at all. Nor do I for one minute suggest that the sums that we are talking about are anything other than the amounts required to meet the essential living needs of individuals. That reflects a level which is barely above the level of destitution as we would define it. I preface my comments with those remarks.

There have been a number of incredibly thoughtful and powerful speeches, and I have here a large number of responses from my officials. Time may not permit me to move all the way through them, but I do want to address some elements. The noble and right reverend Lord, Lord Eames, and several other noble Lords including the noble Lord, Lord Alton, talked about the people who come to this country seeking asylum, their background, where they come from—Eritrea and other different places—and the journeys that they have been on to reach here. What greets them on arrival here with their desire to claim asylum?

First, as has been mentioned, they will be given somewhere furnished to live. It will be equipped with bed linen, towels and kitchen utensils. It will be covered for repairs and will have its utility bills—electricity, gas and water—and council tax all paid for. They will

get that £36.95 to cover food, clothing and toiletries. They will get additional help, if they are pregnant, of £3 per week. If they have a baby under the age of one, they will get £5 per week; for a child aged one to three, £3 per week. They will get a one-off £300 maternity payment if the baby is due within eight weeks. They will get access to the National Health Service, free prescriptions for medicine, free dental care, free eye tests and help with paying for glasses. They will get access to the education system and free school meals.

I want to put that down because it may all seem obvious, but I want to put it on record that I understand—I totally get it—that this country has a proud record of offering a helping hand to those people who come here seeking asylum, and I want to make it absolutely clear that there is a level of support which is there and is to provide them with safety and a base from which they can begin their appeal. They will also have access to Migrant Help, a fund of about £400 million per year which goes towards providing asylum support in this country. Migrant Help will get alongside people and advise them of their needs. Providing they pass the merits test, they will also have access to legal aid and legal advice to help them to prepare their case and work their way through what must be a daunting process. Also, as the noble Baroness mentioned, they will have access to language training.

This is all seen in the context of what should be a temporary situation. For far too long, it was the case that people were in a sense parked on these benefits and lived in great hardship for a long period of time. One of the things which we want to make absolutely clear is that we want speedy decisions. In fact, we were challenged in court over this very issue of wanting quick decisions, because we think that quick decisions are in the best interest of the individuals concerned, and where they are granted leave to remain in this country and granted asylum, they have access to the full range of benefits and they will be able to work—a point made by the noble Earl, Lord Listowel. The speed of decision-making is absolutely critical.

Then we come to the point about the absolute cash sums. I preface this by stating that I know that these would not be called generous. They were linked to the system of income support that the noble Lord, Lord Rosser, talked about. That situation changed in 2008 and we moved on to the system that we have now. That was the subject of a challenge by Refugee Action referred to by the noble and learned Lord, Lord Woolf. This really went to town in challenging the methodology that we were using. Far from disregarding this and not being mindful of it, we set about undertaking a revision of the methodology. Everything that we have set out here is driven by that new methodology, looking at the things that needed to be taken into account and trying to put a price on them. On the basis of undertaking that revised methodology, not in contravention of but in compliance with that legal judgment, we have arrived at a position, with data from ONS and other sources, that because of economies of scale, the argument for providing an additional premium for children is no longer there. They can meet essential living needs through the economies of scale of a family living together.

I know that we are talking about vulnerable people. I know that we are talking about people who are hovering precariously above the line of destitution, with all sorts of pressures on their mind. However, those of us who have had families would all recognise that, if you are cooking a meal for four, it is less expensive per unit than if you are providing food for one. I do not want to go too far down that road, other than to say that it is on that basis that officials checked the methodology against the court's basket of measures.

I am aware that there were a number of specific questions. The noble Lord, Lord Avebury, asked two very specific questions in relation to the Secondary Legislation Scrutiny Committee, and the noble Baroness, Lady Humphreys, also mentioned it. I wanted to say this in the presence of the noble Lord, Lord Trefgarne, who was here a moment ago, but I fully recognise that this was hardly textbook behaviour in terms of the Secondary Legislation Scrutiny Committee. That is a point which I have made in person, having gone to see the noble Lord, Lord Trefgarne. We did not just ignore the committee. I actually provided a response to the judgment. James Brokenshire provided a response to the judgment. That is contained in the report of the Secondary Legislation Committee. Moreover, the additional material that was required, to say how we had arrived at the judgment and what the impact of it would be, was provided in the appendix, along with a copy of the letter to the National Asylum Stakeholder Forum. Those things were provided but I accept that it was not textbook. I really made a thing with officials of wanting to make sure that we improve our game in making sure that Parliament has the right opportunity to scrutinise these very important instruments and pieces of legislation, especially when they involve a significant change.

Of course, one of the difficulties was that we had a general election in the middle of the arrangements. That made it much more difficult and it meant that, for the regulations to come into force on 10 August, they needed to be announced 21 days in advance, which is the requirement. That is why they were laid on 16 July. Then of course they lay before Parliament to be prayed against for a period of 40 days, which is what the noble Baroness, Lady Hamwee, has taken advantage of.

I have tried to set out that there is a substantial basis of support for asylum seekers. We recognise that they are vulnerable. These cash payments need to be seen in the context of that wider support. When people question whether the cash sums are below the poverty line—we were talking about what poverty was in terms of 60% of median earnings—we need to remember that that is in cash terms. But we are talking here not about that but about all the other things: the homes fully furnished; the repairs already paid for; all the utilities bills paid; all the council tax paid; and all the healthcare paid. All of that is there.

Lord Avebury: But these things were all available to the asylum seeker before these changes were made, so the Government have cut £16 from the family income of the people who were receiving these benefits before.

Lord Bates: Not all of them. In fact, in some cases, for single individuals, there is a small increase. These are tiny amounts, I recognise that, but we are living in an economic time when there is zero inflation and the normal upratings do not apply. Yes, these did pre-exist, but we have changed them in the light of a methodology that was set out for us by the courts. We have honoured our obligation to do that. We have very clear international obligations, which have been set out, to meet the essential living needs of people who are seeking asylum, and we are doing that.

The revised rates that are currently in operation are comparable with Sweden. I do not think Sweden has a reputation on the international stage of being unwelcoming to or uncaring for asylum seekers. It was the most generous country in Europe apart from Germany. We are now coming into a more mainstream element. The Government have a duty to ask whether they provided for the essential living needs of those who are claiming asylum. I believe that the Government can say that they have. If they were not able to say that, of course they would be open to challenge. They will still be open to challenge because people can ask that. We have looked at this, and we believe that these amounts are correct. We need to make sure that the whole system is speeded up so that people are on these benefits for the shortest possible time before they get a decision and can either be welcomed into this country and given leave to remain, to work and to get access to the full range of benefits, or can be told that their asylum application has failed and they need to return. That is what these regulations are about, and that is how we have arrived at them. I hope that on the basis of that the noble Baroness may feel able to withdraw her Motion.

In closing, I want to say very carefully, with precise words, that this is something that is kept under review. Each year, we look at these numbers and make a decision. We will be very much open to listening to and reading the evidence that is brought to us.

7.30 pm

Baroness Walmsley (LD): My Lords, this whole thing is shameful, but what the Minister has just said is quite unrealistic. In 12 months' time, when the review is done, one could have undermined the health of hundreds of children, and that, in the future, will cost the NHS a great deal more money. Have the Government taken account of that?

Lord Bates: Our position is that we have gone into this in exhaustive detail, as my letter to the noble Baroness, Lady Hamwee, set out, probably in too much detail. It set out right down to the last penny where we felt that these amounts had come from. We clearly believe that we are complying with our international obligations. If this is shown to have a real detrimental effect, and evidence can be provided to us, then of course we will consider that very carefully next year, when this comes to be reviewed.

Baroness Lister of Burtersett: It should not be up to other organisations to provide the evidence. The Minister very honestly said at the outset that these people will be living on an income barely above the level of destitution. I asked if he would give an undertaking that the Home Office would monitor the impact. Will he now do that please?

Lord Bates: We will, of course, continue to monitor the impact. We will continue to work through the National Asylum Stakeholder Forum with other groups. We have set out our position, and if people challenge that position and have data that show that there is unintended hardship as a result of these regulations, they should come forward with them. They should make the data available to us, and we will then consider them.

Baroness Williams of Crosby (LD): I declare an interest as the patron of the Gatwick Detainees Welfare Group, which does some excellent work. Has the Home Office considered the possibility of consulting voluntary organisations that work on a day-to-day basis in detention centres, many of which contain people who have been here for very many months and should not be in prison or detention centres anymore? I have the greatest respect for the Minister, but could he consider suggesting that there should be careful consultation with voluntary and high-minded bodies that look after detention centre internees to discover what they think of the present provision that the Government are making?

Lord Bates: I am happy to do that. We should constantly be listening, and I know that officials have engaged with people in those situations and are constantly listening to what they are finding and what hardships people are going through and looking at new data which have been made available to them. This is constantly under review; in fact, there is a structured requirement for us to undertake a review on an annual basis. If other organisations have evidence, then let them bring it forward, but noble Lords should bear in mind that we have produced our own evidence in quite considerable detail that shows to our satisfaction, as Ministers, that we are complying with that judgment set out before us. That is the reason why the changes have been made, and why I am asking the noble Baroness and the noble Lord to consider not moving their Motions.

Lord Rosser: The Minister referred to a review in 2016. When in 2016 will that review be completed?

Lord Bates: There is not a fixed time. The normal time for changing benefits, or for a review to happen, is at the end of the financial year. That could not happen this year for reasons set out by the noble Baroness at the beginning of the debate, and also because of the general election. However, the time that we would be looking at those numbers would be at about the end of the financial year, which would be March 2016. We would certainly welcome evidence and data that could be made available before then, either in the early months of 2016 or by Christmas. That could inform our assessment.

Baroness Hamwee: My Lords, I am extremely grateful to the noble Lords who have taken part in this debate. In some cases, I had not expected them to take part, and in some I do not think that they had expected to.

No one would doubt that the Minister's introductory remarks in particular and the concern he has shown for asylum seekers come absolutely from his heart. I do not for a moment wish to challenge his attitude on this. He said that this should be a temporary situation for individual asylum seekers. Indeed it should, provided that each application is dealt with properly. The issue of asylum seekers' right to work was also raised. I have no doubt that we will return to that during the passage of the Immigration Bill.

Reference was made to Sweden and other countries but the judge in the 2014 case disposed of that as an argument. There is such variation between the approaches of different countries—for example, some will impose more obligations on local authorities than on central ones—that that is not an issue tonight.

The Minister referred to the substantial basis of support facilities. I have not sought to deny that. Indeed, in my speech I volunteered that various facilities and services are provided. Nevertheless, £36.95 is not generous for food, travel—which I learned during my work on this is far more significant than I had realised—and toiletries, and particularly the requirements of babies. No one seeks generosity. We merely seek adequacy.

I am glad to hear about the Government's attitude to future consultation. The point made about monitoring is hugely important. I challenge the methodology. Yes, there was methodology but it amounted, in the case of babies and children, to rough and ready economies of scale. I was going to use the word "assessment" but there was no assessment. That is the only justification given. I quote again the Minister for Immigration, who said that,

"any extra needs particular to children are comfortably offset by the economies available to a larger household".

There was no justification or analysis. Of course, cooking a meal for four has an economy of scale but that does not work if two of the four are children. You cannot feed them the same food as adults.

The Minister said that the evidence shows to the Government's satisfaction that the work has been done thoroughly. As I say, I challenge the methodology. It is not to my satisfaction. I wish to test the opinion of the House.

7.38 pm

Division on Baroness Hamwee's Motion

Contents 68; Not-Contents 194.

Motion disagreed.

Division No. 3

CONTENTS

Addington, L.
Alton of Liverpool, L.
Ashdown of Norton-sub-Hamdon, L.
Avebury, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Clancarty, E.
Clement-Jones, L.
Cotter, L.
Doocey, B.
Eames, L.
Garden of Frognal, B.
German, L.
Glasgow, E.
Greaves, L.
Greengross, B.
Hamwee, B.
Harris of Richmond, B.
Humphreys, B. [Teller]
Hussein-Ece, B.
Janke, B.
Jolly, B.
Kilclooney, L.
Kirkwood of Kirkhope, L.
Kramer, B.
Lister of Burtersett, B.
Listowel, E.
Ludford, B.
Maclennan of Rogart, L.
Maddock, B.
Manzoor, B.
Masham of Ilton, B.
Miller of Chilthorne Domer, B.
Morris of Handsworth, L.
Newby, L. [Teller]
Northover, B.
Oates, L.
O'Neill of Bengarve, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Pinnock, B.
Purvis of Tweed, L.
Randerson, B.
Rennard, L.
Roberts of Llandudno, L.
Rowe-Beddoe, L.
Russell of Liverpool, L.
Sandwich, E.
Scott of Needham Market, B.
Sharp of Guildford, B.
Sheehan, B.
Shutt of Greetland, L.
Smith of Newnham, B.
Stern, B.
Stoneham of Droxford, L.
Strasburger, L.
Suttie, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Tope, L.
Tyler, L.
Walmsley, B.
Walpole, L.
Wigley, L.
Williams of Crosby, B.
Willis of Knaresborough, L.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Bates, L.
Berkeley of Knighton, L.
Berridge, B.
Bilimoria, L.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browne of Belmont, L.
Browning, B.
Buscombe, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chalker of Wallasey, B.
Chisholm of Owlpen, B.
Coe, L.
Colwyn, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Crathorne, L.
Crickhowell, L.
Cumberlege, B.
Curry of Kirkharle, L.
De Mauley, L.
Deben, L.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dunlop, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fellowes of West Stafford, L.
Fink, L.
Fookes, B.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Glendonbrook, L.
Glentoran, L.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Greenway, L.
Griffiths of Fforestfach, L.
Harris of Peckham, L.
Hay of Ballyore, L.
Hayward, L.
Helic, B.
Henley, L.

Heyhoe Flint, B.
Higgins, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Kalms, L.
Keen of Elie, L.
Kirkham, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lothian, M.
Lucas, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marland, L.
Marlesford, L.
Maude of Horsham, L.
Mobarik, B.
Mone, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
O'Loan, B.
O'Neill of Gatley, L.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Patel, L.
Perry of Southwark, B.
Plumb, L.
Polak, L.
Popat, L.
Prior of Brampton, L.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Rogan, L.
Rose of Monewden, L.
Rotherwick, L.
Ryder of Wensum, L.
Sanderson of Bowden, L.
Sassoon, L.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharples, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewartby, L.
Stowell of Beeston, B.
Stroud, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L. [Teller]
Trees, L.
Trenchard, V.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Warsi, B.
Wasserman, L.
Wei, L.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Wilson of Tillyorn, L.
Wolfson of Aspley Guise, L.
Wolfson of Sunningdale, L.
Young of Cookham, L.
Younger of Leckie, V.

Asylum Support (Amendment No. 3) Regulations 2015

Motion to Regret

7.50 pm

Tabled by ***Lord Rosser***

That this House regrets that the Asylum Support (Amendment No. 3) Regulations 2015 will have a detrimental effect on families, and will punish the children of those seeking asylum through the removal of higher rates of allowance for child and adolescent asylum seekers which risks them being made homeless and pushed into destitution (SI 2015/1501).

Relevant document: 8th Report from the Secondary Legislation Scrutiny Committee

Lord Rosser (Lab): In his response, the Minister said that the Home Office will conduct a further review of the levels of cash support for asylum seekers in 2016. He also said that, as part of this review, his officials will be talking to and inviting submissions from the principal organisations represented on the National Asylum Stakeholder Forum. I hope that it will be a genuine, wide-ranging consultation for the review, involving people who can provide information based on the reality and not the theory of living on current support levels.

I am also conscious, as I mentioned earlier, that the subject of support for destitute asylum seekers will continue to be a subject of intense debate and discussion in your Lordships' House under the terms of the Immigration Bill currently in the Commons. In view of these considerations, and having placed on record the reasons for our strong concerns over the serious adverse impact of the removal in particular of higher rates of allowance for destitute child and adolescent asylum seekers, I am not moving my Motion.

Motion not moved.

House adjourned at 7.52 pm.

Grand Committee

Tuesday, 27 October 2015.

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Lord Bichard) (CB): My Lords, if there is a Division in the House, the Committee will adjourn for 10 minutes.

Flood Reinsurance (Scheme and Scheme Administrator Designation) Regulations 2015

Motion to Consider

3.30 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Flood Reinsurance (Scheme and Scheme Administrator Designation) Regulations 2015.

Relevant document: 1st Report from the Joint Committee on Statutory Instruments

Lord Gardiner of Kimble (Con): My Lords, I am pleased to introduce the regulations necessary to implement Flood Re. The increasing sophistication of flood risk modelling employed by insurers, in combination with expected increases in extreme weather events, means that many households in high flood risk areas increasingly struggle to afford insurance. We are seeking to address this: Flood Re will ensure households in high flood risk areas are protected from spiralling insurance premiums and excesses over the next 25 years.

Flood Re is a responsible, proportionate approach to the challenges of flooding, which can be devastating to those affected. However, there are many different aspects to reducing the terrible impacts of flooding on people; Flood Re will form just one piece of the UK's flood risk management. Many others must play a role in managing flood risk, including householders themselves, local authorities and landowners.

There are two sets of regulations to be debated today—first, the funding and administration regulations, which set out the framework within which Flood Re will operate and how the levy will be calculated. They outline the technical aspects of the scheme. Secondly, the designation regulations, which designate the scheme and administrator and enable the Flood Re scheme to begin operation. These draft regulations were subject to extensive public consultation and were developed by working closely on the detail with specialists from the Association of British Insurers, the Lloyds market and the financial regulators.

It is important that the regulations are debated now in order that Flood Re can sign contracts with individual insurers this autumn in preparation for becoming operational by April 2016. Flood Re will need to be authorised by the Prudential Regulation Authority before it can operate. The financial regulators, and the insurance industry, need certainty about the legislative framework within which Flood Re will work before authorisation as a reinsurer could be given. The financial regulator's authorisation process is ongoing. We will check with the Prudential Regulation Authority that Flood Re's application is still being considered as part of that authorisation process before signing the regulations. Although the financial regulators cannot provide a definitive statement on the likelihood of authorisation, this will provide an indication that the application is progressing.

Flood Re will be principally funded by a levy raised from relevant insurers, as defined in these regulations. The amount of each insurer's levy will be based on its share of the UK home insurance market. The total primary levy to be raised from insurers will be £180 million, which we are assured reflects the level of cross-subsidy currently present in the market. Given the unpredictable nature of flooding and Flood Re's solvency requirements, we have also provided powers to raise additional levy from insurers if it is needed.

The regulations set out constraints that Flood Re needs to operate within as the levy is expected to be classed as public money by the Office for National Statistics. Flood Re will operate independently as a normal reinsurance company regulated by the financial regulators. Because of its unique position, Flood Re is being set up as a bespoke arm's-length body.

Flood Re will be directly accountable to Parliament. The regulations stipulate that Flood Re is required to lay its annual accounts before Parliament. Flood Re's responsible officer will be accountable to Parliament for the financial propriety and regularity of the scheme. While Defra will remain accountable to Parliament for general policy matters relating to flood risk management, there will be no role for Defra's Ministers or accounting officer in Flood Re's day-to-day management.

While Flood Re is publicly accountable, it is owned and operated by the insurance industry. Flood Re will be required to manage itself within the normal requirements for regularity, propriety and value for money, and full parliamentary accountability. Flood Re will be audited externally. However, the National Audit Office will also be able to conduct value-for-money reviews of any of its activities, and report on them to Parliament.

The regulations set out that the prices that insurers may pay to cede policies to Flood Re, which we call the premium thresholds, are payable by insurers according to council tax bands. Benefits are targeted at the lower council tax bands and it is hoped that they will be passed to policyholders. The regulations require that Flood Re review the scheme, including the level of the levy and premium thresholds, at least every five years. Any changes to the levy would require amendments to the regulations via the affirmative resolution process. Defra's Secretary of State may call a review of Flood Re at any point.

Flood Re will publish a transition plan within three months of the regulations coming into force. We expect this plan to indicate how prices may evolve during the life of Flood Re, and the measures that Flood Re may take to incentivise people to do more to manage their

[Lord Gardiner of Kimble]
own flood risk. However, Flood Re, like all reinsurers, will only be permitted by financial regulation to carry out the business of reinsurance. Flood Re's directors also have to be able to fulfil their prudential and fiduciary duties according to company law and financial services regulation. UK flood management depends on a complex arrangement of interweaving policies and interested parties, of which the insurance industry and Flood Re form only part.

In conclusion, I remind your Lordships why Flood Re has been established. We all recall the floods which many have experienced in recent years. Flood Re will provide the people of the United Kingdom with available and affordable flood insurance in a way that supports and complements wider efforts to reduce and adapt to flooding. It is expected that between 350,000 and 500,000 households at high risk of flooding will benefit from the Flood Re scheme. Flood Re has made significant progress, appointing its board and senior executive team ready to be considered for designation and authorisation by the financial regulators. These regulations are a significant step in the direction of helping people to manage the impact that flooding can have on their lives. It is for these reasons that I commend these regulations to the Committee.

The Earl of Kinnoull (CB): My Lords, I apologise for being a minute or so late for that very eloquent introduction. Before welcoming these statutory instruments, I declare my interests as set out in the register, in particular the fact that for several years I was head of the division within the Hiscox group which wrote United Kingdom household insurance and for some years the CEO of the reinsurance company at the centre of the Hiscox group, which wrote many reinsurances of the players in the United Kingdom household insurance market.

These regulations are an excellent example of co-operation between the Government and the industry. It is not the first example, of course. There was one in the early 1990s when, following the two dreadful explosions in the City of London which caused immense damage and in which lives were lost, Pool Re was formed. Pool Re has been a success for the UK insurance market and the UK insurance industry.

It is worth pausing for a moment to consider the UK insurance industry. I am afraid that it is not at the glamour end of the financial services of the City, but it is a very strong industry and in a leadership position in the world. The London and international insurance and reinsurance markets alone account for gross written premiums of around £60 billion a year. The industry employs about 50,000 highly specialist staff, and it is this expertise in insurance and reinsurance which has come together with the Government to structure what is today Flood Re. Will the Minister join me in saying that there is much to congratulate the UK insurance industry on, in its world leadership and its strong, centuries-old reputation for consistently paying valid claims?

Flood Re provides the availability and affordability of flood insurance for flood-prone homes. We have at Hiscox lots of computer systems which can cause artificial floods on a computer screen. You can see just how many homes in recent times have become flood-prone. This is due both to planning policy and to geographical and climate changes. Essentially, the bet has become too big to place with the private insurance market. There are many examples of catastrophe insurance around the world which have become too big for the private markets. Flood Re represents a singularly appealing way of getting around the problem.

As we have heard, the scheme is aimed at 500,000 out of the 25 million or so homes in Britain, so quite a large number of homes are involved in it. On review, I feel that it is simple, secure and sensible. Will the Minister confirm something slightly different in terms of the review process, which is that it is the intention of the Government, particularly in the early years, to review progress of Flood Re and, if necessary, tweak matters to optimise the scheme?

Lord De Mauley (Con): My Lords, I am grateful to my noble friend the Minister for explaining the regulations. I welcome the fact that the Government are not only putting in place a system that addresses both the availability and affordability of flood insurance—the statement of principles did not do this—but delivering significant levels of investment in flood defences through their historic six-year capital settlement. They are therefore tackling the problem of flooding at both ends, providing homeowners and communities with greater certainty in the years to come.

Protecting people from the emotional and financial hardship caused by flood damage is extremely important. After years of negotiation and with Flood Re now established, we are moving towards making this a reality and protecting people from spiralling insurance premiums. The benefits will be targeted at lower-income households to promote affordability for those least able to pay. Excesses, which can often be in thousands of pounds, will be limited to £250.

The country is investing in flood protection at record levels, with an unprecedented six-year commitment of £2.3 billion following £3.2 billion of spending during the last Parliament. This will see 1,500 flood defence schemes constructed, improve protection for an additional 300,000 homes and reduce overall flood risk by 5%.

Although I have no doubt that the noble Baroness, Lady Jones, will have some questions, because that is her role, I am pleased that the large number of antagonists who faced me from all sorts of angles during the passage of the Bill are, as evidenced by their absence today, apparently satisfied.

Baroness Jones of Whitchurch (Lab): My Lords, I can see that I am going to have to try to make up for them in one go.

I am grateful to the Minister for setting out so clearly the intention of the regulations. In essence, the schemes as outlined in the Water Act have our broad support. Families living in high-risk flood areas have found their lives blighted both by the flood risk and the worry of unaffordable or unobtainable insurance, so we are pleased that the Government have taken steps to work with the industry to find a solution.

However, your Lordships will not be surprised to hear that I have some remaining concerns. First, there is the timing of the regulations. The Bill was passed early in 2014 and the latest consultation on the detailed proposals took place later that year. It is now October 2015, with another winter imminent. It seems that the expected start date has slipped, with Flood Re now saying that it expects to go live next April. Is the Minister happy with this latest timetable? What does that mean for householders facing another winter of threatened floods in the coming months?

Also, from my reading of the regulations, even if we pass them today, the FR scheme administrator will need to be regulated by the relevant financial regulators, which I think that the noble Lord confirmed. This will take time to set up. Then of course Flood Re is saying that it needs to carry out extensive testing. Can the Minister guarantee that householders will be able to have the additional peace of mind that this scheme aims to offer by the April 2016 deadline? From what he was saying I understood that it was not possible to give that guarantee until the regulators have had time to scrutinise the scheme in detail.

3.45 pm

While on the subject of timing can I raise with the noble Lord the question asked by my colleague, Barry Gardiner, in the other place, which did not seem to get a satisfactory answer. His concerns were about the absence of a transition plan to risk reflective pricing at the outset of the scheme, with the worry that this will compromise the availability and affordability of flood insurance in the interim. I realise that it is the intention of Flood Re to produce a transitional plan after three months, but will this be too late and might we find the scheme collapsing before it has begun?

Secondly, the scheme is based on an assumption of known high flood risk areas. However, the Minister knows that this is not as straightforward as it first appears. The Environment Agency does a fantastic job in difficult circumstances, but the designation of high-risk areas is constantly on the move. As the Commons Public Accounts Committee pointed out earlier this year, the effectiveness of the Environment Agency flood defence strategy is hampered by the fact that its maintenance funding, as opposed to capital funding, is settled only annually, preventing longer-term planning. This means that areas previously designated as low risk could move up the risk scale as existing defences deteriorate. Can the noble Lord indicate whether any further thought is being given to providing longer-term funding for Environment Agency maintenance work to complement its capital spending allocation that is done on a six-year cycle?

In addition, it is not always clear which flood maps are being used by insurance providers, and whether they are up to date and what presumptions lie behind their calculations. Does the Minister see the benefit of having a standard flood-mapping system that should be used by the Environment Agency and Flood Re to underpin this new scheme?

Thirdly, I do not have a problem with the late inclusion of the higher-valuation band properties in this scheme—it seemed rather churlish to exclude them. We are reconsidering the designation of domestic properties to be included. Perhaps the Minister could explain why those in the poorest and most vulnerable properties—tenanted and rented properties—

The Earl of Kinnoull: Can I make a point about something that the noble Baroness has just said? This was that modern British insurers might in some way not be using up-to-date flood maps. That is certainly not the case. We have some strict regulators in a pile of quite aggressive rating agencies to make sure that the systems that we use are robust. Our peers are pretty interested, because in the way that the mutualisation of the insurance sector works, if the next-door man goes bust, as, say, the independent insurance company does, others will end up picking up the bill. The noble Baroness's other points are very interesting, but that point is a weak one.

Baroness Jones of Whitchurch: I am very pleased to hear that, but I noted that some of the evidence I looked through, which was received during the consultation period, raised that as a concern. If we can clarify that there is a standard flood map system I am more than happy to hear that. I am sure it will be of some relief. I am sure that the Minister will also clarify that.

I was talking about who was included and excluded and the designation of domestic properties. The Minister will know that there was some concern, during the course of the Water Bill, about those who were excluded from this provision, in particular the poorest and most vulnerable—those in tenanted and rented properties, which are currently excluded from the scheme. It does not seem right that the same property or adjoining properties could have access to different standards of flood insurance purely on the basis of the status of those who live in the property. Will the Minister clarify whether that is his understanding? Will he also clarify whether farmhouses are to be excluded from the scheme? As he will know, this is of some concern to the National Farmers' Union. They are, after all, primarily residential properties, even if the farmhouse acts as a business address for the farm. I would be grateful to hear his comments on that.

Finally, we all have sympathy with the householders caught up in the major floods of recent years, but it is important that this scheme does not reinforce complacency in the sector. There is a real risk of increased flooding from the effects of climate change. This scheme needs to be combined with drivers of behaviour change among consumers, businesses and government. The Minister referred to that. It is crucial that future flood management policies take a stronger line against building homes in high-risk areas, while developing sustainable land use plans and restoring flood plains. I hope that the Minister can reassure me that Flood Re will take these responsibilities seriously as part of its brief, and that the Environment Agency will receive sufficient funding to oversee those objectives effectively. I look forward to his response.

Lord Moynihan (Con): Before my noble friend the Minister responds, I rise as one of the gently scrutinising antagonists in Committee and further stages on the

[LORD MOYNIHAN]
original Bill. We are now reviewing the regulations that derive from it. I really do congratulate the Minister, his predecessor and Defra officials on the remarkable work undertaken on this. I hear what the noble Baroness says about timing, but this is a very short timescale to have made the progress that we have—to move from Royal Assent to today. We should place on record our thanks to all those who worked exceptionally hard to achieve that objective.

I simply want to echo a point the noble Baroness raised. When it comes to the first review it is very important that the scope of application of these regulations and the Flood Re scheme should be fully considered. During our earlier debates there were concerns. The noble Baroness alluded to one, about people living in similar buildings, or, indeed, the same building in different circumstances, being in different receipt of the Flood Re provisions. When it comes to the review we need to assess the impact of that on local communities and on those affected. I hope that the Minister will echo that that will be possible.

Finally, on flood maps, given the important work done by the Environment Agency and the insurance industry on those maps, it is vital that the water companies are also party to those discussions. I understand that government is already actively engaged, for the first time, with water companies on potential contributions to coastal flooding schemes and to the impact of flooding in their designated areas. It is important that the water companies are party to those discussions.

I conclude by thanking the Minister and the team again. I congratulate him on bringing forward these regulations in a timely fashion, and on the work that has been done to ensure that what looks like an outstandingly good scheme is now being implemented—but which will always be, I hope, subject to review and improvement in future.

Lord Gardiner of Kimble: My Lords, as is traditional, I thank all noble Lords for taking part in this debate, but what is perhaps exceptional is that we all wish these regulations success in a very genuine sense because many of your Lordships have been through all the machinations of getting to this point. One of the points that I would like to play back is that I am the Johnny-come-lately in arriving at Defra, and it is very much to the credit of my noble friend Lord De Mauley and all the colleagues who worked with him that we are now where we are. Perhaps I may also acknowledge what the noble Earl, Lord Kinnoull, said about the co-operation and work of the insurance industry. I would like to place on record our thanks to the industry for the hard work and commitment that has gone into progressing Flood Re. Indeed, it is a great example of how the Government and the insurance sector have worked and are still working closely together, in this case to ensure resilience to floods, and in fact making a real and positive difference to many people's lives. I think it is fair to say that we can all be proud that the UK has in its insurance sector a world-leading brand.

A number of questions have been asked, and it was absolutely right of my noble friend Lord De Mauley to mention flood defences. The Government have been tackling flooding from both ends, and obviously the capital investment has been very considerable, as my noble friend said. We hope and expect these flood works to reduce the risk for more than 300,000 households on top of the 250,000 homes which have already been protected by work undertaken during the last Parliament. It is probably also worth saying that the programme is forecast to reduce the flood risk for up to 420,000 acres of agricultural land, which will avoid more than £1.5 billion-worth of direct economic damage to farmland. Some 205 miles of railway are protected, along with 340 miles of road. With good reason, this is public investment that I hope we will see bearing fruit, and it is very important indeed.

The noble Baroness, Lady Jones of Whitchurch, asked a number of questions, the first of which was about the timing of regulations. It will be a matter for Flood Re itself, once it is authorised by the Prudential Regulation Authority, to determine when it will be in a position to offer cover, but the fund has assured Ministers that April 2016 is a realistic date to become operational. Indeed, when I met the chief executive officer, Brendan McCafferty, only yesterday, I was impressed by the work that has been done and he was similarly of the view that it is an entirely realistic date.

However, this rather plays into what the noble Baroness, Lady Jones, wanted to tease out as well, which is that insurers have agreed to continue to abide by their commitments in the statement of principles, ensuring that householders have access to flood insurance until Flood Re is fully operational. Obviously I take the strictures that the noble Baroness has put to the Government, but I think what my noble friend Lord Moynihan said is relevant. I come to this afresh, and it is clear that an enormous amount of intricate work has had to take place with the insurance sector, the department and with many interested groups. I think that we have made extraordinary progress, given all the complexity.

The noble Baroness also asked about the transition plan. One of the fundamental purposes established in primary legislation for Flood Re is that it is responsible for managing the transition to risk-reflective pricing of flood insurance for households. The transition plan will cover a multi-year period, and it is right and proper that adequate time is given to develop it. But the transition plan will be a public document and Flood Re is accountable to Parliament for it. The plan will be reviewed at least every five years, in line with the review of the levy and the premium thresholds. The noble Earl, Lord Kinnoull, and my noble friend Lord Moynihan asked about the review. As I said in my opening remarks, reviewing as and when necessary will clearly be important. This is a new body and we wish it well but it is important that these matters are kept under review and that there is this accountability to Parliament.

4 pm

As for Environment Agency maintenance spending, we have covered so much of the capital spending but I hope that the noble Baroness, Lady Jones of Whitchurch, will forgive me as we are currently in the midst of the spending review. I hope that your Lordships will understand that I am limited in what I can say at this juncture—but it is fair and important to say that

flooding is a critical matter for the Government and that we want to ensure a high standard of flood protection over this Parliament. We need only see the impact that the floods have had on families and communities across the land to see its importance to us all.

Baroness Jones of Whitchurch: Can I push the Minister a little more on that? If it is of critical importance, as I am sure everyone around the Room would agree, surely it is within the department's powers to ring-fence the maintenance element of the Environment Agency's budget. That would be the sensible thing to do, regardless of whether or not a spending review is taking place, to give that security and guarantee.

Lord Gardiner of Kimble: The noble Baroness puts this matter in an extremely tempting way but I am afraid that I am not in a position to talk about ring-fencing today. That is why I emphasised that we all agree that, wherever we can, we would wish to deal with flooding at both ends.

The noble Earl, Lord Kinnoull, helped me enormously on the issue of mapping because the Environment Agency has published a set of national maps so that people can now check for their flood risks from rivers, sea, reservoirs and surface water. Insurance companies have access to the Environment Agency's mapping but it is of course for each insurer to determine the flood-risk element of the premiums that it charges. Flood Re and the Environment Agency will certainly be working together, so I am confident that in this area we are seeing the sort of co-operation that I think is extremely important and desirable.

On the exclusion of leaseholders and tenants—an entirely legitimate issue to ask about—from the briefings I have had, first, Flood Re is designed to cover only domestic properties. Secondly, policies for landlords who own leasehold properties and some farmhouses will be considered as commercial. The insurance companies will be determining this but we have been assured by the industry—and I hope that this will also be of interest to the noble Baroness—that there is no evidence of a problem with commercial insurance. If evidence did emerge, we would of course consider it.

Another point which may be of interest to the noble Baroness is that contents insurance, which obviously affects everyone including leaseholders and tenants, will be available through Flood Re for tenants of rented properties. However, landlords will not be able to purchase landlord insurance for the building through Flood Re because that comes through the commercial sector of the insurance industry.

Another important point to make, one which was referred to by noble Lords, is that the arrival of Flood Re, as I said in my opening remarks, is not seen as the only tool in the box. It is important that Flood Re should develop plans to incentivise the take-up of resilience measures. As Flood Re's experience of the market develops over time, the transition plan will include more detail of how the scheme will support the transition towards risk-reflective pricing over its 25-year life. Indeed, Flood Re has a duty to pass on information to insurers about the withdrawal of the subsidy over time, and how householders can access information about their flood risk and then manage it. Insurers have agreed with Flood Re that they will pass that information on to their customers, who will benefit from the Flood Re scheme.

Another issue arises on planning, where I think some advances have been made in terms of much smaller percentages of housebuilding in areas of risk. The National Planning Policy Framework local plans are designed to develop policies to manage flood risk from all sources and seek to use opportunities offered by new development to reduce the causes and impacts of flooding. In terms of where we need to go from here, it is important that planning for new developments is much more conscious than perhaps it was in previous times of this aspect, particularly as we see the effects of potential climate change and all that goes with "adverse weather events"—which I am told is the jargon for what I call bad weather.

I thank all noble Lords and I want to reiterate what was said by my noble friend Lord Moynihan. We are here today because a great deal of work has been done and there has been a lot of good will. It is important that I should place on record my thanks not only to the insurance sector but to everyone involved, in particular the Defra officials who have been dealing with this knotty problem. I am grateful for the opportunity to set out the Government's approach and I commend the regulations.

Motion agreed.

Flood Reinsurance (Scheme Funding and Administration) Regulations 2015

Motion to Consider

4.07 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Flood Reinsurance (Scheme Funding and Administration) Regulations 2015.

Relevant document: 1st Report from the Joint Committee on Statutory Instruments

Motion agreed.

Byelaws (Alternative Procedure) (England) Regulations 2015

Motion to Consider

4.08 pm

Moved by ***Baroness Williams of Trafford***

That the Grand Committee do consider the Byelaws (Alternative Procedure) (England) Regulations 2015.

Relevant document: 3rd Report from the Joint Committee on Statutory Instruments

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I beg to move consideration of these regulations, which were laid before the House on 27 July. These regulations would put in place new

[Baroness Williams of Trafford]
localist arrangements for revoking by-laws, and a new decentralised process under a largely local process for making certain by-laws. This is part of the Government's commitment to driving deregulation. The regulations reinforce and reflect the principles of localism, and that local authorities are best placed to determine by-laws for their community, in close engagement with interested and affected parties to help shape and inform the by-laws made.

It is worth summarising the key features of the new arrangements, if only to confirm the significant changes these new arrangements will put in place. The arrangements will involve the following: the local authority preparing a draft of the proposed by-law in consultation with affected and interested parties; the local authority undertaking a deregulatory assessment of the impact of the proposed by-law on businesses and citizens; the local authority preparing and publishing a deregulatory statement and submitting it to the Secretary of State; the Secretary of State having regard to the deregulatory statement and to any burdens resulting from increased regulation as part of giving consideration on giving leave to make the by-law; the local authority advertising and consulting on the proposed by-law; the local authority considering any representations received; the local authority deciding whether to make the by-law; and then, finally, making and publicising the by-law which would come into force one month after being made by the local authority.

Where a local authority wishes simply to revoke a by-law, it will be able to do so under an entirely local process, involving: making an assessment of the need for the by-law, on the basis of which it resolves to make the necessary by-law; preparing a draft of the proposed revoking by-law; advertising and consulting on the draft revoking by-law, including advertising in a local paper operating in the vicinity; considering any representations received; and then deciding within six months of the end of the consultation period whether to make the revoking by-law. Finally, it will then revoke the by-law.

By-laws are one way in which a local authority can address the concerns of local people and tackle problems in its area. These new arrangements will allow local authorities to take a more local approach to the process of making and revoking by-laws.

These regulations include safeguards against councils imposing unnecessary, excessive or burdensome by-laws. The safeguards also ensure that once local authorities have decided to make by-laws they implement them within six months of the end of the consultation. This will ensure that local authority by-laws are informed by up-to-date consultation and engagement with the public.

Part 6 of the Local Government and Public Involvement in Health Act 2007 gave the Secretary of State power to make regulations to put in place alternative arrangements for making by-laws. These provisions, inserted into the Local Government Act 1972, make provision about the procedure for the making, coming into force and revocation of certain by-laws. A by-law is a law made by a body, such as a local authority, under an enabling power established by an Act of Parliament and which has been confirmed by the Secretary of State. If validly made, by-laws have the force of law in the areas to which they apply.

I now turn to two points raised by the Secondary Legislation Scrutiny Committee: the delay in making these regulations, and that the Explanatory Memorandum makes no reference to these regulations having been withdrawn and subsequently relaid. We withdrew and relaid the regulations because we considered that they could be improved and refined, including making changes such as removing a requirement for a local authority to advertise the by-law after it had been made, which, on reflection, we considered burdensome.

On the delay in making the regulations, by-laws are important. On that basis it is important that any new arrangements are considered carefully. It was right that we took time to consider carefully the arrangements for making certain by-laws—by-laws that have a real, lasting and, we hope, positive impact on people.

I also take this opportunity to address concerns raised regarding the continued role of the Secretary of State in the new arrangements. The checks and balances in the new framework are there to ensure that by-laws do not create unnecessary or excessive burdens on the citizen, the community or local businesses. This will safeguard local authorities making by-laws that could be challenged in the courts on the basis that they are unreasonable. This is particularly important for those smaller town and parish councils that may not necessarily have access to legal resources that larger local authorities would have access to when drafting their by-laws.

If local authorities make by-laws that are proportionate and reasonable, this role will be a very light-touch one. The new framework contains the right arrangements to make proportionate by-laws for the benefit of the community. But let me be clear: the new arrangements that place the decision for making the by-laws with the local authority will allow the local authority, which knows its local area, to determine the significance of objections from people affected by the proposed by-law.

The new arrangements recognise that it will be local authorities, not the Secretary of State, that confirm new by-laws, recognising that local authorities are best placed to determine by-laws for their local community. The new arrangements no longer require a rubber stamp from central government to scrap outdated by-laws, reducing the current bureaucracy associated with a local authority wishing to revoke out-of-date by-laws. The new arrangements ensure that proportionate and robust by-laws are shaped and informed by engagement and consultation with the local community, recognising that where there are objections the local authority is best placed to consider representations from its community. I commend the regulations to the Committee.

4.15 pm

Lord Beecham (Lab): I am grateful to the Minister, who must have laboured long and hard, burning the midnight oil to prepare the speech with which she launched this momentous set of regulations.

The Explanatory Memorandum deals with the impact of the regulations on business, charities and voluntary bodies and describes the impact as "negligible". That is

the judgment that I would make on the impact of the regulations on local government and communities: it is negligible. The noble Baroness rightly said that matters were set on foot in 2008. I have a vision of armies of civil servants in the Department for Communities and Local Government labouring over seven years to produce this momentous change in practice and in law, and I am tempted to echo the sentiments of Winston Churchill in remarking on the fact that probably never in the history of secondary legislative endeavour has so much labour been employed for so long and to such little effect—for very little changes under these regulations.

It is particularly important that the Government continue to reserve a role for the Secretary of State. My honourable friend Steven Reed in the debates in the Commons pointed out that the Welsh Assembly Government have dispensed with the role of the Minister and the Secretary of State in Wales. Curiously, Her Majesty's Government went to court over these matters; they are usually critical of those who seek to take the decisions of Governments to court, but they took the Welsh Government to court and I am pleased to say that they lost over that decision to leave the Minister out of the picture altogether. True localism, I suggest, would make that course much the more desirable.

There is another issue that arises from the Explanatory Memorandum, which is that by-laws are not only made under the auspices of this department: there are other government departments which have responsibilities for by-laws. One might have thought that across government there would be some discussion about having a uniform system for by-laws. No attempt appears to have been made to do that. So we have at least a binary system, where one or more other government departments will still require the procedure for by-laws made under the local government legislation which these regulations are changing. Has it never occurred to Ministers that they should look across government and provide a uniform system? I have already indicated that this change does not amount to much, but it is surely better to have a uniform system, whatever its character, than to have two apparently parallel systems running side by side. Perhaps the noble Baroness would agree to take back this aspect at least, and try to ensure that there is a common approach across government.

Of course the Opposition are not opposed to this very modest change. In fairness, I do not think that it was envisaged to be all that ambitious when it was initiated by the original legislation, so I am not claiming this as a party point. It does seem sad, however, that it has taken this long to produce such a feeble change in the system, and perhaps we can have assurance that any further change will be made with a great deal more expedition.

Baroness Williams of Trafford: I thank the noble Lord for his comments. I thought that he was going to say at the beginning of his speech that he congratulated me for saying "by-laws" so many times in one speech, because it seemed like I was saying it constantly.

One of the questions that he asked, quite reasonably, was why it has taken so long for the regulations to come into force, given that this was first discussed in 2007 and 2008. I understand that we have been refining the new by-law arrangements, including the deregulatory framework, to ensure that the by-laws made by local authorities do not curtail civil liberties or increase regulation disproportionately. Of course they are local laws and can result in a criminal offence.

He also makes the pertinent point about other government departments. What other government departments do is a matter for them, but hopefully where CLG starts, others may follow, so that we may see a flood of by-laws from other government departments in due course. But I will certainly take back the comment about other government departments.

He talked about Wales. The Local Government Byelaws (Wales) Act 2012 required that local authorities have regard to any guidance issued by the Welsh Government, and that guidance has been issued. In short, local authorities in Wales are very much required to make their by-laws in a prescribed manner.

Lord Beecham: The noble Baroness referred to the possibility of other regulations coming back. Would it not be possible for a single regulation to apply across the whole of government rather than individual departments drafting their own regulations, presumably on similar lines and submitting them to this process?

Baroness Williams of Trafford: Perhaps I did not articulate that correctly, but as I have said I will take back the comment about a common framework for government. With that, I commend the regulations.

Motion agreed.

Maximum Number of Judges Order 2015

Motion to Consider

4.21 pm

Moved by ***Lord Faulks***

That the Grand Committee do consider the Maximum Number of Judges Order 2015.

Relevant document: 4th Report from the Joint Committee on Statutory Instruments

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, the effect of the draft order is simply to increase the number of Court of Appeal judges by one. That number is set by statute under Section 2 of the Senior Courts Act 1981, which currently provides for a maximum of 38 Court of Appeal judges.

In March 2015 Lord Justice Pitchford, an existing Court of Appeal judge, was appointed by the Home Secretary to lead the inquiry into undercover policing and the operation of the Metropolitan Police's Special Demonstration Squad. The inquiry, which began on 17 July 2015, was established under the Inquiries Act 2005 and is anticipated to conclude at around the end of 2018. Having been appointed as such, Lord Justice Pitchford remains a Court of Appeal judge and is

[LORD FAULKS]
counted in the current complement of 38. However, he is unable to fulfil any duties in the Court of Appeal while he leads the inquiry.

In order to ensure that the total number of Court of Appeal judges available for deployment remains at current levels, it is necessary to increase their number by one. There is no other method for revising the number of Court of Appeal Judges other than by an order such as this. I therefore commend this draft order to your Lordships and beg to move.

Lord Beecham (Lab): Could the Minister indicate whether it is intended to retain the maximum number at 39? Is it a permanent provision? It would be perfectly sensible if it were, but it is not quite clear to me whether that is the case. Secondly, while he cannot commit himself or those appointing a member of the Court of Appeal, I would hope that whoever makes the decision does not follow the line laid down by Lord Sumption recently about appointing women to the Supreme Court. We could do with more women in the upper and indeed the lower branches of the judiciary, and I hope that this will be an opportunity for those making the appointment to take with as good a grace as possible.

Lord Faulks: On the noble Lord's first question, the position is that Lord Justice Pitchford turns 70 in March 2017 and must at that point retire as a Court of Appeal judge. It is anticipated that on his retirement, or at the end of the inquiry, if that is sooner, a similar order to this one will be made, returning the number of judges to the Court of Appeal back to 38.

I turn to the second point made by the noble Lord. He referred to the issue of diversity, which is of course important to the public's confidence in justice. It is harder to boost diversity in the Court of Appeal in the short term, as the majority of eligible candidates come from the ranks of High Court or deputy High Court judges of at least seven years' qualifying experience, but the Lord Chief Justice and Lady Justice Hallett are leading work to increase the diversity of applicants at key feeder grades for the higher judiciary—namely, recorders and deputy High Court judges. I am sure that he will welcome the appointment on 22 October, last Thursday, of two female High Court judges, one of whom will be the first Asian woman to sit at this level. When sworn in, they will take the number of women High Court judges to 23 out of 108, which is 21%. The Government are absolutely committed to increasing diversity, and whatever Lord Sumption may or may not have said about the reality, the Government are acutely conscious of the need to do that and are taking steps to ensure that we can realise that ambition.

This is a reasonable amendment, which maintains the complement of Court of Appeal judges when one of their members is engaged, as is Lord Justice Pitchford, in important work elsewhere. I hope that noble Lords will agree the proposed amendment and I beg to move.

Motion agreed.

English Apprenticeships (Consequential Amendments to Primary Legislation) Order 2015

Motion to Consider

4.27 pm

Moved by ***The Earl of Courtown***

That the Grand Committee do consider the English Apprenticeships (Consequential Amendments to Primary Legislation) Order 2015.

Relevant document: 3rd Report from the Joint Committee on Statutory Instruments

The Earl of Courtown (Con): My Lords, this draft order is technical and makes relatively minor amendments as a consequence of the insertion of Chapter A1, relating to apprenticeships, into Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 by the Deregulation Act 2015. Chapter A1, among other things, defines an "approved English apprenticeship", provides for approved apprenticeship standards which will set out the outcomes that those seeking to complete an approved English apprenticeship will be expected to achieve, and confirms that an approved English apprenticeship agreement is to be treated as a contract of service.

I shall explain the amendments this draft order makes to two pieces of legislation. The amendments are required as a consequence of the changes that I have just set out. It is important that these changes are made so that, where necessary, references within other primary legislation refer to the newly introduced "approved English apprenticeships", "approved English apprenticeship agreements" and/or "alternative English apprenticeships". First, the draft order makes two amendments to the Education Act 1996, in respect of provisions which set out certain duties of English local authorities relating to the education and training of persons over compulsory school age, so that apprenticeships under the new statutory apprenticeship scheme are treated in the same way as those under the previous statutory apprenticeship scheme.

Specifically, this means that when a local authority in England is making a determination in relation to the apprenticeship training needed to meet its obligation to provide suitable education and training to meet the reasonable needs of those over compulsory school age and under 19, and those over 19 for whom an education, health and care plan is maintained, it will be able to take into account the provision of approved English apprenticeships. In addition, when a local authority encourages employers within its area to participate in the provision of training to young people, that encouragement can include reference to an "approved English apprenticeship agreement".

Secondly, the draft order amends the Education and Skills Act 2008 in respect of a duty on certain young people in England to participate in education or training in England, so that apprenticeships under the new statutory apprenticeship scheme are treated in the same way as those under the previous statutory apprenticeship scheme. Specifically, this means that a young person can discharge their duty to participate

in education or training by participating in training in accordance with an approved English apprenticeship agreement.

Taken together, these measures will update the primary legislation in question to reflect reforms already made to the Government's apprenticeships scheme. I commend this draft order to the Committee.

Lord Young of Norwood Green (Lab): My Lords, I have nothing to complain about in the substance of what the Minister has just indicated. Raising the participation age makes sense. However, I have recently expressed my concern in at least one debate about the recent Ofsted report which said that a number of apprenticeships were failing to meet standards. That should be of real concern to a Government who I know are committed to apprenticeships and to raising their quality. The problem is that this is the old story about checking against delivery. There has never been a perfect situation where all apprenticeships were right, but the report from Ofsted is worrying. It distinguished between the kind of apprenticeships that you get in retail and social care, and those in engineering and other types of apprenticeships. It said that most problems were in those to which I referred first—in retail and social care.

I was discussing this issue recently with someone who has experience in this field. They told me that, for instance, in some cases the amount of time that training providers have for each apprenticeship is pitifully low. I cannot remember whether they were saying that it was an hour a week or an hour a month, but it was very low. If we are serious about improving the standards of apprenticeships and the perception that people have of them—that they are just as good a route as an academic one—we really cannot afford to be complacent.

I also raised on a previous occasion what was perhaps an even more worrying occurrence, where an apprentice was sent out one day to work in a factory and never returned home, as a result of an appalling industrial accident. I had an exchange of correspondence with the Minister but I cannot say that it made me feel any more sanguine about the treatment of young apprentices. He said that there is a duty on the employer: well, we know that. But surely there is also a duty on us all, and on the training provider, to ensure that if they send a young person to a particular location, they will have checked out whether the employer is reliable and responsible. I do not expect the Minister to give me all the answers today because this is not an easy problem to solve.

To sum up, we must ensure the quality of apprenticeships; not just talking about it, but ensuring that we have a system and a process in place so that we can say with confidence to young people and their parents that when they embark on an apprenticeship, not only will the quality of the training be first class but the safety of the young person will be assured. I think that we have a lot to do in this area. If we are serious about pushing the target up to 3 million—I assume that the Government are serious—which is very ambitious, we should note that a number of people have expressed their concerns by saying: never mind the quantity, it is the quality that we have to ensure. I am just as keen as the Government to increase the number of apprenticeships, but I would like an assurance that the Minister will check that we have put the right procedures in place to ensure both the quality and the safety of apprenticeships.

Lord Hodgson of Astley Abbotts (Con): My Lords, the noble Lord, Lord Young of Norwood Green, is of course second to none in his support for and encouragement of apprenticeships. Next week, we will come to a very substantial discussion of apprenticeships during our consideration in Committee of the Enterprise Bill, of which this order may be an hors d'oeuvre, and maybe not even that. All I would like to be certain of, and I am sure that my noble friend will be able to give me this assurance, is that what we are doing in this piece of legislation will not inhibit or restrict our debates on the clauses that relate to apprenticeships in the Enterprise Bill, which I suspect we will get to on either Monday or Wednesday of next week in Committee.

Lord Stevenson of Balmacara (Lab): My Lords, the noble Lord who has just spoken paid tribute to my noble friend Lord Young's continuing interest in and support for the apprenticeship movement. His words carry much weight in these areas. I have only four small questions for the noble Earl in what I take to be more of an amuse bouche than a first course, because we will be returning to these matters in the Enterprise Bill next Wednesday—if we make a little more progress than we did yesterday.

The first question is on almost the same point that has just been raised, which is that in this statutory instrument we are closer to finding an approved English apprenticeship only to see it removed and replaced by the statutory English apprenticeship in the Enterprise Bill, although obviously the dates will vary. When he comes to respond, perhaps the noble Earl could give us a sense of how this is going to segue from one to the other and what changes there will be in practice in terms of what the Bill says and what is currently meant by this statutory instrument. I suspect that that is a slightly longer piece than will be possible in this discussion, so I am happy for him to write to me.

My second point is that in paragraph 10 of the Explanatory Memorandum on the impact, the statement is made that:

> "A separate full regulatory impact assessment has not been prepared for this consequential instrument because no impact on the private, public or voluntary sectors is foreseen separate to that already covered by the substantive provisions in the Act".

That is fine, but unfortunately I am not very good at keeping my files and I could not find the impact assessment for the original Act, and clearly there is a hint here that there were some costs as a result of this change. Perhaps the noble Earl could dig it out—I see a little bit of panic behind him, so perhaps it will take a few days. However, if at some point I could have some indication of what the costs would be, I would be grateful for that.

My third question reinforces the point about quality that was made by my noble friend Lord Young. The Ofsted report on apprenticeships is extremely damning in many ways. It would be interesting to hear the reflections of the noble Earl on what lies behind the

[Lord Stevenson of Balmacara]
points made by my noble friend, which is that we can change the title all we want, but if we do not raise standards or change the nature of what is happening, we will be in trouble. I would like some assurances that the simple change in nomenclature, which is what appears to be happening here, is in fact covered by more action on the part of his department in terms of trying to ensure that standards in apprenticeship training rise and will indeed, it is hoped, eventually get to the point where we are talking about parity of esteem between the academic and the non-academic or vocational routes so that we can in truth have a fully integrated system of further education, complementing those who choose the academic route, but also open to those who wish to switch between the two strains.

The final point is my familiar trope on implementation dates. I appreciate that we are talking about a minor change that is consequent on a piece of legislation which is soon to be overtaken, but the Government have signed up to common commencement dates for the implementation of activities that will put a burden on business. This statutory instrument appears to come in 21 days after the order is made, which presumably will be tomorrow or the day after, and therefore will come in in late October, which is not one of the two commencement dates, which are, as I am sure the noble Earl will be aware, 1 October and 6 April. Why was this not brought forward only a matter of days to 1 October? Given its simplicity and apparently innocuousness in terms of changing things, why on earth did the department not get its act together for 1 October? Given that it is inconsequential and will shortly be overtaken by another Act, why did the noble Earl not wait until 6 April?

The Earl of Courtown: My Lords, I thank all noble Lords for their contributions to this short debate.

I should probably refer at first to the mention by the noble Lord, Lord Young, of the Ofsted report. This does apply, as the noble Lord is aware, to old frameworks. We are addressing these issues now as part of the reform programme in the Enterprise Bill, among other legislation. The Ofsted report criticises the quality of the existing provisions, and not those that have been designed and put in place by employers through our reforms. We are committed to creating the 3 million apprenticeships by the end of the Parliament, but this will not be at the expense of quality.

We are ensuring that each apprenticeship is a paid job with substantial and sustained on and off-the-job training, lasting a minimum of 12 months. As we have said before, we will legislate to provide protection for the term "apprenticeship". Under the new trailblazers scheme, employers are designing new, high-quality apprenticeships that address the specific skills requirements of their sectors. We are putting purchasing power in the hands of businesses and allowing employers to choose from which provider they buy training.

The noble Lord, Lord Stevenson, mentioned statutory apprenticeships. What he said is not the case. Statutory apprenticeships include the existing apprenticeship programmes, which are included in the standards and frameworks. The noble Lord also asked about costs. These are consequential amendments and so no costs are associated.

Lord Stevenson of Balmacara: My Lords, that is an immensely cheering thought, but it is not what I said. I said that the impact assessment has not been provided for this statutory instrument because it has been said that the calculations were done in respect of the original Bill. Since I have lost my impact statement for the original Bill, I would be grateful if the noble Earl could confirm what those costs were, so that I am reassured on that point.

The Earl of Courtown: If that is not available by the end of this debate, I will write to the noble Lord.

There was also concern over the quality of apprenticeships, raised by the noble Lord, Lord Young. We are improving quality. This is central to our reforms. Employers are developing new standards to ensure that apprenticeships meet the skills needed by their sectors. The published trailblazer quality statement sets out a range of measures to retain and improve quality, including the requirement for all apprenticeships to last at least 12 months. The new standards will replace existing complex frameworks, with short, simple, accessible standards written by employers in a language they understand. Quality and safety, the two underlying points raised by the noble Lord, Lord Young, must be at the front of these reforms.

My noble friend Lord Hodgson asked whether the order had any effect on the Enterprise Bill going through the House. It does not.

I welcome this debate on the issues that have been raised and I thank noble Lords for their contributions.

Lord Young of Norwood Green: I heard what the Minister said—that the Ofsted inspection related to previous frameworks—but that still does not reassure me that we have got a grip. Just because employers write a short, simple description of training does not give me any reassurance that we really have a handle on quality.

The noble Lord is right in saying that this is an hors d'oeuvre—although I would not like to refer to it in that way, because it sounds a bit flippant. I was giving the Minister the opportunity to go away and have a look at this matter, because I intend to raise it again on the Enterprise Bill. I urge him to have a careful, close look—never mind that we have "new frameworks" or that the employer is writing these new, simple standards. I do not quarrel with that, provided that there is a genuine programme. My concern is that here we have training providers, who go and find an employer, and the supervision after that is pretty minimal, as I have been told. We need to ensure that there is a process whereby we can guarantee every single employer has been fully investigated, has a track record in applying a proper training programme and is not just exploiting young people for cheap labour—and also that there is a safe working environment.

I am not asking the Minister for a response here today, as that would be unreasonable, but I am trying to provide him with an opportunity to go away and

have a look at the process. If he can come back to me between now and that part of the Enterprise Bill with some written information, it would further the debate.

The Earl of Courtown: I thank the noble Lord, Lord Young, for that point. Yes, this matter will be looked at very carefully before the next stage of the Enterprise Bill, and I shall discuss it with the Minister taking it through this House.

Lord Stevenson of Balmacara: I do not think that the Minister has responded to me about the commencement dates issue. If he cannot do so today, can he please confirm it in writing to me?

The Earl of Courtown: I shall write. I commend the order to the Committee.

Motion agreed.

Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order 2015

Motion to Consider

4.47 pm

Moved by ***Lord Ashton of Hyde***

That the Grand Committee do consider the Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order 2015.

Relevant document: 3rd Report from the Joint Committee on Statutory Instruments

Lord Ashton of Hyde (Con): My Lords, I beg to move that the Committee considers the draft Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order 2015, the draft Financial Services and Markets Act 2000 (Misconduct and Appropriate Regulator) Order 2015, and the draft Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 3) Order 2015. For the sake of brevity, I shall refer to these as the relevant authorised persons order, the misconduct and appropriate regulator order and the regulated activities amendment order.

The first two orders under consideration today are related, and it may be helpful if I start by outlining the background to this legislation. In December 2013, Parliament passed the Financial Services (Banking Reform) Act 2013, which, for convenience, I shall refer to as the banking reform Act. Among other things, this Act provided the legislative framework for implementing the recommendations of the Parliamentary Commission on Banking Standards, on which several Members of your Lordships' House served with distinction. This included making provision for introducing the senior managers and certification regime for the banking sector—banks, building societies, credit unions and certain systemically important investment firms. The Government have now included provision in the Bank of England and Financial Services Bill to extend this regime to all other types of financial services firms, but these two orders are part of the original work programme to apply this new regime to banking.

When the parliamentary commission reported in June 2013, it made a number of recommendations for reforming the way in which individuals who work in banks are regulated. These formed the basis for what is now the senior managers and certification regime and include: a tougher regulatory approval regime for a smaller number of the most senior individuals in a bank; annual certification by banks themselves that other key individuals are "fit and proper"; and rules of conduct covering a wider range of bank employees, not just those subject to regulatory pre-approval.

The relevant authorised persons order will extend the scope of the senior managers and certification regime to include UK branches of foreign banks. It was initially decided to confine the senior managers and certification regime to UK institutions: that is, businesses incorporated in the UK. This includes those global financial institutions that operate here through a UK subsidiary company. The subsidiary company is incorporated here and so counts as a UK institution in its own right.

However, it does not include global banks which operate here through a branch in the UK. A branch is not a separate legal entity from its parent and so is not incorporated here. Nevertheless, a branch can have senior managers and staff who could be subject to annual certification or required to comply with rules of conduct. But, of course, the fact that a branch is not separate from its parent was bound to raise a number of issues which could not be fully considered at the time.

A power was therefore included in the Banking Reform Act enabling the Treasury to bring branches of foreign banks into the senior managers and certification regime after appropriate consultation. The consultation document was published last November and the Government announced in March this year that they would make the necessary order. Subject to your Lordships' approval, all parts of the senior managers and certification regime will from 7 March 2016 apply to foreign banks that operate in the UK through branches here: that is, the same date as that on which the senior managers and certification regime comes into force for UK banks.

There are two points that it might be helpful to be clear about at this stage. First, the Banking Reform Act also included a new criminal offence relating to decisions which cause a bank to fail—sometimes called the "reckless mismanagement" offence. This offence was also recommended by the parliamentary commission and was included in the Banking Reform Act at the same time as the senior managers and certification regime provisions. However, it can be committed only by persons who are senior managers in banks, building societies and systemic investment banks.

This criminal offence is not part of this regime. I want to make it clear that the order does not extend the new offence to UK branches of foreign banks. There is no power in the Banking Reform Act to do that, nor would it be appropriate. The offence is concerned with decisions that cause a bank to fail. As a branch is not a separate legal entity from its parent, it can fail only if the parent fails. The failure of a branch, and any action arising from that, could be taken only by the authorities in the parent's home state.

[Lord Ashton of Hyde]

Secondly, I want to assure the Committee that the UK regulators have the powers to ensure that the regime can be applied flexibly and appropriately to different types of branch. They can also differentiate where appropriate between "passporting" branches from other EEA states, non-passporting branches from countries outside the EEA, subsidiaries and UK-owned banks.

The misconduct and appropriate regulator order makes some technical changes to the legislation that are needed before the senior managers and certification regime comes into operation in the banking sector next March. The first of these simply ensures that the revised provisions relating to enforcement action by the FCA will cover cases where an approved person has been knowingly concerned in a breach of regulatory requirements imposed by the Alternative Investment Fund Managers Regulations 2013. Those regulations implement the EU alternative investment fund managers directive in the UK.

The second group of technical amendments makes some consequential changes to Section 204A of the Financial Services and Markets Act 2000. Section 204A sets out which of the FCA and PRA is responsible for enforcing certain requirements in that Act. The misconduct and appropriate regulator order makes changes to Section 204A to ensure that the PRA can enforce new requirements where it is the lead regulator for the senior managers and certification regime. If this order were not made, the FCA would have to enforce obligations that should, in effect, be owed to the PRA.

I move now to the draft regulated activities amendment order. In March, Parliament approved the Mortgage Credit Directive Order, which ensures that the UK implements the EU mortgage credit directive, or MCD, on time and with a limited impact on the UK mortgage market. The Mortgage Credit Directive Order 2015 was due to come into effect in March 2016. Since this point, the Government have been actively monitoring the progress of the mortgage industry towards implementation to ensure a smooth transition so that consumers do not see any disruption.

During the course of this routine monitoring, it came to light that, due to the complexity of superimposing a new wave of legislation on top of existing legislation, there were some areas where the Mortgage Credit Directive Order did not achieve what it was intended to. The Government therefore decided to act by making a small number of amendments to the scope of the regulation to ensure that the regulatory framework continued to operate as intended.

The draft regulated activities amendment order under consideration makes a number of changes, all of which aim to ensure that the existing legislation delivers on previously agreed policy. The most significant of these is to ensure that mortgages dating from before 31 October 2004 that are currently regulated as credit agreements will move across to be regulated as mortgages from 31 March 2016. This is part of the Government's widely supported aim to consolidate the regulation of mortgages within a single framework, reducing the burden on firms and ensuring that customers get a consistent experience.

Taken together, the changes made by the statutory instruments under consideration are another important step to ensure that the UK's financial system is resilient and works for the good of the nation. I hope that noble Lords will therefore support the Motion to consider these instruments. I beg to move.

Lord Hodgson of Astley Abbotts (Con): My Lords, I am grateful to my noble friend for his explanation of what are quite technical orders. Before I go any further, I declare an interest as an authorised approved person under the Financial Services and Markets Act. I am therefore accountable to the Financial Conduct Authority. I will focus on the practical implications of what we are discussing, in particular the misconduct and appropriate regulator order, which is one of the three orders we are considering; how these tie in with the Bank of England and Financial Services Bill, which had its Second Reading yesterday evening; and how the regulatory footprint will come to be felt by companies, banks and individuals.

As I understand it—I am sure my noble friend will put me right if I am wrong—we essentially have a structure of two pillars. The Prudential Regulation Authority is concerned with the strategic aspects—corporate discussions, decisions and difficulties—and the Financial Conduct Authority is concerned more with the behaviour of individuals. It therefore operates at a slightly lower level. I will quote from the Minister's letter to my noble friend Lord Trefgarne, in his role as chairman of the Secondary Legislation Scrutiny Committee. Harriett Baldwin wrote:

"Both Orders relate to the government's implementation of the Senior Managers & Certification Regime (SM&CR), which is designed to manage individual conduct and standards in the banking sector".

5 pm

As my noble friend said in his opening remarks, one of the key requirements is the issue of fitness and propriety—that is, of a person's integrity, competence, relevant experience in an area and so forth. What I have some difficulty in understanding is how the PRA, or indeed the SM&CR, will enter into cases where the fitness and propriety of the individuals would not be called into question. There would therefore be a basis for the FCA proceeding by itself, rather than having proceedings by either or both. Does this matter? Maybe not, but maybe it will. I remind my noble friend of Clausewitz's saying: "Better a bad general than a divided command". Individuals will not always be clear which of the two regulators is the more important: are they dancing to the tune of the PRA or the FCA? Within the City, there is evidence of a certain amount of turf warfare between the two organisations. I think that the PRA, with its strategic view, considers itself superior to the FCA, which deals with individuals. I think that Mr Martin Wheatley said that his organisation was considered to be down among the weeds—a rather unfortunate way of describing his flock, but never mind.

While what we are putting in place here may seem very clear from the Olympian heights of Her Majesty's Treasury, in this case I am a worm. I have a worm's-eye

view of what is being proposed and there are questions that I would like my noble friend to answer. He may wish to write rather than doing so on the hoof this afternoon, as I understand that we have to get on with this. We need to maintain standards in our financial services industry and there is a degree of public mistrust in what has been going on in that sector. The first question is: how will co-ordination be effected between the FCA and the PRA so that individuals are not caught up in trench warfare between those two organisations? Secondly, which of the two authorities will take priority when cases come before them? If both authorities get involved, will one be able to issue a cease and desist order so that the unfortunate individual does not find him or herself facing in two directions? Answering that would, at any rate, give me a degree of clarity about how this is to work on the ground as opposed to what is expressed clearly and succinctly, but in a quite dry and academic way, in this order.

Finally, as my noble friend said, one of these orders introduces a new regime: the senior managers and certification regime. Under whose bailiwick does that fall? Is it the PRA or the FCA, or will yet another regulator be involved? I would like to see how that fits together in terms of the organisation which many thousands of people will have to comply with, in a field where the compliance costs and the difficulties of meeting the regulators' requirements have become a lot more difficult. Of course I understand the importance of our financial services regime being kept up to date. We live in an era of rapid change, so we have to change our structures to keep up to date with evolving practices, but I am anxious that we should always think about the practical implications of what we are proposing for those working in the industry. I hope that my noble friend will be able to give me some reassurance on these points when he comes to wind up.

Lord Tunnicliffe (Lab): My Lords, as the Minister has outlined, the three statutory instruments before us make a number of technical changes to the Financial Services and Markets Act 2000, as amended, which relate specifically to the expansion of the senior management and certification regime—or SM&CR—mortgage regulation and the extension of powers to the Prudential Regulation Authority. As my honourable friend Richard Burgon MP said in the other place, we will not oppose the orders—I want to place that on record again today. My party is committed to ensuring that we have a financial services sector that works in the interests of the public and we want to work with the Government to ensure that.

Banking regulation seems—in this House at the least—to be the flavour of the month, what with these orders today and the Second Reading of the Bank of England and Financial Services Bill only yesterday. Last night, we had a constructive and wide-ranging debate on what a modern and effective banking sector should look like. It was encouraging that we should have such passionate, experienced and committed colleagues engaging with this issue.

Some of the observations made last night have relevance today. Without wishing to detain your Lordships for very long, I want to ask the Minister a number of questions about how these small but nevertheless important changes fit into the Government's broader proposals.

The Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order extends the regulation governing individuals working in the UK banking sector to cover UK branches of foreign banks and investment firms. I note that the Economic Secretary to the Treasury said on Thursday that these changes would come into effect in March 2016, the same time as changes for senior managers in UK institutions. Can the Minister say today, or perhaps in writing at a later date, how many non-UK institutions which have a branch in the UK this will affect?

As the Minister will know, one of the changes made in the Bank of England and Financial Services Bill is the extension of the SM&CR to the entire financial services industry—not just senior managers in banks but to credit unions and investment firms from 2017. Once the expansion comes into effect, does the Minister expect non-UK institutions which have a branch in the UK to be included?

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 3) Order 2015 will mean that from 31 March 2016 mortgages dating from before 31 October 2004, which are currently regulated as credit agreements, are regulated instead as mortgages. The Government claim that the proposed changes are necessary for the EU mortgage credit directive to work as intended. The Economic Secretary to the Treasury stated:

"During the course of that routine monitoring it came to light that, owing to the complexity of layering a new wave of legislation on top of existing legislation, in some areas the order did not achieve what was intended".—[*Official Report*, Commons, Sixth Delegated Legislation Committee, 22/10/15; col. 5.]

For clarification, can the Minister confirm that these are just credit agreements which relate to property? Can he also indicate the scope of the aforementioned monitoring and the precise issues covered to bring about such change? I also understand that my honourable friend in the other place asked why pre-March 2004 mortgages were being regulated and not those after March 2004.

Finally, the Financial Services and Markets Act 2000 (Misconduct and Appropriate Regulator) Order 2015 confers powers to the PRA over individuals working in financial services, specifically in cases relating to the alternative investment management regulations. It also extends to the PRA the ability to take disciplinary action. We understand that the order is required so as to ensure that the appropriate regulators have sufficient powers to carry out their functions. However, I have a number of points on which I seek clarification.

Will the changes in the role and structure of the FPC as a full committee of the Bank and the desubservisation—if there is such a word—of the PRA alongside the creation of the new Prudential Regulation Committee require that these orders be amended again? Paragraph 5(1) of the aforementioned order states that:

"The Treasury must from time to time—

(a) carry out a review of the relevant provisions of the 2000 Act;

[LORD TUNNICLIFFE]

(b) set out the conclusions of the review in a report, and

(c) publish the report".

I would be grateful if the Minister could go into more detail about the process and practice of this, in particular the timing. Does "from time to time" mean once a Parliament, once a Session or once a decade? I understand that the Minister may need to write in order to set this out in more detail.

Throughout the creation of this new regime, the noble Lord, Lord Hodgson of Astley Abbotts, has brought us the worm's-eye view of the situation. I am not privileged to be a worm in the City, merely a worm at Westminster, but I recall that we spent many an hour layering clause on clause into the various Bills to define the difference between the PRA and the FCA. I am pleased to hear from the noble Lord, Lord Hodgson, that it is as clear as ever. I will be fascinated to hear the Minister's reply, but I recognise that he may not be able to finesse it too accurately today, so perhaps I may be copied in to any letter he promises to his noble friend Lord Hodgson.

Lord Ashton of Hyde: My Lords, we have had a brief but productive debate today and I am grateful to noble Lords for their constructive contributions. I am particularly grateful for allowing me to write if necessary to provide comprehensive answers. However, I will try to respond to some of the points, and I will make sure that I write on anything that I leave out. I will also certainly write to the noble Lord, Lord Tunnicliffe, with any answers that I give to my noble friend Lord Hodgson, who is, as always, too modest. As was said before somewhere else, my noble friend may be a worm, but he is certainly a glow worm.

My noble friend started off by asking me about the relationship between these orders and the Bill referred to by the noble Lord, Lord Tunnicliffe, the Bank of England and Financial Services Bill, which received its Second Reading last night. These orders largely complete the banking reform Act work programme, applying the senior managers and certification regime to banks, building societies, credit unions and PRA-regulated firms. The Bill will extend the regime to all other authorised persons under the Financial Services and Markets Act 2000—that is, to the rest of the financial services industry. So the proposed changes in the Bank of England and Financial Services Bill will not change any of those relationships.

My noble friend mentioned the question of duplication of effort when both regulators have enforcement powers, and of course that situation applies now. Nothing that we are doing today will change that. In answering the point, I can tell my noble friend that each regulator will enforce its own rules or directions to ensure compliance with or obligations owed to it. Further, it will usually be clear which rule or other requirement has been broken and therefore which regulator needs to enforce it, but the PRA and the FCA have a statutory duty to co-ordinate the exercise of all their functions, including enforcement. That applies today and will not change.

The question is why they both need enforcement powers, and the reason is that they both make rules or are the lead regulator for other requirements, which means that they must have such powers. Each regulator has a different statutory remit, so that they can simultaneously have an interest in different aspects of the same situation. However, I take the point made by the noble Lord; it is something that I was aware of when I worked in the City. If you are an institution that is fortunate enough to be under the regulation of both of those regulators, it is obviously important. However, they do co-ordinate and will continue to do so because they have, as I say, a statutory obligation in that regard.

5.15 pm

Lord Tunnicliffe: Could the Minister assure me that he is a representative of the party of deregulation?

Lord Ashton of Hyde: I am able to give that assurance.

Both regulators look at fitness and propriety. Both the PRA and the FCA are concerned with whether an individual is fit and proper. This is the position now; the senior managers and certification regime does not change that. That is why, as I said before, both regulators may need enforcement powers.

To answer my noble friend's question, there will not be another regulator. The PRA and FCA will run the senior managers and certification regime in the same way that they are involved in the approved persons regime, so there is no change in that. To follow on from the point raised by the noble Lord, Lord Tunnicliffe, there will not be another regulator. The PRA will have an enforcement role only when obligations are owed to it. As I said, normally which regulator matters is clear from primary legislation because they have different remits and focus.

The noble Lord, Lord Tunnicliffe, asked for some sense of the numbers. I will give him some today, but if I have not given him all the numbers he wants I am happy to write later. Obviously I will copy in my noble friend Lord Hodgson. There are currently about 155 banks and nine PRA-regulated investment firms. Those are investment banks that do not have a deposit-taking commission. These 164 firms will be within the senior managers and certification regime from next March as a result of the changes made by the banking reform Act. This order will add between 155 and 175 foreign banks, split approximately 50:50 between EEA and non-EEA firms.

The banking reform Act also brings approximately 45 building societies and approximately 550 credit unions into the senior managers and certification regime. Any foreign equivalents of these firms would be included as banks. Less than 10% of those banks would be considered large. The Bank of England and Financial Services Bill will not add any banks or other deposit-takers to the SM&CR. The Bill will add only insurers, investment firms and consumer credit firms, assuming that it is passed.

Lord Hodgson of Astley Abbotts: The Minister has dealt with all the questions with great courtesy and care. As we get to a situation where the SM&CR is covered by both the FCA and the PRA and they deal with everything, why would we need to have the two organisations? It seems to me that we are getting

closer and closer to a situation where one organisation could do it. We then get away from all this trouble of possible regulatory overlap and people being pulled in different directions. That is not a question to be answered today, but it is a question that the Government should think about if we are to follow up the issue of deregulation and try to avoid multiple masters, with the inevitable problems that arise. I am sure that the Government, the Treasury and the authorities will assure us that there is no way that those two will ever get out of step, but from the point of view of the regulated individuals and entities, you can be certain that they will be out of step before too long.

Lord Ashton of Hyde: I will not try to give a comprehensive answer today, but I will make the point that that was the position with the Financial Services Authority, which both Houses of Parliament decided was not an effective regulator. Everyone accepts that there were problems with having one regulator and that tripartite system. I will not go beyond that, but I take the point; I have noted it.

The noble Lord, Lord Tunnicliffe, asked whether the changes to the PRA required changes to these orders; they are not required. He also asked whether the regulated activities amendment order only affects credit agreements relating to property—I refer here to equitable loans that are normally used in Scotland—and the answer to that is that it does. If there are other points, I will take advantage of both noble Lords' suggestions and write when we have reviewed what I have said today.

Can I make a couple of final points about the orders under consideration? First, the relevant authorised persons order is not about placing a more onerous regime on UK branches of foreign banks or for that matter letting them off the hook. We aim to ensure a proportionate and appropriate regime that reflects the status of branches and the nature of the business that they do.

The misconduct and appropriate regulator order makes some necessary technical changes arising from the introduction of the senior managers and certification regime. Finally—

Lord Tunnicliffe: Before the Minister sits down, does he have any initial reaction to my question about what "from time to time" means? It is quite difficult to get a more vague description of an interval.

Lord Ashton of Hyde: Luckily, I do have an answer to that. "Time to time" leaves scope to have a practical approach and the Treasury will keep under review how often it will consider the orders. The first review must be within five years. Each review must be at least every five years after that. At the moment that is where we are. I will consider the points that the noble Lord made in more detail and if I have anything more to add I will write to him.

The regulated activities amendment order will ensure that the PRA and the FCA have the right powers to regulate the mortgage market effectively, ensuring that both new and existing customers are protected from bad practice. I therefore ask the Committee to join me in supporting these statutory instruments today.

Motion agreed.

Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 3) Order 2015

Motion to Consider

Moved by ***Lord Ashton of Hyde***

That the Grand Committee do consider the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 3) Order 2015.

Relevant document: 3rd Report from the Joint Committee on Statutory Instruments

Motion agreed.

Financial Services and Markets Act 2000 (Misconduct and Appropriate Regulator) Order 2015

Motion to Consider

Moved by ***Lord Ashton of Hyde***

That the Grand Committee do consider the Financial Services and Markets Act 2000 (Misconduct and Appropriate Regulator) Order 2015.

Relevant document: 6th Report from the Joint Committee on Statutory Instruments

Motion agreed.

Asian Infrastructure Investment Bank (Immunities and Privileges) Order 2015

Motion to Consider

5.23 pm

Moved by ***The Earl of Courtown***

That the Grand Committee do consider the Asian Infrastructure Investment Bank (Immunities and Privileges) Order 2015.

Relevant document: 6th Report from the Joint Committee on Statutory Instruments

The Earl of Courtown (Con): My Lords, I beg to move that the Committee consider the Asian Infrastructure Investment Bank (Immunities and Privileges) Order 2015. The order was laid before the House on 12 October, and it gives authority for immunities, privileges, reliefs and exemptions to this new international organisation, also known as the AIIB, under the International Organisations Act 1968.

Before going into the details of the order, I would like to set the context by saying a few words about the bank and its link with our prosperity objectives.

[The Earl of Courtown]
These recognise that, as we continue our business-led recovery, one of our greatest strengths is our openness to global markets. The fast-growing markets of the emerging economies are becoming ever more important to global trade, British business and our values. The United Kingdom must continue to play a significant role in developing these markets, as well as the global economy. Equally, we must expand into areas where we are economically under represented.

China is at the heart of this. Last week's state visit by the President of China demonstrated the scale of the opportunities that lie in deeper co-operation between our two nations. A key component of opportunity and growth in Asia is and will continue to be infrastructure. Requirements for infrastructure in Asia are estimated to expand substantially over the next 10 years: the Asian Development Bank estimates the value of these at $8 trillion. Satisfying this need is not only vital for driving growth and increasing living standards in the region, but will benefit the whole global economy, creating new opportunities for British business.

The UK has expertise in areas ranging from green investment, infrastructure and engineering to accountancy and project management. Add to that our world-leading position in finance and we see that a host of businesses around the country and across a variety of sectors are well-placed to take advantage of the opportunities offered by the world's fastest-growing economies. There are also significant opportunities for the financial sector in London. This order ensures that London is in a strong position to take advantage of opportunities that arise from the AIIB.

Key to enabling effective support for infrastructure development in the region is ensuring that the AIIB is well-established as a high-quality and well-functioning international organisation. That is why the United Kingdom has taken such a strong role in supporting the AIIB. Our announcement in March this year of our desire to become a prospective founding member was the first by any major western country. Germany, France and many others have now followed. There is significant advantage in being involved from the beginning. Working to shape the bank in the British interest and ensuring that it follows the model and learning of other established institutions will help the new bank to meet the highest governance standards for an international institution.

I turn now to the details of the order. The formal laying of the treaty in Parliament under the Constitutional Reform and Governance Act 2010 was undertaken on 4 September. This order is part of the UK's ratification and provides the privileges and immunities to enable the bank to function as an international organisation in the United Kingdom. This is part of the requirements laid out in the articles of agreement signed in June for the UK by the Commercial Secretary to the Treasury, and is in line with requirements in other international organisations of which the UK is a member.

The order applies to the whole of the United Kingdom. However, some provisions of the instrument do not extend to, or apply in, Scotland. A separate Scottish Order in Council has been prepared to deal with those provisions within the legislative competence of the Scottish Parliament and has been laid before it. We will of course take a significant interest in the bank's operations. We have been and will continue to be active players. I beg to move.

Lord Collins of Highbury (Lab): My Lords, as the Minister highlighted, UK involvement and investment in this Chinese-led AIIB was first proposed in March. We then became the first major western country to apply to be a founding member—followed quickly, as he said, by Germany, France, Italy, Switzerland and Luxembourg. I also note what the noble Earl said about joining the AIIB being a further step in the Government's plan to build a closer political and economic relationship with China and the Asia region. But as we heard in debates last week during the state visit, our involvement is not simply a neutral business matter. In that developing relationship, there are issues of human rights and other concerns that we do not wish to ignore, particularly given the debate we had on religious freedom.

As the order—and the news—has said, the UK will make a capital contribution of £2 billion to the AIIB. However, at the time we made our announcement in March, the White House, on behalf of the US Government, issued a statement.

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, I hesitate to interrupt the noble Lord but there is a Division called. The Committee will adjourn for 10 minutes and resume not earlier than 5.40 pm. If the Divisions are held one after the other, the Committee will adjourn until both votes have been completed.

5.29 pm

Sitting suspended for a Division in the House.

5.51 pm

Lord Collins of Highbury: My Lords, when I was so rudely interrupted, I was in the middle of a sentence. I began to quote the White House statement at the time of our announcement that we were joining the AIIB. The statement said that the White House had concerns about whether the AIIB would meet high standards,

"particularly related to governance, and environmental and social safeguards … The international community has a stake in seeing the AIIB complement the existing architecture, and to work effectively alongside the World Bank and Asian Development Bank".

I understand that the United States has revised its opinions and that the concerns that it previously expressed have been addressed. In particular, AIIB president designate Jin Liqun, in an *FT* article that I read on 25 October, vowed to run a "clean, lean and green" institution, operating to the highest international standards, but with greater speed than its rivals. Liqun said that the AIIB,

"would abide by the toughest environmental and social standards in its lending and model itself in many ways on existing multilateral development banks".

The thing is, China will hold 26% voting shares, which is almost double the proportion of United States voting shares in the World Bank, which is

dominated by and hosted in Washington. As the articles of association stipulate, China will have veto power on issues that require a supermajority vote, such as the board, the president and the capital, as well as the major operational and financial policies. Retention of a veto no doubt reflects China's determination to retain control of key aspects of the bank. I am certainly aware that the Philippines is very concerned by the potential veto power that China will hold.

Given the original concerns raised by the White House and the White House National Security Council, what reassurances have the Government received that the AIIB will retain strong environmental, social and governance standards? Despite the good words of the bank's president designate, what steps have the Government taken to ensure that standards are upheld and kept under appropriate scrutiny and review?

What assessment have the Government made of how the new investment bank will sit alongside and work effectively with the IMF, the World Bank and other global institutions? How do we ensure that it behaves in a complementary and co-ordinated fashion rather than becoming duplicative and suboptimal in its effectiveness?

Finally, just under a week ago the Minister addressed in the Chamber the question of unpaid parking fines and London congestion charge payments by diplomatic missions and international organisations. It appears that this order may add to the number of inviolable organisations—I hope the Minister appreciates how I pronounced that word because I am expecting a reciprocal arrangement in terms of pronunciation—so what steps have the Government taken to ensure that, in the event of unpaid tickets arising from this new bank, it pays up?

The Earl of Courtown: My Lords, I thank the noble Lord for his contribution to our debate on the AIIB. The raison d'être of this is to continue building a strong economy in an increasingly globalised world which requires good partnerships, deep co-operation and strong economic links. The noble Lord raised a number of issues, beginning primarily with human rights. I will use that general heading if the noble Lord will allow me. As part of our co-operation with China we discuss our values. We believe that human rights, prosperity and security are mutually reinforcing. The free flow of ideas and innovation is a driver of economic growth and a key element of democracy. We continue to discuss all aspects of human rights at the highest level.

The noble Lord also drew attention to US relations in respect of this agreement. As he will be aware, the UK remains a close ally of the United States. Where the United Kingdom led on the bank, others have followed. As the noble Lord said, they include Germany, France, Brazil and Australia. The recent Chinese state visit to the United States saw the US Government recognise what role the bank would play in the international financial architecture. During that state visit by the Chinese President, the Obama Administration reiterated their pleasure in backing China's bid for inclusion of its currency, the renminbi, in an elite International Monetary Fund basket of reserve currencies as long as Beijing is declared worthy by the IMF.

A joint statement that was issued after the state visit to the United States and before the Chinese President came to the United Kingdom said that China intends to meaningfully increase its role as a donor in all these institutions. Both sides acknowledge that for new and future institutions to be significant contributors to the international financial architecture, these institutions, like the existing international financial institutions, are to be operated with the existing high environmental and governance standards. Both sides were keen to put any form of unpleasantness over the AIIB and any conflict over the governance of the existing regime behind them, as set out in President Xi's public statements during his visit.

The noble Lord also raised a couple of issues relating to the bank. As I said earlier, the AIIB is committed to meeting the highest international standards and the UK has pushed hard for those environmental standards by ensuring that there is public consultation. The noble Lord also mentioned the minority holding of the Chinese in the bank—26% is still a minority. The veto stops action. It does not force action.

The noble Lord also mentioned unpaid parking fines. The AIIB will receive the same immunities and privileges to enable it to function. With regard to parking fines, privileges and immunities are granted on a functional need basis. Careful consideration is given by Her Majesty's Government to what organisations or their staff need. The number of immunities is thus tailored to need and we work with organisations to ensure that only what is needed is granted. The noble Lord will remember from that interesting exchange at Questions last week that at the highest level, when new heads of mission come to London, we express at all times the importance of payment of the congestion charge and parking fines.

I think that I have covered most of the points raised by the noble Lord. Should there be any that I have not as yet covered I will write to him. I thank noble Lords for their contributions.

Motion agreed.

Committee adjourned at 6.01 pm.

Volume 765
No. 57

Tuesday
27 October 2015

CONTENTS

Tuesday 27 October 2015

Grand Committee