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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

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House of Lords

Monday, 2 November 2015.

2.30 pm

Prayers—read by the Lord Bishop of Sheffield.

Royal Gallery: Daniel Maclise Paintings

Question

2.36 pm

Asked by ***Lord Trefgarne***

To ask the Chairman of Committees what progress has been made on the restoration of the Daniel Maclise paintings in the Royal Gallery.

The Chairman of Committees (Lord Laming): My Lords, I congratulate the noble Lord on his timing, because I am pleased to tell the House that the Works of Art Committee has agreed to a conservation programme to clean, conserve and improve the presentation of the two Maclise paintings. The work will be carried out over a four-year period and will start in the summer of 2016.

Lord Trefgarne (Con): My Lords, I am most grateful for that excellent Answer from the noble Lord. After the pictures have been restored, will they be protected for future generations?

The Chairman of Committees: Yes, my Lords. We are very grateful for the research project that was undertaken by the students of the Cologne University of Applied Sciences and by the Curator's Office here. A great deal more has to be done to find out exactly what damage has been done to the paintings from environmental factors, such as coal and the like, and from work that has been done since on varnishing the paintings. Once that has been done—we believe that a great deal of the original paint is intact—we will make sure that we preserve the paintings for future generations.

Lord Berkeley of Knighton (CB): My Lords, there is a very powerful artistic reason for undertaking this conservation. These pictures are not simply triumphalism; they have a kind of visionary humanitarian quality to them because they depict the suffering, and what Wilfred Owen called the pity, of war. However, because the colours have faded so much, that precise aspect is very downgraded, so this is very welcome news.

The Chairman of Committees: My Lords, that is so. Not long after the paintings were completed, there were complaints about the degree of dirt, which affected the quality of the paint. We will be carrying out pilot studies with a view not only to doing as much as we possibly can to preserve the original paintings but to making sure that they are as good as they possibly can be, given their age.

Baroness Maddock (LD): My Lords, does the Chairman of Committees agree that it is because we have this unique works of art collection that reflects our heritage that so many people want to come and visit the Houses of Parliament? Does he also agree that over the years it has been the hard work of many Members of this House in raising, and indeed donating, money that has enabled us to carry out conservation work without drawing considerably on the public purse?

The Chairman of Committees: The noble Baroness knows a great deal more about this than I do, but she is of course entirely right. As a House, we are very dependent on fundraising for this work. In recent times, it has not been possible to provide money from the Budget for it, so we are very dependent on fundraising to carry on the excellent work that this House does, not only on these Maclise paintings but on some of the frescos that are very much in need of preservation.

Lord Foulkes of Cumnock (Lab): My Lords, can the Chairman of Committees tell us whether we will still be here when this work is completed, or is this building continuing to fall down around us—as I found this morning when I could not get in at the normal entrance? One of our colleagues pointed out to me that *Red Benches* states that work is being done on re-cant accommodation for the House of Lords? Will the Chairman of Committees give us a brief update on how things are going in respect of re-canting us somewhere else?

The Chairman of Committees: My Lords, it is true that there is a major programme of work across the whole estate and that there will have to be decanting from building to building, but this is being handled with the Chief Whips of the political parties and the Convenor. We are handling it as carefully as possible. I hope I will be here when the work is finished. Whether I shall be in this position I know not.

Lord Howell of Guildford (Con): My Lords, I do not think that we need worry about the triumphalism. President Valéry Giscard D'Estaing once told me that, at school, he was taught as a little boy that the Battle of Trafalgar was a minor naval engagement in which the British were stupid enough to lose their admiral.

The Chairman of Committees: Well, we all have different perspectives on these matters.

Lord Dobbs (Con): Does the noble Lord agree that those frescos are a true inspiration—one of the greatest inspirations in this Palace? Can Maclise's story act as inspiration for the current House of Lords? After all, he was treated appallingly by the Government of the day. He suffered disgraceful financial meanness on the part of that Government. His instructions were ill prepared and badly handled. He was taken for granted, and when he protested, they responded simply with abuse and outright threats. And yet, his work proved to be of immense service to the nation. Does the noble Lord think that we, the current House of Lords, can draw inspiration from that prominent example?

The Chairman of Committees: Well, this is a new experience for me. It is true that many artists are not valued until they are long dead. Maclise deserves great

[The Chairman of Committees]
credit because he had to research the water-glass method that had been developed in Germany but had never been used here. He wanted to make sure that it was possible to convey not just the drama of war but the complexity and the tensions. To do that, he had to paint bit by bit. That was where the water glass came in, because it was able to preserve the paintings. On the rest of the noble Lord's question, I hope he will excuse me if I pass.

Lord Bilimoria (CB): My Lords, is the Chairman of Committees aware that I hosted a dinner in the Peers' Dining Room for Sidney Sussex College, Cambridge—my college—which was founded in 1596, and that the oldest painting in Parliament is the one of Queen Elizabeth which is located in that Room and was painted in 1596? Is that painting being preserved well enough?

The Chairman of Committees: Oh, my goodness me. I think that I will do some homework—I hope the noble Lord will allow me a little time to do that. I will then write to him, and I will put a copy of the letter in the Library.

Baroness Trumpington (Con): I wonder whether I might trespass on the Chairman's knowledge a little further and ask him whether he knows what has happened to Lord Carrington, who was hanging quite happily outside the Bishops' Bar but has now disappeared. Can the noble Lord tell me where he has gone?

The Chairman of Committees: My goodness, I can see that my weekends will have to be devoted to these paintings. I am afraid that I am not well placed to respond, but I will make sure that the noble Baroness gets a reply.

Hinkley Point: Chinese Investment

Question

2.45 pm

Asked by ***Baroness Jones of Moulsecoomb***

To ask Her Majesty's Government what assessment they have made of the employment and environmental records of the Chinese companies involved in developing Hinkley Point, and whether either company has been involved in developing nuclear weapons.

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, all companies operating in the United Kingdom nuclear industry do so in accordance with the stringent requirements of the United Kingdom's independent nuclear regulators. These include environmental protections. Likewise, all companies are required to conform to United Kingdom employment law. China is a nuclear weapons state under the Treaty on the Non-proliferation of Nuclear Weapons. China General Nuclear, which will hold a minority stake in Hinkley Point C, is not involved in the development of nuclear weapons.

Baroness Jones of Moulsecoomb (GP): I thank the Minister for his Answer to my Question. I am sure he is aware that there is a lot of concern outside this place about inviting China to be such a large partner in such a complex deal. If we take into account the fact that the Chinese imprisoned 300 human rights lawyers and activists just between July and September this year, we start to see the size of the problems. In addition, Members of Parliament have only another week to voice their concerns about the Bill. I feel that the whole thing is being rushed through.

Lord Bourne of Aberystwyth: My Lords, the noble Baroness is right to say that concern has been expressed about China's involvement. As I have said, the Office for Nuclear Regulation regulates the security of civil nuclear programmes, including companies from overseas, and the security services will also be involved. As she will understand, there has been a long-standing convention under successive Governments not to comment in any detail on that surveillance.

Lord West of Spithead (Lab): My Lords, I am delighted that we are now moving forward and doing something in civil nuclear power generation. It is super that the Chinese are risking their money on this EPR reactor. Both of the types for Hinkley Point are being built in Finland and France, and the costs for both are twice what they were; they are taking twice as long and are still not finished. However, the Minister will be aware of my security concerns. Historically, 70% of the supply chain for nuclear work has come from United Kingdom firms, but there is evidence to suggest that when the Chinese start building the third of the reactors—the Bradwell reactor—they plan to provide all the supply chain material, at a cost to UK manufacturers. Will the Minister ensure that we get that sort of percentage to our UK firms rather than letting the Chinese monopolise it?

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lord for his welcome of the project. It is true that 60% minimum is guaranteed on the supply chain in relation to Hinkley Point C, as I am sure he will be aware. It is very early stages for Bradwell yet; it has not really been discussed. I am sure that the aim will be to get at least that, but as yet pen has not been put to paper at all.

Lord Wigley (PC): My Lords, as only four EPR reactors are currently being built—one in Finland, one in France and two in China—and none have shown that they work safely or efficiently, why was that technology chosen for Hinkley, ahead of the proven advanced boiling water reactor developed by Hitachi, which is currently being used successfully at three different locations?

Lord Bourne of Aberystwyth: My Lords, the noble Lord is right that the projects in France at Flamanville and in Finland to which he referred, and indeed in China—although the model is slightly different there—are ahead of what is happening at Hinkley Point C. This has been subject to detailed scrutiny, and we are

satisfied that it is the best way forward. These are the first nuclear reactors that will have been built in this country for 25 years, and we are satisfied that this is the best way forward.

Lord Teverson (LD): My Lords, given that Hinkley will almost certainly be followed by Bradwell in Essex in due course, what conversations have we had with the Chinese Government about the safe disposal of nuclear waste on nuclear sites? This is clearly important not just for world security but for our own security.

Lord Bourne of Aberystwyth: My Lords, the noble Lord is right about the disposal of nuclear waste. It is an issue that we have to address. We have much nuclear power at the moment and it is being addressed. It is an integral part of the discussions with the Chinese and EDF. It has to be remembered that the project at Hinkley Point C is not a China lead: one-third of the project is Chinese and two-thirds is EDF. However, it is central to the project.

Lord Stoddart of Swindon (Ind Lab): My Lords, is the noble Lord aware that when I worked for the Central Electricity Generating Board, a nationalised industry, we built our own nuclear reactors and the CEGB was a leader in the provision of advanced gas-cooled reactors, which are still working. Why on earth is it necessary for this rich country to employ French and Chinese nationalised industries to build our nuclear power stations?

Lord Bourne of Aberystwyth: My Lords, I was not aware of the noble Lord's background in this field but I readily acknowledge it. It is true that in the past this has been the case. Sadly, over a period of time under successive Governments, the research and development in this area was run down. We are now making agreements which are subject to stringent security and safety precautions to ensure that we move forward with what most noble Lords will acknowledge is an important part of the energy mix—namely, nuclear. We already take 20% of our energy needs from nuclear. That will continue. We are satisfied, with the conditions that we have in place, that this is the best way forward for the country.

Lord Hunt of Kings Heath (Lab): My Lords, surely the point raised by the noble Lord is exactly why the integrity of the future UK supply chain is so important. My noble friend Lord West raised the issue of Bradwell and future developments. Can the Minister assure me that the UK Government will have enough leverage to ensure that, in relation to Bradwell, the size of the UK supply chain contribution can be protected and enhanced? That is a security question as much as it is a question about the industry and jobs.

Lord Bourne of Aberystwyth: My Lords, I readily acknowledge and accept that it is important on both bases. In answering the question I sought to say that we have not yet begun any detailed negotiations on Bradwell. However, new procurement rules are in place which help us in Europe and with the supply chain. We have got a good deal in relation to Hinkley Point C. I have indicated that I hope that that will be a template for what we do in Bradwell. However, it is very early days and I do not want to mislead people into thinking that we are already in that degree of discussion—we are not.

Copyright Hub

Question

2.53 pm

Asked by ***Lord Clement-Jones***

To ask Her Majesty's Government what future financial support they intend to provide to the Copyright Hub.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): Since 2012, the Government have provided £1.3 million to the Copyright Hub in start-up funding and through the Digital Catapult which is developing the underlying technology of the Hub. We are currently assessing the hub's need for ongoing funding and will be considering various options for the future.

Lord Clement-Jones (LD): My Lords, I thank the Minister for that reply. Of course, most of that has been in kind from the catapult. The Minister is well known for her enthusiasm for the Copyright Hub but when is she going to turn that into real hard financial support? This could be a fantastic resource of huge benefit to our creative industries. It is a licensing infrastructure that could be international. Would it not be extraordinary if Singapore, the US and Australia gave more support than the UK Government?

Baroness Neville-Rolfe: My Lords, as we have said from day one, the Copyright Hub needs to stand on its own feet in the longer term. It is linked to the wonderful creative industries worth £77 billion. However, we want the Copyright Hub to succeed, as the noble Lord knows, and that is why we recently agreed to provide an extra £100,000 to cover the core costs for the next four months. We are also financing an independent assessment to examine options for the long-term sustainability of the hub and its development.

Lord Howarth of Newport (Lab): My Lords, does the Minister recognise that copyright is a form of monopoly and that, while it is desirable that innovation should be recognised and rewarded, it should always be the object of policy to keep the period of monopoly as short as is reasonably possible so that new ideas can circulate freely and rapidly? Does she also recognise that in the digital era such monopolies are increasingly impossible to enforce?

Baroness Neville-Rolfe: My Lords, the regime that we have introduced for copyright reflects a far-sighted report by Mr Hargreaves, many of whose provisions we have implemented. He was very aware of the balance between creators, rights holders and the consumer. The Copyright Hub is great, because it removes one of the excuses for piracy by making it

[Baroness Neville-Rolfe]
easy and relatively cheap for potential users to seek and obtain permission to use works that are subject to copyright.

Lord Razzall (LD): Is the Minister prepared to give a categorical answer to the question from my noble friend Lord Clement-Jones? Is she genuinely enthusiastic about supporting the Copyright Hub, or are her hands tied by the Treasury?

Baroness Neville-Rolfe: My Lords, I am genuinely enthusiastic about this, because it is like a switchboard for rights. It has huge potential. However, all government projects must provide value for money, and that is why we are looking at the work done so far. We have a prototype—I actually opened it—but we need to make sure that the flight path for the project is good. I agree with the point that this could be extremely positive internationally. We have spent a lot of time with the US and Australia, which are interested in this project going forward.

Lord Bilimoria (CB): The Minister mentioned £100,000 of support. I declare my interest as an ambassador for the British Library. Is she aware of the work that the British Library's Business and IP Centre carries out? Are the Government providing enough support for initiatives like that, which encourage entrepreneurs, creativity and innovation?

Baroness Neville-Rolfe: My Lords, I am well aware of the great work that the British Library does on this. When I visited, I was delighted to discover that more than 50% of the entrepreneurs using it were female. We certainly support having a network across the country for IP for small entrepreneurs, who can look at, buy and register IP around the country.

Lord Stevenson of Balmacara (Lab): My Lords, the Minister has several times expressed the very welcome view that she is on the front foot, leading IP debates and policy in Europe. Does that mean that we can hope to see a British-based EU copyright hub in the very near future?

Baroness Neville-Rolfe: My Lords, we are talking to the EU, but at the moment the EU is interested in how we are leading the way on the Copyright Hub. However, where the noble Lord, who knows so much about intellectual property, is right as usual, is that digital knows no boundaries and therefore having hub arrangements across the EU is an idea whose time will come.

Lord Clement-Jones (LD): My Lords, if I may interject again, the Minister mentioned £100,000 for ongoing support for the next few months, plus £100,000 for a study of financial viability. Is this not analysis paralysis? Is it not time we just got with the job and the Government put their money where their mouth is?

Baroness Neville-Rolfe: It is not analysis paralysis at all. Without the catapult and the money the Government have put in, the Hub could not have been launched, despite the great work done by the creative industries. There have been teething problems—for example, in recruiting the right staff and in ensuring that picture agencies and others are equipped and linked to the Hub. We need a proper project study and that is what we are financing. I talked to Richard Hooper about it and he is supportive.

President Sisi: Visit

Question

2.58 pm

Asked by ***Baroness Kennedy of The Shaws***

To ask Her Majesty's Government what assessment they have made of whether it is appropriate for the President of Egypt, General Sisi, to visit the United Kingdom, in the light of the state of the rule of law and human rights in that country.

The Earl of Courtown (Con): My Lords, Egypt is key to our national interests. We must work together on the immediate issues facing us, such as bringing stability to Libya, combating ISIL and countering extremism. The United Kingdom is also committed to supporting political progress and economic development in Egypt, which will be the foundations of its future stability. President al-Sisi's visit to the United Kingdom will be an opportunity to hold an open and frank dialogue on all these issues and to develop a programme of practical co-operation.

Baroness Kennedy of The Shaws (Lab): Is the Minister aware that al-Sisi has been responsible for the murder of at least 1,000 unarmed protestors; used torture and rape on dissidents; imprisoned tens of thousands of political opponents, including elected MPs; denied medical aid to people in prison; and been responsible for a large number of disappearances? Egypt is becoming an incubator for ISIL because of his tyranny. He has also employed extrajudicial killing, corrupted the judiciary and held very swift trials, after which—and on very little that could be called evidence—the death penalty has been passed, including on a young woman studying for a master's degree at Oxford, who was tried in absentia and has now been forced into exile. Is this a man who should be invited to Downing Street? Are we going to confront him with his tyranny?

The Earl of Courtown: My Lords, the noble Baroness has mentioned a number of different issues, all of which are serious. It is in Britain's interests to work with President al-Sisi. Together, we need to combat terrorism and counter extremism, and thus help bring stability to Libya. We also need to talk candidly about Egypt's long-term future. Reforms that revitalise the economy and political progress are the foundation for long-term stability.

Lord Singh of Wimbledon (CB): My Lords, we have recently lavished hospitality on the President of China, where, as we heard in the answers to an earlier Question,

there are gross abuses of human rights and the ruling clique presumes to tell people how many children they can have. We will shortly be lavishing similar hospitality on Narendra Modi, who until recently was excluded from this country and the United States for possible genocide against the Muslim community in India. We are rushing around trying to sell arms to Saudi Arabia, which is one of the most barbarous regimes in the Middle East. Would it not be discriminatory even to think of excluding President al-Sisi from these human rights abusers?

The Earl of Courtown: My Lords, the noble Lord has mentioned a number of different areas which are a little wide of the subject of this Question. We want to see more progress in Egypt, including better protection of Egyptians' constitutional rights and freedom of expression, along with more space for NGOs and civil society, all of which are key to long-term stability. Our relationship with Egypt lets us raise these issues, and Ministers and officials regularly do so. The President's forthcoming visit is a further opportunity to raise issues of concern.

Lord Wallace of Saltaire (LD): My Lords, the Minister has said twice that we are going to discuss political progress with President al-Sisi, and I think many of us would agree that Egypt will be stable only if it allows political progress to be made. Can he tell us what sort of political progress for Egypt we have in mind?

The Earl of Courtown: A number of issues have been raised by Peers around the House and we want to see progress on all of them.

Baroness Kinnock of Holyhead (Lab): My Lords, can the Minister confirm that the UK will unequivocally raise concerns about the flagrant and wide-ranging abuses of human rights presided over by President al-Sisi? Can he also confirm that there will be absolutely no negotiation or agreement on the transfer of any arms or equipment that could be used for internal repression?

The Earl of Courtown: My Lords, as I said before, we will raise these issues with President al-Sisi and his Ministers. On the arms situation, as the noble Baroness will be aware, this is a highly regulated regime and we try to ensure that Egypt remains subject to the EU Foreign Affairs Council-agreed suspension on arms exports. The suspension means that licences are suspended if we judge that they might be used in internal repression. We assess all applications from Egypt against the EUFAC suspension threshold and the consolidated criteria.

Lord Cormack (Con): My Lords, is it not always the prime duty of the British Government, of whatever party, to protect the interests of the United Kingdom? That often means talking to and welcoming people of whose internal policies we may not wholly approve. The noble Lord, Lord Singh, has just mentioned one or two. This visit should go ahead and the President should be made welcome, but he should also be in no doubt that there are concerns in this country about certain internal aspects of his policies.

The Earl of Courtown: My noble friend is quite right. Egypt is on the front line in the war against ISIL and other forms of extremism. It is the biggest country in the Arab world and the biggest destination there for British tourists, with almost 1 million visitors per year. It is also hosting people who have been displaced by crises in neighbouring countries.

Baroness Afshar (CB): My Lords, are the Government aware that in the name of Islam the Government of Egypt are abusing the rights of women, hence the attraction of other resisting groups who are promising to respect Islam, although we do not know that they will do it? What the Government of Egypt are doing is unIslamic. They are not granting women their rights. What will this Government do at least to demand that the Government of Egypt act according to what they state their aims are?

The Earl of Courtown: My Lords, the noble Baroness mentioned women's rights. We welcome the provisions for the protection of women's rights under the new constitution adopted in January 2014 and a law passed in June 2014 criminalising sexual harassment for the first time. The new law has led to several convictions. We have also deployed a regional gender adviser to our embassy in Cairo to strengthen the quality of our programmes in Egypt and across the region by focusing on gender equality.

Lord Winston (Lab): My Lords, taking into account what the noble Lord, Lord Cormack, asked earlier, does the noble Earl agree that in a progressive democracy it is in everybody's best interests if the Government's concerns are expressed openly and transparently so that we all know of those concerns publicly?

The Earl of Courtown: The noble Lord is right in so many ways. President al-Sisi will be visiting the United Kingdom later this week and no doubt there will be reports on what is discussed.

Baroness Symons of Vernham Dean (Lab): My Lords, I declare an interest as the chair of the British Egyptian Society, which is a cultural organisation dealing with educational and cultural links with Egypt. Does the Minister accept that it was under the previous regime of the Muslim Brotherhood that many women in Egypt lost their rights? Many of the women I know told me—perhaps the noble Earl has had similar experiences—that they were asked to wear the hijab when they had never worn it before; warned not to apply for jobs in public services; and told not to expect the same pay rises and promotion opportunities as their male counterparts. They said that under this regime that, at least, has improved.

The Earl of Courtown: With her great knowledge, the noble Baroness makes some very interesting points and I agree wholeheartedly.

Flood Reinsurance (Scheme and Scheme Administrator Designation) Regulations 2015

Flood Reinsurance (Scheme Funding and Administration) Regulations 2015

Motions to Approve

3.07 pm

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

That the draft Regulations laid before the House on 1 July be approved.

Relevant documents: 1st Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 27 October

Motions agreed.

Maximum Number of Judges Order 2015

Motion to Approve

3.08 pm

Moved by ***Lord Faulks***

That the draft Order laid before the House on 7 September be approved.

Relevant documents: 4th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 27 October

Motion agreed.

Asian Infrastructure Investment Bank (Immunities and Privileges) Order 2015

English Apprenticeships (Consequential Amendments to Primary Legislation) Order 2015

Motions to Approve

3.08 pm

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

That the draft Orders laid before the House on 21 July and 12 October be approved.

Relevant documents: 3rd and 6th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 27 October

Motions agreed.

Byelaws (Alternative Procedure) (England) Regulations 2015

Motion to Approve

3.08 pm

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

That the draft Regulations laid before the House on 21 July be approved.

Relevant documents: 3rd Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 27 October

Motion agreed.

European Union Referendum Bill

Committee (2nd Day)

3.09 pm

Relevant documents: 5th Report from the Constitution Committee, 9th Report from the Delegated Powers Committee

Clause 2: Entitlement to vote in the referendum

Amendment 14

Moved by ***Baroness Miller of Chilthorne Domer***

14: Clause 2, page 2, line 7, at end insert—

"( ) any United Kingdom citizen who does not fall within paragraph (a), but is resident in the European Union and has registered to vote in the referendum,"

Baroness Miller of Chilthorne Domer (LD): My Lords, I remind the Committee of my interests as declared in the register: when Parliament is not sitting, I live in France, where my husband and I have a vineyard and a wine business. We have many friends there who are UK citizens, a number of whom have lived there for more than 15 years.

I am very grateful to the other noble Lords who have put their names to my amendment. I am sure they will have many good examples to bring before the Committee. Last Tuesday, when we discussed elections, the noble Lord, Lord Dobbs, asked for examples of real people. I am very happy to provide them. Indeed, I gave a couple of examples at Second Reading. But, first, I want to talk about the principle. I make it absolutely clear that I am not arguing for votes for life in general or local elections. Those elections involve different arguments about whether someone has invested in another country emotionally and financially more than they may have done in the country of which they are a citizen. What is before us today is a totally separate and different matter of whether British citizens who have lived in the EU for more than 15 years should have an exceptional franchise in this EU referendum. I am sure that they should.

If we can make a rule that exceptionally, Peers can vote in this referendum, we can surely make the same exceptional provision for a group with at least as great an interest in the matter as anyone in your Lordships' House—and a group, I submit, with a lot more at stake. These British expats in the EU will face a giant step into the unknown, should the vote lead to an exit from the EU. They will face a mass of questions. Will they need to apply to become a citizen of the country in which they live? Will that even be possible? Will they pass any financial or language requirements? What will happen to their healthcare arrangements? How quickly will reciprocal arrangements cease? These issues have all been raised with me by very worried people. Even driving a motor car is not a given. My American friends Hank and Cindy, who live in France, have had real difficulty passing the French driving theory test, which comprises some 3,000 questions, all in a foreign language. I am not sure that many British expats of 70 and over would be able to do that.

Then there are those with businesses. For them, the implications are immense. Brian Cave from south-west France, who has long campaigned on this issue, says:

"There are another half million or thereabouts in business on their own account or employed who are likewise concerned. It hardly needs expressing but they are concerned about the possibility of work permits—free movement around the continent. Free movement of capital for their businesses and for their own future pensions".

With all these massive questions hanging over their future, surely these expats are absolutely entitled to a vote on whether or not the UK should remain in the EU. The fact that they have lived abroad for more than 15 years does not diminish that right but increases it. Years ago, they took to heart in an especially personal way the idea of the EU as a place in which to live and work, and so they have much more at stake. Many moved to the EU for employment after university. Those people often now have children at a critical stage in their schooling, and they will face upheaval in their own careers. In November 2012, a Home Office study showed that the majority of British citizens who emigrated abroad between 1999 and 2010 did so to work. Therefore, they moved abroad for a good reason and do not deserve to be penalised for it.

At this point I will give one example. Jane Golding says, "I now work in Germany as a lawyer under my home title practising EU law. I can do this because EU rules on mutual recognition of professional qualifications allow me to practise under my own title throughout the EU". She has had an international career spanning four different EU countries. She says: "If the UK leaves the EU I could face losing my livelihood, because those rules no longer apply to me. Changing my citizenship, which I do not want to do, would not help. The worst-case scenario would be that I would need to requality. In short, having relied on my freedom of movement to leave the UK to find work in my field I now find myself deprived of a say in my future ".

3.15 pm

There are many who would fall into a different category: retired people. Those who have retired abroad will face great upheaval and many in this group are still UK taxpayers. The have worked as teachers, in the Armed Forces, as doctors, for national and local government, as firemen and nurses. They receive the UK Government pension, so they are UK taxpayers. They have invested a lifetime of work in the UK. Why would they not deserve a vote on its future? None of these people deserves more of a say than other UK citizens, even though their lives will be more affected as a result; nevertheless, they deserve a say, and that is in the vote.

I have asked myself why the Government would resist giving them a vote, especially a Government who allegedly want to give them a vote for life. I have asked myself whether it is a matter of the cost. That is why I have tabled Amendment 18, so that the Minister can explain whether it is too difficult and costly to register them. I find that hard to believe, however, given that the Electoral Commission advertised in February 2015 in the ex-pat press that you could still register online to vote in May 2015. For me, there is no rational reason to deny these people a vote. This Bill provides for exceptions to the normal Westminster franchise, and this group have a right to be an exception and be given the franchise for this EU Referendum Bill. I beg to move.

Lord Hannay of Chiswick (CB): My Lords, I support this group of amendments. Amendments 17 and 19, which are mine, are of a similar thrust to that of noble Baroness, Lady Miller, whose amendment has been clearly and compellingly introduced.

When the Minister replies, I hope he will recognise that we are in calmer waters than we were last Wednesday in discussing the franchise. There is no difference of principle between those moving these amendments and the party of which he is a member, which stated in its manifesto that it believed that this category of person—people who have lived abroad for more than 15 years—should get the vote. I heartily support this view.

I hope that the Minister will also recognise that this class of voter—as I hope it will be—in the European Union countries has a greater interest in voting in this referendum than he or she ever had, or will have, in national parliamentary elections. It would be extraordinary if the Government did not exert themselves to ensure that these British citizens have the vote on this occasion, when their own rights and livelihoods are at stake. The Government have made a great deal of the saying, "the people must have their say". Surely these are people who ought to have their say. They and their futures are directly involved in this. Frankly, it would be appalling if the Government, later in this Parliament, in an act of supreme generosity, gave them the vote—but after the referendum in which they wish to vote. I hope the Minister will give serious consideration to this issue.

Lord Spicer (Con): When the noble Lord said that all UK citizens living abroad should get these rights, did he mean "abroad"? The first amendment in this group refers just to Europe. If he meant "abroad", that is very interesting.

Lord Hannay of Chiswick: Naturally, since I rose to speak to some amendments on the Marshalled List, those are the amendments I am speaking to. If I did not repeat on each occasion, "Those citizens living abroad in other EU countries", then I am sorry but that is what I intended.

Lord Flight (Con): My Lords, this is clearly controversial territory and I look forward to hearing the Government's rationale as to why the line has been drawn where it has. I have to say that I cannot see the argument for allowing British expats in EU countries to have the vote, but not all expats. There does not seem to be much difference between your career taking you to Berlin or to Singapore. Indeed, those who have gone to Singapore are often more likely to return to live in the UK in due course. Where to draw the line is a tricky question. The Scottish referendum was arguably wrong to exclude Scottish citizens who were at that time living in England. If we are to have expats, we should have them all, not just a particular category.

Baroness Royall of Blaisdon (Lab): My Lords, I support the amendments which are on the Marshalled List and which have been comprehensively introduced. I note what the noble Lord, Lord Flight, says, and I would probably have no problem in widening the scope of these amendments to all expats. However, it is clear that people who have moved to the European Union to work are much more directly affected by the European Union than people working in Japan or America, for example. UK citizens who go to work in other member states are specifically worried about their personal and professional status, which will be directly and seriously affected by the EU referendum. As has been said, some face losing their right to work under EU mutual recognition rules, and thus their livelihoods. Changing citizenship would not help them. Of course, if British citizens work for British companies they might also pay national insurance and taxes in the UK. Retired former public servants such as police officers, military personnel, teachers and nurses receive a government pension, taxed at source in the UK, and make a contribution to the UK Treasury. All these people deserve and need a say in the referendum.

Like others, I ask the Minister: if the Government believe it right for British citizens to vote in future general elections, as announced in their manifesto, and will be introducing such legislation, why is it not right to give these people a vote in a referendum that will have a greater impact on their lives than any general election? Perhaps I am being terribly cynical, but I wonder whether the main reason why the Government wish to give Brits abroad a vote has nothing to do with principles or democracy, but with the fact that polling tends to demonstrate that the Conservative Party would gain more than other parties from receiving the votes of British citizens living abroad.

The Minister often cites what happens in other member states to support the Government's case regarding extending the franchise. They say that it is not done in other member states and therefore should not be done in this country. I respectfully point out that 23 member states provide lifelong voting rights for their overseas voters. While I am on my feet, I pay tribute to the many members of Labour International who have campaigned on this issue for many years. I will specifically mention Harry Shindler, a 94 year-old resident of Italy who is an Anzio veteran, and who has campaigned tirelessly to scrap the ban.

Lord Garel-Jones (Con): My Lords, I support this group of amendments. We have had some quite intense debates on this subject already. Many of the amendments debated previously were perfectly respectable but, some might argue, a little far-fetched whereas with this group of amendments, as the noble Lord, Lord Hannay, pointed out, we seem to have moved into calmer waters. We are talking about British subjects who happen to be retired or working in the European Union. The effect of the referendum on their lives would be quite substantial. As the noble Baroness has already pointed out, many of those who are retired are taxpayers here in the United Kingdom. Consequently, given that we have already made a concession to enable members of your Lordships' House to vote in the referendum, I can see no possible reason why we cannot make a similar commitment to British subjects who are working or living abroad.

Lord Tugendhat (Con): My Lords, may I say how much I agree with my noble friend Lord Flight? It is right that expatriates should have the vote, not just in the referendum but in general elections as well, whether they live in Singapore or the EU. When one looks at the way in which Australia, for instance, to take a Commonwealth country, or France, to take another European country, enable their citizens to do that, it seems extraordinary that we are unable to do so.

However, on this occasion we are talking about the EU referendum Bill and what should happen in the case of the EU referendum. I think the most important points have already been made by the noble Baroness, Lady Miller, and by the noble Lord, Lord Hannay. If we want the referendum to be fair, to express the will of the British people and to take account of the interests of British people of all sorts, it would be wrong to exclude those British nationals who are living and working in the European Union. We are members of the European Union. We have been encouraging our firms and citizens to take full advantage of the economic opportunities it offers, and for many that involves working elsewhere in the European Union. These people have been contributing to the British interest and British economy.

Other British people living in the European Union have retired—in Spain, Malta, Cyprus, or places of that sort. They too have rights. They have spent a lifetime in this country working, paying taxes and earning their pensions, and their lives will also be greatly disrupted.

We will come, in due course, to an amendment dealing with the consequences of leaving the European Union. We do not yet know what they will be. It will be a jump into the unknown—the start of a period of great uncertainty. But one thing is clear: we cannot be sure that the free movement of people will remain. A lot of people in this country want to prevent free movement. If they are successful, British people who are working, living and retired elsewhere in the European Union will find that their rights are restricted and their lives will be changed. This underscores the considerable interest that they have in the amendment.

Finally, mention has already been made in this debate, as in others, of the Scottish referendum and the lessons that we can learn from it. One of the things which struck all of us, even those who are as non-Scottish as I am, was that a great injustice of that referendum was the exclusion, not just of Scottish people living in England and elsewhere, but in particular of Scottish soldiers in Scottish regiments, let alone in other regiments who were outside Scotland at the time and who could not vote. That was an injustice and we do not want a repeat on this occasion. I hope the Government will look with favour on this group of amendments.

3.30 pm

Lord Green of Deddington (CB): My Lords, I have one question. Some very powerful points have been made and I do not dissent from the case for granting the vote to British residents in the EU. But we need to

be clear that we are talking about a very substantial number of people here. The number of British citizens in the EU is about 1.3 million, according to the UN Population Division; maybe a couple of million, according to other estimates. We do not know the number of adults, but it is likely to be quite high because of the very high percentage of retired people in certain countries, so we could be talking about something like 1 million potential voters. Some of them will have been abroad for less than 15 years and would therefore have the vote under the present arrangements, but we could none the less be talking about pretty substantial numbers who, under this amendment, would get the vote in this referendum.

What is the justification for confining the vote only to those British citizens in the European Union instead of conferring it more widely? It seems to me that if the 15-year rule is to be abolished—and there are good reasons for that—it should be abolished for everybody. Otherwise, there is a clear risk that passing this amendment would look as though it was an attempt to skew the franchise, with damaging consequences for the longer term. The key thing about this referendum, surely, is that it must be fair and must be seen to be fair. If we are going to do this, let us do it for all overseas citizens.

Lord Anderson of Swansea (Lab): My Lords, with respect it is easy to distinguish between those in Singapore and elsewhere, and those within the European Union. The essential principle should be not only to avoid anomalies or absurdities but to ensure we include those British citizens who have a clear and direct interest in the outcome—those who are clearly stakeholders because of free movement and because they perhaps still have pensions here, and so on. Because of the network of arrangements between us and our partners within the EU, they will be very closely and directly affected, far more than those in Singapore or various other areas. We should seek if possible to try to meet them.

I know from personal experience of having a residence in a part of south-west France that many people there keep a very close interest in what is happening in this country and have a direct financial interest. It seems to me that they have as great an interest as, for example, someone who may come here from outside the EU as a result of marriage, who may have very limited English and who may know very little about our culture and our history. Quite rightly, if they assume citizenship through marriage, they have a say, and so also should those who have perhaps spent a lifetime in this country until they go abroad in retirement. They have very close links with this country and a direct interest in it. Yes, those in Singapore may have that as well, but no one can seriously argue that they have as great a stake as those who live in the EU and keep very close links with us.

Lord Shipley (LD): My Lords, I support this group of amendments, as I did in the Private Member's Bill last year and also at Second Reading and on the first day of Committee. They represent a very major issue of principle. The Minister said on the first day in Committee that the Government had decided to use the Westminster franchise. I think the reasoning was that it is an established system that is easy to implement. The problem is that it is actually a very weak system because of who it excludes. We have heard all the reasons for that in the debate so far. The Government have accepted the principle of votes for life, and planned legislation to amend that anomaly, so I find it very puzzling to understand why the Government feel unable to implement it in time for this referendum, given that there is a fairly good chance that the referendum will not be held until early 2017. I hope that the Minister will explain in some detail why the timetable for legislation cannot permit the votes-for-life legislation promised in the Conservative manifesto to be implemented in time for it to apply.

One point that has not been made so far in the debate is that it is not difficult, in administrative terms, to resolve this problem. All those who qualified for a vote in this year's general election and who may exceed the 15-year limit when the referendum is held are known to electoral registration officers, and extension of their right to cover this referendum would be straightforward to implement. Those not registered to vote in a general election who have lived outside the UK and the EU for more than 15 years could be invited to register using passport, national insurance number, evidence of current residence and evidence of their last residence in the UK.

The noble Lord, Lord Green of Deddington, talked about the numbers involved. Of course, this is an issue of principle—there may well be a lot of people, but the issue of principle seems to me to transcend the issue of how many people might be entitled to vote and how many people might register to vote. I agree with the noble Lord that if the votes-for-life Bill is for all those who live outside the United Kingdom, whether in the EU or elsewhere overseas, that is an issue we need to address. I would be very happy to support an extension to all UK passport holders wherever they live in the world. However, this group of amendments relates to those who live within the European Union. Of course, I accept that an extension of the kind proposed by this group of amendments would give the Government a bit of work. However, set against that should be the rights of all UK passport holders living in the EU to have a say in their future.

We have heard of the concerns that people have. I am particularly concerned as to whether the UK Government will continue to uprate pensions. In many parts of the world, pensions are not uprated. They are uprated within the European Union, because it is part of our agreement as a member of the European Union. Other issues have been raised, but this is really important to those living within the EU outside the UK. It is very important to be clear about these matters, and very important to acknowledge the right of those with a stake in the outcome to have a say. I hope, when the Minister comes to reply, that he will explain why the Government think it is appropriate for them not to have a say.

Lord Lexden (Con): My Lords, the noble Lords who have tabled these amendments have performed a most valuable service which has wider international dimensions, as my noble friend Lord Flight and others have pointed out. I have strongly and consistently supported the removal of the arbitrary 15-year limit

[Lord Lexden]
on the right of our fellow countrymen and women living overseas to vote in our parliamentary elections—a right first conferred by Margaret Thatcher's Government. I urged its removal in my first speech in this Chamber in early 2011. I tabled amendments to the Electoral Registration and Administration Bill in 2013 in order to press the case for change. I took part in subsequent discussions on overseas voting arrangements in a cross-party group chaired by my noble friend Lord Norton of Louth—a group in which my noble friend Lord Tyler played a conspicuous part.

I was delighted when my party included an unambiguous commitment in its recent general election manifesto to sweep away the iniquitous 15-year bar. Swift implementation of that commitment would have dealt with all the aspects of this issue, both as regards the parliamentary franchise and, as a direct consequence, the forthcoming EU referendum. However, the Bill to give effect to the unambiguous Tory commitment has not even been published. I was greatly taken aback to be told, in answer to an Oral Question in July, that there was no certainty whatever that the Bill would reach the statute book before the referendum took place—and it has become even less certain since then. This is deeply disappointing. Nothing could have been more precisely predictable than the emergence of the huge problem with which we are now confronted if swift and early action was not taken.

It is extremely unfortunate, to put it mildly, that work was not set in hand at the earliest opportunity. The Tory pledge was made in September last year. A branch of the Conservative Party's organisation with which I am closely connected, Conservatives Abroad, has two outstanding experts on all the issues involved in extending the right to vote to all British citizens living overseas. They could have helped prepare the way for the Bill, which, if it were now before Parliament, would have prevented the wholly foreseeable problem that the amendments seek to address; unresolved, it will inflict great injustice on a significant number of our fellow countrymen and countrywomen overseas.

It simply cannot be right to hold a referendum in which some British citizens living in another EU member state or elsewhere in the world are able to take part, while others are excluded because they happen to have been absent from our shores for more than 15 years. The outcome within the EU will affect them all equally and profoundly. It will surely be incomprehensible to our fellow citizens living abroad that an election manifesto commitment cannot be implemented by one means or another in time for them to participate in a vote of such overwhelming importance for the nation to which they belong.

We need to imagine ourselves in the shoes of Harry Shindler, to whom the noble Baroness, Lady Royall, paid tribute, and our other fellow countrymen and countrywomen who have been living overseas for over 15 years and have retained a strong sense of British identity. How would we feel about being excluded from this momentous referendum while those who have not reached the 15-year limit can take part? The Bill should be returned to the other place and amended in order to include British citizens who have been living overseas for more than 15 years. In that way, we would uphold the principle enshrined in the Conservative election manifesto.

Lord Bowness (Con): My Lords, I added my name to two amendments in this group. I speak in support of the amendments and of the principles that have been enunciated today. The franchise as envisaged in the Bill is full of anomalies, and it was quite clear from the first day of Committee that not all those anomalies will be removed. This, however, is a very simple point, and it is one of justice and fairness. We are speaking of people who have made possibly lifetime decisions to go and live and work in the European Union, and we are proposing to have a referendum that will determine whether or not the state of affairs of the United Kingdom being within the Union continues. In my submission, those people must in fairness have the right to participate.

On the first day of Committee I heard words to the effect of, "a decision to be made by British people". I hope that it is a decision to be made by all British people, not just those whom we are going to be selective about. We have heard that there is a promise to extend the franchise. That makes it even more unjustifiable to deny those British citizens the right to vote in this referendum.

It would be wrong for those who are opposed to it to see British citizens abroad as somehow tax exiles. Many British citizens living abroad may well be non-resident in terms of not living in this country but they will not be non-resident in the eyes of HMRC, whose grasp is tight and long. Those who have family, properties, sources of income or other matters that bind and tie them to this country remain within its net. Therefore, that is justification for enabling them to have the vote.

Putting it into context, we are seriously proposing that they should not have a say in this decision, in contrast with the arrangements of some other member states which ensure that their citizens who live abroad are represented in their legislatures by members specifically elected by those expatriate communities. I do not suggest that we move in that direction, but I think that it helps us to see the context in which this argument is taking place. I support the amendments in this group.

3.45 pm

Lord Grocott (Lab): My Lords, I would like to make a brief intervention, having heard the words "matter of principle" used by a number of contributors. As someone new to this particular debate and this group of amendments, it is slightly odd—is it not?—that a British citizen living in Stockholm under this amendment would be able to take part in the referendum but a British citizen living in Oslo would not. I certainly cannot see an issue of principle that would establish why that should be the case other than what seems to be a weak argument—certainly a very weak argument if it is elevated to being an argument of principle—which is that somehow or other one's entitlement to vote in an election, whatever the election happens to be, should be dependent on someone else's assessment of how significant the outcome of the vote would be for the individual concerned.

We do not do that in any other election that I am aware of. If you have young children at school, you are more likely to be affected by the outcome of a local government election than if you do not, because, as we all know, the bulk of local government expenditure goes into education. A person's right to vote is simply not dependent—or it could never be described as a matter of principle to be dependent—on our estimate of how greatly or significantly the outcome of the vote will affect them. I wonder whether in the rest of the contributions we could acknowledge the validity of that argument.

Lord Hannay of Chiswick: My Lords, just before the noble Lord sits down, could I possibly correct him in so far as my own reference to a principle was concerned? When I introduced the amendment I said that I did not think that there could be any difference of principle between those of us moving this amendment and the Government who represent a party which in its manifesto said that it was going to give these people a vote. That was the issue of principle which I said did not exist between us; I did not widen the reference.

Lord Grocott: My Lords, I was not pointing the finger at any individual and certainly not at the noble Lord, Lord Hannay; I was simply making what I think is a very valid point that it is not for us to judge how significant an election outcome is to someone when we are proposing either to give them the franchise or to withhold it from them.

Lord Dobbs (Con): My Lords, I very much welcome the Government's manifesto commitment to give votes to all expats, no matter how long they have been abroad. It is a very welcome commitment which I look forward to seeing being put into place—but whether it is iniquitous that they have not yet been given the vote, as my noble friend suggested, I am not sure. These are matters of balance and practicality and it is to the practicalities that I will refer very briefly.

I take the point of my noble friend Lord Flight, who asked why, if we are giving votes to people in one part of the world, we should not give them to British citizens in all parts of the world. The Oslo and Stockholm example that the noble Lord, Lord Grocott, offered is very telling. There are something like 5 million British expats living abroad and 2 million of them, give or take a few, live in the European Union. For a very long time they have had the right to vote if they have been there for 15 years or less and I find it deeply distressing, because I believe that they should take an active role in their democracy, that fewer than 20,000 British expats in the European Union have taken up that right to vote. Despite all the efforts and the funding that has been given to advertising by the Government to get them involved, as a group they have shown a very sad lack of willingness to get involved.

Lord Lexden: My noble friend is right about the situation that existed in 2013 and 2014, but a magnificent effort was spearheaded by Conservatives Abroad, though not on its own, which helped greatly to increase the number registered to more than 100,000—not all in the European Union—at the last general election, which was the largest number ever registered.

Lord Dobbs: I am delighted to receive that update, although as my noble friend says, they were not all in the European Union. However, even if we take the figure of 100,000 around the world, that is not an overwhelming example of enthusiasm by that group of 5 million. I wish it had been more—let me put it that way. That is not a criticism. I just wish that it had been more.

Lord Anderson of Swansea: Even a figure of 100,000 is lower than one would like it to be. However, could it be that the small number who have registered for general elections believe that they have a stronger interest in this momentous decision in the referendum than they have had in general elections in the UK, and therefore may be more inclined to register?

Lord Dobbs: I have to grant that that is a possibility. However, this referendum has not exactly been a hidden secret: we have been campaigning about it for years. I would have hoped that if they had a real interest in the referendum, they would have taken the opportunity, as has existed, to sign up. This is not as simple an issue as some noble Lords have made out. It is a matter of great principle. It is a balance. Sadly, we do not know where these people are, in which countries, or how many they are. We will have difficulties contacting them because we do not know where they live. I am nervous that if we make a commitment that we cannot meet, it will end up in a mess. We are all concerned with making sure that this referendum—

Lord Green of Deddington: It is most interesting that the noble Lord should say that the number of registrations is so low. Of course, it will be higher if there is actually a referendum. But if the numbers are relatively small, perhaps I should turn my argument on its head and say that if a large number of people are not concerned here, why take the risk of appearing to alter the franchise in your own direction?

Lord Dobbs: I would hate to turn the noble Lord's argument on its head, and I ask him to forgive me if I have encouraged him to do so. I am simply trying to set out some of the practical difficulties. This referendum could be held as early as September of next year, and I believe that this legislation could not be implemented until the early part of next year. It imposes extraordinarily difficult practical problems, and the last thing that any of us wish is an outcome that looks like a mess because of unsatisfactory registration. I ask my noble friend to consider that. If there were a sensible way of ensuring that all British expatriates abroad could be put on the register by the first possible opportunity of September next year, I would very much welcome it.

Lord Tyler (LD): Is the noble Lord aware that the Electoral Commission does not anticipate any great difficulty? As a result of the very considerable efforts made before this year's general election, to which the noble Lord, Lord Lexden, has just referred, the arrangements are hugely improved—not least, of course, because of online registration. If the noble Lord, Lord Dobbs, has information from the Electoral Commission that is adverse to that particular advice that it has given previously, perhaps he will give it to the Committee.

[LORD TYLER]

Lord Dobbs: I will be delighted to, and I thank the noble Lord for his intervention. I talked to the Electoral Commission just a little while ago, before the vote last week on individual electoral registration. It emphasised that if we were, for instance, to offer 16 and 17 year-olds the vote, which is a position, as he knows, that I have put forward, it would have exceeding difficulty—the noble Lord shakes his head. I am not quite sure what I have said that he could possibly disagree with, as I have not yet come to a conclusion. Maybe he has already made up his mind. The commission said that it would have exceeding difficulty in making those arrangements for 16 and 17 year-olds who are in this country before the autumn of next year. How much more difficult would it be for people when we do not know who they are or where they are? I ask this Committee to consider the practical difficulties of what we are asking for and not to end up passing bits of legislation that make the referendum a mess.

Lord Wallace of Saltaire (LD): My Lords, I think that the noble Lord, Lord Green, was implying that we would expect expats living elsewhere in the European Union to vote in one direction rather than another. Certainly during my most recent visits to southern France, southern Spain, Portugal, Italy and Cyprus, it became clear that the two British newspapers that are most readily available are the *Daily Mail* and the *Daily Telegraph*. The *Guardian* is the most difficult one to obtain, so I am not sure that one should assume that people will naturally vote one way or another.

Lord Dobbs: Again, I am grateful for the intervention, but I hope now to be able to sit down. I do not think that the noble Lord was listening because I do not believe that I made the slightest indication as to whether expat voters would vote one way or the other. That is not our concern, and the decision should not be based on whether they are likely to vote in one direction or the other. It is a matter of rights and of practicality.

Lord Hamilton of Epsom (Con): My Lords, I support the remarks of my noble friends Lord Flight, Lord Dobbs and Lord Lexden, and indeed the noble Lord, Lord Green. It seems to me that if you are going to enfranchise British citizens living in the EU, you must spread that across the whole world. It is only on the margin that you can argue that somehow a citizen living in the EU has a much greater interest in the outcome of this referendum than one who, say, works in financial services in the Gulf, Singapore or Hong Kong and has every intention of coming back to the United Kingdom.

Lord Tugendhat: As my noble friend will recall, I supported the contention of my noble friend Lord Flight that everybody should have the franchise, but surely there is a very big distinction between somebody working or living in the EU and somebody living or working outside the EU. If we leave the EU and we inhibit freedom of movement for people coming into this country, then freedom of movement for people going out from this country will be affected. Therefore, the people living in the EU will perhaps have their lives very materially affected, which those living in Cape Town or Sydney will not.

Lord Hamilton of Epsom: Of course, when we come to debate whether we should stay in or go out, this is really going to be the basis of the whole campaign: there will be all these wonderful scare stories about how barriers are going to be put up. I remind my noble friend Lord Tugendhat that there are probably just as many EU citizens living in the United Kingdom as there are British citizens living in the EU, and therefore in the inevitable negotiations that will take place after a decision to leave—if such a decision is made—something will need to be done to cater for these people so that they can travel without visas between both countries.

I also remind my noble friend that we are not part of the Schengen agreement, so there is not free movement of citizens directly from the EU into the United Kingdom. They have to show their passports, which they do not have to do when crossing borders in the EU, as we have discovered through the inordinately large number of immigrants now coming into the EU.

I also want to pick up on the point about the timing made by the noble Lord, Lord Shipley. This is obviously of major concern to the Government, and I know that my noble friend will be covering it in his response to the debate, but we must know exactly what is involved in getting these people to register. I make it absolutely clear to the Committee that if an amendment on this is tabled on Report, I shall certainly ensure that another amendment is tabled to enfranchise all citizens around the whole world.

Baroness Smith of Newnham (LD): My Lords, I had planned to keep my comments incredibly brief. Obviously I support the amendment in the name of my noble friend Lady Miller and the amendments in the names of the noble Lord, Lord Hannay, myself and others. Like the noble Baroness, Lady Royall, I feel that we should speak to the amendments that are listed to be dealt with today. While there may well be a case for enfranchising British people who have been abroad for more than 15 years wherever they live, that is not what we are discussing today.

One issue that has come up several times is the number of people. Frankly, I do not believe it matters whether there are 1 million or 2 million British people living in the European Union or EU nationals living in the United Kingdom, or how many 16 and 17 year-olds there are—which was the subject of debate on our first day in Committee. We should be talking about the principles and whether we believe that EU nationals resident in the UK and British citizens who are resident for more than 15 years in the EU or elsewhere should be allowed to vote. Those are matters of principle; the actual numbers really do not matter greatly. Although it was interesting to hear the noble Lord, Lord Green of Deddington, turn himself round on this issue, I am not persuaded that the numbers matter.

4 pm

What does matter—as we heard at the outset from the noble Lord, Lord Hannay—is that it is the Government's policy to enfranchise British citizens who have been abroad for more than 15 years. As this is an issue where we seem to have cross-party support, I would have hoped that we might have had this debate

rather more quickly. Can the Minister offer some thoughts on how the Government will deal with this specific aspect of the referendum, which we have been told in the past will be a one-off, once-in-a-generation event? Waiting for a revision to the Representation of the People Act would significantly disenfranchise people who have a real interest in it precisely because, in terms of the amendment, they are British residents of the European Union making use of the rights that they have as citizens of the European Union. We do not need to be a member of Schengen to have the benefit of free movement, but those people will clearly be affected by this referendum.

Lord Green of Deddington: The reason why the numbers matter is that if we get a close vote, as is possible, and if we are discussing here matters that involve potentially significant numbers, we will need to understand how that would be perceived afterwards.

Lord Spicer: It is notable that pretty well every speaker has spoken in support of what the noble Lord, Lord Flight, said. It was the reason why I intervened on the noble Lord, Lord Hannay, when I asked him whether he really meant "abroad"—because if he had, it would have been a very significant thing. However, we are where we are. I hope the Government—

Lord Hannay of Chiswick: I am sorry; I think the noble Lord has misunderstood yet again what I said. In my opening remarks I said that I welcomed and supported what was in the Conservative manifesto. When it is brought before this House, I will vote in favour of it. I am in favour of the vote being given to all British citizens who live abroad, irrespective of where they live. However, in the context of this Bill, which is about an EU referendum, I have advanced an amendment which is designed to give people who have a serious interest in that referendum the vote. But there should be no mistaking it: I am not distinguishing between the two except in the context of this Bill. I shall be there to vote with the noble Lord when the Representation of the People Act comes forward.

Lord Spicer: I very much understand why the noble Lord makes a distinction, because—I will say it again—the amendment that he has produced in its form will hope to skew the results. One point made in this short debate is that the reason for having this rather skewed amendment is that people who live in the European Union like living there. Well, fine, but it gives a perspective on the answer that they might give in a referendum. I have no doubt that the noble Lord has that in his mind. I therefore say to the Government, who are meant to be neutral in all this, that in the interests of fairness and neutrality, and if they are going to extend the franchise, they should listen to the arguments for doing so on a worldwide basis.

Viscount Trenchard (Con): My Lords, I, too, wholly agree with what my noble friend Lord Flight said—that if we are going to extend the vote in the referendum to those United Kingdom citizens who live outside the United Kingdom, it should be extended to all of them. However, I do not feel that those who live outside the United Kingdom have quite an equivalent right to vote as those who live here. As democracy was being extended in this country, it was often said, "No taxation without representation". I seem to remember that when I went to live and work in Japan, I stopped paying United Kingdom income tax fairly immediately, although I did have to pay Japanese income tax, which was at rather a higher rate.

I later became chairman of Conservatives Abroad in Japan, and asked for the franchise for those of us who were abroad for a relatively short time with the clear intention of coming back. If you have been abroad for a long time and made your life abroad and have no intention of coming back to the UK to live, your right to have your voice heard in a general election or referendum is somewhat less. There may well be a case for extending the franchise beyond 15 years to United Kingdom citizens abroad, but there are practical difficulties in tracing who they are. On which electoral register would they be if they no longer have any family members living in the area where they previously lived? It seems rather complicated, so I cannot support the amendments.

Lord Liddle (Lab): On the point about British citizens living in the EU, of course I go along with the principle of no taxation without representation, but many of our citizens who live on the continent worked in Britain all their lives, paid taxes all their lives and have gone to the continent to retire. So it is a bit hard to deny them the vote on the no taxation without representation ground.

Lord Dobbs: If they have gone to the continent to retire after an active working life in this country, the chances are that many, if not the majority of them, will still have the vote under the existing 15-year legislation. Not all of them, but very many.

Baroness Morgan of Ely (Lab): I hate to break the cosy consensus that is obvious here in the Chamber today, but the Labour Party does not believe that the vote should be extended beyond 15 years to people living in the EU. We are intensely aware that some British people who live abroad, especially in EU member states, have maintained a close connection with their mother nation. As we have heard, many of them continue to contribute through taxation or simply feel that the UK is still their home. But the fact is that they do not live in this country, and we argue that 15 years is a reasonable amount of time to take into account short-term work contracts, for example.

The issue of citizenship and the responsibilities of citizens is a complex and difficult area, especially in the UK. We heard last Wednesday about the report written by the noble and learned Lord, Lord Goldsmith, on the six different categories of citizenship in this country. It would be appropriate for this House to have a broader discussion on citizenship at some point. However, if in principle, as we were discussing on Wednesday, we want people who have been in this country for more than 15 years integrating, taking part in their communities and setting down roots, should we not ask British people to do the same in their adopted countries? That was part of the point made by the noble Viscount, Lord Trenchard.

[Baroness Morgan of Ely]

It is also worth taking note of the remarks made by the noble Lord, Lord Grocott. If we introduce a system whereby we look at who is going to be impacted, and whether they therefore get a vote, we are on a pretty dangerous path.

It is also worth taking note of the practical issues set out by the noble Lord, Lord Dobbs. How do we register these people? We are keen to see the franchise extended to 16 and 17 year-olds. How do we start rounding those up across the EU or the whole world?

We are particularly aware, however, that there are people in the EU who have remained there because they are flying the flag on behalf of our country. I know that people who have worked in the EU institutions for many years are upset that they are going to be disfranchised following years of service in the European Commission or the European Parliament.

We know that many people have lived in the EU for more than 15 years. They will feel very vulnerable at this vote because the one thing we cannot be sure about if the UK votes to leave is what their status will be in the countries in which they have made their homes. Will they be able to stay in some countries but not others? Will they be able to use the health service in their adopted nations?

Lord Hamilton of Epsom: Will not the noble Baroness accept that there are large numbers of EU citizens living in this country? There will be a period of prolonged negotiation if the vote is made to leave, and obviously the status of EU citizens living in the United Kingdom will be addressed in the same way as British citizens living in the EU. All these matters will be resolved through negotiation.

Baroness Morgan of Ely: That is easier said than done. The suggestion is that this will be a prolonged period. However, the reality is that the negotiation would have to be concluded within two years. That is not a long time for people to look at their status within a nation and for us to look at the status of EU citizens within this country. You have to understand the practicalities of the mechanism for disentangling our relationship with the EU if people were to vote to leave it. It is important to understand whether people would be able to get their pensions transferred if we were to leave the EU.

We have had no answers from the UK Government on these issues but there must be no question whatever about the legitimacy of this referendum. We believe there should be a cut-off point in terms of when people should lose their entitlement to vote if they have made their home abroad. We think the current cut-off point of 15 years is about right. However, let me make it absolutely clear that there is no inconsistency in the Labour position on this. The Conservative Government have said clearly that they want to see it extended; that they want British citizens who move abroad to be able to vote for ever. We do not believe that and we will object to that Bill when it comes to this House. I hope the House will agree that at least there is a degree of consistency in the Labour Party position on this issue. We do not want to see this franchise extended beyond 15 years.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, the purpose of this group of amendments is to allow British citizens resident in other EU member states to vote in the EU referendum irrespective of the time they have been resident overseas. This would lift the current 15-year time limit on voting rights for British citizens resident overseas, but only for those Britons resident in the EU. The noble Lord, Lord Hannay, said that with this group we were entering calmer waters. The waters proved to be calm-ish. As noble Lords will be aware, the Government are committed to lifting the 15-year rule. I trust that some of the support that has come from various quarters of the House will be extended when we bring forward a dedicated Bill in due course.

We should not make novel changes to the franchise lightly. Both Houses will need to consider it very carefully. It would require complex changes to the electoral system; we would need to take decisions about how to deal with potential fraud, and how to update electoral registration and ensure that changes are fair and robust. The principle—though I hesitate to use that word in this debate—is simple, but there is real complexity here as well. Critically, we want to include all British citizens living overseas, not only those living in other EU member states. The noble Lord, Lord Grocott, pointed to differences that might arise between Stockholm and Oslo with this amendment; my noble friend Lord Flight compared Berlin and Singapore. I know that the noble Baroness, Lady Miller, is not concerned with those outside the European Union, and that the noble Lord, Lord Anderson, said that things are rather different if you are not in the European Union. However, it may not be easily justifiable to distinguish between those living within and outside the European Union. The noble Lord, Lord Grocott, was right to say that degree of interest—either specifically or in terms of effect—is not the criterion for deciding whether somebody is allowed to vote. Some who live within the European Union may be entirely indifferent to what happens in Europe; some who live outside the European Union may be either directly affected or significantly concerned with the outcome.

4.15 pm

During the debate, reference was made to the number of British citizens living overseas and in the European Union. As I understand it, there are no official statistics on the number of UK citizens resident overseas, but the figure that the Government believe most accurate is from the World Bank's estimate of migrant stocks in 2010, as updated by the UN Department for Social and Economic Affairs in 2013. This report estimates that approximately 5.2 million British-born migrants live overseas, of whom approximately 1.3 million are in other EU countries. We have no figures that distinguish between British citizens who have lived overseas for more or less than 15 years.

My noble friends Lord Dobbs and Lord Lexden had an exchange about the number of citizens who applied to vote. My noble friend Lord Dobbs was right to say that, ahead of the 2015 general election, 113,000 overseas citizens applied to register to vote. The highest number before 2015 was 30,000, when British citizens resident abroad were first given the

right to vote. That increase in overseas registrations can be attributed to a combination of a greater ease of registering and a £500,000 investment by the previous Government to encourage those living overseas to vote.

The noble Lord, Lord Tyler, who is not in his place at the moment, made reference to what he thought the Electoral Commission had said about the relative ease of amending registers to deal with the results of this amendment. There is nothing in the Electoral Commission report to support what he says. In a passage that was referred to in our previous debates, the Electoral Commission concluded that:

"While the date of the referendum remains unknown, it will be difficult for EROs, the Electoral Commission and campaigners to plan activities required to target and encourage any newly enfranchised electors to register to vote".

As has been said in this Chamber in other contexts, it is most important that registration should not be rushed, in case those who may be newly enfranchised feel that they have been excluded from the register because it has all been too rushed.

Lord Hannay of Chiswick: Is the Minister seriously suggesting that, if and when the piece of legislation we are now discussing goes on the statute book—which I hope and think will probably be around Christmas—the Electoral Commission will have any inhibition at all in getting on with it, should it contain a provision that this group of people should have the vote? Surely he is not suggesting that the Commission has to wait until the Government decide the date of the referendum before it starts work.

Lord Faulks: The date of the referendum is of course unknown. No doubt the Electoral Commission will fulfil whatever the existing legislative obligation requires it to do. It may require a great deal of energy and expenditure, and while I am not saying from the Dispatch Box that it would be impossible, one should not underestimate the complexities involved in the process.

The noble Lord, Lord Shipley, said in effect that he is concerned that there was some form of delay by the Government. Perhaps I may reiterate that the Government are committed to scrapping the 15-year rule and they are currently considering the timetable to do this. The date of the referendum is not known, so I am afraid that I cannot make any commitment that votes for life will be in place in time for the referendum. However, we should remember that many British citizens living abroad will be eligible to participate in the referendum vote.

Baroness Royall of Blaisdon: My Lords, forgive me, but I am bound to ask this. The Minister has cited the complexities of introducing new legislation, which I accept entirely. But knowing of the complexities involved and the organisational challenges mentioned by the noble Lord, Lord Dobbs, and knowing that we are going to have a referendum, why was the legislation to extend the franchise to all citizens living abroad for the forthcoming elections not introduced as one of the first Bills of this parliamentary Session?

Lord Faulks: The Government have their priorities and a considerable amount of legislation has been introduced, some of which has moved fairly slowly through your Lordships' House. I cannot speak for the Government's assessment of their priorities. This is an important matter and it will no doubt take its place in due course.

The noble Baroness, Lady Royall, suggested that the Government's enthusiasm for UK citizens having a vote outside the EU might be motivated by their apparent desire to vote Conservative. As I have said consistently from the Dispatch Box, we have no idea how people would vote, whether they live in the EU or outside it. The Government are simply not concerned with trying to second-guess anything. They are concerned only with legitimacy—here, I agree entirely with the noble Baroness—that people feel there has been no manipulation and no sense that there has been an attempt to skew the result, however illegitimate they might think it was. We suggest that the best criterion is to have the Westminster franchise. Of course, I am sympathetic to much that lies behind the amendment, having regard to the Government's commitment in respect of votes for life.

I should finally point out that many British citizens living in the EU and elsewhere in the world will be able to vote in the referendum as long as they have not been living overseas for 15 years or more. The parliamentary franchise already allows them to vote. So while I am sympathetic to the amendment, I do not believe that this is the time or place to make those changes.

Baroness Miller of Chilthorne Domer: My Lords, I warmly thank all those who have spoken in this interesting debate, which I think has fleshed out some of the major questions. I would like to make a couple of points. The noble Lord, Lord Grocott, asked what the difference is between someone living in Oslo and someone living in Stockholm, and other noble Lords had that question in their minds. The difference is that the people living in EU countries, when they decided to work or to retire abroad, for example, did so on the basis of being EU citizens, not citizens of anywhere else. What we are possibly about to remove in the EU referendum, if it goes the other way, is that EU citizenship. That puts them into a totally different category.

Lord Grocott: But, my Lords, as soon as you start speculating about other people's motives, you end up in pretty deep water. It might be that someone has gone to live and work in Oslo because Norway is not a member of the European Union. You simply cannot make those kinds of judgments about people's motivations.

Baroness Miller of Chilthorne Domer: I am clearly not going to agree with the noble Lord on that one. I think that there is a basic difference between us in our understanding of what being an EU citizen is. However, I was not as depressed by that argument as by the one put forward by several noble Lords—notably the noble Lord, Lord Dobbs—that it really all seems to be much too difficult. There are too many people and how would we reach them? That is not a reason for not giving people the vote.

Lord Dobbs: The noble Baroness really must not misunderstand me. I was not saying that it would be too difficult; I was simply saying that there are practical

[Lord Dobbs]
issues which need to be taken into account. They cannot be swept aside by somebody's passion for a principle that they have suddenly grabbed on to in opposition, but seemed to be rather quiet about when they were in the coalition Government.

Baroness Miller of Chilthorne Domer: I think what the noble Lord said when he referred to *Hansard* was that there were too many practical problems. That comes back to the Government's attitude, too. I can see that we are not likely to agree at this stage, but I am very glad to have discovered the true objection to the reason for giving people a vote. Before Report, it would be very useful if noble Lords dissociated votes for life, which is a totally different issue, from the right to vote in the EU referendum. I respectfully say to the noble Baroness, Lady Morgan of Ely, that she talked a lot about what is effectively a votes-for-life issue. When we come back to the Bill on Report, we need to concentrate solely on the EU referendum and not get diverted by something the Government seem to offer as a sop, saying that there is going to be a Bill on votes for life, if there is time, in this Parliament. Most of the EU ex-pats I have come across are Conservative voters—so I am not batting for them because I think we will do well out of it in the long run—and they are appalled at being given such a short straw.

Finally, several noble Lords who oppose these amendments seem to draw comfort from the fact that lots of EU citizens have been in the EU for less than 15 years and therefore would have a right to vote. That is no reason to feel better, because noble Lords themselves have discovered the inequity in their argument. I will come back to this issue on Report, but in the meantime I beg leave to withdraw the amendment.

Amendment 14 withdrawn.

Amendments 15 to 19 not moved.

Clause 2 agreed.

Amendment 20 not moved.

Clause 5 agreed.

Amendment 21

Moved by ***Lord Hannay of Chiswick***

21: After Clause 5, insert the following new Clause—

"Report on the consequences of United Kingdom withdrawal from the European Union

(1) No later than 12 weeks prior to the appointed date of the referendum, the Secretary of State shall publish, and lay before each House of Parliament, a comprehensive report on the possible consequences of withdrawal from the European Union, taking into account the reports published under the Review of the Balance of Competences.

(2) The report provided for by subsection (1) shall include information on—

(a) the effect of withdrawal on the rights of individuals within the United Kingdom, including the effect on employment rights;

(b) the rights of European citizens living in the United Kingdom following withdrawal;

(c) the rights, following withdrawal, of United Kingdom citizens living in another country that is a member of the European Union;

(d) the legislative and statutory consequences of withdrawal for each government department and for the devolved governments of the United Kingdom, including for social and environmental legislation; and

(e) consequences of withdrawal for law enforcement, security and justice in the United Kingdom and in the devolved jurisdictions."

Lord Hannay of Chiswick: My Lords, we have now moved away from the franchise—and not before time, as we have spent quite a lot on it. I suspect the Minister will be able to pass on the baton at this moment, but we are moving on to a matter of substantive policy. Above all, these amendments seek to address what most debaters on both sides of the argument in this House, the other place and the country recognise as being a genuine problem: the lack of objective information about the implications of the referendum vote. All the opinion polling over many years has demonstrated that there is a great deal of misunderstanding, and sometimes misrepresentation, of the facts of our membership and what would be implied by our leaving the European Union if the vote goes in that direction.

4.30 pm

These amendments are designed to persuade the Government to include in the Bill certain obligations to provide, or to have provided, information of an objective kind that will enable the electorate to make up their own mind—not to tell them how they are to vote. There will, of course, be a huge amount of advocacy from both sides in the months ahead. That is exactly as it should be. This is a democratic process and advocacy is part of that process. I am not for one moment criticising the fact that that will take place, but it will not be designed to provide objective information. It will be designed to present information in a persuasive way, and that is a different thing. As I say, there appears to be a rather wide lack of objective information on this area of the European Union. I hope that the Minister, who is always extremely good at listening to points that are put, will consider that very carefully.

Lord Grocott: I am grateful to the noble Lord for giving way. I do not disagree at all with what he is saying about providing as much information as possible on the consequences of withdrawal. As other amendments propose, that information should also address the consequences of remaining in. Both sides should be presented. What I am not absolutely clear about is his suggestion that there can be an objective set of propositions on these matters. How would one present an objective position on, for example, the costs of the common agricultural policy?

Lord Hannay of Chiswick: I am sorry to disappoint the noble Lord but the amendments to which I am speaking do not relate to presenting anything about the common agricultural policy. That is not in the list of areas provided here. These amendments, and the request for a report from the Government, address factual areas where people's rights or responsibilities will be affected by a vote to leave. The previous

Government provided a lot of evidence-based material of that nature in the balance of competences review—a review which the present Government seem to prefer to forget that they had any paternity interest in, but they did. It was, I thought, a pretty good piece of work and there is a huge amount of material there. However, it is not yet addressing satisfactorily some of the factual areas. What are those factual areas? First, there is the question of the rights—

Lord Grocott: I am sorry to interrupt the noble Lord again and I am grateful to him for giving way. He slightly threw me by saying that this has nothing to do with the common agricultural policy. However, subsection (2)(d) of the proposed new clause refers to, "the legislative and statutory consequences of withdrawal for each government department".
It would be very strange for the information on the consequences of withdrawal for the department concerned with agriculture not to include a reference to the common agricultural policy.

Lord Hannay of Chiswick: I am sorry. I will get to that. I hope that the noble Lord will be patient and wait until we get to that part of the amendment. I will then explain what it is intended to suggest.

The first area where it is suggested that it would be valuable for the electorate to have a factual assessment of the consequences of a decision to withdraw relates to the rights of individuals, including their employment rights. It is not important to tell them how these rights would be affected by a decision to stay in as in that case the rights would be the same as they have now. The second area concerns the effect of withdrawal on the rights of EU citizens in this country, many of which are secured under EU law. They also need to know what the consequences would be.

The third category is the rights of British citizens in the rest of the EU, the people about whose ability to vote we were discussing in the previous set of amendments, but who have serious rights bestowed on them under EU law that they would lose if we left. I am afraid that it is no good, as the noble Lord, Lord Hamilton, kept saying in stating that it is sure to be all right on the night, and that there are an awful lot of EU citizens here and an awful lot of our citizens there, and that it will all roll out. That is the leap in the dark proposal. People who leap into the dark sometimes find that they have fallen rather a long way.

Then there is the point raised by the noble Lord, Lord Grocott, which is a further category—the legislative and statutory consequences of withdrawal, department by department, and addressing the legislative burden. That asks the Government what they would have to do in order to replace the common agricultural policy if we withdrew. Presumably nobody in this House seriously believes that the British agricultural economy could survive without any governmental involvement. There would have to be a British agricultural policy and that would have to be enacted by Parliament. There would have to be a British policy on research and on business regulation, and a whole range of things, many of which are contained in European Union law. This amendment asks the Government to set out what those requirements would be in the circumstances that I am describing.

Lord Hamilton of Epsom: Does the noble Lord accept that there would indeed have to be a new policies on these, but that there would be plenty of money to pay for them as we would not be paying our net contribution to the EU any more?

Lord Pearson of Rannoch (UKIP): My Lords, before the noble Lord replies—

Lord Hannay of Chiswick: I do not know whether the noble Lord, Lord Pearson, is intervening in my speech. Perhaps I could reply to the noble Lord, Lord Hamilton. That is the normal practice. The point that he raised is perfectly valid, but it is not called for in this amendment. The question of the financing of these policies would as usual escape the control of your Lordships' House and be dealt with in a Budget. I imagine that British farmers need to know under what regime they would live, what the rules and regulations would be, and above how all that regime would be brought about in time.

Lord Pearson of Rannoch: My Lords, perhaps I can put a little flesh on my noble friend Lord Hamilton's question. I do not know whether the noble Lord, Lord Hannay, saw the Pink Book figures that emerged on Friday. They state our gross contribution for 2014 as £20 billion, of which the mandarins in Brussels were graciously pleased to send back to us a mere £7.5 billion. In the spirit of the noble Lord's question, does the noble Lord, Lord Hannay, agree that we would have at least £12.5 billion clear to meet any financial difficulties arising from the points that he is making?

Lord Hannay of Chiswick: No, I do not agree and I do not have to address it in this debate, because it is not what we are debating. I remind the noble Lord, Lord Pearson, that in the most recent certified figures, which were produced for 2013—I am not aware of the ones to which he has just referred—the British net contribution per capita was ninth, behind that of France, Germany, Italy, Sweden, the Netherlands, Belgium and Luxemburg, and a few other countries.

Lord Dobbs: My Lords—

Lord Hannay of Chiswick: No, I will not take more interventions on the budgetary issue. That is not what this is about.

Lord Dobbs: It is not about the budgeting—I am grateful to the noble Lord for giving way. I want briefly to draw his attention to a Legatum Institute report today which ranks the prosperity of various nations in the world. Britain happens to have the best record in the last year of any major European country. Interestingly, according to that report the first and second most prosperous countries in Europe turned out to be Norway and Switzerland. I do not know what the noble Lord reads into that but I thought that it would be of interest to his discussion.

Lord Hannay of Chiswick: I will probably cause the noble Lord, Lord Pearson, apoplexy if I say that what I read into it is that we are probably paying less into the European Union than we ought to, if we are so prosperous and yet only ninth in our per capita contribution.

Lord Spicer: Can I ask one question about what is in the noble Lord's amendment? In Amendment 21, subsection (2)(e) of the proposed new clause refers to comparing what the effect will be on jurisprudence, criminal law and so on. How dynamic will be the base from which this assessment will be made? It is always argued, for instance, that we will never have a totally Europe-wide criminal law but we all know that that is the direction we are going in. What is the baseline from which this assessment will be made?

Lord Hannay of Chiswick: I think that the noble Lord is referring to the last paragraph of the subsection, which is on law enforcement. The situation there is fairly easy to follow. The present situation is that we have opted back into, I think, 36 justice and home affairs measures—no, it was fewer than that. It is Protocol 36 but the number is somewhere in the 30s, and those measures are the ones that apply in this country now. The ones that we did not opt back into do not apply and would therefore not be affected by a decision to withdraw. The ones that we did opt back into and which do apply in this country would be affected by a decision to withdraw. They include things such as the European arrest warrant.

If I may skip on to this part of the amendment, the implications for law enforcement, security and justice and, above all, for the European arrest warrant are extraordinarily serious. We discovered at the time of the Protocol 36 discussions, which were pretty intensive in this House, in the other place and in the public press, that the consequences for law and order on the island of Ireland could be extremely serious if the European arrest warrant did not exist. It has in fact managed, for practically the first time in recorded history, to depoliticise the issue of extradition between the two parts of the island of Ireland. It is now possible to get back criminals, including terrorists, who are wanted for trial in Northern Ireland from the south without a highly politicised process, and very expeditiously. That would be lost if the European arrest warrant ceased to apply in this country and, I suggest, that would have pretty serious implications for the rule of law in Northern Ireland.

Lord Hamilton of Epsom: Does the noble Lord not accept that there are extradition treaties with other countries that are not in the EU, so there is absolutely no reason why they should not go on within the EU after we had left?

Lord Hannay of Chiswick: I really do not think that we should delay the Committee with a replay of the Protocol 36 debates. The noble Baroness, Lady Anelay, is looking quizzically around. She was the Chief Whip at the time and was very familiar with the arguments. The fact of the matter is that every legal body in this country—the Bar Council, the Law Society and anyone else noble Lords might like to think of—came forward at that time and said that to renegotiate extradition agreements with each of the other member states of the EU would be defective and slow, and that it would not work as well as the present arrangements.

In any case, this is not a request to go around that course again. Parliament has decided that we are in the European arrest warrant and in the other wings that we opted back into. This is a request for the Government to provide factual information about what would be at stake if the electorate were to vote to withdraw from the European Union. It is surely reasonable for that information to be provided and along with it, naturally, the implications for law and order, law enforcement and so on—and for Northern Ireland.

On the need to introduce new legislation, I mentioned the agriculture and fisheries policy. We would have to construct a new tariff. We would have to decide the tariff we were going to apply, rather than the common external tariff of the European Union. That is no small matter. It affects every single business in this country. The level at which we would apply the tariff would have to be decided. It could be lower than the common external tariff, which would be helpful to freer trade; or higher, in which case we would have to pay compensation to every other country in the world; or the same, in which case, what the hell were we doing? These are important points and I hope that the Minister in her reply—

4.45 pm

Lord Pearson of Rannoch: My Lords, if the noble Lord is referring to our markets in the European Union, we happen to be its largest client. Is there any reason why we should not continue exactly as we are in our mutual interest?

Lord Skelmersdale (Con): My Lords, before the noble Lord replies, can we get back to some sort of order, so that we can have the points explained with some degree of logicality? If the noble Lord, Lord Hannay, has finished his original speech on presenting the amendment, could he perhaps move it so that we can get on in the normal way?

Lord Hannay of Chiswick: Yes, I would be delighted to do that. I have been interrupted rather a lot of times. I will reply to the noble Lord, Lord Pearson, before following that sage advice. I was not addressing just the question of our trade with other member states. There will be plenty of other opportunities to do that. I was talking about our trade with the rest of the world. If the vote goes for withdrawal, we will have to construct a new British tariff. If that tariff is above the level of the common external tariff, we will have to pay compensation under the WTO rules to every other member of the WTO. These serious matters need to be brought out into the open. I beg to move.

Lord Wigley (PC): My Lords, I support the noble Lord, Lord Hannay. I cannot see how any reasonable person could possibly object to the amendment, in terms of getting the information that is needed to enable people to come to a balanced decision. Of course, whichever way they vote, the information should be neutral and factual.

My Amendments 28 and 29 are linked to this group and refer to two specific areas, including agriculture, which the noble Lord, Lord Grocott, addressed a few moments ago. Amendment 28 raises the issue of European Union structural funds. This area is of great significance to two-thirds of Wales, which are within the structural

fund area and which, since 2000, have received several thousand million pounds, first from Objective 1 funding, then convergence funding and now the current round that runs to 2020.

Currently many organisations in Wales in the public and private sector look to these sources of funding to make a vital difference. If leaving the European Union during this time is going to change the entitlement to such funding, it clearly has a direct, immediate effect on such organisations, whether universities, local government or people in the private sector. They have a right to know about this.

It is not unreasonable to ask for an assessment in the generality but also specifically with regard to the regions that have a direct entitlement to such funding. Some areas, such as South Yorkshire, Merseyside, Cornwall and Northern Ireland and, in the past, the Highlands and Islands of Scotland have benefited from such funding. It is of material consequence. It is made available on the basis of the low level of the economic performance in areas such as Wales. Our GVA per head now stands below 75% of the UK average, because of the failure of successive economic policies. We will not go into whether that failure is on account of what has been done here at Westminster or in the Assembly, but the funding is because of that failure. We are entitled to such funding to try to trigger the economy. Cornwall has undoubtedly succeeded to a considerable extent by using this funding, perhaps better than we have in Wales. Although the authorities in Brussels say that the way in which Wales has used the funding has been an example to other parts of Europe, none the less, we still have these economic problems. People in Wales deciding whether to vote to leave the European Union or to remain in are entitled to some assessment of what effect a loss of this funding might have.

I take the point that was made in the context of the earlier exchanges that perhaps the Treasury would make up for this loss. But history does not fill us with a lot of confidence about that. Until 2000, we were not getting anything at all, because the Treasury refused to put forward proposals to Brussels that would entitle Wales to such funding. It drew a map, divided from north to south, and made sure that neither side of that line was entitled to get the money. It was only when a new map was put forward that we got our entitlement.

Then there was the experience even after we started getting money from Brussels. In 2000, when the Objective 1 money was coming through, we found that it was not being passed on by the Treasury to the National Assembly. We were expected to spend the money but were not getting the contribution from the Treasury because we were already being looked after very well indeed. I went off to Brussels with a delegation to see the then Commissioner for Regional Policy about this. When we explained the situation to him, he turned to his officials and asked in French, "Could this possibly be true?". His officials confirmed that, yes, Brussels was passing the money over to the Treasury in London and it was not being passed to those areas that were entitled to get the funding. It was outrageous. To his credit, the Commissioner took the matter up with the then Chancellor of the Exchequer, Mr Gordon Brown, and in the financial review a few months later—in July 2000 or 2001, if I remember right—an adjustment was made of the £442 million that had come from Brussels which was meant for Wales but had not been passed over. How on earth can we be expected to have full confidence that London will step in and fill the breach when that has happened in the past? At the very least we should have an assessment made as to what the effects would be, not just in Wales but in the other areas that might be affected by this.

Amendment 29 moves on to the question of agriculture. Whatever the pros and cons in various parts of the United Kingdom of the common agricultural policy may be, the farming unions in Wales have no doubt whatever what the impact will be, as 80% of farm incomes in Wales are dependent on Brussels. Of course, we will be told, "Ah well, that will be made up for again". Are we going to go back and have something like the Milk Marketing Board regime or the type of sheep meat regimes that we had prior to the European Union? So much of our market for sheep meat is in Europe and the dependency of sheep farmers in particular on the European Union is very considerable indeed. I am not saying that I know all the answers to these arguments—I do not—but the farmers and those in the universities and other sectors of the economy are entitled to know them. At the very least, clear and unbiased statements about the factual reality should be put out by a Government who have looked at both sides of the argument.

At present, Wales gets a net advantage of some £40 per head per annum from the European Union. It is not a tremendous sum but it is an advantage—other areas will no doubt have a disadvantage. People should know, to the best of our ability to tell them, what the effect of pulling out would be. That is the point of these amendments, which have the same objective as the earlier amendment that has been moved. I very much hope that the Government will give some firm commitment on these matters.

Lord Blencathra (Con): My Lords, I will speak to my Amendment 27. I agree entirely with the noble Lord, Lord Hannay, that this group of amendments and the consequences of leaving or staying in are among the most important that we shall debate in this House. The noble Lord, Lord Hannay, has moved an amendment asking the Government to report on the possible consequences to the UK if we vote to leave. I believe it is equally important that we have an assessment of the likely consequences if we vote to stay in. Some might ask how one can report on that when one has no idea what the EU might agree to in a future treaty. That is true, but only to a certain extent. There is a track record here; the EU has a bit of form on this. It is not as if we have not been here before on numerous occasions.

In 1989 we had the Delors report, calling for full European integration. It was pooh-poohed by the UK Government and press as something that was never going to happen, but that ignored the inexorable drive to ever-closer union—though that was not the terminology then—that led to the Maastricht treaty. We got qualified majority voting and the start of interference in justice and home affairs measures, as well as a host of other

[Lord Blencathra]
unexpected consequences. Of course, the British people were given no say in a referendum. So we got the Delors report, warts and all.

About 10 years later, we had the Valéry Giscard d'Estaing grand report, the draft treaty establishing a constitution for Europe. This, again, was pooh-poohed by EU supporters as not being a radical change, and nothing to worry about. If I recall, the UK Government and press condemned it and said that it should not and would not happen. It was vetoed by France and then the EU did what it always does; it reintroduced it in slightly different clothes as the Lisbon treaty. Some 95% of the EU superstate constitution proposed by d'Estaing was incorporated into the Lisbon treaty and the name was changed from "constitution" in order to deceive the electors of Europe. Once again, the British electorate were given no say.

The point I am trying to make with these two examples is that that there is a track record of the EU taking ever more power from national Governments and vesting it in the Commission. Now we come to the core of my amendments, based on the five presidents' report, published in June or July this year. If we say to the British people, "Look at this report; this is what you can expect if we stay in", the response of the BSE campaign will be that it is just some vague suggestions; it may not happen and if it does, it will be years away and will apply only to the eurozone members in any case. In other words, these are the same lines we were spun about the Delors report and the d'Estaing report, but a few years later they became binding treaties.

Baroness Falkner of Margravine (LD): The noble Lord might not know that this House's EU financial affairs sub-committee is looking into the five presidents' report. He might like to see the conclusions of that before he draws these conclusions here.

Lord Blencathra: I thank the noble Baroness. I would be delighted to see the conclusions of any of our august Select Committees. I was privileged to serve under the notable chairmanship of the noble Lord, Lord Hannay, for a while, but I am afraid that the conclusions that this House may draw as to what will happen to the five presidents' report may not accord with the opinion of the five presidents—Jean-Claude Juncker, Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz. I am sure that the noble Baroness will show her conclusions to them; I only hope that they will pay some attention to some of them. My amendment does ask the Government to look at the five presidents' report. My worry is that it is not a question of if some day it will happen but of when it will happen, because that is the track record of previous reports.

A key objective is EU representation on the IMF in place of nation states. Theoretically, the UK, not being part of the eurozone, would keep its seat and independent voice, but that is not the case. We might still have our seat but we would have to sing the EU tune. Under Article 34(2) of the Treaty of European Union, member states are required to,

"concert and keep the other Member States and the High Representative fully informed ... defend the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter. When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall"—

I thought it might continue with "obey", but it is not quite that—

"request that the High Representative be invited to present the Union's position".

That is the position on the United Nations Security Council, where our independent voice now has to be somewhat muted to comply with the EU position. Exactly the same would apply to the IMF.

5 pm

Lord Hannay of Chiswick: I am sorry to interrupt the noble Lord, but I think I might have been responsible for some of the language there and I have to tell him that it was explicitly put into the treaty to safeguard the British position as a permanent member of the Security Council. If he reads it carefully, he will see that we are under no obligation whatever to follow a European decision unless we participate in it ourselves, and these decisions are adopted by unanimity. The saving clause is that our responsibilities under the UN charter are preserved despite the move forward on common foreign and security policy. So I am sorry to say that this fox is just about as dead as it could be.

Lord Blencathra: I am grateful to the noble Lord, and of course I bow to his incredible knowledge of the workings not just of Europe but of the United Nations. Nevertheless, part of the treaty of the European Union has conditions asking all the contracting states, the members of the union, to concert with the EU high representative. That is not the position that we had 20 years ago, and it shows the inexorable move to the EU wanting to take more and more power. I give way to the noble Lord, Lord Kerr.

Lord Kerr of Kinlochard (CB): I see this as quite a difficult amendment because it asks the Government to speculate. The amendment that the noble Lord, Lord Hannay, introduced a moment ago asks the Government to give information; this one is asking them to predict the future course of the European Union. Down the years men have dreamt dreams and had visions, and an awful lot of it has not happened.

The direction is not all one way. If the noble Lord, Lord Blencathra, looks very carefully at the draft constitutional treaty that was rejected by the French, for example, he will discover that it does not include any aspiration to ever-closer union. Does he really think that the French are about to give up their seat in the IMF or on the United Nations Security Council? Many think that there should be reform of the Security Council but the day that the French give up their seat, flying pigs will be seen over Whitehall.

Lord Blencathra: My Lords, that is the one safeguard we may have: the French will always want to retain their seat on the Security Council. I think that we can detect that the day the French wish to give that up, we can rest assured that the whole EU foreign policy will be dictated by the Élysée Palace. I also say to the noble Lord, Lord Kerr, that it is no more speculative

to ask the Government to report on what is in my amendment than it is to ask them to report on, as subsection (2)(c) of the proposed new clause states,

"the rights, following withdrawal, of United Kingdom citizens living in another country".

We have no idea what those rights may be. I do not think there is any EU law at the moment that says that the moment Britain or any other country withdraws, citizens living in that country will be immediately expelled or that conditions X, Y or Z would apply. It would be negotiated.

Lord Spicer: Is the answer to the intervention on my noble friend's speech not that the factual evidence of things moving one way is the embedding in the treaty of the acquis communautaire, which insists legally that we move in one direction?

Lord Blencathra: I agree entirely with my noble friend. And it is one thing for a treaty to say something, but we know how the European Court interprets treaties—towards ever-closer union. I give way to the noble Lord, Lord Kerr.

Lord Kerr of Kinlochard: The noble Lord is very generous. Actually, the Government could publish what the effect would be on citizens' rights of our leaving the European Union. It is completely clear what their rights would be: they would no longer be EU citizens. Therefore, British citizens resident abroad would no longer benefit from the right of being EU citizens. Similarly, of course, citizens from other EU countries in this country would no longer benefit from any rights that we chose not to confer on them. It would be for the Government to say what would be conferred. The principles of the negotiation with the EU—which would be with the EU collectively, not with individual member states—would be international law, not EU law, and reciprocity. It would be reasonable for the Government to tell us what they would be trying to secure for British citizens in EU countries in the knowledge that exactly the same rights, under reciprocity, would have to be granted to EU citizens living in our country.

Lord Blencathra: I think I detected a slight change in the noble Lord's argument as he was talking. Of course, the Government could easily say that if we leave the EU we will no longer be EU citizens and 56 million people will say, "So what? What are the consequences of that?". The noble Lord went on to say that the Government could then spell out what they would aim to achieve in any renegotiation of people's rights, but that is speculative. That is the point I am making. Of course we can say that people will no longer be EU citizens, but we have no idea, if we were to stay in or leave the European Union, exactly what the rights negotiated by the British Government and EU countries would be. I do not want to get bogged down. I have perhaps given way too much to the noble Lord, Lord Kerr of Kinlochard, because I really like his accent.

Where the EU has a position under European law, we are under an obligation to co-operate with it and support it. For years we have watched the EU desperately trying to take over the negotiating positions of member states in all international fora. That is a trend. It has taken our place at the World Trade Organization. The result is that we have free trade agreements with little countries but nothing with the big power blocs that matter—nothing with the ASEAN countries, nothing with Japan, nothing with India, nothing with the Gulf Cooperation Council and nothing yet with the USA, although we are apparently close. These are all things that the UK could have negotiated years ago on its own.

Lord Wallace of Saltaire: I do not know whether the noble Lord reads the newspapers, but has he seen the recent speech by the US trade representative who said they would have no interest whatever in a separate trade negotiation with the UK?

Lord Blencathra: Absolutely. I saw that and one must distinguish between US political talk and UK factual reality.

Lord Dobbs: Does my noble friend not agree that officials and bureaucrats are there to do as they are instructed by their political masters, not to lay down the rules for everybody else?

Lord Blencathra: I have to agree with my noble friend. The United States will do what is in the financial interests of the United States and its companies. It may talk tough about not doing a trade deal with the sixth largest nation on earth—the United Kingdom—but, when it comes to pounds, shillings, pence and dollars, the Americans will trade when it is in their financial interest to do so.

Lord Hannay of Chiswick: Will the noble Lord consider carefully whether he is falling into the best-known trap for British commentators on American policy, which is to think that we know what American interests are better than they do? In fact, that statement last week was made by a member of President Obama's Cabinet. I happened to be at a conference at the weekend at which people from both sides of the divide in the United States—in quite senior positions—made it clear that the policy reflected a cool and careful judgment of where the United States' interest lay. If we choose to ignore it, we do so at our peril.

Lord Blencathra: My Lords, I am not suggesting we ignore it but I am suggesting that we analyse it and possibly take it with a pinch of salt.

Lord Lawson of Blaby (Con): Does my noble friend not agree that the position of the United States seems clear? There is a great deal of anti-Americanism in many parts of the European Union, including in France, where I live. The Americans see us as the most pro-American member of the European Union, therefore they are desperately keen that we should remain within it. If I were an American, I think I would take the same view but it does not mean that, because it is in the interests of the United States, it is necessarily the right thing for this country.

Lord Blencathra: I thank my noble friend for his intervention. He has considerable experience in these matters and I agree with him entirely.

[Lord Blencathra]

To conclude, we need the Government's forecasts of the competitive position of the UK if we stay in, tied to a European economy that is becoming progressively uncompetitive in world markets. We know Herr Juncker wants more Europe and more of the social dimension, as he said to the European Parliament. That would be all very well if the USA, China and the Asian economies were also awarding themselves more pensions, more paternity leave, shorter working weeks, higher pay and more social benefits, but they are not and Europe is in slow decline against their economies.

Lord Liddle: Has not what the noble Lord just said shown the need for an objective analysis of the facts? Britain has a trade deficit of something between 5% and 6% of GDP, whereas the euro area has, I think, a small trade surplus with the rest of the world. Germany and the Netherlands have massive trade surpluses. Frankly, what the noble Lord is saying is nonsense.

Lord Blencathra: I thank the noble Lord for his support. We need a factual analysis of a whole range of things. However, I merely suggest to the Committee that if the Government are tempted to accept the amendment of the noble Lord, Lord Hannay, or a similar one, on producing a report on the consequences of leaving the EU—some of that would be speculative, as I have attempted to suggest—we also need a report on the consequences of staying in. In many ways that would be equally speculative, although no more so than the outcome of the amendment of the noble Lord, Lord Hannay. Therefore, we must have the Government's analysis of the consequences for the UK if that decline in the European economy continues.

The five presidents' report envisages competitiveness authorities taking over wage and work conditions. I will not quote from the Commission press release of 21 October, but it talks about deepening the EMU, getting social fairness and paying greater attention to new macroeconomic adjustment programmes, as it did in Greece. We all know that worked very well. Therefore, we need the Government's view on that aspect of the report.

The report goes on to say that we need adequate access to,

"adequate education and … an effective social protection system … in place to protect the most vulnerable in society, including a 'social protection floor'".

I therefore suggest that we need a UK government analysis of the consequences of those proposals when they are incorporated into a treaty. It is no good for the BSE campaigners to say that they will apply to eurozone countries only. The Commission will use the excuse, justification and treaty base of the single market, as it usually does, to make them apply to us, and we will not be able to stop it since the eurozone countries will have an in-built majority.

Baroness Falkner of Margravine: I declare that I am currently chairing the inquiry into the five presidents' report, which I mentioned. The noble Lord is misrepresenting the black ink on white paper in that report. They are national competitiveness authorities for the eurozone; they do not apply to the eurozone-outs. However, I will give the noble Lord a broader point: he is asking the Government to produce their assessment of this. The Government will respond to the Select Committee's report—it is just a matter of time. His amendment is more or less redundant, given the information I have just laid before the Committee.

Lord Blencathra: The Government will respond to the Select Committee's report, but that is different from an analysis of what the situation would be in this country if it were to take place. There may be similarities in the report we would make, but we still need that analysis of staying in the European Union.

I am almost concluded, noble Lords will be pleased to hear; at least I have provoked a bit of controversy in this debate. The five presidents' report also talks about harmonising insolvency law, company law and property rights. We need an analysis of the dangers of that point.

In his speech two weeks ago, the Governor of the Bank of England noted that being in the EU had benefited us in the past. However, in the referendum we will be voting not on the EU's past record but on what it will do for us in the future. What was most interesting in Mr Carney's speech was the clear warning over further eurozone integration and its impact on the UK economy. He noted that the five presidents' report states that there is "unfinished business" over further fiscal and financial integration in the euro area. The Bank's report cautioned that the "necessary deepening" of integration, coupled with the,

"weight of … the members of the single currency",

would impair the ability of the Bank to,

"meet its financial stability objective".

I trust that the noble Baroness will question the Governor of the Bank of England on that statement in the Bank's report. I look forward to reading the analysis.

Lord Liddle: As I understand it, the Chancellor of the Exchequer is going to Berlin today to explain that Britain supports this increased integration in the euro area because we have a strong national interest in the eurozone being an area of more dynamic growth. I just do not understand where the noble Lord is coming from, because his own leadership is arguing for this integration.

Lord Blencathra: The leadership is entitled to do so. The Prime Minister and the Chancellor are negotiating hard for changes on behalf of the British people and the country. When the Government set out the deal they achieve, if the amendment of the noble Lord, Lord Hannay, is accepted and the Government set out the consequences of leaving, my amendment merely suggests that they should also set out as far as they can the consequences of staying in.

My very final point is that the EU has made it clear that there will be no treaty change before 2017 and possibly not before 2020. In that case, I should like to know how the Government will guarantee that the deal that the Prime Minister brings back will be incorporated into a binding treaty change. Any promises not in a treaty are not worth the wasted breath, in my opinion. So I want to see a section in the government

report explaining how we can guarantee that we will actually get the changes that the Prime Minister secures.

I am sorry that I have taken so long. Again, I agree with the noble Lord, Lord Hannay. His amendment is important. I think that all the amendments in this area are important, and I look forward to hearing the Minister's response.

5.15 pm

Lord Green of Deddington: I shall describe Amendments 31 and 32, which stand in my name. In the earlier amendments in this group the Government are asked to set out the consequences of leaving the EU, and, as the noble Lord, Lord Blencathra, said, it is only right and fair that they should set out the consequences of staying in. In my amendments I have selected two issues which I believe are likely to be extremely important to the public in general in reaching a decision on how to vote.

Amendment 31 addresses net migration, which, as most noble Lords will be aware, is about 330,000 a year. Of that figure, more than half—180,000, a number that has doubled in the last two years—are from the European Union. That figure is split more or less equally between the EU 14 and the new members in the A10. How that advances in the future, of course, depends on the economic developments in those two regions, but I think that the figures are likely to remain high unless something is done to reduce the level of low-skilled immigration from the European Union.

As noble Lords may know, 75% of immigration from the A10 and 25% of immigration from the EU 14 is low skilled, or certainly low paid, so there ought to be some scope there and the Government need to set out the effect on that low-paid immigration of their negotiations with the European Union. It is not just a matter of a large number of low-paid migrants without, at present, any break or limit on their numbers; what are important are the implications of the impact on the population of the UK, which will be huge. Noble Lords will have seen this very week the latest population projections prepared by the ONS. Based on net migration of 185,000 a year, it has told us that the population will increase by 2.5 million—more than twice the population of Birmingham—in the next five years and by nearly 10 million in 25 years' time. Even that projection is based on some very optimistic numbers. The ONS thinks that immigration will be about 185,000 per year going forward, but the average over the last 10 years has been 240,000 and the current level is 330,000.Therefore, there will be a huge impact on the population, and, by the way, the same document shows that just over two-thirds of the future population increase will be as a result of immigration.

Lord Liddle: Is the noble Lord claiming that the extra population of 10 million will be due to EU migration? It seems to me that that is not the case: he is muddling together EU migration and migration from the rest of the world. Given that much EU migration involves young single people, does he think that in time the impact on the population from those people, some of whom may well go back to their own countries, is likely to be as significant as the impact from non-EU migration?

Lord Green of Deddington: I mentioned earlier that more than half the intake—180,000—is from the European Union. The population increase over a 25-year period includes two things: the migrants and their future children, as well as the growth of the population already here. Over the long term, all population increase in the UK is a result of immigration; over the medium term, it is two-thirds. I am not suggesting that all immigration is from the European Union—it clearly is not—but it is a major factor; it is half of it. I am perfectly sure that, when it comes to the referendum, the public will want to know whether it will be possible to restrain the growth of the UK's population from whatever cause. The present position is that there are things that can be done in respect of non-EU migration—there has been some very limited success on that front—but nothing can be done in respect of EU migration. The amendment therefore calls for a factual report from the Government as to what might be expected, what the effect of their negotiation has been and what the impact will be on population.

My second amendment, Amendment 32, addresses the present refugee crisis and its consequences—an extremely sensitive and difficult area which is almost certain to continue well into the referendum period. For the time being, we are largely insulated—we are not members of Schengen and we have no land borders—but most of those now arriving are likely to qualify for EU citizenship in a period of between five and eight years, depending which country they settle in. After that, they will have free movement to the UK. In addition to that, and it is not widely understood, one person who is an EU citizen can bring his full family to the UK and elsewhere, whether or not they themselves are EU citizens. We therefore need an assessment from the Government of what is involved here. There will clearly be consequences for net migration, for population, for public services and for social cohesion. These two issues are a very important consequence of staying in and they should certainly be reported on.

Finally, I want to inform the Committee that I intend to make two changes to the amendments that I proposed last Wednesday. The first is to remove any reference to Irish voters lest this fall foul of the Belfast agreement, as the noble Lord, Lord Davies of Stamford, pointed out and, I think, the noble Lord, Lord Hannay, as well. The second is to introduce what might be called a "sunrise clause", so that the amendment would take effect only from 1 January 2017. That deals with the point raised by the noble Lord, Lord Wallace of Saltaire, about the practical difficulties of changing the electoral register in time. As your Lordships probably know, EU citizens are marked on the electoral register; Commonwealth citizens are not. The sunrise clause has the additional advantage that it provides to Commonwealth citizens the opportunity to seek British citizenship if they should so decide. The next version of the amendments will deal with the points raised by noble Lords.

Lord Bowness: My Lords, I shall speak in favour of Amendment 21, to which I added my name and which stands in the name of the noble Lord, Lord Hannay of Chiswick. As this debate has progressed today, it has underlined the need for the kind of reports that we ask

[Lord Bowness]
for in the amendment. It is of enormous importance that there be a point of reference where voters can see the implications of the decision they are being asked to make, whether that decision is to remain in the European Union or to leave it. It is my hope, although I appreciate that we are asking my noble friend on the Front Bench to accomplish something extremely difficult, that we will be able to find a form of words which is acceptable to both sides of argument as we have heard it articulated during the afternoon. I hope that the areas where information is needed can probably be agreed. They may be surprised and may not wish me to say it, but I think that common threads run through Amendment 21, which I support, and Amendment 27 put forward by my noble friends Lord Blencathra, Lord Hamilton of Epsom and Lord Flight.

Of course, I think I know what my noble friends hope the outcome of the referendum vote will be, and they probably suspect what I hope the outcome will be. Indeed, I have been clear about what I hope the outcome will be. It is probably the opposite of what I suspect they want it to be. However, the report that we are calling for should not lead voters one way or the other. That is for the in/out campaigns, between which we have heard some preliminary skirmishes this afternoon. Those campaigns will be coloured by rhetoric and a selective use of facts—hence the need for an effective report on the consequences of withdrawal, covering a wide area. The report must highlight the changes that will flow from an in or an out decision, and without comment.

I dare say that I might be appalled by the conclusions. Others will be delighted, but that is for the individual to decide and for their own reaction to the factors laid out. It is for the Government to lay out the facts. In some areas, there may not be an immediate change, as many if not all the European directives and regulations have been incorporated into our domestic law. I do not know how that situation will be dealt with or how quickly it could be dealt with. Will it be by piecemeal repeals and replacements, or by some big bang like repealing the European Communities Act 1972? Other prospective changes may be dependent on the outcome of the exit negotiations.

I do not want to trespass into Amendment 24 in the name of the noble Lord, Lord Kerr of Kinlochard, and if I do so I apologise; I will not take the time of the Committee when we reach that amendment by intervening. I believe that the report that we are asking the Government to provide must spell out to the citizens of the United Kingdom that the changes that we seek in exit negotiations, if that is where we get to, are not a fait accompli. They are not ours to demand. We cannot assume that all the other 27 states will agree. It will be for the 27 to decide and agree, and we do not have a vote in that.

I support the thrust of the amendment and hope that the Government will find it possible to enter into discussions before Report on a formula for the report to cover unbiased, informative and complete information, which citizens will require to enable them to make their choice.

Lord Wallace of Saltaire: My Lords, perhaps as two of the amendments mention the EU balance of competences review, I might be allowed to comment on the extent to which the 32 reports that that review produced over two years in four tranches have provided a solid basis of evidence for a rather more dispassionate result. I am well aware that at the time of the 2010 coalition agreement, some in the Conservative Party thought that inviting evidence from stakeholders in law, business, the economy, aviation, and so on, would provide the basis to ask for repatriation of powers, which those various stakeholders felt were already excessively transferred to Brussels.

The outcome of the 32 reports, which I warmly recommend to the noble Lord, Lord Hamilton of Epsom, as evening reading over the next six months, was an overwhelming conclusion from most of the 2,500 pieces of evidence that came in that the current balance of competences suits us fairly well. That is part of the reason why people in No. 10's press office and others wanted to ensure that the reports were published the day after Parliament rose for the summer or for Christmas so that they would receive as little publicity as possible, but they are there.

I particularly recommend to the noble Lord, Lord Hamilton, the report on criminal justice co-operation and the evidence from the Association of Chief Police Officers and various other bodies on why the current arrangements are so strongly to Britain's advantage. I also recommend the report on co-operation in civil justice, which contains evidence from the Faculty of Advocates in Scotland and the Law Society.

Lord Hamilton of Epsom: I am very grateful to the noble Lord for telling me what my reading should be, but can he explain why the existing arrangements cannot continue just because we vote to pull out of the EU?

Lord Wallace of Saltaire: My Lords, I think the noble Lord wants to negotiate that we should have a special status and be able to pick those things that we want and say no to those that we do not. However, all international multilateral negotiations are trade-offs and it is not always easy to get exactly the arrangements that you want. There are those who would argue—as I think the noble Lord, Lord Blencathra, would—that much of what is currently imposed on us is a conspiracy cooked up by people in Brussels. I am merely saying that we need to get hold of the evidence of where we are and what are the costs and benefits of a whole set of very complicated international regulations in a highly internationalised economy and a world where the number of British citizens who cross the channel each year has increased by a factor of 10 over the past 30 years. That has certain implications for policing, crime and all sorts of other things.

5.30 pm

Lord Forsyth of Drumlean (Con): My Lords, I apologise to the Committee for being late to our proceedings. British Airways cancelled my flight so I drove down from Scotland.

The noble Lord, Lord Wallace, has the advantage that he has read this competence review. Can he therefore explain why, for example, it is necessary that the guarantee on people's money held on deposit in this country, which previously stood at £85,000, has to be reduced to £75,000 because the euro has fallen in value? Surely that should not be decided at a European level.

Lord Wallace of Saltaire: My Lords, politics is precisely about the level at which a whole set of decisions are taken. Until the mid-1980s, when Margaret Thatcher launched the single market initiative, international regulations were largely American decisions on standardisation which others—such as ourselves, the Germans and the French—had to accept. Now, these regulations are often negotiated at EU level and then, in turn, negotiated with the United States. The various reports go into some detail on the advantages and disadvantages of acting at the national, subnational, European and global levels. That is part of what happens across the world. I merely point out that some of this analysis has been done. It is extremely important that, as the debate continues, there should be further analysis.

Lord Forsyth of Drumlean: Before we leave that point, is the noble Lord seriously arguing that a Government who guarantee through a guarantee scheme in this country deposits put by pensioners in their banks should be left powerless to decide the level of guarantee; and that the review of competences, if it allowed for that, was in any way competent?

Lord Wallace of Saltaire: The noble Lord may not have noticed that banking has become a little less national and a little more international over the past 40 years. That is part of the reason why the negotiations over the amount of bank reserves have taken place. That matter has been negotiated for the past 100 years through the Bank for International Settlement and a range of other bodies. Since modern banking developed, there has always been a range of international agreements on aspects of banking, although not in so much detail.

A small number of think tanks have provided some valuable advice. I have great respect for Open Europe, a largely Eurosceptic think tank in origin but which respects the evidence it finds and produces worthwhile reports. Similarly, I have great respect for the Centre for European Reform. There are others on both sides that are less reliable. I say to the noble Lord, Lord Green of Deddington, that Migration Watch stands out by the careful way in which it tries to find out the most accurate figures. That is highly desirable. We need accurate figures. The question of what is happening on immigration to this country—how much is long term and how much is short term, in the case of Spanish and Portuguese workers here who may go back when their economies recover—gets us into the range of speculation, but at least we know where we are at present. That is what we need for this debate. It is not easy. We know that there are conspiracy theorists all round. There are great fears about what might happen. However, dispassionate analysis and evidence, where we can find it, are essential to intelligent debate, and that is what the amendments of the noble Lord, Lord Hannay, and others are about.

Lord Grocott: My Lords, I am sure the noble Lord, Lord Wallace, will agree that it is essential to any dispassionate debate—if such a thing is possible—that both sides of the argument should be presented. All the amendments in this group are of a similar character—they all seek further information to present to the British public before the British public make a very important decision. I do not have a problem with any of the amendments because I am in favour of the British people having all possible information. I would like them to have even more information, were it possible.

I cannot find a way of tabling an amendment on this subject that would be in order, but I would love the British people to be able to consider—on the principle that it is better to look in the history book than in the crystal ball—the last time that a major decision in relation to the European Union was made in this country, which was when we decided not to join the euro. I think that that was a splendid decision by the last Labour Government. They went to some lengths to present to the British people the facts of the arguments of those who were in favour of Britain joining the euro as well as the facts as to whether the forebodings of their prophets of doom came into being. I remember that there were all sorts of arguments about the collapse of inward investment into Britain should we not join the euro, and so on. However, that point is out of order so I shall not speak to it at length.

The only problem I have with these amendments—it was part of my interventions on the noble Lord, Lord Hannay, although it does not, in my book, disqualify the amendments—is that I have considerable doubts that I could say that the word "objective" is a characteristic of every amendment in this group. By way of illustration I will refer again to the common agricultural policy. I mentioned the amendment in the name of the noble Lord—I was about to call him my noble friend, although he is not far off—Lord Wigley, with whom I agree on so many things. I agree with him very much that it is extremely important that there should be support for British agriculture in difficult terrain such as north Wales. The noble Lord knows far more about that than I do, but it is extremely important that there is support for that economic activity in our country. However, if we are to have a report on the consequences of coming out of the common agricultural policy, do we or do we not include the presumption—and only a fair-minded person would have to make this presumption—that some of the moneys currently spent by the British taxpayer on the common agricultural policy should be spent directly on British agriculture by the British Treasury?

Lord Wigley: That is, indeed, a central question. However, it is not a matter on which we should make an assumption. We should be told whether or not that will be the case.

Lord Grocott: It would be fine if that happened, but the figures are worth reflecting on. I find it difficult to imagine that the contribution to British agriculture would be less than it is currently via the common agricultural policy. I took the precaution of getting an up-to-date figure—I assume that responses from Ministers are accurate on these matters. I asked the Government

[Lord Grocott]
two or three weeks ago what the current cost of the common agricultural policy was and the answer from the noble Lord, Lord Gardiner of Kimble, was €55 billion for 2015. He went on to say that the CAP accounts for 40% of the EU budget.

Noble Lords who regularly contribute to economic debates—which I do not—will be able to do these figures in their heads. However, €55 billion is the total cost of the CAP. That represents 40% of the EU budget. The UK contribution to the EU budget as a whole is €16 billion. Let us work that out. Off the top of my head, I think the British contribution to the cost of the common agricultural policy is 2 billion or 3 billion euros. I repeat that I have doubts about the use of the word "objective" in this kind of discussion, but it seems that anyone considering this objectively would have to consider that a very substantial contribution to agriculture—that vital industry in this country—would have to come from the British Exchequer if there were less support coming via our contributions to the CAP.

Lord Davies of Stamford (Lab): My noble friend asked rhetorically whether there was any reason to suppose that, if we came out of the EU, our level of support to our agricultural sector as a separate country would be any less than it currently is within the EU. I put it to him that there is one obvious ground on which one might expect that our support to agriculture would be much less if we were outside the EU. The political weighting of the agricultural sector's interest is markedly less in this country than on the continent, in the Republic of Ireland or in other EU member states. If the noble Lord goes to Ireland, Germany, the Netherlands or France—let alone Poland or Romania—he will be able to satisfy himself of that. We have one of the very lowest proportions of population—which of course means voters—who are directly dependent on the agricultural sector: about 1%. That means that the political balance is very different here when agricultural matters are discussed from how it is on the continent, where there is much more political weight behind agriculture. Inevitably that will be reflected in the amount of money coming through to agriculture and in the willingness of the Treasury to continue to support agriculture at the current level, which is based on the aggregate weight of agricultural interests in the European Union as a whole and not on their weight within this country in terms of domestic and political debate.

Lord Grocott: My noble friend makes my point very effectively: these are matters of debate. There is no objective analysis of the cost of the CAP and the likely expenditure in the UK that can be resolved by putting statistics into a computer. He makes a perfectly valid argument from his own perspective.

I am tempted to go down memory lane. Believe it or not—this may come as some surprise to the House—40 years ago, in 1975, I would occasionally go to meetings of the Agriculture Ministers of the European Union, in my lowly capacity as a Parliamentary Private Secretary. I have to say that the conclusions reached by the Council of Ministers at the time were not always in Britain's interests.

However, let us not go down that road, because I am not disagreeing with my noble friend. These are not matters of fact but matters of judgment. Part of the judgment might be whether—

Lord Hannay of Chiswick: I am grateful to the noble Lord for giving way. All afternoon, he has been making a very persistent effort to draw our discussion on to grounds that are not covered by the amendments. If he reads the amendments carefully, he will see that nobody is suggesting that the Government should be asked to quantify the support it would give to agriculture after we withdrew. They are being asked to state, purely as a matter of fact, what the consequences would be—statutory and legislative—if we ceased to be in the European Union and ceased to have the common agricultural policy applied to us. That information can be provided factually: so much in structural support, so much in market support, and so on. These facts are all to be found in the budget of the European Union. The amendments I have tabled do not ask the Government to speculate on other matters, although they do ask the Government to say what would be needed by way of legislation to fill that gap.

Lord Grocott: I am afraid that the noble Lord, Lord Hannay, has a different reading of the amendments from mine. Amendment 29, in the name of my noble friend Lord Wigley, inserts a clause that states:

> "No later than 12 weeks prior to the appointed date of the referendum, the Secretary of State shall publish, and lay before each House of Parliament, a report on the consequences of withdrawal from the European Union on the provision of financial support for agriculture in each region of the United Kingdom".

Presumably he is saying that no part of that consideration would take account of the support, if any, to be given to agriculture in the event of our not being in the European Union. My contention is that undoubtedly there would be support for agriculture should we not be a member of the European Union. That is why my comments are entirely relevant to these amendments—and certainly to that one.

In any event, my broad point is that any discussion of this sort inevitably goes beyond dry legal jargon. It ends with a matter of judgment at some point, as do nearly all matters of foreign policy—if I am allowed to refer to relations with the European Union as matters of foreign policy. The noble Lord, Lord Hannay, knows that better than most of us. It seems to me that we either support all of these amendments or none, but we do it with the acknowledgment that they will not solve the problem for anyone. At the end of the day, people will still have to make their own judgments.

5.45 pm

Lord Dobbs: My Lords, the noble Lord, Lord Wigley, said that he could not see how any reasonable person could possibly object to these amendments. I hope that I will be able to open his eyes just a little. We have already heard, even in the extended debate on this proposal, just how easy it is to slip into outright campaigning. It seems to be impossible to separate the facts from the campaigning. They say that there are facts, political facts and campaigning manifestos. I happen

to have written a few campaigning manifestos in my time. I know what wicked statements they are, and I am very glad that I have left all that behind me and now simply write works of fiction.

The amendments of the noble Lords, Lord Hannay and Lord Blencathra, and others call for an official report—but could any official report ever be worth the paper it was printed on? For instance, an official report at the start of this year that talked about immigration policy in Europe would not have known how events were going to impact on it, and would presumably have looked totally different six months later. The noble Lords, Lord Wigley and Lord Hannay, ask us to gaze into the future of agricultural policy. What will happen if we vote to leave? It depends who is making those decisions after we leave. You do not have to be a political seer to suggest that there is a strong possibility that, if we decide to leave the EU, we will not even know who is going to be Prime Minister six months after that vote. That is the political reality.

Lord Wigley: Does the noble Lord not accept that the Prime Minister himself, when he comes to a judgment on whether to recommend the package he will have renegotiated, will be making some assessments—presumably quantifiable—of the implications of that renegotiation? Is it not reasonable that those who are asked to vote on this have as much information as possible?

Lord Dobbs: I agree entirely with the noble Lord that they should have as much information as possible. However, as well as known unknowns there are also unknown unknowns—as someone once said—which are completely dominant in this area. As far as the EU is concerned, it is the unknown unknowns that have come to the fore and gained strength in recent months and years.

Lord Forsyth of Drumlean: I am most grateful to my noble friend. When he looks at these amendments, does he not think it quite revealing that the Euro-enthusiasts in this House want a report on the perils of leaving and not on the benefits of staying in?

Lord Dobbs: Indeed. However, as I made clear in my statements at Second Reading, I personally—

Lord Bowness: When my noble friend Lord Dobbs replies to my noble friend Lord Forsyth, will he note from me—presumably bracketed among the Euro-enthusiasts—that the reports are not about the perils? The request is for a statement of fact on the consequences of a decision to leave. That is what is being asked for, and indeed I would oppose any suggestion that the report should comment one way or the other, but unless people know about the consequences of leaving, how can they make up their minds?

Lord Dobbs: Getting stuck between my two noble friends is a perilous position. As I made clear at Second Reading, I hope very much that the Prime Minister can bring back the reforms which will enable me to vote for and support him in continuing within the European Union. I do not adhere to my noble friend's position where he will vote to stay in no matter what or that of the position of the noble Lord, which I suspect is that he will probably vote "out" no matter what.

Noble Lords have asked for a factual report. It is worth reminding ourselves of what happened in 1975 when a White Paper was produced. I know that the noble Lord, Lord Hannay, is probably not asking for the exactly the same sort of operation, but there was a White Paper, and of course it was huge. What the noble Lord and other noble Lords are asking for is a huge amount of work to be done, which will have to be distilled into something more manageable and digestible for public consumption. I have with me the 1975 version and I have to say that it is laughable in its simplicity and its paean of praise. There is very little that is truly objective about it. That indicates to me that it is impossible for anyone, let alone poor beleaguered officials, to come up with something that is going to satisfy everybody. I will not quote from the pamphlet because we do not need to delay ourselves.

Of course we need information. We need as much information as possible in the form of views, predictions and analysis, but that is surely the stuff of the campaign itself. It is the substance of the campaign, not that of some poor, hard-pressed official's work that will never satisfy either side. These are issues which need to be argued in public with both sides in full cry. As I say, I am afraid that I have no faith in anyone's ability to produce a report that will satisfy both sides of the equation. It will be no more than a fig-leaf on a very windy day and not worth the paper it would be written on.

Baroness Royall of Blaisdon: My Lords, surprisingly, I agree with the spirit of both sets of amendments because, as the noble Lord, Lord Dobbs, says, it is important that the people of our country have access to as much factual information as possible. Where I disagree with the noble Lord is that he says that it is up to the two campaigns to put forward the information. The information put forward by each campaign is bound to be biased because they are campaigning organisations. I would ask for a White Paper, and I think that the Minister herself mentioned a White Paper in our debate at Second Reading. I think it is imperative that the Government should themselves produce unbiased, factual information on which the people of this country can make their decisions. Of course the information provided by the campaigns will be of the utmost importance, but it is bound to be biased.

Lord Hamilton of Epsom: At the moment it seems as if the Government are going to be campaigning for us to stay in the EU. Why would any report they produce be unbiased?

Baroness Royall of Blaisdon: There is the political Government, but I believe that the civil servants of our country—there are eminent former civil servants around this House—can produce unbiased information if required to do so by the Government. Civil Servants per se are able to produce unbiased information, as the noble Lord, Lord Kerr, is acknowledging. I think it is imperative that this should be done.

[Baroness Royall of Blaisdon]

I want to come back to one issue that was brought up by the noble Lord, Lord Green. Of course I understand people's fears and concerns about freedom of movement and I understand what he has said about refugees. However, personally, I deeply regret the fact that refugees and the refugee crisis are being brought into this argument. The facts show for themselves that at the moment most refugees wish to go to Germany and Sweden. They are learning the language—it is a prerequisite when they get there; they have to do that—they will have jobs, and I am sure that the majority of them will stay in those countries. But the fact is that these people are fleeing from areas of conflict. People are on the move going from south to north, and they will keep on being on the move until we resolve the conflicts and invest in the regions of the south. I do not think that what is happening with the refugee crisis should have anything to do with the referendum campaign.

Lord Green of Deddington: My point is not actually about refugees because in seven years' time they will not be refugees, they will be citizens of the European Union. Therefore the issue that may be in the minds of the electorate, at least, are the implications for us in the future if the European Union has lost control of its southern borders and if the chaos in the Middle East continues, which is quite likely. I am not talking about refugees. There is a lot to be said about them, but in this context we need to have our eyes wide open, and in so far as we can provide some guidance to the public, we should cover this issue.

Baroness Royall of Blaisdon: My Lords, I understand what the noble Lord is saying, but I think we are muddying our feet and that we are in very dangerous waters when we go into these places. By raising these issues we are stoking people's fears about refugees, and that is not a proper thing to do. At some stage we should discuss these things in more depth rather than in this sort of debate, but I think that it is a very dangerous way forward.

Lord Stoddart of Swindon (Ind Lab): My Lords, I have been listening to this debate all afternoon and I find it very interesting indeed. I also realise that all the amendments are well meant, but I think that the noble Baroness, Lady Royall, has hit the nail on the head. What she wants is unbiased information, and she believes that you cannot get it from the Government because they are in fact biased. I say that because the Prime Minister has just been to Iceland where he made his position perfectly clear, which is that he wishes to remain in the EU. He believes that it is the best thing for Britain to do, so he has made his position absolutely clear. How can the Government be unbiased? The noble Baroness said that we have civil servants and they will be unbiased. Civil servants are never unbiased; they take their lead from the boss, as in fact they should. Knowing that the Prime Minister has gone abroad and said that he believes that the United Kingdom should remain in the EU come what may will condition whatever is put into these reports. We should make no mistake about that.

Lord Wallace of Saltaire: Would the noble Lord allow for the possibility that the Prime Minister might have reached the position he now holds because of his concept of the British national interest and his position as Prime Minister in trying to define that national interest?

Lord Stoddart of Swindon: Yes, I believe that the Prime Minister believes that, but the British national interest cannot be served in the European Union. That is because the European Union is exactly what it says it is and what it wants to become. It has been made perfectly clear by unelected officials and indeed by elected people that they want further integration. However the Prime Minister tries, he will never be able to join a full Union unless he is prepared to agree to more integration, and that of course will also mean joining the euro. Further integration must include the euro and anyone who wishes to be part of further integration will have to join it or else leave or become some sort of associate member. Those are the facts and we should not try to deny them.

6 pm

The other thing that has worried me about this debate is the lack of confidence that so many people have in this country's ability to negotiate with other countries and to stand on its own and build up its own businesses and exports. Why is it that other countries in the world can do it? Why can South Korea do it with a population of 25 million? Why cannot Britain, with a population of 65 million, negotiate successfully with other countries when smaller countries including Saudi Arabia and Iceland can? The Prime Minister of Iceland made it perfectly clear that it was doing very well outside the EU with a population of 350,000 and did not want to go into the EU any longer. Why have we lost confidence in ourselves? Why is it that so many people say we have to be members of this great organisation to succeed?

Lord Hamilton of Epsom: The noble Lord, Lord Stoddart, mentioned South Korea, which has indeed been a great economic success. It is interesting that it has signed a free trade treaty with the European Union. If South Korea can do that, why cannot we?

Lord Stoddart of Swindon: If the European Union did not sign a treaty with us but put restrictions on trade, it would be very much the loser. We are trading with the European Union at the moment on the basis of a deficit of £70 billion a year. Why would Europe not want to trade with us? It traded with us before we joined, when 35% of our exports went to Europe. Why on earth would the European Union wish to stop trading with us? Of course it would not. That is nonsense and I wish people would stop talking about these 3,500,000 jobs which are going to be lost.

Lord Flight: I thank the noble Lord for giving way. I suggest to him that this lost confidence is in reality merely a scare campaign by the yes vote. There is no evidence that this country has lost confidence in looking after its own interests. It has emerged as the most successful economy of the past four or five years. It is no more than a scaremongering tactic; it is not true.

Lord Stoddart of Swindon: The noble Lord is absolutely right. As I have said before, I believe this country would thrive outside the European Union.

Lastly, I want to comment on the American official, whoever he was, who said that it would be grave from the point of view of America and its relations with this country if we left the EU. Of course that is American policy for two reasons. One is that America is scared that the European Union will succeed. It knows that most countries are anti-American so it wants a friend in sight. The other is that America does not really believe that Britain should shine in the world because the American interest is paramount under any circumstances.

Lord Tugendhat: The official concerned was the United States Trade Representative. I think we ought to assume that the United States Trade Representative is able to speak for the United States in trade matters and surely the point he was making was a very different one. Signing free trade agreements for the United States is a very complicated matter. It involves an infinite amount of politicking in Congress and it is very difficult to carry through. Therefore, from the point of view of the United States it is better to be able to sign trade agreements with very large units where there is a good deal to offer both ways rather than with relatively small units. That is the point he was making and, given that he speaks for the United States in trade matters, one should not be quite as dismissive as the noble Lord has been.

Lord Stoddart of Swindon: I was not being dismissive. I understand the point of view of the United States and of other countries. The problem is that they want huge agglomerates to discuss and decide matters and I believe that there will be a loss of democracy under those circumstances. I may be wrong but in any event the Americans will still want our whisky and we will still want their awful films so trade will go on.

I want to finish with a quote:

"The European Union faces long-term economic decline and the 'love affair' of integration is at risk".

Who said that? Not me. It was Jean-Claude Juncker, the President of the European Commission.

Lord Higgins (Con): My Lords, I have listened throughout the debate and I remain a little puzzled. A number of possible reports have been proposed but no one has made it clear at which audience the reports are intended to be directed. I suspect very strongly that, even if all these reports were published, the percentage of those voting in the referendum who will have read any of them will be a tiny fraction. Therefore one is bound to ask: at who else are these reports to be directed? They may well be very useful for Members of Parliament but it is unlikely that any of them is going to change our views very significantly at this stage.

To take up the point made by the noble Lord, Lord Green, I think it would be helpful if we had more information. I agree entirely with the noble Baroness, Lady Royall, about the problem of asylum seekers. There is great movement at present not only of asylum seekers but also of migrants. As the noble Lord, Lord Green, pointed out, very complicated issues are arising about the effect on the population and the way in which those coming to the country may eventually become full citizens. I think he is right about that but none the less I am very doubtful whether the various reports which we will consider will have much effect on those voting, even if we include 16 year-olds, but I look forward to hearing the view of the Front Benches on this issue.

Because this is an advisory referendum not a binding referendum, as the note from the House of Commons Library makes very clear, we may find ourselves with a somewhat inconclusive result, in terms of both turnout and the majority. In those circumstances the matter may well have to go back to Parliament and these reports may be very useful in that context, so I am in favour of the reports but we need to be clear what their purpose is.

Lord Hannay of Chiswick: My Lords, I hope that I may put this point to the noble Lord. All the opinion polling that has gone on in recent months has shown that the people who have made up their minds already are a relatively small proportion on both sides, and that a very substantial number of people have neither made up their minds or believe that they have yet been provided with sufficient factual information to enable them to do so. I do not believe that we should surrender to the sort of cynicism which has percolated through this debate whereby it has been questioned whether providing factual information will be of any use at all, will be read by anyone at all or will be unbiased, et cetera. The purpose of these amendments, which were carefully drafted so as not to stray into the realm of advocacy, is to try to fill a gap which I would have thought all the objective evidence shows exists and needs to be filled. I hope that the Minister, who has listened extremely patiently through this long debate, will see her way to moving ahead in a direction whereby help can be provided by giving factual information which would enable people to make up their own minds.

Lord Higgins: I entirely agree with the noble Lord that it is helpful to have more information; that is entirely common ground between us. I merely said that I thought it would be rather naive, for want of a better expression, to suppose that these reports would be read by more than a tiny percentage of the people voting. They may be taken up in the press, of course, and get somewhat wider dissemination, and that would be useful. I am merely saying that we should not exaggerate the effect on the people voting. However, the reports may have a useful purpose in the mean time and perhaps in the longer term.

6.15 pm

Lord Judd (Lab): My Lords, I have listened to this debate with fascination. It is, of course, crucial. It raises huge issues and takes us right back to the origins of the move towards having a referendum at all. In the end, what we need in this country is leadership and people who stand up for what they believe in and argue for it. This vision of nurturing an imaginary world in which somehow the provision of passive, impartial information will enable people to make up

[LORD JUDD]
their minds is naive, as has been said. What enables people to make up their minds is an argument of real substance adduced with passion and conviction. That is the issue.

I am very glad that the noble Lord, Lord Hannay, has given us an opportunity to have this debate although I have slight anxieties about how you can spell out the consequences of this situation. That seems to me a very absolute understanding of how human affairs are conducted. I do not know that you can say what the consequences are. However, you can say what the implications are and they can be well argued and substantiated, and a report of that kind would be helpful.

Having had the privilege to serve on the home affairs sub-committee of the European Union Committee, I know that the sense of urgency behind our deliberations has not been neglected. The sub-committee looked at the implications of change in the home affairs role and at crime and security. One thing was absolutely clear in those deliberations—modern crime is completely internationalised. Indeed, one thing was devastatingly clear—terrorism is totally internationalised. There can be no one in this House who does not lose sleep over security issues. We took evidence from people in the front line with practical, in-the-field responsibility in these spheres. It is worth noble Lords looking at not just that report but also the evidence because what came across to me as we listened to that evidence was that virtually without exception those with operational responsibility said that, unless we had gone mad, we must realise that we could handle this situation only with effective international arrangements in place. They had not a shred of doubt that we would have lost our marbles if we ceased to co-operate within the context of Europe. It is there in the evidence. Noble Lords should not listen to the opinions of fellow Peers but should read the evidence. However inadequate, however much there is need for change and improvement in the relevant arrangements, the European dimension has become indispensable to work in that sphere.

I think that a timescale of at least 12 weeks before the referendum is incredibly short for consideration of any report, but I also think that it is awfully luxurious in terms of how much time would elapse before such a report was available. If we are talking about the safety of our families and this nation and the protection of our industry, given the cyber issues that have been raised, we need factual information from the people in the operational front line about what we are luxuriously contemplating. The immediate security issues affecting our people today—tonight—demand that we know what we are going to do and how we are going to achieve that if we withdraw from the European Union, and how we ensure that the co-operation which those in the front line see as indispensable is maintained.

Viscount Trenchard: My Lords, I will not detain the Committee by going over all the arguments that have been made. I, of course, agree with those noble Lords who think that the information and any statements that may be produced should inform people about the consequences of remaining in as well as leaving the European Union. However difficult that may be, at least the Government should say what kind of association with the European Union they think would be desirable for the United Kingdom to pursue in the event that it votes to leave the EU.

My noble friend Lord Forsyth commented that under the Bank of England bank deposit guarantee scheme the maximum amount that is guaranteed has been reduced from £85,000 to £75,000. It is clear that that is because the euro is the currency of the European Union and all monetary values are determined in euro amounts. I suspect that this has happened because the sum was fixed at €100,000, which was approximately £85,000 and is now approximately £75,000. That is why the Bank of England has reduced by a significant percentage the maximum amount available under its guarantee scheme.

I also noticed that, according to the *Daily Telegraph*, Cabinet sources have informed that newspaper that the Prime Minister's thrust for substantial alterations to our terms of membership will cover four main areas, and that he is asking for an explicit statement that the euro is not the official currency of the EU, making it clear that Europe is a multicurrency union. From that it follows that if Europe is to be a multicurrency union, it would not be possible in future for the Bank of England arbitrarily to reduce the maximum amount under its guarantee scheme in the way that it has, or to increase it, should the currency movement be reversed.

Lord Forsyth of Drumlean: My noble friend is absolutely right. Is the situation not even worse, however, in that even if the Bank of England wished to set another level it cannot do so? British pensioners and savers are having to reorganise their savings to make a reduction. The British Government, the Prime Minister or the Bank of England do not have the power to decide a simple matter, such as how much is guaranteed on deposit. That illustrates how overwhelmingly intrusive Europe has become.

Viscount Trenchard: The noble Lord is completely right. As I said in at Second Reading, it is necessary that our renegotiations should include the repatriation of financial regulation, the independence of the Bank of England from the European authorities, and the independence and equivalence of our own financial regulators with those of the European ones, which should be those for the eurozone.

Baroness Ludford (LD): My Lords, in intervening briefly on this group of amendments, I apologise for doing so after having been unable to speak at Second Reading or in Committee last week, because of a serious family illness. I hope that the Committee will permit me to make a brief intervention, despite that absence.

I want to say two things. One has been said more than adequately by the noble Lord, Lord Judd. This concerned the point in Amendment 21 that stresses that the report on withdrawal should cover law enforcement, security and justice. The noble Lord is right: we should listen to the police and others in front-line operational roles. This indeed happened with

the exercise of opting back in to 35 measures and that is what was so persuasive. That has been said by the noble Lord, Lord Judd.

Secondly, in supporting this group of amendments, particularly Amendment 21, may I take issue with the noble Lord, Lord Stoddart? He suggested that those of us who are perhaps on the inside have a lack of confidence in the UK. I deny that charge. It is not about lacking confidence in Britain, with its overtones of almost being unpatriotic, a charge I also deny; it is about living in the real world.

May I also take issue with the noble Lord, Lord Blencathra? Earlier, we heard that somehow we know better than the US trade representative. Mike Froman, a senior and serious person, has, in the words of the *Financial Times*, "poured cold water" on the prospect of the UK negotiating its own trade agreement with the US or with other major trading partners, such as China. He said that the US would have little interest in doing so and that the UK could face the same tariffs as China, Brazil or India. With respect, the noble Lord, Lord Blencathra, suggested that we know better than the US what the US would want to do.

Lord Blencathra: I am sorry if I gave the impression that we know better. I am not suggesting that; I am suggesting that we should distinguish between political rhetoric from a member of the US Government, who wants the United Kingdom to stay in Europe for a host of other reasons, and the reality that Americans would face should Britain decide to leave.

Baroness Ludford: I had some contact with Mike Froman when I was vice-chair of the European Parliament's delegation to the US. He is an extremely hard-headed and tough character. I rather doubt that he is just indulging in politics. He is talking about the real world and what is actually negotiable.

This debate on the report on our withdrawal from the European Union has strayed into the set of amendments beginning with Amendment 24, on the alternatives and our future relationship with the EU, which is what I really intended.

Lord Forsyth of Drumlean: Could the noble Baroness help me with her great experience in these matters and her knowledge of these trade relations? Could she explain how it is that Iceland, which the Prime Minister visited the other day, has managed to negotiate a trade agreement with China and the EU has not?

Baroness Ludford: I am not a trade specialist, but I fully accept that far fewer interests are involved when 28 member states are trying to negotiate with China, while with a country of 60-odd million—the UK—would have many more interests at stake than Iceland. If you listen to the Scotch whisky producers, they say that it is because of EU clout that they have access to Asian markets. They did not get this with the UK negotiating for them, but with the EU negotiating for them.

Lord Pearson of Rannoch: My Lords—

Baroness Ludford: I will finish, rather than be intervened on from every direction. May I just finish?

Lord Pearson of Rannoch: My Lords, as the noble Baroness, like other noble europhile Lords, is praying in aid the recent remarks from the other side of the Atlantic, may I ask her and her colleagues to remember that 15 years ago, in 2000, the International Trade Commission, which I think is the largest economic think tank in the world and advises the US Congress, came over to this country for a fortnight? It took every single department to pieces and concluded that the United Kingdom would then have been much better off had it left the European Union and joined NAFTA, and that the United States would been better off, too. Since then, the trading position between us and the United States makes that claim even stronger, while the position of the European Union has declined and will go on doing so. It sounds as though as these remarks from the United States should be left out of the arguments of those who wish to stay in the European Union.

Baroness Ludford: I am grateful to the noble Lord for drawing a 15 year-old report to my attention. Unfortunately, I am not familiar with the International Trade Commission or its report. If he would care to send it to me, I would be more than pleased to read it. I think my point about living in the real world has been well made. The idea of the United States wanting us to join NAFTA is new to me.

In conclusion, it is essential to have these reports on withdrawal. In anticipating the ones on alternatives or the future relationship, I think they will become points of reference. We campaigners on both sides will try to make our point, but we have to give confidence to citizens and a point of reference to check our claims. These reports are essential.

Lord Davies of Stamford: My Lords—

Lord Flight: My Lords—

The Earl of Courtown (Con): Could we hear from the noble Lord, Lord Davies of Stamford? I know that he has been trying to get up for some time.

Lord Davies of Stamford: My Lords, I should like to comment briefly on two contributions this evening that should not be left unanswered or uncommented on. One was a contribution from the noble Lord, Lord Higgins, which I shall come to in a moment. The other was the recent remarks of the noble Lord, Lord Forsyth. He said that it was obviously absurd that the European Union should fix the level of retail deposit insurance. This is an important matter for financial stability. I put it to the noble Lord that there are extremely good reasons why there should not be a free for all in retail deposit insurance, and he should think about them carefully.

There are two such reasons. One is that if there is a free for all, there is a great temptation for individual states to compete by increasing the level of their guarantee, thereby attracting deposits from neighbouring states—or, as they would see it, competitive states. That is extremely dangerous because it leads to transferring risk from the banking system to a sovereign Government and when taken beyond a certain point, as happened dramatically in the case of Ireland just a few years

[Lord Davies of Stamford]
ago, can produce a crisis of confidence in the credit rating of the sovereign state itself. That would be very foolish.

The other thing that it does is to introduce a moral hazard, when depositors find that in certain countries they face the chance of getting such a large level of guarantee on their deposit from the local sovereign state that they do not have to pay any attention at all to whom they are banking or placing their deposits with. That goes for sophisticated investors who are depositing hundreds of thousands, or millions, of dollars, pounds or euros. That sort of moral hazard is extremely dangerous and leads to lazy banking, and to banks being able to get away without satisfying their depositors that they are solidly and solvently managed—an extremely damaging thing for the stability of the financial system. I give way to the noble Lord, Lord Forsyth, who I hope will take my comments seriously because they are genuinely important.

6.30 pm

Lord Forsyth of Drumlean: I do not take the noble Lord's comments at all seriously. We are talking here about a guarantee of £75,000, which has nothing to do with people who are depositing millions of dollars around the world. Where I think he is right is that I can see the case for having a guarantee in a single currency zone. My point is that we are not in the euro, yet we are being told what to do with sterling.

Lord Davies of Stamford: My point is that if we had a free-for-all, it would start off at £75,000, which is roughly the equivalent of €100,000—that is why we have that figure. Some member state might well then be tempted to say "We will offer €150,000", then somebody else would come back and say, "We will offer €180,000". Then another would offer €250,000. There becomes a Dutch auction in these matters, which is very much in no one's interest. This is an example of where the collective interest is much better served if individual member states do not adopt their own rules on this matter. I leave the point there. Although it is very important, I am prepared to continue with it in another context.

Lord Hamilton of Epsom: On the same principle, would the noble Lord, Lord Davies, advocate that we all had the same corporation tax rate?

Lord Davies of Stamford: There could be economic advantages in doing that; equally, there are other advantages in having tax competition. I am rather in favour of the latter, as tax competition produces downward pressure on the level of taxes. A free-for-all in retail deposit insurance produces upward pressure on the guarantee and therefore on the liability of the member states extending it. The two things are diametrically opposed. I know that there are arguments in favour of unifying corporation tax rates but they do not persuade me. I do not imagine that they persuade the noble Lord either.

I come to the remarks of the noble Lord, Lord Higgins, who always speaks with great thought and wisdom on these matters, although I do not usually agree with him on European issues. He said something very depressing: he did not think that anybody—or very few people—would bother to read any reports produced on this matter and that people would take their decisions otherwise, perhaps by looking at the press. I have no illusions about this. I am very depressed and worried about this campaign, which could turn extremely unpleasant. I anticipate that a number of the large-selling newspapers, particularly the *Sun* and the *Daily Mail*—and the *Daily Express*, which does not sell very many—will adopt a very demagogic and emotive campaign, which will be rather subtle and indirect. It will use dog-whistle techniques but will really be all about foreigners, refugees and barbarians at the gate. I fear that people will be influenced by that sort of thing but I hope that it will not be a dominant number, or certainly not a majority.

We have a sophisticated democracy and an educated public, so we should not be too depressed or cynical about our fellow citizens. There must be literally millions of people in this country who will face the decision they will be asked to make in this referendum very conscious of its importance for the future of their country, their families and their communities. They will desperately want to have some clear advice and information from somewhere. If they go on to the internet they will have 5 million references and be completely paralysed, as we all are when we look up a matter which is the subject of substantial and wide-ranging controversy on the internet. It is utterly reasonable that they have a small, defined number of authoritative sources, some of which must be identified with the two campaigns but some of which should be identified with the Government.

We seem to be missing two essential points here. One is that the Government and Parliament are the servants of the public, not the other way round. It is our responsibility, and the Government's responsibility, to provide such a source of material and information. Whether or not the elector chooses to bother with it at all would of course be his or her decision. The elector is sovereign but under no circumstances should we not fulfil our duty, which is to provide the opportunity for this important element in the decision that individual electors will need to take.

Lord Marlesford (Con): Does it not follow from what the noble Lord is saying that one way of reducing undue influence would be for both sides of the campaign to agree on a simple exhortation: make up your own mind?

Lord Davies of Stamford: I come now to my second point, which relates to what was said by the noble Lord, Lord Wigley. A citizen of this country is entitled to think that the politicians who he or she pays for will do an honest job in a case like this, by not merely providing an opportunity for a referendum to take place but providing what we can by way of elements to enable that individual elector to take a decision.

I want to re-emphasise the point made by the noble Lord, Lord Wigley. Any Government who are half competent—or even a quarter competent—will, in circumstances like this, produce their own study of the cases for joining or leaving, along with the costs of

leaving or not leaving and so forth. Any Government who were 10% competent would be going through those exercises and, as he said, given that those studies will have been undertaken, they must not be kept under lock and key in Whitehall. The public in a democracy have a right to know to what conclusions the Government have come in their own studies. They have a right to have disclosed to them material information of that kind, which may be available in Whitehall or elsewhere in the interstices of government. On those two counts, it is absolutely essential that we do what we can to ensure that such reports are identified, undertaken and, above all, made available to the British public.

Lord Flight: I wrote to the Treasury about the reduction in the guarantee to £75,000 to have the reason confirmed. I have had a letter back from the Treasury saying that it is doing its best to negotiate that it cannot go any lower than £75,000, so I wish it luck.

I very much agree with my noble friend Lord Higgins but, to be candid, for even wider reasons the exercise is unlikely to be of huge use. First, if you are to have papers about staying in, you have got to have papers about coming out. Secondly, and fundamentally, the issues that are so important are matters of judgment. We do not yet know what the agricultural arrangements may be or what trade agreements there may be with America and India, and so forth. You could take an educated guess but a factual paper must not have educated guesses in it. A whole lot of historic dead data about the EU one way or the other will, candidly, not excite anyone in the slightest, but it is not the job of the Government to publish opinions. It is the job of the campaigning entities to express those expectations and opinions.

Lord Davies of Stamford: The whole point is that the individual campaigns will not have access to the material which the Government will have produced. It is essential that the public have access to that; if they cannot have access to it through the campaigns, the campaigns themselves will not know what material the Government have on the subject.

Lord Flight: Most of the factual information is already there in various forms, so it would not have to be reprinted by a government department. The crucial point is that the campaigners will set out their expectations and judgment as to what will happen one way or the other. As the noble Lord pointed out, leadership in this situation one way or tother is likely to win the referendum campaign.

The proposals seemed to start by suggesting that there should be a whole set of papers on either the advantages of staying in or the problems and risks of staying out. If we ended up with a fair and balanced covering of both sides, I think it would be pretty much a waste of time.

Lord Hamilton of Epsom: My Lords, the key to producing reports is who writes them. The answer is that the Civil Service writes them. Two things are wrong with that. First, the Government at the moment look as if they are going to advocate that we should stay in and the civil servants, if they are doing their job, will slew the reports in such a way that they advocate that we should stay in—so they are going to be biased and of little value for that reason.

The other point is that the EU is very bad at creating jobs. At the moment, it is looking at astronomically high levels of unemployment, particularly youth unemployment. There is one exception to that, which is creating jobs for civil servants. This makes the Civil Service even more biased than it might have been otherwise.

Baroness Morgan of Ely: My Lords, we have had a long and comprehensive debate. The decision in front of the country will have a huge effect on its future. If members of the public are to have a say, it is absolutely right that they should have information available to them in order to make an informed decision. The Electoral Commission suggests that people want this information. They do not feel equipped to make the decision at the moment. That is why we are requesting these reports.

The Government's silence on some of these matters is extremely concerning. It could be interpreted in two ways. Either the Government do not know the answers or they have not understood the question. I want to explain what is at stake because it is very important that we prepare now to inform our fellow citizens. When I talk about our fellow citizens, I mean citizens of the United Kingdom, but there are also implications for EU citizens. We have to understand that a decision to leave the EU would have an impact not just on UK citizens but on EU citizens as well.

First, it is vital that we do not underestimate the complexity of the legal situation that would arise if we were to leave. EU law is part of UK law and its adoption over more than 40 years has given UK citizens, companies and public authorities a vast array of rights and duties. We need to know what those rights and duties are and what being an EU citizen gives you. We need the public to understand that. Many thousands of EU provisions have become part of UK law, not just at central government level but in the devolved Administrations and at local government level. So repealing or amending EU laws would necessarily be a very complex and demanding process. How would the Government manage this process? What would they do? What would they retain? Would they repeal certain amendments or would they just take the whole lot, lock, stock and barrel and accept them into UK law? Would we have one Bill, as was suggested earlier, or would we have to change every single Bill that has been passed over the past 40 years that has any reference to the EU?

Lord Forsyth of Drumlean: I do not understand the noble Baroness's point. It is true that our law has been fashioned by the EU, but it is on the statute book. There is no need to do anything on day one after we have voted to leave the European Union. Surely she is presenting a problem that does not exist.

Baroness Morgan of Ely: We will not need to do anything on day one, but we will certainly have to disentangle our relationship with the EU at some point in the future. That will take an army of

[Baroness Morgan of Ely]
administrators and legislators to sort that out at a time when the Government want to cut the number of civil servants. We need to confront this practical issue.

We are interested in providing and getting the public to see objective information. Regarding the practical consequences for individuals in the UK in the event of withdrawal, I have already asked the Government questions in relation to maintaining EU employment rights. I am still awaiting a reply. The questions concern social legislation in a huge number of areas including maternity, paternity, parental leave, annual rights, the rights of agency workers, protection of employees on the transfer of a business and anti-discrimination legislation. Will these be retained or will they go? Is there a risk element here or not? It is fair to ask these questions.

6.45 pm

Similarly, people deserve to know the implications for EU legislation in the area of consumer protection, for example, on unsafe products, unfair practices and distance selling. We can buy things at the click of a switch today—the click of a mouse—from any of the EU member states and certain guarantees will come with that. Will they be respected in future?

What about the raft of EU environmental legislation? Will the Government retain EU standards for water quality and clean beaches? Presumably, UK citizens would no longer receive automatic health insurance if they went to other EU countries. All these issues carry a risk and have a question mark over them if we leave. It is absolutely right that the public are informed about that. We have had a long discussion on the huge implications for farmers. Of course they have the right to know. We perhaps will not know the consequences—how much the Government would make up for any loss that came from leaving the EU—but farmers should be clear that there is a question of risk for them.

The same issue applies to structural funds, about which the noble Lord, Lord Wigley, talked very clearly. We know that we have been able to trust the EU in terms of giving us this money in the past. We have not necessarily been able to trust central government in London. It is important that people understand that sometimes we trust the EU to look after us in a way that the UK has not looked after us in the poorest parts of the United Kingdom.

Lord Forsyth of Drumlean: When the noble Baroness talks about giving us this money, it is our money which the EU is giving back to us because we are substantial net contributors. Is she really suggesting that we cannot take decisions for ourselves as to how we could spend that money?

Baroness Morgan of Ely: The noble Lord is absolutely right that we can take decisions; I am concerned about what those decisions will be. I have no clarity whatever that the money will go back into the UK coffers and then straight back to the farmers in the UK or the structural funds in the poorest areas of Britain. We have no clarity on that and it is absolutely right that we raise the question, particularly for those who are directly affected.

Turning to the amendment in my name, I ask what will happen to the citizens of Gibraltar. Spain would love to take the opportunity to leverage the whole situation of British exit to push its case for sovereignty over the island. What is the Government's contingency plan if we were to leave? What would happen if Spain were to close the border? Would we send a fleet? Would we mount a Berlin-style airlift to support the island? The people of Gibraltar are very concerned with these questions.

Few would deny that membership of the EU and the single market brings huge advantages to the UK economy and to British businesses. Many other aspects of our national life have also benefited. Will the Government provide a precise and comprehensive report on the possible consequences of withdrawal? We are pleased that the Minister has said that she is in listening mode and that there may be a possibility of producing some kind of White Paper on the impact of withdrawal—and of remaining in the EU as well; I do not object to that. We would like to hear today a commitment that the Government will produce a White Paper and we would like to hear the timescale in which the Minister believes it will be possible to produce it. Much of the work has been done. The balance of competences review has done a lot of the spadework. It needs to be updated into a comprehensive look at the consequences. We believe that the failure to provide such information before a decision of this magnitude would be letting down the British people and shirking an essential responsibility of government.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, I am grateful to all noble Lords for their contributions to what has been an extensive and certainly an important debate today. This Bill sets the stage for one of the biggest decisions that the British public have been asked to make in a generation. It is absolutely right to say, therefore, that the British public should expect to be able to make an informed decision and to be provided with information about the possible consequences of the decision they take when they cast their vote.

The debates today give the Committee the opportunity to consider what information it is appropriate and/or necessary for the Government to provide at the conclusion of the negotiations for a reformed EU. As the Electoral Commission has recognised, it is the designated campaign organisations that will play a crucial role in providing such information. This is the established practice in the United Kingdom and is in line with the Council of Europe's best practice guidance on referendums. However, as the noble Lord, Lord Hannay, has argued, along with many other noble Lords, there may also be a role for the Government. That issue has been fully discussed today, and there are further matters relating to that in other groups that we will discuss later today.

Each of the amendments in this group creates a statutory requirement for the Secretary of State to publish a report no later than 12 weeks before the date of the referendum and to lay such reports before each

House of Parliament. Before I refer to the timeframe itself, in line with the normal practice in these circumstances, I should comment on the different content required in each report as set out in the amendments themselves.

Amendment 21, in the names of the noble Lord, Lord Hannay, the noble Baronesses, Lady Morgan of Ely and Lady Smith of Newnham, and my noble friend Lord Bowness, requires the Government to publish a report that sets out information on the consequences of withdrawal from the European Union. The report must cover: the effect that withdrawal would have on the rights of individuals in the UK, and on the rights of UK and EU citizens living in the EU and UK respectively; the legislative consequences for each government department and the devolved Administrations; and the impact on social and environmental legislation, law enforcement, security and justice. Many noble Lords have intervened in other Members' speeches with regard to these matters.

This has been a very useful opening salvo to the debates today on information, but I rather feel that the noble Lord, Lord Hannay, will not be too surprised if I remark that his amendment is highly prescriptive. I know that he meant to set out a very good construct around which other noble Lords could contribute; he has achieved just that and I am grateful to him. As for the content of the amendment, the duties that it imposes are onerous. That is not necessarily a reason to not do this, but I am very mindful of what my noble friend Lord Higgins said when he posed the question of whom these reports are meant to be for. That is what we need at the core of our deliberation. The public are educated and sophisticated, and those of us who are unelected take those who cast their votes for another place very seriously indeed. When we go on the doorstep, we listen to what they say. We are confident, as we should be, that they want to see clear, objective information, but the question to consider is how that will be best delivered. How will it be objective? As my noble friend Lord Higgins said: how will it be accessible? We want not to overwhelm people with detail but to enable them to make an informed decision.

Amendment 21 would also need to be carefully reworked before it could appear in the Bill. For example, the references to "European" or "United Kingdom citizens" and to "devolved jurisdictions" would need to be corrected. We would need to work out whether there was an intended distinction between the use of the terms "legislative" and "statutory". We would also need to clarify what was intended by the term "social legislation", which is at present so broad as to be unclear. The very broad nature of the examples that noble Lords gave showed the difficulty with the definition. We would also need to think carefully about which of the areas in question, such as environmental legislation, were devolved matters.

I know the noble Lord, Lord Hannay, has used this as a valuable spur to debate, but I should put on the record why it would not be appropriate to accept the amendment, which appears to require detailed analysis of future discretionary changes to devolved legislation, without first consulting the devolved Administrations. I hope that noble Lords will accept that it would be inappropriate to commit at this stage, on behalf of four different Governments, to producing such broad analysis. To condense this into one report could be confusing to those who need to make a decision at the ballot box.

Amendment 27, tabled by my noble friends Lord Blencathra, Lord Hamilton and Lord Flight, would create a statutory requirement for the Secretary of State to publish a report and lay it before both Houses of Parliament 12 weeks before the date of the poll. Unlike Amendment 21, this report must set out the consequences for the United Kingdom of remaining in the European Union. The amendment has given the Committee a valuable opportunity to broaden the debate on what constitutes information appropriate for the Government to publish. In that respect, it assists the debate today. However, like Amendment 21, this is a highly prescriptive amendment that sets out six areas that the report must cover. These include the effect on the UK's social security systems, its insolvency law and its place on the IMF if it were to remain in the European Union. Noble Lords will be aware that providing the level of detail required by this amendment on a wide range of policy areas could involve a high degree of speculation. We would all be cautious about that, I hope. Without a crystal ball—I do not have one to hand—I fear that we could struggle to anticipate future policy developments at EU level. I know, as I have heard it from all quarters around the Committee all afternoon, that noble Lords want to ensure that any information provided to the public is well founded and assists an informed decision.

Amendments 28 and 29, from the noble Lord, Lord Wigley, and Amendment 30, from the noble Baroness, Lady Morgan, focus on the consequences of a withdrawal from the EU on structural funds, support for agriculture and Gibraltar. Amendments 31 and 32, from the noble Lord, Lord Green of Deddington, focus on the consequences on net migration of remaining in the EU and access to citizenship for non-EU citizens within member states. I will make two points with regard to all these amendments. These are highly specific obligations. The question we need to consider is whether every one of the requirements set out in these amendments represents the extent of the information that the general public would need from the Government or not. We come back to the question of what it is right for the Government to propose for the public—which includes us as voters—to be able to make a well-informed decision. Noble Lords clearly already have varied views on that, and we need to see how we take that forward to be able to come to some common conclusions at some stage.

Lord Wigley: I thank the noble Baroness for the attention she is giving this. If the Government were unable, after considering this matter, to give a commitment to bringing reports on structural funds and agriculture—which my two amendments address—would she rule out the right of the National Assembly for Wales to bring forward its own reports and its own interpretation of the situation?

Baroness Anelay of St Johns: My Lords, it would be wrong of me to give a commitment on that until I have come to the conclusion of what I may or may not be able to offer. I do not want to provide too much hope

[Baroness Anelay of St Johns]
about what I am going to be able to offer, but I hope it will be seen to be constructive, which is how it is intended. I know the noble Lord makes a very serious point in his intervention. At the base of this, and what needs serious consideration, is what the Government should be providing and what should be provided by campaigning bodies.

7 pm

I turn now to the 12-week minimum period imposed by each of the amendments in this group. The content required by the amendments, individually and in aggregate, is both extremely broad and very specific. Requiring that the Government supply this information 12 weeks before the referendum date may well have a significant impact on the date of the poll itself. That is an issue that the Committee, and then the House, will need to take into careful consideration when discussing these matters further, because anything connected to timing implications will need to be taken into account. I appreciate that noble Lords will have different views on the matter.

The Government have made it very clear that we are committed to delivering a referendum that is fair and is seen to be fair, but the 12-week timeframe imposed in these amendments risks jeopardising the legitimacy of the referendum. I am concerned that failure to deliver this breadth of information at least 12 weeks before a poll, once the date of the referendum had been agreed by both Houses through affirmative regulations, would leave us in breach of the law. The ambiguities that I have mentioned in some of the amendments could cause uncertainty and argument over whether an obligation had been fulfilled, and therefore cause potential legal risk. I know that that is not the outcome that noble Lords want. At this stage, therefore, we believe that to commit to an arbitrary deadline would be unwise.

Our approach is to engage in ongoing reform, to negotiate and then hold a referendum. We will work together with other countries to discuss and agree reforms, many of which will benefit the whole EU, before holding a referendum to ensure that the British people have the final and decisive say. Although the referendum is not considered to be binding—I have seen the report by the Select Committee on the Constitution—my right honourable friend the Prime Minister has made it clear that he will abide by the decision that the people make. As the Prime Minister has said, Britain would benefit from being in a reformed EU, but a reformed EU will also benefit from having Britain in it. As my right honourable friend the Chancellor of the Exchequer said in June, the Government intend to publish an assessment of the merits of membership and of the risks of a lack of reform in the European Union, including the damage that could do to Britain's interests.

Naturally, I heard the strong calls last week on Second Reading and again today for an in-depth assessment of the implications of a vote to leave or remain in the European Union. The Government will now give careful consideration to what we may be able to bring forward, by way of an amendment on Report, which would command the support of both Houses. However, before I comment in more detail, I wish to listen carefully to the remaining arguments that will be made today on the provision of information. Three groups of amendments remain and it is important that I listen to the noble Lords who move them. Therefore, at this stage, I invite the noble Lord, Lord Hannay, to withdraw Amendment 21. I also invite other noble Lords not to move the remaining amendments in this group when they are reached in the list in the usual way.

Lord Hannay of Chiswick: My Lords, I welcome all the contributions that were made today, even if some of them strayed into what is known as the "Second Reading repeat" category. We heard many views expressed and I think we have made progress. I thank the Minister for her response to the debate—which was, as usual, thoughtful and considered—and for her willingness to take this all away and consider what sort of amendment the Government could introduce on Report. I would certainly not be so churlish as to either criticise or reject that.

I am a little puzzled by her recoiling in horror from any time factor to be associated with the provision of information. I was not quite sure whether she thought that 12 weeks was too long or too short. In any case, a time factor of some sort is pretty desirable; the risk otherwise is that there will be controversy about the material being produced too late. It would not be the first occasion on which the Government have arrived too late with material and it would be bad and contrary to the Government's own interest if that were to happen in this case. So I hope the Minister will not exclude the possibility of a time limit when she considers all that has been said in this debate. On that basis, I beg leave to withdraw the amendment.

Amendment 21 withdrawn.

Amendment 22

Moved by ***Lord Turnbull***

22: After Clause 5, insert the following new Clause—

"Office for Budget Responsibility

(1) The Secretary of State shall request the Office for Budget Responsibility to consider and report on the effect on the United Kingdom economy of withdrawal from the European Union.

(2) The report provided for by subsection (1) must be published, and laid before each House of Parliament, no later than 12 weeks prior to the appointed date of the referendum."

Lord Turnbull: I apologise for missing the earlier part of this debate; I was detained on other business in the House. I have heard enough, however, to convince me of the importance of providing an authoritative and objective analysis not just of what "in" looks like but of what "out" would look like. I have also heard enough to convince me just how complex a task this is, but it is a task that we have to complete—we owe it to our electorate. I do not share the pessimism that not many people out there will want to read this: they may not read the actual reports, but they will certainly want to go into the discussion of them.

It can be argued that reporting on the impact to the economy, which is the subject of this amendment, would be subsumed in one or another of the amendments in the previous group, or in the analysis that the Minister has offered. I very much welcome the assurance that she has given us. This amendment is less about scope and more about who is best placed to provide an objective account, whether that is the Government, the campaigning groups or an independent entity. For many of the issues—including those listed by the noble Baroness, Lady Morgan, of residence, citizenship, employment and the various regulatory regimes which will replace EU legislation—answers can be provided only by the Government, as they are the only people who know the full complexities of them. However, for a report on the impact on the economy, I believe that we do have an alternative—we have created the Office for Budget Responsibility, which has developed a reputation for objectivity—and I think we could entrust this task to it.

There have been two major reports produced by Treasury officials—it was after I left the Treasury, but I am still very proud of them—the assessment of the five tests for entering into the euro, in 2003, and the implications for Scottish independence of the attempt to share a currency. Both were excellent pieces of work, objective and authoritative; and both, I believe, had a significant influence on the decisions that were made. However, in the case of a possible exit by the UK, I believe that political pressures will make it difficult to separate analysis and advocacy, to use the terms that my noble friend Lord Hannay has used, in any reports emanating from the Government. Special steps will need to be taken within Government, for the bits that they are doing, to separate out the people developing the advocacy part of it from the people doing the work.

In the case of the impact on the economy, when we have a body such as the Office for Budget Responsibility available, with a reputation for competence and independence, I believe that we should use it. I beg to move.

Amendment 23 (to Amendment 22)
Tabled by ***Lord Blencathra***

23: After Clause 5, line 5, after "from" insert "and staying in"

Lord Blencathra: I can be brief, my Lords, because the key issues of principle were thoroughly debated in the previous group of amendments—the key issue of principle for me being that if the Government were minded to go down the route of publishing a report setting out the dangers of leaving then there should also be a report on the consequences of staying in. I noted very carefully what my noble friend the Minister said. I congratulate her on winding up such a controversial and difficult debate. I look forward to seeing that amendment and hope that it will be impeccably neutral. She will have noticed that the Government would be stepping into a political quagmire if they went into the details set out in my amendment or even the amendment of the noble Lord, Lord Hannay.

The Office for Budget Responsibility describes itself as one of the,

"independent fiscal watchdogs around the world".

It has five main roles: to produce a five-year forecast for the economy and public finances twice a year; to use its public finance forecast to judge the Government's performance against their fiscal targets; to scrutinise the Treasury's costing of tax and welfare spending measures; to assess the long-term sustainability of the public finances; and to assess the Government's performance against the welfare cap. I am therefore not certain that the OBR has any real role in forecasting the consequences of leaving the EU, but again I make the point that if the Government are minded to accept the amendment in the name of the noble Lord, Lord Turnbull, it should have a parallel duty to forecast the consequences of staying in the Union.

If the OBR is going to make such a report, I hope it will look at three little things as the EU continues its attempts to harmonise social security legislation—and there is talk about the need to change pension rules. In those circumstances the OBR should report on the financial consequences for British tax and welfare budgets. If we were to stay in, then it should report on the lost opportunities to utilise our £12 billion Union contribution, which would be completely at our own disposal if we were to leave. Since the Union, as I have said very boringly before, is in relative decline compared with the American and Asian economies, we should have a report on the dangers to the UK economy of being held back by the slow growth of the EU.

There are many other issues that I could add to that à la carte menu, but we do not need to go through them again tonight. However, I suspect that it is better for the credibility and independence of this fiscal watchdog that the OBR should not attempt to report on the consequences of either staying in or leaving. If it does one, though, it should do the other. I beg to move.

Lord Forsyth of Drumlean: My Lords, I normally agree with the noble Lord, Lord Turnbull, and I have the greatest respect for him and indeed the Treasury. He is right to say that the Office for Budget Responsibility has been a success. I would therefore be very concerned if we were to accept the amendment and taint the reputation of the OBR by giving it this impossible task. Perhaps the noble Lord could contradict me but if I were to take the Bank of England, for example, an organisation that has a formidable reputation, and I were to look at the forecasts it has made about the progress of the economy over the past 20 years—indeed, over most of my lifetime—the only thing that has been consistent about those forecasts is that they have been consistently wrong. The notion that this body called the Office for Budget Responsibility can look into its crystal ball—I am reminded of that character that used to appear on the National Lottery, Mystic Meg—and predict the future is asking a very great deal of it. As my noble friend Lord Blencathra has said, it is hard to see, given the existing responsibilities of the OBR, how it would be able to set about this task—with the necessary expertise, at any rate. As he listed its responsibilities, it seemed to me that the OBR has quite enough on its plate without adding to it.

I support my noble friend, though, and indeed my noble friends Lord Hamilton and Lord Flight, in the amendment that seeks to bring a balance to this. I am

[Lord Forsyth of Drumlean]
not going to repeat the arguments that we had in considering the previous amendments, but if you are walking in the woods and you see a bear trap, it is probably not a good idea to put your leg in it. None of the arguments that one hears about the EU is couched in terms of, "If we weren't in it, we would want to join it". That was what struck me about the Prime Minister's remarks about Iceland and Norway over the weekend. No one in Iceland or Norway wishes to join the European Union.

Lord Wallace of Saltaire: My Lords, the Government of Norway have consistently had a large number of Ministers who wished to join. There are all sorts of reasons why a substantial chunk of its population does not agree. I myself was involved in discussions with the last Icelandic Government, who also wished to join. So "no one" is a mild exaggeration.

7.15 pm

Lord Forsyth of Drumlean: I do apologise to the noble Lord. He is still in ministerial mode; I was talking about the people. I know the people of Iceland extremely well; I have gone there every summer to fish for the past 12 years. I know exactly what has happened in Iceland. I note that the noble Lord also, in his typically selective choice of argument, talks about the last Government of Iceland, not the present one, whose Prime Minister himself made the point to our Prime Minister that they were perfectly happy outside the EU because they had all the fish and, I say to the noble Lord, Lord Davies of Stamford, the opportunity to deal with their financial services crisis as they saw fit, which did not involve bailing out the bondholders and the bankers, and very successful they have been.

The noble Lord, Lord Wallace, distracts me from my bear trap.

Lord Wallace of Saltaire: My Lords, the very thought that the noble Lord would ever intervene on someone to distract them is something that I would not conceivably believe.

Lord Forsyth of Drumlean: I have to say that the noble Lord is probably the only Member of this House who I think might possibly put his leg in the bear trap while it was still in the wood. No one is making the argument in this country, in Iceland or indeed in Norway that if we were outside the EU we should join now on the terms that we are already subject to. That is the point about the bear trap.

However, we are in the position where our leg is in a bear trap. The argument from the noble Lord, Lord Turnbull, and from many of the people who have spoken today on these matters seems to be that it would just be too painful to take our leg out of the bear trap, and that the best thing is for us to stay where we are and bleed to death. I think we ought to consider what the benefits would be of taking our leg out of the bear trap, and that is what my noble friend Lord Blencathra's amendment seeks to add to Amendment 22. I see that the noble Lord, Lord Kerr, wants to intervene, and I happily give way to him.

Lord Kerr of Kinlochard: How kind of the noble Lord. Nothing was further from my mind than interrupting him in any way. I would like to get back to his Mystic Meg argument, which I am still trying to work out; my mind is very slow in these matters. That argument depends on the assumption that the noble Lord, Lord Turnbull, would be asking the OBR to forecast the future course of the world economy, the European economy and the UK economy if we came out or if we stayed in. I do not think that that is the case. The amendment in the name of the noble Lord, Lord Turnbull, asks that the OBR consider what would have changed—what the effect would be of coming out.

I myself would be happy to add to that, although I do not know if the noble Lord, Lord Turnbull, would, the amendment suggested by the noble Lord, Lord Blencathra, which seems to be perfectly reasonable. I follow his argument about staying in or coming out. The important bit would be: what would be different if we came out? The consequences of the differences is what one would be asking for. The Governor of the Bank of England addressed this question the other day, talking about what would have been different if we had not been in the single market for financial services. That is a perfectly reasonable question to ask. I would be happy to support the amendment in the name of the noble Lord, Lord Turnbull, and that in the name of the noble Lord, Lord Blencathra, but I do not understand the Mystic Meg argument, advanced by the noble Lord, Lord Forsyth, that somehow we are asking the impossible.

Lord Forsyth of Drumlean: I am most grateful to the noble Lord for that intervention. The amendment refers to the,

"report on the effect of the United Kingdom economy of withdrawal from the European Union".

In order to do that one would need to take a view on what is going to happen to the euro and if there is someone in the Office for Budget Responsibility who knows the answer to that question, I have to tell them they could be a billionaire tomorrow.

Of course no one knows what is going to happen to the euro. I agree the probability is that it is not going to survive unless there is very substantial further integration within the European Union but no one knows to what extent that will be possible. For example one can look at the attitudes towards the problem of mass economic migration into the European Union and the chaos which the members of the European Union are in at the moment and their inability to agree. Does anyone in the Office for Budget Responsibility know how to predict the outcome of that matter?

The noble Lord, Lord Kerr, is expert at dealing with the European Union. I can remember as a Minister arriving at meetings and he had already prepared the compromise that we would accept and the press release which announced a great victory by Ministers over the European Union to be released before we had even got off the plane. I know that he believes very much in the opportunities for flexibility in matters of wording but the wording on this amendment is asking the Office for Budget Responsibility to do the impossible—to tell the future. In so doing they will almost certainly

get it wrong, like the Bank of England and everyone else who tries to tell the future, and that will damage their constitution.

Lord Lea of Crondall (Lab): The bear trap metaphor is getting in the way of the thread of the noble Lord's own logic. He has got lost in trying to demonstrate that this is either a job that no one should do or it is a job that should possibly be done, but not by the Office for Budget Responsibility. If it is the former, is it not the case that many people in the debate about the referendum are desperate for some sort of guidance on the two scenarios? Indeed the governor's speech and what happened last week in Iceland are very relevant. Is the noble Lord saying that no one should do this job to the best of their ability, however difficult, or simply that the Office for Budget Responsibility should not do it?

Lord Forsyth of Drumlean: I am saying that the Office for Budget Responsibility should not do it and I am saying that the point made half an hour ago by my noble friend Lord Flight is absolutely right. These are matters of judgment, and the people who should make the arguments are the people who are on either side of the campaigns. It seems to me, listening to arguments from the noble Lord and from others on his side, that they have got quite a lot of work to do if they are going to persuade the British people to vote to stay in the European Union. Whether or not staying in the European Union is in the best interests of our economy is a matter of judgment. Even in Greece it would appear that a majority of the voters still think that it is in their interests to be in the European Union and within the eurozone. I am very happy to leave that to the judgment of the British people in the referendum.

Lord Hannay of Chiswick: Unless I have got it completely wrong, the noble Lord is basically advancing the argument that Governments should not produce economic forecasts at all—they are a complete waste of time, they are always wrong so let us ditch them. However, he supports a Government who regularly produce economic forecasts at the time of the Budget. Those economic and fiscal forecasts are regularly reviewed by the Office for Budget Responsibility and I think we are all a bit the wiser for it. Of course it does not give you the answer to everything and like the noble Lord, Lord Kerr, I would be happy to support the addition by the noble Lord, Lord Blencathra, but this dismissal of all forms of forecasting on the impact on the economy of staying or leaving is frankly to go back about 150 years in the practice of economic policy.

Lord Forsyth of Drumlean: The noble Lord exaggerates to make his point. I am not arguing against economic forecasting. I am simply saying that the record on economic forecasting is not very good and the Bank of England is a classic example.

This is not about economic forecasting. This is about the effect on the United Kingdom's economy of withdrawal from the European Union which is a huge issue. It is not just about the implications for the economy directly as a result of taxation or fiscal policy or matters of that kind. It is about the impact of immigration, it is about what happens in terms of the advantages that we would gain by being outside the European Union, our ability to negotiate our own trade agreements, our ability to be free of suffocating regulation, our ability to decide matters for ourselves, our ability to control our borders—all these things will have an impact on growth rates and the future of our economy. I am simply arguing that the Office for Budget Responsibility does not have the expertise or the ability to do that. I am delighted that the noble Lord supports my noble friend Lord Blencathra's amendment looking at the other side of the equation, which is staying in.

I will repeat a point I made earlier. It is astonishing to me that we are members of the European Union and the arguments that we have heard from the Europhiles—the people who wish to remain in the European Union—have all been characterised in terms of the threats of leaving rather than the benefits which we have. That seems to indicate a degree of uncertainty.

Lord Liddle: I do not know who the noble Lord has been listening to about threats. It seems to me that the pro-European people are making a very modern argument for our membership of the European Union—a case which is far stronger than it was when we originally joined—that in this really dangerous world with chaos in Africa, fanaticism in the Middle East and rising nationalism in Russia, what we should be doing is sticking with our friends and acting as a united Europe.

Lord Forsyth of Drumlean: We do not have to be in the European Union to stick with our friends, and NATO is a good example of that. I am not referring to the general debate, I am referring to the amendments—for example the amendments in the name of the noble Lord, Lord Hannay, to insert a new clause headed:

"Report on the consequences of the United Kingdom withdrawal from the European Union",

but not to report on the benefits of being in the European Union.

Baroness Smith of Newnham: Will the noble Lord give way?

Lord Forsyth of Drumlean: May I just finish answering this point first? I am simply making the point that it is very startling that those who are most enthusiastic about the European Union wish to couch their arguments in terms of what it would be like if we left as opposed to why it is in our interests if we remain.

Lord Liddle: There is a very simple reason for that which is that most of the anti-European case that is put forward suggests that it is cost-free to come out of the European Union. That is why these arguments are being pressed; if you listen to the way a lot of people talk who favour withdrawal, they think it is cost-free. They assume we can negotiate anything we want. It is they who are not facing up to the realities of the world.

Lord Forsyth of Drumlean: I have to say that cost-free would be a considerable improvement on the £8 billion net contribution that we are currently making because it is certainly not cost-free to remain in.

Baroness Smith of Newnham: Will the noble Lord explain why he thinks that a report on the consequences of withdrawal is about fear rather than something that benefits people who want to remain in the European Union? To go back to his bear analogy, what if the vet comes along and suggests taking the bear's leg out of the trap so that it is recovered, rejuvenated and much happier? Is that not an alternative reading of it?

Lord Forsyth of Drumlean: The noble Baroness is now pulling my leg if she thinks that that argument has any substance. I am simply making the point that the whole thrust of the argument that we have had in terms of producing reports from those who wish us to stay in the European Union have been about "hanging on to nurse for fear of something worse".

Lord Kerr of Kinlochard: I do not know whether the noble Lord has noticed but the fact is that we are in the European Union now, so the question for the electorate is, "Shall we leave?". The argument that he is just making would be very good if we were not in the European Union and the question was, "Shall we join?". Then I would be required to try to demonstrate to him that there would be benefits. However, the question for this referendum is, "Shall we stay or shall we leave?". That is the issue.

Lord Forsyth of Drumlean: I entirely agree with the noble Lord about what the issue is. I will not repeat the same arguments, because I can see that the Whip is beginning to twitch and is thinking about the dinner hour.

7.30 pm

Baroness Ludford: Very briefly, on the logic of the noble Lord's argumentation it seems to me that he should have tabled an amendment asking for a report on the benefits of membership, because he is saying that those of us who want to stay in wanted to put a negative spin on withdrawal—which I do not accept, because we want a factual report. However, turning that round, those people who want to leave should have forced or tried to force a report on the benefits of staying in, because they believe that that would show up that there are not benefits.

Lord Forsyth of Drumlean: I would not ask for a report on the benefits of staying in, because it seems absolutely apparent that we are considerably disadvantaged by joining with an organisation which is unable to control its currency or borders, and which prevents us exercising our sovereign ability to control our borders and to ensure that we have the conditions in which enterprise can flourish. I look forward to David Cameron's initiative in the European Union to discover whether the European Union itself realises how it is damaging member states in the Union. I cannot for the life of me imagine why the noble Baroness would want me to put down an amendment suggesting that we have a report on the benefits when so much damage is caused by the way in which the European Union is organised at present. I support my noble friend's amendment.

Lord Lea of Crondall: The last 15 minutes have been very illuminating. We now have the position where the noble Lord, Lord Forsyth, has concluded that we do not want any attempt to have this independent assessment because it is up to the two sides to fight it out as if we were in Madison Square Garden. I will quote him many times in the future on that basis. These people do not want any independent analysis—they just want a shouting match to see who can shout the loudest. That is exactly what he said, and that is my first point.

Lord Forsyth of Drumlean: It is not what I said at all. I said that whether we stay or leave is a matter of judgment and opinion. The idea that the Office for Budget Responsibility can intervene in this matter is not sensible. In fact, it would be difficult for the Government, because I very much hope that at the end of the day collective responsibility will be suspended and that members of the Government will be able to campaign according to their own judgment. Therefore the idea that the Government or anyone else could produce an independent report is fantasy. Of course people must have the facts; I hope very much that people on both sides of the campaign will resist the kind of scaremongering which we have heard from people like the noble Lord—yes, indeed—who support that particular side of the argument. We have heard that 3 million jobs will be lost and other scare stories, which will simply turn off the voters. However, I do not believe that it is impossible for those on both sides of this argument to honestly put out arguments and facts and let the people decide.

Lord Lea of Crondall: It is quite often possible to summarise the general opinion of politics in this country, as a default position, as: "They just shout at each other and they don't try to find the truth in the public interest". This will be an historic decision for Britain, and the idea that we will not do our best to find any independent ground to give to the British people is quite extraordinary.

I was the person who, at Second Reading, first made this proposal and started this hare, or bear, running. That was done to meet the argument put forward by noble Lords such as the noble Lord, Lord Forsyth, that we must find out what the consequences would be of being out, because they on their side—and it is true that I am on one side, just as the noble Lord, Lord Forsyth, is on the other side—were saying that there will be absolutely no problem with being out, without any of the downsides; for example, that we will have all the benefits of EFTA. Of course, this weekend we now hear from the Prime Ministers of Norway, Sweden, Iceland, Greenland, the Faroe Islands and wherever that this is not the case. We have now got into the position where, this bear trap or whatever it is having been opened up, the noble Lord seems to be running away from the argument that his side started about a month ago, which is very interesting.

The only other way in which I guess we could have an independent analysis without it being done by the Office for Budget Responsibility would be to set up some new academic/ex-Whitehall or Civil Service commission, or something like that. It would not be easy to get agreement—as I think the noble Lord,

Lord Turnbull, said at the beginning—in that rather heated atmosphere on what such a body should be like. I do not think that the noble Lord, Lord Forsyth, has doubted that the credentials of the OBR as regards its degree of dispassionate analysis could be bettered. It now has a reputation, with some ex-Treasury officials in it, as a body which does not kowtow to the Treasury, which some people feared. However, it established its own independence and credibility at the same time, not like a parliamentary Select Committee with an eye for newspaper headlines wanting to find something extravagantly newsworthy to say. This is therefore about as good an attempt as will be made.

Finally, we do hear a red herring from time to time, which is of course that after the referendum, if it leads to exit, another negotiation would follow whereby tariffs would not go up against Britain, and that otherwise they would. All these existing problems would suddenly be revealed for analysis when we are out, not before we are out—before we have voted—but when we are going to go out they would have another negotiation. That particular fox, to change the animal metaphor, has been shot dead three times, and I should think it is pretty dead now.

Lord Collins of Highbury (Lab): My Lords, I will try to be very brief. I will start by saying that in the previous debate and at Second Reading my noble friend Lady Morgan made our position of support for the principle of reports and information quite clear. This comes back to the Electoral Commission's submission that people want more information and informed debate. Clearly, we know that the debate will be focused on those who are committed to remaining in and those committed to leaving. However, the debate today highlights a problem we have with people who take a fixed position. I am one of those who believe that the Prime Minister is intent on negotiating progress within the European Union. I also believe that the European Union is open to constant reform. I do not see the date of the referendum as the date when everything stops, with it simply being a question of deciding, "It's good now" or "It's bad now". The debate on reform is really important, which is why the Office for Budget Responsibility can have an important role to play.

The noble Lord, Lord Higgins, asked, "Who are these reports for?". I could not agree with him more in asking that, but I think that they will make an important contribution and stop the debate deteriorating into one between those who simply want out at any cost and those who simply want in at any cost. The reform agenda must be very much at the forefront of the debate that we will have.

I think that the Office for Budget Responsibility is capable of doing the job. It produces reports on the Budget and is capable of producing a longer-term fiscal sustainability report on future trends and pressures. It is ideally suited to the job and I think that people will want to hear from it. There were debates in the other place about whether the Bank of England should or should not express an opinion. We support the independence of the Bank and it has been doing a good job. The noble Lord, Lord Forsyth, thinks that the Bank has got it wrong many times and asks, "Why should we listen to it now?". However, I am also aware that when even a body like the Bank of England reports, the *Guardian* says that its report shows that the EU provides a dynamic environment for economic growth, whereas the *Daily Telegraph* said that the report has nothing to do with EU membership. So whatever the OBR produces, I have every confidence that the campaign to remain in the EU will say one thing and that the campaign to take Britain out will say something else. However, the British people deserve to understand the source of the information, which is why we will support both amendments.

Baroness Anelay of St Johns: My Lords, in moving Amendment 22, the noble Lord, Lord Turnbull, has enabled the Committee to have a debate which goes to the heart of the question of who should be the author of a report regarding the effect upon the economy of the UK were there to be a decision by the British people at the referendum to leave the EU or remain in the EU. Of course, I notice that the amendment of the noble Lord, Lord Turnbull, talks about withdrawal and that my noble friend's amendment talks about remaining in, but Amendments 22 and 23 together have enabled an overall debate.

The request in both amendments goes beyond the remit of the OBR, which is set out in the Budget Responsibility and National Audit Act 2011. The OBR's main duty is to monitor the sustainability of the public finances. Its role is to make economic and fiscal forecasts based on the policies that the Government plan to implement. Conducting analysis of hypothetical scenarios for the purpose of a referendum is simply beyond its scope. Indeed, the statutory basis of the OBR forbids it to consider the effects of alternative policies.

It may assist the Committee if at this point I refer briefly to the 2011 Act. The precise language under Section 5(3) is as follows:

> "Where any Government policies are relevant to the performance of that duty, the Office … must have regard to those policies, but … may not consider what the effect of any alternative policies would be".

The point on alternative policies is very clear. In the Government's view, these amendments would indeed require the OBR to consider alternative policies, as I think has become clear during the debate.

As my noble friends Lord Blencathra and Lord Forsyth alluded to, we should consider a wider point. If the OBR were to report on the economic consequences of UK withdrawal, it would risk pulling the organisation into the political debate—something that the OBR was set up precisely to guard against—which could therefore undermine its reputation as an independent and objective institution.

I understand that the amendment was tabled as a spur to debate and it has helped us in that regard. As I advised noble Lords at the end of the debate on the previous group of amendments, we will now think carefully about the issue of public information and consider what we may be able to bring forward by way of an amendment on Report. At this stage, I therefore invite the noble Lord, Lord Turnbull, to withdraw his amendment but, in the first instance, I urge my noble friend Lord Blencathra not to move Amendment 23, which is an amendment to Amendment 22.

7.45 pm

Lord Turnbull: My Lords, the purpose of the amendment was to draw attention not just to the question of information but to the validation of that information—the quality of it and the trust that people can put in it. One point on which I can agree with the noble Lords, Lord Forsyth and Lord Blencathra, is that the information should be symmetrical, but I fear that the way that the debate will go is that the Government will negotiate a series of changes and will want to come back and tell people that they are good and sufficient. So I think that we will hear rather more about the benefits of staying in and not enough about the effects—I will not say "dangers" or "fears"—of going out. Symmetry is the first principle and validation is the second. There may be objections to using the OBR but, whatever the Government produce, and I welcome this proposal, they will have to answer the question of how we make people believe that the analysis is authoritative and technical. I see that the noble Lord, Lord Forsyth, wishes to intervene. The purpose of the analysis is to help people to make up their mind; it is not to offer them judgments.

Lord Forsyth of Drumlean: I appreciate that people are thinking about the dinner break, but will the noble Lord just reflect on when we last tried this? It was when the Scottish Government produced their White Paper on the referendum. The assumption was that the oil price would be $110. Is he not concerned about that experience?

Lord Turnbull: The noble Lord keeps using the word "forecast". I do not see these as forecasts; they are analyses based on different assumptions, the purpose of which would be to draw out for people the complexity of the situation and the number of variables in play, and to draw attention to aspects that they may not have thought of. The idea that the OBR would produce a single forecast that could be falsified simply on the basis of one variable is wrong.

I return to the fact that there is to be a response from the Government. I think that we should wait for that but I hope that it will address how this work can be done by government, even if it does not use institutions outside government, in such a way that people can have the greatest faith in it.

Amendment 23 (to Amendment 22) not moved.

Amendment 22 withdrawn.

House resumed. Committee to begin again not before 8.49 pm.

Disabled Students' Allowance.

Question for Short Debate

7.49 pm

Asked by ***Lord Addington***

To ask Her Majesty's Government whether they plan to make any changes to the disabled students' allowance.

Lord Addington (LD): My Lords, I thank all those who have put their names down to speak in this debate. I particularly thank the noble Baronesses on the Front Bench directly in front of me. They have had to put up with one or two changes of plan.

I declare my interests. Normally, it is just a case of referring to them, but on this occasion I think that I should go through them a little more fully. I start by saying that I am dyslexic. For nearly two decades I have been a user of assisted technology in my day-to-day life. I am a vice-president of the British Dyslexia Association and I am also the chairman of a company called Microlink, which deals with assisted technology and has a long involvement in a student loans company. It is a decreasing part of that company, which is a very good thing because we are now losing money on it.

My Question as originally put down asks whether the Government have plans to make changes to the disabled students' allowance. It is now quite clear that they do. They are well developed plans and the consultation has gone out, which I have seen some of the documents for. The big question that comes up in this is the role of the universities where the students are studying—the HEIs, universities or call them what you like. What happens and what their role is in this new situation are vital, because if we look at the existing model we see that the institutions do not have to do that much. The disabled students' allowance allows you a plan of support which is individual to you and which you take to the university. The university then integrates you into the system and does not have to do that much.

The Equality Act potentially draws this into question. However, we do not know exactly what the Equality Act would mean in terms of legal responsibility to the individual student because the best and most important thing about the current scheme is that it is an individually based package. Perhaps I may digress from the mainstream for the moment: as a dyslexic, there is something that I would have raised a long time ago if I had known this process was going on, just to show that the existing system is not perfect. It is the fact that dyslexics had to be assessed again, at the cost of several hundred pounds per individual, if they were dyslexic—not if they had another condition—because, apparently, the fact that they had been assessed for a lifelong condition at some point in the past was not good enough and they had to go again. It was most keenly argued for by people who seemed to be carrying out the tests—but let us leave that one where it falls. It could and should have been looked at in the past. It grew organically; it grew as you could meet needs going through the system.

However, you now have an individual structure. Will the university provide that individual package to meet the needs of the person? This is very important, because when you look through, you see a lot of talk about generic technology and providing it free of charge with no licence involved. As a user of this type of technology, software and back-up—I think that I am the only person in the Chamber who does, although I stand to be corrected—let me tell you one thing about it: if it is not reliable, it is not worth having. There is a lot of very cheap and shoddy stuff out there.

If you do not have somebody you can go to to support you with it, it is not worth having. If you do not know when you switch on that device that you have got a system that allows you to interact with it, it is not worth having. What sort of support structure will be going in there?

Also—and I keep coming back to the individuals—are you sure you are going to get the right package for that particular student? If you take as an example one disability group, dyslexics—it is the biggest, but it is just one—you find that no two dyslexics are exactly the same. You have every variation, from the way their minds work and intellectual capacity to the type of course they are on. A history student's support work will not be the same as that for somebody who is doing chemistry: they will need a different interaction; they will need to be trained to use it properly to get that interaction. This will mean an individualised training package and variations around it.

We then have the extra complication of what you have done before. How good is the computer that you are using? How much training have you had in it? How are you taking it on and being supported through there? Unless these factors are brought together, you are not going to get the best out of it. Worse still, we all know from personal experience that if you have something that you cannot use properly, you do not use it. Any money that is provided and any support that is not effective and accessible will basically be ignored. We might then have a situation where the university is in breach of the law. The government help, whenever it comes in, does not work; university help does not work. What are the downsides of that? If the technology is needed, I suggest that there is a very good chance that that individual will drop out of the course or at least underachieve. If they drop out, the university could find itself losing two or three years of fees and having a hole in their structure and funding. The person who drops out might not know what to do with the rest of their life. We also know that disabled people need to be better qualified to get jobs at all. So we have a nice little downward spiral setting in there. That is if you have not focused in on getting the best out of the system.

As we go around looking at this, we have to try to get some idea of exactly how the Government's thinking is going through: what is going to happen next? If you are not going to require universities to have an individualised package—funding that supports that individual to get the best out of it—are you going to do something else? If you are, what? Do we continue with the same scheme, better audited and slightly better organised? Or are we going to go back to the universities? If we are, we have got to say, "You've got to deliver something that is user-friendly". If it is not user-friendly enough to make sure that people will use it, do not bother.

Universities are very odd beasts; they run themselves. Are we going to make sure that there is a universal standard throughout the sector so that no student is restricted in their choice by what that university does? X University could become where you go if you are dyslexic; if you are deaf, you go somewhere else; if you are blind, you go somewhere else. How do we work these in together? How do we make sure that you take your package and you go to the course? The package will help you get through the course. But you need to be trained and you need to have the right technological support—you could say that training probably comes first: you have something that gives you the access point.

Are universities going to have to change their behaviour and impose on their staff changes in behaviour? Access to lectures is one of the big points. I gave up on lectures, so I really cannot comment too far on that; there again, in history, if you read the right textbook or, better still, get somebody else to read it on to a tape recorder—he said, claiming his own experience—it is a better way forward. Access to lectures is seen as being a very important part of many university courses. How are we going to make sure that academics interact with technology in storing information? It is just another way in which these pulls and pushes take place.

I could go on for a considerable time about this, going into more and more detail, and I am aware, as I just said, that dyslexia is not the only show in town, although it is the biggest group. How are we going to make sure that the new scheme works for the individual student? How can we guarantee standards so that they can access and get through?

Let us take a quick glance sideways now. We have just done a great deal of work on the Children and Families Act, making sure that further education and education generally support you until the age of 25. We did not touch universities, and were told that we were not going to touch them, because we had the disabled students' allowance. We also have Access to Work, which runs another series of standards where you take on things that make you work independently—an important part of this scheme. Is that tying in as well? Unless we bring all these things together, we will ultimately fail and let down these people and waste money. I suggest that that is something we do not want.

7.59 pm

Lord Lipsey (Lab): My Lords, debates in this House are always at their best when we hear the voices of experience, and we have just heard that from the noble Lord, Lord Addington.

I am going to make only one political point and it is this. Some of us are very concerned that this change was scheduled to happen last year—these things happened in sequence—but there was a big National Union of Students demonstration at a time when student-dominated seats were expected to be very important in the general election and the change was postponed to next year.

I hope that the fact that there is not an imminent general election now will not affect in any way the Government's verdict on the consultation.

I do not think it can be denied that if the disabled students' allowance goes, there will be a disincentive to universities and higher education institutions to take disabled students. I should declare an interest as chair of the Trinity Laban Conservatoire of Music and Dance. We are particularly affected because, although about 11% of students at all HEIs have a reported disability, 21% of our students are affected by a disability and 16% claim DSA. Most of them suffer, like the noble Lord, Lord Addington, from dyslexia.

[LORD LIPSEY]

People might think, "Oh well, that's all right. It's only musicians. It's only arty-farty types. It's not going to affect the country if they can't have an education, or the talent pool is limited". At Trinity Laban, 99% of our graduates are in work or further education six months after graduating. That is in the top three in the country, ahead of Oxford, Cambridge, the London School of Economics and all the Russell group of universities. These are people who make a huge contribution to our national wealth as well as our national culture.

Let me move from that general picture to the specific. I think of Lewis Raines, an outstanding young man who is president of the student union. He is the most capable member of my governing board. He contributes enormously. How he gets through all the papers for the board, I am not quite sure, but he does. He had an early diagnosis of a severe learning disability—namely, dyslexia. This is how he describes his experience:

"I was first granted DSA whilst studying a BA (Hons) in Musical theatre at the Blackpool and the Fylde college. I had previously whilst at Rossall school been given a reader and scribe for my exams and now with DSA support I was given the opportunity to pursue my goal of getting a degree and becoming an opera singer. The fantastic equipment I was given let me record my lectures, I could speak vocally into my computer to write my essays and was given additional one to one assistance with a tutor for two hours every week to work on my English language. I graduated with 2.1. This gave me first of all the confidence to believe I could study at a top conservatoire of music. When I came to London to study at Trinity Laban I still could not read music or for that matter read another language. However I was just so grateful for DSA, the work and support they gave me helped me get a 2.1 because I had additional hours of coaching. I can't sight read music but I am so glad to have been able to have one to one coaching from my teachers Alison Wells and Helen Yorke funded by DSA.

Without the DSA I don't think I would have a degree today and I don't think I would have ever been here as the president of Trinity Laban. The work and support I was given I will forever be grateful for".

I am sorry that Lewis cannot be here because, if noble Lords met him, they would realise what a loss it would have been if he had not had the education that has set him on course. He will be a huge contributor perhaps in music, perhaps more widely to our society. His is just one of many cases. One of our students has just won a major jazz award thanks to DSA. David Toole was a leading dancer at the Paralympics thanks to DSA. We have the Candoco Dance Company of disabled people, and they are able to work only thanks to DSA. I think I am seeing the personal benefits that these students derive from the current DSA system, and I am extremely concerned that we should be moving away from it.

Trinity Laban already spends £100,000 of our own money in helping disabled students, in line with our legal responsibilities. That is quite a large sum for an institution with a turnover of only £23 million. If the Government go through with some of the changes that are being canvassed, we reckon that that figure could roughly double—we would lose anything from £50,000 to £150,000. That would be extremely significant to a small arts institution such as ours. We do not have hidden pots. There is not a purse stuffed up the principal's sleeve. We have a very limited income, and it would be extremely difficult to cope with a loss of DSA. The obvious way of coping would be to find ways of cutting down on our numbers of disabled students.

I am afraid that the Government have rather a habit of arguing like this: "We must cut the deficit. But we will be unpopular if we do the things that cut the deficit so someone else must cut the deficit". We see this with local authorities every day of the week. The cuts in government spending are much less than the cuts the Government are forcing on local authorities, and I am nervous that this is another such case.

I am sure that the DSA scheme can be improved. I am not against reviewing it. I am worried by some of the wording used for that review. When I hear "rebalance", I know precisely what the Government mean—less cost for the Government, more cost for institutions. I could go through their consultation paper finding case after case of that sort of language.

At the end of the day we are left with this dilemma—what are we to do? Do we help people like Lewis or balance our budget? It is not possible to find a magic wand that enables us to do both. I give credit to the Government; they backed off once. I hope that they will back off again. I am delighted that the consultation documents says in paragraph 11:

"If any changes result from this consultation".

It does not say that changes "will" result from the consultation. I do not think that the Government would find it good business in any sense to mount an attack on disabled people, who do not come into any of the categories of people getting welfare benefits whom the Government do not so easily support. I hope that the essentials of the existing DSA system, tweaked and tuned as it might be, remain in place after this review and that people like Lewis will therefore go on being able to receive an education that equips them to contribute to our society.

8.08 pm

Baroness Thomas of Winchester (LD): My Lords, I both congratulate and sympathise with my noble friend Lord Addington, who secured the debate at short notice. His experience in this field is invaluable. My starting point is the report that has just been published by the Equality and Human Rights Commission *Is Britain Fairer?*. Under "Education", it says:

"Disabled people are less likely than non-disabled people to have a degree qualification (16.7% compared to 31.4%). This was also the case in 2008. However, compared to 2008, the percentage having a degree level qualification had increased more for the non-disabled group (+7.6%) compared to the disabled group (+4.9%). This has resulted in the gap between the two groups being larger in 2013 compared to 2008".

Is this really the time for changes to the DSA which are likely to make that gap larger than ever? Disabled people and the country need many more disabled people to obtain degrees to enable them to get good and fulfilling jobs. If the Government's stated aim is to halve the number of disabled people who are unemployed, are they really going about it in the right way?

One of the problems about preparing for this debate is knowing exactly what is going on with the DSA. The consultation closed on 4 September this year and

I would like a firm assurance from the Minister that this was a genuine and not empty exercise to close off the possibility of judicial review.

The Minister for Universities, Science and Cities, Mr Greg Clark MP, made an announcement on 12 September last year that the changes to the DSA would be delayed until 2016-17. He said that the Government were going to explore certain issues and work with institutions and stakeholders on other issues, but it would help everyone if we knew at what stage these negotiations are. Can the Minister say whether her department is in contact, for example, with the Equality and Human Rights Commission for guidance in this area, or with the Office for Disability Issues in the DWP, or with the Government Equalities Office?

It does not surprise me that the Government want universities not just to rely on the DSA to make certain non-medical reasonable adjustments for disabled students, such as the cost of a helper, that perhaps they should make themselves. In fact—here, I am afraid I shall divert slightly from the DSA—I have some sympathy with the Government over reasonable adjustments. These have been required since the Special Educational Needs and Disability Act 2001 and should be in place by now as a matter of course. All lecture halls, student unions, libraries, ICT suites and halls of residence surely should be accessible by now, with safe ramps, dropped kerbs, lifts, good lighting and clear signage being provided as a matter of course. However, we all know that this is far from the case. This is why the words "reasonable adjustments" are characterised as anticipatory. In other words, it should not be left to disabled students to request them; they should be provided in anticipation of their necessity for disabled students.

However, I acknowledge that the word "reasonable" is not always easy to interpret in all cases, particularly for those with hidden disabilities, and has to be considered in each case. Some want the word defined more clearly but others recognise that flexibility is more important. What is clear is that universities—or perhaps I should say HEIs—vary widely in the facilities they offer disabled students.

We are lucky to have an invaluable report compiled two years ago by the Trailblazers, a group of more than 600 young disabled campaigners from across the UK who report on all kinds of issues affecting their lives, from access to higher education to housing issues and leisure opportunities. Their report, *University Challenge 2013*, highlights existing problems that could be exacerbated by the proposed changes to the DSA, including the varying levels of support offered by different universities; the reliance on the allowance to enable a levelling effect of support for those living in poverty; and the disparity between undergraduate and postgraduate allowances. The Trailblazers are part of Muscular Dystrophy UK and make the point that neuromuscular conditions are progressive and that the support students need is likely to vary from year to year.

The situation is not all bad. The survey they carried out two years ago showed that 90% of university disability advisers were found to be helpful, and 90% said that universities made adjustment to improve access to lectures. However, three-quarters found that organising care from the local authority was not straightforward, and 30% felt limited in where they could study because of concerns about their care packages. Time precludes mention of more of their findings but I hope the Minister's department has this report, which I am sure it would find useful.

One of the most important of the proposed changes concerns the provision of computers, as we have already heard. I gather that for this academic year the DSA can be used to help with the additional cost of a computer and assistive software if needed solely because of the student's impairment, although the student will have to find the first £200. Printers and consumables—whatever they are—will not automatically be provided by the allowance. Those students without their own computers will be expected to use the computers provided by the universities, but only just over half the universities surveyed have full access to study rooms, including libraries and computer labs, thus putting disabled students at a clear disadvantage. It puts disabled students from poor backgrounds at a double disadvantage. It is also at odds with the Prime Minister's goal for increasing not only students from BME backgrounds progressing to higher education by 20% by 2020, but also for doubling the proportion of people from disadvantaged backgrounds entering higher education by the end of this Parliament. What about setting a goal for disabled student numbers to increase?

8.16 pm

Baroness Garden of Frognal (LD): My Lords, I join other noble Lords in thanking my noble friend Lord Addington for introducing this debate and giving us an opportunity to discuss the disabled students' allowance. I feel sure that, given longer notice, many more of your Lordships would have been drawn into discussion of such an important issue.

My noble friend is a long-standing champion of disability rights. He has pursued measures that have improved the rights and opportunities of those who have to overcome disability before they can prove their talents and achieve their ambitions. His focus on dyslexia is ever more relevant; that unseen disability afflicts more people than was recognised in days gone by, and it is always heartening to hear of the achievements of people who have had to struggle from a young age to access learning, with barriers not faced by their non-dyslexic peers. My noble friend is a tenacious champion on their behalf.

My noble friend Lady Thomas also speaks compellingly on behalf of those with disabilities. As we know, the disabled students' allowance is a non-means-tested, non-repayable grant provided through Student Finance England to help eligible higher education students pay the extra costs incurred as a direct result of a disability, long-term health condition, mental health condition or specific learning difficulty, such as dyslexia or dyspraxia. It is a wide-ranging allowance, which is one of its great benefits, and it takes into account the very wide variety of disabilities that students may have. It has been invaluable in encouraging students to succeed, because those covered by it may be every bit as intelligent and ambitious as others, but may be

[Baroness Garden of Frognal]
able to achieve their potential only with the help of additional personal, technical or financial support. The DSA is the means to that end. My noble friend Lord Addington made a powerful case about the imperative for equipment to be of good quality.

For this debate, we have received many helpful and informative briefings from the Library and from many individuals and organisations who have direct experience with disabled students and who know the disruption that changes may bring. Widespread concerns have been expressed at the transfer of certain responsibilities to institutions. The National Union of Students—which the noble Lord, Lord Lipsey, has already referred to as a powerful lobbying group—has set out its essential criteria for support for disabled students, which should be,

"high quality, timely, individualised, consistent ... and with appropriate and speedy mechanisms for appeal and redress".

Could the Minister say how the Government propose to monitor the support against these criteria, given the numbers of higher education institutions which each will be interpreting the needs of students in their own way? Some will face the challenges of having insufficient financial resources or expertise to deal with changes to the system.

There are further complications with collegiate universities, where we have seen individual cases in which problems have arisen. Individual colleges will be dealing with small numbers of applicants and there may be significant variations in funding depending on the relative wealth of the college. What advice and support will come from the Government to ensure fairness in any new provision?

We have raised before in your Lordships' House our concerns over support for part-time higher education. This provision plays a key part in enabling people to access high-level skills and increase their personal fulfilment, as well as their contribution to the economy.

We hear from the Open University—which supports around 20,000 students with at least one disability—of its concern that reductions in funding for disabled students will have a considerable effect on the opportunities for part-time students. In addition, there is a deterrent factor if there is uncertainty about the support that might be available to them. The Open University has done a magnificent job over years in providing opportunities for all sorts of people who may have missed out the first time round or may have found more difficulty in accessing mainstream education in different ways.

The discussion of changes may already be acting as a deterrent to those who have enough challenges to overcome without also being unable to plan ahead for future studies. Disability Rights UK has already identified that more disabled people are questioning the wisdom of going to university.

As the noble Lord, Lord Lipsey, set out so clearly and movingly, many arts-based institutions have higher proportions of students eligible for DSA, whose disability in one way can result in increased talent in another, such as art or music. They could well be disproportionately affected. We also know that the creative industries are a source of immense pride to this country, as well as being of great benefit to our culture and to the economy. What reassurances can the Minister give to such institutions that they will not find difficulty in enabling their students to succeed?

We have evidence that it is in all our interests to enable disabled students to continue their studies and gain qualifications to equip them all the better for competitive life. It was striking to read the research carried out by the Equality Challenge Unit, which showed that the prospects for disabled graduates are significantly better than those for non-graduates. The figures for 2012 showed that 71% of disabled graduates gained employment, compared with only 42% of disabled non-graduates, and that is with all the benefits of skill-based qualifications and so on that might have been available to them. Surely it is in all our interests to ensure that provision is available for those with talent and commitment who need some specialist help to get them over the hurdles.

It was reassuring to hear that maximum grants for full-time, part-time and postgraduate students with disabilities will be maintained at 2015-16 levels into 2016-17, but students and institutions need to plan ahead, so reassurance for another year is only a temporary solution. Can the Minister reassure the House that no full-scale changes will be made until an impact assessment has been undertaken? As has already been indicated, it will be a false economy if reforms to these allowances turn out not to be the improvements the Government are hoping for, but result in an increase in disabled students unable to study or to work. I look forward to the Minister's reply.

8.24 pm

Baroness Hayter of Kentish Town (Lab): I too thank the noble Lord, Lord Addington, for securing this debate, which gives us the chance to hear from the Government whether they really are committed not just to maintaining but to increasing the chances for disabled people to go to university, as suggested by the noble Baroness, Lady Thomas. It is perhaps more important for disabled people to go to university, as throughout life this will help their development and the contribution they can make to their own and others' lives. Indeed, they seem to be better able to make the most of the opportunity, even though most of course get DSA at well below the maximum levels, the average being just over £2,000.

Disabled students who get DSA are more likely to graduate, and with a first or 2.1, than disabled students without the grant. Perhaps more surprising is that students with DSA are slightly more likely to graduate, and with a good degree, than non-disabled students, so it is a high return on a small investment. However, the proposed changes to DSA have worrying implications, partly because of the variation between institutions in attracting disabled students. While almost 7% of full-time undergraduates get DSA, this varies from 2% to 30% across different universities. In 60 universities, the percentage exceeds the average, with more than 10% of students being disabled in 24 of them. The higher numbers tend to be in modern universities with the best record of widening access.

As has been mentioned, part-time participation is particularly vital. Just last week, the Higher Education Policy Institute showed the role that part-time education plays in boosting productivity, contributing to economic growth and driving social mobility. As the noble Baroness, Lady Garden, has said, it is the Open University which supports more disabled students than any other, showing the importance of its part-time and open access to this group of students. But these very numbers, and the OU's dedication to widening access, mean that any reduction in DSA or indeed in student opportunity allocation which is based on it, will have drastic implications for disabled people seeking to improve their employability and life experience through study and qualification.

That brings us to the problem of moving responsibility for DSA from HEFCE to the individual university without transferring the funds. The only way forward will be for universities to have to rob Peter, in this case non-disabled fee-paying students, to pay Paul, disabled students. It also means, self-evidently, that those universities which have done the most to attract and cater for disabled students will be penalised the most, with significant burdens on those with the highest proportion of disabled students, often the smaller ones or conservatoires, as described so movingly by my noble friend Lord Lipsey. More than that, given that the separate institutional funding for disabled students through HEFCE's student opportunity fund depends on the number of DSA claimants at the institution, a change in DSA numbers would affect that overall level of support or else its distribution. Could I therefore ask the Minister whether she expects funding through the student opportunity fund to a university to decrease should the number of DSA recipients decline? Furthermore, since BIS is an unprotected department with regard to government funding, how important does she consider this element of BIS expenditure to be?

The particular government approach, that of basing future payments on Equality Act definitions, is also problematic, with much turning on the definition of what "reasonable adjustments" for the individual are to be made, possibly leading to disputes between students and their colleges. There may be uncertainty at the point of applying or in the early days of study, and possibly the need for court definitions, and importantly, variation between institutions as some may be more generous in interpretation than others. Under the proposed new arrangements each individual student will have to negotiate the package of measures they get from their particular university. In contrast to what happens at present where there is a statutory framework there will be no overarching agreements, so where will the statutory rights be located and what rights will the individual student have?

There is a risk that the DSA changes could leave universities without sufficient investment to support disabled students throughout the whole of their course, particularly in exactly those places which have done most to open up opportunities for disabled people. There is a very real risk of uncertainty, particularly for those eligible to apply from January, by which time they really need to know exactly what help will be available to them for the next three years. Can the Minister therefore tell the House whether the Government have assessed the cumulative impact of changes in funding to understand the effect on students and on each institution? What estimate have they made of the financial impact on institutions of passing some of the DSA responsibility to them? And, most importantly, what thought has been given to the potential consequences of moving from central to institutional funding for disabled students in creating what I called a perverse incentive and what my noble friend Lord Lipsey said was a disincentive on universities, possibly discouraging them from making a real effort to increase disabled people's participation?

As the noble Lord, Lord Addington, said, not all dyslexics are the same. He is living proof of that. As a tribute to him and the work he has done I think the Government should not only take forward their support but also increase the ability of disabled students to play a full part in their own lives by getting to university.

8.31 pm

Baroness Evans of Bowes Park (Con): My Lords, I thank the noble Lord, Lord Addington, for securing this debate and for his knowledgeable and passionate speech and I thank all noble Lords for their valuable contributions. I will attempt to answer the various questions raised. This debate has shown that across the House we all share a vision of a higher education sector which is truly inclusive and gives disabled students the opportunity to achieve their academic potential. I assure the noble Lord, Lord Lipsey, that we want to see the Lewises of the future continuing to get the support they need and continuing to be able to take advantage of what higher education has to offer. Disabled students' allowances continue to play a key role in that but equally so do our higher education institutions and it is important that disabled students receive an appropriate level of support wherever and whatever they choose to study.

Students should arrive at university in the knowledge that as much as possible has been done to enable them to study effectively and that the institution they are attending has done all it reasonably can to ensure this. Of course, there will be occasions where an institution cannot do everything and DSAs will remain available to help students where this applies. In response to the questions of the noble Lord, Lord Addington, about individuality, DSAs will continue to provide individual support to overcoming barriers that inclusive learning and reasonable adjustments, which I will come to in a minute, do not address. I remind noble Lords that the DSA system has always been designed to fund only the additional costs a student is obliged to incur in relation to their studies by virtue of their disability. There has always been an expectation, as the noble Baroness said, that universities should make reasonable adjustments so that a student will not have to seek support through the DSA system for support that is or should be being provided by the university.

A number of welcome changes have been made over the past few decades that have opened up higher education to disabled students and we have heard them mentioned today. The Disability Discrimination Act 1995 and the Equality Act 2010 introduced clear

[Baroness Evans of Bowes Park]
duties for institutions around reasonable adjustments, so higher education institutions have had such obligations for a considerable amount of time. Many institutions have responded positively to these duties; however, it is important that all are ambitious in striving for an inclusive learning environment and aspire to the very best practice to improve the services and support they provide to disabled students outside the DSA system. The Government currently spend over £145 million through DSAs to help individual students overcome barriers to their education. We believe that innovative approaches by institutions can reduce these barriers further over time.

Noble Lords will also be aware that disabled students' allowances are administered in a way that has not fundamentally changed since the 1990s, yet, of course, there have been significant technological changes since then which have transformed opportunities for all students, including disabled students, enabling them to access information and technology in a way not previously envisaged. For instance, many items that were considered specialist support, such as laptops, are now mainstream items, with access readily available in universities. Expenditure on DSAs has increased year on year, with an increase of around 44% over three years to 2012-13. We therefore feel that reform is necessary to modernise the system and ensure value for taxpayers' money in this new landscape.

As we have heard, we have recently consulted the sector on how to balance the responsibilities between DSAs and institutions, and how this can be achieved. However, I make very clear that the Government are not proposing to abolish DSAs. Rather, we have consulted institutions about how they might play a more active role in supporting their students. It is intended that DSAs will remain available to complement the support provided by institutions and that students will continue to receive the support they need.

Standards and guidance have been mentioned. We certainly propose to encourage sector organisations such as Universities UK and GuildHE to work with other sector stakeholders to identify, promote and disseminate best practice in inclusivity, so that we can ensure universities can learn from each other and that students do not suffer.

The Government propose that certain types of human support, for example note-takers and library assistants, become the responsibility of institutions. We believe that institutions can do a great deal more to make information and the learning environment more accessible to students and that it should no longer be necessary to provide individual one-to-one support in all cases. But where individual support is necessary, institutions should consider how best to meet that need and should explore innovative approaches to providing that support.

We also expect that institutions will no longer pass on the additional costs of specialist accommodation to their students in the expectation that DSAs will cover that cost. We are considering the continued need for DSA to fund individual items of equipment, for example printers, as we have heard, and have consulted on how other support might meet that need—for example, alternative format materials. While the provision of assistive technology was not subject to consultation, it was an issue raised by the noble Lord, Lord Addington, so I will respond briefly to it. Officials already work closely with sector representatives through the Disabled Students Stakeholder Group IT subgroup to ensure that products available through DSAs are fit for purpose. We will continue to work with these and others as new options for procurement of assistive technology are explored. The Government welcome, and want to continue, working with both the assistive technology sector and mainstream technology manufacturers to ensure that the products they produce meet the needs of disabled students. I reassure noble Lords that we do not propose changes to more specialist forms of support—for example, the provision of British sign language interpreters.

The consultation has now closed. I again reassure the noble Baroness, Lady Thomas, that we are indeed taking it seriously. We have received just over 200 responses from a wide range of stakeholders, including students, members of the public, higher education institutions, disability charities and DSA assessors and providers. This wide range of responses has provided a great deal of information for consideration, which is currently being analysed by the department, as is the additional evidence received which will inform the ongoing equality analysis. I confirm that the department is indeed talking to the Office for Disability Issues. We are already in discussion about the consultation. I am certainly happy to commit that the other organisations the noble Baroness mentioned will obviously also be involved.

Officials are looking at introducing a benchmark for inclusivity and providing better information to students about their institution's provision for disabled students. It would be wrong of me to pre-empt the outcome of the consultation, which has yet to be considered in full by Ministers. However, I can tell noble Lords that the Government expect to publish a response to the consultation before the end of the year, with the implementation of any changes taking place from 2016.

The noble Baroness, Lady Garden, asked a couple of questions. Again, I do not wish to prejudice the outcome of the consultation, but officials will be looking at how to evaluate and monitor how institutions are responding to the potential changes, and a full equality assessment will be undertaken before the changes are introduced.

As regards some of the more specific questions on funding referred to by the noble Baroness, Lady Hayter, if it is all right with her I will write to her with a bit more detail. I am afraid that I do not have all the figures to hand, and rather than giving her a small answer I will attempt to give a fuller answer in a letter.

In conclusion, the Government remain committed to supporting disabled students to access higher education. Students are right to expect support from their higher education institution and DSAs have been available to complement that support for nearly 25 years. That is not changing. What is changing is the balance between the two sources of support. The changes that we are proposing reflect our desire to modernise DSAs, to ensure value for money and to reflect our expectation that institutions will fulfil their duties under the Equality Act. Our changes will see a DSA system that is sustainable,

fit for purpose and targeted at those with the greatest need, and, most importantly, that ensures that disabled students can continue higher education at whatever institution they wish.

8.41 pm

Sitting suspended.

European Union Referendum Bill

Committee (2nd Day) (Continued)

8.49 pm

Amendment 24

Moved by ***Lord Kerr of Kinlochard***

24: After Clause 5, insert the following new Clause—

"Report on the United Kingdom's future relationship with the European Union in the event of withdrawal from the European Union

(1) The Secretary of State shall report on the relationship with the European Union which the Government envisage in the event of a referendum vote to leave the European Union, and on the acceptability of this arrangement to every European Union member state.

(2) The report provided for by subsection (1) must be published and laid before each House of Parliament, no later than 12 weeks prior to the appointed date of the referendum."

Lord Kerr of Kinlochard (CB): Amendment 24 is in my name and those of the noble Baroness, Lady Morgan of Ely, the noble Lord, Lord Tugendhat, and the noble Baroness, Lady Smith of Newnham—a perfectly balanced ticket.

I begin by saying:

"Those campaigning for Britain to leave the EU and choose the Norwegian way can … correctly claim that a country can retain access to the single market from outside the EU".

But this means also,

"retaining all the EU's product standards, financial regulations, employment regulations, and substantial contributions to the EU budget. A Britain choosing this track would, in other words, keep paying, it would be 'run by Brussels', and … remain committed to the four freedoms, including free movement",

of persons. It would, however,

"have given up on having a say over EU policies. Like Norway, it would have no vote and no presence when crucial decisions that affect the daily lives of its citizens are made".

These are not my words but those of Espen Barth Eide, a former Europe Minister in Norway, last week. On his financial point, it is worth noting that the noble Lord, Lord Hannay, correctly pointed out that we are now the ninth largest contributor to the EU budget in per capita terms. The 10th largest is Norway.

If noble Lords do not believe Mr Eide, they might try the Norwegian Conservative Party's current EU spokesman, Mr Nikolai Astrup. His advice is simple: "If you want to run the EU, stay in; if you want to be run by the EU, feel free to join us in the EEA".

Lord Forsyth of Drumlean (Con): Could the noble Lord tell us on how many occasions in the last five years we have expressed a view in opposition to a particular EU policy and on how many occasions we have been defeated in percentage terms?

Lord Kerr of Kinlochard: I am afraid I do not work in the British Government and do not have the statistics to hand. However, it is the case that a large member state such as the United Kingdom, with a voting weight proportionate to its population, has a considerable say in EU legislation. An EEA but non-EU member state, such as Norway, has none whatever.

Lord Hamilton of Epsom (Con): Can the noble Lord explain the free trade treaty between the EU and South Korea? Does it bind South Korea to following all EU legislation?

Lord Kerr of Kinlochard: I had assumed that the principal interest of the noble Lord, Lord Hamilton, was making sure that we managed, as some sort of country member or associate, to remain within the single market. The Koreans have no such rights. They have a very good free trade agreement, which is greatly in the UK's interest, and has produced a considerable increase in UK exports to South Korea.

There is no doubt that the UK could secure a free trade agreement with the EU. That is not an issue. But if we want access to the single market, we need more than a free trade agreement. That is why the Norwegians are in what is known as EFTA and the EEA and why they are complaining about their relations with the EU.

The noble Lord, Lord Forsyth, told us that nobody in Norway wants to join the EU. Actually, the entire Norwegian establishment would like to join the EU but has not, as yet, managed to persuade the Norwegian public of that.

Lord Forsyth of Drumlean: It sounds just like us. I have read in a newspaper—so it may be wrong—that on the last 77 occasions when Britain has sought to amend a provision that it did not like, it has been defeated. Is the noble Lord aware of that? If that is the case, I question whether, by being in the room, we have influence. We have influence only if we are able to persuade the room. We seem to be singularly unable to do so.

Lord Kerr of Kinlochard: I hope I may leave it to the Minister to deal with the allegation that on the last 77 occasions when we have expressed views and wished to change a piece of legislation we have been overruled. I would be completely astonished if there was any truth in that statement.

Lord Wallace of Saltaire (LD): I may be able to help. Part of popular opposition to the European Union, particularly in northern Norway, is the belief that it is a Catholic outfit and all part of a Catholic conspiracy. This was the case with much of the anti-European Union efforts when we first applied, but it is slightly below the surface now in Britain and rather more on the surface in Norway.

Lord Kerr of Kinlochard: I do not think I will follow the noble Lord, although I am grateful to him. The Norwegians are not happy with their relationship with the European Union, and no wonder their Prime Minister told us last week that it would not do for us. I entirely agree with him. Before the electorate are asked

[Lord Kerr of Kinlochard]
to decide whether we should leave the Union, they clearly need to know where we would land if we did, what new relationship with the rest of Europe the Government envisage and how certain they are that it would be obtainable—hence my amendment.

If it is not the Norwegian model, what is it? The Swiss model is clearly worse from our point of view and probably not on offer. The Swiss have individual, sectoral and bilateral agreements with the EU. However, they do not extend to services, our major export, and would take many years to negotiate. Both sides—the EU and Switzerland—agree that the arrangement is unsatisfactory, complex and unwieldy.

Lord Stoddart of Swindon (Ind Lab): Why do the noble Lord and other people keep referring to the "Swiss model" or the "Norway model"? They are not relevant to this country. What we want is a British model. We are of the size and the importance, including the historic importance, to be quite different from, and to negotiate a much better agreement than, either of those two small—but highly successful—countries.

Lord Kerr of Kinlochard: I must ask the noble Lord not to be carried away by the impetuosity of youth. I will come to his point in a moment. The Council, with the UK concurring, agreed 18 months ago that the relationship with Switzerland should be put on a new institutional basis and be overseen by the Commission under the judicial control of the European Court of Justice—although there would not be a Swiss Commissioner or a Swiss judge in the European Court of Justice. That would be a more onerous regime and even less satisfactory to us than the arrangement agreed 20 years ago for Norway, Iceland and Liechtenstein. One could look at the Turkish model, but there you have no access to the single market at all. There is a customs union, but that means that Turkey has to apply EU customs tariffs against third countries and has no say in setting them. The Turks find the relationship highly unsatisfactory; it would be doubly unsatisfactory for us.

A free trade agreement or an association agreement between the United Kingdom and the EU would certainly be possible, and there are plenty of precedents for it. I do not think it would be particularly difficult to negotiate, so I am with the noble Lord, Lord Hamilton, to that extent, but it would not provide the access to the single market that I thought was the object of the exercise from our point of view. Let us bow to the noble Lord, Lord Stoddart, on this: if the EU were to decide that it needed to make an exception for us—I do not think it would, as so many would want to follow suit if it did—and gave us what we sought, its price would undoubtedly be our agreement to follow its labour market rules, health and safety rules, product standards, consumer protection laws and technical specifications. It will not agree that our goods should freely circulate in its single market if they do not meet EU standards. That is not an unreasonable position, and that is the one the EU would take. We would of course have lost our say in the setting of these standards.

Lord Hamilton of Epsom: Assuming the United Kingdom decides to leave, Europe will surely be somewhat concentrating its mind in these negotiations on the fact that it sells one and a half times as much to us as we do to it. The idea of it having some kind of stand-off with the United Kingdom and it saying, "We're not going to trade with you at all" is almost unthinkable bearing in mind the astronomical levels of unemployment, particularly youth unemployment, in the EU at the moment.

9 pm

Lord Kerr of Kinlochard: The impetuosity of youth is spreading all around the Chamber. The point will be addressed in a second.

If we had no structured relationship with the EU and operated purely as WTO members, the damage to our exports and inward investment would come more quickly, since UK exports to the EU would become subject to EU tariffs straightaway—10% on cars, 15% on food products and so on. We would also lose the benefit of the EU's 200 or so trade agreements with third countries and regional groupings and we would need to negotiate our own.

Maybe there is too much Nordic gloom and doom in my analysis. Maybe the noble Lords, Lord Forsyth and Lord Stoddart, are correct. Certainly, that great Scottish economist, Peter McKay, writing in today's *Daily Mail*, finds my analysis defeatist, but it is possible that the Norwegians know what they are talking about. Maybe we could, to address directly the point of the noble Lord, Lord Stoddart, secure a new sui generis deal more generous than any that the EU currently has with anybody. Maybe we could forget all these models and establish the new Union Jack model. It is true, as the noble Lord, Lord Hamilton, says, that we would have some cards in our hand. Some 6% of exports from the rest of the EU come to us and we could threaten to cut them off, so pleasing Mr McKay in the *Daily Mail*, if not the British consumer. However, we need to face facts—four facts. First, 6% of their exports come to us—3% if one excludes the Netherlands, Germany and Ireland—but nearly 50% of ours go to them. In a protectionist showdown, we would be shooting uphill. They would be facing a blip; we would be fighting for our lives.

Lord Hamilton of Epsom: The noble Lord talks about a blip. We are talking about 4.5 million Europeans losing their jobs, on top of the astronomically high levels of unemployment they have now. If that is a blip, I am very glad that the noble Lord does not advise me on economics.

Lord Kerr of Kinlochard: I do not recognise the figure of 4.5 million. Maybe the noble Lord is assuming that exports that did not come to Britain, because we erected a protectionist barrier against them, would not go somewhere else in the world. It is a static analysis.

Lord Stoddart of Swindon: The noble Lord mentioned that we export 50% to the EU. That is a figure I have not heard before. It is usually 40%. Can he confirm the 50%?

Lord Kerr of Kinlochard: No, I cannot confirm it. I think I said nearly 50%; that is what I understand. It is over 40%; I think it is nearly 50%, but the noble Lord may be right.

Secondly, half the trade surplus of the EU with us is accounted for by the Netherlands and Germany. Among the other 25 member states, a considerable number run a trade deficit with us. They might be less generous in the sort of showdown—dreadful thought—that I am talking about. Their withers might not wrung quite so much by Mr Peter McKay's threats.

Thirdly, it would be the Commission across the table from us, because what we would be negotiating—if, under Article 50, the withdrawal clause of the treaty, we were negotiating our withdrawal—would be a treaty not between us and the other member states but between us and the EU. The Commission would, I think—it has always said so—attach particular importance to retaining the EU's decision-taking autonomy, if only to prevent Norway and all the other neighbours, all unhappy with their present, subordinate status, seeking to secure the seat at the table which we would be seeking.

Fourthly, the procedures under Article 50, paragraph 2, become highly relevant. The Commission would need to secure a qualified majority in the Council for any deal that it struck with us. We of course would have no vote. It would also need the approval of the European Parliament and the Commission would be operating on the basis of guidelines laid down by the European Council, which would operate by unanimity. Yes, we would have friends and advocates, and yes, there would be bits of German industry that in practice would be lobbying on our side in this debate, but everyone would have to be on board, and unanimity in the European Council is what we would need to secure. That is why my amendment asks the Government to report to the electorate before the referendum, not just on what form of relationship they would envisage between us if we left, and the EU that we had left, but on its acceptability to every remaining member state. I beg to move.

Baroness Smith of Newnham (LD): My Lords, I very much support the amendment in the name of the noble Lord, Lord Kerr. It is important that we think about the implications for the UK of its relations with the EU, should there be a vote to leave it. Before dinner, we heard of concerns about fear and claims that the pro-Europeans wanted to talk about withdrawal and its dangers only because we wanted to whip up fear. There is a danger that comes from Eurosceptics such as Dan Hannan, who says, "You pro-Europeans invent things. We don't want to be Norway". That is certainly something that was suggested in your Lordships' House at Second Reading. The noble Lord, Lord Stoddart of Swindon, has already suggested today that the UK does not want to have a Norwegian model or a Swiss model; it would like its own model. In order for the citizens of the UK, and anyone else who may be enfranchised in the forthcoming referendum, to understand the implications of what they are doing in the vote, it is important that they have an understanding, and that the Government make clear, what the implications of leaving would be for our relationship with the EU.

The noble Lord, Lord Hamilton, intervened earlier on my noble friend Lord Wallace of Saltaire to ask whether arrangements could not just carry on as they are if the UK were to leave the EU. That strikes me as a very strange sort of club. If you say to your golf club, "I'm not going to pay my dues any more; I no longer want to be a member of this club", it is not going to say, "That's fine, you can come and play golf again on Sunday".

Lord Hamilton of Epsom: We were actually talking about the arrest warrant and the legal arrangements that we have. There seems to be no reason why those should not be negotiated to continue as they were before.

Baroness Smith of Newnham: I thank the noble Lord for his comment. It would indeed be perfectly possible to negotiate a whole range of things associated with access to the internal market, the European arrest warrant and many other aspects of the relationship that the UK currently has with our European partners. However, we would need to consider, and the Government would need to be able to explain, in what areas they would envisage having relationships with the EU.

The idea that things could just carry on as before, as was suggested in a previous group of amendments, is rather complacent. Legislation that the UK has on its statute books would certainly persist, and on day one it might look very similar, but with regard to access to markets there is no reason whatever to assume that the EU 27—particularly acting by unanimity on Article 50, which the noble Lord, Lord Kerr, has just referred to—would simply say, "The United Kingdom is so important to us that we will give it free access to our markets". There would have to be negotiations, and there is no reason to assume that our current colleagues in the EU would open up the markets without extracting some sort of quid pro quo with some sort of agreement. I know it is not palatable to everyone to hear yet again about the European Economic Area, but looking at those relationships reveals that the member states of the EEA have effectively signed up to a huge amount of the EU's acquis but without a seat at the table. They have to accept what the EU agrees.

The United Kingdom may be out-voted while we are a member of the European Union but if we play our cards right as a member we can negotiate, we can work with partners and we can amend legislation. On the outside we would be policy-takers and we would be doing what the European Union asked us to do. If we felt it was in our interests we might sign up to it but the costs are likely to be significant. If we engaged in a relationship that looked like a Norwegian model, we would end up paying into the Union budget, taking policy and having even less influence than now.

Noble Lords may say that I say that only because I want Britain to remain in. I am simply suggesting that it is important for citizens of the United Kingdom to understand the implications and that the Government should make clear what the implications of leaving would be and how they envisage the relationship of the United Kingdom with the rest of the European Union.

[Baroness Smith of Newnham]

On Amendment 32A, could the Minister bring back to the Committee some thoughts on how the Government envisage the relationship with the Republic of Ireland if there were a vote to leave the European Union? That relationship is sui generis. The relationship between the Republic and Northern Ireland and the fact that there is currently no land border would be fundamentally changed. Withdrawal has implications for the United Kingdom and this one particular close neighbour in the European Union. I ask the Government to look again at that relationship.

Lord Liddle (Lab): My Lords, Amendment 26, in my name, is of similar import to the amendment of the noble Lord, Lord Kerr. Mine, of course, is a political adviser's amendment. It is sloppily drafted and not the expert amendment that you would expect of a senior Eurocrat; therefore, I am happy not to move my amendment in favour of that moved by the noble Lord. In my view if we wanted to educate the public about alternatives to EU membership we could do a lot worse than to ask the Government to send a printed copy, suitably amended, of the speech by the noble Lord, Lord Kerr, to every household in the country—I thought it was brilliantly argued. We are going to hear a lot of these arguments in the coming year, and I shall not reiterate them now.

I want to make a couple of observations which I think are relevant. First, on the arguments about Britain's strength to negotiate its own arrangements, I used to think in the same way as the noble Lord, Lord Stoddart. When I was a young man I am afraid I rather bought into the line of the German Social Democrat leader of the time, who described the Common Market as a conservative, cartelist, capitalist, clerical conspiracy. I was rather of that view but when I learned about it and read its history I realised that the Macmillan Government tried very hard in the 1950s to negotiate the kind of free trade agreement which the noble Lord, Lord Hamilton, thinks is the solution to all our problems, but they came to the conclusion that it could not be done. The only possible alternative for Britain was to become a full member alongside the original six. I think that that judgment, which was made around 1959-60, is still sound, even though the European Union has transformed itself. So, too, has our economy. When I listen to some of the arguments of the anti-Europeans here, I think they still think in terms of British companies exporting to Europe.

Lord Forsyth of Drumlean: I am not aware that there are any anti-Europeans here. There may be people who are anti the European Union; these are not the same things.

9.15 pm

Lord Liddle: I take the point. The noble Lord has thrown me off my path. I was saying that the nature of our economy has changed and that sometimes when I listen to these debates I do not get an appreciation of that. The fact is that Britain has benefited more from European Union membership than virtually any other member, and has done so through attracting inward investment to the United Kingdom from all parts of the world. This has been a tremendous boost; it has been the only successful industrial policy we have had since the era of Margaret Thatcher; she was the one who first started it, and it has worked. That has meant that many British businesses are part of European and global supply chains, and we as a country benefit from hosting many foreign companies here. I often think, when I listen to the arguments, that people just do not appreciate that. Yet, that is clearly the major economic issue in the debate on membership. If that inward investment, that ability to organise your supply chains across Europe, were to be interrupted as a result of withdrawal and badly damaged, that could seriously deter future inward investment in the UK.

Most of us in this Chamber are pretty passionate in our views about the European Union, for and against. However, we also have to remember that most of the great British public are not very passionate about it; in fact, the great majority do not regard it as the most important issue in the world at all. Most opinion polling suggests that only about 10% of the voters are worked up about our membership of the European Union. That does not mean that they are pro—I am not trying to argue that. They are genuinely sceptic about the whole issue in a way in which a lot of the people who are anti-European Union in this Chamber, who claim to be sceptics, are not—they are passionate ideologues. However, most of the voters are sceptics, who want to weigh the evidence and be convinced one way or another by the argument.

Lord Hamilton of Epsom: I totally accept the noble Lord's thesis that this is not a high priority for the British public at the moment. On the other hand, however, he will recollect the time when the Tory party was tearing itself apart over the issue of Europe, and it was certainly a very much higher priority at that time. Does he not feel that as we approach the referendum and the debate rages it will move up in people's priorities, and that they will take more interest in it?

Lord Liddle: The noble Lord is right about that, but it is the result of dissent in an elite and a particular part of the British political elite. People will get worked up about this because of a vigorous argument on one side of the political spectrum; it is not as a result of massive popular demand from below. However, that is not my point, which is that a lot of people are genuinely sceptic and probably dislike the Brussels bureaucracy a great deal but worry about our future outside the EU. That is where I think that the need for objectivity is very important. Clearly, I am not the right person to make an objective case about the European Union but I still believe that we have a public service in Britain which is independent and can be objective and which can help to frame a rational debate about our membership. That is why I think that the amendment moved by the noble Lord, Lord Kerr, is so important.

I hope that the Minister, for whom I have the greatest respect, and the Government will look favourably on the argument regarding the need for objectivity in this debate and on the argument that the public service can help to bring that to the debate. That is what the

public are looking for. I would hate to think that our politics had got to the state of that of the United States, where everything is so polarised that it is impossible to have any kind of meeting of minds or objectivity and rationality in discussions. I think that the senior members of the Government are coming round to a certain view about Britain's future which I favour, so I hope that they will be prepared to support this call for independent, objective analysis, which is so important for the quality of our politics.

Lord Forsyth of Drumlean: I was tempted to support the amendment of the noble Lord, Lord Kerr. As I listened to his speech, he said, "The Commission is there to maintain the EU decision-making autonomy". What a ghastly phrase. It suggests that an unelected body has autonomy. The noble Lord, Lord Liddle, said that the speech of the noble Lord, Lord Kerr, should be circulated as part of the campaign. I agree with that because in summary he said, "Look, we're stuck with this organisation. They're in charge. If you try to do anything about it, they'll all gang up against you and throw your people out of work". If that is the best argument that we can come up with for staying in this organisation, I despair. If that is the position, the sooner we get out the better, because we are being told that we are part of an EU decision-making autonomy.

Lord Lea of Crondall (Lab): Taking the analogy of Ministers and the UK Civil Service, is the noble Lord saying that if you do not like the word "autonomy" there must be some other word that is not going to be suborned by politicians? With regard to the Office for Budget Responsibility, no one doubts that we are looking for some degree of independence. If the noble Lord does not like the word "autonomy", how will he handle the problem of not wanting self-interested politicians to give advice—it is people who, in the analogy with Britain, are not politicians?

Lord Forsyth of Drumlean: The noble Lord must go on because he is making my case for me. He is saying that we do not want politicians and that we need to think of another word for "autonomy". How about "dictatorship"? If by EU decision-making autonomy you mean, "We don't want politicians", then that is dictatorship. Politicians, however much they may be despised or disliked, are accountable to the electorate. These people are accountable to no one, and we are now being told that we cannot possibly go against the EU decision-making autonomy.

Lord Kerr of Kinlochard: The noble Lord, Lord Forsyth, is making marvellous campaign speeches; I think that our job is to address the Bill and the amendments. I was trying to give an analytical speech, assessing the various models and the possibility of a sui generis, something-completely-different Stoddart model. When I used the words "decision-making autonomy", I was using words which are quite common in the Council, in the Parliament and in the court; I was not referring to the Commission.

Lord Forsyth of Drumlean: Yes, you were.

Lord Kerr of Kinlochard: Yes, I said that the Commission would be the spokesman in the negotiation, but its concern would be to preserve the autonomy of EU decision-making—which the European Council regularly insists on and insisted on in relation to the changes to the arrangement with Switzerland. If you are not a member of the club, you do not have a vote on club decisions. That is all it means.

Lord Forsyth of Drumlean: I will come on to address these points, because I took the opportunity of checking a few facts. For example, just before the dinner break, I did not know why when we were supposed to be discussing what is in Britain's interest we continued to discuss what is in Norway's or Iceland's interest—but, as people have raised it and have said they want facts, I have found the following quote from the Icelandic Prime Minister from June this year. The noble Lord has already read this quote, but he did not put it in his speech. The Icelandic Prime Minister said:

> "'For us staying outside of the European Union has been very important, even instrumental in getting us out of the economic crisis so it has affected us in positive ways, giving us control over our own natural resources, but also having control over our own legislation and our own currency, which if we had not had that, we would not be in the situation where we are now with a very fast improving economy".

When I said earlier that nobody in Norway wanted to join the European Union and I was shot down and told by the noble Lord that the establishment wanted to join the EU, I thought that I had better check what the position was. I found that seven out of 10 Norwegians would reject EU membership and just 19% would like to join. Seventy-four per cent would say no to Norway joining the EU, with 17% wanting to join—these figures are from an opinion poll in 2014.

The noble Lord mentioned Switzerland. According to a 2012 poll for the Swiss Broadcasting Corporation, just 6% of Swiss voters favoured joining the EU against 63% who want the present bilateral arrangements preserved, and 11% who want to join the EEA. There does not seem to be any great feeling in either of those countries that they have made some dreadful mistake; on the contrary, they seem very happy. The Norwegians are very happy with their fish, their oil and their prosperity.

Then we have the bogus argument that says that if you are outside, you have to accept a huge amount of legislation which you would have no say over. I do not know whether the figures in the *Daily Telegraph*—the noble Lord tells me that that is where they were from—that say that the last 74 times we have objected to things we have been defeated are correct, but those people who argue that we need to stay in to have a say should tell us how effective that say is because the evidence is that it is not very effective. The noble Lord, I know, has conspired with me and other Ministers to turn defeat into an apparent victory in drafting the press release after one such defeat.

Lord Hannay of Chiswick: The noble Lord is very kind. He seems to be a glutton for information. May I recommend that he reads two slim volumes produced by an all-party panel, first in 2014 and then 2015, called *The British Influence Scorecard*? They looked at every part of European policy and concluded that

[Lord Hannay of Chiswick]
Britain's influence in the European Union was considerable. I am sure that he would find that a very enlightening read, and it is not as long as some of the documents around.

9.30 pm

Lord Forsyth of Drumlean: I would be very happy to read it; what I would be interested in is who has written it. I note, for example, that three of my honourable friends from the other end of the corridor were kicked off the Council of Europe recently because their views did not accord with those of the establishment. But I am certainly happy to read what the noble Lord suggests.

I want to put some more figures into the debate that arise from our earlier discussions and are relevant to the amendment. They relate to the number of EU laws that EEA members such as Norway and Iceland have to accept. The Icelandic Government estimate 10%—5,000 legislative Acts in force, divided by 23,078 legislative Acts in consolidated EU acquis.

There seems to be a debate about the extent to which this applies to these countries, but as the noble Lord, Lord Stoddart, said, all of this is completely irrelevant. We are not Iceland; we are not Norway; we are Britain. We are a country with a long history and relationships around the globe in a global marketplace in the Far East and elsewhere. It is utterly ridiculous to suggest that we would get into some sort of trade war with the EU and be vetoed by Portugal or Spain. It is a shallow argument that demeans our country, and will be hugely counterproductive if it is deployed, as we discovered when perhaps overenthusiastic unionists tried to deploy the same argument in Scotland when they said that Scotland would not be able to survive on its own.

Iceland has a population that is smaller than that of Edinburgh, for goodness sake, and here we have it on the authority of the Icelandic Prime Minister himself that Iceland is much better off outside the EU. So I do not think that these arguments apply. It has been suggested that the British Government could produce a report on what it would be like if we were outside the EU, and that we should not embark on taking control of our own destiny unless we had such a report, which would by its very nature be speculative and might very well underestimate the opportunities. Thank goodness we did not have this kind of thinking in May 1940.

This United Kingdom has a huge range of relationships and great talent and ability, and it is wrong to suggest that we cannot work with our colleagues in Europe outside the EU. It is not we who are leaving the European Union; it is the European Union that is leaving us. Of course it is. In order to maintain the integrity of the single currency, the euro, which the noble Lord and others would have had us join—what a mess we would be in if we had done that—the EU is having to introduce a more integrated system. Therefore, it is not a matter of whether we are able to have influence and to punch above our weight within this organisation. This organisation is changing; it has to change because countries are so obsessed with maintaining currency union that they are prepared not only to sacrifice the jobs and living standards of young people in the southern European states but to give up their autonomy. We are not prepared to give up our autonomy.

When we joined the EU, we joined the common market, which was a free trade area. That free trade area is being turned into something else. It is being turned into a country with its own currency and the ability to raise taxes and to control its own fiscal issues. The noble Baroness, Lady Smith, said that you cannot join a golf club and then not pay your subscription. We did join the golf club—but they want to play tennis now. They want to play a completely different game, which is not what we joined for.

Lord Wallace of Saltaire: The noble Lord is making a long campaign speech, and I hesitate to interrupt him. I merely remind him that Edward Heath, Harold Macmillan, Alec Douglas-Home and others said as we joined the European Community that it had clear political connotations and that our foreign policy would be affected. I will send him tomorrow the speech by Alec Douglas-Home in 1971.

Lord Forsyth of Drumlean: The noble Lord may very well be correct that Edward Heath said this and Alec Douglas-Home said this, but most people thought that they were voting to join a common market. Certainly, Scottish fishermen thought that they would keep control of their fish stocks and that their industry would survive, and it has been destroyed—and facts are chiels that winna ding, as they say north of the border. The fact is that what we thought we were joining is not what has come to pass.

Lord Stoddart of Swindon: Is it not true that Harold Macmillan's real reason for wanting to join is that he had come to the conclusion that the United Kingdom was ungovernable? That was his reason. However, in the 1971 White Paper issued by Mr Heath, did he not make the assertion that our general sovereignty would not be undermined—or something of that sort—and is it not true that our essential sovereignty is being undermined and has been undermined?

Lord Forsyth of Drumlean: I agree entirely with all the points that the noble Lord has made. In the context of the late Edward Heath—with whom I got on very well personally while not agreeing with many of his views—that is the same Edward Heath who was elected on a Selsdon manifesto but did a U-turn and came to the conclusion that it was not possible to govern our country without the consent of the trade unions. However, a certain Lady Thatcher was elected in 1975 as leader of the Conservative Party on a manifesto which said that Britain is able to govern itself and that it is possible to restore the authority of Parliament. This resulted in her election as Prime Minister in 1979 and all the things that were said to be impossible were turned around. It was her belief in Britain and its ability to stand proud in the world which transformed our economic achievements during the 1980s.

This fatalism, this extraordinary idea that we are trapped in the European Union and that there is nothing we can do to escape it—that we might as well

knuckle under and accept that we have got to be a part of it in order to advance what influence we have—is the politics of surrender.

The noble Lord, Lord Kerr, accuses me of making a campaigning speech. I do not know what he was doing when he wrote his letter to the *Sunday Times*, signed by other fellow mandarins. I have listened to his amendments and the constant prattling on about Iceland and Norway when they are totally irrelevant to this discussion. Most people in Britain would find it offensive being treated alongside Iceland as an equivalent party. I hope my noble friend will reject this amendment. I do not support it.

Lord Hannay of Chiswick: My Lords, we have been on an extraordinary, lengthy digression which bore not the slightest relationship—the noble Lord, Lord Forsyth, might like to listen to this as I am referring to his speech—to the amendment we are discussing.

I would like to go back and simply make two points. First, it is not sufficiently recognised that if the electorate were to vote to leave the European Union a decision would have to be taken by the Government—not by the leave campaign—as to what the future relationship they would wish to have should be. The purpose of the amendment is to ask the Government what relationship they would envisage in those circumstances. Is that an unreasonable thing to ask? I do not think so. Every time that the basic issue about Britain being in or not in the European Union has come up, every government White Paper and document has reviewed the alternatives. That was true in the times of Harold Macmillan and Edward Heath, and it was true in both attempts when Harold Wilson sought to join and when he had a referendum. It is a perfectly reasonable thing to do.

Judging from the speech of the noble Lord, Lord Forsyth, I have the impression that he would hate what the Government said they would envisage doing if there was a no vote. He would have every right to riddle it through with bullets as he has riddled everything through with bullets this evening. However, surely it is right that the British people, the electorate, should be told what relationship the Government would envisage if they chose to vote to leave. That is a reasonable thing to ask, is it not?

Baroness Morgan of Ely (Lab): My Lords, the noble Lord, Lord Kerr, with his vast experience of working within EU institutions, knows better than us how the EU works and what the various alternatives to membership might be. No one here disputes the fact that we would wish to continue in some kind of trade relationship with the EU. To those who ask for figures, I cite IMF figures that state that 51% of our trade in goods is with the EU, as is 41% of our trade in goods and services. We would undoubtedly wish to have some kind of trading relationship with it.

Lord Kilclooney (CB): When I asked a question about that figure last year, I was told that it included United Kingdom exports going to the rest of the world through Antwerp and Rotterdam. Does the noble Baroness have figures that refer only to the European Union?

Baroness Morgan of Ely: These are the figures from the IMF. My understanding is that they refer to the EU. I will check them, but I have not heard the noble Lord's point made before. We will look at that, but I think these figures make a lot more sense. We will examine that.

Let me talk now about the winning side. How well do we do within the Council? As it happens, an article in today's *Guardian* states that,

"the UK voted on the winning side 97.4% of the time in 2004-09 and 86.7% of the time in 2009-15".

That tells me that this Government are not such good negotiators as the Labour Government were.

We have heard about several models tonight, but I should like to dwell a little on what Article 50 means and on what its implications are. There is a strong likelihood that, were we to vote to leave, we would need transitional measures to cover the period between the notification of the European Council by the UK of its decision to withdraw and the conclusion of the withdrawal treaty that sets out what our future relationship would look like. If that is not concluded within two years, it may be possible to extend it for a short period if both sides so decide. However, if we could not come to a conclusion—and, let us face it, it would be an incredibly complicated negotiation—then we would be out, with no formal relationship whatever. So this is very serious, and we have to understand that we should be discussing it now. We are having the referendum pretty soon and we need some idea of what the alternative might look like.

There a few other things that I should like to touch on. First, we know that the Prime Minister does not like the Norwegian model—

Lord Forsyth of Drumlean: I wonder whether the noble Baroness might comment on what the noble Lord, Lord Rose, said about what would happen. He said:

"Nothing is going to happen if we come out of Europe in the first five years, probably. There will be absolutely no change. Then, if you look back ten years later, there will have been some change, and if you look back 15 years later there will have been some.

It's not until you get to 20 years later that there's probably going to be some movement if we came out which says 'Please can we come back into Europe again'".

Would she like to comment on those remarks by the leader of the "stay in" campaign?

9.45 pm

Baroness Morgan of Ely: I think the noble Lord probably needs to study Article 50 to understand that if the negotiation is not concluded, there will be repercussions that will come fast and be quite dramatic. Everyone in this country who exports to the EU needs to take note of that.

Lord Stoddart of Swindon: Perhaps I may put this to the noble Baroness. Is it not the situation that if the people voted to come out, the next thing that would have to be done is that Parliament would have to repeal the European Communities Act 1972? If it does not repeal that Act, it will be bound by its provisions,

[LORD STODDART OF SWINDON]
which of course give powers and instructions to Parliament to pass regulations, and the European Court of Justice would still operate in this country. A sensible Government would repeal that Act before they even started negotiations under Article 50 of the Lisbon treaty.

Baroness Morgan of Ely: If we were leaving the EU, obviously we would have to repeal a whole raft of policies. That is something we referred to earlier.

Lord Stoddart of Swindon: Everything that has happened since 1972 depends on that treaty, and every other treaty is an amendment to that treaty. The treaty would have to be abandoned before you could even embark on a negotiation.

Baroness Morgan of Ely: These are the kind of questions to which we need answers from the Government. That is precisely what we are asking: what would it look like and what would we need to do? What would the administrative consequences be? Does the Foreign Office have the capacity to deal with this?

Let us look at the Swiss model, where each negotiation is done bilaterally and on a piece-by-piece basis. You would need an army to start renegotiating that model if we were interested in pursuing that kind of thing. Let us not forget that the Swiss model does not allow access to financial services, which is something that should concern the City of London. The fact is that the City would be locked out. I am absolutely sure of that because if the Swiss financial services sector is locked out, I am quite sure that the Germans would be eyeing up the financial services sector very happily in terms of the opportunities for them. The City of London commissioned a report by the University of Kent looking specifically at the Swiss relationship and financial services. It found that Swiss financial services do not have unfettered access to the EU and that Switzerland—listen to this—currently uses London as a staging post to get access to the EU. We need to take note of that.

We could rely on WTO rules, of course, but again let us be clear that services, particularly financial services, would not be covered. Let us face it, the WTO is not an organisation that exactly moves fast. I think the last massive deal was done in 1994. When we are pressing the button and knowing that we need to get a negotiation done within two years, that is not something we could rely on. We also have to understand that if we wanted access to EU markets, WTO rules mean that British car manufacturers would face a 9.8% tariff on the export of cars, 5% on car components, 15% on food and 11% on clothing. Those are the rules of the WTO. If you want a loose relationship, that is what you would be looking at.

Lord Hamilton of Epsom: I am grateful to the noble Baroness for giving way. Has she considered the number of luxury cars that Germany sells to the United Kingdom?

Baroness Morgan of Ely: Absolutely, that is fine, and of course we would negotiate a deal with the Germans. But we come back to the point that we would not be holding all the cards. Exports to the UK account for 2.5% of their GDP, while it is 14% of our GDP. The other thing we should bear in mind is that the people who trade with us are, on the whole, Germany and the Netherlands. A lot of other countries do not do massive trade with us, quite frankly, and they would not have much interest in negotiating a great deal for the UK. Moreover, each of them would have a say in what that deal says.

Some have suggested that we have special links with the Commonwealth and with emerging markets around the world, so that is where we should be focusing our efforts. Really? How come Germany's trade with China is three times greater than ours? The Germans also export more to India than we do. How come France finds it easier to land defence contracts with India than we do? That is the special relationship that we have with our Commonwealth friends. We cannot rely on historic relationships when 50% of our market in goods is with the EU.

Whatever deal is agreed, we know that each of the other 27 member states will be given a say in addition to the three members of the EEA, while Switzerland might have something to say if the UK managed to negotiate better terms than it. Some member states would be more generous than others and some would feel betrayed by a UK exit. The European Parliament would also have to ratify the agreement. So we have to be absolutely clear: the UK would not be holding very strong cards and it would not be an easy negotiation. Moreover, let us face it, negotiation is not exactly our Prime Minister's strongest suit. The Prime Minister found it difficult to negotiate changes to the treaty from the inside but that will be nothing compared to trying to negotiate a new trade relationship with the EU from the outside.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, Amendment 24 moved by the noble Lord, Lord Kerr, calls for the Government to set out the relationship that it envisages having with the European Union in the event of a vote to leave. The amendment states that this report would have to be published 12 weeks before the date of the referendum and goes even further than that. It requires the Government to provide detail on the acceptability of hypothetical arrangements from the point of view of the 27 other member states. That seems unrealistic. I have just been listening to the noble Baroness, Lady Morgan, give details of some of the implications of Article 50. Amendment 24 seems to be asking the Government to put the cart before the horse before the horse has even bolted.

Lord Lea of Crondall: My Lords, I am sorry. There will not be many interruptions to the noble Baroness's speech from the Labour Benches. Is she saying that it is unrealistic to consider the acceptability of this arrangement to every other member state? Does she not accept that that is very important? Indeed, it would be game, set and match if it were the case that not all 27 other member states agreed. Is it not essential to consider how it would be with all those vetoes around the place? If we are not careful, we will be in a very difficult position. She cannot utter that little phrase and have nothing more to say about it. Is it not rather important?

Baroness Anelay of St Johns: My Lords, it is indeed important. Perhaps I did not take enough care to explain the position. The amendment is asking the Government to do something that is impossible because they are barred from knowing what the agreement will be by the text of Article 50, which states:

"A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union".

It then goes on to give the procedure. All I am saying is that the second part of the amendment moved by the noble Lord, Lord Kerr of Kinlochard, asks the Government to leap over that and to say in advance of even notifying the European Council of their intent to withdraw what should be acceptable to the other states within the European Union in the event of a withdrawal. It is hypothetical simply because the Government cannot predict what will be acceptable to other states before there has been a referendum, before this country has taken a decision, and before this Government have been able to notify the European Council in accord with Article 50 if it takes a decision to leave. I am merely pointing out the procedure. I am sorry if I truncated that, thus making it less clear.

The second amendment in this group—Amendment 26 in the name of the noble Lord, Lord Liddle—would create a similar statutory requirement for the Secretary of State to commission and publish an objective assessment of the alternatives to the UK's membership of the EU in advance of the referendum.

Amendment 32A, spoken to by the noble Baroness, Lady Smith of Newnham, calls for the Government to set out the relationship that it envisages with Ireland in the event of a vote to leave the European Union. I appreciate the reasons why she has put this forward and the importance of our relationship with Ireland. Her proposed report would also need to be published by the Government 12 weeks before the date of the referendum. I mentioned when replying to an earlier group of amendments the danger of imposing arbitrary deadlines given the possibility of legal challenge. I hope that I can be a little more helpful in saying that—

Lord Hannay of Chiswick: Will the noble Baroness kindly address the first part of the amendment of the noble Lord, Lord Kerr, to which she has not replied? I understand what she is saying about acceptability. I have no doubt that if the Government stated what they envisaged, quite a few people in the other 27 member states would answer the acceptability problem quite promptly. Will she address the problem about what the Government envisage doing if there were a vote to leave the European Union?

Baroness Anelay of St Johns: My Lords, as I said, perhaps I can be more helpful. The noble Lord has been patient. I am now getting to the point that he wishes to hear. Noble Lords may recall the Prime Minister's words last week in the other place, when he said,

"if we do not get what we need in our renegotiation I rule absolutely nothing out. I think that it is important that as we have this debate as a nation we are very clear about the facts and figures and about the alternatives".—[*Official Report*, Commons, 28/10/15; col. 345.]

As I mentioned earlier today, if we are to put an obligation on the Government, the Committee would need to think very carefully about the terminology used. That goes to part of the debate we have just had. I have concerns about some of the wording used in these amendments. I can understand the good will behind some of it but there would be uncertainty about what the objective obligation specifically requires. While the Government acknowledge the importance of providing balanced information, this requirement could be an undue source of criticism, as there can often be a surprising—or, rather, unsurprising, I should say, given what we have heard tonight—level of disagreement about what counts as objective.

I think there has been a very fair reflection tonight of the feelings on all sides of the argument and about how fairness and evenness may not be perceived as such by others. It is a very serious matter to which we all need to address our greatest concentration in considering how we make progress on these issues. As I advised the Committee earlier, the Government will now think carefully about the issue of public information and consider what we may be able to bring forward by way of an amendment on Report. I continue to listen with interest to the arguments put forward by the Committee. Each of these groups of amendments has rounded out the debate more fully and started to crystallise some of the areas where there may be some agreement and those where perhaps there is unlikely ever to be agreement.

In the light of the answer I have given, I hope that the noble Lord, Lord Kerr of Kinlochard, will withdraw his Amendment 24. I urge other noble Lords with amendments in this group not to move them when we reach them.

Lord Kerr of Kinlochard: I thank the noble Baroness for her customary courteous, careful response to my amendment. I accept the criticism she made of its second proposed new subsection. She put it very vividly in saying that I was putting the cart before the horse before the horse had even bolted. I am sure the stable door was there somewhere. She has a point. Of course, the sequence would be, if we voted no, there is the vote, then presumably the Government go to Brussels and invoke Article 50, and there is a discussion from which an arrangement emerges, so she is absolutely right in her logic.

My amendment would have been better if I had asked the Government to report on the relationship with the European Union that they envisage in the event of a referendum vote to leave and on their view of the acceptability of such an arrangement to every European member state. I would be happy to see it adjusted. Maybe the Minister would wish to adjust it a little further.

10 pm

I do not care what the language is. What matters is that people who know that we are not stepping out into a vacuum know that if we do step out we must be somewhere. They need to have the Government's

[Lord Kerr of Kinlochard]
description of what that somewhere might be and look like. It is not enough if they merely set out a menu of options—this would infuriate the noble Lord, Lord Stoddart: you could do this with the Norwegians, you could do this with the Swiss, you could do this with the Turks, you could do it sui generis. You could do the union jack option; you could do the Stoddart option. That would not be terribly helpful to the electorate.

They will want to know what option is likely to work and what in broad terms it will be. To tell them the menu without telling them what the Government would like to do, and whether the Government think they can do it, would not be much use. There is a genuine public information requirement to say what out is like and to define it. That requires not just our saying what we would like, but recognising that 27 other member states would have to be satisfied. We will have to agree with the Government telling us what in their view is the likelihood of the 27 agreeing.

I take comfort from the fact that the Minister's ire was directed only at the logical flaw in my amendment, which I am happy to acknowledge. I hope that the Minister will produce a better formula for us. If she does not, I will come back to mine, improved as she suggests at Report. Meanwhile I beg leave to withdraw the amendment.

Amendment 24 withdrawn.

Amendment 25

Moved by ***Lord Forsyth of Drumlean***

25: After Clause 5, insert the following new Clause—

"Report on the outcomes of negotiations between Her Majesty's Government and the European Union

Not less than four months before the date of the referendum, the Secretary of State shall publish, and lay before each House of Parliament, a report setting out the outcomes of Her Majesty's Government's negotiations with the European Union, and any resulting changes in the relationship between the United Kingdom and the European Union."

Lord Forsyth of Drumlean: My Lords, I am very conscious that I must not irritate the noble Lords, Lord Hannay and Lord Kerr, by making a campaigning speech. Having looked at my amendment, Amendment 25, I am at a loss to think how one could turn this into a campaigning speech. It is clearly an amendment that should be acceptable to all noble Lords in the House, including to my noble friend the Minister.

Lord Kerr of Kinlochard: I do not in any way wish to interrupt his flood. I merely wish to tell him that I support his amendment.

Lord Forsyth of Drumlean: I am now having doubts. I am not surprised that the noble Lord supports the amendment, because it is a very sensible one. All that it does is seek to ensure that when the Prime Minister has finished his negotiations we have some kind of government publication that tells us what they were about, what their outcome was and what the implications would be for our continued membership of the European Union with those changes, if he so recommends, or the alternative.

The amendment is drafted in neutral terms and I hope that my noble friend might be able to accept the principle. I do not think that it is too much to ask. In my noble friend's Second Reading speech, he hinted as much. The Chancellor of the Exchequer said in the early part of the summer that there would have to be some sort of paper. There are none of the issues that we have had to discuss earlier this evening arising from the debates that we had on publications of the benefits of being in and out. This is completely straightforward. What did the Prime Minister want? What did he get? What will be the effect on our relationship with the EU and what is the outcome? I beg to move.

Lord Wallace of Saltaire: My Lords, I, too, agree with this amendment. I anticipate that when the negotiations are complete, the Prime Minister will publish a paper and I think it highly likely that the noble Lord, Lord Forsyth, will disagree fundamentally with what the Prime Minister says.

Lord Hamilton of Epsom: My Lords, I went to the Public Bill Office and said that I wanted to put down an amendment very similar to this. It would have called for a White Paper, which this amendment does not. When it was pointed out to me that my noble friend Lord Forsyth's amendment was already tabled, I added my name to it. This smacks very much of Amendment 1, which I put my name to and which was supported very early on by the noble Lord, Lord Kerr. The Liberal Democrats supported it, too, and I suspect that the Front Bench of the Labour Party is going to support it. This amendment ties in with everything that the Government have said already. The only worry I have is that my noble friend the Minister may say that the Government have given an undertaking to this and that it does not need to be in the Bill. I have to say that we will all be very reassured if it is.

Lord Forsyth of Drumlean: Before my noble friend sits down, one of the key points is of course the provision:

"Not less than four months before the date of the referendum".

Lord Hamilton of Epsom: Yes, indeed, that is a very significant part of it.

Baroness Morgan of Ely: My Lords, we are all keen to know the outcome of the Prime Minister's negotiations. Now we have an idea of what he is hoping to achieve and he has promised to write down the UK's negotiating position in a letter to the President of the Council. I think we are expecting that to happen next week. I am sure that other EU leaders will be happy to see that as well, given the reports we have read of their frustration at the vagueness of the UK's negotiating position.

We know the broad themes—sovereignty, economic governance and what the meaning is of "ever-closer union"—but I would take issue with one point brought up in relation to the report written by the European Committee of this House. In relation to restrictions on free movement of labour, we would warn the

Government not to talk up the problem of benefit tourism, as they did in their response to the European Committee on its report assessing the reform process. They said in their response that they want to reform,

"welfare to reduce the incentives which have led to mass immigration from Europe".

I am afraid that the facts simply do not match up to that proposition. Last year, a European Commission report found there was no evidence of systematic or widespread benefit tourism by EU nationals migrating within the EU, including to the UK. In fact, the UK is the only EU member state where there were fewer beneficiaries among EU migrants than among nationals.

We are expecting the first substantive discussions on reform at the December summit. Let us hope that they are given a bit more of an airing than in June, when I think the Prime Minister was lucky to have had 10 minutes. Of course, it would make sense if the outcomes of the negotiations were made clear to the public. We would endorse the idea of the production of a report to this effect.

Baroness Anelay of St Johns: My Lords, we are coming towards the end of a long, thorough and well-considered debate on the issue of public information. As I explained earlier, I agree that the public will expect Ministers to set out the results of the renegotiation, how the relationship with Europe has been changed and if, and how, those changes address their concerns.

My noble friend Lord Forsyth's amendment would create a statutory requirement for the Secretary of State to publish and lay before both Houses a report on the renegotiation outcome, and any resulting changes in the relationship between the United Kingdom and the European Union. He stipulates that this must be done four months before the referendum poll date. I am sympathetic with the aim behind the amendment: to ensure that the British people understand the outcome of the renegotiations. However, because of my earlier comments about deadlines, I do not think my noble friend will be surprised to hear that the four-month period imposed by this amendment between publication of a report and the poll is not necessarily going to be helpful to having a fair and even campaign. As I explained earlier, there could be unnecessary complications with regard to legal challenges if there were a prescriptive date. We need to think very carefully about the most appropriate timeframe for the delivery of public information. I think it would be unwise to commit to an arbitrary deadline at this stage.

Lord Forsyth of Drumlean: I do not want to introduce any more animals into the debate and would certainly not want to look a gift horse in the mouth. I am most grateful to my noble friend for saying that she is sympathetic. Is her problem with the length of the period? The reason that there is a period in there is so that there is enough time for people to consider the impact of the changes before they cast their vote. It is arbitrary in the sense that it should not be less than four months. It is clearly very important that the White Paper, or whatever you want to call it, should not be published two weeks before polling day, before people have an opportunity to consider its value.

Baroness Anelay of St Johns: My Lords, I entirely agree with my noble friend. The important thing, as the Committee has discussed today, is that we are able to have information that it is appropriate and reasonable for the Government to produce, but at a time when it can be considered by those who are to cast their vote.

We need to consider carefully what that timeframe may be, taking into account that the Government will need to ensure that the production of information is done in a reliable, sustainable way. Of course, the Government must not only compile a report but ensure that mechanisms are in place for its widespread distribution. These days, so many of us in this House access reports online, but that is not the only way that information needs to be distributed. I am not saying that I have already made up my mind what the deadline should be. I am saying that we need to consider carefully how there should be an opportunity for information to be produced and presented to the public in time for them to be able to make a decision.

I have listened very carefully to each of the debates, each of which has added something to our consideration. There is clearly an important role for the Government. The public will expect Ministers to set out the results of the negotiation. They will expect the Government to set out how the relationship with Europe is being changed, and if and how those changes address their concerns. That goes to the heart of what my noble friend has just said. The public need to be able to look at that information to answer the question that a voter might ask: what does it mean to me?

As my right honourable friend the Chancellor of the Exchequer said in June, the Government intend to publish an assessment,

"of the merits of membership and the risks of a lack of reform in the European Union, including the damage that could do to Britain's interests".—[*Official Report*, Commons, 16/6/15; col 165.]

I have also heard the calls today for an assessment of the implications of a vote to leave the European Union. We will now give careful consideration to what we may be able to bring forward by way of an amendment on Report that would command the support of both Houses. I know that we will continue to discuss this matter with noble Lords who have tabled amendments at this stage. I hope that that is a productive discussion.

The noble Lord, Lord Hamilton, asked a specific question: would the Government's commitment be to put something in the Bill? I have been talking about the Government bringing forward an amendment, which means that something would go into the Bill, simply because it would be an amendment.

I urge the noble Lord, Lord Kerr of Kinlochard, to withdraw his amendment and to await discussions that I hope will proceed to a constructive conclusion. I am sorry.

Lord Forsyth of Drumlean: It is very easy to confuse us.

Baroness Anelay of St Johns: It must have been a long day for me to confuse the two noble Lords. I offer my humble apologies to my noble friend Lord Forsyth. What a day!

Lord Forsyth of Drumlean: The connection is closer than my noble friend may think. If I look out of my bedroom window, I see Kinlochard. When I arrive in London, I look behind me and I see Kinlochard.

I am most grateful to my noble friend. In the shadow of Halloween, we have had a pretty scary debate listening to some of the speeches about the awful things that will befall us if we leave the European Union. It is very pleasurable that we can conclude our discussions on such a positive note, for which I am very grateful to my noble friend. We look forward to seeing the amendment that will be tabled on Report and being able to sleep soundly in our beds, knowing that the Government will address at least this issue in respect of the Bill. I am happy to withdraw my amendment.

Amendment 25 withdrawn.

Amendments 26 to 32A not moved.

House resumed.

House adjourned at 10.16 pm.

Grand Committee

Monday, 2 November 2015.

Enterprise Bill [HL]

Committee (3rd Day)

3.30 pm

Relevant document: 9th Report from the Delegated Powers Committee

The Deputy Chairman of Committees (Lord Brougham and Vaux) (Con): My Lords, if there happens to be a Division in the Chamber, we will adjourn for 10 minutes.

Schedule 3: Primary authority scheme: new Schedule 4A to RESA 2008

Schedule 3 agreed.

Clause 18: Public sector apprenticeship targets

Amendment 49DA

Moved by ***Lord Stevenson of Balmacara***

49DA: Clause 18, page 33, leave out lines 41 and 42

Lord Stevenson of Balmacara (Lab): My Lords, as we move on to this session on apprenticeships, I want to reassure the noble Baroness the Minister that we are very supportive of what is being planned here generally. We will make a few points and ask some questions of a probing nature, but we do not intend to do anything that would in any sense be too aggressive, and I hope that our comments will be taken in the spirit in which they are intended.

I am slightly short-handed today because, unfortunately, my noble friend Lord Mendelsohn is unable to be here—although I hope he will join us later—so I am largely on my own. I shall be slightly scrabbling to make some of the points that I had thought that others might be making, so your Lordships may find that today has a slightly surreal feel to it, as I gloss over some of the more difficult and trenchant issues. However, I shall be heavily reliant on others who put their names down against the amendments and who, I am sure, will be equally testing and trying for the Minister.

On the group of amendments starting with Amendment 49DA, in which we have a number of amendments and which is on the generality of the new approach to apprenticeships that the Government say that they wish to take—which, as I said, we are broadly in favour of—I wish to make three main points.

First, Amendment 49DA, which is a probing amendment, picks up on an issue that has been raised with us by a number of local government bodies and other agencies. They feel that the powers being taken to set targets for public bodies on the number of apprentices that the Government would wish them to have appointed by the end of the Parliament, in pursuit of this very ambitious target of 3 million new apprentices within that period, will cause real problems. Could the Minister therefore explain what negotiations and discussions she has had with local government and other agencies on these points?

For example, one issue that has been raised with us is that there is quite a range of development in the sector in terms of who is ready to take on an increased number of apprentices and who is not—and we are talking about a very significant increase if we do the calculations. What figure do the Government have in mind overall for the sectors concerned, and would they be receptive to having further negotiations and discussions with those bodies in order to try to arrive at an equitable basis on which this could operate? We are not against the proposal—it is a good thing that everybody should be set stretching targets—but we slightly regret that there is not more in the Bill tying the increase to contracts, procurement issues and other activities in which, in previous Bills, we have discussed how one could lever up the numbers of apprenticeships. Specifically on the target for public bodies, we would like to have a bit more information about how it will work in practice.

Secondly, it is glaringly obvious that the Government feel strongly that apprenticeships will flow only if targets are applied to the public sector—we did not know that targets had come back into fashion, but that is obviously a nice thing to see in a Bill of this nature—but it has been pointed out that there is no target for the private sector. Why is this? Is there some other force here that we are not aware of that is preventing the Government taking what seems to be the logical step? If we are to get to the 3 million target, there surely has to be an obligation—we would perhaps put it no stronger than that—on the private sector, which will carry a large proportion of this. Of course, money will flow in support of those, so there should be no net cost to them in relation to how the targets will be reached. I am sure that it would be to the benefit of the country as a whole if both the public sector and the private sector were jointly engaged in this process.

Thirdly, on Amendment 49EB, there has been a lot of concern, expressed very often by my noble friend Lord Young, about the quality of apprenticeships. Indeed, he mentioned it in the debate in this Room only a few days ago in relation to a statutory instrument that had been put forward. The numbers are one thing but the quality is very much another. Obviously, the quality will be tackled, through the Bill and the Act, by creating the term "statutory apprenticeship", and that is a good thing. However, the amendment suggests that there may be more return if the restriction on statutory apprenticeships could focus on the higher-quality and the higher-skilled elements. In other words, they should be at levels 4 and 5 in the training schemes and not at levels 1 and 2.

I am sure there are other points that others will wish to make on that, but that gives the flavour of the way in which we want these amendments to be considered. I beg to move.

Baroness Sharp of Guildford (LD): My Lords, I rise to speak to our Amendment 50 and to the other amendments in the group. Before doing so, I should

[Baroness Sharp of Guildford]
declare my interests. This is not at present in the list in the register because it is very new, but I am very recently president of the AoC Charitable Trust. I am also an honorary fellow of the City & Guilds Institute and a patron of the 157 Group.

I think we have similar probing questions about this clause and, in particular, about the definition of precisely what is and what is not a public body. That is really what Amendment 50 is about. It raises questions about the slightly odd wording at the end of new Section A9, which says that,

"'public body' means … a public authority, or … a body or other person that is not a public authority but has functions of a public nature and is funded wholly or partly from public funds".

There are difficulties with such a definition. For example, Kids Company is largely funded by public funds. Is that a public body? A lot of charities are largely funded by public funds for one reason or another. Are they public bodies? I certainly would not have thought of them as being public bodies. Or are you going to take the ONS definition? The ONS, for example, is now classing housing associations as public bodies, although a lot of the money they receive does not come from the public sector. However, equally, the ONS does not class the Student Loans Company as a public body in spite of the fact that the Student Loans Company receives all of its funding from a public body. Therefore, as I say, that definition strikes us as being extremely loose, and I think it is necessary to know precisely what the Government have in mind when giving such a definition in the Bill.

In general, I share very much the view of the noble Lord, Lord Stevenson, in asking questions about how far the Government should go in setting targets here, there and everywhere for public bodies—so much for localism, if I might say so. To provide that "The Secretary of State shall set such targets" leaves very little discretion to the locality. One would hope that, actually, the whole thing was done very much in conjunction and consultation with localities. A great many local authorities, such as in Birmingham, work very closely with local enterprise partnerships and do set targets for themselves. Indeed, as I shall go on to explain later, they also set targets for vulnerable young people who should be taken into apprenticeships. This clause raises lots of questions on which we need some clarification.

Lord Hodgson of Astley Abbotts (Con): My Lords, I have added my name to Amendment 50, and will pursue the point made by the noble Baroness, Lady Sharp. It will not surprise the Committee, given my interest in the charitable and voluntary sector and the reports that I have written for the Government, that my line of questioning follows that which the noble Baroness has just raised.

It is absolutely clear that many charities and voluntary groups carry out functions which the Government find difficult to fulfil. The Government can provide the vanilla flavour, but the more difficult and challenging aspects of our society may often be better addressed through smaller, local voluntary groups. They will therefore have, in the words of the Bill,

"functions of a public nature",

and be,

"funded wholly or partly from public funds".

Rather than wait until today's debate, I asked the Minister's officials to throw a little light on the matter, and they very kindly wrote back. My question was whether the definition of a public body under Section A9(7) would cover bodies such as the Charity Commission and some charities. The answer was:

"The Charity Commission would fall within the definition of public body (it's a non-ministerial department and therefore part of the civil service). No targets can be set for charities unless they are also public bodies prescribed in the regulations. We will set out the full list of public bodies for whom a target may be set in regulations. There will be an opportunity for those affected to respond to a consultation on this during the passage of the Bill through Parliament".

We are discussing it in Parliament today, but I have not yet seen the regulations, although I may have missed them. This is a trifle too opaque. The sector is entitled to greater clarity now so that we can provide the appropriate level of scrutiny.

We are all very much aware of the deficiencies in the process for scrutinising regulations or statutory instruments—we had a clear example of that last week. I very much hope that, if my noble friend cannot give a direct answer this afternoon and tell us where the list is, she will be able to promise us clarity before we reach Report, at which time we could have a further, better and more focused debate on this issue, which means a lot to individual charities and voluntary groups. They need to know exactly what lies in store for them.

Lord Young of Norwood Green (Lab): My Lords, I support the amendments. I slightly disagree with my friend in this matter, the noble Baroness, Lady Sharp. I do not see anything wrong with setting targets; obviously, there ought to be consultation. The question I wanted to ask is: apart from these public bodies, is each ministerial department to be set targets? Do they currently have targets? In my brief ministerial career, we used to gather departments together and get them to report at least once a month on whether they were meeting apprenticeship targets. I would welcome a comment on that.

The Government have set themselves a big task in reaching a 3 million target over the course of this Parliament. I have on many occasions raised the problem of having a large public target, such as 3 million. The latest figures I have for apprenticeship starts show that there were 444,000 during 2013-14, which is good until you realise that a significant number—some 161,000—were aged 25-plus. I have nothing against adult apprenticeships as such, except that, if we disaggregate the figures again, a significant number would not be new-start apprenticeships but people being reskilled in existing jobs. I still think that the challenge we face is getting more young people into apprenticeships—those numbers are much lower and, in some cases, we have even had a decline. It is not as though the demand for apprenticeships is not there. For example, Semta's estimation for the number of engineering apprenticeships required over the next period of time is huge—something like 830,000—so we have a huge task on our hands in relation to apprenticeships.

3.45 pm

I am not sure whether this is exactly the right place in the agenda to raise these issues, but while I am on my feet I might as well raise my concerns. In a previous debate on a statutory instrument, I referred the noble Earl, Lord Courtown, to a disturbing article that appeared in the *Times* just over a week previously that was somewhat sensationally headlined but still worrying. The headline stated, "Apprenticeships are 'a waste of money'" and the article referred to a recent Ofsted report. In its targeted criticism, it stated that if you looked at the total number of apprenticeships and at the areas of the major starts,

"About 140,000 people started apprenticeships in business administration last year and 130,000 began healthcare apprenticeships"—

and there were significant numbers in the retail sector as well. The article continued:

"Standards were much higher in the motor vehicle, construction and engineering industries, where numbers were much smaller".

It is good that standards were higher there, but it is worrying that, in areas where we have such large numbers coming through, the report states that we are not meeting quality. I asked the noble Earl, Lord Courtown, what process there is for ensuring that, as numbers expand, quality will be sustained. I do not say this to make a political point, because we have all made mistakes in this area—we had problems with individual learning accounts and with train to gain. The previous Government poured a lot of money into those initiatives, only to find that when the noble Baroness, Lady Wolf, did her analysis, she regarded a lot of those qualifications as substandard.

I do not think that I am raising an alarm unnecessarily. We should be concerned about this. Recently, I had a conversation with someone who had significant experience of apprenticeships. She said that the amount of time that training providers have to oversee apprenticeships is about one hour a month. Therefore, the Government should be concerned. The target to raise the number of apprenticeships is laudable, and I am sure we would all support it, but we face other problems as well.

I will also raise here, although I could raise it in other places, the problem of career guidance. We still have a significant lack of impartial career guidance. Despite the legal requirement on secondary schools to cover vocational and academic career paths, my experience of meeting young people aged 15 to 17 is that, if they are asked what they are going to do, most say that they are going to university. If they are asked whether they are aware of any other career paths, you are lucky if one hand goes up and mentions apprenticeships. If you talk to employers in some areas, you will find that they have difficulties getting into schools. We have not even achieved a situation where every school has links with businesses.

I noticed in a recent document published by the Government that they intend to send staff from jobcentres into schools. Again, I do not want to criticise the enthusiasm, but I query whether that is the right way to deal with the problem. Surely the challenge is to ensure that schools live up to their legal obligations on career guidance and that every school has links with business. In that way, we will build this up—and there are some good examples of it—and be able to ensure that more and more young people actually have some work experience. That is another problem that employers raise. They say it is not necessarily that the young people do not have qualifications; what they lack is any understanding of the world of work.

I have raised a number of problems. I do not want to go on much longer but, given the importance of this issue and the size of the targets that the Government have set themselves, it was worth it. My final point is to reiterate something that my noble friend Lord Stevenson drew to the Committee's attention. The Government are still resisting making it a requirement for apprenticeships to be part of public contracts. I am still waiting for a satisfactory response from the Government as to why they will not do that. I know that they say that they are in favour of the voluntary approach, but why should we be parting with significant sums of public money—we are not talking about very small contracts but contracts worth millions of pounds—without the stipulation that, as part of tendering for those contracts, companies should include their commitment to training and to a specific number of apprenticeships? If the Government are serious about trying to meet this target, and a target for high-quality apprenticeships, they seem to be missing an important part of that process.

Baroness Corston (Lab): My Lords, I am currently chairing the Select Committee on Social Mobility and the transition from school to work. Last week, the committee met a number of young people who are either trying to get apprenticeships or going through apprenticeships. I would recommend that to anyone who wants to know what is going on.

When I left school—admittedly, in what some would now think of as the dark ages—apprenticeships were in mechanical engineering, electrical engineering, plastering, joinery and carpentry, and normally they were a few years in duration. I accept that the world of work has changed, but I was deeply shocked to hear young people say that they had had apprenticeships in putting flowers in bunches for a supermarket for six weeks, sweeping a stable floor for six weeks, wrapping vegetables for the same length of time, and working in a fish and chip shop—I accept that there is some encounter with the public there and you could say it is a branch of retail—also for six weeks. I was told of a company where the managing director is the only person who could be called an employee and everyone else is an apprentice who is there for a few weeks.

This practice is an abuse of the term "apprentice". What it does is massage unemployment figures so that people are seen to be doing something, but those young people were deeply dispirited at what was being offered to them. I am also told that it is now possible to have something called an apprenticeship in plastering for six weeks. You cannot learn to be a plasterer in six weeks and those people are presumably now going out and offering themselves as competent plasters to unsuspecting householders. That is not in anyone's interests.

I would be very grateful if the Minister would address the question of quality because these young people certainly did not think that they were recipients of anything approaching the term "quality".

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, I am grateful to the noble Lord, Lord Stevenson, for his clarity and succinctness, and for the other comments that have been made in this debate. If I do not answer all the points exactly, I hope to do so during the course of a series of amendments that we have; for example, I shall have some more to say on quality a little further on. I shall try to look at these amendments in the round.

Amendment 50 seeks to remove part of the definition of the term "public body" from the clause, which relates to bodies that are not public authorities but have functions of a public nature and are funded wholly or partly from public funds. The definition gives an overview of the types of bodies that might be covered by the duty. The Government think it right in principle—and I think that there is agreement—that public authorities and other bodies performing public functions should be capable of being subjected to targets. However, this is only a power to prescribe; it does not oblige all those that fall within the other public bodies category to be subject to a target. Therefore, a particular body will be subject to targets only when the Secretary of State makes secondary legislation—just to be clear. Our intention is that bodies with a workforce in England of more than 250 employees will be subject to the duty.

My noble friend Lord Hodgson is absolutely right that bodies are entitled to clarification as to which bodies are in and which are out, and we will set out the full list of public bodies affected in a consultation at that we intend to publish during the passage of the Bill. That will be an opportunity for those affected to respond to the consultation. I am sure that it is not yet available, but this Bill starts in this House, and there is an interplay between what we are doing here, which is perhaps relatively narrow, and the emerging policy on apprenticeships, which coincides with it. The list of bodies will be set out in regulations, and we will bring those forward for debate in both Houses, following the passage of the Bill.

Lord Hodgson of Astley Abbotts: So it is going to be a very long list of a series of charities and voluntary groups, and it will not be available until after the Bill has passed. Is that what the Minister just said, because that is not terribly satisfactory?

Baroness Neville-Rolfe: I shall try to answer on the specifics, to give a feel for bodies that will be in and those that will be out. A key concern was that, for example, bodies as small as Kids Company could be caught, but the receipt of the grant that it used to have, should it still exist, would not suffice to bring the body into scope. That is my understanding.

To respond to a point made by the noble Baroness, Lady Sharp, we are going to use the ONS definitions as a starting point for considering which bodies should be in scope. However, as I have said, we will be consulting. We appreciate that a body may feel that it has good reasons for not being in scope. For example, I know that the noble Baroness, Lady Warwick, is concerned about smaller housing associations. Following the ONS's announcement on Friday, the Government have confirmed that they will,

"bring forward measures that seek to allow housing associations to become private sector bodies again as soon as possible".

That would take them out of the scope of this duty, and we will take account of that when preparing our consultation. It is a fast-moving area, so I appreciate the complications, but I am happy to engage with people to give them as much clarity as we can. The scope will be set out for consultation, and the limit of 250 employees will help to some extent to make people less concerned about bodies that might be brought in.

Lord Hodgson of Astley Abbotts: One area causing particular concern is that of the larger charities providing overseas aid, and distributing it for DfID, which come above the 250-person ceiling or floor and are operating not in the United Kingdom but overseas. It would help if officials or the Minister could let us know whether they as a category will be included in the need for apprenticeships.

4 pm

Baroness Neville-Rolfe: As I said, the list will be available for consultation. It will be available during the passage of the Bill. I can give that undertaking. We will also consider any requests for removal as part of that consultation. However, it is important, for the careers of employees and the effectiveness of public institutions, that the public sector delivers its fair share of apprenticeship growth. We will give some further thought to my noble friend Lord Hodgson's point, to see whether we can give any greater clarity, but I can give an assurance that we will be consulting.

To respond to the point made by the noble Lord, Lord Stevenson, which was picked up by the noble Lord, Lord Young, about local authorities, officials in the BIS/DfE apprenticeships unit are in active discussion with the DCLG about the public sector target and its application to local authorities. We will consult on the level of the target and who should be in scope. We cannot speculate on the figure, but to do so just as an indication, we are currently working towards 2% to 3% for consultation, but that will be subject to confirmation.

Lord Stevenson of Balmacara: I am sorry, but 2% to 3% of what?

Baroness Neville-Rolfe: Of employees.

To respond to the noble Lord, Lord Young, central government departments will be in scope. We agree strongly that the Civil Service should play its part. Indeed, I have an apprentice in the Bill team. I think that that is leading the way.

I turn to Amendment 49DA, which would remove the power of the Secretary of State to make regulations to set targets for public bodies. I do not think that that is the intention of these probing amendments, but I will say that investing in apprenticeships makes economic sense. In June 2015, research on further education in England indicated that adult apprenticeships at level 2 and level 3 deliver £26 and £28 of economic benefits respectively for each pound of government investment,

measured on an NPV basis— the difference between gross benefits and costs. As for the apprentices, to pick up another point, individuals with a level 2 apprenticeship earn on average between £48,000 and £74,000 more over their lifetime than similar individuals with level 1 or 2 qualifications only. Higher apprenticeships could earn £150,000 or more on average over their lifetime, compared with those with equivalent vocational qualifications.

Amendments 49EA, 49EB and 50AB come together. They would extend the scope of Clause 18 to place apprenticeship targets on private sector companies in the UK. They state that the target should be achieved via higher-level apprenticeships. As I have always agreed with the noble Lord, Lord Young, apprenticeships are jobs and depend on employers offering opportunities to young people. Finding the right opportunity is vital for any young person starting out on their chosen career. There will always be competition for the best places, as there is for the best universities. Employers will naturally take the best candidate for the job that they offer. Figures show that, of the 851,000 people participating in apprenticeships in 2013-14, 185,000 were aged under 19.

The positive effects of apprenticeships are clear. They have an economic and social benefit for individuals and society as a whole. The public sector employs fewer apprentices as a proportion of its workforce than the private sector. The Government are therefore keen to place targets on the public sector.

However, we are against red tape and feel we should be careful about imposing new burdens, especially when the desired objective can be achieved in another way. Therefore, 1.3 million private sector organisations that employ people should not suddenly be required overnight to take on apprentices. Instead, via apprenticeship reforms, we are putting employers at the heart of the apprenticeship programme so that they are encouraged and incentivised to employ apprentices. We also judge that it would be administratively impractical for government to monitor whether employers were having "due regard" to the targets and take action where this was not the case. Firms would have to set up a whole compliance system for this, and we believe that their efforts are better used elsewhere.

I shall come to quality on another amendment, but I shall say something about career guidance because I agree with the noble Lord, Lord Young, that it is very important. That is why we have set up the employer-led Careers & Enterprise Company. This area is rightly being actively pursued by DfE, with Ofsted taking a great deal of interest in careers in its inspections. We have discussed before the problem of getting into schools and I will feed back the noble Lord's observations to my noble friends in the DfE. Like him, I go to schools and, like him, I always mention apprenticeships. As government, we can do a lot, but we can also do a lot individually to help encourage careers in schools.

Noble Lords made a number of observations. We will come on to quality elsewhere. I hope that the readiness to consult and my indications of where we are heading have been helpful and will enable the noble Lord to withdraw his amendment.

Lord Young of Norwood Green: The Minister did not respond on public sector contracts, and I would welcome a response. I do not think I am going to be surprised by it, but I would like one.

I do not disagree with the Minister's point about the difficulty of setting targets for every company, but we should surely be concerned that we never seem to have got a lot further than something like one in four or one in five companies taking on apprenticeships. We never seem to be able to push the needle on the dial much further than that. If we believe, as I know the Government do, that the vast majority of these apprenticeships should be coming from SMEs, it is vital that we make some impact on them. What plans do the Government have? I heard the Minister say that employers are at the heart of this and will determine the skills required. I do not quarrel with that. The Government have introduced new funding arrangements which not every employer is happy with. That is a bit of a worry because they feel that they will have to claim back. I have heard from employer organisations that there are real concerns about that. That is the problem we face if we want to get significant numbers of young people. Although I heard the figures the Minister quoted, I still think that that will be the challenge and that getting them into these small and medium-sized enterprises will be vital.

Baroness Neville-Rolfe: We will come on to discuss contracting out, which is the subject of the next amendment. I hope it will enable me to reassure the noble Lord on that point. SMEs also come up later. His points are extremely well made. This is a very important area. There is a lot of cross-government consensus that we need to have a step change in apprenticeships. Germany and Switzerland have classically done a better job. With the levy, the change and the move to proper frameworks and at least a full year for every apprenticeship, we are trying to move into a different place.

The provisions in this Bill do not answer all the questions, but they do some useful things. With the noble Lord's agreement, I hope we can move on to the next amendment and talk about what we are going to try to do for contracting out.

Baroness Sharp of Guildford: Before the Minister sits down, perhaps I could interject briefly. I wondered whether the noble Lord, Lord Young, had actually looked through the list of amendments and noticed that we had the following one, as was rightly said, on public procurement, and the subsequent one, which is on small and medium-sized enterprises. However, I put it to the noble Baroness that she says there is a lot going on with apprenticeships at the moment. I think a very real problem has arisen, which is that the Government are constantly changing the goal posts in relation to apprenticeships and this poses a real problem for a lot of companies.

As is very clear indeed from the Ofsted report that came out last week, what has been happening is not satisfactory and needs to be changed. One of the problems facing the whole sector is constant instability. We have a situation in which the employer ownership

[Baroness Sharp of Guildford]
pilots were going on, and we have the trailblazer pilots going on, and then suddenly the Government intervene with the apprenticeship levy, which changes the whole game once again. The whole thing is thrown up in the air and a lot of companies are very uncertain as to quite where they are going to be going. Take the construction industry: there is already a construction industry levy—is the other levy to be on top of that? I know there have been consultations about it, but we do not know yet what is going to happen. Therefore, I put a plea to the Government and the Minister: please try to establish a broad framework for setting apprenticeships and then do not fiddle with it for about three years to give it a chance to bed down.

Baroness Neville-Rolfe: I have to say I agree that having a good vision and a good framework for this important area of policy is essential. Obviously we came back in May—to the surprise of some of us—and we are trying to move forward with a new approach to apprenticeships, which does include a levy because we think that that is a good way of getting funding into this absolutely vital area. Of course I, like everybody who used to be a huge employer in their former lives, recognise the importance of certainty for employers. However, I do not think that we should apologise for trying to improve the framework. We should do that. We should then give the new arrangements a clear run. However, we are at that point in the process where policy is being formed. We are bringing in a levy, which is still the subject of consultation. We are rightly in the Bill trying to move forward on a couple of small and important issues, including this business of the definition of apprenticeships, where I feel that having sanctions, as there are for degrees, will actually help to improve the recognition of this vital employment category.

Lord Stevenson of Balmacara: I thank all noble Lords for contributing to the debate. It has done what we wanted, which was to begin to open up this whole area and to get a sense of where the Government are going, and to try to see through to the vision and the framework, which the noble Baroness mentioned.

I think the slight problem we all have around the Room is that we are not quite sure what the vision actually is because we have not seen some of the detail of it. We have some doubts about whether the framework is going to be sufficient to get the country to the point where we can say that we have a competitive environment similar to Germany and others who have been at this for some time. The noble Lord, Lord Hodgson, is quite right to bang on about whether or not large charities doing work for local authorities are going to be included. It will make a huge difference to them. We need to know a bit more about who will be on the list. If the Government are, as we know, changing around the definitions to housing associations so that they are in but they could be petitioned to come out by some other piece of legislation, this is not going to provide the basis of what we are talking about.

I suppose we were being a bit cheeky in trying to delete the first subsection of the first new Section in the clause, but we wanted to draw out from the Minister the rationale behind what we are doing. She says that it makes economic and social sense for bodies to recruit something like 2% to 3% of their workforce, even if they are charities, and that the burden should be on the larger—presumably, the 250 employees threshold will become the standard, as that is the target for small and medium. So it is largely going to be on those that are not SMEs, which is interesting but nevertheless understandable in the circumstances. Where we disagree is that, although it seems to the Government to make economic sense for those bodies to be involved, that does not read across to the productive sectors of the economy, for which there will be challenges and obviously lots of things are still to happen but for which the case is still very strong that there should be some engagement. After all, if the Government are going to levy them for payment of the apprentices that they are going to take on, presumably they are already in contact with them—presumably, they have to write to and communicate with them—so it would not be very difficult to put a target in place in return for the money.

However, a lot of this will come up later. We have had a good start to today's debates. I am grateful to all concerned. I beg leave to withdraw the amendment.

Amendment 49DA withdrawn.

4.15 pm

Amendment 49E

Moved by ***Baroness Sharp of Guildford***

49E: Clause 18, page 33, line 42, at end insert—

"( ) The apprenticeship targets set for prescribed public bodies under subsection (1) may include apprenticeship agreements entered into by sub-contractors working for the prescribed public body.

( ) The prescribed public body may in turn set apprenticeship targets for their sub-contractors."

Baroness Sharp of Guildford: My Lords, in moving Amendment 49E I will speak also to Amendment 50A, which is purely consequential. The purpose of the amendment is explicitly to try to pull in the clout of public purchasing to encourage companies that are contracted to public sector organisations to take on apprenticeships, and to encourage private sector organisations to pick up the baton.

I have two very good examples of where this has been done pretty systematically. One is the Olympic Park in 2012. The noble Lord, Lord Gardiner, knows this example quite well. It is quite an inspiring example. The original target for apprenticeships in the park was 350, but it ended up with well over 450; 12% of them were black, Asian or ethnic minority, compared to 5% generally within the country; 64% came from London and 30% from the boroughs involved with the Olympics, the eastern London boroughs, so apprenticeships were being provided for local people. In addition, 6% were women, whereas in the construction industry only 3% of apprentices are generally women, so they managed to double that even though 6% is pretty abysmally low. They had only a 6% dropout rate from the apprenticeships, whereas nationally the dropout rate at that time was about 25%.

An evaluation was done and it is interesting to look at the success factors. The report says:

"Many activities were undertaken to deliver the Apprenticeship Programme",

including:

"The tangible ownership and driving influence of senior project leads".

That is very important. Senior management was involved and absolutely behind it. The report also says:

"Robust and effective working relationships were fostered with a number of colleges and training providers".

This is what we are all saying these days: partnership between industry and the training providers—colleges, independent training providers and, for that matter, schools—is vital. The report also points to:

"Full stakeholder engagement that included relevant industry bodies"—

it was not just the firms themselves but the sector skills agencies, the funding agencies, national and local government, and the trade unions were all involved in helping to design the programme and get it moving. There was also:

"The implementation of a contractual requirement that three per cent of a new contractor's workforce be apprentices"—

picking up the 3% that the Minister was talking about and deliberately putting a target on the subcontractors. The report also points to:

"Implementing a follow-up monitoring process, in partnership with the National Apprentice Service".

It was followed up, it was well monitored and the figures are there. Finally, the report points to:

"The active promotion of construction as a positive career choice".

The noble Lord, Lord Young, was quoting figures earlier. As he was saying, sadly we have not seen a very considerable increase in the number of apprenticeships in traditional areas such as construction and mechanical engineering. The big growth has been very much in the service sectors, particularly care, retail and hotel and catering.

I also quote this from the evaluation, because it makes an important point:

"Something very positive and supportive was in place in the environment that the ODA"—

the Olympic Delivery Authority—

"created on the build programme and the markedly low drop-out helped to promote apprenticeships among those employers who were reluctant to take on young people, some of whom feared a high turnover and a wasted investment".

That was a very positive experience.

I also quote another example, which the noble Baroness, Lady Corston, who is sat behind me, will know. Last week we had in evidence to the Select Committee on social mobility and skills a presentation from Crossrail's director of talent and resources, Valerie Todd. I found her testimony extremely impressive. Crossrail needed some 3,500 skilled workpeople. It realised that it had not nearly enough people, so it set about training them with three main aims: to ensure that those who came on site recognised what safety precautions were necessary; to inspire future talent; and to provide local jobs.

Crossrail has taken on more than 300 apprentices and linked them with local schools. It has gone to the local schools and recruited apprentices from areas where it has been working. Some 39% of them are from black, Asian and ethnic minority groups and 20% are women, quite a number of whom have come in through both the construction and civil engineering areas, but also to some of the secretarial and administrative areas. This also applied to subcontractors. Crossrail worked very closely with its subcontractors. As Ms Todd has said:

"They all knew that if they were going to bid for our work they were going to have to support us in achieving these goals".

Both these examples of what has been achieved by a deliberate attempt to use public procurement to raise the numbers of apprentices in private companies are very inspiring. They have clearly achieved well. Both are planned examples. As drafted, the amendment purely says that:

"The apprenticeship targets set for prescribed public bodies under subsection (1) may include apprenticeship agreements entered into by sub-contractors working for the prescribed public body".

It is not a "must"; it is a "may". We are not saying that they have to, but it is a useful way of doing it and I suggest that it is one we should back. Using public procurement to promote apprenticeships is something that has been widely discussed and approved of. It would be nice to see the Government doing something about it. I beg to move.

Lord Young of Norwood Green: I rise to support the noble Baroness, Lady Sharp. She has quoted two contracts. I had a personal involvement with both, ensuring that there were targets and that we met them. They were both very good, but one of the last points that the noble Baroness made was that Crossrail ensured that not only the main company but its supply chain, which was distributed throughout the country, had an apprenticeship target. I would like to see a "must" rather than a "may", but if the Government said that they accept the amendment, that would be a step forward and an important signal. I look forward to hearing the Minister's comments.

Lord Stevenson of Balmacara: My Lords, we have three amendments in this group. The first follows up what the Minister said in response to the earlier debate. Apprentices are in jobs, and if they are in jobs, they should be paid as if they are in jobs, and if they are making a contribution, that would be a good thing to do, so our suggestion is that that should be paid the living wage. I would be interested to hear the argument against that. It has to be not only a training but a way of living. Anybody who does an apprenticeship will get the training, we hope, that will get them into remunerative employment. We heard the figures about how much it will benefit them over their lifetime, but they have to start somewhere. Starting below the current living wage will not be a great advertisement for these areas.

Baroness Neville-Rolfe: Sorry, I had thought that the living wage amendment was in a different group.

Baroness Sharp of Guildford: I regrouped it. Today's list is different from the one that was circulated at Friday lunchtime.

Baroness Neville-Rolfe: Can we clarify what we are planning to speak about, so that I can answer in due order? I would be extremely grateful.

Lord Stevenson of Balmacara: My only excuse is that, as I explained, I am a bit underbriefed, having been thrown into the spotlight. I am also working from an earlier version. Since the Minister was in a not dissimilar situation in the previous group, perhaps she will bank my comments and reply to them at the appropriate point, if that would be convenient for her. Amendment 49H will come up later.

I want to endorse the points made by the noble Baroness, Lady Sharp, and, in a previous group of amendments, by my noble friend Lady Corston in relation to quality. There will be a transition to the new scenario sketched out in the Bill and put into force by the Act, but at the moment we are starting from a very low background. There are good areas of activity. We have all heard about Crossrail's good record on this, and there are other employers who do a lot of good. The Olympics are a gold standard for the aspirations we have in his area. However, these groups make the point that it will be important to try to find a way of bridging between the current system and the new system so that only good-quality apprenticeships that extend learning and training opportunities for the young people taking them will be able to benefit from them.

Baroness Neville-Rolfe: I am very grateful to the noble Baroness, Lady Sharp, for explaining her amendment so clearly and for regaling us with the examples. I agree that the Olympic legacy was amazing in many respects, particularly in relation to apprenticeships and the partnerships in east London that she described. There is a debate on the Olympic legacy on Thursday, and I am sure I will be able to use the noble Baroness's material to good effect.

My favourite example of good practice is Crossrail. I have been down the tunnel. I do not like racing cars, but I like Crossrail. What Valerie Todd said to the committee was extremely well put. Crossrail is good not only at apprenticeships but at giving contracts to firms outside London and to SMEs, so there are three good things coming together there.

I am also extremely grateful to the noble Lord, Lord Stevenson, for agreeing that I may answer on quality under a later grouping. Groupings moving around makes life difficult for those of us who are trying to shine a light into the proposals we are discussing in this Committee.

Amendments 49E and 50A relate to employment by subcontractors. They allow the employment of apprentices by subcontractors of a public body to be included in targets set for the public body. They also allow a public body to set apprenticeships targets for its subcontractors. There is a broad definition of subcontractor. Clause 18 will improve the capacity and capability of the public sector, ensuring that it benefits from the same positive impacts that apprentices bring to the rest of the economy.

4.30 pm

The noble Baroness's amendment would, we fear, put this ambition at risk. It would enable public sector bodies captured by the duty to meet their targets via persons who supply goods and services to them. These apprenticeships might have no interaction with the relevant public body, so the benefit that apprentices could bring to the public sector would be lost. That is a perverse effect, which I do not think is the intention of the noble Baroness. The Government believe that the public sector should deliver its fair share of apprenticeships. This does not mean that the duty should be shifted back to the private sector. I can reassure the noble Baroness that the clause makes provision for apprentices who work directly for a public body, but are employed by the apprenticeship training agencies, to count towards this target. This will help to minimise administrative burdens for bodies in employing apprentices.

We will work with departments and the wider public sector to encourage apprenticeship growth in their relevant sectors. However, we do not judge that it is appropriate for individual public sector bodies to set their own targets on the private sector. Nevertheless, we recognise that certain public procurement contracts can be a key means of upskilling workforces and reducing youth unemployment, and that including requirements to take on apprentices can be valuable. That is why the Government introduced changes to procurement policy to take a company's apprenticeship and skills offer into account when awarding larger central government contracts. I am not sure that as much publicity has been given to this provision as perhaps it should. We are already doing something which will build on the good practice of the Olympics and Crossrail.

From 1 September, all bids for relevant central government contracts worth more than £10 million and lasting 12 months or more must demonstrate a clear commitment to apprenticeships. Bidders propose the number of apprenticeships they will create under each contract—perhaps between 3% and 5% of the contract's workforce. They will then be bound to this figure in the ensuing contract, with action taken should they fail to deliver on the promised number.

Officials in my department and the Crown Commercial Service will work together with officials in the Department for Communities and Local Government, the Local Government Authority and local authorities to identify existing best practice and experience and bring forward proposals in early 2016 for extending the policy to local government contracts as well. Information on the number of apprenticeships delivered as a result of these proposals will be reported through single departmental plans issued by individual departments.

Therefore, we are not doing it in exactly the way proposed in the amendment but we have taken the point that it is important for us to use the opportunity of government contracts to encourage apprenticeships. With that explanation, I hope that the noble Baroness feels able to withdraw her amendment.

Lord Young of Norwood Green: Obviously, I welcome that step in the right direction. When we looked at this issue, we had a figure of something like £2 million. I am not sure whether the Minister's team will have this information but, if the figure is set as the Minister suggests at £10 million, what will be the percentage of public procurement contracts? There are two criteria—the £10 million and the 12-months criteria.

Baroness Neville-Rolfe: I think the answer is that we do not have the information with us. Perhaps we could take that away in the usual way and see what we can do in terms of an estimate and come back.

While I have the Floor, I will respond to the point about charities that was raised under the previous amendment but is also relevant to this because in the public sector work is often contracted out to charities. To be clear, if charities are not on the ONS list for the public sector, current thinking and emerging policy is that they will not be in scope. In practice, it is very unlikely that many charities would qualify in this process.

Baroness Sharp of Guildford: I thank the Minister for her response, and all those who have participated in this debate.

It is a little disappointing that she is not more forthcoming on this. I recognise that she has made provision for major public contracts but, first, as I understand it, that is to be negotiated with the contractors —it is not mandatory for large public contracts. Secondly, a large number of smaller contracts go through public bodies on which it would be useful for there to be some nudging. The "may" that I would have put in would very much be nudging those subcontractors to think about apprenticeships and think whether they could not carry them through. We are concerned about the lack of apprenticeships in small and medium-sized companies, and this is one way in which to encourage those companies to come up with proposals for apprenticeships. It would be an opportunity for the Government to nudge things in that direction. As the Minister made clear, big contracts began only in September this year, so we have a long way to go. What can be achieved, as is shown by the Olympic Park and Crossrail, is very considerable. I hope that we see something a little more positive from the Government some time. I beg leave to withdraw the amendment.

Amendment 49E withdrawn.

Amendments 49EA and 49EB not moved.

Amendment 49F

Moved by ***Baroness Sharp of Guildford***

49F: Clause 18, page 34, line 3, at end insert—

"( ) An apprenticeship target shall specify what proportion of the number referred to in subsection (2) is to be reserved for apprenticeships for young people—

(a) who were looked after children; and

(b) who need help with physical or learning disabilities."

Baroness Sharp of Guildford: My Lords, this amendment is concerned with care leavers and those with special educational needs and disabilities; its purpose is to open up apprenticeships to those two groups of young people. Some of them are perfectly able to undertake such an apprenticeship—I recognise that not all young people with special educational needs and disabilities are in a position to take up apprenticeships, but some of them are. The feeling is that it is important that they should have the opportunity to do so. Something like 8% of those with special educational needs and disabilities currently have apprenticeships of some sort, compared to 16% nationally.

Looked-after children, it is well known, achieve less highly at GCSE than their counterparts; they often miss out on parts of education, partly because they have a chaotic family background, or there may be a history of abuse in their background, and so forth. Barnardo's has been very concerned about the issue of these young people leaving care. I refer to evidence that it gave to our Select Committee on Social Mobility, picking up a remark that one such young person made, that school really did not help them at all. We were told:

"These young people often leave school with few or no qualifications and need alternative options outside of the school environment if they are to achieve their potential. Some need provision that allows them to catch up on what they have missed and Barnardo's services offer a variety of Level 1 courses … These young people also often want the option of practical-based learning, that clearly links to a real job. Barnardo's services offer a range of qualifications that focus on occupational skills. These include foundation awards … NVG levels 1-3 and pre-apprenticeship programmes. The young people we work with can undertake these qualifications in a range of work areas including floristry; painting and decorating; business; horticulture; hair and beauty; construction; and catering".

It is important to recognise that some of these young people, because of the chaotic backgrounds that they come from, need time to catch up and move forward. For example, Birmingham sets aside for care leavers a proportion of the apprenticeships that it takes on as a local authority. I think that a number of other local authorities do that.

In relation to those with disabilities, it is a similar story. Some of them need longer to catch up and get themselves ready for an apprenticeship than others, yet they benefit from them. Ofsted's report states:

"Too few disabled people or those with learning difficulties become apprentices. In all further education and skills providers in 2013/14, over 16% of learners disclosed a learning difficulty or disability compared with only 8% of apprentices. Only one of the providers in our survey demonstrated that they had supported an apprentice with dyslexia to pass their functional skills test".

We do not have my noble friend Lord Addington here.

Lord Addington (LD): Yes, you do.

Baroness Sharp of Guildford: I am sure my noble friend will talk about dyslexia. Ofsted said:

"Only one of the providers in our survey demonstrated that they had supported an apprentice with dyslexia to pass their functional skills test while one other had made adjustments for a disabled apprentice. However, such examples of providers and employers encouraging disabled people or those with learning difficulties to succeed on an apprenticeship were rare".

It is important that such people are considered. Figures indicate that the proportion of apprentices who have learning difficulties or disability has decreased. It was 11% in 2010-11, and it decreased to only 8% in 2012-13. The success rate of all apprentices completing their framework rose considerably from 55% in 2005-06 to 73% in 2011-12. In the same period, the success rate for those with disabilities rose from 49.5% to 69.9%. That is a very high rate of success on the part of those with disabilities. The success rate is now 75%. The differential between the two is not very great.

[Baroness Sharp of Guildford]

Back in 2012, there was a comprehensive review—the Little and Holland review—*Creating an Inclusive Apprenticeship Offer*. It made 20 recommendations, including: clarifying funding to support apprentices with learning difficulty or disability; raising the awareness of providers and employers of funding sources, such as access to work and learning; the promotion of on-the-job support in terms of job coaching and mentoring; review and better monitoring of the self-declaration process so that underrepresentation by specific groups can be addressed; and the removal of barriers to access and completion in the form of qualification requirements. The Government seem to have been very slow in acting on those recommendations. Will the Minister update us on what is happening?

On barriers, English and maths remain a major issue. I do not know whether my noble friend Lord Addington will add anything on that. He has been very concerned about the shift to GCSE English and maths and the difficulty that some of these young people face. They used to be able to qualify with more examinee-friendly functional skills. I beg to move.

Lord Addington: My Lords, when I look at the apprenticeship system and the newly created apprenticeships, it is quite clear that there is a degree of fear within the system that the exam will not be taken seriously. This means that various standards have been clung to, particularly in English and maths, so that the apprenticeship will be as good as something else. This is quite clearly inappropriate if you do not take other steps for groups which have struggled in the traditional sector. Dyslexia was a classic example. As I dug into it, it became almost farcical. People were saying, "Employers like it". Then you had employers saying that yes, they wanted functional skills so that people could do the job, not a qualification. That was said to me more than once. A degree of paranoia was building up because people were not saying, "This is a test that allows you to do a job".

The groups mentioned here are always going to struggle. If you do not want them in the apprenticeship system, it is about time somebody turned round and said, "It's not for you", and provided something else for them. I do so hope that that will not be the case, because it means creating an entire new examination and qualification system. I hope that the Minister will be able to tell us that the Government are taking practical steps to allow people in.

4.45 pm

The example I mentioned initially turned out to be simply allowing in principle to make the software technology that was used elsewhere in education available for the examination. It was then discovered that that was impossible because the format online was wrong and had not been adapted. It was that ridiculous, but the resistance was real. Unless you have someone who is prepared to bring people into the system, you will always exclude. If apprenticeships are to be the gold standard for further education, you will exclude larger and larger groups.

We thus have a dichotomy with the aims and objectives of large parts of the further education sector. It is less than a year since we passed a major piece of legislation that said that you should allow people to continue training until the age of 25 because they have disabilities, but we exclude them from the main qualification they are going for. There is a real problem here. It should not be beyond the wit of man to start to square that circle, but unless action is taken and a path for further action is identified, I fear that we will go around this course again and again.

Lord Young of Norwood Green: My Lords, I concur with all that the noble Baroness, Lady Sharp, and the noble Lord, Lord Addington, said. This problem has been raised again and again. I think that the noble Baroness said that there should be some examples of best practice employers. We need to look at why they can take on young people in these circumstances to become good-quality employees capable of completing apprenticeships. Let us look at those employers who are putting this into practice; there may not be many, but there will be some.

Baroness Sharp of Guildford: I cited the example of Birmingham City Council. Both Crossrail and the Olympic park set themselves targets.

Baroness Neville-Rolfe: My Lords, this amendment would require that, when setting public sector apprenticeship targets, the Secretary of State must also impose targets on public bodies in relation to the number of young people who were in care and those with special educational needs or disabilities. I am very grateful to the noble Baroness, Lady Sharp, for bringing the issue alive, for bringing up the findings of the Social Mobility Committee and for talking about Birmingham as an exemplar of good practice—because we must capture and celebrate good practice in all these areas. I was encouraged to hear of the improving completion rate that she mentioned.

The Government do not feel that it is appropriate to specify a proportion of the public sector target for young people leaving care or with physical or learning disabilities. We are trying to keep our targets simple. Apprenticeships are real jobs with training. As with all other jobs, employers have to make the final decision about who they hire for any apprenticeship that they have advertised. I know this having run apprenticeships myself when I was in business. Apprenticeships are employer led, so we are not able to ring-fence apprenticeships for particular groups as to do so would mean requiring employers to hire particular people for their vacancies. I am not sure that that would work.

However, although we would not want to interfere in employers' decisions about who to recruit, we believe that more can be done to ensure that people from a diverse range of backgrounds are in the best possible place to apply for and secure an apprenticeship. The Government are committed to ensuring that care leavers are aware of the support and opportunities that are available to them. The Government provide full funding for apprenticeship training under the existing frameworks for entitled 19 to 23 year-old care leavers, and a number of local authorities already offer apprenticeships to care leavers, as has been said.

I have quite a long list of what we are doing to help care leavers, but in the interests of time I will set all that out in a letter, alongside information on what is being done in various different ways so that care leavers can access programmes such as traineeships to get the support they need to get ready for an apprenticeship. The noble Baroness also mentioned a review. In turn, I will mention Peter Little OBE, who undertook a detailed review for the Government of the inclusiveness of apprenticeships for people with learning difficulties or disabilities. Perhaps it would be helpful to set out the information I have in a rather extensive note. I have tried to explain why accepting this amendment would be a problem, but I will set all that out.

It is good to see the noble Lord, Lord Addington, here because of all that he has done on support and accessibility. Apprenticeships are accessible. In 2013-14, almost 40,000 people with disabilities or learning difficulties started an apprenticeship. We can do more. We can continue, as he said, to look at English and maths requirements within apprenticeships to ensure that they do not create a barrier, and the use of reasonable adjustments for disabled learners has been promoted through the skills funding rules. The SFA—the Skills Funding Agency—has published an evaluation of a series of diversity and apprenticeship pilots which looked at innovative ways to increase accessibility for underrepresented groups.

We judge that the measures we are undertaking can give confidence that the Government are ensuring in the right way that apprenticeships are accessible for people of all backgrounds, including care leavers and people with special educational needs and disabilities. I hope that noble Lords have found my explanation helpful and will look forward to my letter, and that on this basis the noble Baroness will withdraw her amendment.

Lord Addington: When the Minister does provide that letter, might it include some guidance about compliance with the Equality Act? People tend to say, "Oh no, that is different, that is not for us". It needs to be stated quite clearly that the colleges and employers that are going through this process know that they are part of the legal framework and are not in some way exceptional. It is my experience that people are hiding behind the fact that we are different.

Baroness Neville-Rolfe: I will certainly undertake to look at that point and discuss it further with the noble Lord, if I need further clarification, so that I can give him a proper answer.

Baroness Sharp of Guildford: My Lords, I am grateful to the Minister for her response and I look forward to the letter that she is going to send me. I hope that she will update us on precisely what is happening in relation to the Little report. My information is that not enough has been done already and it would be very nice to see a spur applied to some of the implementation.

Again, I am a little disappointed by the Government's response. They do not hesitate to set targets not only for local government but for all kinds of public bodies, yet they are not prepared to write into those targets a much lesser target in terms of taking on young people who we all know need to be offered these opportunities. Access is a recurring theme whenever we talk about apprenticeships and, for that matter, education and training provision for younger people. There is no doubt that access is difficult for them. Opening the doors by means of something relatively gentle in terms of a target for these bodies to aim for need not be as prescriptive as the Minister suggests; it could just nudge them in the right direction.

I look forward to the Minister's letter and may return to this issue once I have read it. I beg leave to withdraw the amendment.

Amendment 49F withdrawn.

Amendment 49G

Moved by ***Lord Stevenson of Balmacara***

49G: Clause 18, page 34, line 11, at end insert—

"( ) The Secretary of State may by regulations require a public body or private body to pay the living wage to those who have an apprenticeship."

Lord Stevenson of Balmacara: My Lords, I have already spoken to the amendment but, to sum up, the point of the question is that we are asking the Minister to give us a reason why those who join apprenticeships should not be paid the living wage.

Amendment 49H in this group is about the need to ensure that managers supervising apprenticeship programmes have appropriate training. There is a well-established discourse on the question of whether management, particularly in private sector companies, is up to the job of increasing productivity, growing the economy and providing the jobs of the future. That receives its main focus around training and there is plenty of evidence on this issue, which I am sure others will wish to speak to. It would be a sensible Government who thought through all the issues relating to this new duty on the public sector, in particular, if it were also applied to the private sector, to ensure that management was up to the task concerned.

We have other amendments on the details needed to create a better policy on apprenticeships more generally and the role that they play in the development of the economy, but Amendment 50AC sets out—I hope for public bodies and for private companies, but if companies are not included then just public bodies—the sort of information that will be needed if we are to make a good job of this. We hear too much in anecdote and we do not get enough publication. The Minister said that she will write with such a lot of information already. Maybe she has access to the sort of information listed in this amendment, but we are interested in whether we can get a bit more of a sense of the progression, success and value that people are placing on these apprenticeships. This would be a good place to start. I beg to move.

Lord Hodgson of Astley Abbotts: My Lords, I have an amendment, Amendment 50AA, in this group. It is a probing amendment but it ranges slightly more widely than the focused questions that the noble Lord, Lord Stevenson, put to the Minister.

[Lord Hodgson of Astley Abbotts]

The overall purpose of my amendment is to ensure that all apprenticeships have the appropriate level of quality—an issue that came up in various comments earlier. It does so by adding a subsection to the end of new Section A9 in Clause 18 on public sector apprenticeship targets, requiring the Secretary of State to set out minimum standards for apprenticeships. It also requires the Secretary of State to consult on what is required. In tabling this, I have been helped, advised and encouraged by the Engineering Employers' Federation, which is somewhat concerned about the lack of clarity on the position as a whole.

That having been said, we had a debate on Tuesday last week on the draft English Apprenticeships (Consequential Amendments to Primary Legislation) Order, which the noble Lords, Lord Stevenson and Lord Young of Norwood Green, have spoken to, and which was replied to by my noble friend Lord Courtown. A number of questions were asked in that meeting, some of which cross over with what we are discussing this afternoon. I received the answer from the department as I came into the meeting this afternoon, so if I am not absolutely up to date with what the responses are to the questions raised, it is because I have only had it for about half an hour.

I very much support the Government's policy of creating 3 million apprenticeship starts in this Parliament mentioned in paragraph 18 at page 6 of the Explanatory Notes. There is a real need for vocational training. It could equip people better for practical work and give them a more satisfying, satisfactory and long-lasting permanent job than, dare I say it, a 2.2 in media studies, which may not equip them for an enormous amount. This relates to the point made by the noble Baroness, Lady Corston, on the quality of courses available.

The Government's ambition is very great. It is worth while pointing out that last year there were 696,000 live births in England and Wales and 56,000 live births in Scotland, so a total of around 750,000 live births. Therefore, in a five-year period you have 3,750,000 live births, if those numbers are maintained, and we are talking about creating 3 million new apprenticeships over the next five years. That is 80% of the people who will have been born. I know they are not going to be apprentices in their first few years, but it is the scale of what we are thinking about. Of those currently being born in a five-year period, 80% will be expected to take up an apprenticeship.

5 pm

It may be that my slight worry about how we will maintain the quality is because I do not fully understand how the apprenticeship scheme works—I certainly have not studied as long as the noble Lord, Lord Young of Norwood Green—and I therefore hope that my noble friend will be able to reassure me. The noble Lord, Lord Young, and I have discussed this before and I think there are a couple of issues. One is the image of apprenticeships. There has been a problem with apprenticeships being slightly old-fashioned, being seen as old-fashioned and perhaps too often being portrayed as old-fashioned in schools. The second issue is that the apprenticeship brand has been weakened by programmes of training that have been termed apprenticeships but offered little more than on-the-job basic training. That is not what an apprenticeship is about. While we are seeing the beginning of a shift in opinion about this matter, we need to make sure that there are not set-backs or bad publicity around quality control and standards.

I find it quite difficult to establish what defines an apprenticeship, so my amendment is an attempt to require that some form of minimum standards are set down somewhere in regulation. Obviously, those should be consulted upon before being set in place. If my noble friend is able to say in her reply that this is all covered and I need not worry about this, no one will be more delighted than me. She may refer me to the Skills Funding Agency, which I see referred to in the letter from my noble friend Lord Courtown. If she is able to give that chapter and verse, that is terrific, and I shall be even more pleased to pass it on to the Engineering Employers' Federation and other bodies which appear to be pretty much as confused as I am.

The sorts of things that I have in mind as the basic building blocks of an apprenticeship scheme would be some combination of vocational and academic qualifications with on-the-job learning, so at the end apprentices have the skills they need to occupy the jobs which have been created by the employer. Apprentices should have some basic-level qualifications, probably level 2, in English and maths before they start; otherwise, you are asking the employer to carry out basic education, and if that is to be the case, it should be a traineeship, not an apprenticeship—an apprenticeship should be seen as a smarter thing to do. The quality of an apprenticeship should be determined on outcomes—not on what is said in a book, but on what actually happens in relation to the length of the apprenticeship, the level of training, the qualification attained and the career prospects. Finally, as the noble Baroness, Lady Sharp, said, there needs to be a long-term commitment by all parties to stick to their knitting and not alter the model along the way.

Against those inquiries, I shall ask my noble friend a couple of specific questions. First, who can offer an apprenticeship? For example, a very able young man has come to spend a year working for me doing research. He has helped me with the remarks that I am now making. He is at university, so he is not particularly suitable. If he were to come without being at university and were to say that he would like to be a permanent researcher, could I offer him an apprenticeship? Could he be an apprentice? Would he qualify?

Secondly, having started on that, if he thinks I am not offering him quite what was anticipated, to whom does he complain? You can complain to your employer, but you will probably make a relatively short-lived complaint. It may also be that the Skills Funding Agency can consider this. If it does, how does the apprentice know of its existence and how do they find out that there is an organisation which can check and guarantee quality and that what they have been promised is being fulfilled? Would that be done on a confidential basis? Will the person therefore be certain that their position will be protected? Is the SFA only reactive? Does it just respond to complaints, or does it do mystery shopping to see if the levels of apprenticeships promised are being fulfilled?

If we are to achieve the Government's very worthwhile and very important but ambitious target of 3 million apprenticeships, and at the same time provide real, fulfilling training that leads to long-term, satisfying permanent posts, some legislative framework around all this would be helpful. Fifteen years ago, when I served on the regional development agency in the West Midlands, the system became "used" by people. There were people who knew how to go and get a grant—they knew how to play the system. They could tell you how you had to show this amount of increase in output, this amount of increase in employment and this additionality that had to be fulfilled in order to get a grant. Unless there is a very clear framework, what slightly worries me about the scale of what we are setting out here is that there will be people whose role will be to set themselves up and to fulfil the letter of what the Government envisage but not the spirit of it. It is the spirit that we need in order to make apprenticeships worth while and to encourage our young men and women to undertake this very important vocational training.

Lord Snape (Lab): It would be helpful to me and perhaps to the Committee if the Minister would indicate whether she intends to refer to the matter arising from the amendment so ably moved by the noble Lord, Lord Hodgson, on which I congratulate him. It is not often that I find myself agreeing with much of what the noble Lord says. Perhaps I may say that I consider him to be on the more progressive side in these matters. After all, we sparred on a Bill earlier this year when he defended resolutely and ably the brewers and their incentives. To find him now speaking in such a progressive manner, albeit on behalf of the Engineering Employers' Federation, is a pleasant occurrence. Arising from the noble Lord's amendment, it would be helpful if the Minister could indicate whether she will speak about the quality of apprenticeships on this amendment or, as I suspect, on the next group. My response depends on her further response to the noble Lord on this group.

Lord Young of Norwood Green: I support the intention of the amendment in the name of the noble Lord, Lord Hodgson. I will not damn it with faint praise or criticism of previous actions. That has already been done by my noble friend.

Lord Snape: To be fair, I was praising wholeheartedly the intervention by the noble Lord, Lord Hodgson. I do not think my noble friend should dilute my praise in that manner.

Lord Young of Norwood Green: Perish the thought: my humble apologies to my noble friend. I welcome this, perhaps because I had anticipated this debate. The Minister indicated that she would be dealing with quality, so I presume that this is the occasion on which she will deal with it. In the debate on the statutory instrument, I raised the issue of the Ofsted report quoted in the *Times,* which states:

"Some apprentices were not aware that they were classed as such, while others did not receive broader training or support to improve their English and maths. In the retail, catering and care industries, inspectors found apprentices cleaning floors, making coffee or serving sandwiches. Other employers used apprenticeships—which are wholly government-funded for those aged 16 to 18 and part-funded for older apprentices—to accredit the existing skills of their staff, Ofsted said. Sir Michael will tell business leaders in the West Midlands",

where this survey took place,

"that employers, teachers and training providers are among the 'guilty parties' who must improve. 'The fact that only 5 per cent of our youngsters go into an apprenticeship at 16 is little short of a disaster,' he will say".

That is a really serious and worrying criticism given the number of apprenticeships in the areas that he described.

The noble Earl, Lord Courtown, gave us a letter today. I have had a chance only to skim through it and think about whether it really does give an assurance that quality will be capable of being achieved in the drive to increase by a significant amount the number of apprenticeships. In the letter he says:

"An 'approved English apprenticeship agreement' carries the status of a contract of service. That means that employment and health and safety laws apply. The apprenticeship agreement confirms that the apprentice is undertaking an apprenticeship and specifies the standard they are working towards completing".

That is good. I will not quote everything in the letter, but he then says:

"In addition to this, we have also introduced a new 'Statement of Commitment' which is signed by the employer, training provider and apprentice and sets out the key expectations, roles and responsibilities of each party involved in the apprenticeship and complements the approved English apprenticeship agreement".

That is okay. However, what I really wanted to know was how we are going to check that, though they may have signed these agreements, they are actually delivering what they say they will. He said:

"In addition, the Skills Funding Agency … runs the apprenticeships helpline which was given an expanded remit in the summer, enabling anyone involved in an apprenticeship—not just the apprentice—to raise concerns about any element of how the apprenticeship is being delivered".

The next sentence I found really interesting and I would welcome a comment from the Minister:

"The SFA have rigorous checks in place and have embarked on a programme of staff training to ensure that these issues are dealt with effectively".

What exactly does that mean? There are an awful lot of apprenticeships going on. The noble Lord, Lord Hodgson, talked about mystery shoppers. I do not know whether the SFA will be the mystery shoppers, but a serious point is being raised. How are we going to ensure a number of things: that the quality of an apprenticeship is actually being delivered as per the contract, and that the training provider, in allocating a young person to an employer, is confident that that employer has a track record of delivering apprenticeships? How will we ensure that it is a safe working environment? I raised this issue previously. We had the appalling situation, I think just over a year or so ago, where a young apprentice went to work in the morning and never returned home—they died in an appalling workplace environment. Are we serious about enhancing the status of apprenticeships and ensuring that parents feel confident about the quality of apprenticeships?

The comment in the letter:

"The SFA have rigorous checks in place and have embarked on a programme of staff training to ensure that these issues are dealt with effectively",

[LORD YOUNG OF NORWOOD GREEN]
refers back to a point raised by my noble friend Lady Corston, who is not currently in the Room. She talked about young people employed for very short periods of time in what purported to be an apprenticeship but clearly was not. I have not heard of any periods as short as that, but certainly the Government declared that they would not support apprenticeships being described as such if they were for less than a year, which most people would say is about as short as one could get for an apprenticeship. Some might express concern that the period of time ought to be longer. However, my concern is whether the Skills Funding Agency will be able to deliver for the Government in terms of ensuring that there is real quality in apprenticeships.

Baroness Sharp of Guildford: My Lords, we on these Benches broadly agree with what the noble Lord, Lord Hodgson, said. There is no doubt that the push for numbers has meant quantity at the expense of quality. Only 6% of 16 to 18 year-olds go into an apprenticeship and about 80% of the apprenticeships that have been created have been taken up by people who are already in jobs. They have been doing a relatively low-level apprenticeship—what is known as the level 2 apprenticeship—which does no more than rubber stamp, giving them a qualification for the work that they have already been doing.

All that is detailed in the Ofsted report. I point out to the noble Lord, Lord Young, that Ofsted does inspect apprenticeship providers, and a report such as this, which is very damning indeed of the current system of apprenticeships, should wake the Government up to what has been proceeding. My noble friend Lord Stoneham and I have a subsequent amendment about higher-level apprenticeships. It is very sad that the number of apprenticeships at the moment undertaken at higher levels—even at level 3, which is the equivalent of A-level, let alone the proper technician, the old HND level, level 4, or level 5—is minimal. We are talking about 1% or 2% of apprenticeships. Those are the intermediate-level qualifications and skills that we desperately need in this country, but we are just not training people to that level at the moment.

To some extent, the whole business of creating 3 million apprenticeships is pulling the wool over people's eyes as to precisely what we are doing about skills. I think that the Government are well aware of that and many of the reforms in hand at the moment are an attempt to raise the quality and answer the sorts of questions asked by the noble Lord, Lord Hodgson.

In Clause 19, the Bill defines what is a statutory apprenticeship. That is an important beginning, but we need to keep a wary eye out as to precisely how all this is carried through: what a statutory apprenticeship means and the quality of provision.

Baroness Byford (Con): My Lords, I apologise to the Committee that I could not be here at the start of the sitting. I shall speak in particular to my noble friend Lord Hodgson's amendment, because other amendments in this group state "may", while that of my noble friend states "must". That may make it more difficult for the Minister, who will probably say that she does not like that wording, but I hope that she will take on board the thrust behind it.

Having listened to the discussion around the Committee this afternoon, we are clearly all concerned about having minimum standards. There is nothing worse than people going into training or apprenticeships and coming out feeling that it was not worth while, there is no job prospect at the end and they have totally wasted their time. That is very bad for the individual, but neither is it good for the employer or the college helping them.

I would like to add two things to what my noble friend said so ably. First, two years ago, the Lord Mayor of London at the time, Fiona Woolf, put a lot of force behind apprenticeships within City livery companies. As people around the Committee will know, the City livery companies were guilds in the olden days and set standards, and many still do today. Secondly, the Minister knows of my interest in agricultural colleges. I was visiting an agricultural college local to me recently, opening new facilities to enable young people to have a better start. I was talking to one or two of the apprentices. It is interesting that one or two who came in, particularly on the engineering side, had not really thought of going on to take further degrees or any further educational training, but had become so inspired by what they were learning at that college that one or two, although not all of them, reconsidered doing a further level of training, which I thought was hugely encouraging.

What I want to add my voice to is the point about the quality of the apprenticeships being offered—and assessing it is absolutely crucial—and the job prospects for those young people afterwards, whether it is going in for further training or whether there is a job at the end. Some I talked to were very clear that, after the training that they were getting, they were very hopeful that a job would follow because they had gained skills that a couple of days earlier they certainly had not got. From listening to the various contributions from around the Committee this afternoon, I am well aware that this is not a common factor among everybody; there are some good training schemes, but some are poor.

In my noble friend's Amendment 50AA, he calls for,

"minimum standards for an apprenticeship agreement",

which should be looked at after the first 12 months, and then the Secretary of State should consult those that the Secretary of State,

"considers appropriate on the details of such regulations, prior to publication".

My noble friend's amendment has given us a good steer, and I hope that the Minister will be able to give us something positive. Clearly, with my noble friend's amendment, it is a question not of "may" but of "must", providing a great direction to this Government on how we need to improve the quality while at the same time encouraging more people to take up apprenticeships as a further step to wherever they go in life. I support my noble friend's amendment.

Lord Snape: My Lords, in listening to the debate so far, I think that one thing that unites all of us in the Committee is the desire to see proper apprenticeships

in future years. Young people are understandably cynical about what they see as the exploitation that has often taken place in many of the so-called apprenticeship schemes that were introduced. As the noble Lord, Lord Hodgson, said, they are not proper apprenticeships as we would understand them. I do not blame the present Government for that situation, or even their predecessor; these things have been going on for many years. I recollect more than 40 years ago, as a very junior member of Harold Wilson's Government, which dates me somewhat, learning with some degree of concern about what was happening with the youth training schemes. They were introduced in all good faith by a Labour Government but abused by employers, who took on youngsters and promised them jobs in future that never materialised or for which they were not properly trained. In one case that stuck in my mind, they were offered a permanent job, but only at YTS rate, which was, of course, less than the traditional rate for the job. So there is a widespread concern and cynicism among young people about these schemes.

A few weeks ago, we had a debate about apprenticeships on the Floor of the House, and I drew your Lordships' attention to one or two of the abuses taking place at that time. I do not wish to repeat them chapter and verse, but it is instructive that one scheme in particular—an apprenticeship advertised by Subway, the sandwich maker—reverberated through the technical press around the world. The job had been advertised as an apprenticeship; the description was "a sandwich architect". I asked whether somebody taking that particular qualification would move from white to brown bread or cut the crusts off or move to gluten-free bread before six months was up. But one thing that that job certainly did not do was qualify any young person in any meaningful way towards a better future.

There was another so-called apprenticeship advertised by a firm of estate agents; the young person concerned was supposed to go around and look at various properties, to check advertisements in the trade press to see where the properties were advertised for sale and see whether it was possible to lure the owners of those properties from the books of one company to another. To do that job one would inevitably need a car. There was no mention. Indeed, the young person who came to talk to me about this said he followed this up and there was no fuel allowance or any other allowance for the time involved in the role. He was supposed to drive around, presumably at his own expense. He was 21 years old and possessed a car, but, as he said, at £2.37 an hour—which was the advertised apprenticeship rate—he did not see that it was possible for him to do it and how it would qualify him for the future.

I hope the Minister can give the Committee some reassurance about the future. I welcome the Government's intention—I am not quite sure how they will implement it—to outlaw some of the practices. The noble Lord, Lord Hodgson, referred to people looking for grants in the way that they do. Human nature being what it is, that is how certain people react. It does not give young people any great hope for the future. Indeed, I have used this word twice before, but I shall use it again: it gives them a great degree of cynicism about the way their talents are exploited.

As my noble friend Lady Corston said, for those of a certain generation, apprenticeships usually, if not inevitably, meant in engineering, heavy industry and that sort of area. It was accepted that although you might be paid a little bit less than some of your contemporaries, after a five or six-year apprenticeship you were well qualified and could see a way forward in the world of work for the rest of your life. It is not possible to say that under schemes like the one I have just mentioned. I will be interested to hear from the Minister what plans she has to stop that sort of exploitation of young people and to give them some genuine hope that the work they do as apprentices will properly qualify them for the world of work in future.

Lord Hodgson of Astley Abbotts: I place on record my thanks to the noble Lord, Lord Snape, for his very welcome but quite unexpectedly effusive support for what I have been saying. I hope he will forgive me, but when we get to Amendments 53ZC and 53ZD, about the pubs code, at about 7.30 pm, normal service will be resumed.

Lord Snape: I hope that we are not going to do any such thing at 7.30 pm. I understand that we are dealing with pubs on Wednesday, not today. I look forward to the noble Lord adopting his customary reactionary—if I may say so—position as far as pubs and publicans are concerned. Of course, I will adopt my usual progressive position, to use phraseology that would make Jeremy proud of me, I am sure.

Baroness Golding (Lab): How is this section of the Bill related to late payments, especially for small and medium-sized firms? With the best will in the world, you can have an apprentice for a year and suddenly late payment means that that firm is struggling to maintain the apprenticeship. Is there anything in this section which relates to the first part about late payments?

5.30 pm

Baroness Neville-Rolfe: My Lords, I welcome all noble Lords' comments. It was good to have the contributions of the noble Baronesses, Lady Byford and Lady Golding, and the noble Lord, Lord Snape. I think there is a large element of agreement in the Room that quality is important. I will come on to how we are going to achieve that.

I will start by addressing Amendment 49G, on the living wage. As I have made clear previously, we believe that apprenticeships provide the chance to gain new skills and knowledge, which employers really value. The Government are committed to improving living standards, particularly for the low paid, and from 1 October 2015 the national minimum wage rate for apprentices was increased to £3.30 per hour, which was significantly higher than the £2.80 per hour recommended by the Low Pay Commission and represented a rise of 57p per hour for the apprentice. It is estimated that 75,000 apprentices will be covered by this new rate.

However, that is not a guide to what employers should pay, and employers are encouraged to pay higher where they are able to do so, with many employers choosing to pay more than the minimum rate. But we

[Baroness Neville-Rolfe]
must recognise that apprentices are, at least initially, less productive than other workers. We do not want to stop apprenticeships—especially in sectors such as crafts, which are close to the heart of noble Lord, Lord Young—by making them unaffordable to employers. As an economist by background and a businesswoman, I assure noble Lords that that can be a risk.

Everyone who is entitled to the national minimum wage should receive it. We recently announced measures that will strengthen its enforcement. The new national living wage is an essential part of moving to a higher-wage, lower-tax, lower-welfare society. Work must pay for hard-working people in the UK. The national living wage will be introduced from April 2016 and will be set initially at £7.20 per hour. Apprentices aged 25 and over who have completed their first year will be entitled to this rate of pay. It will of course be properly enforced.

Amendment 49H is intended to enable the Government to make regulations to put in place apprenticeship training for supervisors of apprenticeship programmes. As my noble friend Lord Courtown said in his famous letter, complaints can also be made to the Skills Funding Agency, which is responsible for running the National Apprenticeship Service, which helps employers deliver apprenticeship programmes within their organisations. This includes a website and a helpline designed to support both employers and potential apprentices. Through the website, both small and large businesses can find a detailed breakdown of how they can best work with training providers to deliver an apprenticeship programme, including what the terms for offering an apprenticeship are. For businesses with fewer than 250 employees, the National Apprenticeship Service has a dedicated small business team, which specialises in meeting and supporting the needs of smaller employers.

Of course, we must remember that the majority of apprentices are, first and foremost, employees, as was emphasised by the noble Lord, Lord Snape. Employment and health and safety law apply to these apprentices just as they do to other employees—I am glad to have the opportunity to say that today—but we want to ensure that apprenticeships are as simple for businesses to offer as possible, as we know that this will lead to more opportunities for young people.

Amendment 50AA would require the Government to make regulations setting out further minimum standards for apprentices within 12 months of the Act being passed. I thank my noble friend Lord Hodgson for his support in this area, and I look back with approbation at the points made by my noble friend Lord Baker of Dorking at Second Reading in this important area about how we change things for the better and how we get quality right.

Turning to quality, it is worth saying that the Government have already taken steps to improve the quality of apprenticeships. Short-duration apprenticeships have been removed from the system; apprenticeships must provide substantial and sustained on- and off-the-job training and last a minimum of 12 months; apprenticeships must be real jobs, leading to competency in an occupation; and they need to deliver transferable skills, including English and maths, so that people can progress their careers.

I do not agree that apprenticeships have to be old-fashioned. I have been struck by the way employers are developing new standards to ensure that apprenticeships meet the skill needs of their sectors and provide quality. 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 language they understand.

The noble Lord, Lord Young, and my noble friend Lord Hodgson rightly referred to the Ofsted report. It criticises the quality of provision as it has been, not that which is being designed and put in place through our reforms. As I was explaining earlier, we are in transition. Putting an end to poor-quality training lies at the heart of our reforms. Ofsted's report backs up the findings of our 2012 review and provides further evidence in support of our decision to put employers, rather than trading providers, in the driving seat.

My noble friend Lord Hodgson asked if he could offer a bright researcher an apprenticeship. An employer can offer an apprenticeship, providing that the employer satisfies the Skills Funding Agency's rules and requirements to the approved English apprenticeship standard. People can always complain to the SFA if they are not happy. On the face of it, I think my noble friend should be encouraged, but clearly the apprenticeship must be of the right quality and duration; he must be a model employer.

We are also introducing more rigorous testing and grading at the end of the apprenticeship to ensure that apprentices are reaching full occupational competence—again, the detail was set out in the letter from my noble friend Lord Courtown. I can also confirm that, from 2018, we will use apprenticeship outcomes data to produce performance tables for 16 to 19 year-olds. This will sit alongside apprenticeship success rates, which are already published by BIS, and will help to inform choice for young people and employers and drive up the quality of provision.

The success of the minimum standards and the further provisions to improve quality is beginning to be borne out by apprenticeship evaluation reports. In 2014, they found that 89% of apprentices and 82% of employers were satisfied with the apprenticeship respectively. I mention that, but I do not think that we should rely on it; the quality points raised are important. We do not judge that the Government should be committed to placing further requirements within a set framework. It is important that employers, providers and apprentices have the time to engage with the apprenticeship reforms.

On Amendment 50AC, the information requirements as currently set out in the clause enable the Secretary of State to understand whether public sector organisations are meeting their targets and to ensure that the bodies are publishing that information to increase transparency. The Government intend to minimise the administrative burden associated with reporting under the clause. Any additional information prescribed by the Secretary of State will be related to the apprenticeship target.

We have been discussing the need for more quality here, but people out there are also concerned about

potential bureaucracy in the new arrangements, and we must have a balance. We are unable to agree that it is appropriate to mandate public sector bodies to provide and publish the additional information.

Finally, the noble Baroness, Lady Golding, asked about the link with prompt payment. There is no link—except that they are in the same Bill, which is good for us to reflect on—between the apprenticeship clauses and the late payment provisions, but they are both designed to promote enterprise and growth.

I hope that in the light of those comments noble Lords will feel able not to press their amendments this evening.

Lord Morris of Handsworth (Lab): I bring to the attention of the Minister and, indeed, the Committee that of those affected by the closures in the steel industry among the worst sufferers are hundreds of apprentices. They have not got the same facility or ability to change and move employment. In the periphery of this debate, I ask the Minister to take a very good look and have some consultation on how apprentices can be placed, or give some measure of support for continuity of, if not the practical dimension of their learning, at least the academic dimension.

Baroness Neville-Rolfe: I am extremely grateful to the noble Lord, Lord Morris, for intervening. I can certainly say that this is a very important point. I know that the task forces set up to look at what can be done for employees who, sadly, lose their jobs are on to this point on apprenticeships. I know that in Redcar some new jobs have already been found, but I am certainly happy to talk to the noble Lord further. I am happy to put that on the record.

Lord Snape: Will the Minister disabuse either me or the noble Lord, Lord Hodgson, on our progress today and say whether we intend to move on to the clauses that refer to the pub companies, in the way that the noble Lord obviously feels that we are about to do?

Baroness Neville-Rolfe: Is the noble Lord asking about the target for today's discussion?

Lord Snape: I am.

Baroness Neville-Rolfe: I think we are trying to get to Amendment 52Q, not to pass it—so he can go to the pub.

Lord Snape: We can go to the pub after Amendment 52Q, as the noble Baroness said, but I am grateful for that clarification. I hope that the noble Lord, Lord Hodgson, is not too disappointed.

Lord Hodgson of Astley Abbotts: I would be delighted to discuss the issue of a pub code with the noble Lord at any time. All I would say is that he should not describe me as "reactionary", but as "realistic".

Lord Young of Norwood Green: I do not know whether the noble Baroness has a copy of the letter that the noble Earl, Lord Courtown, sent to us, but in it he says:

> "In addition, the Skills Funding Agency … runs the apprenticeships helpline which was given an expanded remit in the summer, enabling anyone involved in an apprenticeship—not just the apprentice—to raise concerns about any element of how the apprenticeship is being delivered".

I did not get a response on the concerns expressed in the Ofsted report and in anecdotal accounts. The letter goes on to say:

> "The SFA have rigorous checks in place and have embarked on a programme of staff training to ensure that these issues are dealt with effectively".

I like the promise. I would put against it "CAD"—"check against delivery". How will it do it, given the vast number of apprenticeships? That is not to dismiss the fact that Ofsted will also do some work on this, but there is a commitment in that letter.

Setting the standards is one thing. Having a defined framework in understandable language is great. The problem we have is those employers that might do that, but fail to deliver. It says in the legislation that they will be punished and fined. I am interested in that because it might help, but I am far more interested in seeing whether the Skills Funding Agency has the ability to monitor apprenticeships to ensure that they are delivering on quality as well as quantity and how it will do it. If the Minister does not have an answer that is okay; I am quite happy to accept it in writing. However, it is a part of the Government's commitment to raising quality as well as quantity.

Baroness Neville-Rolfe: My Lords, I stand by what my noble friend Lord Courtown put in his letter. I will not delay the Committee by repeating it, although people are very welcome to a copy. Obviously, we understand that ensuring quality is an absolutely key part of our reforms. That is what we are saying. The SFA has an important part to play here. As I have said, Ofsted also has a part to play. We will be bringing in the quality control system that was described.

Although some people were concerned about the changes to apprenticeships, we are changing the system and we will have to make sure that the surrounding infrastructure is appropriate and appropriately resourced —we can certainly discuss that further—but that is why I did not repeat the points my noble friend made about the introduction of registers and quality control over training providers.

Lord Stevenson of Balmacara: I thank noble Lords for contributing to this debate. It has certainly raised a number of issues, which we will probably have to come back to on Report. In the interim, of course, we will look forward to seeing what is now becoming a voluminous correspondence from the Minister. In the previous Parliament, she had to take on the very difficult task of matching the noble Viscount, Lord Younger, who set standards beyond any we had seen before. We look forward to her matching that.

We have given this area a good look. Although we may come back on one or two issues, I beg leave to withdraw the amendment.

Amendment 49G withdrawn.

Amendment 49H not moved.

5.45 pm

Amendment 49J

Moved by ***Lord Stevenson of Balmacara***

49J: Clause 18, page 34, line 20, at end insert—

"( ) One year after this section comes into force, the Secretary of State shall publish a report on the impact of any apprenticeships levy associated with the new target in subsection (1) on the—

(a) quantity and quality of the apprenticeship scheme offered by public bodies and companies, and

(b) the impact on existing funding for training designed for non-apprenticeship trainees."

Lord Stevenson of Balmacara: My Lords, our Amendment 49J and Amendment 52 in the names of the noble Lord, Lord Stoneham, and the noble Baroness, Lady Sharp, are really two sides of the same coin. The worry we share, I think, is that the apprenticeship levy system, which we have already discussed and which is raising some concerns among those who will be involved in it, may have an impact on existing training and expenditure. Obviously, if the result of bringing in the levy is to reduce the overall quantum of money that is going into training, that would almost certainly be a bad thing. We want to grow the training budget, not reduce it. I look forward to hearing what the Minister has to say about that, as well as about the issues that are raised in Amendment 52. I beg to move.

Baroness Sharp of Guildford: Amendment 52 is in my name and that of my noble friend Lord Stoneham. As the noble Lord, Lord Stevenson, said, both these amendments are asking for a review. We have been talking about the quality of apprenticeships. I say in passing that although many of us have been rather negative, there are quite a number of extraordinarily good apprenticeships in operation.

I spoke earlier about what happened at the Olympic Park, and that is an example of how apprenticeships can be created, but one only has to look at companies such as BAE Systems and Rolls-Royce, which offer an absolute gold standard in terms of apprenticeships. Other companies are aspiring to do the same, and those sorts of apprenticeships are extraordinarily good. They offer not only higher-level apprenticeships but a route to progression. Sadly, there have been some bad examples—picked up by, among others, Ofsted—and it is important that in pushing forward the number of apprenticeships, they aspire to best practice rather than picking up worst practice. The idea of producing an annual review and asking the Secretary of State to report on such an annual review is to pick up this whole notion of the quality of apprenticeships and make sure that they are the sorts of apprenticeships that one would like to see.

The other aspect of this is that this part of the Bill is expressly about creating apprenticeships in public sector bodies. Our Amendment 52 asks for a review of how far this is working within the framework of the public sector and what impact it is having in both public and private sectors. However, I think we have had enough discussion of the general issue of equality and the need to promote equality that I do not need to go any further.

Baroness Neville-Rolfe: My Lords, I am grateful for these amendments and for the noble Baroness, Lady Sharp, saying that there is much that is good. Actually, it is not only at the top end—the engineering apprenticeships that she described—but some of the retailers and the hospitality companies produce superb apprenticeships, which take some of the poorest and least well educated people in society and allow them to get on and progress in an awesome way.

We have discussed many of the issues underlying Amendment 49J because it talks about quality as well as quantity and, of course, Amendment 52 mentions funding. The Chancellor announced the Government's intention to introduce the apprenticeship levy in this summer's Budget—a surprise announcement, I think. It will be used to fund and improve the quality of apprenticeships. We need a reversal, as we have all been saying, in the trend of employer underinvestment in training, which has seen a decline in the amount and quality of training undertaken by employers over 20 years. This was highlighted in the report by the noble Baroness, Lady Wolf, published in July this year, which recommended the introduction of a levy to fund the apprenticeship programme.

Past approaches to tackle this decline have relied on voluntarism and a significant government subsidy aimed at encouraging private funding. However time spent by employees in training has continued to decline. The levy is a model that is working successfully in more than 50 countries around the world, which is why we have decided to adopt it here. We will be putting employers directly in control of their apprenticeship training. Employers are currently leading in the development of apprenticeship standards. With the levy, they will be able to decide to which apprenticeship training providers they wish to direct funding.

The Government consulted on the key levy proposals during the summer and we received more than 700 responses. We are currently analysing them and will use what employers and others have told us to try to address concerns and meet employer aspirations for growth and quality. The Chancellor will be announcing further details on the levy as part of the spending review announcement later this month. I believe it is premature to seek to impose a reporting schedule on the impact of the levy. The levy will not be introduced before 2017 and there is further work to be done on the detailed implementation of the policy. At this stage, seeking to impose new reports within a 12-month period would be unlikely to provide robust evidence.

However, I can say today that we will continue to publish comprehensive quarterly data on apprenticeships through the Government's published statistical first releases, published by the SFA, which include data on learner numbers by age, as well as by region, gender, ethnicity, disability, level and sector. We also publish research into the impact of apprenticeships on employers, including the employers' survey, which monitors the extent to which apprenticeships are meeting the needs of employers and identifies aspects that are under-performing, with the next survey due in 2016.

When we introduce the apprenticeship levy, we are proposing to put in place a full and structured evaluation programme and publish the results. We expect this to

address the points raised by noble Lords in relation to the impact on employer investment, the mix of programmes being delivered and their quality. I ask for patience, as we intend to publish more details on the levy shortly. Amendment 49J also referred to funding for non-apprenticeship schemes; funding for those will also be a matter for the spending review. The noble Lord's Amendment 52 relates to apprenticeship schemes in England and Wales. While apprenticeships in England are the responsibility of the Secretary of State, apprenticeships in Wales fall within a devolved area of policy.

Lord Stevenson of Balmacara: I hesitate to interrupt, but I want to make sure that I have got my point across correctly. In relation to the non-apprenticeship spending, I was not asking what the Government are spending on that. It was a question of the quantum of spending across the country, which obviously largely is sui generis to every company. The worry is that the impact of the Government taking what is effectively a tax on apprenticeship training may impact badly on that. Although it may be very hard to get since responsibilities are split between BIS and DfE, in the figures that the Minister is talking about, it would be very helpful if there could also be some reporting of the exact quantum at the moment and how that will change over the next few years. I am sure it would be a good thing to do anyway.

Baroness Neville-Rolfe: We always like to do post-implementation reviews. We like good evidence and good figures. The point is well made. Where responsibilities are shared between departments, that can sometimes be difficult. I cannot emphasise more strongly that we are trying to create a successful policy, which will require us to see what is happening. Clearly, the past is the past. We have been spending something like £1.5 billion a year on apprenticeships. In the future the system will be different. There will be a levy. I will certainly try to ensure that in our evaluations we find out how things are changing and how effective that has been. We should be learning on the job.

Lord Stevenson of Balmacara: I thank the Minister for her comprehensive response. I beg leave to withdraw the amendment.

Amendment 49J withdrawn.

Amendments 50 to 50AC not moved.

Amendment 50B

Moved by ***Baroness Sharp of Guildford***

50B: Clause 18, page 35, line 42, at end insert—

"A10A Public sector support to help establish apprenticeships in small businesses

(1) The Secretary of State, acting in conjunction with the Small Business Commissioner, may by regulations require a prescribed public body to provide arrangements which facilitate small businesses (as defined in section 2 of the Enterprise Act 2015) entering into apprenticeship agreements.

(2) The arrangements specified in subsection (1) may require the prescribed public body to provide resources on an interim basis to help the small businesses establish a joint body to oversee and manage the negotiation of apprenticeship agreements which meet the conditions set out in section A1(3)(a) and (b), and to ensure that the terms of the agreements are adhered to.

(3) Any resources provided under the terms of subsection (2) shall be for a specified period."

Baroness Sharp of Guildford: My Lords, Amendment 50B relates to an issue on which we touched earlier; namely, the question of small and medium-sized businesses and the availability of apprenticeships. The difficulty is that many small and medium-sized businesses find it quite difficult to organise apprenticeships. The Government have done their best to cut back the amount of bureaucracy involved; nevertheless there still is quite a lot. One only has to read Clause 19 and see precisely what is and is not a statutory apprenticeship to recognise that there is a lot of paperwork, including, initially, the setting up of an agreement, the contract with an apprentice and getting the terms of the contract correct and so forth, and subsequently making sure that the various points in the agreement are fulfilled. If you are a small or medium-sized business employing a dozen people or less, the extra bureaucracy seems formidable.

Until recently, training providers—further education colleges and the independent training providers—often handled the paperwork for a small and medium-sized business in return for them providing the work-based training. But with the development of employer ownership, training providers are no longer encouraged to do this. Another solution lies in group training agencies. This model has been around for 40 years, primarily in the engineering industries, but it has now spread out on a more general basis as a model of industry provider/partnership. As Ofsted put it, they have,

"responded very effectively to the training demands of industry. Training companies"—

that is, independent training providers—

"that are members of GTA England generally provide high-quality training. Of the 23 GTAs that were inspected between January 2010 and April 2015, 21 (91%) have been judged good or outstanding for overall effectiveness. This compares with 79% of the 386 other independent learning providers inspected that were judged good or better over the same period".

The amendment proposes that a specified public body—probably a local enterprise partnership, or its equivalent; but it could be a local authority or a further education college—should be tasked with the setting up of a GTA in their local area to build up the appropriate partnerships with industry, and especially to bring in the SMEs and their local partners. I note that in some cases where SMEs are part of supply chains, they are organised by the larger companies and may operate on quotas set by them for taking on apprentices, but in any locality, many small and medium-sized businesses could be good trainers. In Germany, on the whole, it is the smaller companies that are doing the training. They could be involved in apprenticeships, but many of them are not at present because they find the barriers to entering apprenticeship agreements too great. I beg to move.

6 pm

Lord Young of Norwood Green: My Lords, I support the amendment. To pick up the last point made by the noble Baroness, Lady Sharp, about group training

[Lord Young of Norwood Green]
associations, I went round a number of them while I was a junior Minister. The Government ought to encourage them. The noble Baroness is right: although the bigger employers use their supply chains, the benefit of the group training associations is that they bring in a much wider group of small and medium-sized employers. I would welcome hearing what steps the Government are taking to encourage the development of more group training associations.

Baroness Neville-Rolfe: Small businesses are of course the cornerstone of our economy, and high-quality training opportunities such as apprenticeships can be key to supporting their growth and success. It is essential that the apprenticeship system works for those employers as well. The majority of existing apprenticeships are in fact with smaller businesses. Significant progress has been made in ensuring that apprenticeships are accessible to them.

Small businesses are directly involved in all phases of the process to develop apprenticeship standards. When new standards are submitted, evidence is required that small businesses have been involved and that they support the development of that standard. I know that from the work that I have done in the electronics sector. A variety of mechanisms is used to engage small business throughout that development—face-to-face consultation events for automotive standards and online consultation for electrotechnical standards. Small firms have been actively involved in the craft trailblazer. We engage with representative organisations that represent smaller businesses. We have even made a small travel fund available, which smaller employers can use to attend meetings to develop standards.

Most important of all, the apprenticeship grant for employers also provides employers with fewer than 50 employees with a £1,500 incentive payment for up to five new apprentices aged 16 to 24. This will continue to be available until 2015 at least.

There is also a wide range of apprenticeship training agencies—ATAs—and GTAs, as the noble Baroness, Lady Sharp, made clear. They employ apprentices and place them with host employers who may be unable to commit to employing an apprentice directly. For employers, this makes it easier to take on an apprentice. Good-quality ATAs will be able to continue to operate once the apprenticeship funding reforms have been introduced. The SFA also runs an apprenticeship helpline.

There are also lots of good examples, including case studies of apprentices and employers, on the SFA's "Find an apprenticeship" website. I have various publications here which I am happy to share.

We believe that this is the right approach to SME support. We think it would be complex and confusing to require public sector organisations to duplicate the effort and provide additional resource to facilitate small businesses entering into apprenticeship agreements. We are putting small business at the heart of the way we are going forward. For the same reason, we are unconvinced of the merits of involving the Small Business Commissioner, whose main role is to address payment issues, particularly late payments, and to focus on that until we bring about a serious culture change. I hope noble Lords will have found my answer helpful and that the noble Baroness will feel able to withdraw her amendment.

Baroness Sharp of Guildford: I think there is a problem that is missed by the current arrangements; that is, within any locality there are quite often small and medium-sized businesses that are put off by the bureaucracy involved and do not get picked up by any of the current arrangements. Yes, there is masses of information and you have to be proactive in seeking it out. The amendment is very much a "may" amendment rather than a "must" amendment but in some rural areas and areas that fall between the core cities—in which the push is going forward because they are taking over skills—this is often not the case. I see it where I am, in Guildford, because we fall betwixt and between the Coast to Capital LEP and the Enterprise M3 LEP. However, many small and medium-sized businesses might well benefit if they were pushed a little bit in this direction. Neither the independent training providers nor the colleges are really being encouraged at the moment to pick up the tab of going to seek out people to provide apprenticeships for, in the switch to the employment ownership pilots. This is an area where a particular public body—local enterprise partnerships are an obvious example—could be useful in providing the initiative.

I will withdraw the amendment for the moment but we might return to this issue on Report because I am not really convinced that this is an appropriate answer.

Amendment 50B withdrawn.

Clause 18 agreed.

Clause 19: Only statutory apprenticeships to be described as apprenticeships

Amendment 51

Moved by ***Baroness Sharp of Guildford***

51: Clause 19, page 36, line 10, at end insert—

"( ) In describing an apprenticeship that is a statutory apprenticeship scheme, P must also stipulate whether the apprenticeship is a higher level apprenticeship or not."

Baroness Sharp of Guildford: We have already talked about the Ofsted report and the rather negative picture it paints of problems with the present level of apprenticeships, but one thing we have not talked about very much is the importance of trying to fill the skills gaps by the training of those at the higher levels.

The big skills gaps are particularly in engineering and construction and at technician level with STEM subjects. These gaps used to be filled by the concept of the HND, or the equivalent of the foundation degrees, but we have seen an enormous drop in the number of HNDs and foundation degrees being undertaken in the past few years. The number of young people going through to these higher-level apprenticeships—above level 3—is absolutely minute, yet it is vital that many more young people should progress through. Having done a satisfactory apprenticeship, perhaps coming in

with their A-levels, they could go directly into a level 4 or level 5 apprenticeship; or those who have started by doing a level 2 apprenticeship, enjoyed it and gained a lot from it, could be given the opportunity to move up to level 4 or level 5, the degree-equivalent levels. We are extremely anxious that the vocational route should be seen as equivalent to the typical academic route. It is very important that it acquires this status. Only if we see a fairly substantial number of young people being able to move through the progression routes in apprenticeships to these higher-level apprenticeships will we see this.

The amendment, which calls for a report on the number of higher-level apprenticeships that shall be stipulated, requires us to concentrate on this issue. I beg to move.

Lord Young of Norwood Green: I support the noble Baroness's amendment. She is right about the need to increase the number of higher-level apprenticeships. As I understand it, from a briefing I had from SEMTA, part of the problem is getting young people to see that this is not an either/or choice between a vocational and an academic route. People with the highest level of qualification feel that, if they are to progress to a degree, they have to go down the academic route. There are lots of opportunities for them to go down the higher-level apprenticeship route. The apprenticeships are there; we are not getting the take-up. This is another point on which to emphasise the importance of career guidance if we are to solve this problem.

The noble Baroness is right to draw attention to this part of the regulation. It is a useful and necessary emphasis. I referred earlier to the number of engineering and STEM apprenticeships that will be needed over the next five to 10 years. It is estimated to be 830,000. Not all of those will be higher level, but a significant number will.

Baroness Neville-Rolfe: My Lords, this amendment seeks to require that a person, when offering a statutory apprenticeship scheme, must stipulate whether it is a higher-level apprenticeship. This is already a non-statutory requirement for the "Find an apprenticeship" service and is covered through an apprenticeship agreement. The amendment would insert a new subsection into new Section A11 of the Apprenticeships, Skills, Children and Learning Act 2009 to provide that a person commits an offence if, in the course of business, they offer a course of training and describe it as an "apprenticeship", unless the course or training is a "statutory apprenticeship". I do not believe that that is the right thing to do.

Improving quality is central to our reforms, as we have agreed. Employers are developing new standards to ensure that apprenticeships meet the skills needs of their sectors, in exactly the areas that the noble Baroness, Lady Sharp, spoke about: engineering, STEM and construction. In STEM, for example, apprenticeships have increased by 42% between 2009-10 and 2013-14. The starts at age 19-plus are up 83%. This is a long-term change programme. We all know how long and difficult those are.

The published trailblazer quality statement sets out a range of measures to improve quality, including the requirement for all apprenticeships to demonstrate progression and to involve sustained and substantial training of at least 12 months. The Government are committed to the expansion of higher apprenticeships, with a fivefold increase in higher apprenticeships since 2009-10. To date, there are more than 50 higher apprenticeships available up to degree and master's level in areas such as life sciences, law and accounting. We need to get the message out that there are these possibilities and that they can create just as good a career as going to university if someone has the appropriate bent for apprenticeships.

In the circumstances—it is getting late—I ask the noble Baroness to withdraw the amendment.

Baroness Sharp of Guildford: I thank the Minister for her reply. I think that we are very much in agreement here that this is an area where we wish to see expansion. I also agree that it is a slightly strange place in which we have managed to put this amendment. With that, I beg leave to withdraw the amendment.

Amendment 51 withdrawn.

6.15 pm

Amendment 51ZA

Moved by ***Lord Stevenson of Balmacara***

51ZA: Clause 19, page 37, leave out lines 1 to 8

Lord Stevenson of Balmacara: My Lords, we have heard a lot today about the new world of apprenticeships and the many good things that will happen as a result of this Bill, and, as I said at the beginning, we are not opposed to what is being proposed. There are questions about how it will happen—and we have talked a lot about that—but the key element that we have all agreed on is that these new statutory apprenticeships must be of high quality. However, the question is: who is going to police that and report on it, so that we maintain quality? Obviously, we are aware that the Skills Funding Agency will play a part, but it is not clear to me what its role is. I hope that, when the Minister responds, she can sketch out a little bit what the SFA's role will be in this area.

We have also heard that trading standards bodies, probably in the form of the Trading Standards Institute, will have some part to play, and that is what this amendment seeks to probe a little bit further. As I understand it, trading standards bodies have accepted a responsibility in relation to universities, but it is important that we also get the issue right here. However, I gather that the TSI's role there, which is exercised through the individual trading standards bodies at local authority level, is to check whether a particular organisation—mainly, one that exists in bricks and mortar close to the locality of the trading standards officers who are investigating the case—is a registered university in the sense that it has a royal charter and performs all the functions required under the Act. In other words, trading standards provides an institutional check; it is not a question of looking at the individual courses that any university might provide, and it is certainly not looking at the classroom accommodation

[Lord Stevenson of Balmacara]
or laboratories or—heaven forfend—the social facilities that every university must have these days. It provides a one-off, tick-box exercise: does this organisation or building fulfil the requirements of a statutory university?

As I understand it, the requirement on checking whether statutory apprenticeships are working well will be to look at the particular apprenticeship in terms of the training provided both on and off the job. That will involve looking at the individual companies and the colleges that the apprentices attend, so we have a rather different job here, and it is not at all clear to me why the TSI is the right body for this. That may be why the noble Lord, Lord Stoneham, and the noble Baroness, Lady Sharp, put down their amendment suggesting that a more appropriate body might be the enterprise partnership, which will at least have a knowledge of what is happening more generally in the area and will have a concern about the employers who are operating apprenticeships and what sort of services and provision they provide.

There are a lot of questions around this. I am not sure what role the TSI will have, but if it will have a role, can the Minister explain what exactly she has in mind here? Will this duty be placed on all the weights and measures operations in every local authority across the country or will it be taken up by the new Trading Standards Institute? If it is either the former or the latter, what funding will be provided? Will the funding be on a targeted basis, will it be a lump sum, or will it be for a certain number of posts? We need more detail here. We need to be quite clear that, if there is going to be just some sort of notional adjustment to the revenue support grant that goes to local authorities, it will certainly not trickle out in sufficiently large amounts to the actual trading standards officers who will again be expected to pick up an additional duty without the resourcing required for it.

There are a lot of questions there, but the point is made in both my amendment and that in the names of the noble Baroness, Lady Sharp, and the noble Lord, Lord Stoneham, that we need a bit more detail here. I beg to move.

The Deputy Chairman of Committees: I have to inform the Committee that if this amendment is agreed to, I cannot call Amendment 51A by reason of pre-emption.

Baroness Sharp of Guildford: My Lords, the noble Lord, Lord Stevenson, has already made the case for Amendment 51A. When I read this part of the Bill, I was jolted and thought, "Good heavens, why trading standards?". In the briefing that it provided for us, the LGA was very unhappy about it being trading standards. It said:

"We are concerned about the proposal (clause 19 (7)) in the Bill to make local trading standards teams responsible for enforcing the protection of the term 'apprenticeships'. The LGA has consistently highlighted the expanding number of statutory duties that trading standards teams are responsible for, at a time when budgets and staff in the service have reduced by an average of 40 per cent over the last four years. Government has recognised the issue and is currently undertaking a review of trading standards with a view to identifying key service priorities, yet in the past month alone it has introduced two new statutory duties for the service".

It seems very odd for the Government to be introducing a statutory duty in an area where trading standards has no expertise whatever. Local enterprise partnerships have much more knowledge of what is going on with apprenticeships than trading standards. It is really rather absurd that we are looking to a body with no background or expertise in the area. We should be looking for a body that has some expertise and can do the job without too much difficulty.

It should be acknowledged that local enterprise partnerships are at the moment very sparingly funded; they do not have a vast amount of money at their disposal and, whether one likes it or not, this responsibility will require some resources, particularly if the body is required to make regular reports to the Secretary of State about what is going on. If we place that duty on local enterprise partnerships, we should know that they have sufficient resources to fulfil it.

Baroness Neville-Rolfe: My Lords, this is an important area; enforcement is always important. The amendments relate to the enforcement of the measure to protect the term "apprenticeship" from misuse. They would require local enterprise partnerships to fulfil that function rather than trading standards. Noble Lords will know the high opinion that I have of trading standards, and I am glad to be able to put it on the record again.

As the apprenticeship brand grows, so does the risk that the term "apprenticeship" could be misused to refer to lower-quality courses. Therefore, as the noble Lord, Lord Stevenson, explained, we intend to follow the precedent for enforcement that applies to unrecognised degrees, which is in the Education Reform Act 1998. Trading standards has a duty to enforce that legislation using its powers in the Consumer Rights Act 2015. That has ensured that UK-based operations with a physical presence are closed down, and there have been a number of prosecutions over the years. Since 2003, there have been successful enforcement cases against more than 18 offending bodies, with the closure of 10 and prosecution of a further three. In practice, although the duty extends to all trading standards teams, to answer the question asked, cases have tended to be concentrated in a couple of areas.

We are exploring whether it would be sensible to assign one trading standards team to act as the lead authority, with the ability to build the enforcement capability and expertise to deal with the challenge. This would be in line with the approach taken for other functions, such as the Illegal Money Lending Team, which is based in Birmingham City Council—another namecheck for that council—and tackles cases across England.

To respond to the noble Baroness, Lady Sharp, we judge that trading standards bodies would be more appropriate to enforce the measure than local enterprise partnerships because of trading standards' specialist enforcement powers, history and experience. Trading standards will be there to carry out enforcement as a backstop, but with the SFA there—to respond to the question from the noble Lord, Lord Stevenson—to encourage compliance. As set out in the impact assessment, we anticipate that the number of prosecutions will be very few, because we know from experience of degrees

that this can have a totemic effect. We are in active discussions with the Department for Communities and Local Government, the Local Government Association and the Better Regulation Development Office to ensure that the requirements of trading standards in this area are achievable, effective and proportionate. I hope with that explanation of how we plan to take these provisions forward, the noble Lord will feel able to withdraw his amendment.

Lord Stevenson of Balmacara: I thank the Minister for her very comprehensive response. Given that the Government are consulting and in discussions, would it be possible to get a bit more information before Report, and for the Minister to tell us wherever they have got to on that level? This is a recurring theme: one of the great advantages of starting a Bill in the Lords is that one gets to have first go at it but the bad news is that you do not get all the detail that would make our jobs much easier. With that slight aperçu, I would be grateful to have any more information.

Baroness Neville-Rolfe: The noble Lord summarises it very well. We will send an update ahead of Report. I think that noble Lords can see the general direction of travel, and it is fair to press us to try to make up our minds.

Lord Stevenson of Balmacara: After that gracious acceptance of my proposal, I beg leave to withdraw the amendment.

Amendment 51ZA withdrawn.

Amendment 51A not moved.

Clause 19 agreed.

Amendment 52 not moved.

Amendment 52ZA

Moved by ***Lord Stevenson of Balmacara***

52ZA: After Clause 19, insert the following new Clause—

"Insolvency: pre-packs

Where a company enters pre-pack proceedings the following conditions must be met in order to protect the company's creditors—

(a) the owners of the company must approach the company's investors for approval prior to entering any pre-pack proceedings;

(b) any personnel advising on pre-pack proceedings shall not become the administrator in subsequent pre-pack sales;

(c) any administrator undertaking a proposed pre-pack sale to connected parties must justify that the prospective sale price represents the best value for creditors; and

(d) the administrator must make provision for at least three days' notice to be given to creditors of the terms of any such proposed sale if there has been no open marketing of the assets."

Lord Stevenson of Balmacara: We now leave apprenticeships for the time being and turn to a familiar topic from previous engagements with enterprise and related matters: the sad side of things when matters go wrong. I am afraid that the areas covered in this amendment are familiar territory for those who were on that journey, but I make no real apology for that, although I was hoping that my noble friend Lord Mendelsohn would be here to introduce the amendment and that I would not have to do it myself. However, I shall struggle on, and hope that I shall cover the ground, even if not as well as he does.

The first amendment is on pre-packs, which comes at a rather interesting point, because there is a press release dated today that sets out arrangements for how pre-packs will be looked at by the Government on a voluntary basis, following the review carried out by Teresa Graham in 2014. Why would we want to interfere with that? We are talking about a relatively small number; the figures that I saw in the press release suggested that about 20,000 businesses went through insolvency in a year, with less than 5% involved in pre-packs. Doing maths in my head, I think that is about 1,000 instances of pre-pack in a year, so it is not a lot.

The issue with pre-packs, which is worth repeating, is that uniquely in the British insolvency system—the British insolvency system is largely admired around the world, so we do not want to attack it in generality—is that creditors have a pretty bad deal. We have argued in Committee and on the Floor of the House that more protection should be given to creditors when a pre-pack is considered. The argument made by my noble friend Lord Mitchell last time was that you can have a situation whereby, on a Friday afternoon, a company known as Smith and Jones is operating, but by Monday morning it has become Jones and Smith, with the same people running it and many of the same directors and perhaps even the same bank. But the creditors—and probably one of those creditors will be HMRC, along with a few other people—have been dumped.

The argument in favour is that businesses that have a future will continue; the bad news is that those who are involved in supporting the previous business, which is going to disappear—particularly trade suppliers and others who might be on credit terms with Smith and Jones—will not be able to pursue Jones and Smith, because it is a different company. Does that matter? I think it probably does because the creditors will probably be small companies employing people. If they are suffering, the economy is suffering as well, so there is an issue there.

6.30 pm

The question before us is whether the proposals announced today will be sufficient. Duncan Grubb, a director of Pre-Pack Pool Ltd, the body that will be responsible for what will be a voluntary system, said:

"Pre-pack administrations are an important part of the economy, helping rescue businesses and jobs. Business owners and creditors, however, need to trust and have confidence in the process".

You can say that again. He argues:

"The reforms strike a balance between transparency and the discretion needed for business and job rescue. While the Pool is voluntary and its opinions are not binding, it will reassure creditors about the reasonableness of the pre-pack transaction and its

[LORD STEVENSON OF BALMACARA]

justification in the circumstances. And with enhanced guidance for directors on marketing and valuations, creditors can have more confidence that a pre-pack sale achieves the best deal for them too. As a whole, today's reforms will further boost confidence the UK's internationally-admired insolvency regime".

I do not know about that. I think it is a bit vainglorious. I do not think it gets to the bottom of the point that I have been trying to make.

Our amendment goes through in some detail the things that we think ought to be in place in order to establish a proper pre-pack system. It is not unreasonable that people involved in pre-pack proceedings advising this new organisation should not subsequently have a role in any sale. We think that the administrator or any administration involved in this must make provision for at least three working days' notice to be given to creditors of the terms of any proposed sale, if there has been no open marketing of the assets, which there rarely is. We have a proposal that we think would be useful to consider. Given that the Minister is just announcing a different system, I do not expect she is going to accept it with open arms, but we think it is important that it be considered.

The other amendments in this group involve insolvency protection for small business contracts. Amendment 52ZBA is a manuscript amendment because there were difficulties in getting the wording correct. It involves a situation on a relatively small scale, but it has resonance with a recent company which went into administration. It was rather celebrated because a lot of employees were involved and it went down very quickly. It turned out, I think I am right in saying, that part of the reason for the speed with which the employees were dismissed was that if the company were clever in its timing, the cost of the statutory redundancy fell to the Government, not the shareholders. There is a gap, a loop hole, here which it would be helpful if the Minister could take away and consider because a measure may need to be introduced, whether in this Bill or another, which nails it. It would be quite wrong for the owners of a company to benefit simply because of bad drafting in previous legislation. I think that we agree that if you are in market capitalism, you expect to invest and make a return in the good times, but if there are bad times, you have to take the hit. I sure that everyone would agree that if you can avoid the hit by offloading it to someone else, that is not quite the same thing as taking a hit because of bad practice. There may be other issues that are raised by this, but if it can be taken back and looked at, that would be very good.

The third amendment in this group is Amendment 52ZD, which arose from discussions we had on the Small Business, Enterprise and Employment Bill about whether it would be possible to take elements of the Chapter 11 system in the United States into British insolvency law. This is not attempting to take in the entire American version of insolvency arrangements, because we do not think that they are appropriate for the way we do things in Britain, so let us not get involved in that, but there are issues, particularly in high-tech small businesses, where it is sometimes quite difficult to see why businesses collapse as quickly as they do—or can do—in Britain.

The great advantage of Chapter 11 in America is its ability to assume that a business should continue under the protection of the courts—in the case of America, but we would suggest under the protection of insolvency practitioners—for a limited period while those who have the best interests of the company at heart attempt to get it back on to a more workable basis. Our knowledge of this is not extensive but the experience I have been able to pick up on is that the problems mainly emerge where you have a single creditor, usually a bank, which sees physical assets and does not wish to prolong the possibility that the company might get itself sorted out over time. In an environment, particularly in this economy, where there is not that much additional support for small businesses and growing businesses, where there is not a lot of mezzanine finance, that is obviously a very difficult situation for them.

Our proposal here is a new idea called "debtor in possession", which suggests that where you have certain limited and restricted issues, elements of the Chapter 11 administration in America could be brought in here so that businesses which have the chance to do so, particularly where they have assets that would otherwise be seized by an aggressive creditor, are able to use that to try to lever out additional resourcing and get themselves going. These are interesting ideas, which we hope will grow the economy and be effective in terms of enterprise. We recommend them and I beg to move.

Lord Hodgson of Astley Abbotts: My Lords, I am very concerned about the pre-pack administration idea. I understand that it has a superficial appeal in terms of saving jobs but the reality is that jobs can also be lost among the creditors. The appearance is that jobs may have been saved but very often the creditors—the small businesses that are the suppliers of the company in pre-pack administration—can be out of work. They are below the water—the part of the iceberg that you do not see. The noble Lord said that creditors have a bad deal in a pre-pack. They do not have a bad deal; they have no deal at all. Not only do they have no deal at all but the pension obligations pass to the pension regulator, which in turn is passed on to other firms.

In my experience of pre-pack administration, the arrangements are, frankly, utterly superficial and exceptionally difficult to police in terms of whether or not a fair value is being achieved for the assets that are being sold. I am not clear yet that we have got to the bottom of what I call repetitive pre-packs, in that directors and managers who are not very good businessmen go through the pre-pack arrangements at reasonably frequent intervals. I hope that this is something that the Small Business Commissioner might be able to think about because I think he will have some role to play here and we did not pick up on this point when we were discussing that part of the Bill.

I have not seen the new proposals that have been produced today but I think that the issue that the noble Lord has raised in Amendment 52ZA is something that we need to consider very carefully. I have a couple of questions for him about his amendments. Amendment 52ZA(a) states that,

"the owners of the company must approach the company's investors for approval prior to entering any pre-pack proceedings".

What is the difference between an owner and an investor? The investors own the company. I am not quite clear what the distinction is. I may be missing the point about what the distinction is between those two categories in terms of what the noble Lord is seeking to achieve, but I understand the force of some of the other points he is making in Amendment 52ZA(b), (c) and (d), and I think they are of interest.

Under Amendment 52ZD, which concerns the "debtor in possession", one issue is how the company continues to trade in the circumstances, because it has to take on new obligations. One of the things most feared by company directors, and quite rightly, is trading while insolvent. Therefore, will Amendment 52ZD give directors protection because as you approach the edge of the company's solvency, your lawyers, advisers and accountants will say, "If you cannot prove that you had thought that you could make good and pay the creditors as they fall due, you are committing a criminal offence and the law takes a very serious view of that"? Perhaps the noble Lord could explain a bit more in a minute as to how that protection is going to be provided under Amendment 52ZD and, in particular, where the company is expected to continue, how security is going to be given to suppliers working for the company and providing further services or goods for which they may or may not get paid at some date in future.

However, there is a central point in Amendment 52ZA. Notwithstanding what may have been proposed today under the new regulations, we have been slightly seduced by the attraction of pre-packs. I think that the hidden damage that they do to a lot of suppliers and smaller companies is something that we have tended to overlook. The noble Lord made an interesting point in the amendment, but there are some issues to be clarified.

Lord Leigh of Hurley (Con): I rise to talk about this clause, which comes at a strange place in the Bill. We did actually discuss much of this in the Small Business, Enterprise and Employment Bill, and I made the probably too political point then that we have not seen much of insolvencies recently, but that does not mean that we will not—we will, because the cycle will turn round and there will be more insolvencies. So now is a good time to think about how to avoid some of the mistakes that were made last time round.

I had not realised that this report had been published today. I think it might be the Teresa Graham report. Teresa Graham has come up with some extremely helpful ideas, which we discussed during the Small Business, Enterprise and Employment Bill. The best ideas included having a panel appointed to approve any pre-pack and that panel comprising people either of the R3 Group or the Turnaround Management Association or some such other organisation. I think there is a need for a panel. The other suggestion was that a review needs to be undertaken by an independent third party to assess the viability of any business going through a pre-pack.

I think there are not that many pre-packs in number, but they can be extremely helpful. I declare an interest as I am on the board of a retailer—not that my business has done this. For many retailers, they are particularly helpful because of the peculiar nature of UK property law, which is that people get stuck in these long-term contracts under different conditions and the only way they can get out of these contracts is to use a pre-pack. Therefore, they have a purpose and they have a role.

If I can help, because I shared the confusion of my noble friend Lord Hodgson, I think what is meant in Amendment 52ZA by "the owners" is the majority owners, the shareholders, who must approach the minority investors. In the absence of the noble Lord, Lord Mendelsohn—if I can read his mind—that clearly makes sense but, of course, it is going to be extremely difficult where public companies go through a pre-pack, which does happen, for them to contact all the investors. In paragraph (b), where it says,

"any personnel advising on pre-pack proceedings",

I am not sure whether that is meant to include accountancy firms, and whether personnel means internal or external. I have argued for many years that there should be much greater investigation into the role of accountancy firms in insolvency situations. They are often called in by the banks to investigate a company, but they have an incentive for their report to recommend an insolvency procedure because they are immediately subsequently appointed as the administrator, receiver or liquidator. I can see the economic argument for and benefit of that, but I have also seen instances where, frankly, the accountancy firm concerned has just pushed a perfectly good company into administration and extracted millions of pounds of fees—I do not exaggerate—through that insolvency procedure.

These amendments are welcome to the extent that they raise these questions. There is a particular problem with the interaction between current insolvency legislation and the current employment legislation, which leads to the sort of situation discussed earlier. There needs to be a much more holistic approach to both employment and insolvency law because people in such circumstances are often under extreme pressure of all sorts. It is difficult for them to clarify their legal position at extreme speed. We must try to find a way to assist people.

I particularly welcome and am interested in Amendment 52ZD, which seems to have its roots in Chapter 11. That is a proposal that merits further discussion and reflection, perhaps on another Bill at another time, but it is good to see it raised in a Bill that has the title "Enterprise".

6.45 pm

Baroness Neville-Rolfe: My Lords, I welcome the spirit of these amendments, which intend to improve the functioning of insolvency. I am delighted to be able to confirm that today a number of industry reforms to pre-packs, recommended by Teresa Graham and her review, have been introduced. I am glad to hear support for those changes from my noble friend Lord Leigh of Hurley. Creditors will inevitably lose some money when a company fails, and this is unavoidable. However, in delivering these voluntary pre-pack reforms, creditor bodies and the insolvency industry have come together in a good way to support the reforms. I agree with my noble friend Lord Hodgson that creditors need confidence that the best deal is obtainable.

[Baroness Neville-Rolfe]

Another cause for celebration is that from today a further reform introduces new guidance on marketing to ensure that creditors can be confident that they are receiving the best price for the sale of the insolvent business, but these changes need to be given time to take effect before yet further changes are considered. The Government will undertake a review once these have bedded in.

On small businesses, the redundancy payments scheme provides valuable assistance to employees when their employer enters insolvency. All employees can access the scheme. There has recently been consultation on collective redundancies and the outcomes for employees in an insolvency. The findings will be published in due course.

The existing law on the priority of payments to creditors in an insolvency seeks to ensure that there is a fair distribution of a company's assets. Any change to give preference to the types of small business set out in the amendment would, of course, have to be at the expense of other creditors. Giving priority to such creditors would have wider consequences, such as increasing the cost of suppliers from other creditors, or higher costs of borrowing for businesses in general. The Government do not consider that an evidence-based and sufficient case has been made for changing the long-established order of priority in that respect.

On Amendment 52ZD, it is obviously important that, if a viable company is unable to pay its debts, it is given an opportunity to continue as a going concern. That is why the insolvency regime already provides for a moratorium. It is important that any extension of the existing moratoria offers appropriate safeguards and protections to creditors. Otherwise, there is a risk that businesses will find financing more difficult.

I am so sorry that the noble Lord, Lord Mendelsohn, is not here, because he has made a valuable point with his work on "debtor in possession", elaborated in a helpful note that he sent me over the summer. I agree that viable businesses should allow sufficient time to develop a rescue plan, and I am therefore very pleased to be able to say today that, while we cannot accept an amendment to this Bill, the Government are already reviewing this area and we will announce our proposals in due course.

I hope that the noble Lord has found my explanations reassuring in this area, and on that basis feels able not to press his amendment.

Lord Stevenson of Balmacara: I cannot really call these probing amendments, because they were not really probing anything—they were really there to stick pins into people to get them to take a bit more interest in this area. But I think that my pins can now be removed. As has been said, the amendments are of interest and, where appropriate, they can be looked at again. I am delighted, and I am sure that my noble friend Lord Mendelsohn will be particularly pleased, that the ideas behind the proposal of a business debtor in possession can be given a bit more thought—and they certainly need it, since they were not meant to be finished in any form.

I was slightly trembling when the noble Lord, Lord Hodgson, said that he had a few questions that he wanted me to answer, because I am not the sort of person who can answer them, but I was lucky to have friends in the Room and did not get too far behind.

I thank noble Lords for the debate, which was meant genuinely to add something in the medium term. With that, I beg leave to withdraw the amendment.

Amendment 52ZA withdrawn.

Amendment 52ZBA, in substitution for Amendment 52ZB, not moved.

Amendment 52ZCA, in substitution for Amendment 52ZC, not moved.

Amendment 52ZD not moved.

Clause 20: Insurance contracts: implied term about payment of claims

Amendment 52A

Moved by ***The Earl of Kinnoull***

52A: Clause 20, page 37, line 40, after "insurance" insert "except an excluded contract"

The Earl of Kinnoull (CB): In moving the amendment, I shall speak also to Amendment 52C. I declare my interests as in the register. I am seeking to carve out business that is placed today in London's international insurance and reinsurance markets from the insurance-related clauses of the Bill—Clauses 20 and 21. In tabling the amendments, I have had a lot of help from the Lloyd's Market Association, or LMA, and the International Underwriting Association of London, or IUA, which are the two market associations representing all the insurers involved in those markets in London. We have the LMA's CEO and his legal director here today, watching. I also very much appreciate the help that I have had from the noble Lord, Lord Flight, who has been full of enthusiasm and interesting points. Finally, I thank the Minister, who saw us all in her room, armed as she was with a formidable team, which included people from the Treasury and the Law Commission. It was a very helpful discussion on a tricky area, where the businesses involved mean the Government and the country well. We promised to supply the Minister with some further evidence, which has started to appear at the LMA, and we hope to communicate that evidence to the Minister later in the week.

Late payment of valid claims by participants in the insurance markets is something that the vast majority of those markets strongly dislike. It is very irritating as an insurer trying to do a good job to see someone doing a bad job and making a business out of not paying their valid claims on time. The ombudsman and regulators have done quite a good job here in reducing the size of the problem over the years, and have certainly helped a lot in making the annualised impact benefit be assessed at £1 million, as it was in the impact assessment for the Bill. I am sure that it would have been a lot bigger in older years.

The London market is peculiarly big. In November 2014, the Boston Consulting Group did an assessment of the market and thought that it had annualised gross written premiums of £60 billion; 48,000 people worked in it; and it represented 20% of the City's GDP, about 8% of London's GDP and approaching 2% of the UK's GDP. I should say that of the £60 billion, about £8 billion is affected by the Bill.

International insurance is a highly competitive world. The London market is much the largest in the world, but we should be aware that other markets are constantly nipping at its heels. Business comes to London not just because of London's 300-year record of paying claims on time and its infrastructure but because the capital is here. I want to concentrate on the reason that the capital is here. Most players active in the London market are active in at least one other market around the world, if not all of them. They can meet from time to time to decide where to deploy their capital. Obviously, they will try to deploy it in whichever market they think it will have the easiest ride and present them with the opportunity to make the best profits.

Insurance is just like any business, in that a percentage of claims give rise to disputes. Unamended, the Bill could, the LMA, the IUA and I feel, lead to an "unreasonable delay" cause of action being introduced as an extra part of many disputed claims, leading in turn to extra claims costs and a lot of aggravation for the insurers concerned—in other words, grit in the machinery. That would naturally be less attractive to capital. Many factors decide where you want to deploy your capital as an insurance group, but I put it to the Minister that one wants to try to ensure that we do not have grit in the London machine, because any redirection of capital elsewhere would be damaging to the London markets.

The amendments carve out two things. The first is reinsurance, where the only parties involved in the transactions are insurers. I very much hope that that is uncontroversial. The second thing is large risks. Large risks is a concept that we have tied to a European Union definition which is pretty well understood by the professional insurance market—certainly everyone in the London international markets would understand it. We thought that that was a reasonable starting point to discuss how to arrange a carve-out so that there was none of that grit in the London machinery.

The impact assessment for the unamended clause is for a gross benefit of £1 million per annum. In this intensely competitive international market, international insurers find that they are being consistently marked by brokers and other insurers, so someone who does not pay his valid claims on time is very unlikely to be shown a lot of business in future. It is self-policing. It is for that reason that I submit that, of the £1 million gross benefit, not much would come from the international insurance markets. One would have nearly the same gross benefit even with the carve-outs.

I end by saying that my career has been in risk. I look at the upside and downside of things, try to assess probabilities and act accordingly. The upside here of the unamended Bill is some portion of the £1 million per annum annual benefit—I have tried to say that it is a small portion. The downside is needless damage to a £60 billion market that is of great benefit to the United Kingdom.

Lord Flight (Con): My Lords, I support the amendments of the noble Earl, Lord Kinnoull. I do not have any direct interest in Lloyd's, but I endeavour to keep my eyes and ears open to things that come through Parliament which may be acutely damaging to our financial services industry and the City of London. As many noble Lords will know, I raised precisely the same point at Second Reading.

It is important also to note, as the noble Earl, Lord Kinnoull, pointed out, that the whole of the Lloyd's industry is behind him on these points. The various trade bodies and organisational bodies, several of whom are here today, are as concerned as he and I—he more particularly—about the risks here. My understanding is that the Minister has taken on board pretty much the Lloyd's reinsurance situation, which is covered by paragraph (b) of Amendment 52C, but certainly wants more evidence relating to Amendment 52C, which is the potential risk of damaging the large risks market. Amendment 52C spells out what the large risks market is and its definition under the 2009 EU directive.

7 pm

Although the definition of large markets goes down to £6 million or £7 million, which is not that large, it needs to be made clear that the business that occurs in the large markets is a small number of very large amounts of premium income. As the noble Earl has pointed out, this has increased substantially to £60 billion per annum, with at least £8 billion of that potentially directly affected by the Government's proposals in the Bill. I was amazed to learn that this large premium income has grown to 21% of the City's GDP and is up from 8% in 2013. This has been a really good business area for the UK.

The main point, which the noble Earl, Lord Kinnoull, made extremely politely, is that the Government would be mad to put at risk such a valuable area of business. It might not be affected by the provisions of this Bill but if it is I would not want to be the Minister who had pushed through the legislation that wrecked London's large premium insurance business. What is the risk? The risk is that settlement gets bogged down with legal processes, that people can go to law if they want merely potentially to delay what they are going to have to pay and, instead of it being a well-oiled, smoothly operating market, it will get affected by legal hiccups. If that were to occur, the temptation is simply for the business to move elsewhere, a move potentially even to New York, where there are not such problems.

It is crucial that the industry produces the evidence for which the Government have asked but that the Government pay heed to what the whole of the Lloyd's industry is saying. In essence, it is the same point raised at the time of the Insurance Bill in 2014. It is the point that the Law Commission warned on at the time and got a similar proposal taken out of the 2014 Bill. I was really rather surprised that we see it back here in this legislation and that the Government have not taken heed of what the Law Commission said, to which I referred at Second Reading.

[LORD FLIGHT]

However, anyone who has any involvement in risk simply would not deem it appropriate to put at risk the loss of such an extremely good market for London over a point that is not causing trouble. There is no evidence of late-payment problems in the large insurance market. It is FCA-regulated and, unlike other areas, particularly large organisations late-paying small supplier organisations, that sort of point is completely irrelevant to this market. I hope that the Government will take heed of the arguments behind these amendments and potentially produce their own amendments on Report.

Baroness Noakes (Con): My Lords, I have not spoken before on this Bill and, indeed, I would not have spoken had I not seen the amendments tabled by the noble Earl, Lord Kinnoull. I was very happy to see Clause 20 in the Bill and I would not have spoken had it not been threatened in some way. I should explain that I was a member of the Special Public Bill Committee which considered the Insurance Bill which became the Insurance Act 2015. As noble Lords may be aware, that was a Law Commission Bill, which is handled under the special procedure in your Lordships' House, which means that the Law Commission produces technical amendments to the law and they go through on the basis that they are uncontentious.

Clause 20 that we have before us appeared in the draft legislation which the Law Commission put forward, but when the Government tabled their Bill for consideration by the Special Public Bill Committee it did not include that clause. We examined that very carefully as part of the Insurance Bill Committee. I believe the Government deemed the clause was contentious because of lobbying by the Lloyd's Market Association and the International Underwriting Association. At the final stage of the Special Public Bill Committee, I introduced an amendment in precisely the terms in Clause 20, which is not my cleverness in drafting but the drafting of the Law Commission in the original Bill. I should say that the Law Commission contacted me last week, and it remains of the view that this is an important change to the law which it fully stands behind.

Needless to say, in the Special Public Bill Committee—which is a version of Grand Committee, in effect—that was not pressed. I was then leaned on—noble Lords may be shocked at this—by the powers that be in my party organisation not to move the amendment again on Report. The Government then managed to schedule the business on a day when I was not able to be in the House, so that was an end to it, so the Insurance Bill went through without properly considering the issue. While the Lloyd's Market Association and the IUA remain against the clause, others in the insurance industry are quite content for it to go through, and we were quite clear in the Special Public Bill Committee that the weight of opinion in the insurance industry, setting aside the two organisations that the noble Earl mentioned, was in favour of this amendment, even though the Association of British Insurers thought that there might be a possibility that it would lead to claims management company activity, which is one of the scourges of the financial services industry at the moment. While that might have an undesirable consequence, it was not a good reason not to legislate for something that was right.

I find it difficult to understand why there could be an objection to a clause which just states,

"the insurer must pay any sums due … within a reasonable time",

with reasonable time being well defined to cover what one would think would be a reasonable prospect of excuse for non-payment and therefore not imposing any particular amendment. The noble Earl's amendment seeks to knock out reinsurance contracts—I rather take the view that they are between consenting adults and need not form part of this—and large risks. Large risks might sound as if they are huge things that are of no concern to small companies, but they are well within the ambit of many medium-sized companies in this country. One piece of the evidence that the Mactavish Group produced in the context of the Special Public Bill Committee and for the Treasury when it was considering what to do with this showed that in the previous four years 40% businesses with a turnover of more than £50 million had suffered strategically significant losses, that 45% of their claims were disputed and that the average time for resolution was three years. If you are a medium-sized company with a strategically significant claim which is being held up and takes a long time, it could be the difference between survival and business failure. It seems only right and proper that we should have within insurance law, fully in line with the Law Commission's recommendations, an implied term of reasonableness of payment. I hope very much that the Minister will resist these amendments.

Baroness Hayter of Kentish Town (Lab): My Lords, like the noble Baroness, Lady Noakes, we were rather sorry to see these amendments tabled by the noble Earl, Lord Kinnoull, as we support Clauses 20 and 21, which help consumers and businesses facing delayed payment of insurance claims to get damages for resulting losses. We certainly do not want to see these provisions watered down. Indeed, as the noble Baroness, Lady Noakes, recalled, it was the Law Commission and the Scottish Law Commission which recommended that insurers should be under a legal obligation to pay valid claims within a reasonable time. I thought it was the Law Commission which drafted these clauses and I am delighted to be in the Room with the true author.

The Bill puts the current FOS practice, which is to award compensation for unfairly refusing or delaying insurance claims, on to a statutory footing. Importantly, it will provide small businesses with recourse to the courts to claim such damages. As we have heard, Amendments 52A and 52C would remove the insurance of large risks from the provisions of Clause 20. That would effectively exclude many SMEs and their risks from the very protections that the Government—in our view, quite rightly—are seeking to introduce.

As we have heard, it is not just the Opposition who resist these and indeed the later amendments, which bring insurance contracts into line with any other normal contract. Some 80% of those responding to the Law Commission's consultation agreed that insurers should be under a legal obligation to pay valid claims within a reasonable time. Our understanding is that not a single member of the ABI was against the clause. Indeed, some were strongly supportive, pointing out

that for their SME customers, a claim being paid in a few months can be the difference between survival and failure.

It is almost a legal fiction which means that the normal contract law—that is, if one party breaks a contract, the other can claim damages—does not apply to insurance law in England. It is time to change this. The Law Commission is clear that this is appropriate for the London market and it opposes the attempt in these amendments to exclude it. Any carve-out for "large risks", as defined in Solvency II, would exclude many consumer and SME risks. I leave the Minister to take the Committee through the finer details of the Law Commission's argument, should she feel it necessary. I would just add that, in regard to excluding some forms of large risk, the Law Commission found that stakeholders were keen to see a single regime for all non-consumer contracts and did not support defining somewhat arbitrary boundaries, which add to transaction costs.

Baroness Neville-Rolfe: My Lords, I thank the noble Earl, Lord Kinnoull, for his amendments and for taking the trouble to meet me and representatives from the London insurance market, and welcome my noble friend Lord Flight, who is an expert in this area. I am also very glad that my noble friend Lady Noakes is with us and thank her for her support for the late payment of insurance provisions; that nicely complements the discussions we have had on other days on late payment for small firms by big firms and retentions. The provisions are, as she says, intended to address a legal anomaly in the current law; that is, that insurers currently have no legal obligation to pay sums due within a reasonable time.

Where late payment does occur, however frequent or infrequent that may be in different parts of the market, it is appropriate that the policyholder should be able to recover any losses suffered as a result. That is why the Bill builds into every contract of insurance an obligation on insurers to pay sums due within a reasonable time. Breach of that obligation may give rise to damages for breach of contract on normal contractual principles.

With his Amendments 52A and 52C, the noble Earl seeks to restrict the types of contracts to which this obligation would apply, excluding reinsurance and certain "large risks". The clauses in the Bill are the product of a long Law Commission project involving years of engagement with the insurance industry. Stakeholders argued strongly in favour of a single regime for all non-consumer insurance contracts, avoiding boundaries which, by their nature, are complex and arbitrary, and add to legal expense. If different rules applied to different types or sizes of business, insurers would have to identify which side of the boundary each prospective policyholder fell before entering into the policy. This would severely slow down and add expense to the placement process.

7.15 pm

The particular definition that the noble Earl tabled for "large risks", based on the Solvency II definition, demonstrates the difficulty of defining boundaries. The definition is complex and has several different elements, but it would exclude all insurance contracts involving a policyholder with a net turnover of €12.8 million and more than 250 employees. This would exclude many medium-sized businesses, which, frankly, are precisely the target of the Bill.

As the late payment provisions currently appear in the Bill, they rectify a gap in the legal regime and encourage responsible payment, for the benefit of policyholders and the perception of the market. These arguments apply for all insurance contracts, including reinsurance, which are treated by the law in the same way as all other non-consumer insurance contracts.

As noble Lords would expect, I am very alert to any argument that there is a threat to the competitiveness of the UK and of London as a world-leading insurance hub. However, the provisions in the Bill are specifically designed to work for the London market, including reinsurance contracts, as well as for SME insurance contracts. We are not planning anything further.

The provisions are flexible so that parties can agree, under Clause 21, on an exclusion or limitation of liability for consequential losses. Such contractual limitations are common in many forms of commercial contract. Whether contracting out is appropriate in individual cases will be a matter for commercial negotiation between insurers and their customers and/or brokers. However, it is in the UK's interest that the London market is seen to be a good place to contract and a place where customers are paid on time. The time has come to make these much-delayed provisions, as the noble Baroness, Lady Hayter, said.

I hope that noble Lords will recognise, on reflection, that the proposed carve-outs are neither necessary nor appropriate. The provisions have been carefully prepared. On this basis, I ask that the amendments be withdrawn.

The Earl of Kinnoull: I thank all noble Lords who have taken part in the debate and I thank the Minister in particular. As ever, she has put forward very beguiling logic. With her notable business career she must understand that industry associations with the reputation of those at the centre of the London insurance markets do not lightly make suggestions like this.

There was no intention in anything that we did to get at the basis of the Bill, which is to ensure that SMEs and consumers in Britain get a fair deal from valid insurers. We genuinely have a concern. I put to the Minister that the trouble with logic in a business context is that sometimes beguiling logic does not quite fit in the business world. I know that she will have many examples of that. We will put further proposals to her on the basis of the reinsurance carve-out, but we will need to regroup. I hope that she will read that and consider it again. On that basis, I am happy to withdraw the amendment.

Amendment 52A withdrawn.

Amendments 52B and 52C not moved.

Clause 20 agreed.

Clause 21: Contracting out of the implied term about payment of claims

Amendments 52D and 52E not moved.

Clause 21 agreed.

Clause 22: Disclosure of HMRC information in connection with non-domestic rating

Amendment 52F

Moved by ***Lord Stevenson of Balmacara***

52F: Clause 22, page 39, leave out lines 20 to 22 and insert—

"(1) An officer of the Valuation Office of Her Majesty's Revenue and Customs may disclose Revenue and Customs information to—

(a) a qualifying person for a qualifying purpose;

(b) a ratepayer for a hereditament.

(1A) Information disclosed under subsection (1)(b) may—

(a) be disclosed for the purpose of providing the ratepayer with all information used to assist determination of the valuation of any hereditament for which the ratepayer is responsible for the non-domestic rating liability, and may be retained and used for that purpose, and

(b) include information relating to hereditaments not owned by that ratepayer."

Lord Stevenson of Balmacara: My Lords, I have been beguiling the Committee with the fact that I have had to act for several other proposers of amendments because sicknesses have left us a bit bereft. On this occasion, I can switch track slightly because here we are doing a decent thing in allowing some amendments on valuation to be debated on behalf of someone who cannot be present which I think he would certainly have tabled if he were here. We agree with them, so we have tabled them in our own right.

The noble Earl, Lord Lytton, has provided us with a brief which I will be drawing heavily on. However, as with the other amendments, I do not have the expertise to do justice to some of their individual elements. I suggest to the Committee that we take all the amendments that relate to valuation and the Valuation Office Agency together, which, if we do it cleverly and efficiently, will take us neatly to the witching hour of 7.30 pm, when we will be able to feel that we have done a good job. I will be imposing heavily on the good will of the civil servants briefing the Minister, but I hope that that will be sufficient. I am joined by the noble Lord, Lord Stoneham, who has put his name to one of the amendments.

The issue that unites all the amendments is that everybody involved in valuation agrees that the current arrangements for the business rates system, particularly the appeal system, are simply unsustainable. What is missing from the Bill is a balance between the need to remove ill-founded and speculative appeals with the need to preserve fair access to justice for those who feel that they have a case to argue.

At the heart of this, unifying all the amendments, is information, although I will speak specifically to the question of festivals, which arises in Amendment 52R. Therefore, most of my remarks will be about the generality of the VOA and how we may deal with it in future, but I will spend a few minutes on festivals.

We have drawn on work done by the Federation of Small Businesses, which also feels strongly about this. I think there is an alliance out there on this issue, and I look forward to hearing the Minister's response.

Amendment 52F and those which are grouped with it, Amendments 52H to 52K and 52N, relate to whether information currently withheld by the VOA should be made available to those who have a genuine interest. I will not say much more than that, because that seems to be a point of fairness rather than a point of law: those who are being rated and having rates applied to them should be able to know the basis of that and to make judgments with their professional advisers fully informed.

Amendment 52G moves us to the billing authority and makes provision for disclosure of information about issues relating to a business improvement district scheme, which is a slightly different point but involves the same issue, which is that there is unlikely to be any way to judge what the non-domestic rates yield would be in a BID if you do not have access to that information. Again, limited disclosure would be in the best interests of all concerned.

There is no provision for an ADR ombudsman or other suitable arrangement in the VOA system, and Amendments 52L and 52P suggest that that gap needs to be filled. We would be grateful if the Minister would take that into account. Because of the way in which the UK has implemented the ADR legislation, a range of options is open, and we are not producing one solution against another, but it is fairly clear that there should be an outlet to an external agency such as an ombudsman.

The question of appeals more generally is raised in Amendment 52Q, in which we are also joined by the noble Lord, Lord Stoneham. The proposal in the Bill is that there should be an upfront fee for any appeal. That seems an odd thing to require. The people who will likely be most affected are small businesses, particularly those who are struggling to get started. It does not seem in the best interests of enterprise to require fees to be paid upfront which will not necessarily be returned if an obvious injustice is being done and redress for justice denied is not being provided.

On the question of festivals, we have become aware of the fact that the VOA has begun to raise invoices and seek money from people who have used agricultural land and buildings for cultural events and festivals. One can understand that, when previously rarely used assets are being used for a different purpose, there is obviously a question of whether fair taxation is being applied. It would be hard to argue that using land that was not being used for anything else for a business activity would raise a rateable question.

I hope that the amendment will set off in the Minister's mind the suggestion that there is something a bit bizarre about constantly asking farmers and others to develop new ways of raising income and then, when they find one in the readymade form of a festival ready to come in on the site, not only to require them to pay rates for it but also to have a retrospective element. That seems rather unfair. I hope that, if only on the question of equity, the Minister might consider favourably the suggestion made by the festivals group that there should be no backdating.

The situation may have changed, but that does not necessarily mean that those one-off festivals that have happened should suddenly be faced with very substantial Bills—we are talking about £50,000 or £60,000—when people have budgeted on the basis that there would be no such cost. In future, consideration should be given to some form of derogation for short-lived festivals of this type, when clearly there are economic benefits to the whole of the country and to the locality, and a good cultural effect that would be completely lost if the cost exceeded the income. We might be cutting off our noses to spite our faces. I would be grateful if the Minister could consider the amendment. I beg to move.

Lord Stoneham of Droxford (LD): The noble Lord, Lord Stevenson, has masterfully summarised the amendments. I put my name to Amendments 52F and 52P in the interests of trying to improve the processes. In the interest of brevity and trying to improve the timescale, I am happy to give my support formally.

Baroness Neville-Rolfe: I thank my noble friends for proposing these amendments with such swiftness and efficiency, and I shall try to do them justice. The noble Lord, Lord Stevenson, has done fantastic work today in covering so many areas that are usually addressed by others on the Front Bench. As always, I thank the noble Lord, Lord Stoneham, for his involvement.

I appreciate that there are concerns, which I share, that an effective business rates system should be based on businesses having a good understanding of their tax bill, underpinned by shared and transparent information. The amendments are about sharing information with the payer. Business rates are determined by taking account of a comparison with other properties. However, it follows from this that the Valuation Office Agency collects and holds commercially sensitive data. For example, it may hold information on the precise terms of rental agreements reached for a group of properties. The VOA has a legitimate duty to protect that information and the interests of the ratepayers who have provided it. That is in everybody's interests, so we make no apology for having a rigorous system for handling and protecting sensitive information, an important general principle in life.

7.30 pm

We have taken the comments which have been made during the process of consultation and believe we have found a pragmatic solution. A consultation paper was published on Friday which sets out a system in which there are requirements and incentives for ratepayers and the Valuation Office Agency to engage early. Factual information will be established during the so-called check stage, with arguments and evidence being exchanged at the beginning of the second challenge stage, which is far earlier than happens now. This exchange of arguments and evidence is the point at which the Valuation Office Agency is able to provide information to address the ratepayer's case. These reforms will make a significant difference to how soon ratepayers have access to the relevant information, and they will be able to take it into account when deciding whether to proceed to appeal stage. We look forward to receiving responses to the consultation.

On providing information to business information districts, the subject of the next amendment, I am not aware that a shortfall in information has been raised directly with government by individual business improvement districts or by any of the BID representative bodies—there are about 200 BIDs and they include places such as the Plaza in Victoria Street—nor was it raised during a broad consultation earlier this year in which the Government sought views on strengthening the role of BIDs in local areas.

Amendment 52L would allow the Secretary of State to regulate to introduce a scheme for alternative dispute resolution for appeals. However, existing powers in the Act already provide for matters to be referred for arbitration. The new appeals system will provide full and structured opportunities for the parties to check and exchange information and arguments. It provides the opportunity for further discussion, where this is necessary to resolve the case, and a right of appeal where matters are still not agreed. These are the essential prerequisites for determining a dispute. The addition of more processes would complicate and slow down the system and could unhelpfully divert the resources of businesses and the Valuation Office Agency. This could potentially result in higher costs, including for business, when we want resource to be focused on speeding up this unacceptably slow system.

Amendment 52P would allow the Secretary of State to regulate the operation of some aspects of the appeals system. These matters are not always appropriately addressed by regulations. The performance of the Valuation Office Agency should be dealt with by a service level agreement, and we have proposed this approach in the consultation paper. Ensuring that all these uses are treated equally in rating is an important principle which maintains fairness across all ratepayers. However, while the Government do not intervene in individual rating valuations, I can assure noble Lords that if there are no permanent physical adaptations to the land to facilitate, for example, festival use, and the duration of the festival is only a matter of a few days, it is unlikely to attract a rating assessment in its own right, and any festival operator or land owner who is unsure of when they may incur a rates bill should contact the Valuation Office Agency to discuss their case and it will be happy to help. I also know that the Valuation Office Agency recognises the need for clarity and consistency in this sector and is working with the industry to draw up guidance to help event organisers. It hopes to have guidance ready in time for the festival season next year. Furthermore, we have given local authorities wide discretionary powers to grant rate relief in circumstances such as these, and where they do so central government picks up, as noble Lords probably know, half of the cost in foregone receipts.

With respect to the exemptions proposed in Amendment 52R and 52M, we are currently conducting a review of business rates and as part of that we are examining the rating of plant and machinery and the role of reliefs and exemptions. The review will conclude by the end of the year, and I can assure noble Lords we will take account of points made in today's debate. I am sorry that the debate has been cut short but I hope I have been able to persuade noble Lords that the

[Baroness Neville-Rolfe]
Bill is in good shape, that the consultation document issued on Friday gives additional and vital detail, and that the noble Lord will agree to withdraw the amendment.

Lord Stevenson of Balmacara: I am very grateful to the Minister who I think sent a message of cheer to the association that looks after festivals. I am sure that it is delighted. Landowners, some of whom may be present, may also be very pleased at the result. That is a very good response to that issue. I am sure that there are other things touched on in the Minister's response that we will want to look at but, again, that is a measure of progress and I am sure we can make a way forward on that. I beg leave to withdraw the amendment.

Amendment 52F withdrawn.

Amendments 52G to 52K not moved.

Debate on whether Clause 22 should stand part of the Bill.

Lord Hunt of Wirral (Con): My Lords, in declaring my interests as set out in the register, I welcome the opportunity to discuss the circumstances in which HMRC may disclose information. Although Clause 22 is drafted specifically to deal with the disclosure of information in connection with non-domestic rating, there are other circumstances in which disclosure by HMRC to certain other bodies is not only necessary but desirable.

The Employers' Liability Tracing Office is one such example. ELTO was established in 2010 to assist injured people in finding the employers' liability insurer which covered their employer at the relevant time. Since April 2011, it has been a regulatory requirement for EL insurers to provide details of all EL policies issued, as well as some historic data. ELTO's aim is to create a comprehensive database of insured employers and the compulsory cover provided to them. The drive behind the creation of ELTO was to build a historic record of past insurance, particularly for victims of diseases with a long latency period, such as those caused by asbestos exposure.

However, the main long-term purpose of ELTO is to create a comprehensive and easily searchable database of current policies, which can avoid problems many years into the future. In order to make the database accurate, so that in 30 years' time a person injured by past exposure to substances at the hands of their employer can trace the right insurance cover which should meet that claim, the database needs to find what IT people know as the "unique identifier", which confirms beyond doubt that the right company has been identified.

In the case of employers, that unique piece of information is provided by the employer registration number used by HMRC. The ERN is the number now used in the Pay As You Earn system to identify individual employers. Armed with the ERNs, the database would become truly fit for purpose. ELTO has been pressing HMRC for disclosure of ERN data, but HMRC claims that the law prevents it doing so. Assuming for the moment that HMRC may be right—it rarely pays to argue with the taxman—there is a simple solution, and Clause 22 shows us the way. Where the law is an obstacle to better working, it can be amended. That is, after all, the main purpose of this Bill.

I am therefore considering whether a short amendment to the Bill could resolve this problem. I would welcome a further discussion if the Minister and her hard-working team ever have time to do so to see how best we could proceed. The ELTO database has been introduced precisely because people suffering genuine injury in the future as a result of their employer's negligence will need easy access to details of the insurance policy that will meet that claim.

Finally, speaking as president of the All-Party Parliamentary Group on Occupational Safety and Health, I would like noble Lords to know that the all-party group is very supportive of the need to make the database accessible, accurate and searchable.

Baroness Neville-Rolfe: My Lords, I am grateful to my noble friend for raising the issue of data sharing between HMRC and the Employers' Liability Tracing Office. HMRC has already specifically amended its processes to provide employer reference numbers and employment histories when requested by individual applicants. Further, I believe any amendment to allow data sharing between HMRC and the Employers' Liability Tracing Office would be outside the scope of this Bill.

I understand that, as well as the normal concerns about taxpayers' confidentiality, HMRC is concerned that disclosing all employer reference numbers would raise issues regarding proportionality and, of course, in today's circumstances, the potential for fraud. Therefore, I do not think the Bill is the best place to bring forward such a widespread change, but I would be happy to meet my noble friend to understand more about the issue. However, I believe that Clause 22 should stand part of the Bill.

Clause 22 agreed.

Amendments 52L to 52Q not moved.

Clause 23 agreed.

Committee adjourned at 7.42 pm.

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