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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

Tuesday, 10 November 2015.

2.30 pm

Prayers—read by the Lord Bishop of Southwark.

Introduction: Lord Barker of Battle

2.37 pm

The right honourable Gregory Leonard George Barker, having been created Baron Barker of Battle, of Battle in the County of East Sussex, was introduced and took the oath, supported by Lord Browne of Madingley and Lord Black of Brentwood, and signed an undertaking to abide by the Code of Conduct.

Introduction: Baroness Burt of Solihull

2.43 pm

Lorely Jane Burt, having been created Baroness Burt of Solihull, of Solihull in the County of West Midlands, was introduced and made the solemn affirmation, supported by Lord Dholakia and Baroness Kramer, and signed an undertaking to abide by the Code of Conduct.

Retirement of a Member: Lord Chalfont

Announcement

2.48 pm

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

Japanese Knotweed

Question

2.49 pm

Asked by ***Baroness Sharples***

To ask Her Majesty's Government what progress has been made in preventing the spread of Japanese knotweed.

Lord Gardiner of Kimble (Con): My Lords, the work of local action groups, many established with Defra's support, has reduced or eradicated Japanese knotweed in several places across England. Community protection notices, available since last year, enable local authorities to require landowners to deal with any nuisance caused by the plant. We continue to explore biocontrol options through the controlled release of a psyllid insect and expect to receive further reports of its progress in December.

Baroness Sharples (Con): Is my noble friend aware that I first asked this Question 26 years ago? We are certainly showing progress and I am most grateful to him for his reply.

Lord Gardiner of Kimble: My Lords, my noble friend has certainly been tenacious and persistent in dealing with a real thug of a plant. We have had this plant since 1825, when, with good will, it arrived at horticultural gardens; 20 years later it arrived at Kew and was sent up to Edinburgh. I am afraid that we have the consequences of not understanding, as we do now with hindsight, that we should never have allowed this plant to come to these islands.

Lord Clark of Windermere (Lab): My Lords, as the Minister has said that certain local authorities have successfully dealt with Japanese knotweed, what is to stop other local authorities dealing with it in the same effective manner?

Lord Gardiner of Kimble: My Lords, the noble Lord hits on something as regards where it is seen to be a local priority. I should say that this is about local authorities in partnership with householders and landowners in a real community effort. I acknowledge that in Bristol, for instance, 95% of Japanese knotweed surveyed is under management. Cornwall County Council is a leader in tackling Japanese knotweed and is committed to controlling the spread of the plant. These are examples of how, with local action groups, we can make a real difference.

Lord Greaves (LD): My Lords, I have not been asking these questions as long as the noble Baroness because I have not been here quite as long as her, but if she has been tenacious and persistent, as the Minister says, she is unfortunately not quite as tenacious and persistent—and certainly not as aggressive—as this dreadful weed.

The Minister rightly says that the successful areas now are in local action and traditional means of getting rid of the plant, and that waiting for the famous psyllid, the insect which is going to do the trick, is simply not going to be sufficient. As the noble Lord just asked, why are the Government not making much more effort to spread the good practice, such as that in Pendle, where I live, which is doing a very good job indeed of getting rid of it?

Lord Gardiner of Kimble: My Lords, I thank the noble Lord, because it is very important that we raise awareness of this plant: awareness-raising is a key element of the strategy on invasive non-native species. There have been many initiatives, such as the Be Plant Wise and Check, Clean, Dry campaigns launched by Defra. It is very important that we all work together on this, because the examples of where it is working and we are eradicating the plant are of huge benefit to local communities.

Lord Dubs (Lab): My Lords, the Minister has described welcome progress, for which the Government are to be thanked. However, how far have we got on this? The Minister mentioned individual initiatives. Where are we in terms of the national scale of the problem?

Lord Gardiner of Kimble: My Lords, there are 74 local action groups in Great Britain. They range from the south-west to the north-west, Nottingham, Devon, Yorkshire and the Peak District. I have already mentioned Bristol and Cornwall. A Norfolk group has been very successful in saving a great special area of conservation. To answer the noble Lord, these groups are spread across the country. I hope that the success of all the local action groups will bear fruit, with others nearby thinking that this is a good thing to do as well.

Lord Davies of Oldham (Lab): My Lords, five years ago, when I was happy enough to be a Minister in Defra, the scientific community was convinced that we were about to take an initiative which could well conquer Japanese knotweed with the introduction of a psyllid which consumes it. It was regarded that that would be a national solution to a whole range of very costly problems we have with Japanese knotweed, not least the enormous cost to our rail system of seeking to keep it clear of the weed. What happened to that development, and why are the Government talking now only about local initiatives, not a national one?

Lord Gardiner of Kimble: My Lords, I specifically raised in my first Answer the biocontrol scheme that we are progressing, and we are looking at the results. It was never intended that we would be able to eradicate it. What we were hoping was that this would reduce the invasive capacity, but we are looking at the psyllid experiments and assessing them. There has been a further release in river courses because that is an area where we think it may adapt best, but we are waiting for further results on the matter.

Baroness Gardner of Parkes (Con): Does the Minister think that perhaps the assiduity of following this up for 26 years has had an impact? Does he advise us to do this with other departments or does he think that some of them are quite incorrigible and will never give way?

Lord Gardiner of Kimble: If I may revert to plants, which is my area of responsibility, this issue is really important. In asking this Question my noble friend probably provided the catalyst for the formation of 74 local action groups. This is about people who care about their communities and want to rid themselves of what—as I have already said—is a very invasive thug of a plant that does no good to our natural habitat.

Baroness McIntosh of Hudnall (Lab): My Lords, I am sure that the noble Lord will agree that Japanese knotweed has a kind of mythic status as an invasive species. It is all we ever really talk about, but there are many others, and he has already touched upon the fact that there are other invasive species—both plant and animal—about which we have to be concerned. Could he tell the House what is coming down the track after Japanese knotweed to which we should be paying special attention?

Lord Gardiner of Kimble: The noble Baroness raises something which certainly in Defra we are considering all the time. In fact, I leave for the monthly biosecurity meeting after Question Time. We are leading Europe on many of these issues of biosecurity. There are around 1,000 species around the world that we are concerned about, and we are seeking to ensure that they do not reach our shores, be they plants or animals. We are very much on to this.

Agriculture: Basic Farm Payment

Question

2.56 pm

Asked by ***Lord Willoughby de Broke***

To ask Her Majesty's Government what percentage of the basic farm payment they expect to pay to qualifying farmers by the end of the year.

Lord Willoughby de Broke (UKIP): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare my interest as an arable and grassland farmer.

Lord Gardiner of Kimble (Con): My Lords, I declare my farming interests as set out in the register. The Rural Payments Agency has been working hard and is on track to make the majority of payments in December, and the vast majority by the end of January. Our focus has always been to pay fully, accurately and as soon as possible within the payment window that runs between December and June.

Lord Willoughby de Broke: My Lords, I am grateful to the noble Lord for that rather limited Answer. He will recognise that the majority can be 50.01%, and that is not remotely satisfactory for most farmers at a time when they are very hard pressed. The European Commission—our masters in Brussels—have graciously permitted member states to make advance payments to their farmers ahead of the basic payment scheme full payments. Could he explain to the House why Defra has not taken up this option, at a time when British farmers have their backs to the wall?

Lord Gardiner of Kimble: My Lords, there are a few countries—and I mean a few countries—that are proposing to pay part-payments. What we wish to do is to get as many payments out in full as soon as possible. I will of course undertake to let the noble Lord know as soon as I am in a position to give further details, but the key issue is that we are in the late stages of the final processing point, which is about verification and validation. Once that is done, I will be in a much better position to talk more precisely about percentages. But we understand, and we are working to ensure that farmers get payments as soon as possible.

Lord Plumb (Con): My Lords, I declare my farming interest. I am sure some people here would accept that I have been raising the question of farm prices even longer than the noble Baroness, Lady Sharples, has been raising that of the horrible knotweed disease we have been talking about. Does the Minister agree that there is a major problem not just for farmers but for the banks and various financial authorities that have been serving farmers over a period of years and have been very accommodating, particularly during this

difficult year, which is far worse than the year before? Therefore, it is a matter of urgency that payment which is due be made as soon as possible.

Lord Gardiner of Kimble: My Lords, I entirely agree. That is why, for instance, the RPA is looking to make payments to dairy farmers fund payment in the first week of December. This is clearly a very difficult time for farmers. We appreciate that, which is why there are 800 people working seven days a week at the RPA to ensure we get payments out as soon as we can.

Lord Pearson of Rannoch (UKIP): My Lords, given that our gross payment to Brussels in 2014 was some £20 billion and that our net contribution rose to £11.3 billion, is there any reason why an independent British Government would not be able to pay this money to farmers directly—and rather more efficiently?

Lord Gardiner of Kimble: My Lords, the reputation of the Rural Payments Agency, which pays the dairy sector in all four parts of the United Kingdom but is responsible for the English basic payments, has been transformed. If you ask many farmers, they will say—as I have; I am a farmer—that their experience with the RPA now is very different from five or 10 years ago, so it has definitely been enhanced.

The Lord Bishop of St Albans: My Lords, I am grateful to the Minister for referring to the way the Rural Payments Agency has turned things round. Despite its sterling work and the assurances of the Minister, there is no doubt that a number of farmers will experience delays in payments under the basic payment scheme. In light of that, what are Her Majesty's Government doing to put in place contingency plans to help those farmers who could go out of business simply because of cash-flow problems if payments do not come through on time?

Lord Gardiner of Kimble: My Lords, that is precisely the issue raised by my noble friend Lord Plumb. It is very important that the continuing good relations between banks and farmers remain as strong as possible. Clearly, one thing we need to do is give the British farming sector a much enhanced future. Indeed, that is why this week the Secretary of State has with her eight dairy businesses and 80 UK farm businesses on her visit to China. This is about a growing market. Obviously, we face a short-term problem but the prospects for British produce are very strong. However, I am very conscious of what the right reverend Prelate has said.

Lord Brooke of Alverthorpe (Lab): What will the cuts in the RPA budget be in the coming year? Will its performance next year be better than this year?

Lord Gardiner of Kimble: My Lords, I do not know what cuts, if any, there will be in the RPA. Obviously, these matters are way above my station. Clearly, we want to enhance this. We have had a very complicated new basic payment system—far more complex than we would have liked. That is why we want greater simplification next year, and why the Secretary of State has been in touch with Commissioner Hogan. We will continue with an online and a paper application for 2016, which I think will work best for farmers.

Baroness Parminter (LD): My Lords, what plans do the Government have to review the transfer rate from Pillar 1 of the basic farm payments to the rural development programme, as the coalition Government committed to do? That would ensure that the maximum environmental and social benefits were gained from this public money that farmers currently receive.

Lord Gardiner of Kimble: My Lords, £2.3 billion is allocated to Pillar 1 direct payments and £620 million to Pillar 2 rural development in 2015. I am sure that both sums will be put to good use.

Lord Grantchester (Lab): My Lords, I declare my interest as a dairy farmer in receipt of payments. On the related matter of market and public support, does the Minister agree that it is provocatively dangerous for the farmer-funded Agriculture and Horticulture Development Board to state that commodity prices are not market related? Do the Government have any plans to require the AHDB to monitor and audit retailers' honesty boxes of public commodity donations to farmers as a way to get fair commodity payments to farmers—or would that be the responsibility of the Groceries Code Adjudicator?

Lord Gardiner of Kimble: My Lords, I will write to the noble Lord about some of the more technical details, but we very much welcome the fact that some supermarkets are paying a premium. It is important there is transparency, and we want that sum to go to the farmers.

Chagos Islands

Question

3.05 pm

Asked by ***Lord Luce***

To ask Her Majesty's Government when they expect to complete their policy review of resettlement in the Chagos Islands.

The Earl of Courtown (Con): My Lords, the Government's public consultation about a potential resettlement of the British Indian Ocean Territory concluded on 27 October. We are now examining the results and hope to take a decision on the way ahead soon. This 12-week consultation drew views from around 1,200 Chagossians and continues the conversation with Chagossian communities as part of our review of resettlement policy, which started in 2012. That included an independent feasibility study, which concluded at the end of January 2015.

Lord Luce (CB): My Lords, this week is the 50th anniversary of the decision to provide a United States base in Diego Garcia, on British territory and in the Indian Ocean, which then led to the decision to

[LORD LUCE]
deport 1,500 Chagossians, most of whom were indigenous inhabitants. As the KPMG report, commissioned by the Foreign and Commonwealth Office, has this year concluded that there is no reason why resettlement should not take place, will the Government make next year's renewal of the agreement between the United States and the United Kingdom conditional on a commitment by both parties to facilitate and support resettlement of the Chagossians, thus rectifying a grave human rights injustice?

The Earl of Courtown: My Lords, Her Majesty's Government regret the way the Chagossians were removed from the British Indian Ocean Territory in the late 1960s and early 1970s. The Government, along with successive Governments before them, have said that what happened was clearly wrong. This is why substantial compensation was rightly paid. The noble Lord mentioned the renewal of the agreement with the American military for occupation of Diego Garcia and we will, no doubt, take these matters into account.

Baroness Whitaker (Lab): My Lords—

Lord Avebury (LD): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, we are getting out of our habit here. I suggest we go to the Labour Benches first and then to the Lib Dem Benches.

Baroness Whitaker: My Lords, is the Minister aware that, when I wrote to my noble friend Lady Ashton, who was then at the European Commission, to ask whether the United Kingdom was eligible for European Union funding for resettlement, the answer was that we certainly were? Does the Minister agree that the cost of these settlements should not fall exclusively on the British taxpayer and that, apart from the European Union, the United States, international organisations and the private sector should be approached for funding and investment?

The Earl of Courtown: My Lords, we will consider all these factors once the consultation is finished. As I said earlier, the feasibility study concluded on schedule. As there were still uncertainties about how any resettlement could work, and potential costs, we went into the consultation system. That is also why we are examining the results of the consultation very carefully.

Lord Avebury: My Lords, will the Government publish a draft of their decision for consultation with the All-Party Group on the Chagos Islands? Will they also give both Houses an opportunity to debate the review before a final decision on resettlement is made?

The Earl of Courtown: My Lords, I draw attention to the dedication of the all-party group on this issue over many years. Whether or not there will be an opportunity for this to be debated at some stage will depend on whether noble Lords try to get parliamentary time for it. Once the analysis is made, the Government will make an announcement. I will write to the noble Lord about whether it will be published.

Lord Deben (Con): Will my noble friend make quite sure that whatever arrangements are made, they protect and support the remarkable new ocean reserve which is around the Chagos Islands? This is a proud part of Britain's dealings in this area.

The Earl of Courtown: My Lords, the noble Lord, Lord Deben, refers to the marine protected area. He is quite right that this is one of the most important areas of biodiversity in that sort of environment on the planet.

Lord Anderson of Swansea (Lab): My Lords, the Government now appear to accept that this was one of the more disgraceful episodes of our colonial history. Does the Minister also accept that the Chagossians—the victims—will find it difficult after exile in Mauritius, in the Seychelles and in Crawley to return to life on those remote islands? What is being done about the provision of jobs? Is the US, for example, prepared to offer jobs on their base in Diego Garcia to those Chagossians who choose to return?

The Earl of Courtown: The noble Lord makes a very good point, particularly relating to the Chagossian communities in Crawley and Manchester. Of course, they are going to want a certain lifestyle if they return to those islands. I know that the KPMG report looked at the numbers that could be employed by the authorities on Diego Garcia, but I can tell the House that, until we make a final examination of the results of this consultation, nothing can be agreed.

Lord Ramsbotham (CB): My Lords, as a member of the All-Party Group on the Chagos Islands, I ask the Minister to be more precise about the word "soon". This is a word that has been used by successive Governments for the past eight years, to my certain knowledge. Frankly, we would like some more precision.

The Earl of Courtown: My Lords, somebody whispered in my ear, "Very soon". I and other noble Lords who have been Members of this House for a very long time have used the term "soon", but I can assure the noble Lord that it will be soon.

Baroness Ludford (LD): My Lords, there have been 16 years of litigation, which has been very costly to the taxpayer and to Britain's reputation for human rights. Will the Government undertake to abide by the forthcoming ruling of the UK Supreme Court concerning the right of abode and the marine protected area?

The Earl of Courtown: My Lords, I cannot comment on cases going through the courts at present, but if there is any more detail I will write to the noble Baroness.

Airport Security

Question

3.12 pm

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government whether they are satisfied with the level of airport security at major business and tourist destinations worldwide; and if not, what steps they will take to ensure the safety of United Kingdom citizens.

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): My Lords, Her Majesty's Government's first priority is the safety and security of British citizens. We keep aviation security arrangements under close review and we will act where we need to, as we have done in the case of flights from Sharm el-Sheikh. Of course, the noble Lord will appreciate that we do not comment in detail on security arrangements.

Lord West of Spithead (Lab): I declare my interests in security, as recorded in the register. I thank the Minister for his Answer, but in 2009 we were very concerned about security at foreign airports, and I put in hand work with the OSCT and the Department for Transport to identify all the airports at risk and what we could do to sort things out. We may be getting safer here, but there is no point to that if people are killed on their way back into the country. Can the Minister tell us whether we have that list? Have we put in hand the work to correct the problems in those airports? Are the Government fully involved with the 30 foreign groups that are coming to the transport security exhibition at the beginning of December so that they can be part of it, including, for example, the Egyptians who are coming en masse?

Lord Ahmad of Wimbledon: I assure the noble Lord—indeed, the whole House—that we continue to identify and work with airports across the world in not just minimising but ensuring that we seek to eradicate any security and safety risks for all passengers. Our first priority, however, is UK citizens, and we continue to work extensively in that regard; we did so even prior to this incident. On the noble Lord's second point, of course we work with many Governments across the board, and in this case with the Egyptians. The Prime Minister, in his meeting with President Sisi last week, again indicated that Britain will offer full co-operation in whatever respect it can.

Lord Spicer (Con): My Lords, Athens used to be the worst major airport in Europe from the point of view of security—at least, it was when I was Minister for Aviation. Is it still?

Lord Ahmad of Wimbledon: Again, as I am sure my noble friend will appreciate, I shall not go into specific names of airports. The appropriate response is that we are looking at security risks across the board, and it would be right and responsible to do so, to ensure, as I said, that we seek to eradicate any risk to safety. In the action that we took on Sharm el-Sheikh, the British Government's view is clear. If we perceive that there is a risk to the safety and security of UK citizens, we will act—and we have done so.

Lord Hylton (CB): Does the noble Lord agree that better intelligence on and better control over airport workers are far more important than ever tighter checks on British travellers?

Lord Ahmad of Wimbledon: I agree with the noble Lord, but I add that it is appropriate that we look at increasing security when necessary on all passengers. Underlying the points that he has raised, there is also the importance ensuring that those who carry out the screening of passengers and baggage are fully and effectively trained.

Baroness Randerson (LD): My Lords, can the Minister explain or give us information on the specific situation at Sharm el-Sheikh Airport? Much anecdotal evidence is now emerging of long-standing security concerns there. Can the Minister explain whether the British Government have been involved at this airport previously, or whether their involvement is occurring only now?

Lord Ahmad of Wimbledon: I think I have already answered the question. The British Government have been, continue to be and will in future be engaged with countries and airports across the world to ensure that we address safety concerns. The noble Baroness asked about the situation on the ground in Sharm el-Sheikh, but I am sure she has also been following the fact that the British Government, working together with airlines—I commend their actions in this respect—has already resulted in more than 7,700 UK citizens returning to the UK over the last few days. We continue to work with the Egyptian authorities on the ground and with the airlines, so that all other remaining passengers who wish to return are returned to the UK as soon as possible.

Lord Rosser (Lab): The Government said last Thursday in this House:

"We have continuing arrangements with authorities across the world to review aviation security arrangements in airports regularly to ensure that they are meeting required standards".—[*Official Report*, 5/11/2015; col. 1805.]

In the light of the last question, when was the last review of the airport at Sharm el-Sheikh, and did it reveal that the security arrangements met the required standards? If it did so, what confidence can we have in these reviews, in the light of the recent apparent outrage and the Government's no doubt justified decision to suspend UK-operated flights to and from Sharm el-Sheikh? Finally, will future reviews of airports across the world simply look at trying to ensure that existing security arrangements work properly, or will they look at introducing new features to enhance security?

Lord Ahmad of Wimbledon: Again, I shall not go into specific details of security arrangements, but the Government, as I am sure that the noble Lord is aware—and as the whole House is aware—continue to work on the ground with the respective sovereign authorities and airlines to ensure that we not only minimise but eradicate the risk and ensure the safety and security of all passengers. We will continue to do so.

Baroness Rawlings (Con): My Lords, I wonder whether Her Majesty's Government's plans are progressing regarding possible voluntary profiling for passengers at airports.

Lord Ahmad of Wimbledon: I think my noble friend is alluding to the issue of passenger profiling. Some operators—indeed, the American airlines—engage in passenger profiling. That is certainly something that has been reviewed and I am sure, in light of the recent incident, we are looking at all measures to ensure that we have the most effective procedures on the ground, wherever we are in the world, to ensure the safety and security of all passengers.

Scotland Bill
First Reading

3.19 pm

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

Liaison Committee
Motion to Agree

3.19 pm

Moved by ***The Chairman of Committees***

That the 2nd Report from the Select Committee (An International Relations Committee) (HL Paper 47) be agreed to.

The Chairman of Committees (Lord Laming): My Lords, I have the pleasure of presenting the report of the Liaison Committee. In recent times, the proposal that the House should establish an international relations committee has received a greater degree of attention. The issue has been raised in the Chamber on a number of occasions and there have been written representations from many Members. Therefore the Liaison Committee has been considering the matter in some detail. We appreciate that there is a range of views across the House on this question. The Motion before the House invites your Lordships to agree with the Liaison Committee's recommendation to establish an international relations committee from the start of the next Session, together with a number of safeguards relating to membership and financial discipline.

As Members will know, the House has recently established ad hoc committees to consider a particular subject matter for one Session only, with some follow-up by the Liaison Committee. This enables a wide range of colleagues to participate in committee work. However, given the conflicts and tensions in the world and the interest of this House in international affairs, several Members have pressed for your Lordships' House to have an international relations committee. If the House agrees to the proposition, it will be important to draw on a range of experience, and therefore the report invites the groups to bear this in mind when they make membership recommendations to the Committee of Selection.

We heard concerns, too, about the likely cost of an international relations committee, particularly in relation to travel. In broad terms the average annual cost of a Select Committee is about £225,000. Our report invites the House Committee, in drawing up the House financial plan, to consider whether any additional budget required by the Committee Office for the new committee should be offset by savings in other areas. For clarification, this does not mean that other committees will be affected in the next Session.

In addition, our report recommends a full review of investigative committee activity in the Session 2017-18. This will enable a timely evaluation of whether the new committee is working well, whether the safeguards are effective and how it is interacting with the European Union External Affairs Sub-Committee—Sub-Committee C—as well as of the overall shape of Select Committee activity. Although the Liaison Committee considers committee work at the end of each Session, there has not been a comprehensive review of the committee structure of the House since the Jellicoe committee reported in 1992. Since then there has been a considerable growth in the number of committees. Twenty-five years after the Jellicoe report, the time seems right to look again at our committee structure.

There is never a perfect solution to issues such as this, but the committee agreed that it needed to make a recommendation to the House for a decision. I hope that your Lordships will agree that our recommendation, including the safeguards, strikes an appropriate balance between the views expressed to us. I beg to move.

Lord Pearson of Rannoch (UKIP): My Lords, although I welcome the new committee, may I ask the noble Lord to say a little more about why we need it, in addition to the External Affairs Sub-Committee of our European Union Committee? May I also once again ask the noble Lord whether we really need seven European Union sub-committees, especially when Brussels pays so little attention—indeed, virtually no attention—to their deliberations? Would we not do much better to distribute most of the cost of our seven European sub-committees over a number of ad hoc committees, for which your Lordships are so peculiarly knowledgeable and well suited, in the national interest?

Lord Craig of Radley (CB): My Lords, as a Member of the Liaison Committee at the present time, I endorse the carefully chosen and wise words of the Chairman of Committees and I join him in commending this report. There is, unquestionably, wide knowledge and expertise in the field of international relations in your Lordships' House. There is of course, too, no shortage of deep knowledge and expertise in other major topics. The Chairman of Committee's review of all sessional Select Committees in 2017 will give the House the opportunity to consider this wider field and to reach judgments, in the light of available resources, on how best to embrace the expertise available on a variety of topics.

As a previous member of the Liaison Committee during my time as Convenor from 1999 to 2004, I remember similar and protracted pressures on the Liaison Committee then to set up a variety of committees. Voices were raised in favour of sessional committees to consider a variety of topics. In particular, I recall one of those related to the media and creative industries, and this subsequently emerged as the Communications Committee. So the Liaison Committee has in-depth experience of handling such problems. As now, there were many noble Lords with great knowledge and expertise in a variety of other topics, and the Liaison Committee had to reach difficult judgments about both the topics and the resources available for the work.

The then committee had been reluctant to endorse additional Select Committee work on two practical grounds. First, there was no additional funding nor expert staff available to support a full-scale committee. This was ultimately resolved to set up the Communications Committee. Secondly—this is an important point—the number of active Peers who were available to fill the whole range of Select and other committees had to be considered. It was much less than it is now.

Indeed, as Convenor, with fewer available Cross-Benchers than now, and with fewer as active as those who sit following selection by the House of Lords Appointments Commission, I found that it could be quite difficult to find the appropriate numbers and skills to fill the Cross-Bench membership quotas after taking account of rotational requirements. Today, there are more Cross-Benchers ever more fully engaged in the many aspects of the work of the House, and there are many more noble Lords overall from whom to draw committee membership. So I feel that those two practical issues are now properly dealt with.

As an aside, were the membership of your Lordships' House to be significantly reduced at some future date, this could impact on the number and range of topics that could be dealt with by sessional committees. However, that is a bridge yet to be crossed. I join the Chairman of Committees in commending this report to the House.

Lord Jopling (Con): My Lords, I add to the good wishes which have already been expressed to the noble Lord for presenting the committee's report to us. I speak as one who spent many years on Sub-Committee C dealing with foreign affairs and defence. I was chairman of that committee for a number of years and remember very well the frustrations we had in not being able to deal with crucial areas of international affairs around the world, including the issue of the Commonwealth, in which my noble friend Lord Howell of Guildford has been involved and enthusiastic about for many years. We were precluded from looking into the problems of the Far East, India, China and South America, and I am enormously pleased that this proposal has been put before the House today.

Lord Campbell-Savours (Lab): My Lords, the Chairman of Committees referred to the Jellicoe review of some 25 years ago. I have to ask a question as an opponent. I have been an opponent as a member of the Liaison Committee, which I recently came off along with a few others. I notice that the mood in the committee seems to have changed in favour of this proposal following a lot of pressure and a successful campaign organised by the noble Lord, Lord Howell of Guildford, I suspect. However, if there is going to be a review again in 2017-18, why could not this proposal be deferred until that review took place? It would have taken place in the context of a redistribution of resources throughout the whole of the Select Committee structure in the House and would have led to a far more rational and reasonable discussion about what is to take place.

3.30 pm

Secondly, I refer to paragraph 11 of the report, which recommends,

"an agreement with the EU Committee on the boundaries between the EU Committee's activities, particularly those of its Sub-Committee on External Affairs, and the International Relations Committee".

That is not where the conflict is going to be; it will be with the Foreign Affairs Committee in the House of Commons. Indeed, there will be real conflict, because we have some very distinguished former members of previous Governments in this House, including many members of former Cabinets and former Permanent Secretaries, former experts in foreign affairs, representatives of the United Nations and other great, important and significant people, who will dominate this committee.

When delegations from abroad come to the United Kingdom and are deciding on whom they are going to meet and who they want to treat as more significant in the discussion taking place, it will be the Lords committee that commands the day, because it includes all these formerly very eminent people who, in my view, will make it very difficult for the House of Commons Foreign Affairs Committee to operate. There will be Members of the House who will say, "Yes, but we are the House and we are entitled to do this". But I still believe that we are undermining the credibility of the Foreign Affairs Committee in the House of Commons—I am wearing a Commons hat as I served there as a former Member.

We now come to the question of the financing of this arrangement. In paragraph 9, the report states:

"We invite the House Committee, in drawing up the House's financial plan, to consider whether any additional budget required by the Committee Office for this purpose should be offset by savings in other areas".

The members of the House Committee know exactly what will happen: of course it will be funded out of the savings in other areas. The House Committee will be under pressure to increase its general budget to ensure that moneys for travel by this committee are expended, and they will be made available. This is a two-stage process. All we are doing today is establishing the principles of the committee. The next stage will be the resources stage, where the money is allocated.

Then there is the question of the co-option of members, referred to in chapter 11.18 of the *Companion.* When the discussions were taking place about the role of this committee, its powers and its restrictions, the noble Lord used the phrase "constraints on the committee". Were there any discussions about the possibility of ad hoc appointees to this new international relations committee? It is important that we know exactly what the position is there.

I turn finally to the question of the ad hocs. I was on the Procedure Committee and the Liaison Committee when we were dealing with the whole question of the appointment and the creation of the ad hoc structures. It was a very interesting debate because the view was expressed generally across the committee that the ad hocs would have free range across all subjects and would be able to raise those subjects as and when the time came annually when we were reviewing the list of applications for inquiries. However, now that this decision is being taken, the whole question of ad hoc work is going to be circumscribed by the existence of this new committee. Whenever a controversial subject comes up in the area of foreign affairs—as I said, I have been on the committee and seen how it works—the members will say, "Let's leave that to the Foreign Affairs Committee". The effect of that will be that that committee will determine the agenda, and it will fix an agenda that does not necessarily represent the views of the wider membership of the House, as brought forward in the submissions made to the ad hoc committee by the wider membership.

[LORD CAMPBELL-SAVOURS]

Therefore, in my view, not only are we undermining the credibility of the Foreign Affairs Committee's structure in the House of Commons, but we are also undermining the work of the ad hoc committee structures that we have created here in the House of Lords. I appeal to the House to refer this matter back. If we come back on another occasion, we can all go silent, but let us refer the matter back on this occasion, either for another report that takes into account some of the issues that I have raised in my contribution today but perhaps even goes as far as suggesting that we defer this decision until the 2017-18 Session, when the matter can be revisited in the context of all committee memberships.

Baroness O'Cathain (Con): My Lords, I rise solely to deal with the issue of ad hoc committees and the effect of the foreign affairs committee on the operation of ad hoc committees. First of all, I have to say that I totally support a foreign affairs committee in the House of Lords for the same reason as has been stated. We have so much expertise here and foreign affairs are more important now than they have been for many a year. We are in a very unstable situation worldwide and we need to draw on all the expertise that we can. Let us not forget that Members in the other place have a huge number of responsibilities, not least to their constituents. We have the luxury—I say that word—because we have time to consider, and the experience and expertise to draw on. We do that very, very well.

To get back to the ad hoc committees, the noble Lord made the point that they would suffer if a foreign affairs committee were to come in. How would that impact on the Digital Skills Committee, the Affordable Childcare Committee, or the one which I have the honour to chair, which is on the national policy for the built environment in this country? I think this is using the wrong thing in which to scupper a very good idea.

Lord Hope of Craighead (CB): My Lords, as a member of the committee, might I say that a factor of importance to us was the question of timing? It seemed to us that the fact that it was possible to have a review in the following year was critical to the overall decision. There are various factors that would have to be considered but they are better considered after the year of seeing how the committee actually works, so the timing is as good as it could be for that reason.

A further factor of importance which the noble Lord mentioned is the fact that this is being undertaken without prejudice to the existing structure of committees across the House, including the European Union Committee. No doubt that will have to be reviewed later, but that is best done after this year has passed and we have seen how this particular committee operates in practice.

Lord Anderson of Swansea (Lab): My Lords, may I say how much I believe my noble friend Lord Campbell-Savours was right to raise important details about resources? I hope that the future committee will indeed have some restraint on travel.

My noble friend also made points about the ad hoc committees, but his major point related to possible conflict with the Foreign Affairs Committee in the other place. I had the honour to follow the noble Lord, Lord Howell of Guildford, in chairing that committee. I chaired it for eight years—for two Parliaments. When the noble Lord, Lord Howell, asked for my opinions at that time on a point of consistency, I said that it is a big world and as long as there is a degree of good will and working together, I fully supported the creation in this House of the committee which is now proposed. Even then, one recognised that there was an enormous pool of relevant experience in this House. There still is but that did not alter my view that, given the turbulence and importance of matters around the world, and the limited agenda of the Foreign Affairs Committee in the other place, it was important that this reservoir of experience should be tapped.

The noble Lord, Lord Pearson, asked, "Well, why not Sub-Committee C?". I served on that committee and it does some good work, but the Procrustean distortion of that committee is this: that everything has to be viewed through the prism of the European Union. As the noble Lord, Lord Jopling, said, important areas—be it the Commonwealth, the Far East, or other areas that are not directly relevant to the European Union—are excluded from its remit. Yes, there will have to be a degree of co-ordination, of good will and of working together, but this is appropriate and I personally congratulate the noble Lord, Lord Howell, on what has been a long and rather successful campaign.

Baroness Whitaker (Lab): My Lords, in warmly supporting this proposal I suggest that an additional reason for it is that we have no formal structure for scrutinising our international obligations. We have an ample structure for scrutinising European legislation proposals—and one which is widely admired—but absolutely nothing to deal with our obligations under international treaties or proposals under them, such as international protocols. That is what this committee could provide. It is very important for Parliament to have a voice in these negotiations.

Lord Grocott (Lab): My Lords, I have a simple factual question. Everybody has been talking as if there is clarity about when the committee will be established and when the review will take place. That seems to be based on a false premise, unless I missed something in an announcement. The reference is that the committee will be established in the next Session and the review will be in the following Session. I do not know when the next Session is going to start. I do not know whether the Chairman of Committees can tell me that. I have a rather nervous disposition, and I remember that in the last Parliament, the one beginning 2010, the first Session—much to the opposition of many of us—lasted for two years. The Leader and the Chief Whip are present, so I would like an instant response on this question: I simply want to know when the next Session will start, because until we get clarity on that a lot of this discussion is based on a false premise.

Lord Foulkes of Cumnock (Lab): My Lords, I do not disagree with what my noble friend has said, but I have one point to make. I had the honour of following my noble friend Lord Campbell-Savours as a member of this Liaison Committee. When I joined the committee, I found that there had been a very long-running battle

between the enthusiasts for setting up an international relations committee and those who had reservations. Since the noble Lord, Lord Laming, took over as Convenor, he has, with tremendous skill and remarkable diplomacy, come up with a compromise which allows the setting up of the committee but puts very strong limits and controls on it. He is to be congratulated. I hope that we do not delay it and that the House passes it and endorses it unanimously.

Lord Howell of Guildford (Con): My Lords, I welcome the decision of the Liaison Committee and the Chairman. I want to disabuse the noble Lord, Lord Campbell-Savours, on one point, because I understand many of his concerns. However, like the noble Lord, Lord Anderson, I had nine years as chair of the Foreign Affairs Committee in the Commons and I should explain to him something that I do not think he has quite grasped: that the focus of the FAC in the Commons is on the Foreign and Commonwealth Office. It scrutinises the budget, expenditure and activities of the Foreign and Commonwealth Office. This is entirely appropriate: it is a department-focused committee.

In the world that we are living in, the international relations concerns of this nation are engaged in by almost all the departments of state and many government agencies—it goes well beyond the Foreign and Commonwealth Office. There is a need for a body that can begin to focus on these much wider international relations issues, which are now in great turbulence around the world and where the direction and purpose of this country really need as much support and analysis as we can supply. We have the Commons Foreign Affairs Committee, which does an excellent job—its latest report on the Foreign and Commonwealth Office is strongly recommended—but a wider view is needed, and a wider view is just the sort of thing that this Chamber can provide. This is a good move for the House of Lords, and heaven knows we need a few good moves. I strongly welcome it, and, although I appreciate the worries of the noble Lord, Lord Campbell-Savours, they are based on a false understanding of the world that we live in.

Lord Judd (Lab): My Lords, the country has been through immense change in recent decades. We have moved from being a great imperial power to one which is dependent for the survival and well-being of its people on international co-operation. We will be judged by our children and our grandchildren on our success or failure in relation to that demanding challenge. Given the experience at the disposal of this House, it seems to me inconceivable that we should go any further without establishing a committee on international affairs as a priority. A tremendous tribute is due to the noble Lord, Lord Howell, for the consistent leadership he has shown on this issue.

3.45 pm

The Chairman of Committees: My Lords, I am very grateful indeed to all colleagues who have taken part in this debate. I said earlier, perhaps rather inadequately, that there is never a perfect solution to issues of this kind. This debate has demonstrated that there is no perfect solution. I say to the noble Lord, Lord Grocott, that I have no idea about the Session. We as a committee were charged with thinking about where we are now and to face the reality of where we are now. We have come up with a recommendation on where we are now which I hope will commend itself to the House.

I am most grateful to members of the committee who spoke in support of this recommendation. The noble and gallant Lord, Lord Craig, the noble Lord, Lord Foulkes, and the Convenor, the noble and learned Lord, Lord Hope, have all played a very full part in what has been a serious examination of these important matters. I hope that it will be no surprise to the House that many, if not all, of the points that have been raised this afternoon were raised in the committee.

The noble Lord, Lord Jopling, and the noble Baroness, Lady Whitaker, made extremely strong points in respect of the fact that the EU Committee and its sub-committees serve this House, this nation and the European community extremely well. It scrutinises all the proposals that come from Europe. I have not served on any of the sub-committees but everything that I have heard indicates that those committees do their job very conscientiously, and sometimes to much greater effect than any of the other member states of the European Union. But the material that they get relates to Europe and European interests. The noble Lords, Lord Judd and Lord Anderson, referred to the turbulence in the world. We are now thinking about the tremendous conflicts and the very serious issues that ought to concern us all—and I know do concern us all—and which are well beyond the boundaries or the immediate interests of Europe. It is those issues that the Liaison Committee recognises are important.

Why do this now? We do it now because grave issues face the world. We have great expertise in this House but we do not want the membership of the committee —if it is approved by the House—to be made up mainly of noble Lords with known expertise that we all recognise, such as the noble Lord, Lord Howell, who has been mentioned. When members are put forward in the usual way, we would like consideration to be given to ensuring that we have a proper balance.

Lord Campbell-Savours: I am sorry to intervene again. Was there any discussion with the chairman of the Foreign Affairs Committee in the House of Commons—I know a new chairman has just been elected? Was there any consultation with the Foreign Affairs Committee on the proposal that we are considering?

The Chairman of Committees: If the noble Lord will just give me a minute, I will get to how we make sure that the resources of both Houses are used to the greatest effect. In fact, I will deal with it now. We have experience in this House of committees with similar interests working closely with the other end. We have extremely good experience of the two ends of the building working together on science and technology.

One of the reasons why we think it would be helpful to establish a committee of this kind, at this stage, is that—as the noble and learned Lord, Lord Hope, said—when it comes to a major review later on, as I indicated, we would have experience of how it works, not just with the EU sub-committee but how it works

[THE CHAIRMAN OF COMMITTEES]
with the other end and also with regard to the safeguards we are putting in place. As a direct answer, I have not spoken to the chairman at the other end, but I am very happy to do so. But I imagine that what is much more important is that, whoever becomes the chairman of such a committee, I confidently predict that the chairman of a committee of this House will make it his or her business to have close liaison with the chairman at the other end.

Baroness Farrington of Ribbleton (Lab): My Lords, can I ask the noble Lord, Lord Laming, if he can give an assurance that if the parliamentary timetable should change—because I note we did not get an answer to the question from my noble friend Lord Grocott—this proposal would come back for reconsideration in the light of changed circumstances?

The Chairman of Committees: I hope that the House will agree today to do several things. One is to agree that this House will appoint an international relations committee. Secondly, that this House will undertake—in the time I made reference to; and it is in the report—a thorough review of all committees. We will do that, if the House approves, in a timely way and will go on carrying out our business. I do not think there is any impediment to us doing that.

With regard to some of the other points that were made, it has been said that it would have a bad effect upon ad hoc committees. Actually, with regard to an international relations committee, in the light of what is happening in the world today—and there are grave matters—I do not think that anyone would not want an ad hoc committee to look at the Arctic or women in situations of conflict. We can continue to do these things. The choices of topics for ad hoc committees are made in this House, and they can be influenced by whatever the concerns and interests of the House may be.

I am not very good at all this, but I am doing my best. If I have missed somebody out or some really serious point, please take me to task afterwards. However, I commend the report to the House.

Motion agreed.

Europe: Renegotiation

Statement

3.53 pm

The Earl of Courtown (Con): My Lords, I beg leave to repeat a Statement made earlier today in the House of Commons.

"With permission, Mr Speaker, I will now make a Statement on the Government's EU renegotiation. As the House knows, this Government were elected with a mandate to renegotiate the United Kingdom's relationship with the European Union, ahead of an in/out referendum by the end of 2017. Since July, technical talks have taken place in Brussels to inform our analysis of the legal options for reform. The Prime Minister has today written to the President of the European Council to set out the changes we want to see. A Written Ministerial Statement with a copy of this letter was laid before the House earlier today. I would like to offer the House further detail.

The Prime Minister's speech at Bloomberg three years ago set out a vision for the future of the European Union. Three years on, the central argument then remains more persuasive than ever. The European Union needs to change, and others have increasingly recognised this. Only two weeks ago, Chancellor Merkel said that British concerns were German concerns as well. The purpose of the Prime Minister's letter is not to describe the precise means, including the detailed legal amendments, for bringing our reforms into effect. That is a matter for the negotiation itself. What matters to us is finding solutions. This agreement must be legally binding and irreversible—and, where necessary, have force in the treaties.

I will outline the four main areas where we seek reform. The first is economic governance. Measures which eurozone countries need to take to secure the long-term future of their currency will affect all members of the EU. These are real concerns, demonstrated by the proposal we saw off this summer to bail out Greece using contributions which also came from non-euro members. As the Prime Minister and Chancellor have set out, a number of principles should underpin any long-term solution on this, as well as a safeguard mechanism to ensure that these principles are respected and enforced.

These principles should include recognition that: the European Union has more than one currency; there should be no discrimination and no disadvantage for any business on the basis of currency; taxpayers in non-euro countries should never be financially liable for supporting eurozone members; any changes the eurozone needs to make, such as creation of a banking union, must never be compulsory for non-euro countries; financial stability and supervision should be a key area of competence for national institutions such as the Bank of England for non-euro members, just as financial stability and supervision have become a key area of competence for eurozone institutions such as the ECB; and any issues that affect all member states must be discussed and decided by all member states.

I turn to Europe's competitiveness. We welcome the European Commission's focus on this. Legislative proposals have been cut by 80% and more proposals taken off the table this year than ever before. Progress has been made towards a single digital market, a capital markets union and in last month's new trade strategy. But we must go further. The burden from existing regulation remains too high. Just as we secured the first ever real-terms cut in the EU budget, so we should set a target to cut the total burden on business. This should be part of one clear commitment, bringing together all the various proposals, promises and agreements on competitiveness.

I turn now to sovereignty. As the Prime Minister said at Bloomberg, and we have stressed many times since, in the United Kingdom and in many other member states, too many people feel that the European Union is something that is done to them. In his letter, the Prime Minister makes three proposals to address this. First, we want to end the United Kingdom's obligation to work towards an 'ever closer union' as set out in the treaties. For many British people, this simply reinforces the sense of being dragged against our will towards a political union. Secondly, we want

to enable national parliaments to work together to block unwanted European legislation, building on the arrangements already in the treaties. Thirdly, we want to see the European Union's commitments to subsidiarity fully implemented, with clear proposals to achieve that. We believe that if powers do not need to reside in Brussels, they should be returned to Westminster. As the Dutch have said, the ambition should be,

'Europe where necessary, national where possible'.

I turn now to an issue of great concern for the British people: immigration. As the Prime Minister made clear in his speech last November, we believe in an open economy which includes the principle of free movement to work. I am proud that people from every country can find their community in the United Kingdom. But the issue is one of scale and speed. The pressure which the current level of inward migration puts on our public services is simply too great, and has a profound effect on those member states whose most highly qualified citizens have departed.

The Prime Minister's letter sets out again our proposals to address this. We need to ensure that when new countries are admitted to the European Union, free movement will not apply until their economies have converged much more closely with those of existing member states. We need to crack down on all abuse of free movement. This includes tougher and longer re-entry bans and stronger powers to deport criminals, stop them coming back and prevent them entering in the first place. It includes dealing with the situation whereby it is easier for an EU citizen to bring a non-EU spouse to Britain than for a British citizen to do the same. We must also reduce the pull factor drawing migrants to the United Kingdom to take low-skilled jobs, expecting their salary to be subsidised by the state from day one.

We propose that people coming to Britain should live here and contribute for four years before qualifying for in-work benefits or social housing, and that we should end the practice of sending child benefit overseas. The Government are open to different ways of dealing with these issues, but we need to secure arrangements that deliver on these commitments.

Let me say something about the next steps. There will now be a process of formal negotiation with the European institutions and all European partners, leading to substantive discussion at the December European Council. The Prime Minister's aim is to conclude an agreement at the earliest opportunity, but the priority is to ensure that the substance is right. It is progress in this renegotiation that will determine the timing of the referendum itself.

The Government fully recognise the close interest from this House. We cannot provide a running commentary, but we will continue to engage fully with the wide range of parliamentary inquiries—currently 12 across both Houses—into the renegotiation. Documents will be submitted for scrutiny in line with normal practices. The Foreign Secretary, I and other Ministers will continue to appear regularly before Select Committees, and the referendum Bill will return to this House before long.

The Prime Minister has said that, should his concerns fall on deaf ears, he rules nothing out, but that he also believes that meaningful reform in these areas would benefit our economic and national security, provide a fresh settlement for the UK's membership of the European Union, and offer a basis on which to campaign to keep the United Kingdom as a member of a reformed EU. I commend this Statement to the House".

4.02 pm

Baroness Morgan of Ely (Lab): My Lords, I thank the Minister for repeating the Statement on the Government's EU renegotiation. It is disappointing that the Prime Minister did not come to Parliament to report on the negotiations and that he made his speech in front of an external organisation.

The Prime Minister was right to say this morning that the decision on whether the United Kingdom remains a member of the European Union is the biggest decision this country will take for a generation. That is one of the reasons why we will be pushing for 16 and 17 year-olds to be given a vote in the referendum when the EU referendum Bill comes before this House next week.

We want to see Britain playing a full role in shaping a better Europe that offers jobs and hope to its young people, a Europe that stands together to face urgent security problems and a Europe that uses its collective strength in trade with the rest of the world. At last, we have heard, following repeated requests—not just from people in the United Kingdom, but from leaders throughout the European Union—what the Government are looking for in their renegotiation. I am sure that, for some on the government Benches, there will never be enough to satisfy them in their desire to leave the largest single market in the world. They will want to leave the EU irrespective of the costs to the people of this nation. They are willing the Prime Minister to fail and their only role will be to push the demands that they know cannot be met.

The agenda published today raises important issues, including some that were raised in Labour's election manifesto earlier this year. It is interesting to note that there is very little in the Prime Minister's request list about jobs and growth. It seems to us that one of the issues that Europe has been struggling with has been low growth and high unemployment. There does not seem to be anything in his letter to President Tusk—apart from his aim to reduce the regulatory burden, which is already under way—that addresses this issue. Will the Minister explain why this is the case?

Many workers throughout the land will be relieved to see that there is no attempt to water down the hard-won employment rights that have been agreed at the European level over the years. It will be useful to know whether the Minister thinks that there will be a need for a special EU summit meeting to agree the outcome of the renegotiation or whether it will be tagged on to a prescheduled Council meeting. If so, can the Minister confirm whether the earliest possible date for an agreement is the March Council meeting, which would make it almost impossible to hold the referendum in June next year? Does the Minister agree that while Europe is trying to cope with the largest refugee crisis that it has seen since the Second World War, the British negotiation will not be top of the in-tray of most leaders in EU member states?

[Baroness Morgan of Ely]

I always find the Prime Minister's talk of the need for sovereignty to be quite interesting. He is willing to flog our railways off to European nationalised companies, sell our water companies off to unaccountable hedge funds and allow the Chinese to run our nuclear power stations. Does the Minister find the double standards on the issue of sovereignty as startling as I do? Can the Minister also outline whether he thinks it would be fair and necessary for those who advocate withdrawal from the EU to set out clearly what the alternative relationship with our EU partners will look like? Can he address, specifically, the likely impact on jobs, trade, investment, employment rights, agriculture and the environment, to name just a few? Finally, can the Minister give an assurance that the Foreign Office will receive substantial protection in the forthcoming budget round and will have the staff resources necessary to navigate this difficult renegotiation?

We believe that the EU does need reform and must offer its people more hope for the future, but we believe that that is best achieved by Britain playing a leading role in the future of the EU. Our history is not the same as that of many other member states, and perhaps we never look at these issues through precisely the same eyes. However, noble Lords should be clear that Labour will be campaigning to remain in the EU and will argue for a Britain engaged with the world and using its power and influence to the maximum—not walking away from a partnership we have built over a period of 40 years.

Baroness Smith of Newnham (LD): My Lords, like the noble Baroness, Lady Morgan, I welcome the Statement. I also had the good fortune—I think—to have been at the speech this morning. Having also read the letter, I feel as if I have read and seen the same thing three times, so at least there is consistency in the letter that, finally, we have seen. Members of your Lordships' House called at Second Reading of the European Union Referendum Bill to see the letter at the same time that it was sent to President Tusk, so that is clearly very welcome.

There is probably nothing terribly surprising in the letter. When I was in Brussels at the end of September, people were saying, "Where is the letter? What does the Prime Minister want?". Fellow leaders and members of the permanent representations in Brussels were told, "Look at the Bloomberg speech; look at the Conservative Party manifesto". The Prime Minister was certainly very keen this morning to keep sending us back to his Bloomberg speech, as many of the issues that he raised in January 2013 have reappeared in the letter. Many of them appear to be very sensible: non-discrimination against non-eurozone countries is something that everyone in this country can welcome. The idea that the Prime Minister and the United Kingdom generally accept that there should not be a unilateral request for changes for the UK but that whatever we negotiate should benefit the European Union as a whole is clearly welcome. Several of the areas covered seem to be straightforward, and Liberal Democrats would not object to the requests or the issues for negotiation in terms of economic governance or competitiveness. Indeed, competitiveness and the digital single market are areas where we are already seeing progress on reform, even before we get to more formal renegotiation.

On the sovereignty side of things, although some of us might still quite like to be committed to ever-closer union, we recognise that the issue is totemic for some. However, for some of the Eurosceptics in another place, that already seems to be a bit of a problem in that they seem to think it does not really matter. One omission seems to be proportionality. There is a reference to subsidiarity, but can the Minister say whether the Government will also look at the issue of proportionality, which links with wider questions about the role of national parliaments?

Finally, there are questions on immigration and fairness of the system. Nobody favours abuse of the system, but can the noble Earl tell us what sort of abuses the Government seek to rectify? Can he clarify how the Government propose to address ECJ judgments that have widened the scope of free movement? I understand that he cannot get into the technicalities of negotiation, but from listening to the Prime Minister this morning and hearing the Statement, it is not wholly clear what is meant there.

I, along with other Liberal Democrats, very much look forward to campaigning with the Prime Minister to keep Britain in the European Union—which, if this renegotiation is satisfactory, I believe that he will be doing, and I hope that the noble Earl will be joining us.

The Earl of Courtown: My Lords, I thank both noble Baronesses for their response to the Statement. I was pleased to hear a lot of agreement over the broad thrust of much of what my right honourable friend the Prime Minister said. The noble Baroness, Lady Morgan, said how important this was and that it was a really big decision, and she is quite right. The noble Baroness, Lady Smith, agreed with her. We want Britain to play a full role in it.

The noble Baroness, Lady Morgan, mentioned jobs. We have continued to improve employment in this country, with wages rising as well. We want to ensure that that continues, and part of that will be productivity, which is one area where we may need further work to be done. That is all part of our planned EU reforms to ensure that our growth improves and that unemployment remains very low. As noble Lords will be aware, we have the greatest growth in the G7 and the best unemployment figures in the EU.

The noble Baroness also mentioned the FCO budget and the CSR. There are another couple of weeks before that will be announced, but I understand that there is also a Question on the subject the week after next. The noble Baroness, Lady Smith, mentioned proportionality and the ECJ. For any greater detail on that, I will have to write to her.

The Prime Minister is focused on this renegotiation and reforming the UK's relationship with the European Union. He is confident that, with good will and understanding, he can and will succeed in negotiating to reform the European Union and Britain's relationship with it. As he has said, if he succeeds, he will campaign to keep the UK in a reformed European Union—as will I—but, if he does not achieve these changes, he rules nothing out.

4.13 pm

Lord Lawson of Blaby (Con): My Lords, the Statement we have heard runs the full gamut from the inadequate through the vague to the completely meaningless. I ask my noble friend two quick questions of elucidation. Under economic governance, the Statement concludes that any issues that affect all member states must be discussed and decided by all member states. Does it mean that legislation in this area must be agreed by all member states? If not, what on earth does it mean?

Secondly, under sovereignty, the Prime Minister's letter to President Tusk states that he would seek a formal, legally binding and irreversible way to exempt the United Kingdom from the commitment to ever-closer union. But since the rest of the European Union is committed to ever-closer union, and since the European Union will continue to legislate to this end, what on earth does that achieve?

The Earl of Courtown: My Lords, my noble friend raised two questions, and in the second he talked about ever-closer union. As he is aware, we want to halt this constant flow of powers to Brussels and part of that includes ensuring a stronger role for national parliaments. The concept of ever-closer union may be what some others want but it is not for us. We also need to ensure that subsidiarity is properly implemented.

The noble Lord also mentioned the legally binding nature of any renegotiations. We have on the table at present a substantial package of changes, including treaty change, which needs to be agreed before there is a British referendum. This is exactly what has happened in other countries and on other occasions. Agreement on the package must happen before the referendum, but we would never have got all 27 other parliaments to pass treaty change before the referendum. That is not in any way strange; it is how it is usually done, as in the case of the Croatian accession treaty and the ESM treaty. What matters is getting the substantial agreement. It will be difficult to get but it is not impossible. Indeed, it is eminently resolvable.

Lord Tomlinson (Lab): Will the Minister cast his mind back to the Statement made by the Minister of State at the Foreign Office following the last European Council meeting? She outlined four main principles. What additional information are we given in this letter, compared with that given by the noble Baroness, Lady Anelay, in the Statement following the last European Council meeting? We were told that there would be substantial detail, yet as we get the Statement the covering letter says very clearly that,

"this letter is not to describe the precise means, or detailed legal proposals, for bringing the reforms we seek into effect".

What is it supposed to do if it is not supposed to do that? We were promised by the Minister of State that we would get much more significant detail by the time we got the letter addressed to the President of the European Council. Can he tell us where—in either the Statement or the letter—that additional detail is?

The Earl of Courtown: My Lords, the noble Lord asks for more detail. As he obviously recognises, while renegotiation is still taking place we cannot give a running commentary on this issue. There are four objectives, which my noble friend mentioned briefly in the initial Statement, and more information has been given in the speech and letter by my right honourable friend the Prime Minister. One is to protect the single market for Britain and others outside the eurozone in the form of a set of binding principles that guarantee fairness between the euro countries and non-euro countries. The second is to write competitiveness into the DNA of the whole European Union, including cutting the total burden on business. The third is to exempt Britain from ever-closer union and bolster national parliaments through legally binding and irreversible changes. Then the fourth is to tackle abuses of the right to free movement and to enable us to control migration from the EU. As soon as more information is available, and at a suitable moment, the House will no doubt be informed.

Lord Hylton (CB): My Lords I welcome the Statement and the letter to Mr Donald Tusk. I trust the contents will benefit all member states and the Union as a whole. My wish is that it should help this country to vote yes. As regards the applicant members in south-east Europe, I suggest that the brake on free movement will accelerate their entry into the EU, which is so desirable. As regards refugees and migrants now posing a great challenge to the EU, can the noble Earl confirm that negotiations on our future relationship will not prejudice effective and humane action to handle the challenge more effectively than up to now?

The Earl of Courtown: My Lords, the noble Lord, Lord Hylton, mentioned primarily migration and the problem hitting the whole of Europe at the moment. I see no reason why we would stop our continuing work, and particularly our DfID budget, helping those migrants—preferably upstream, where we can stop them moving towards Europe in the first place.

Baroness Ludford (LD): My Lords, as my noble friend Lady Smith said, none of us wants any abuse of free movement and benefits. Will the noble Earl confirm that the statistic much cited today, that 40% of EU migrants claim benefits, largely means tax credits and possibly child tax credits? We are not talking about scroungers on the dole but working EU migrants. That is what this is meant to be about. Could the noble Earl kindly explain a little more on this? The Prime Minister still talks about a four-year wait but there are hints that other solutions could be possible. For instance, does the Prime Minister mean codifying the very helpful recent judgments by the Court of Justice of the European Union? Could the noble Earl signpost us to an alternative to a frankly unachievable objective?

The Earl of Courtown: My Lords, the noble Baroness, Lady Ludford, mentioned the detail of my right honourable friend's speech earlier today. He said:

"We now know that, at any one time, around 40% of all recent European Economic Area migrants are supported by the UK benefits system … with each family claiming on average around £6,000 a year of in-work benefits alone".

On the noble Baroness's other point, relating to the four-year restriction, I will read out the whole paragraph I have here, if the House allows. It says:

"Our objective is to better control migration from within the EU. There are obviously different ways in which we could achieve that. We … can do that by reducing the incentives offered by our welfare system".

[The Earl of Courtown]
That is why we set out the proposal that you must contribute before you can claim. We understand that others across the European Union also have concerns about this. That is why we say to them: "Put forward alternative proposals that deliver the same results". We are open to different ways of dealing with this issue, as long as we do just that and agree new measures that will reduce the numbers coming here.

Lord Garel-Jones (Con): My Lords, does my noble friend agree that one of the disappointments of the last 10 or 15 years has been the way the principle of subsidiarity, which was supposed to ensure that nothing was done centrally that could be properly done by member states, has been undermined by a bureaucratic process known as the yellow card system? It is most encouraging to hear that the Prime Minister intends to try to revive this principle and bring it back to what it was supposed to do. I suggest that that could be done without bringing about a treaty change. It is perfectly possible for the Commission itself to extend autonomously the period of eight weeks, which is all that national parliaments are given at the moment to consider new proposals. It is also perfectly possible for it not just to extend the time but to say that it will regard the yellow card as a red card. If those two things could be achieved, it would really enhance the role of national parliaments in the legislative process.

Picking up the point made by the noble Baroness on proportionality, I think it is now the case that qualified majority voting is population-related. Therefore, to a large extent, proportionality has already been introduced into the system.

The Earl of Courtown: My noble friend, with his great knowledge of this subject, explained something to me there, for which I am most grateful. If I need to write to him, I will.

Lord Wigley (PC): My Lords, will the noble Earl assure the House that, if all four objectives are fully achieved in the negotiations, Ministers across all government departments will support a vote to stay in the European Union?

The Earl of Courtown: My Lords, the noble Lord, with his great parliamentary skills, asked whether, if my right honourable friend the Prime Minister is successful in all his negotiations, all Ministers will support that. I am sure they will.

Lord Harries of Pentregarth (CB): I welcome the Statement and particularly the conciliatory tone of the Prime Minister's letter. I, too, will probe the noble Earl a little about exactly what is meant by "closer union" in the phrase,

"we want to end the United Kingdom's obligation to work towards an 'ever closer union'".

In his letter, the Prime Minister sets out various ways in which closer union is clearly desirable, for example steps towards a single digital market and a capital markets union. Everyone, particularly the Government, agrees that we want much more unity in our policy on immigration and refugees. I hope the Government also agree that we want a much greater coming to one mind on defence and foreign policy. If we want to work closer and closer together on all these aspects of major policy, what exactly is being rejected in this phrase?

The Earl of Courtown: My Lords, the noble and right reverend Lord is quite right. There are many issues that have been an advantage, but we still want to halt the constant flow of powers to Brussels, including by ensuring a stronger role for national Parliaments, dealing with the concept which the noble and right reverend Lord mentioned. It is interesting that, in late October, Frans Timmermans, the First Vice-President of the European Commission, said, on BBC Radio 4:

"If I understand correctly, what the British Government want is to say: 'We don't want this, others might want this and it's up to them, but we don't want to be forced into an ever-closer union in the sense of more and more integration'. I would say to that: 'Fair enough, there's nobody who will tell you that you are forced into integration with other European countries'".

Lord Clinton-Davis (Lab): My Lords—

Lord Howell of Guildford (Con): My Lords—

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, we have plenty of time. Let us go to the noble Lord, Lord Clinton-Davis, and then to my noble friend.

Lord Clinton-Davis: I speak as a former commissioner in Europe. This debate is outrageous. We ought to be discussing not how we are going to withdraw from Europe but how we can play a part in ensuring that our voice is heard. At the moment, it is not, because the Prime Minister is being ambiguous—we do not know where he stands. He will not say whether he is for or against. What is vital is how we make our views heard, not how we can withdraw. We should not have this attenuated debate, but a real one about the all-important issues. At the moment, that is being denied to Parliament, and that is wrong.

The Earl of Courtown: I am sorry that the noble Lord feels that this is an outrageous debate. As I said earlier, the Prime Minister is focusing on renegotiation. I understand how the noble Lord, with all his experience, probably wants to get more involved in the actual negotiation. However, the fact is that the negotiation in Europe is going on. We shall see if anything can be reported at the next Council meeting.

Lord Howell of Guildford: My Lords, does my noble friend agree that the distinct tone of widening the focus of this issue on to the reform of the European Union as a whole, to bring it up to date, as outlined originally three years ago in the Bloomberg speech, and developed considerably since then, is very welcome indeed? The media trick is going to be to polarise and build this up as a Punch and Judy show, with deals achieved or not. That is natural, and I suspect there will be one or two political manoeuvres of the same kind. The more we can show that we are concerned with bringing the EU model into the 21st century, the better. That is bound to require treaty change in due course, for the simple reason that the treaties, right up to Lisbon, are obsolete and out of date. They were designed in the pre-digital era and do not fit what is

actually happening in Europe. The more we can do that, the better the transition—there is going to be a great transition—will be for ourselves and the whole of Europe.

The Earl of Courtown: I could not agree more with my noble friend. With regard to dragging the EU model into the 21st century, he is quite right. Many of these treaties are obsolete and, as he said, they were pre-digital. Life has gone on.

Lord Wood of Anfield (Lab): Can the Minister clear up this small confusion? The Prime Minster today said that if Europe did not listen to his demands he would rule nothing out. He also said, however, that,

"our membership of the EU does matter for our national security and for the security of our allies".

Does that mean that if the Prime Minister is unsuccessful in getting Europe to listen to his demands and to respond constructively, he is prepared to recommend leaving, although leaving is against our national security?

The Earl of Courtown: My Lords, I am not exactly sure which part of his speech the noble Lord is referring to.

Lord Wood of Anfield: The bit I read out.

The Earl of Courtown: Of course, my Lords, the security of this country is paramount, as we show in many different ways. I will have to look at that particular part, and I will write to the noble Lord if I can add anything.

Lord Pearson of Rannoch (UKIP): My Lords, I ask the Minister how seriously the Prime Minister takes his belief, according to the Statement, that if powers do not need to reside in Brussels, they should be returned to Westminster? Does the Minister think the Prime Minister understands that this requires the breaking of the acquis communautaire, the one-way ratchet to complete union? Surely that will require unanimity. It will require treaty change. I suppose the real question is that if the others do not agree this revolutionary concept in the project of European integration, does that mean that the Prime Minister will campaign to leave?

The Earl of Courtown: My Lords, the noble Lord mentioned treaty change, and of course it will eventually have to be made in various areas. As for the first part of the noble Lord's question, I will write to him.

Lord Wallace of Saltaire (LD): My Lords, in these negotiations, will the Government be sure to look after the interests of the 2 million British citizens living elsewhere in the European Union? As the noble Lord, Lord Lawson, reminds us so frequently, people like him who are residents of other EU countries would be adversely affected if we were to leave, and we would naturally wish the interests of the noble Lord and others to be fully protected in these negotiations.

The Earl of Courtown: My Lords, this has also been debated during the course of the European Union Referendum Bill. The noble Lord is quite right, of course—the interests of 2 million citizens have to be protected.

Lord Grocott (Lab): My Lords, all three Front Benches have told us that this is a momentous decision of huge, crucial, national importance. I can only say as kindly as I can muster the words that neither the debate nor the performance of the Government so far has in any way matched up to this rhetoric. The Prime Minister did not want a referendum, but he was forced into having one. He did not know what he wanted to negotiate. We did not know what he wanted to negotiate. Our European partners did not know what he wanted to negotiate. The only thing we know for certain, and I am sure the Minister can confirm this, is that whatever he does negotiate will result in his returning to Downing Street saying that it has been a triumph, and he will then recommend a yes vote.

The Earl of Courtown: The noble Lord, of course, is very welcome to his opinion on this. I do not agree with him. My right honourable friend the Prime Minister is focused on renegotiating and reforming the UK's relationship with the EU. As he has said, if he succeeds he will campaign to keep the UK in a reformed European Union, but if he does not achieve these changes he rules nothing out.

National Insurance Contributions (Rate Ceilings) Bill

Second Reading

4.35 pm

Moved by ***Baroness Altmann***

That the Bill be now read a second time.

The Minister of State, Department for Work and Pensions (Baroness Altmann) (Con): My Lords, it is a pleasure to open this debate on the National Insurance Contributions (Rate Ceilings) Bill before us today. The Bill implements the Government's manifesto commitment that pledged not to increase the main rate of 12% and the additional rate of 2% for employees' class 1 national insurance contributions, and the employer rate of 13.8%. The Bill also places a ceiling on the employee upper earnings limit. This is part of a wider package of measures designed to provide businesses with the certainty that they need to invest with confidence, and also to help deliver the low and competitive rates of taxation to underpin our growing economy.

Noble Lords will be aware of the Government's strong record of significantly reducing the burden of national insurance. At Budget 2011, the Chancellor of the Exchequer announced a £21 a week above inflation increase in the employers' national insurance contributions threshold; in 2014, the Government introduced the employment allowance to support businesses and charities across the UK, reducing the national insurance bills of over 1 million employers by up to £2,000 a year. The employment allowance allows employers to deduct up to £2,000 a year from the total of employer national insurance contributions that would otherwise be due to be paid to HMRC. Around 450,000 businesses and charities will not have to pay any employer national insurance contributions at all.

[Baroness Altmann]

The Government are now going further. Noble Lords will recall that, as part of the summer Budget, the Chancellor announced that the employment allowance would be increased to £3,000 from next April. From April of this year, the vast majority of employers with workers under the age of 21 were lifted out of employer national insurance contributions. This move has supported over 1.5 million jobs for young people. Noble Lords may be aware that in a further move to support young people in employment, from April of next year the Government will abolish employer national insurance contributions for all apprentices under the age of 25. It is through these reforms that the Government are improving skills, increasing employment and delivering on their long-term economic plan.

I turn to the contents of this Bill. Noble Lords will be aware of the Government's election commitment not to increase the main rates of income tax, value added tax or national insurance. The Finance Bill contained legislation to deliver that commitment for income tax and value added tax; this Bill delivers on the commitment for national insurance contributions. First, the Bill sets a ceiling on the rates of class 1 national insurance contributions paid by employees and employers. Secondly, it enshrines in law the existing convention that the level of the upper earnings limit for national insurance contributions will not exceed the level of the higher rate threshold for income tax. Both the ceiling on the rates of class 1 national insurance contributions paid by employees and employers and the ceiling on the upper earnings limit come into force on Royal Assent of this Bill, and will apply until the start of the first tax year following the next general election.

The Bill provides much-needed certainty for employers and employees that a ceiling is being placed on the main and additional class 1 national insurance contributions primary percentage paid by employees at a rate of 12% and 2% respectively; sets a ceiling on the employer class 1 national insurance contributions secondary percentage rate of 13.8%; and ensures that the upper earnings limit will not exceed the higher rate threshold for income tax. Furthermore, it is possible to increase the main rate of employee national insurance contributions and employer national insurance contributions by 0.25% each tax year through secondary legislation. So this legislation helps to make it clear that this will not happen. This means that businesses can make investment decisions, confident in the knowledge that this Government will not change the ceilings on the employee and employer national insurance contribution rates for the duration of this Parliament.

In summary, the Government have already taken action to reduce significantly the burden of national insurance contributions on most employers across the UK. The Bill supplements that work. It demonstrates the Government's overarching commitment to provide certainty on tax rates for the duration of this Parliament. In doing so, it delivers on the Conservative manifesto pledge to maintain low and competitive rates of taxation by preventing the main and additional rates of national insurance contributions paid by employees and employers from being increased above their current levels. This is an important Bill and I commend it to the House.

4.40 pm

Baroness Kramer (LD): My Lords, I shall be very brief, because the debate on this Bill flows, in effect, into the Finance Bill debate which will follow shortly on its heels. My party is pleased that there will be an increase in the national insurance employment allowance —a policy we fought hard for, and eventually achieved. It will now go up to £3,000; that is welcome news. We are also pleased that national insurance contributions applicable to young apprentices will be removed.

We have no problem with the Government's policy that in the next Parliament they do not intend to increase national insurance contributions. What, frankly, we find silly, is the requirement that that be put into legislation. Surely a Government can control themselves well enough to enforce their own policy without putting up a legislative hurdle.

I shall speak more extensively on the Finance Bill, but I have to say now that the translation into legislation is far less serious with national insurance contributions, because they are rarely the tool that needs to be used in a crisis to cope with the unexpected and deal with events that can turn unfortunate for the economy. When we debate the Finance Bill we shall be talking about the related charter for fiscal responsibility, whereby the Government are putting handcuffs on themselves to make themselves impotent in the face of an oncoming crisis. That is one of the silliest and most arrogant measures that I have seen a Government introduce recently. However, there is very little concern about the Bill before us and its contents.

4.42 pm

Lord Tunnicliffe (Lab): My Lords, I thank the Minister for introducing the Bill and I look forward to working with her on what I believe is the first piece of legislation she has taken the lead on since entering your Lordships' House. As the Minister has just outlined, the Bill will implement the Conservative manifesto commitment to cap the main rates of national insurance contributions at their current levels for the duration of this Parliament.

This is one-third of the so called triple lock—a promise not to raise VAT, income tax or national insurance contributions which the Conservatives gave during the election campaign. The Bill provides for the NICs element of that pledge. Such a measure has to remain separate from the Finance Bill, on which the VAT and income tax locks will be debated, because statutory provisions regarding NICs cannot be included in the annual Finance Bill.

Let me start by saying that we wholeheartedly support the principle of not raising taxes for working people, so we are not opposing the Bill. Indeed, Labour was the first to commit to not increasing national insurance contributions. However, we do question the necessity of implementing that commitment in primary legislation, and are concerned that this, when taken as part of the triple lock, could present a significant challenge for the Government if the economic outlook changes.

Clause 1 will prevent class 1 national insurance contributions payable by employees at the main primary percentage from exceeding 12%, and for earnings above £815 a week, cap the additional primary percentage at 2%. This was a Conservative and Labour commitment

at the election. As we progress to Committee, we would appreciate it if the Minister updated the House about the investigation being undertaken by the Office of Tax Simplification into national insurance contributions and their alignment with income tax.

Clause 2 freezes the rate of employer national insurance contributions by setting the maximum secondary percentage payable by employers at 13.8%. By doing this it also fixes the class 1A and 1B contributions. The Chancellor's spending plans are predicated on a forecast rise in revenue yield from NICs, so he has placed a great deal of confidence in economic forecasting. I am sure that during consideration of the Bill, we will debate what contingencies are in place if these forecasts are wrong and the potential impact that could have on public services. I look forward to the Minister's responses.

Clause 3 links the upper earnings limit to the highest rate of income tax threshold by setting out that it should not exceed the weekly equivalent of the proposed higher-rate threshold for that tax year. In practice, this means employees stop paying national insurance contributions at the 12% rate when their income reaches the higher income rate tax threshold for that tax year.

What is particularly interesting about these three short clauses, beyond their technical detail, is the manner in which they have been introduced, which is so telling of this Government and their approach to policy-making. They argued during the passage of the Bill in the other place that the legislation is required to ensure that the market has confidence in the Government to keep their election promises. Can the Minister tell us why the Chancellor thinks the electorate and business will not simply trust his word? Perhaps it is because the Government promised not to raise VAT before the last election—and then proceeded to do the opposite by raising it to 20%. Indeed, in the last Parliament the Chancellor raised tax 24 times despite his claims to be promoting a low-tax, high-wage economy. Let me reaffirm that we do not want to see taxes raised for working people, so we will not oppose the Bill. However, it is difficult to regard it as little more than a gimmick that could have troubling consequences.

The response to the decision to legislate on this issue was remarkably consistent. The *Financial Times* leader of 29 April summed it up well when it said:

> "Arguably the silliest idea yet came this week when David Cameron proposed an act of parliament that would make it illegal for a future Tory government to raise various taxes to close the deficit: VAT, income tax, and national insurance. Even after five years of tough spending measures, the UK fiscal deficit is still high. Removing the option of tapping revenue streams that in aggregate raise more than £350 bn for the Exchequer would make the challenge needlessly hard".

The summer Budget, which included significant revenue-raising measures that will amount to significant tax rises for millions of people, demonstrated decisively that this was nothing more than a political stunt.

Commenting on the Budget, the director of the Institute for Fiscal Studies said:

> "The figures are quite clear—this was a tax-raising budget".

Tax policy measures in the Budget are expected to raise £5.1 billion by 2017-18, rising to £6.5 billion in 2020-21. So the notion that taxes on working people are being protected is an illusion.

The Government are still increasing the amount they get from tax revenues under the guise of the triple tax lock. Crucially, it could also limit the pace at which the Chancellor could act if an unexpected event arose. If the Minister does not believe this, he should listen to his noble friend Lord Lawson, who said:

> "I don't think it is a good idea … nobody knows what the economic conditions are going to be like … nobody knows what world conditions are going to be like … this was clearly done for electoral purposes not for good government".

National insurance contributions, together with VAT and income tax, are the three largest revenue raisers for any Chancellor, so it is surprising that the Government feel the need to tie their hands in this way. The Chancellor is taking an incredible gamble that seems to be based on nothing other than the hope that no further unexpected events will occur over the course of this Parliament. If the economic outlook does change, the Chancellor will have to do more than be in listening mode—he will have to act. We are concerned that this Bill makes it harder to do that.

4.49 pm

Baroness Altmann: My Lords, I thank noble Lords for the contributions they have made to this interesting debate and I am grateful to the noble Baroness, Lady Kramer, and the noble Lord, Lord Tunnicliffe, for their support for the Bill.

Lord Tunnicliffe: My Lords, I did not say that we support the Bill. I merely said we would not oppose it.

Baroness Kramer: If I might just confirm, we have no problems with the policy decision, but the decision that this needs to be encapsulated in binding legislation is a very troubling precedent.

Baroness Altmann: Then I thank the noble Lord and the noble Baroness for their support for the policy of this Bill, and also for supporting the £3,000 employment allowance and the abolition of national insurance contributions for apprentices.

Before I address the specific points raised by the noble Lords, it is important to put the Bill within the context of the significant action that the Government have already taken to reduce the burden of class 1 national insurance contributions on earnings and employment. These measures have all been strongly welcomed by business and have contributed to the current record levels of employment. I also emphasise that from April next year the Government will abolish employer class 1 national insurance contributions for apprentices under the age of 25, as I have said. Apprenticeships are at the heart of the Government's drive to equip people of all ages with the skills most valued by employers. This is a very important move. It will help employers who provide apprenticeships to young people and provide a significant boost to youth employment rates more generally.

The Bill before us today introduces the final aspect of the Government's five-year tax lock. This is further testament to the Government's commitment to provide certainty on tax rates for the duration of this Parliament, and it delivers on the commitment to lower levels of taxation that was made in the Conservative manifesto.

[Baroness Altmann]

On the question from the noble Lord, Lord Tunnicliffe, as to whether the taxes announced in the summer Budget have breached this lock, that is not the case. The Government have been clear that the tax lock will not prevent future changes to the tax system to make it fairer or to deal with avoidance—those were the measures in the Budget. Furthermore, the Government remain committed to lowering taxes and supporting hard-working people through increases in the personal allowance.

The noble Lord also asked about an update on the measures being considered by the Office of Tax Simplification. The Government are committed to simplifying tax and to transparency. The overall aim of the project is to build on earlier work undertaken in this area, to understand the steps that would be needed to achieve closer alignment of the taxes and the costs, benefits and impact of each step. The terms of reference were published on 21 July, and the Office of Tax Simplification will publish a final report ahead of Budget 2016.

As regards whether this Bill is a gimmick, I do not believe that it is. This was a Conservative manifesto pledge and, as I have said, there is the ability in secondary legislation to increase national insurance rates by 0.25% each year on class 1. This will give an added element of certainly to businesses and employees as to the maximum rates of national insurance that they might face.

The noble Baroness and the noble Lord are right that there could be circumstances in which tax revenues fall short and some contingency planning is required. However, future funding of contributory benefits, should national insurance contribution receipts prove insufficient, is a matter for the Chancellor, and that decision would need to be made at the relevant fiscal event based on the latest projections available at the time and taking into account the National Insurance Contributions (Rate Ceilings) Bill that we are introducing. Indeed, as the noble Baroness indicated, if there were an economic emergency, it would not normally be the economic policy of choice to increase national insurance contribution rates. The aim of this Government is to continue to drive growth and to create 2 million more jobs during this Parliament.

Lord Tunnicliffe: I think the noble Baroness is saying that I suggested that the Government had broken the triple lock in the summer Budget. I was not suggesting that they broke the triple lock but that the summer Budget had very significant tax increases—of the order of £4 billion-plus. I hope that she is not disagreeing with that assessment. If she is, perhaps she will write to me and set out the logic behind her disagreement.

Baroness Altmann: I was not assuming that the noble Lord was talking about the triple lock. Indeed, the Government are absolutely committed to the triple lock. I was talking about some of the other measures that do not breach this commitment.

I am grateful for the opportunity to explain the issues we have debated today. There are clearly a number of points that we might debate at greater length when the Bill moves to Committee. I commend the Bill and ask the House to give the Bill a Second Reading.

Bill read a second time.

Finance Bill

Second Reading (and remaining stages)

4.56 pm

Moved by ***Lord O'Neill of Gatley***

That the Bill be now read a second time.

The Commercial Secretary to the Treasury (Lord O'Neill of Gatley) (Con): My Lords, since 2010 the Government have laid the foundations for a stronger economy. We can now see that the recovery is well established. The UK had the fastest-growing economy in the G7 countries in 2014, and is reasonably well positioned for the same in 2015.The fiscal deficit has been halved as a share of GDP and national debt, as a share of GDP, is forecast to fall in 2015-16.

Working people are, generally, also feeling the benefits. Employment has increased and continues to increase reasonably rapidly, with full-time employment at record highs, as I heard my noble friend mention in the previous debate. Unemployment is lower and continues to fall. In addition to more people being in work than ever before, very importantly and encouragingly, wages continue to rise—a relatively new trend in the past 12 to 18 months or so. Therefore, it seems reasonably clear that the long-term economic plan is having some success. However, of course, the job is not done. The Finance Bill before us today is the first of this Parliament and it demonstrates this Government's commitment to continue the work of the last five years. It implements key measures to eliminate the fiscal deficit in a way that is fair to taxpayers and supports the growth of business.

As the Chancellor set out in the summer Budget 2015, the Government want to ensure that people are able to keep more of the money that they have worked hard to earn. The Bill includes three manifesto pledges to achieve that aim. First, the Government committed to legislate within 100 days for the five-year tax lock, ruling out increases to income tax rates, VAT and national insurance contributions for the duration of this Parliament. Clauses 1 and 2 of the Finance Bill deliver the first two aspects of this commitment. The third aspect of the tax lock was debated in this House earlier today.

Secondly, the Government committed to ensuring that individuals working 30 hours a week on the national minimum wage do not pay income tax. The Government have a proud record of reducing tax bills for the lowest paid. In total, 3.8 million individuals have been removed from income tax altogether since 2010. Clause 5 continues this record by increasing the personal allowance from £10,600 in 2015-16 to £11,000 in 2016-17 and £11,200 in 2017-18. Compared to today, 570,000 individuals will be taken out of income tax altogether by 2016-17.

As I just said, the Government have made a commitment to ensure that individuals working 30 hours a week on the national minimum wage do not pay income tax. Clauses 3 and 4 will extend this commitment beyond this Parliament. Once the personal allowance has reached £12,500, it will automatically increase to stay in line with this threshold. This will be the first time in history that the personal allowance is not indexed to price inflation.

Finally, as I am sure many—if not most, or even all—noble Lords will agree, it is a natural desire to pass on a home to your children and grandchildren. Clause 9 will introduce a new inheritance tax main residence nil-rate band, so that around 93% of estates will be able to pass on all their assets without paying any inheritance tax. However, to ensure that the wealthiest continue to contribute their fair share to the public finances, the largest estates will not be able to benefit from the new nil-rate band.

These are three important manifesto commitments delivered to ensure that hard-working British people keep more of the money they earn. Of course, these commitments must be delivered in a way that is fair and sustainable. In 2013-14, the Government spent more than £34 billion on income tax relief for pensions, making it one of the most expensive reliefs. Two-thirds of this relief currently goes to higher and additional-rate payers. The Finance Bill will restrict pension tax relief for the highest earners, putting it on a more sustainable footing.

I turn briefly to productivity, a topic that I have discussed quite broadly in this place before, and will no doubt discuss again. It is well known that improving the productivity of the UK remains a historic and significant economic challenge, which this Government are eager to do something about. The summer Budget set out a number of measures to meet this challenge, including, for example, investment in infrastructure and the creation of 3 million new apprenticeships funded by a new levy on employers.

The Finance Bill implements further measures to address parts of the productivity issue. It includes several measures to back business. Clause 7 cuts the rate of corporation tax to 19% in 2017 and 18% in 2020. This will benefit more than a million businesses, saving them a total of £6.6 billion by 2021 and giving the UK the lowest rate of corporation tax in the G20. Clause 8 increases the permanent level of the annual investment allowance to £200,000 from 2016, to provide stable and long-term incentives for small and medium-sized businesses to invest in plant and machinery.

Improving productivity, however, also means prioritising central investment in infrastructure. That is why Clause 46 reforms vehicle excise duty, to support the creation of a new roads fund. From 2020, all revenue raised from vehicle excise duty in England will be invested directly back into the strategic road network. These reforms are also being implemented in a fair and sustainable way that strengthens incentives for the cleanest cars. Nobody will pay more than they do today for the cars they already own. For cars in the new system, the vast majority of motorists will pay less than the average they pay today. Zero-emission cars will continue to pay nothing, whereas cars worth more than £40,000 will pay a supplementary charge. As I said, productivity is a challenge but it is a challenge that the Finance Bill, as well as other measures beyond it, is designed to meet.

As I set out at the beginning of this speech, the Government have made significant progress in bringing down the fiscal deficit but the hard work is not yet complete. As set out in the summer Budget, around £37 billion of fiscal consolidation is required over the next five years, and £5 billion of this will be raised by measures announced at the summer Budget to tackle tax avoidance, evasion, non-compliance and imbalances in the tax system, many of which are being legislated for in this Bill.

As evidenced in the last Parliament, this Government are tough on corporate tax avoidance. The Finance Bill continues this trend. First, Clause 44 stops investment fund managers exploiting loopholes in the tax system to avoid paying the correct amount of capital gains tax on the profits of the fund payable to them. Secondly, Clause 37 stops multinationals off-setting losses against controlled foreign companies tax to ensure that they pay tax on profits diverted from the UK. Finally, Clauses 40 and 42 stop corporate groups reducing their taxable profit by transferring stock or intangible assets around the group.

Fixing the public finances also means ensuring that everyone pays their fair share of tax. Clause 51 introduces a new means for HMRC to recover tax and tax credits debt directly from the bank accounts of debtors. This levels the playing field between hard-working, honest taxpayers and those who persistently refuse to pay their debts, almost half of whom have more than £20,000 readily available in cash.

The Bill also ensures that landlords with the largest incomes are no longer unfairly helped by the tax system. Landlords are able to off-set their finance costs from property income when calculating their taxable income. At present, the relief they receive is at their marginal rate of tax. This means that landlords with the largest incomes receive either 40% or 45% relief, whereas landlords with lower incomes benefit only at the basic rate of income tax—20%. Clause 24 ensures that all individual residential landlords will get the same rate of tax relief on their property finance costs.

The Government believe that it is only fair for the contribution made by banks to reflect the risk they pose to the economy. However, the UK must also remain competitive as a major dominant global financial centre. The Finance Bill introduces a balanced approach to bank taxation by introducing a new supplementary tax of 8% on banking centre profit in Clause 17, while gradually reducing the full bank levy rate over the course of this Parliament in Clause 16. This will increase banks' tax contribution by around £2 billion over the next six years, while at the same time providing a more sustainable long-term basis of taxation.

The Government are committed to supporting low-carbon energy, while at the same time ensuring value for money. The climate change levy exemption provided indirect support only to renewable generators, and the value UK renewable generators receive from the exemption was expected to be negligible by the early 2020s. That is why Clause 49 removes this exemption. Any loss that UK renewable generators face will be small compared with the other financial support they receive from the Government, which will total around £5.1 billion in 2015-16 alone. Taken together, this Bill is tough on tax avoidance by wealthy individuals and businesses and resolute in ensuring that the tax system is balanced and fair.

In conclusion, the Finance Bill before us demonstrates the clear direction set out by the Government at the start of the Parliament. It prioritises economic security for working people, businesses and the public finances. I commend the Bill to the House.

5.09 pm

Lord Lennie (Lab): My Lords, I will focus my brief remarks on two aspects of the Bill: one is an amendment to it and the other is an omission from it. Both would improve this legislation—they are intended to be constructive and helpful—and both are important to many millions of people, working or otherwise. First, I want to raise the issue of inheritance tax, which the Minister highlighted in his comments. Secondly, I want to raise the so-called tampon tax.

Politics is about choices, and showing who we care about and how we connect with them are central to any party's political strategy. The choices reveal much about the values that inform our politics and our policies, and the Tory Government have recently laid bare their current values. At this time, at this defining moment, when all the analysis and forecasts of the UK economy are best described as fragile—rather than the rather robust description given by the Minister—and the public realm is about to be subjected to 40% austerity cuts, the Government have decided that the time is right, never better, to increase the inheritance tax threshold to £1 million, so that those with the most, the wealthiest 10%, get a fighting chance at keeping the wolf away from their doors. The cost to the Exchequer is close to £1 billion.

Compounding this particular choice at this time is the fact that it is being put forward while the Chancellor is seeking to cut £1,300 on average from the income of the lowest-paid 3 million working people in the country. It is a somewhat hideous juxtaposition that the Government are putting forward. The richest 10% get a £1 billion give-away; the poorest working people lose £1,300 on average a year. It is compassionate conservativism laid bare. The rhetoric may be compassionate, but the reality is conservatism.

Instead of the somewhat false fury that emanates from Downing Street about some sort of constitutional crisis in this House because of the decisions your Lordships' House took on the issue of tax credits, they should be thanking your Lordships for getting them out of a deep hole. It was getting deeper and deeper by the minute as Conservative Member after Conservative Member was in rebellious mood about the matter. We will seek a delay on this issue, deletion of this clause, and a delay at least until the Chancellor has achieved a current budget surplus before any further consideration of changes to the inheritance tax threshold.

On the tampon tax, until the recent exchanges in the other place, I have to admit that I was unaware that VAT was payable on tampons and sanitary towels. If I had to guess the odd one out or play spot the luxury item from among the following list—Jaffa Cakes, a game of bingo, a ticket to the zoo, or tampons—I do not think I would have picked tampons as being the specific luxury item. However, apparently that is the case. Jaffa Cakes are a necessity; tampons a luxury. As we have heard, the Prime Minister this morning set out his priorities for achieving reforms in the EU in advance of the forthcoming referendum. I had hoped that, when the letter to President Tusk was written, it would have contained a line seeking support across Europe to allow tampons and sanitary towels to be zero-rated in each member state. Had he done so, his legacy would be assured. We have had some words of support from government representatives, but nothing concrete is proposed. Incidentally, the cost of this change to this country would be no more than £15 million to the Exchequer. Labour will seek to add a clause to the Finance Bill to give effect to this.

I look forward to hearing the Minister's response to these two items in his closing summary.

5.14 pm

Baroness Kramer (LD): My Lords, in 2010 the coalition Government came into being in the face of a financial crisis and succeeded over the next five years in stabilising the economy and the country's finances—significantly reducing the structural deficit—but they did so on the basis that we were all in it together and that the greatest burden should fall on the broadest shoulders. In his opening speech a few moments ago, the noble Lord, Lord O'Neill, gave the impression that that continues but that is the wrong word to use in this case, because the policy that we are all in it together and that the broadest shoulders should continue to carry the greatest burden is one that the Conservatives in their Budget and in this Finance Bill and various other related Bills have made a point of moving away from in an extremely distinctive manner.

It is absolutely true that we need to continue to eliminate the structural deficit. That is a responsible action to take so that we do not pass those burdens on to the next generation. But this Government are seeking to cut in the region of £50 billion more than necessary from public spending over the next five years in their goal to move from eliminating a structural deficit to building a significant surplus—a surplus that is not required by the financial conditions that we live in today. They have departed from the principle that we are all in it together.

I looked at the distributional analysis, which finally came out rather late—in June, I believe. It is a document that should have come with the Budget. It is interesting because the principles under which it is put together have changed. Indeed, I hope that the Treasury might engage with us at some point to explain further those changes and their implications. But what is absolutely fascinating about the distributional analysis is that it focuses almost exclusively on the benefits delivered by the coalition and gives virtually no sense to the change that was introduced, marked and signalled by the first Budget and embedded, in part, in this Finance Bill.

It is clear from looking at the distributional analysis that by 2017-18 those in the wealthiest quintiles will have had no proportionate loss in the welfare benefits that they receive. Presumably that is because harsh reductions in welfare are being introduced for the lowest quintiles in the Budget and the related legislation that has been presented to us, but it is difficult to tease that out because of the way in which the distributional analysis glosses over the difference created in this past year. I have noticed that in his various responses to Questions in this House, the noble Lord, Lord O'Neill, also talks as if the coalition period was the marked umbrella, and barely pays attention to the change of direction which his Government have so proudly heralded in shifting away from placing the burden on those broadest shoulders and beginning the process of pushing it back on to the weakest shoulders.

To be honest, when we were in coalition, Conservatives did argue that we should not be putting so much on the wealthy, and that the burden ought to be falling on those at the bottom of the scale because they were benefit recipients. I would very much appreciate at some point hearing from the Treasury how it has made those changes from its perspective. Until then, we are dependent on the Institute for Fiscal Studies, which, as the noble Lord, Lord Lennie, reported, has identified so clearly the huge burden of tax credit cuts that fall on the working poor and are not offset by the changes in the living wage or childcare. So we have moved away from "We are all in it together" and it is particularly the working poor, young people and those with disabilities who suffer the most.

Of course, I welcome some of the key pillars of this Finance Bill. The increase in the personal allowance—a long-standing Liberal Democrat policy—is captured in the Bill and obviously we are very pleased to see that there. We are supporters of the new living wage, although it is inappropriate to call it a living wage because it is not a wage on which anyone could live; it is a new minimum wage. An increase in the minimum wage is welcome, although I hope at some point we will hear from the Government how they intend to cope with the consequences for, for example, local authorities or the care home sector or others which will struggle to pay that minimum wage; that is not an argument for discarding it but we need to understand how on earth those costs are going to be properly absorbed in the current climate. We are also pleased, obviously, with the restrictions on pension tax relief, which is an important measure in the Bill. It is beyond us, however—and I echo the noble Lord, Lord Lennie, in this—why the inheritance tax cut is being introduced at this time, when such a burden is being placed on the working poor. Surely that timing almost adds insult to injury.

We do not accept that reductions in the bank levy have been necessary: the banks are brilliant lobbyists, and this is good evidence that they have been successful. I am spending two other days this week working on the Bank of England and Financial Services Bill, which has further roll-backs of the various measures that were imposed on the banks in response to their behaviour that generated the financial crisis—not just the original crisis, but consequential crises such as LIBOR, various money-laundering and PPI. The bank levy, therefore, has to be looked on in the light of effective lobbying by the banking industry and not as a necessary measure to sustain the financial services industry in this country. Moreover, I do not understand why it is the right time to raise the higher-rate tax threshold, when we are placing so many burdens on those at the bottom of the scale, the young, and the disabled.

The Minister talked about productivity, which is obviously his area of special interest. Productivity is going to be absolutely key to our future, so I fully recognise the importance of the comments that he made. However, this Finance Bill, and the other actions of the Treasury, once again fail to recognise the difference between capital and revenue: they are rolled together again. I know that it is a conviction of the Chancellor that one should not make distinctions between capital and revenue, but I completely fail to understand the arguments that are meant to support it. There is such an infrastructure deficit after generations of neglect in this country—I think everyone in this House would agree that that was true, in area after area, whether rail, road, broadband, energy generation or, in particular, housing—that we are generations behind where we should be on both infrastructure renewal and infrastructure building. Under such a circumstance, when the British Government can borrow at the lowest rates they have seen for generations, this should be the opportunity to accelerate investment into that sector. It should be distinguished from revenue in the management of the fiscal framework, and this Bill does not succeed in doing that. I hope that the Minister will be able to give us some argument as to why that has not happened, because I fail to see one. It is a lost opportunity and passes on to the next generation the burden of making that infrastructure catch up.

I have a small question on the road fund. It is unusual for the British Government to hypothecate taxes to a particular spending commitment. In this case, VED is being hypothecated to road infrastructure. Will the Minister tell us which areas are now going to lose investment as a consequence of that hypothecation? The cake is not expanding: it is just being given to one particular party, so it would be helpful to understand how all that is put together. That being said, I am glad to hear of his ongoing commitment to ultra-low-emission vehicles. It is an area in which the UK can be an absolute leader. We need it not just because of our own environment, but because it offers great potential for jobs in the future. We are becoming leaders in the R&D in this area, and there is a very significant opportunity to be snatched and taken—if the Government continue their commitment to it, which began under the coalition.

The Government referred to the training levy. It is absolutely apparent that we must increase skills within the UK. It is the major reason that any business would give for our failure to achieve productivity on a par with our competitors, whether in the European Union or looking further afield. I see the advantages of the training levy, but how are we going to tackle the need for training within SMEs? I can understand the reluctance not to put a levy on small and medium-sized businesses that may not be able to bear it, but they have to become significant providers of apprenticeships and training. The Government need to tell us why they have not used this Bill to enhance that potential. There is an increase in the national insurance employment allowance, but I do not think anybody believes that that alone is sufficient to generate the levels of training that we need in the SME sector.

I disagree with the Minister that removing the climate change levy exemption for renewable energy is a minor factor. This is about the green economy, which again is fundamental to our future. We moved, over a five-year period, from being laggards in the green economy to creating the basis for some of the leading green industries across the globe, generating significant numbers of jobs. The decision to remove that exemption seems to me to be part of a much broader anti-green strategy, as is the decision not to implement zero-carbon homes. We have had example

[Baroness Kramer]
after example where green measures have been watered down, apparently for ideological reasons, because the numbers we are talking about in terms of the overall government budget are absolutely minimal. The green industries are taking that to heart and understand very clearly that they are getting the message from this Government that, instead of this being a place where a green future is being encouraged and underpinned, it is going to be, at the very best, treated with indifference.

SMEs are absolutely crucial to our future. Many in this House can testify to the fact that small and medium-sized businesses provide something like 90% of the jobs in this country, are a leading provider of exports and are absolutely critical as the backbone of the UK. So why have the Government chosen to reduce corporation tax, which is paid by very few SMEs? To the extent that it is paid, it is a very small part of their expenditure. It is the large corporations that benefit from the cuts in corporation tax, and surely that is exactly the wrong decision. This would have been an opportunity to provide support to small businesses, particularly around training but also to enable them to achieve the kind of growth and scale-up which we need for our future. Frankly, when we are already one of the countries with the lowest corporation tax in the OECD, using this opportunity to bring it down so that we will be the country with the absolute lowest rate of corporation tax seems simply wrong as a priority. It does not bring a whole lot of benefit and is targeted on exactly the wrong part of business. Having that money flowing into small businesses and providing them with support would be far more beneficial. However, I recognise that the Government are helping small businesses by keeping the annual investment allowance at £200,000, which surely is good news.

The Minister talked about tackling tax evasion. Who could complain about that? However, I suspect there is much more work to be done as we try and get a grip on the new digital economy, and the Bill goes only a very small way in trying to grasp that nettle. I recognise that this is a complex issue and a great deal of work needs to be done in this area, but this new focus on tax evasion and enforcement of tax payment comes when we have just heard that HMRC has agreed to something like a 30% reduction in its spending over the remainder of this Parliament. We are already in a situation where again and again HMRC does not seem to have the manpower necessary to enforce tax law. It certainly does not have the manpower necessary to respond to the endless queries from the many individual and small business payers that need to speak with it to get their affairs in order. A further cut at this point just seems, again, entirely inappropriate. Is the Minister able to give us some assurance that the resources will be available for the extensive programme to deal with tax evasion that he has talked about today?

I finish by referring to the Charter for Fiscal Responsibility—the tax lock, as the Minister described it. As I said in discussion on the then National Insurance Contributions Bill, it seems extraordinary that a Government make a pledge that they will carry out a policy but then so distrust themselves that they decide that they have to capture it in legislation. That is a very dangerous precedent.

I have raised this issue before. One reason that we ended up with a financial crisis to which it was so difficult for the Government to respond was because of real arrogance in the Treasury. We had a Labour Government, a Gordon Brown Government, who had decided that boom and bust were over. I have always said that I do not think that Alistair Darling would for five minutes have agreed to the public spending that Labour committed to had he ever thought that an economic cycle could impact the country, never mind an external shock.

That same arrogance seems to be back here. The Government are once again deliberately tying their hands. I know that they say that if growth drops to 1%, they can step away from the constraints that they have put themselves in, but that is too late. The Minister will tell me if it is different, but I am certain, looking back, that nobody forecast the financial crisis. When a crisis comes, the need to be able to respond is immediate; it cannot be embedded in a forecast for a five-year period. Governments have to have that freedom and flexibility to act, and act quickly.

We must never get ourselves into a situation where we are in a car, we can see the crash coming but we cannot veer out of the way. That is exactly where this Government are putting themselves. It comes from that utter conviction that things will never go wrong. Well, they do go wrong. It is essential that Governments recognise that. Not to be able to use VAT, which is a tax that can be used very rapidly if necessary to remedy a problem, strikes me as significant.

There is a lot that is unsatisfactory in the Bill. There is nothing much that this House will be able to do about the exact clauses, as we take no votes on money Bills, but I am glad to say that many aspects are not part of a money Bill, and I hope that we will be able to tackle those when they come before this House.

5.32 pm

Lord Cavendish of Furness (Con): My Lords, I am grateful to my noble friend Lord O'Neill of Gatley for introducing this Second Reading debate. I was not quite sure how to approach it, as it is a strange one to be holding in your Lordships' House, but I start by congratulating the Government on their continuing determination, as I see it, to do whatever is needed to restore good health to the nation's finances. I realise that that is not always popular or easy, but it is urgent.

With every passing day, the perception grows that things are not quite so bad after all. "Why not water down the medicine?", some are saying. Some commentators come close to saying that Ministers themselves share that delusion. We remain in a very dangerous place, and it is much to the credit of this Government that they hold to the course on which they were elected. I believe that we are heading for a strong economy, the chief beneficiaries of which are the working poor. It saddens me to think that the noble Baroness, Lady Kramer, and the noble Lord, Lord Lennie, cannot accept that.

This afternoon, I want to touch on the topical issue of infrastructure and how it can be financed. Especially, I want to focus on my local town of Barrow-in-Furness and its surrounding area. As I have told your Lordships

before, we are expecting investment in the region of £40 billion over the next decade. It will come from shipbuilding, pharmaceuticals, civil nuclear, offshore gas and other things, and a very exciting prospect that is for an area whose economic future has not always been certain.

Here I should perhaps declare a personal interest. I make no secret of the fact that the group of family companies of which I used to be chairman—I have now handed over to my daughter—will want to take advantage of that investment. I refer noble Lords to the *Register of Lords' Interests*.

I think I am right in saying that private or institutional investment in infrastructure projects is at an all-time low. In 2008-09 infrastructure spending reached £57 billion. Since then it has dropped, in 2013-14, to £42 billion. The Chancellor's anticipated commitment to spend £100 billion on infrastructure will be greatly welcomed, but how to find the money?

Brooding on this, I was struck by a piece I found on the Centre for Political Studies online news service, CapX, written by George Trefgarne whose father, of course, has long adorned your Lordships' House with great distinction. Mr Trefgarne's piece is headed with the words: "An idea whose time has come: project bonds." I strongly commend it and further reading on the subject to your Lordships.

There was a consensus that allowed my party's programme of privatisation and the less than ideal PFI arrangements of the party opposite. For whatever reason, that consensus collapsed after the financial crisis. In consequence, there seems to be very little appetite among investors for participating in today's projects or mechanisms to attract those investors. It is difficult to reconcile the Chancellor's spending ambitions with his admirable goal of deficit reduction. It is not only the annual deficit that should concern us, but the many billions of pounds that are set to be added to the national debt. Worse, unless a solution is found the Treasury will be on course once again to be in charge of every road, hospital and railway system in the land.

Mr Trefgarne's article highlights a potential solution that is being canvassed both here and abroad. Instead of relying on the public sector to deliver our vital infrastructure needs, new companies would be created, perhaps jointly owned by a combination of devolved Administrations, local authorities and private sector investors. They would keep revenues and charges and in turn issue their own debt, underwritten at least in part by the taxpayer. Experience elsewhere suggests that project bonds offer long-term investors attractive yields and significant credit spreads. Typically, they are attractive to pension funds and life insurance companies. I understand that even in countries where public finance is not so constrained, project bonds are used to diversify funding, meet regulatory demands, improve efficiency or quite simply tap into private sector expertise.

The system is not so different from the one the Victorians presided over that led to the great boom in bridge, canal and railway building, but one does not have to hark back so far for a similar precedent. I believe London's Crossrail is coming in on time and on budget, if I am permitted to sing the praises of the mayor in your Lordships' House. It is funded by a coalition of private and public interests, and Transport for London has been licensed by the Treasury to issue its own debt to fund it. The EU and the European Investment Bank are running project bond pilot projects.

Of course, I am telling my noble friend nothing new, but I would like to ask him how closely he has followed the project bond debate and what conclusions he draws. Does he agree that such a mechanism will not occur without the Treasury willing it to happen? I think I may be right in saying that the Treasury has experience of and a track record with similar financial mechanisms. The proposal would in effect entail the Government launching and licensing an entirely new capital market. Can my noble friend say whether the Government stand ready to do such a thing? Combined with the incomparable existing skills in the City, that makes for a hugely exciting prospect—and a huge problem removed from the Government. If an increasing number of proponents are right about the potential of project bonds, then why wait? Above all, why wait until Wall Street or some other financial centre steals a march on us?

Returning to Barrow-in-Furness, my personal view is that the beautiful area in which I live is ill-prepared for the large investments I have talked about coming its way. By any measurement, our infrastructure is in a shocking state of disrepair. I have grounds for thinking that our local government representatives are in touch with Ministers and seek ways to remedy these problems. I wish them well. When I was in local government, I remember being tremendously impressed by the skill and ingenuity of our financial officers. I dare say it is a different skill set from the one my noble friend finds at the Treasury, but it is nevertheless completely appropriate to a rural county with a few dominant tier 1 companies and myriad SMEs, among which my family businesses are included. I look forward to a time when devolved government will once again allow this reservoir of skill to be deployed for the benefit of local people, jobs and services.

Finally, I repeat a plea I have made in other debates. It will not be lost on my noble friend that much of the investment I talked about stems from government procurement of one kind or another. Like the Government, tier 1 companies have cultural problems when it comes to engaging with SMEs. A more sinister problem is when tier 1 companies collude to keep SMEs out. There is often much comforting talk about benefits to the local supply chain, but again and again they fail to materialise. Is it possible to compel large companies to report on what proportion of their business benefits local companies? Also, could the Government be rather more forceful in changing this culture, especially given that they are ultimately the customer?

It is a pleasure to speak about the problems of success. My noble friend the Minister is an economist of great distinction and I have no doubt he will make a great contribution to Britain's economic recovery. I live in a rather different world from him—among people who make things, grow things and do things, and market their wares at home and overseas. Our whole existence is about judging risk and living with the

[Lord Cavendish of Furness]
consequences. We seldom make a headline, nor do we seek to do so. However, I remind my noble friend that we represent 95% of this nation's economy. I hope that, as he surveys his huge brief, he will keep in mind that the sector's interests also need his concern and protection.

5.41 pm

Lord Haskel (Lab): My Lords, even though we cannot do much about it, I welcome this opportunity to debate the Finance Bill because it is a chance to expose a mismatch between what the Government promise and what is actually in the Bill. We are promised a fairer and more equal society, a more prosperous economy based on higher skills, higher-paid jobs and a greener and more pleasant land. The Finance Bill says otherwise.

The most glaring example of inequality is of course the mismatch between the rising minimum wage and reducing benefits, which leaves millions of poorer people worse off. The IFS distributional analysis says it all but there are other examples. I agree with my noble friend Lord Lennie that raising the inheritance tax threshold at a time of austerity must contribute towards inequality. Surely the time to raise inheritance tax thresholds is when our current account is in balance or even surplus. What the Chancellor is doing now is just giving the better-off a tax break, especially as the IFS tells us that the percentage of the population liable for inheritance tax is in single digits. As other noble Lords said, this comes at a time when 3 million working families are at risk of being worse off next year. We still do not know how the social care sector will manage. It really is a bit of a shambles.

The Minister spoke of anti-avoidance measures for corporations and individuals. Yes, those are welcome but how robust are these measures? According to the Institute of Chartered Accountants, corporation and income tax revenues are decreasing. Is this because they are not being collected by an efficient and motivated staff, as suggested by the noble Baroness, Lady Kramer? Is this yet another example of this Government alienating their public servants? Nurses and doctors, teachers and carers, police and firefighters: do we now add Revenue and Customs staff? The Public Accounts Committee in another place seems to think so. These measures will not be effective if the Government are not an effective employer.

We are also promised a more prosperous economy, hopefully through productivity and rising skills. However, skills are changing all the time in our digital economy and it is good practice for people in work to upskill through part-time study. In 2012 tuition fee loans were extended to part-time students, but they were hedged about with so many restrictions that few took them up. As a result, we have seen a sharp decline in the number of part-time students and the courses available to them. This is confirmed by this morning's news about FE colleges. Despite much debate and frequent presentation of the facts, the Bill does not recognise this. Nor is there any mention of part-time education in the Green Paper published on 6 November. Consequently, we are losing a huge opportunity to raise the skills of our workforce, although that is industry's most frequent complaint. This is despite the good intentions in the Minister's recent productivity paper.

That paper also referred to the housing crisis. In spite of what the Minister said, the Bill does nothing to hold back ever higher rents, higher deposits, falling home ownership and the lowest rate of housebuilding that any of us can remember. All this is with a rising housing benefit bill and less secure tenancies. Despite what the Minister said, the Bill does nothing to encourage a culture of productivity; the kind of culture you immediately sense when you walk into a highly productive business or service. We have a financial strategy reflected in the Bill, but no industrial strategy. This is why our economy remains unbalanced, with growth still depending on low wages, rising house prices and rising consumer credit.

With the Paris meeting due soon, perhaps my greatest disappointment with the Bill is that it reduces our commitment to combating climate change. The Minister told us of the exemption of renewables from the climate change levy which is, incidentally, back-dated. The levy was designed both to promote energy efficiency and reduce CO_2 emissions. Since then, subsidies for onshore wind have been virtually removed with a single cut. At least these changes could have been tapered.

Another example of diminishing commitment to climate change in the Bill is the vehicle excise duty for passenger cars, which the Minister spoke about. Levels of excise duty used to deter high-polluting cars and encourage low-polluting ones. The new, rather complicated, rules seem to have abandoned this. Instead, under the new proposals, cars in band A, which paid no road tax, will pay much the same tax in years two and beyond as cars in band M, the highest-polluting band. Setting aside the public scepticism about car emission figures, what is the purpose of penalising polluting cars only in the first year? Is it just to maintain revenue from cars, irrespective of emissions; is it just to invest in roads? There were three items of news this morning about climate change. The Bill really ought to recognise it.

These are just a few examples of the way this Bill does not reflect the rhetoric of the Government. It certainly does not move us towards the greener, more prosperous and more equal society that we have been promised.

5.49 pm

Lord Flight (Con): My Lords, it seems a long time since the second Budget was announced. This second Finance Bill has had rather limited media coverage. I agree wholeheartedly with the comments of my noble friend Lord Cavendish about the need for infrastructure investment and about the success, going back into our history, of financing models that have involved both public and private sector. Crossrail has been, in our time, a brilliant example of that, and is on time and on cost.

Credit must go to the Chancellor for having got things dramatically right and having got this economy recovering better than any other in the world. All those clever left-wing economists told him he had got it wrong, and the IMF rapped his knuckles and so

forth. He in essence followed a sensible, balanced path. He was substantially Keynesian and did not overdo trying to cut the deficit. However, he also took measures that helped the real economy to expand.

As I have said before, there has been a wonderful entrepreneurial explosion in the past five years. We have 5 million new companies, we are leading the world in a lot of tech areas, and it has been an age of greater entrepreneurial activity than I can remember ever in my lifetime. As we all know, it is producing more than 13 million jobs in the economy.

I also think that, although things are not all resolved, the balance of putting the public finances right is about right over the next five years. I was rereading a book on Disraeli the other day, noting that, as late as 1868, debt service on the borrowings that had financed the Peninsular Wars at the beginning of the 19th century were still the biggest item of public expenditure. If you overborrow, you end up burdening future generations with too much debt to service.

If people stand back and look at the whole area of welfare spending, they will see that something is very clearly wrong. Alistair Darling has been the most honest politician to point out what is wrong. Total welfare spending now is running at close to £300 billion a year because you have the basic of £231 billion, to which you have to add personal social spending of £30 billion. Housing claims benefit is now approximately another £30 billion. I am not even clear whether working tax credits, now up from their original £2 billion to £30 billion per annum, are still treated as a net-off from income tax revenues, which was the accounting fix that Gordon Brown put in, or whether they are within the total.

At least a third of public expenditure now goes on different forms of welfare spending. The point Alistair Darling had the honesty to make was that, with income tax credits, what was intended to boost incomes was simply serving to drive down and hold down wages. We have a system similar to that which we had in the early 19th century, when what was called outdoor relief was paid. It led to overemployment, poor productivity and underinvestment. When it ended, there was a great burst in wages, the new industries came up and people moved to the new areas.

Now we have a ridiculous system in which someone is better off working 16 hours a week on low pay, with the top-up tax credits, than working 40 hours a week on average pay. The whole formula in these areas needs addressing radically. I would go even further: the German model of dealing with welfare, which is assessed individually, ends up being much more sensible than our arrangements, which often help those who would be much better off if they worked a full, normal working week, and often do not help those who do need more help.

I repeat: it is well overdue for politicians of all parties to realise that income tax credits have been an economic disaster for this country, with exactly the same unsatisfactory effects as the system had 200 years ago. Of course, you must have a relatively high minimum wage if you are to have income tax credits, or employers tend to exploit it by not paying people sufficiently. Now, it is all well and good; £7.20 will go up to £9 by 2020, but that is particularly damaging in parts of the country where the cost of living is much lower, especially the housing costs. Those parts are landed with too high a minimum wage, so losing the economic advantage that they would otherwise have in getting businesses to move towards them. Then you say that perhaps you should have different minimum wages for different parts of the country, but imagine the complexity of trying to administer that. We have yet to see how measures will be worked out. I am certain that the Conservative Government wish to be fair to people, but it is a mistake for people not to perceive that income tax credits have caused a lot of the problems of our times.

I have some criticisms of this Bill. To me, there is too much stealth tax in it, and I feel that Gordon Brown would have been rather proud of it. Indeed, it rather smacks of quite a lot of the type of thing that he used to get up to. Hidden within it, the middle classes, whom I still stand up for, are having their tax bills increased by something approaching £20 billion, but in a way that the Government hope they will not realise, such as in the change on dividend income. No one really knows how dividends are taxed anyway—but that tax will add about £8 billion or £9 billion a year to the bills of ordinary people's pension funds. I support corporation tax being reduced to 18% by 2020; I accept that to some extent it is a headline tax, but at least that attracts businesses to being based here. But the extra 8% tax on banks makes little sense, to my mind. Banks need another £355 billion of capital over the next few years to be safe against financial risk in future. They have been subject to fines of something like $300 billion, and now there are higher taxes. All that means, again, is that pension fund shareholders will end up having to put up more money; they are the people the Government are really taxing by the 8% profits tax.

The increase in insurance premiums from 6% to 9.5% will hit about 20 million home owners and car owners on their various insurance policies, with a cost in the order of another £2 billion per annum. I wonder why the Chancellor did not stick to the pledge that he gave—which was so popular and led Gordon Brown to put off having an election—when he said that he would simply raise the IHT threshold to £1 million. But no, we have some extremely complicated arrangement, whereby it works for some but, if your estate is worth above a certain level, you do not qualify. Would it have been easier for him to have stuck to his promise, which was extremely popular?

On pensions, I think the lifetime limit is foolish. This country needs a higher level of saving and investment, which is a function of that; we need to stop having to sell the family silver the whole time because our current account deficit is so large, yet we are discouraging the better-off from saving. It is fair that people should all have the same 20% tax credit, but we are getting a pension law loaded to discourage those earning higher incomes from saving more in their pensions.

Then there is something that is not the fault of the Government but, I am afraid, that of the EU Trade Commissioner. I have spoken of the EIS system and the VCT arrangements before—and I declare my interests as chair of the EIS Association. EIS has raised more than £12 billion of high-risk equity investment for small companies, and in 2010 the Government agreed

[LORD FLIGHT]
arrangements with Europe that led to big increases in the amount of money that it raised. For reasons I cannot understand, complicated rules have now been forced on the UK by the EU Competition Commissioner that will limit the amount of money available, especially to SMEs that have cut their teeth, been going two or three years, and then need some more money to expand. I cannot see how the EU concept of state aid relates in any way to what the Government of this country choose to do in offering incentives to people to invest in local SMEs. Why does the EU have the right to stick its finger into this and—perhaps not make a mess of it, because there is still good scope—but—damage what has worked extremely well?

Even on buy to let there is a misunderstanding. Before pensions, people used to buy one or two houses, if they could, and let them out. That was their source of income in old age. Those were the people who owned and financed a lot of the Victorian terraces all over south Wales, as well as London. The generation now in their 40s has often gone down the route of buying houses to let rather than using pension schemes—for rather good reasons, because as an asset, houses have performed better. The only tax incentive for that has been the ability to off-set interest. I am not sure how wise these measures will be. Without buy to let, lots of people would have had nowhere to live in the past few years. I certainly do not agree with retrospective taxation. We can change the tax laws for new purchases, but it is unwise to change tax arrangements retrospectively. I can just see what will happen: a time will come when inflation and interest rates rise, and the housing market goes down. Then there will be problems.

That touches on something I mentioned earlier. While the economy is expanding, it is crucial to get our savings rate up so that our investment rate can rise and our external finances come into balance. If anything, what is in the Finance Bill is not at all conducive to saving; in fact it is negative towards saving.

I congratulate the noble Lord, Lord O'Neill, on the discreet way in which he described this measure, but I think it is disgraceful to give HMRC the power to raid people's bank accounts for sums of more than £1,000. Why should not the Government, like any citizen, have to rely on the power of the courts to go after money owing to them? To me, that is a totalitarian measure of the kind that we have fought against for almost 1,000 years. It shows the Government in a very poor light if they put that sort of thing on the statute book.

I am critical of a lot of the Finance Bill, speaking as a capitalist and as representing, in a sense, the middle classes of this country. But I am full of praise for the Chancellor for the way he has so successfully managed the economy.

6.03 pm

Lord Palmer of Childs Hill (LD): My Lords, much has been said and debated in the past few days as to whether your Lordships' House can amend a statutory instrument that relates to money. As the instrument was not a money Bill, such amendments, fatal or otherwise, were allowable. However there is no doubt that the Finance Bill before us today both is a Bill and relates to money. Therefore, as other noble Lords have said, we cannot amend it.

I would like to take this opportunity to raise what happens when the other place gets it wrong on a money Bill. That can be because too little time is spent in the other place, or because of hasty government amendments. The noble Lord, Lord Flight, took us back a couple of hundred years, but I only want to take us back to March this year. The March 2015 Finance Bill—not the Bill before us today—had a clause added to it without consultation, and was enacted two days after that addition was made. The Government did not notify the umbrella company sector that it would be making those changes at that late stage. In speaking today, I am seeking that the Government should think again with the current Bill and repeal the section in question.

The section will prevent contractors and freelancers claiming their legitimate tax relief at source as they have always been able to do. Instead, because of the hastily added section in the March Finance Act 2015, they will now only be able to claim via self-assessment, which at best will result in a significant delay during which time the individual will be out of pocket. I refer of course to Section 289A of the March 2015 Act relating to exemption for paid or reimbursed expenses. The addition of subsection (5)(b), which contains an innocuous, convoluted phrase, will affect about 400,000 contractors by delaying receipt of their properly incurred tax relief. Whereas at present the tax relief is given at source, it will now have to be claimed after the end of the tax year. Many contractors will fail to do so; many will need to employ an accountant to sort it out; and—just imagine—the overworked and understaffed HMRC will need to process an additional 400,000 tax returns.

I have had recent experience of trying to phone my inspector of taxes. On three occasions, I was told I was in the queue and should be answered in 35 minutes. On the first two occasions I gave up; on the third occasion I hung on for 45 minutes, when a charming, helpful but overworked inspector dealt with my query. My noble friend Lady Kramer and the noble Lord, Lord Haskel, referred to the pressures on HMRC, and the effect of this section in the March 2015 Act will exacerbate that no end.

I have knowledge of this sector of the industry through having served in this House on the Select Committee on Personal Service Companies and as a now retired chartered accountant. Many companies do not employ contractors directly as employees: many use an umbrella company. This is not a brolly manufacturer but a company that acts as an employer to agency contractors who work under a fixed-term contract assignment, usually through a recruitment employment agency in the United Kingdom. The umbrella company receives the fee and pays it to the agency contractor after deducting full PAYE. However, the umbrella company can deduct at source relevant and valid expenses before calculating the PAYE. The expenses will be valid in calculating the tax but by this mysterious section, which suddenly appeared in the March Finance Act 2015 with two days' notice, the tax relief on expenses

would have to wait until the end of the tax year and beyond and use up the valuable HMRC staff time—to which other noble Lords have referred—to achieve no material tax gain to the Exchequer.

This is not only a technical point. Umbrella companies are a critical element in supporting the UK's flexible workforce. They offer workers the platform to work without the worry of running their own companies while offering employers, directly or through an agency, the flexible workforce they require. Umbrella employees will see significant drops in their monthly income because of the delays they will face when claiming for tax relief that they are legitimately entitled to. Many of those affected will also have the added administrative burden of filing a self-assessment tax return which they had previously not needed to complete.

However, the significant number of umbrella employees in the UK—estimated to be at least 300,000 and probably 400,000—means that this will have a significant impact on the economy, particularly in restricting the flexibility of the workforce. The opportunity to provide contractors with their entitled tax relief at source is a key benefit for individuals choosing an umbrella firm—a perfectly acceptable tax use—and the new law would effectively remove this key commercial advantage, putting the whole industry at risk. The Freelancer and Contractor Services Association calculates the impact of the section is financially greater for many families than the loss of tax credits. That demonstrates how important this is.

I ask the Government to consider in the current Finance Bill repealing Section 289A(5)(b) of the March 2015 Finance Act—I am sure the Minister has it close to his chest and remembers every word of it—or, at the very least, to insert a new clause to delay the implementation of Section 289A(5)(b) for 12 months to enable a full consultation to take place so that an impact assessment can be made. I hope that the Minister will take this suggestion—that is all we can do in a Finance Bill debate—back to the Government so as to remedy in this Bill what may have been the unintended consequences of a section added to the previous Finance Bill and enacted two days later.

Turning back briefly to today's debate, given that the noble Lord, Lord Lennie, referred to the fact that the reduction in tax credits was a dreadful thing, I ought to put on record that the Liberal Democrat amendment failed. I then went home and on the television I heard the Chancellor of the Exchequer saying that the Labour Party was fully against any reduction in tax credits, which was not what happened in the vote. What we voted for in the end was a deferment of tax credits.

The noble Lord, Lord Cavendish, talked about the tribute to the mayor for Crossrail. I pay tribute to him for giving the credit to the Labour mayor who introduced Crossrail, and for bringing this to this House in that manner.

I hope that the noble Lord will take into account the difficulties of this House giving advice on a Finance Bill—a money Bill—which will be listened to by the other place.

6.12 pm

Lord Howard of Rising (Con): My Lords, I shall comment briefly on just one aspect of the Finance Bill. Before doing so, I must say that it must have been a relief to the Chancellor not to have had to negotiate with the Liberal Democrats.

It is fundamental in this country that all are equal under the law; "all" includes the Government, in whatever guise—the Government, the state, the Administration. No one should be above the law. Schedule 8 to the Bill, briefly referred to by my noble friend Lord Flight, allows HMRC to take money directly from a person's bank account without first seeking approval from a court of law. Yes, there are safeguards, but the principle behind Schedule 8 is wrong and it should not have been put forward. I imagine that is why the same idea was withdrawn after it was proposed in 2007. There is also some doubt about the security of the safeguards, as Clause 47(2) allows the Treasury to use secondary legislation to amend or alter at will.

It is right that HMRC should be able to collect taxes, but not that it should be above the law. It must be subject to the law in the same way as everybody else. One of the justifications given for enforcement by direct deduction from bank accounts is that more revenue will be raised than would be if HMRC first had to apply to the courts. This raises the question of whether some direct deductions might not have been approved in a court of law. If that were not the case, how could more money be collected?

If Schedule 8 is enacted, there are instances in the Bill where a decision is left to the discretion of HMRC, even if only by default, because of the lack of a time limit for a response or action by HMRC. This could create unreasonable delays, effectively freezing bank accounts. In particular, there is a time limit of 30 days for a response by HMRC in paragraph 11(1) of Schedule 8. Can the Minister clarify that the same time limit applies to paragraph 11(3)? It would appear that it does but that may not be the case.

The Explanatory Notes emphasise that there will be face-to-face interviews with taxpayers before these powers are used. It is too late for this to be in the Bill. We are all familiar with the need to make economies, forcing reductions in public services, but I would argue that ensuring every debtor receives a face-to-face meeting with HMRC officers is not something that should be put at risk when HMRC is looking at ways to reduce costs. I would be grateful if the Minister could clarify that face-to-face meetings will not be abandoned. After all it was a major selling point of getting Schedule 8 to the Bill through the House of Commons.

6.15 pm

Lord Davies of Oldham (Lab): My Lords, this has been a most interesting debate and the Minister will enjoy summing up these varied contributions. I hear what the noble Lord, Lord Howard of Rising, has just said, and what the noble Lord, Lord Flight, said earlier about tax inspectors. I cannot remember them raising the issue on how the bedroom tax would be enforced and whether people would in any shape or form suffer any derogation of liberty when investigations were done on that front. Of course, we accept that the

[Lord Davies of Oldham]
Inland Revenue has to work within the framework of the law and we are glad that that has been emphasised, so the two contributions were of some value.

I will begin by commenting on those parts of the Bill which my party finds acceptable, and on which we congratulate the Government. On the annual allowance on pensions, Clause 23 restricts tax relief on pensions for high-income individuals by introducing a tapered annual allowance with effect from 6 April. It restricts tax relief for pensions contributions for those who earn more than £150,000 a year. So there is a gesture of some recognition of fairness as far as pensions are concerned.

We also recognise the relief for finance costs related to residential property businesses in Clause 24. That will ensure that relief will be at only 20% for those landlords claiming on mortgage interest payments. Some of them in the past have claimed 45%, which approaches a level of being scandalous. We are glad that that loophole has been plugged.

We are also interested in the anti-avoidance provisions and congratulate the Government on making progress in that area. Clauses 40 and 41 ensure that investment fund managers who receive carried interest are taxed within capital gains rules. We would have liked to see those interest earnings treated as income rather than as a capital gain. The manager does not contribute a meaningful amount to buy the investment, so why he should be taxed at the lower rate in those circumstance is not clear. The OECD has produced a report calling for carried interest to be taxed as income, and I hope that we will subscribe to that position in due course.

We welcome certain other areas of the Bill which, as indicated by the noble Baroness, Lady Kramer, are also welcome to the Liberal Democrats. I see merit in the vehicle excise duty changes, which she praised highly, but not to the extent that she does. We all recognise that VED needed reform. Green or more carbon-efficient vehicles are becoming more common, which will undoubtedly have implications for vehicle excise duty as a future source of government revenue. The fact that zero-emission vehicles will continue to be exempt from road tax is, of course, welcome, but we are concerned that a flat rate of VED, as outlined in the Bill, will mean that low-emission vehicles will pay £800 or £1,000 more over a seven-year period while many high-emission vehicles are expected to pay up to £440 less. We have, therefore, some anxieties about the way in which that new system is being introduced. We also have concerns about the potential impact of the new VAT system on car manufacturing in this country. There certainly need to be changes, but we do not believe that what is included in relation to vehicle excise duty is the right change for the environment, the consumer or manufacturing industry. It is a good shot by the Government but they have not hit the target as we would have wished.

Furthermore, as my noble friend Lord Haskel emphasised—he was very critical of the Government and I endorse his criticism—the position of the Government on green issues in this Bill is lamentable. The Bill removes a climate change levy exemption for renewable source electricity generated after August 2015. Can the Minister say whether there was any consultation with the industry about this issue, or any impact assessment produced? Or is it just another example of the Government undermining investment confidence in the renewable energy sector?

We sought to bring amendments to improve Clause 27 on Report in the other place, but were unsuccessful. Last week, more than 100 green energy groups wrote to the Chancellor asking him to think again and warning that the proposal to deny community energy investors access to both enterprise investment schemes and social investment tax relief is seen by many in the sector as a final nail in the coffin for future projects. This comes in a week when the wider world is emphasising the actions that need to be taken, particularly by the advanced world, to reduce the impact on the environment of global warming. The Government are stepping back from their commitments in these areas. The Government are hollowing out the renewable energy market from producer to consumer. Whether you are a large company looking to invest in a growing global market or a local community energy project seeking to inform and educate the local public, this Government are clearly not on your side.

Members on both sides of the House referred to the fact that the Bill provides for an inheritance tax threshold of £1 million for married couples and civil partners by the end of this Parliament. This was commended by the noble Lord, Lord Flight, and others on his side and criticised by my noble friends Lord Haskel and Lord Lennie. How can the Government continually emphasise that it is about encouraging those of the working population who deserve support but then happily say that it is also entirely right that people should inherit more than they can possibly earn in one year, in fact over 10 years, when property is transferred to them?

Surely there has to be some recognition by the Government, apart from pandering to the electorate in the search for votes, of equity in this area. We have sought, in the other place, to amend the inheritance tax scheme contained in Clause 9, but without success. We had a little more success when subsequently we tackled the tax credit cuts that the Chancellor sought to bring forward. Is it not extraordinary that the Government should think that the poorest in society, those on very modest incomes, should be hit at the rate of £1,300 a year while the better-off should gain from enhanced inheritance tax opportunities? The Government, and the Minister, have a lot to do to justify themselves on this issue.

Another issue has cropped up in the context of whether taxation in our society is fair. More than 30 years ago, when I first entered the House of Commons in 1974, we were just beginning to debate with some force whether levying VAT on sanitary products was biased against women and not fair to the consumer. Over that long period, we still have not levied the same taxation on sanitary products as is levied on chocolate-chip biscuits, Jaffa cakes and toffee apples, which are all exempt from the relevant taxation.

The Government could have done a great deal in the Budget but what was the overall position adopted in it? The Minister introduced the Bill with his usual

calm assurance and insight and took us through the clauses very effectively. He prefaced his remarks with a statement about the enormous success of the Chancellor's management of the economy. However, he is best placed to recognise that aspects of the current economic scene are extremely worrying. Our productivity and investment record are still poor and our productivity rate is below that of our G7 competitors to a greater extent than at any point since 1991. Today, we heard the news that FE colleges are to be blitzed by this Government, thus impacting on those aged 16 to 19 and those who engage in part-time work and study who seek to increase their productivity through improving their skills. There is even the suggestion that 40% of them should close. How on earth can the Government justify that? In the last debate we had on productivity, the Minister made an extremely acceptable defence of the progress of his plans for improving productivity but referred to the role of the education system in improving productivity simply in terms of the universities. Now I know why he did that as he, or certainly his Government, intended to blitz the opportunities for those who do not go to university but who need the skills which our society now largely tends to import from abroad. The Government are doing devastating damage to a sector of the economy which is necessary to increase productivity.

We jolly well need to increase productivity because our balance of payments deficit is at its highest level since modern records began. If this Government were analysed on the basis of the big debates on the viability of the economy that took place in the 1970s, when even importing a few aircraft could cause a Government great balance of payments difficulties, the situation this Government are in at present would be deemed absolutely chronic and one that far outweighs the anxieties that obtained at that time.

The Chancellor told us that his 2010 Budget would ensure that borrowing would reach only £37 billion by 2014-15. Last year, it was more than £87 billion. He said that public sector net debt would be 69% in 2014-15. It was in fact 80.2%. He also promised that the deficit would be eliminated. He has failed on all those counts. Therefore, while I accept the points made in the Minister's opening remarks, I hope that he will also address the other side of the picture, which is all too bleak.

6.29 pm

Lord O'Neill of Gatley: My Lords, yet again we have had an extremely interesting debate, and I thank all noble Lords for their excellent contributions. As has become my wont in previous debates, especially when not too many noble Lords have spoken, I will attempt to respond to most of what my modest brain could understand about what everybody said. I apologise in advance if I forget some of you, or if I misunderstood some parts.

Let me start with two overall points, especially concerning the comments of the noble Lord, Lord Davies, about the economy in general, because they link to a number of things that noble Lords touched on. Also—I will come back to this issue when I respond to the comments about welfare—it is very important when we debate government policy that we do not forget that it is presented in this Bill in the context of the mandate the Government sought and, importantly, secured in the election that they won with a majority. In the election campaign, the Government made it pretty clear that they were committed to deficit reduction, debt reduction, as low tax as possible and a low welfare spending environment. By and large, that is the framework that has shaped this Budget.

On the economy, I will address the three points that the noble Lord, Lord Davies, touched on in his interesting closing comments. First, I said in my opening comments that we have had considerable discussions about productivity and, given its importance, I am sure we will have many more in this place in the future. I welcome many of the insightful comments that a number of noble Lords made about aspects of productivity. I hope we can learn as we go along, because this is a complex and huge challenge.

As I have pointed out, it is not only the UK economy that has experienced challenges in the past few years. If we can believe the reported data, even some of the supposedly highly productive economies seem to have struggled recently. In addition to the caveat that we will soon get early indications from the independent review which the Government authorised Charlie Bean to undertake—I hope it will include some indications of how productivity is measured—in the most recent quarter, we have some evidence that productivity has started to improve. It is far too dangerous to presume that that is the beginning of a sizeable and permanent improvement, but the latest data show the best improvement since 2011.

On an important and closely related aspect—in my experience, the two go hand in hand—over the past two quarters there have been more encouraging signs about the performance of investment spending. According to our GDP accounts, at least, investment spending has become a more important, positive contributor to GDP. However, I quickly add that, according to some recent business surveys, there has been some softening in the confidence of apparent business investment intentions, which is probably related to global events.

On the balance of payments issue, as I have touched on in previous debates but would like to re-emphasise, it is quite intriguing that our trade deficit, which is usually the subject of most people's focus on our seemingly never-ending poor performance, has not deteriorated. In fact, it has actually shown some signs of improvement, especially in recent months. But in the main identifiable parts of the accounts, it is the so-called invisibles surplus that has deteriorated. That could be due to something substantial, but it could be something to do with valuation and accounting treatment that is not necessarily going to be permanent, and there may be some questions about the validity of some of the statistics. At the risk of my sounding like a bit of a nerd, the newly appointed governor of the Central Bank of Ireland is a known expert on international balance of payments issues, and it was very interesting to read his suggestion that some of the apparent deterioration in our invisibles account may relate to the behaviour and book-keeping of international companies, which is among the reasons why it is very important that we embolden HMRC to do the work it is tasked with doing. I will come back to this in a few minutes.

[Lord O'Neill of Gatley]

I turn now to the individual, very useful comments that noble Lords made. First, the noble Lord, Lord Lennie, spent some time talking about the environment for our tax policy with reference to the fragile economy. In addition to what I have just said, it is quite interesting that the very latest high-frequency indicators, specifically the purchasing managers' indices for the most recent finishing month, showed in both the manufacturing and services sectors a notable—and to some degree, even for someone like me, surprisingly strong—acceleration. I am not so sure, other than being cognisant of the never-ending uncertainties that go hand in hand with life and the state of the world, quite where the fragilities that he referred to are. I would add in that regard that the tax policy path and the spending path this Government have chosen to pursue do not appear to be slowing the economic recovery, although of course the evidence varies from month to month, depending on the individual economic data.

On the second general point raised by the noble Lord, Lord Lennie, the so-called tampon tax—I apologise for reading the brief; I do not like to do that in my closing comments, as I am sure noble Lords appreciate—the UK does apply a 5% VAT rate to sanitary products, which is the lowest rate currently allowable under EU rules. During the debate in the other House on this issue on 26 October, my fellow Treasury Minister David Gauke said that he would raise the issue with the European Commission and other member states, setting out the Government's view. I can advise the House that David has now written to the Commission and other member states setting out our strong position that member states should have full discretion over what rate of VAT they can apply to those products.

Turning to the considerable number of lengthy but, as always, very interesting comments made by the noble Baroness, Lady Kramer, again, I apologise that I will not be able to go through them all in the remaining time, but I want to touch on a number of points that relate to both the big picture and the specifics. On the overall nature of fiscal policy, the spending cuts and the figures to which she referred, let me repeat—even though everyone in this place, the other place and the country are aware of this—that one of the reasons why certain areas are being cut to the levels proposed is that the Government, in addition to emphasising their commitment to the lowest tax possible and to deficit and debt reduction, have consciously and deliberately, as part of the election campaign and since, promised to protect key areas which, in my own judgment, are vital to the long-term performance of our country. These are health, education, foreign aid and investment spending and, of course, spending linked to security challenges—following the latest Budget—and defence. It follows by definition that, if you are protecting those areas and are committed, as we are, to deficit and debt reduction, the other unprotected areas have to take the lion's share of the work.

It is in that context that the interesting comments made by the noble Baroness, Lady Kramer, about welfare payments, and those of many others, should be considered. I am sure—following the rather emotive and intriguing debates we have had about that topic in this House, and what noble Lords have heard from the Chancellor, when he said that he would listen and set out in the Autumn Statement what he would do to address the concerns raised about the transition from a high-welfare, low-wage economy to a lower-welfare, higher-wage economy—that we will have some of these debates again in the future.

However, I will highlight, of the many statistics that are often quoted in debates in the other place and in here, one that I think that we cannot forget. We are about 4% of global GDP and about 1% of the world's population. It is the case that today, we are spending about 7% of the world's welfare payments. If we do not believe that we can do something about that, it is a pretty worrying state of affairs, particularly when our economy has improved as much as it has done; and, let me emphasise—in contrast to the tone that was adopted by a number of comments—when we have record levels of full-time employment that are showing continued signs of improving further. If we cannot tackle some of the welfare payment challenges during an economic environment like that, then it is a pretty concerning sign, even though the complexity of our welfare payment system in itself makes it pretty challenging to ensure that none of the policies being pursued has some unforeseen consequences that we did not wish to introduce.

The noble Baroness, Lady Kramer, and others made quite a few comments about skills. I cannot spend too much time on that other than to reiterate, as I said during both the last productivity debate and a previous one, that in my own personal judgment the challenge of skills, within all the factors relevant to the future performance of productivity, will perhaps be the highest one that we face.

It was very interesting and slightly distressing to hear the comments of the noble Lord, Lord Davies, towards the end of his speech, when he suggested that in my previous reference to this I gave the impression that the only thing that mattered was higher education. Let me emphasise right here that that is far from the case, which is why, in the productivity plan, and linked to it, we are very proud of the fact that we have introduced the apprenticeship levy to put more responsibility on the corporate sector, as is the case in some of our fellow developed economies, Germany being a particularly model example in this area. We are also proud that the corporate sector itself essentially picks up a lot bigger share of the indirect, and perhaps even direct, cost of education spending, certainly as it relates to skills. In highlighting further education in the productivity plan, we focused on improving the quality of the further educational attainments of our young adults rather than just their number—both of course are important. I cannot emphasise enough—on my own behalf and, I believe, that of the Government—that there is great awareness of the importance of this challenge and the importance of not just focusing on it in higher education.

The noble Baroness, Lady Kramer, and other noble Lords touched on the Government's so-called lack of commitment to green policy. The Government remain committed to trying to improve the carbon performance of our economy but they are also trying to be even more focused on the value for money that goes along with a number of these individual policies from the past, especially in the circumstances of our desire to commit to a lower deficit and lower debt.

The noble Baroness, Lady Kramer, and a number of other noble Lords also touched on corporation tax, asking why we are continuing to lower it and, in some cases, why we were favouring large corporations relative to SMEs. I could spend a lot of time on this topic but will just highlight that in the past few weeks, the UK has been recognised positively by independent and globally recognised experts on such measures. I will name just two. In the World Bank's review of the cost and ease of doing business, we have just overtaken the United States and are now ahead of them on that. Our stance on transparency and tax policy was also mentioned in that review, as it was by the Legatum Institute, which said that the UK's leadership in Europe is accelerating relative to our European neighbours.

My noble friend Lord Cavendish made some very interesting comments about infrastructure. We are having discussions with many parts of the country about devolution and giving regions more responsibility for some big issues for their future. He touched on a couple of them, and may be aware that Barrow, in Cumbria, is one of the many we are having discussions with. I hope that at some stage those discussions will result in a fruitful outcome for Barrow.

More broadly, I emphasise to the House that I spend considerable time on the fascinating challenge of infrastructure. Whether it be project bonds or any other form of bonds, I am trying to challenge my own mind and my own past of many decades in finance, and the finance industry. At a time when we have such remarkably low bond yields all over the world, rising equity valuations and considerable amounts of cash, along with a massive infrastructure challenge here and elsewhere in the world, somebody in the future weeks, months or years will help us come up with a smart way of doing this that is not just some artificial way of putting it back on the Government's balance sheets. Many of the suggestions that have been put to me typically end up doing that.

In that regard, I also highlight the very successful role played by the UK government guarantee scheme, which so far is showing signs of helping us boost the scale of our national infrastructure ambition. I cannot finish on that topic without highlighting the fact that since I last spoke in this House, we have announced an independent National Infrastructure Commission, which will pressurise this Government and future Governments over how we rise to these very complex and ambitious infrastructure challenges with our beautiful and complex democracy. Part of the purpose and why I believe that that is such an important thing for us to do is to put us under more pressure to meet those challenges.

I realise that I have taken up 20 minutes of your Lordships' valuable time, and I now apologise to several noble Lords that I have not had the chance to speak to their individual comments. At the risk of going beyond 20 minutes, I would like to touch quickly on the issue of HMRC, which several noble Lords mentioned.

To meet our fiscal and debt reduction commitments, the Government are committed to trying to tackle tax avoidance. Although it will remain a challenge, given the ambitions that we have set, we are committing the right resources to enable HMRC to ask the right questions and pursue those who are not meeting their obligations. Perhaps I may write to the noble Lords, Lord Flight and Lord Howard, but I can say with some confidence on their specific question that we think there is plenty of protection for people's individual rights.

I draw to a close. I thank all noble Lords again for their valuable comments, and commend the Bill to the House.

Bill read a second time. Committee negatived. Standing Order 46 having been dispensed with, the Bill was read a third time and passed.

Consolidation etc. Bills Committee

Message from the Commons

A message was bought from the Commons that they have appointed a Select Committee of twelve members to join with the Committee appointed by the Lords as the Joint Committee on Consolidation etc. Bills.

House adjourned at 6.53 pm.

Grand Committee

Tuesday, 10 November 2015.

Education and Adoption Bill

Committee (2nd Day)

3.30 pm

Relevant document: 10th Report from the Delegated Powers Committee

The Deputy Chairman of Committees (Lord Bichard) (CB): Welcome to the Grand Committee. If there is a Division in the Chamber, the Committee will adjourn for 10 minutes.

Clause 6: Interaction between intervention powers

Clause 6 agreed.

Amendment 15

Moved by ***Baroness Pinnock***

15: After Clause 6, insert the following new Clause—

"Scrutiny of education provision

(1) The Education and Inspections Act 2006 is amended as follows.

(2) After section 70C insert—

"70D Scrutiny of education provisions

(1) This section applies where more than 10 per cent of schools in a local education authority is eligible for intervention under section 60B.

(2) The relevant local authority may establish, under section 21(2) of the Local Government Act 2000 (overview and scrutiny committees), a committee of that authority to review and scrutinise matters relating to the provision of education in such schools in the authority's area, and to make reports and recommendations on such matters in accordance with regulations under this section.

(3) Regulations shall make provision—

(a) as to the matters relating to the provision of education in such schools in the authority's area which the committee may review and scrutinise;

(b) as to matters relating to the provision of education in such schools in the authority's area on which the committee may make reports and recommendations to local Academy sponsors;

(c) as to information which local Academy sponsors must provide to the committee;

(d) requiring Regional Schools Commissioners to attend before the committee to answer questions.""

Baroness Pinnock (LD): First, I apologise to the Committee for not being able to attend the Second Reading of the Bill because of diary clashes.

My noble friends Lord Storey, Lady Sharp of Guildford and I have tabled this amendment to improve the local and democratic accountability of schools in a local community for a number of reasons. The first reason is that school funding accounts for around 50% of local authority spending for councils that have responsibility for education. The second reason is that, by their very nature, schools reflect the communities they serve and parents expect there to be a local process of oversight and a local means of expressing any concerns. The third reason is that there have been a number of high-profile failures of financial governance in the academy sector. For example, there have been allegations relating to fraud in a number of schools in Bradford and County Durham. The Education Funding Agency has issued financial notices to improve to several academy chains, including the Academies Enterprise Trust in 2014. The fourth reason for tabling this amendment is that multi-academy trusts currently seem to be the favoured way forward, but they are accountable for their strategic and financial performance only to the Education Funding Agency and the Secretary of State. The fifth reason is that governance models in multi-academy trusts ensure that the sponsor or sponsoring body controls the trust. I am sure the Minister will have seen the publication by the New Schools Network.

Multi-academy trusts are governed by a trust body and by so-called directors of the trust who take the strategic and financial decisions for the schools under their control. On the whole, multi-academy trusts set up local governing bodies to do the day-to-day running and there is no parental or staff involvement until this lower level of governance. The document recommends that there should be one member of staff and two parents on those bodies and that they should not have any oversight of the financial controls of the trust and therefore of the school in which they serve. The crucial thing in this model is that decisions on school budgets are in the hands of the directors of the trust and that the trust members are self-appointed and accountable for their actions only via agreements signed with the Department for Education and the Education Funding Agency.

In this model there is no accountability to the local community and to parents. This amendment seeks to address those serious concerns. There is currently a vacuum of democratic accountability regarding the attainment and achievement of schools and, even more importantly, for the attainment and achievement of the children in those schools. Those matters are no longer within the remit of the local authority. As a serving local councillor I can say that when parents approach me with concerns about their children's academy school's ability to achieve realistic opportunities for them, it is difficult to address those concerns other than by going through the very processes that created them in the first place—that is, the school's governing body or trust.

In this amendment we propose to put matters right. In 2006 the Government established local authority health scrutiny committees. The government guidance for those committees, which is on the GOV.UK website, is very clear about their purpose. I think that the purposes for which health scrutiny committees were established could serve in establishing parallel scrutiny committees for schools within the local authority area. The government guidance for local authority health scrutiny committees, available on the GOV.UK website, states:

"The primary aim of health scrutiny is to act as a lever to improve the health of local people, ensuring their needs are considered as an integral part of the commissioning, delivery and development of health services … Health scrutiny is a fundamental way by which democratically elected local councillors are able to voice the views of their constituents, and hold relevant NHS bodies and relevant health service providers to account".

[Baroness Pinnock]

It seems to me that by substituting "schools and education" within that guidance we have a prime way of letting local communities call to account all schools, particularly academies because there is a big vacuum in accountability for local academies. In the nearly 10 years since the committees were introduced they have been extraordinarily effective in bringing together local democratically elected representatives, health commissioners and CCGs, representatives of the acute trusts in the district and the public health people to scrutinise health issues. Together they have been able to resolve some of the difficult challenges of providing health services in the community. I would attest that this same model could work really well for local education.

The guidance goes on very helpfully to demonstrate how scrutiny committees can add value by bringing together partners providing, in this case, health services. I suggest that it could also be done for education in a district. It says:

"A greater emphasis on involving patients",

and for education that could be parents,

"and the public from an early stage in proposals to improve services".

Engaging people has got to be a positive. It continues:

"The work of health and wellbeing boards",

in this case we could bring in the education scrutiny committee,

"bringing together representatives of the whole … system".

This will therefore add value to the decisions made. It will provide an opportunity for a public, open, transparent and democratic hearing of a local community's concerns about local schools.

One key to success in a school is harnessing the support of the local community that it serves. Anyone who has ever been involved in education, as I have, knows that good schools are supported very well by their local community. One indicator that a school is beginning to fail is when the local community starts taking support away from it.

The risk with the multi-academy trust model is that schools will become more remote from the communities they serve. I suggest that a successful multi-academy trust would welcome the opportunity of a public platform where it could demonstrate transparency in its decision-making and respond to questions about its performance from local people. With that in mind, I hope that the Minister will be able to respond positively to this proposal. I beg to move.

Lord Hunt of Kings Heath (Lab): My Lords, I very much welcome the amendment of the noble Baroness, Lady Pinnock. I am not sure whether her suggestion is exactly right but the principles that she raises are very important. They concern local democratic accountability and they also concern what she described as flaws in the governance structure of academies, particularly multi-academies. I share her view on both points.

The noble Baroness suggested that we look at the health model and I think that she is right. One thing that puzzles me about academy trusts is that they do not seem to allow for a direct relationship between the governance and the parents, except in the circumstances that she has described. I suggest that we look at NHS foundation trusts, which after all were developed at around the same time.

I know that the education department is very isolated in Whitehall and this is yet another example of that, but the ownership of an NHS foundation trust is rooted in patients, staff and members of the public, because they become members without paying any cost and it is the members who elect the governing council. The governing council, in turn, appoints the non-executives and the chairman to the board and approves the appointment of the chief executive. The board of directors is a statutory body. It is the board that you sue and harangue if things go wrong, but it is accountable locally through a very well-ordered structure and it carries with it a much better sense of accountability. There is a clear line of responsibility with a proper board of directors. There is no problem about its legal responsibilities and it is accountable. When I chaired a foundation trust, the fact that I had to appear before the governors' council every month or so to explain the trust's problems and what we were doing about them was a very good discipline. It was not a very easy discipline—I confess that I did not enjoy doing it—but it was an immeasurably strengthening exercise, and I think that the noble Baroness is trying to get at that in part of her amendment.

The noble Baroness also raises the whole question of the local authority's role in the education policy that the Government are developing. I refer back to a point raised by my noble friend Lord Knight during our first day in Committee. He basically said that if the Government want all schools to be academies, why do they not just say so and bring in legislation? Why do we have to have this rather obscure, backwards way of academising all schools? That is basically dishonest. I hope that the Minister might just praise a maintained school—he has four hours in which to do so but I have yet to hear him ever praise a maintained school. Clearly, he has an ideological problem with maintained schools. That is why we remain suspicious of the Bill and some of the motivations behind it.

3.45 pm

I would like to ask the Minister a straight question. In November 2010, we had the White Paper of this Government—although no doubt they will say that it was the coalition Government's—which said:

"Local authorities will, over time, also play a role in commissioning new provision and overseeing the transition of failing schools to new management. We will consult with local authorities and Academy sponsors on what role local authorities should play as strategic commissioners when all schools in an area have become Academies".

Can I now take it that, essentially, that White Paper is withdrawn and the truth is that the Government see no role for local government whatever in education in the future?

I come now to the letter that the noble Lord wrote to the noble Lord, Lord Lang, the chairman of the Constitution Committee, on 5 November. That letter was circulated just before our sitting today. The criticism that the Constitution Committee makes is that the provisions of the Bill, in respect of both education and adoption, go against the Government's localism agenda.

That is something that I raised last week, only to be told by the Minister that I was enunciating political theory. I thought that what I was talking about was the Government's localism policy. If the noble Lord had read the letter that was written to him by the chairman of the Constitution Committee, he would have noted the speech of his right honourable friend the Chancellor of the Exchequer, who said that,

"we all know that the old model of trying to run everything in our country from the centre of London is broken".

He was speaking in Manchester; it was all about the northern powerhouse and the agreement and memorandum of understanding reached between himself and the combined authorities in Greater Manchester.

The Constitution Committee has pointed out that there seems to be huge tension between the Government's overall policy on devolution and the Education Department's approach to schools. The noble Lord, Lord Nash, in his remarkable letter to the noble Lord, Lord Lang, says that, in fact, the Constitution Committee is wrong and apparently this Bill is entirely consistent with the Government's localism agenda. You could have fooled me. Decisions about school improvement are apparently going to be made by people with a real understanding of local needs and priorities, but these people are the regional schools commissioners—who do not, I think, have any sense of local accountability, do they? I rather thought that their only accountability was to Ministers. I do not see how that fits with the localism agenda. The noble Lord, Lord Nash, goes on to say that the proposals in the Bill are in keeping with the Government's wider devolution commitments. The RSCs certainly do not have devolved responsibility; they have delegated responsibility, or have I got that wrong? There is a huge difference between devolvement and delegation.

I come back again to the localism agenda. In Greater Manchester, and potentially Cornwall, the whole of health and social care is going to be handed over by central government to the combined authorities at local government level. So why is education being completely ring-fenced from any of those factors? It is a puzzle to me.

Baroness Hughes of Stretford (Lab): As well as the fact that, on this particular point, the Education Department seems wholly out of step with the general direction of government policy—which, as my noble friend said, is transferring power from central government to the local combined authorities—the department's stance undermines the very policy itself. The overarching remit of the combined authorities is to develop the economies of their city or region and translate that growth into opportunities for all their citizens, particularly the most disadvantaged. Surely education has to be part of that agenda of economic growth. Does my noble friend agree?

Lord Hunt of Kings Heath: This is another puzzle because the terms of the agreement with Greater Manchester focus on growth in the economy and specifically mention the skills agenda. I have listened to the Government talk about the issue of skills—albeit at the same time as destroying further education, which of course is where most of these skills are taught; but we will leave that aside for the moment—and I am absolutely amazed because the argument they put forward is that while skills are crucially important, the role of schools is to make sure that, when they come out, young people are ready to go into the workplace; that is, those who do not go into higher or further education, if any is left when they reach the age when they move on from school.

Why on earth is education being taken out of this really exciting development? I am enthusiastic about what is happening in Greater Manchester, and potentially it is hugely exciting, but I just do not understand why education is being left out of it. This is but one example of how, when the Department for Education says that it is consistent with the localism agenda, it is, frankly, completely unbelievable.

The Earl of Listowel (CB): My Lords, I am sorry that I was not able to be present in Grand Committee last week, but I have read with interest the Committee report. Two things come to mind in relation to this debate. The first is that I am most grateful to the Minister for organising an extremely helpful meeting with head teachers and regional schools commissioners. At the meeting I raised a question about local accountability which followed from our debate at Second Reading. On the question of regional accountability, I put to a regional schools commissioner the case that while it is important to improve academic outcomes for young people, there may be a reason to override the local interest of parents in their schools. I hope that I am paraphrasing him correctly, but he said that it is really important to bring the local community with one, which seems to support the notion of the noble Lord, Lord Hunt, and others that if one is to have a successful school, one needs to bring the local community on board as far as possible.

The second point I want to raise is that, having read the *Hansard* report of the previous sitting, I am concerned by the Government's focus on a very narrow assessment of education; that is, on academic attainment. Of course it is extremely important that our children should do well academically so that they leave school being able to read and write and are ready in terms of employment, and that is important to their parents as well, but as was made clear in that debate, children need a rounded education. Some children in particular benefit from an education which perhaps does not emphasise academic attainment so much but allows them to excel in sport and vocational attainment in other areas. My sense is that we need to allow some young people to fail and fail and fail again. Young people in care in particular may do poorly in terms of their academic attainment while they are at school, but many of them will do well in their early 20s or even their late 20s. If one puts great pressure on schools to ensure that all children do well academically, the risk is that those children who do not have so much academic capacity may be excluded, be given less attention, or to some degree will be seen as an inconvenience.

Perhaps that is an argument for giving local authorities and local bodies more influence over and supervision of what goes on in academies and elsewhere. The people in Manchester may think, "Well, in this area we have a particular interest in vocational success and we would like to see our schools equipping our children

[The Earl of Listowel]
to enter apprenticeships". I am probably not expressing myself well. I think that my chief concern arose when I read about the new pressures being put on head teachers to ensure that children do well academically because of the emphasis that the Government are placing on this. I worry about those children who may not have so much academic potential but do have potential in other ways. Perhaps the amendment that has been put forward will allay some of those concerns.

Lord Sutherland of Houndwood (CB): My Lords, I apologise for not being here in the Committee's session last week. It was for medical reasons—and my experience has not filled me with either enthusiasm or confidence that importing wholesale from the health service will solve all our problems. However, there are some very good individual doctors in the system, which is why it works.

To go to the challenge put to the Minister about maintained schools from the noble Lord, Lord Hunt, I spent this morning with seven head teachers from maintained primary schools in the most difficult areas of inner London. I have no doubt that they are doing a terrific job. I agree that there are some excellent maintained schools doing an excellent job. Some of them even refer to the good partnerships with local academies which they hope will develop. That is the other side of the picture.

However, I would make two or three quick comments. When I hear the expression "democratic accountability", the philosopher in me wants to write three articles to try to clarify what that means. The Committee should not worry, for I am not going to try to do that now, but it is a shibboleth at times. At other times it is an important use of language, just as talk of human rights is, but sometimes it covers a multitude of uncertainties and unclarities. I do not deny that it is important but here, for example, we have to distinguish between accountability for financial systems and governance—one kind of accountability that is not necessarily for a public committee; I would rather have a high-powered team from PricewaterhouseCoopers or some such going in to inspect them and report back—and the separate form of accountability which is necessary for educational practice. Parents and teachers no doubt have important things to say but it must never be forgotten that at least half of those, possibly both, are interested parties.

I come to the nub of what I want to say. The problem that the Bill is facing up to is essentially a question of dealing with what has arisen in schools that are currently maintained under the local authority system. If that is so, just recreating it without modification will not do the job. We need more subtlety and sophistication in trying to face that problem, when it is there that the difficulties have arisen. The Committee may have dealt, as I gather it did at some length last week, with the definition of coasting. But if there are coasting schools, a number of them have arisen within a local authority and within the maintained system. So there are good, bad and coasting schools, all of them within the maintained sector. That is why I find it difficult simply to pick up a proposal that all you have to do is to spread the responsibility by having ways of taking on board an additional set of views, without a means of sharpening them.

To go back to my speech at Second Reading, there is a danger that we will simply bring in delaying tactics, which are the curse of the current system. I am still worried about the Bill having delays built into it in a way that I find unacceptable. That is why I am not—

Baroness Pinnock: Perhaps I may help out a bit. What I have proposed in the amendment has nothing to do with delaying anything. What it seeks to do is to find a way for local people to have a local voice about the schools that serve their community, be they maintained schools, schools in a multi-academy trust or single trust academies. All the amendment is about is creating an opportunity for an oversight of what goes on in a local community. It is not about decision-making, as the noble Lord, Lord Sutherland, may have thought. If we follow the parallel of the local authority health scrutiny committees, it is not only about membership by local elected councillors. Those committees have a membership that is drawn widely from both those who are elected to serve their communities and those who have an interest or past professional experience in the health sector. Those people are drawn together to look at the health services in their area and come to some conclusions about them, as well as enabling local people to come forward with their concerns. So this is nothing to do with delaying or only having a committee. It is about enabling some sort of platform for local people to voice their concerns, or perhaps even their delight, at what is going on. I hope that that has clarified it a bit.

4 pm

Lord Sutherland of Houndwood: It does, and that is helpful, but it still leaves the question of accountability for finance and governance, which is very specialist, and accountability for educational practices, which is pretty specialist too but perhaps does not relate to some of the issues that we are concerned with.

Baroness Hughes of Stretford: Before the noble Lord's previous intervention, he seemed to me to be saying, and perhaps he could clarify whether this is his view, that all the schools that are bad or coasting are in the maintained sector, that the solution to dealing with that is to take them away from local authority control and relationships completely and that therefore, by implication, all the academies that have gone through the process of becoming academies are excellent. We know that that is not true. Is that what he is saying—that all the bad and coasting schools are only in the maintained sector?

Lord Sutherland of Houndwood: The noble Baroness will be pleased to know that that is not what I am saying. I have been an advocate of full inspection for academies ever since the last Bill was introduced, and I still take that position. That is the way in which academies should be judged; have no doubt about that. I do not think it likely that we will deal with that in this Bill but the noble Baroness asked me what my position was, and that is it.

What I am saying is that the Bill deals with coasting schools in the maintained sector and, if that is so, there is a bit of a problem if we are going to deal with the issue by simply recreating that. I simply record my

reservations. The noble Lord, Lord Hunt, was right to say that as it stands the clause may not achieve all that it sets out to, and if it comes back again I would be very interested to have a look at it. Still, I have these reservations and wanted to put them on record.

Baroness Evans of Bowes Park (Con): My Lords, this new clause would allow a local authority to establish a committee to review and scrutinise the provision of education in coasting schools, where such schools make up more than 10% of schools in the local area.

First, I shall touch on the points made by the noble Lord, Lord Hunt, and the noble Baroness, Lady Pinnock, about the accountability of academies. Our view is in fact that the accountability structure for academies is stronger because it reflects their status as both charitable companies and public bodies. This means that when it comes to matters of good governance and financial management, which, as the noble Lord, Lord Sutherland, noted, are very important, they not only have statutory responsibilities under company law but explicit accountabilities to Parliament. Because of this dual layer of accountabilities, academies have a stronger financial framework and are held up to greater scrutiny than most other types of schools.

Baroness Pinnock: I wonder whether we are at risk of thinking that accountability for children's education—their one chance to get a good education—is all about balance sheets, audits and professionals coming to some conclusion having looked at attainment levels. At their heart, parents are concerned about whether their children are happy in school, whether bullying is dealt with and whether they get opportunities outside school for extensive education—creative, artistic or sporting. Those are the sorts of things that they take into account as well as their child's academic progress. That is the accountability that I am talking about, not some dry, dusty PwC audit report that parents may not be able to understand. They do understand what happens to their children's experience in schools. Where can they ask the questions?

Baroness Evans of Bowes Park: I mentioned that because the noble Baroness specifically talked about academies suffering financial failures, so I was addressing that point. I will come on in due course to talk about some of the other issues that she has raised.

We believe that the amendment is not necessary as the Bill gives regional schools commissioners, working on behalf of the Secretary of State, the powers to work with, and intervene in, any school that is coasting. Both the noble Lord, Lord Hunt, and the noble Baroness, Lady Pinnock, mentioned health scrutiny committees as a potential way of looking at this issue. The structure that we believe will work best is that of regional schools commissioners, and I will go on to explain why. I am sure that we will come back to this matter time and again this afternoon but I will attempt to put down the first marker as to why we believe that the Bill has devolution at its heart.

First, the Bill is concerned with improving schools that have failed. Decisions will be taken by regional schools commissioners, who are immersed in their local context—a point highlighted by the noble Earl, Lord Listowel, from the conversations that he has had and from what he has seen. They are also advised by outstanding local heads. So there is local accountability and I will come on to talk a little more about that in due course.

Secondly, one of the main measures in the Bill gives greater power and responsibility to education professionals. The thrust of the Government's agenda is to devolve power down to the very local level, trusting head teachers to know what is best and to do all the things that we want to see in good schools, as mentioned by the noble Baroness, Lady Pinnock. I am sure that we will return to this in later amendments.

As I said, the Bill provides RSCs with additional intervention powers for maintained schools so that RSCs can directly tackle schools that have been allowed to fail, or indeed coast, under the local authority's watch. This means that all coasting schools will come under the scrutiny of regional schools commissioners. The RSC will work with each coasting school in their area to identify whether the school has the capacity to improve sufficiently by itself, which is one option, or whether additional support, including potential intervention, is needed. Such additional support could come from a national leader of education. Alternatively, the RSC may consider that the school should become a sponsored academy, or, as the noble Lord, Lord Sutherland, mentioned, there might be a partnership between the existing school and other local maintained schools or local academies.

The work of RSCs will go beyond what is suggested in the amendment. RSCs will not wait until 10% of schools in an area have been notified that they are coasting before reviewing the education provision in those schools. Their work in relation to coasting schools needs to be continuous and thorough, with the aim of intervening swiftly where necessary. RSCs are strategically placed around the country to make decisions about coasting schools while, as I said, being immersed in the local context.

The noble Lord, Lord Hunt, asked about the role of local authorities. They will work very closely with RSCs, and I will come on to that. However, in terms of provision, local authorities can run competitions to set up new schools in areas where there is such a need. So there is still a role for local authorities, and many around the country have been active, although perhaps not enough due to the places issue that we are facing.

As I said, we expect RSCs to work closely with local authorities, and we have already seen evidence of effective partnerships. For instance, in Suffolk, the regional schools commissioner, Dr Tim Coulson, meets the local authority every month to discuss schools of concern. The RSC has strongly encouraged the authority to use its existing statutory intervention powers, and over the last 12 months Suffolk has issued 22 warning notices to poorly performing schools. The RSC has brought into Suffolk a number of new academy sponsors with proven track records of success. Overall, 17 underperforming Suffolk schools have become sponsored academies since September 2014 and a further five are in the process of converting. Also, this month the RSC is meeting the leader of the council to discuss establishing a school improvement board with the aim that every school inspected by Ofsted over the next two years will improve by at least one grade.

[Baroness Evans of Bowes Park]

As to accountability and parents, the *Schools Causing Concern* guidance which is currently out for consultation makes it clear that local authorities should already alert the relevant RSC when they have concerns about standards, leadership or governance in an academy or a free school. Parents can, and already do, write to RSCs when they have concerns. As I have said, RSCs are very clear about the need for community and parental engagement.

Baroness Massey of Darwen: I am sorry to intervene but I am getting rather confused. Did the Minister say that parents can write to the RSC?

Baroness Evans of Bowes Park: Yes.

Baroness Massey of Darwen: Why is it not the other way round? Why does the RSC not convene a meeting of parents? I am quite concerned about the letter from the Minister to the noble Lord, Lord Lang, which says that this,

"shows our absolute determination to create a school led system and to devolve decision making to experts on the frontline as far as possible".

Who are the experts on children on the front line—are they not parents?

Baroness Evans of Bowes Park: Indeed, and also teachers. RSCs, for instance, go to meetings in schools to talk with parents about what is happening. At the last sitting, due to concerns about clarifying how the interaction between parents and RSCs will happen, we also committed to considering whether we can be more explicit in the guidance about what that interaction will look like; so we will come back with more to say on that.

As the Committee can see from the examples I gave, RSCs are already scrutinising the schools in their area that they have concerns about, with a view to intervening swiftly where necessary. In addition to the new powers for RSCs as set out in the Bill, I hope that I have been able to reassure noble Lords that we will be actively monitoring and reviewing all coasting schools and intervening when appropriate. I therefore urge the noble Baroness to withdraw the amendment.

Baroness Massey of Darwen: How many of the schools identified for intervention are academies?

Baroness Evans of Bowes Park: We gave figures at the last sitting. I do not have them to hand now but can get that information to the noble Baroness.

Baroness Massey of Darwen: Is the noble Baroness aware that 25% of all failing schools are academies?

Baroness Evans of Bowes Park: That is because a number of state-maintained schools have now converted to become academies; so they have shifted into being academies.

Lord Hunt of Kings Heath: Is the noble Baroness seriously saying that the only failing academies are ones that have just transferred?

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): No, we are not saying that.

Lord Hunt of Kings Heath: Quite.

Lord Nash: The answer to the noble Lord's question is that we are not saying that, obviously; but as we made clear ad nauseam the last time we were here, there have been 1,500 failing maintained schools converted to academies, many of them very recently, all of which have been performing badly, many of them for years, under local authority-maintained status.

Baroness Morris of Yardley (Lab): But it is also agreed that one in seven of the schools that converted from the maintained sector as excellent or outstanding stand-alone academies went on to require improvement or serious measures.

Lord Nash: We can bat around statistics on this for ever but, in fact, the converted academies are doing considerably better than local authority-maintained schools.

Baroness Morris of Yardley: If we are arguing about statistics, will the Minister accept that the one I gave was given in a reply from his department?

Lord Nash: The noble Baroness is talking about Ofsted grades; I am talking about exam results.

The Earl of Listowel: Before the Minister responds, perhaps I may say how pleased I am to be reminded of the weight that the Government are placing on professional judgment. I was pleased to read in the Grand Committee proceedings and in the media that they are introducing this new college for school teachers, which will recruit, train and retain the very best teachers to send out to the schools that need them most. That sort of initiative is very welcome. I also welcome the Government's drive to build trust in head teachers, recognise their expertise and give them as much authority as possible. My concern is that, because of the way in which the Government have set this up, they are putting huge pressures on head teachers to perform in a certain kind of way—which is to have good academic performance so that one will do well as a head teacher if one jumps through certain hoops, which is what head teachers will try to do. That distorts what they might do.

For instance, yesterday the noble Baroness, Lady Massey of Darwen, organised a meeting with children from pupil referral units and hospital schools. We learned that a key issue for those young people is reintegration into mainstream education after their healthcare is completed, or whatever else it might be. A disincentive on the part of head teachers to accept them is that they are not likely to do so well academically. A young boy or girl coming out of hospital who has been away from school for quite some time is not likely to perform as well academically and there might be some hesitation on the part of the head teacher to take them back. I warn the Minister that I may well table an amendment at the next stage of the Bill to help us deal with the particular issue of children who have been out of school for some time and suggest that their data should be excluded from the performance statistics. A head teacher should not have to worry that she will be seen as failing because of a child who

has been out of school and is not achieving academically as well as the others. As I say, I may well bring forward an amendment on that.

4.15 pm

I welcome what the Government are doing in terms of respecting and listening to head teachers, but I am worried that there might be a too centralised and too heavy-handed emphasis on academic attainment. On that, I should perhaps clarify something I said earlier, which is the need to allow young people in care to fail and fail and fail again. That seems quite controversial, but what I mean to say—I am thinking of all children, not just children in care but adolescents as well—is that they should be allowed to fail and fail again and they should not feel too badly about it; rather, they should be given another opportunity to succeed. I suppose the worry is that one will put too much pressure on them to achieve at a certain age and at a certain time in their development, which may turn them off education. I think a distinction between us and other nations is that we do not easily allow children to retake a year if they are not doing well. But I suspect that we probably should allow children to do as well as they can.

Again, this comes down to the professionalism of our teachers and devolving power down to them. Our teachers should know how hard to push a child in order to help them excel, but know also when to step back and realise when a child is struggling. They should let them do as well as they can at the time and then give them another opportunity the following year. As I say, some young people in care can excel early on but many may do so later. We just have to be sure that we give them chance after chance after chance to do well when they are ready to do so.

I am worried about the further central push on academic attainment which this Bill will put on head teachers. I am grateful to the Minister for his response.

Baroness Perry of Southwark (Con): The noble Earl's concern for vulnerable children is well known and entirely to his credit, but I wonder if he would acknowledge that the alternative to failing and failing and failing again is to succeed academically. The one thing which has bedevilled educational attainment over many decades has been low expectations: saying, "What can you expect? It is because of their miserable backgrounds and troubled families", and all the rest of it. The answer is that we must have expectations. These young people deserve to achieve. I agree entirely with the noble Earl that pushing them too hard, too soon can be counterproductive, but the alternative of just sitting back and saying, "Well, they have such awful backgrounds, they are so vulnerable and they find life so difficult that we must not push them at all", is something I could not go along with. I really believe that raising expectations is the whole thrust to success that this Government are so determined to achieve—and that is raising expectations for all children.

I know that noble Lords opposite have pointed out that some academies are failing. No one disputes that—of course there will be failures in any system, and they will made to stop failing and start succeeding. But if we are to give every child genuinely the best education, we have to look at what some academies have done brilliantly with the most vulnerable children in the most difficult circumstances and then pull the others up so that instead of 7%, 8% or 11% getting decent GCSEs, 90% do so. Listen to my noble friend Lord Harris of Peckham and look at what he has done. Some of us have visited several of his schools and have seen what can be achieved.

Baroness Sharp of Guildford (LD): I point out to the noble Baroness that there are also local authority-controlled schools where one has seen a very similar turnaround. High expectations are not the preserve of academies alone. Good teachers always have high expectations.

Baroness Perry of Southwark: Absolutely. I would be the first person to say that there are some wonderful maintained schools and some very good local authorities. Nevertheless, it is true, and the noble Lord, Lord Sutherland, made this point, that local authorities have had decades to get this right and have allowed far too many schools to fall below the standard and taken no action to improve that. It was right that central government should move in to try to do something about it. I am sure that noble Lords opposite would have alternative ways to do that; the Labour Government did a great deal when in power as a central authority to help to raise standards, and they are to be highly praised for the legacy that they left in London and so on. There is a good history of central government moving in when local government is failing, and there is no question that plenty of schools that have been taken out of local authority control have succeeded. That does not mean that there are not lots of excellent local authority-maintained schools.

Baroness Massey of Darwen: My Lords, I wonder if I may add something to what the noble Baroness has said. I am glad that she has raised this issue. I like to think that the raising of achievement in schools when I was a parent in London was due to a great deal of consultation with parents, councillors, industry and so on. That is not the point that I wanted to make.

I want to refer back to what the noble Earl, Lord Listowel, said about the meeting that I chaired last night. I happen to have in front of me a PricewaterhouseCoopers report on achieving schools and the Achievement for All programme, but I will not go into that now.

I had a very interesting email this morning about coasting schools from one of the people at that meeting who is an academic studying pupil referral units, and I think that the noble Baroness may be interested in this. To summarise, she says that schools must be able to progress learning, not just count the number of GCSEs that they have. She said:

> "If coasting schools are to be defined by academic progress why would this not include 100% of pupils progressing 100% of the time? Measurement should therefore be based on progressing learning for all children and young people regardless of background, challenge or need; outcomes should be measured by engagement in learning and impact on all children and young people's social and academic progress".

That is what the PricewaterhouseCoopers report emphasises.

The Earl of Listowel: If I may respond to the noble Baroness, Lady Perry, one listens to the noble Lord, Lord Harris of Peckham, talk about his schools and the transformation that they have wrought, and indeed one listens to the Minister talk about our local school here, and it is clearly a huge and most important change that is very much to be welcomed.

I suppose that I need to be careful not to strain at gnats when we are talking about bigger issues. I recognise that expectations about the educational attainment of young people in care have been too low in the past. We have said that they have had too difficult a time, it is tragic and we cannot push them. However, we need to be careful not to move from one extreme to another. Ultimately, the best thing is what the Government are trying to do: to recruit and retain the best professionals closest to the child who are in the position to make a judgment on just how hard to push that child forward and at the same time how gentle to be with that child—a nuanced, sensitive approach. The children who visited us yesterday—what to say? I agree with these measures and I am sorry that I have not expressed myself more clearly. I certainly agree that we should not let children down by having too low an expectation.

Baroness Pinnock: I thank noble Lords for the interesting debate that we have had around accountability. I particularly thank the noble Lord, Lord Hunt, for the general support that he has given for the idea of trying to establish a greater degree of accountability within the system. I also thank him for reminding us that this is in fact a very nationalising, centralising approach to education, notwithstanding the remarks made by the Minister. In essence, all academies have to report to the Secretary of State, with one layer in between, which is the regional schools commissioner who is appointed by the Secretary of State. If that is not a centralising, nationalising approach to schools, I do not know what is. That is one of my problems with the creation of academies without any local accountability built in to the system.

Moving on to the regional schools commissioners, they are not regional in the accepted, geographic sense of the word. In my part of West Yorkshire, our regional schools commissioner is in—dare I say the word?—Lancashire. I have to tell you that it does not go down particularly well to be described as being part of the Lancashire—and a little bit of West Yorkshire—schools commissioner. I jest, in a sense, to make the point: because of the way that the regional schools commissioners are set up, they do not understand and know the regions. Most of the north-west is made up of very different communities from the old textile and engineering communities that I serve in West Yorkshire. For one man—it is a man—to try to understand and have that soft information, rather than always relying on the hard data, to make decisions about accountability is much to be regretted.

Finally, the noble Lord, Lord Sutherland, raised the shibboleth that is democratic accountability. We need to understand both those words. We are in danger, I think, of creating an education service in this country that has no, or very little, democratic input. For a service that is for every child, regardless of background, community or place, to have no democratically elected person to whom they can call on for help and guidance, and for those elected people to have no means by which to address those concerns, is a route down which we should not be going. Where else will those people turn? There is no point saying, as the Minister did, that parents are already writing to the reginal schools commissioners. No doubt they are—but they will not be some of the parents in the communities that I serve, for whom English is a second language and whose own literacy skills are not very good. They will not have those skills, so who does it fall on? Who in this chain will stand up for parents and their children who are not perhaps getting a fair deal locally? That is what I want to know and that is why this amendment was tabled. I have yet to hear the answers.

Those are my concerns about the words "democratic" and "accountability". It is about having a local voice; someone who knows and who can be trusted and relied on to stand up for local people. I have yet to hear that. That is a huge shame and one that I think we will live to regret unless we create some means of achieving this outcome. Having made those remarks, I beg leave to withdraw the amendment.

Amendment 15 withdrawn.

4.30 pm

Clause 7: Duty to make Academy orders

Amendment 15A

Moved by ***Baroness Sharp of Guildford***

15A: Clause 7, page 6, line 8, at end insert—

"( ) In determining whether to make an Academy order in respect of a maintained school in England, the Secretary of State must consider the availability of a suitable sponsor with a value added measure above the national average.

( ) If no suitable sponsor is available, the Secretary of State must appoint as a sponsor a willing council-maintained school or local authority with a value added measure above the national average."

Baroness Sharp of Guildford: My Lords, this amendment takes us to Clause 7, which is about failing schools, not coasting schools. It makes academisation mandatory for all failing schools: those which on inspection are judged inadequate or in need of very significant improvements. We put forward this amendment at the behest of the Local Government Association, which is worried about its responsibilities for finding sponsors for such schools. I shall quote the association's briefing:

"We are concerned about the capacity of the pool of current and potential academy sponsors to take on large numbers of additional schools. Councils are also reporting difficulty in finding sponsors for new schools or schools found inadequate by Ofsted. The DfE itself has already halted the expansion of some of the largest academy chains in response to concerns that rapid expansion has affected standards and Ofsted has issued critical reports on the performance of some chains. Recent DfE figures show that only 15% of the largest chains perform above the national average on an 'added value' measure, compared to 44 per cent of councils".

This picks up work that has been done by the Sutton Trust in the two reports it issued this year and last year on academy chains. Summing up its findings in the 2015 report, the trust said:

"Overall, in comparison with the national figures for all secondary schools and academies … the sponsored academies in this analysis have lower inspection grades and are twice as likely to be below the floor standard. In 2014, 44% of the academies in

the analysis group were below the government's new 'coasting level' and 26 of the 34 chains that we have analysed had one or more schools in this group".

It also noted that there were significant variations between chains and within chains with,

"a larger group of low-performing chains … achieving results that are not improving and may be harming the prospects of their disadvantaged pupils".

It goes on:

"The contrast between the best and worst chains has increased in 2014. Some chains with high attainment for disadvantaged pupils have improved faster than the average for schools with similar 2012 attainment. In contrast, the lowest performing chains did significantly less well over the period 2012-14 than schools with similarly low 2012 attainment"

It is not surprising that the Sutton Trust's main recommendation was that,

"the DfE and regional schools commissioners … should specify and operate clear, rigorous criteria for all sponsors",

and that school-based federations and trusts should be expanded; that is, linking up well performing schools, sometimes perhaps in the local authority maintained sectors, with schools that are failing rather than necessarily making them into academies.

This is more or less precisely what this amendment is proposing. Subsection (1) suggests:

"In determining whether to make an Academy order in respect of a maintained school in England, the Secretary of State must consider the availability of a suitable sponsor with a value added measure above the national average".

For example, the Harris Academy chain, which is very well regarded, would be regarded as a suitable sponsor. However, only 15%—quite a small group—of academy chains are in that category, although they are the larger academy chains.

The amendment goes on to provide that:

"If no suitable sponsor is available, the Secretary of State must appoint as a sponsor a willing council-maintained school or local authority with a value added measure above the national average".

So the amendment picks up on the two proposals from the Sutton Trust report by saying on the one hand, "Look hard when you are choosing a sponsor—don't just choose any old sponsor. Make sure that it is one with a very good record in coping with this sort of school", while on the other hand it refers to where there is no local sponsor available.

It is certainly true that many academy chains concentrate on particular areas and that there are not always chains that are available and have schools locally. When you are part of an academy chain, it is quite important to be able to link up with other schools in the chain and be able to compare best practice. The school of which I am a governor is part of an academy chain, but no other local schools are part of it, and that poses problems. It means that we have to travel about 50 miles to go to a meeting—usually around the M25 at 6 o'clock in the evening, which is not the best thing to do—so as I say, there are problems with not having a local sponsor. Sometimes linking up with a strong local authority-maintained school is preferable, even if it is not itself an academy. Many local secondary schools are now academies and if you have a good, strong local academy, then putting the school under that umbrella is preferable to trying to link it up with a far-distant chain. I beg to move.

Lord Watson of Invergowrie (Lab): My Lords, I support Amendment 15A and I agree with the sentiments espoused by the noble Baroness, Lady Sharp. It is surely sensible that a school should not be the subject of an academy order until or unless a sponsor has been identified as appropriate for that school as an academy. The alternative is for the school to be placed in a form of limbo, which as I see it cannot possibly be of any benefit to the children, parents or teachers or anyone else associated with the school. Can the Minister say, concerning the Bill, how many schools have already been designated as ready to be academised but have not yet been moved to that sector because for whatever reason it has been impossible to find an appropriate sponsor?

It is not clear what the DfE or perhaps the regional schools commissioner would do in such situations. Do they seek a local maintained school to take the failing school under its wing? Does the Minister anticipate that the suggestion made in the amendment relating to a local authority should apply in those situations? It would seem that there are good reasons why it should. I imagine that he will reject the amendment, however, so can he tell us what would happen if in these circumstances a sponsor cannot be found? I will have more to say on the question of sponsors in the sixth group, but for the moment I look forward to the Minister's response.

Baroness Evans of Bowes Park: My Lords, I would like to respond to Amendment 15A, tabled by the noble Lord, Lord Storey, and the noble Baronesses, Lady Pinnock and Lady Sharp. This amendment concerns whether and how a regional schools commissioner would identify the most suitable sponsor for a maintained school that had failed.

Clause 7 makes it clear, as did our manifesto, that for any school judged inadequate by Ofsted an academy order must be made. The RSC will take responsibility for this, identifying the most suitable sponsor and brokering the new relationship between that sponsor and the school. RSCs are already responsible for approval of sponsors, subjecting prospective sponsors and their trusts to thorough scrutiny before they can be approved to take on sponsored academies. I assure the noble Baroness, Lady Sharp, that they consider all new sponsor applications in their region against robust and uniform criteria which are available, and they approve those which can demonstrate that they have the capacity and expertise to turn underperforming schools around. Through this rigorous assessment process, supported by the advice and challenge of their head teacher boards, RSCs ensure that prospective sponsors have a strong track record in educational improvement and financial management and that their proposed trust has high-quality leadership and appropriate governance.

RSCs are also responsible for monitoring and holding academy trusts and sponsors to account for their educational performance. They do this robustly through Ofsted inspection reports on the schools within a trust and published performance data. Trusts are also held to account for their financial management, governance and compliance by the Education Funding Agency. Information about MATs in these areas is transparent, with academy trust accounts audited and made publicly available. Where it is clear that a trust is not improving a school, the RSC will not hesitate to take action and re-broker it to a stronger trust.

[Baroness Evans of Bowes Park]

As I have described, RSCs take a wealth of data and intelligence into account when identifying which sponsor should take responsibility for turning around a failed school. The tabled amendment requiring RSCs to take account of value-added performance and progress measures when identifying a sponsor for a failing maintained school is unnecessary. RSCs already look at a sponsoring school's performance and, of course, in the future our new Progress 8 measure, by which secondary schools will be held to account, is a value-added methodology. In fact, the department has led the way in using added value to assess performance, publishing proposals on using such measures for chains and local authorities back in March.

The amendment also proposes that where there is not a sponsor of a high enough quality available, a failing school should be sponsored by a local authority maintained school or, indeed, directly by a local authority. This amendment is unnecessary because RSCs will ensure that a failing school is matched with an academy sponsor. To reassure the noble Lord, Lord Watson, RSCs have a wealth of good sponsors available already. There are 778 approved sponsors, all of have been subjected to the rigor described and the criteria I have outlined. RSCs are continually identifying and supporting additional outstanding schools in their area to become new sponsors. That is one of the benefits that RSCs have already brought to the programme.

Lord Watson of Invergowrie: I thank the Minister for the figures she has just given us but is she saying that there have not been cases where a school has been designated to be an academy but has not been able to continue because there is no sponsor? She mentioned some 700 sponsors. Are these organisations just waiting in the wings for a letter saying, "Will you take over this school?" or is this a plan for if and when this Bill is implemented? It is not clear what the figure of 700 involves.

Baroness Evans of Bowes Park: There are 778 approved sponsors and about 20% are waiting to be matched with schools. The noble Lord asked which schools may need sponsoring. The precise number will vary from year to year and will depend on Ofsted inspections and test and examination results. We anticipate that as many as 1,000 failing maintained schools could potentially become sponsored academies under the new measures.

Baroness Morris of Yardley (Lab): I think the issue about how long schools wait before they find a match with a sponsor is very important. I had heard anecdotally—so this is the Minister's opportunity to put it on the record—that quite a number of schools are now known as orphan schools because they have been taken away from one sponsor and have not yet been given another one. Does the department have a target time in which an alternative or a first sponsor should be found? What is the department's record on achieving that target?

Baroness Evans of Bowes Park: We look for a sponsoring match to happen as quickly as possible but one of the issues that this Bill is attempting to address is the delays caused by the very process that schools have to undergo at the moment.

Baroness Morris of Yardley: My question is not about that. Perhaps the Minister will write if she is not in a position to answer it now. It is not about the delay at the school end, it is about the delay at the department's end in finding a suitable sponsor. Are there some schools—colloquially known as orphan schools—waiting for either an initial sponsor or a second sponsor? Also, does her department have a target time in which a sponsor must be found and what is the department's record in reaching that target?

4.45 pm

Baroness Evans of Bowes Park: I think it would be best if I wrote to the noble Baroness as I do not have the figures directly to hand.

The academy trust structure also brings greater autonomy with a strong accountability framework. International evidence has shown this drives up standards. Academies operate under a robust accountability framework under which we are able to hold the trust directly to account for their school improvement and we have clear routes to intervene should concerns arise. We would not have the same robust accountability if a maintained school or a local authority took over responsibility for a failing school.

It is also not just about the freedoms and stronger accountability, though; it is also about some of the substantial advantages of operating in a multi-academy trust, which the noble Baroness, Lady Sharp, identified. It is acknowledged that the best way to improve schools is through local school-to-school support, and the best, most rigorous, efficient and accountable way to do that is through such a multi-academy trust. People who run multi-academy trusts talk about the advantages of the freedoms, the sense of being in control of one's own destiny, the career opportunities as people are employed across a group of schools, the ability to retain good staff and, crucially, the ability to share best practice. They talk about leadership development, the enhanced CPD and, on the operational side, the economies of scale and purchasing power of being in a MAT. They talk about the ability to have common school improvement, behaviour management systems, a common curriculum, common teaching pedagogy and systems and the limitless benefits of pupils moving from primary to secondary when a MAT has both types of school in its family.

Baroness Pinnock: What I am concerned about in what I am hearing is that the Minister is suggesting that that does not occur in the maintained sector. There is sharing. The schools forum, which all local authorities have to have, brings head teachers together to discuss the very things that she has just described: a common approach to training, personal development for teachers, the sharing of best practice and being able to determine the "destiny" of schools, as she puts it—I hope that in fact we are talking about the destiny of children within them; it always worries me when people talk about the schools rather than the children. None of the factors that she listed there is relevant only to academies. They apply also to maintained schools, and we ought to recognise that.

Baroness Evans of Bowes Park: I did not say that they did not, but we are talking here about multi-academy trusts and why for failing schools it is a good option

for them to be involved. Local school forums do indeed have a role but I think that many head teachers would talk about the positive benefits that they have found in setting up a multi-academy trust. That is all I am saying. I am not saying that local maintained groups of schools are not able to form good partnerships themselves.

Baroness Pinnock: Would the Minister therefore support outstanding local maintained schools becoming a sponsor for these schools? As she has just said that they can also behave in the same way, there does not seem to be any argument against a local maintained school becoming a sponsor for a failing school.

Baroness Evans of Bowes Park: They could certainly become an academy and do that, but they would have to have the same legal structure. I shall come on to that in a second.

Given that 65% of our secondary schools are now academies, it is increasingly sponsors for primary schools that we are seeking to source and develop. In small primary schools the MAT structure is even more critical, again making it necessary for sponsoring schools to be academies themselves that are able to form such a MAT rather than leaving small sponsored primary schools standing alone. We would certainly hope that any maintained school with the expertise, capacity and enthusiasm to support a struggling school would consider converting to academy status in order to do this, in the process unlocking all the benefits and opportunities that I have described.

We also anticipate that as more schools become academies and local authorities have fewer maintained schools left, as many already do, we will see members of local authority teams who are skilled at school improvement spinning out to set up their own MATs, and this development would be most welcome.

In conclusion, I shall quote Maura Regan, CEO of Carmel Education Trust, who attended our sponsor event last week. She said:

"We have to accept that what has happened historically in many local authorities has not worked. We are about revolution—we need to take a break from the past and embrace a new model whereby school leaders are increasingly in charge of their own destinies".

In light of that, as well as my explanations, I urge the noble Baroness to withdraw her amendment.

The Earl of Listowel: I was interested in what the Minister said about the sponsorship process. I would be interested to learn a bit more about it—how sponsors are selected; how they are inducted; and how they are qualified. I guess there is a certain sensitivity in that one wants people to sponsor, so one does not want to place too much of a burden upon them; but on the other hand, it is important that if they sponsor, it is a success and there is not a clash of cultures but complementary working together. The Minister may like to write to me, or perhaps she will say a few words now about that process and particularly about induction so that we ensure that sponsors perhaps spend time in a school sitting at the back of the class so they have a sense of what it is like at the coalface—the chalkface, I should say.

Baroness Evans of Bowes Park: I am very happy to write to the noble Earl on that point.

Baroness Sharp of Guildford: I thank noble Lords who have participated in this debate. Will the Minister clarify one point? I do not have a copy of the Academies Act with me and I have therefore been unable to check it, but my memory of it is that, in effect, where a school fails, it is initially up to the local authority to effect, so to speak, the process of academisation. The Bill changes it so that:

"The Secretary of State must make an Academy order in respect of a maintained school in England that is eligible for intervention by virtue of section 61 or 62".

That means that the Secretary of State is now the person to take action. In effect, the Minister said that local authorities do not have to worry at all about this because the regional schools commissioners will take responsibility for it. They will have to worry about whether there is a good academy chain. I said that it is important to take local issues into account. There are a lot of academy chains that are not performing very well at the moment as well as those that are. It is not preferable to bring in a poor-performing academy chain rather than use a strong local school. The preferable solution is to link up at a local level so that the school has locally available mentors that it can easily talk to. I rather object, in some senses, to the way that the Minister said, "Don't worry any more because the regional schools commissioners are going to take this problem and they'll sort it out because all our academy chains are so super". They are not. The Government recognise that. This is an important amendment. We want a more sympathetic approach to it. As we are in Grand Committee, we cannot vote here, so I shall withdraw the amendment.

Lord Nash: The noble Baroness is right that the key to school improvement is local school-to-school support. I could not agree more. The academy model is now focused on that, so sponsors will either be a local sponsor in the local MAT formed out of a local outstanding school, and we have created several hundred in the past couple of years, or a part of a national MAT with a local hub. That is essential. I agree entirely with the noble Baroness.

Baroness Sharp of Guildford: I beg leave to withdraw the amendment.

Amendment 15A withdrawn.

Amendment 16

Moved by ***Lord Addington***

16: Clause 7, page 6, line 10, at end insert—

"(4) After subsection (7) insert—

"(8) If, by the relevant accountability measures laid down by government regulation an Academy is "failing" or "coasting", it is by virtue of this section eligible for intervention if the governing body of the Academy—

(a) have been informed of their Academy's assessment over a three year period by a Regional Schools Commissioner;

(b) have been notified that the Secretary of State considers the Academy to be coasting; and

(c) have not subsequently been notified that the Secretary of State no longer considers the Academy to be coasting.""

Lord Addington (LD): My Lords, this amendment is an attempt to correct something that I see as rather an error in the Bill. We have this new condition of "coasting", which is bad—I think that that is probably the great driver here—and we have a solution to coasting schools, which is that they become academies. We have heard a great deal in the Committee—and it is obvious to anyone who thinks about it for three seconds—that occasionally, at certain points in the future—let us not argue about frequency—academies will start to coast. It has already been agreed that they can fail. My amendment is an attempt to try to tie academies into the existing structure that could deal with an academy that has gone wrong.

I feel that we will have a great deal more fun arguing about exactly what the correct definition of "coasting" is. Indeed, the noble Lord, Lord Lucas, looked, shall we say, a bit like a dog that had found a nice juicy scent when we talked about the academic definition before. That is something which any Minister should be very wary of. The fact of the matter is that we will have a definition, and no matter how you tweak it, occasionally an academy is going to fall within that definition. If coasting is wrong for one school it must, I hope, be wrong for any school. While, as always, the amendment is probing in nature, it is an attempt to bring such a school in.

Amendment 17 presents a slightly different way of basically removing the fur from this moggie. It would insert a new clause. One thing I like about it is that it goes back to nurse; it goes to Ofsted, a body that can take a look around, which knows the system and which can make a judgment. We should think about that because we know how Ofsted works and how its judgments go, and it is in place. Also, using Ofsted in conjunction with regional schools commissioners is probably quite a sensible idea. We have a body whose judgment we trust and which we have used. We should try to put something into the Bill for academies which are making mistakes and doing something wrong—there could be 1,001 problems. I think that Uplands Junior School in Leicester has lost half its teachers today and is to become an academy. Who knows what is going on there? The Minister is looking at me strangely, but it was reported only today so I understand why he may have missed it. It was brought to my attention very briefly.

Lord Nash: I am happy to talk about it now.

Lord Addington: Perhaps we can talk about Uplands school at length on Report.

If we go down this path, we will have situations where things go wrong. We need to have an intervention process for an academy that gets it wrong. If it is the entire chain because there is something that is happening through it, we will probably need to intervene on the whole thing. Amendment 16 is just a way of putting in the Bill a provision that says, "Let us try to use what is already in place and so get some sort of solution to this". It is basically about starting again. I hope that there is no fundamental objection to the amendment and that we will hear how the thinking is developing on something which is an inevitability, no matter how infrequent it is. I beg to move.

Lord Watson of Invergowrie: My Lords, I rise to speak to Amendments 17, 21 and 26 to 29 in this group. Amendments 21 and 26 to 29 are identical, straightforward and, I believe, not in need of explanation because they are consequential on Amendment 17. Clause 7(2) inserts a new subsection in the 2010 Act which states that:

"The Secretary of State must make an Academy order".

The amendments seek to reinstate Section 4(1) in the 2010 Act which states that:

"The Secretary of State may make an Academy order",

for a school that is "eligible for intervention". These amendments address various parts of the Bill where reference is made to the "must convert" duty. They are the removal of the duty to consult in Clause 8, the "Duty to facilitate conversion" in Clause 10, the:

"Power to give directions to do with conversion",

in Clause 11 and the:

"Power to revoke Academy orders",

in Clause 12.

The point about these amendments is that, rather than there being a presumption that the solution for one school is a solution for all schools, they propose that each school should be considered on its merits. Ministers say that they want to help all schools improve. If they are sincere in that aim, we believe that options other than forced academy status should be available to the Secretary of State.

5 pm

Schools which receive an Ofsted judgment of inadequate may require changes to their governance arrangements. The new clause proposed in Amendment 17 addresses the weaknesses in the Bill by removing the dangerous assumption that a single form of governance is suitable for such schools. It requires a local discussion about what is best for such a school and the area that it serves. The concept of forced academisation where a school is found to be inadequate must rate as one of the most clearly ideological uses of the law to control schools that we have seen for quite some time in this country.

Not content with the existing Academies Act 2010, which gives the Secretary of State the power to issue an academy order to a school rated inadequate by Ofsted, the Secretary of State clearly, and almost bizarrely, does not seem to trust herself or her successors because she wants to ensure that she does not waver an inch by instructing herself—surely a unique concept—to do so automatically. No ifs, no buts, no consideration of alternatives and no consultation with parents, governors or local authorities. The Secretary of State will always have her way because nothing else is permissible, should this measure be enacted.

For the Secretary of State to say that she is effectively beyond fallible—that she cannot be wrong, ever—is tawdry. It is a misanthropic attitude and a very strange one for a Government to adopt and promote. It is not as though the one-size-fits-all approach is effective. In fact, the Government's failure on school improvement was unveiled last month, when new figures showed that there are thousands more children in inadequate academies than in local authority schools. I mentioned

that at Second Reading and again last week in Committee. I will not repeat the figures, but they are certainly not explained by what we have heard from both Ministers today: that they are really a reflection of schools having transferred from the maintained sector and not yet having got up to the level that they are expected or hoped to reach. That does not go far enough.

The most recent Ofsted figures reveal that there are 17,000 more children in inadequate academies and free schools, and these figures were released just weeks after the Prime Minister unequivocally stated that his ambition was for "every school an academy". The Secretary of State has said that academies are a better kind of school than those maintained by local authorities. I am not sure what she meant by that, and it would be helpful if either of the Ministers could clarify that today. However, there is not much objectivity in evidence in that statement. Indeed, most people looking at this Bill would say that there is not much objectivity to be found in many places within its clauses.

The Government are in danger of taking standards backwards, focusing obsessively on school structures at the expense of what matters most in our classrooms, which of course is the quality of the teaching. We believe that there should be a relentless focus on standards in all schools, and nothing is more fundamental to raising standards and improving social mobility than having excellent teachers in our schools. Yet, while the Government continue to be fixated on whether or not a school is an academy, they downplay the serious challenges facing our education system, such as the chronic shortage of teachers up and down the country.

As we have said on many occasions, Labour is not opposed to schools becoming academies. In particular circumstances with appropriate sponsors, the academy model works and often works well, but it does not always work and other models have proved more effective in some cases. In Committee in another place, some of the alternative approaches to school improvement were discussed. The Catholic Education Service provided two particularly telling examples which I believe bear repetition. The first was in a primary school when the diocese came forward with an alternative to academisation involving the appointment of an executive head teacher, who implemented a school improvement plan. With support from staff and parents, the school's Ofsted assessment rose from grade 4 to grade 2 within a year, and that school continues to improve.

Partnership is another means of bringing about school improvement. Again, an example was given in another place of a school which was inspected by Ofsted in 2012. It was given grade 4 for attainment, teaching and leadership, and grade 3 for behaviour and safety. Overall, it got grade 4 and was thus in special measures. The diocese then brokered a support programme, led by the head teacher of another school, and the expertise of a number of local schools were used to improve the failing school. After just 13 months it was reinspected under Section 5 and was graded 2 in all areas. That was a clear example of a federation of schools working successfully, rather than automatic academisation.

Yet both those examples would become illegal if this authoritarian legislation becomes law. I ask whichever Minister is answering on this group how they can justify such a draconian measure, as I regard it, which ties the Secretary of State's hands so that she has absolutely no flexibility on how schools with an inadequate Ofsted judgment are treated. Why limit the options? Surely only closed minds follow that path. It is fairly clear that the Secretary of State holds an ideological position which states that private sponsors are always better than public bodies and, in particular, better than any local authorities, regardless of the party in control. It seems that even a Tory-controlled council cannot be trusted with education by this Government. Labour takes the view that decisions on schools should be taken according to the circumstances of each case, based on the evidence, and that the Secretary of State should not be making that decision herself or have someone do so in her name.

That is why we have submitted Amendment 17, which would introduce a concept that appears to be anathema to the Minister: consultation. The Minister shares the Secretary of State's view that there is no point in asking people what they think because they might not give the answer that he wants to hear. Worse, they may delay the change to academy status through exercising their democratic rights. That is certainly not a reason for denying people the right to have their say, so this amendment sets out a number of steps, including a role for the unelected and publicly unaccountable regional schools commissioners.

At this stage, I would like to address some remarks to the noble Lord, Lord Sutherland of Houndwood, a man who I have respected for many years and who has a formidable reputation both within Scotland and furth of Scotland. However, I have to disagree with him for mentioning in his earlier remarks his disdain for what I think he characterised as the shibboleths of democratic deficit and human rights. I hope that I do not misquote him. I fear that I am about to disappoint him in this regard because I shall refer on more than one occasion to these important matters today and, indeed, at other stages of the Bill, because I believe that they lie at the heart of the Bill. The noble Lord mentioned a well-known international financial consultancy and said that he would prefer that it was given a role. That is not what I am referring to. To me, the issues of transparency and consultation are key because there is very little of the former and absolutely none of the latter, and that is indefensible.

The Earl of Listowel: I am thinking of, for example, the need to build a children's home or to produce more affordable housing in a community. Often in those circumstances, the local community is in practice very resistant to having that children's home or affordable housing. In principle, one should consult local people about their local environment and act upon their wishes. In practice, it can sometimes be so difficult to build a children's home in certain areas that they get built in the worst or least popular areas, where the local community is less likely to be vociferous, because that is where it is possible to do so. In the case that the Minister is arguing about it being so important that we do better for the education of our children and that the academy model—I know that we are debating this—has been shown to be quite effective in improving those outcomes much of the time, does he see that there should perhaps be some flexibility on how much weight one gives to local people in this choice?

Lord Watson of Invergowrie: That is an interesting comment by the noble Earl. Flexibility is what I am looking for in this amendment because this part of the Bill contains none. It is interesting that the noble Earl referred to housing. A word which he did not use but was, I think, suggesting is nimbyism, where people say, "It is admirable that there should be such a structure or facility, but just not right next to my house". I am always dubious in such situations. If the Minister has not looked at it already, he should look at the Housing and Planning Bill, which was launched in another place a few weeks ago, which seeks to close down a lot of people's ability to object to those sorts of developments as well. That is something that I will say more about on another amendment. There is a pattern with this Government closing down discussion and dissent and getting their own way regardless of what people think. I think that that is undemocratic, and it is important that we should speak out against it wherever we encounter it, in legislation or in any other setting.

In this regard, the Minister and the Secretary of State are just plain wrong. No one is infallible. The Secretary of State needs to accept that and, for goodness' sake, give herself some flexibility. I hope that the Minister will now realise that in 2015 you cannot just gag people who care passionately about the education of their children and tell them, as you might say to one of their children, to sit down and shut up as if they were of no importance at all. That is what is effectively being said to parents in the Bill. That cannot be right, and I hope that the Minister will take on board the comments that I have made in this amendment.

Baroness Massey of Darwen: My Lords, I support Amendment 17 onwards. I was sorry to miss such a lot of last Thursday's consideration of the Bill. I had to leave, as those present on Thursday will know, in order to get home before the bonfire celebrations in Lewes. That I did, just, dodging flaming torches, effigies and the burning of David Cameron, Sepp Blatter and Jeremy Clarkson among others. However, I have caught up by reading *Hansard*. As an antidote to fireworks and bonfires, I dipped into some of the former education Bills, such as the Education and Inspections Act and the Academies Act, as well as other Acts going through Parliament at the moment, such as the Cities and Local Government Devolution Bill.

Two things strike me about that reading. One is that we must have the most complex, baroque and byzantine education system in the world, and it does not seem to be getting us very far. The other is that education cannot exist in a vacuum. The noble Lords, Lord Addington and Lord Hunt, are right to have pointed out on several occasions the connections between government policies—for example, the involvement of communities in sport and, as I have said, the Cities and Local Government Devolution Bill, which emphasises devolution. That leads me to believe that there cannot be only one form of governance that is suitable for a school, and that local communities and institutions must have a say. We all know that parental involvement in a child's education is a very good predictor of success for that child or those children. So local structures are important.

Amendment 17 raises several interesting issues and questions for the Minister regarding special measures for improvement and consultation. I repeat that not just one system for anything will work. My noble friend has pointed out the investigations and action by the Catholic Education Service.

The Minister may well say that the amendment would make things too complex and too long. The Bill of course gives all power to the Secretary of State for Education, and we are suggesting here that that power should be devolved and broadened. We have heard a great deal in Committee and at Second Reading about how a single day at a failing school is too long for a child. I agree that poor education is a terrible thing, but it is worth looking more closely at what that poor education means. I myself do not think that one day at a failing school will do all that much damage. Poor education might of course be happening in just one subject at the school, or it may be inherent in the school system, which is what we are concerned about. A change of staff may be required, but the amendment suggests taking care to get good governance arrangements to avoid it. I agree that sometimes the speed of change is of the essence, but as the noble Baroness, Lady Pinnock, said, that does not necessarily mean lack of consultation.

We have heard about the possibility of delays in sponsorships. Speaking of speed and change, I remember being a parent governor and the chair of the governors of a primary school in Wandsworth. We had—if I dare use the term—a coasting head teacher. We, the governors, persuaded him to leave. I will not go into the methods used. We then appointed a dynamic, ambitious head and within months the school became a dynamic, ambitious school. Parents and governors knew what had to be done and did it. I am not advocating that as a general theory for change, but there is more than one way of doing things and parents should be listened to.

5.15 pm

On 9 July, Nick Gibb, the Minister for Schools, suggested in Committee in another place that the Bill will,

"'sweep away the bureaucratic and legal loopholes previously exploited by those who put ideological objections above the best interests of children'".—[*Official Report*, Commons, Education and Adoption Bill Committee; 9/7/15; col. 284.]

Who are these people? Are they parents or school governors? Nick Gibb also said, strangely, I think:

"We are against not analysis"—

I suppose by that he means logic, reason and research—

"but delays to academisation".—[*Official Report*, Commons, Education and Adoption Bill Committee; 9/7/15; col. 275.]

Delays in academisation would cut out unnecessary debate, delaying tactics and obstruction of process, and we shall no doubt come to this later on. Sometimes you have to pause, delay and think about what is best for a particular school and for particular children. Parents and the community have a right to a say in that.

I find the Government's logic regarding consultation on the Bill quite bizarre. Perhaps someone can explain it to me in simple language. For example, where a school is eligible for "intervention"—a term which seems

to flatter but in fact condemns—consultation is not needed on whether it should become an academy. If it proposes to convert to an academy by choice, the governing body will need to consult. A coasting school, as yet undefined, would be converted with no need for consultation, but a "high-performing school" would be required to consult on academy conversion. It should discuss conversion with staff, parents and others who have an interest and take account of those views before entering into an academy agreement with the Secretary of State. This is a very strange way of going about things. Statutory consultation generally takes place after an academy order has been made, but governors are able to carry out some consultation before making the application. We are seeking to modify some of this by involving RSCs in consulting the local authority, trustees or persons representing foundations or, in the case of an academy school, the person with whom the Secretary of State has made governance arrangements.

I understand that 25% of failing schools are academies, so some arrangements need to be made for dealing with that. I understand that a failing academy can move only to a different academy chain and not out of the system, so we now have a failing academy chain—we are going to come to inspecting chains later—and a school which needs to move to a different chain. Therefore an academy can be set up, fail and be taken over by another sponsor. How long does this take? Surely if there is consultation on this it must take quite a long time to consult trustees and chief executives of trusts. I thought that speed was of the essence here. Academisation can be done quickly. Can it be dismantled quickly? Can it be re-set up quickly? What is happening to those children in the mean time? I look for a response.

Lord Sutherland of Houndwood: My Lords, I cannot but respond to the kind remarks of my noble friend. They were very generous. I could see the word "but" coming and it came. I want to say now, to retain what scintilla of reputation I have in Scotland, that I do not want the *Scotsman* tomorrow morning to report me as being against democracy. I believe in democracy. It is the least worst system but it works to the best possible effect. It is in *Hansard* so it must be true.

If there is a need for this tidying-up, I think the amendment proposed by my noble friend Lord Addington does it well. However, I will be interested to hear whether it is necessary. If it is, let us do it and get on with it. One of the things said quite a bit in this discussion is that by implication the government proposal is that there is only one way of changing schools, whereas local authorities have myriad wisdom. I am not sure that is true. I suspect that local authorities are more likely to be monolithic in their response to the need for change than the academy system which, if well regulated—I underline that—encourages variety and different forms of change. These different forms of change and development may well be necessary for the variety of schools in questions.

In terms of democratic accountability, if we say that academies are not the single way, we run the risk of returning to the local authority being the single way. What were they doing when schools started coasting? It is not an immediate process; it is slow progress. What were all these democratic institutions that we have—the local education authority, the director of education or equivalent and local councillors—doing? You ask who they can go to. They can go to the local councillor or to their MP.

Baroness Pinnock: I feel that I have to put the case for local councillors and their involvement in local education, since it is being not painted in the best possible light by my noble friend Lord Sutherland. I think that local management of schools came in about 25 years ago; I am looking around for some people who know better than I do. I have been chair of a large comprehensive secondary school in the maintained sector for a lot of that period. It is regarded as good by Ofsted, I am pleased to say, its value added is well over 1,000 and I hope we will continue to do well on the other scores of Progress 8 and all the rest. Its intake is below average nationally and locally. This is a local maintained school with local involvement where things can go right. I worry that our mindset seems to be that only local authorities can create good schools. I do not support that argument because it is plainly not supported by the facts. Equally, I do not support the argument that only academisation can do the same. That is not supported by the facts either.

The facts are that neither the structures of local authorities nor the structures of academies produce good schools. What produces good schools is something much more difficult than waving a magic wand and having a different structure. What creates good schools is good, outstanding leadership; a good cohort of leadership teams supporting the head teacher; a governing body that works well in supporting and challenging the school; and a local authority, or whatever the structure, that does the additional support improvement and provides professional training and development and all the rest of it. We know that that is what creates good schools and good opportunities for children in education, yet we insist on changing structures. But changing education structures does not achieve good schools—we know that.

A school in my own area—a leafy suburb school, as it happens—decided that it would become an academy. Within a year, it was in special measures and required improvement; that is the worst and the lowest possible rating. The school was good when it started, but in a year it went from being up here to being down there. Why? Because of the lack of the very factors that I have just described: failure of the head teacher; failure of the governing body; and no group to support it because it was outside local authority control. That is what we have to look at.

I am passionate about education and passionate about children getting a fair deal. Nowhere else are they going to get a fair deal, except through this route. Yet we insist on talking about structures. For goodness' sake, let us talk about how we are going to deal with the national shortage of head teachers of any calibre, let alone outstanding ones. That would be a start.

Lord Sutherland of Houndwood: I agree with the noble Baroness's diagnosis of what makes a good school. That is true. Children, and the way that they are dealt with in the education process, are the focus of this—they have one education. I absolutely share the passion of the noble Baroness.

[LORD SUTHERLAND OF HOUNDWOOD]

Structures will not fix it all, but structures have made a difference. The academy system has made differences that are very important and have improved the lot of many children. When the current chief inspector of Ofsted was put in place to be head of a failing school, my goodness, he turned it around. That was a structural point. Unless the powers are there to do that, that opportunity will be missing, and that is what we are talking about today.

In view of the passion expressed, I have to share again, as I did in my Second Reading speech, that I was involved in declaring the first failing school. It would have been useless to go to the parents, the governing body, the local authority or the local community; they all hated what was said truthfully. That is the other side of the coin.

Where I am still, if you like, swinging a bit in the breeze—this relates to a point made by the noble Lord, Lord Watson—is on the use of the word "must" in Clause 7(2). That does cause me some reservations and worry. Whether it will persist to Report that the Secretary of State "must" make an academy order, I do not know. Sometimes, and the point has been made, drafting in the right leadership and head teacher can help, especially in an emergency situation. My worry about the word "must" is that it may exclude the immediate action that has been taken in the past and could be taken now. Making an academy order and setting up sponsorship will take time, and sometimes the school in question has not got time. So I have that worry and am very interested to hear what will be said from the Government side on this. I will reserve my position on that one until Report.

5.30 pm

Baroness Morris of Yardley: My Lords, I, too, support Amendment 17 and have great sympathy with the intentions behind Amendment 16, which I think raises the same question but addresses it from a different angle. Let us be clear: we all share the same ambitions of all schools being good schools and of action being taken if they are coasting or failing. Nobody is against that and sometimes it is important to restate that, because we get pushed to either extreme in arguing the points. So we are all on the same side in that, but the amendment tries to explore some of the options regarding what action should be taken. That is where the difference of opinion is—on the question of what to do, not on the need to take action. Therefore, we should try to resist accusing each other of not caring about kids in failing schools. That is not why we are in this business and why we are sitting in this Room.

The amendment picks out two or three weaknesses in the Bill. The first thing to do is to address failing and struggling academies in the same conversation and piece of legislation that address other schools. I cannot see that politically there is much wrong with that, and practically I am not sure why one structure should be excluded from the consideration. Therefore, I welcome the fact that what happens to failing academies is brought into this discussion. The only reason for excluding it from the discussion would be either if you believed that there was no such thing as a failing academy, which we know is not the case, or if you could honestly guarantee that merely moving it to another academy sponsor would always, in every single circumstance without any possible exception, be the solution. Even if you thought that, I do not know why you would want to put that in primary legislation, because if it is true now, it might not be true next term or the year after or the year after that. That is essentially what is being done in this part of the legislation. It is putting in primary legislation that either an academy will never fail or the solution will always be another sponsor. We are saying that the solution will sometimes be another sponsor but not always, so we should not leave out from primary legislation the option of taking a different course of action.

I think we also agree that an option might be school-to-school support. That might involve getting in good teachers from other schools to lead. Something that we have not taken up as a generic point is that schools need to belong. I believe in interdependence as much as independence for schools. The umbrella organisation under which a school lives, survives and is supported and which challenges the school is important. That is essentially what this argument is about. At the moment, we have two types of umbrellas: we have academy chains and multi-academy trusts—two phrases for the same thing—and we have local authorities. All we are saying here is that sometimes one will be the solution and sometimes it will be the other.

I take the point made by the noble Lord, Lord Sutherland, who is far more experienced than anybody else in this Room in dealing with failing and underachieving schools. I hope he accepts that none of us—certainly not me and I think I can speak for all my colleagues on the Labour Bench—would justify a failing school being with a failing local authority. That would not make sense. The most important point that the noble Lord made was in his contribution to the first group of amendments. He said that you have to ask yourself: if a school is coasting, why has the local authority not taken action? Sometimes you will come to the conclusion that the school has not been well supported by the family of which it is a member and that it would be better off with another family. That is why the Labour Government put lots of schools into academy chains.

However, sometimes the solution is to do something about the local authority. I spent three years in the department doing something about local authorities and I shall pick out just three—Hackney, Islington and Liverpool, on all of which I led the interventions. The noble Lord will remember that they were all absolutely miserable local authorities and miserable families to belong to, but I do not think that any school now would not be proud to be part of Islington, Hackney or Liverpool. The irony is that every one of them had a different solution: Hackney's was a trust; Islington was put with a not-for-profit partner; and Liverpool got new leadership at local authority level and is now doing well. So I hope that the noble Lord, Lord Sutherland, does not think that, whatever this debate is about, the Labour Bench is excusing poor local authorities.

To be honest, it was the Labour Government who took action against poor local authorities because the Tories before us had not do so; no one had taken

action by 1997. It was us who brought in the legislation and us who took the action. We have been around long enough to know that sometimes there are good local authorities where you would want to place a school. So should we really say that where you have a failing academy in a good local authority, we do not want a solution whereby it cannot be part of that local authority family of schools? Why can that not be one of the solutions? We are not saying that it must in all circumstances, but why can a failing academy in a good local authority not become part of that family of schools?

Although the amendment does not say so, I would also ask why it cannot become part of a multi-academy trust run by a maintained school. I was in the Lilian Baylis school last week with a Select Committee, and it was utterly outstanding—it was a joy to spend the morning there. However, it is not an academy, so it cannot set up a multi-academy trust. I do not know why you would deny a school neighbouring Lilian Baylis the right to belong to a multi-academy trust set up and led by Lilian Baylis, which is an outstanding and exceptional school. It is not allowed to do it until it becomes an academy. That is the nature of the discussion; it is not about whether to take action but about whether we are closing down options on doctrinaire grounds that would be better left open.

My last question has not been answered, so I take this opportunity to ask it. If Clause 7 goes ahead, it will place an awful lot more responsibility on regional schools commissioners. From my involvement in a number of regions, which are very large, I know that the commissioners are really stretched. I am not confident that they have the resources to do the jobs that are asked of them. If they get these additional responsibilities, will the Minister take this opportunity to let the Committee know what estimates he has made about what extra resources regional schools commissioners will have and what allocation of resources he will undertake?

Lord Sutherland of Houndwood: I shall briefly respond, since I have been challenged on this—and that is good, because I respect my noble friend and what she has achieved over the years, not least in looking at local authorities. There is a separate question of how you deal with local authorities that are not performing; the Ofsted inspection of local authorities is one way of going about it. That is a very important question but the question today, in this Bill, is when you have notification from the DfE or wherever that a school is coasting and the evidence is all there, what you do tomorrow? The Bill suggests a route that has proven evidential foundations. No one is claiming that all academies are perfect; there are some real problems. On the other hand—this is where the point about local authorities comes in, and I want to clarify my own position here—I would not want to hand that school back to the local authority under which it developed the position of either coasting or failing. There has to be a route through that, which is what the Bill attempts to do. The local authority has all its democratic processes, education committees and the lot—they are all there. If the school was allowed to drift into coasting status, action is needed, and the last action I would recommend is to go back to the same local authority.

Baroness Hughes of Stretford: I shall speak briefly in support of the amendment. My noble friend said more eloquently than I can all that I have to say, so I shall keep my remarks brief.

I feel conflicted in listening to this debate because the Government have taken such an intransigent line on there being only one solution to improve the performance of schools—that is, to make them academies. Because of that, I feel pushed into a position that is not actually mine. I do not think that local authorities are the be-all and end-all. Like my noble friend, I, too, chaired improvement boards in many local authorities when I was a Minister—including in Manchester, which was not easy what with coming from there. I was quite clear what my responsibilities were: to call the local authority to account. I think many Ministers have done that, too. The dichotomies that are inevitably a result of the position that the Government have taken are very regrettable because they prevent us debating the real issues about how we can best put the ingredients into schools, as the noble Baroness, Lady Pinnock, identified them, that will help them all succeed.

I take issue with three points. The reason why I support the amendment is that it is trying to keep options open and to make the process of deciding the way forward, when a school is coasting or underperforming, one that must consider a range of options instead of going down only one route. The first point, as I said, is the Government's assumption that academisation can be the only solution. My noble friend is quite right: you can sustain that position only if you think that that will in every single circumstance, 100%, improve every school. We know from the evidence, although the Government are reluctant to talk about it in any reasonable way, that that is not the case. Academisation, certainly over a period of time, does not necessarily produce the ingredients that we know are required for excellence in education.

Secondly, we have heard a lot of comments about this Bill handing responsibility and accountability for performance back to professionals, and away from local authorities who have not held schools to account. Let us just be clear that when schools underperform, the first people responsible are the head teacher and the teachers in that school. They are responsible for that. Yes, local authorities have had a duty to call those schools to account but not all professionals are good ones; not all head teachers are good, either. I do not want that point to be lost because so far in this debate it has been.

Thirdly, I feel very strongly that the provisions in the Bill that would completely cut out parents from any say in the process of what happens to an underperforming or coasting school that their child attends is completely wrong and cannot be justified. My children are now well grown up and I am into a generation of grandchildren. However, if I was directly responsible for children in such a school I would be absolutely incensed that I could have no say and would not be called to a meeting. That is wrong in principle. In terms of the outcomes that such a process would achieve, it would be regrettable.

[Baroness Hughes of Stretford]

I support the spirit of this amendment for those reasons. We need a much more nuanced debate and to retain the possibility that there are other ways forward for some schools. We certainly should involve parents.

The Earl of Listowel: Before the Minister replies, I want to ask the noble Baroness, Lady Pinnock, if she might help with a bit of clarification. Before asking her that question, I thank the noble Lord, Lord Watson, for his helpful comments earlier. Perhaps I should have said that I have an interest in this area: I am a landowner and I am interested in property development.

I think the noble Baroness also attended the meeting at the beginning of the week with the head teachers and regional schools commissioners. What I found most interesting about that was the impact on governance that academisation seems to have. The noble Baroness will be aware that the Chief Inspector of Schools has been concerned for quite some time about the variability in the quality of governance in schools. There was quite a discussion of governance in that meeting. What struck me listening to that discussion was that perhaps the academy process is a little like Teach First—or, for social work, Step Up—because it suddenly gives the opportunity to bring a whole new pool of talent, drive and expertise into the governing bodies. It seems possible that one justification for the Government's process is that as a systemic approach it is a way to bring a whole slew of expertise into the governance and leadership of schools that is not so easily available by the normal process. I have not had experience as a school governor. Would the noble Baroness, Lady Pinnock, care to comment?

5.45 pm

Baroness Pinnock: I am happy to respond. I am still a school governor and many noble Lords will be aware that the governance of maintained schools has had to change, and rightly so, for the reasons that have been given. By September of this year, school governing bodies had been completely overhauled. Many school governors are now co-opted for their specific expertise or experience. On my governing body we have two people who work in local businesses, an IT expert, someone from the finance sector to help with that side of things, as well as a couple of parent governors, staff governors, and by choice, a local authority governor. School governance has been substantially strengthened by these regulations and, where it is done well, they will inject two important elements. One is expertise and understanding, along with keeping the involvement of staff members and parents, and the other is that it is locally based. At the school where I remain on the governing body, it is local business people who are involved. That would be true across the piece, which is to everyone's enormous advantage.

The Earl of Listowel: I thank the noble Baroness.

Lord Nash: My Lords, I will speak to Amendments 16, 17, 21 and 26 to 29, tabled by the noble Lords, Lord Addington, Lord Watson, Lord Hunt and the noble Baronesses, Lady Massey and Lady Bakewell. I will try to keep my remarks to the point but, before doing so, I will respond to a couple of accusations made by the noble Lord, Lord Hunt. The first, that we are being dishonest, is quite an accusation and I would take great objection to it if I thought he really meant it. He said that it is dishonest that we should just pass a law turning every school into an academy. Maybe if he feels that is something we should do, he would like to bring an amendment to that effect. I made it clear last week in response to the noble Lord, Lord Knight, and again in a letter this morning which I hope he has now received, that the default position for a coasting school is not to become an academy. I suspect that in many cases they may well be able to improve sufficiently on their own or with limited support. I hope I have made that absolutely clear.

Secondly, there was a suggestion that I never mention maintained schools. That is partly because the Bill is about academies and I am trying to keep to the point. Of course there are many successful maintained schools and I pay tribute to them. The noble Baroness, Lady Jones, took me on a most enjoyable trip to Morpeth School in Tower Hamlets, which I was particularly impressed with. I was struck by its approach to CPD.

Lord Hunt of Kings Heath: I am most grateful to the noble Lord for giving way and for his comments. This comes back to the points raised by my noble friends Lady Hughes and Lady Morris. From the tone of the Bill, and the fact that schools will be forced to become academies because the Secretary of State has no choice, it is clear that in the end that is the option which the Government want. The point raised by my noble friend Lord Knight is that the Government really believe that academisation is the only route. They do not understand why any maintained school does not want to be an academy, despite the fact that many of us are involved in very successful maintained schools which do not. None the less, the Government have decided that they all ought to be academies. This is quite clearly the policy. Why on earth do they not just do that? What I do not understand is why we have to go through the charade that we are debating today? With respect to the Minister, he has to be forced into saying something positive about non-academy schools because his whole tenor throughout this, is to quote examples from academies. I must challenge him by asking why the Government will not come clean on what their policy really is. I just do not understand it.

Lord Nash: I will try and make it clear again. Our approach to failing and inadequate schools, category 4 schools, is that they must become a sponsored academy. That is not our approach to coasting schools, as I hope I have made absolutely clear.

The amendment seeks to address noble Lords' concerns on a number of points. First, that academies as well as maintained schools should become eligible for intervention when they fail or meet the coasting definition. Secondly, that the Bill proposes to remove consultation on academy conversion when a maintained school is judged inadequate. Thirdly, that a duty is placed on the governing body and local authority to progress academy conversion in such circumstances, and finally that, if necessary, the Bill provides for the Secretary of State to revoke an academy order. I shall deal with these points in turn.

First, on failing and coasting academies, I agree entirely with noble Lords that failure and wider underperformance must be tackled wherever it occurs, whether in a maintained school or in an academy. As I set out when we debated the coasting definition last week, academies are governed by a different legal regime from maintained schools. They are run by charitable companies known as academy trusts which enter into a contractual relationship with the Secretary of State through the signing of a funding agreement. It is this agreement that governs how an academy will operate and how the Secretary of State will hold it to account for its performance.

The vast majority of the more than 5,300 open academies and free schools are performing well. In the small number of cases where we have concerns, I can assure the House that regional schools commissioners are already taking swift and effective action to drive improvements and, subject to the passage of this Bill, RSCs will hold all academies to account against the coasting definition just as rigorously as they will maintained schools. To demonstrate our commitment to continually reviewing our approach and ensuring that poorly performing academies are robustly challenged, we have already added a new coasting clause to the model funding agreement showing explicitly that we intend to tackle all schools which are coasting. This gives the Secretary of State formal powers to terminate a funding agreement where an academy is coasting. Even where academies do not have this specific clause in their agreement, I can assure noble Lords that RSCs will still hold them to account against the coasting definition.

Lord Addington: Could the Minister just repeat where that is? That is the real essence of my amendment. Could he repeat where the intervention on coasting academies is?

Lord Nash: It is in the new model funding agreement which is on our website and I can send the noble Lord a copy.

Lord Addington: Thank you.

Lord Nash: RSCs have already shown they can act quickly to bring about improvements. Since September 2014 when RSCs first took up post, they have issued 58 pre-warning and warning notices to academy and free school trusts. In the same period they have also moved 83 academies and free schools to new trusts or sponsors, compared with 13 in the previous academic year. For example, Ipswich Academy in Suffolk was judged to require special measures in January 2015. The RSC acted swiftly to identify a new sponsor for the school and Paradigm Trust has taken on the school from September 2015. Ofsted undertook a monitoring visit in late September and judged that leaders and managers were taking effective action towards the removal of special measures.

In addition, Thetford Academy in Norfolk was judged to require special measures by Ofsted in February 2013. We brought in Inspiration Trust as a new sponsor in September 2013 to run the school. That was seven months later, as compared with the case to which the noble Lord, Lord Addington, referred, where 22 months later Uplands School has yet to become an academy—I will give some more detail on that in a minute. Provisional 2015 results indicate that even under our tougher accountability standards, 47% of pupils achieved five good GCSEs compared to 28% in 2011. Ofsted inspected the academy in December 2014 and judged it to be good with outstanding leadership, describing it as, "transformed beyond recognition".

These are just two examples of the robust, decisive action that RSCs are taking to tackle underperformance, and of the positive impact they are already having on the school system. Therefore the proposal—that where an academy is judged inadequate or meets the coasting definition it should be eligible for intervention—does not need to be introduced in this Bill as RSCs are already taking action to secure improvements where necessary.

I turn now to the issue of removing consultation. Our manifesto committed to turning every failing maintained school into a sponsored academy, and Clause 7 makes provision for that. As I said in my opening remarks last week, we place children first in our school system and the purpose of the Bill is to ensure that children do not spend any longer than possible in a failing school. A day lost in a child's education is a day lost forever, and I beg to disagree with the noble Baroness, Lady Massey, on this point. We believe that there needs to be a clear course of action when a school is judged inadequate and that there cannot be any question or debate about what the right solution for that school might be. We must be completely clear, as our manifesto was, that becoming an academy with the support of a sponsor will always be the solution where a school has failed. Every minute spent on consultation is a minute that could be spent on turning the school around. Clause 8 therefore removes the requirement for the governing body to consult on whether the school should become an academy in such circumstances. It is clear that it would be nonsensical to carry out a consultation when our manifesto was so clear that the sponsored academy solution would be the outcome in this scenario. I was delighted to hear the noble Lord, Lord Watson, say in Committee last week, "Yes, the Government have the right to implement their manifesto".

It is crucial to remember that consultation would be removed only in the most serious cases of underperformance. Where a school voluntarily seeks academy status, I agree completely that the school community should contribute its views. In that instance, the governing body is choosing to enter into new arrangements. However, where a school has failed or is otherwise causing concern, there is no choice. Parents will want to see swift and decisive action to bring about urgent transformation.

I want to re-emphasise that this is not about removing democracy or excluding parents, as some have claimed both in the House and in the other place. It is about ensuring that there is a clear course of action in place to improve the very worst schools in our country. We demand immediate action in other instances of failure, such as when an NHS trust is placed in special measures, so why should we expect any less for our schools? It takes on average a year from the time a school is judged inadequate to open as a sponsored academy.

Lord Hunt of Kings Heath: I cannot resist intervening on that. The whole point is that when we have a failing NHS foundation trust, there are a number of options available to the regulators, whether it is the NHS Trust Development Authority or Monitor; it is not just one-size-fits-all. That really is all that noble Lords are saying here. When it comes down it, if you substitute "may" for "must" in the crucial clause, it is still quite clear where the thrust of the policy is going, but at least that would give some discretion to Ministers. There might be some circumstances where they might want to look at a different option.

I am glad that the Minister has raised the issue of what happens in relation to NHS bodies because I am absolutely clear that both in law and in practice there is a range of options. Something happened to a trust that I was involved in, and the chairman and chief executive of a neighbouring trust have basically become the chairman and chief executive of that one. As I say, there are options. What the Government are saying is that there will be absolutely no option whatever. Actually, I find it quite extraordinary that Ministers do not want to give themselves a little discretion and headroom.

Lord Nash: I note the noble Lord's intervention. He has not disappointed me; we discussed this morning where comparisons might be made with the NHS, so I knew that he would jump up because he has vast experience in the matter of the health service. My point is that action in the NHS is immediate and swift. I shall come on to explain the "must" and "may" point. There are circumstances in which the Secretary of State may be able to revoke her academy order, so it would not always be "must".

As to the point I made about NHS trusts, I fundamentally agree with those who say, "Should we not have a similarly urgent and clear response to tackling school failure?". On too many occasions we have seen local authorities and governing bodies putting up barriers and delaying processes in order to prevent the school becoming a sponsored academy. A case in point is Uplands, which the noble Lord, Lord Addington, mentioned earlier, which has been in special measures for 22 months. The IEB was appointed by the local authority in December 2013. It considered a number of proposed sponsors, a missed opportunity for much-needed change. I first wrote to the local authority confirming that I was minded to intervene in February of this year and, after much debate and challenge, the Secretary of State was finally able to reconfirm her decision to appoint her own IEB in September of this year. This was especially needed in the light of Ofsted's most recent inspection in June confirming that the school was not making enough progress to remove special measures under the local authority's IEB. A sponsor match has now finally been able to be made.

6 pm

Lord Addington: The important thing about Uplands is that it has lost half its teachers. Half the teachers at the school have resigned. That is what has caused the headlines; nothing else.

Lord Nash: I am happy to introduce the noble Lord to the people involved in this because the lack of progress under the local authority was, I am afraid, extremely disappointing.

Another example of delay was the Warren school in Barking and Dagenham. The Warren was judged inadequate by Ofsted in February 2013. The governing body and the local authority were opposed to academy status and in October that year the existing governing body voted against the sponsored academy solution. When the Secretary of State decided to appoint an IEB and issue an academy order, the local authority and the governing body made an application to the High Court to prevent this from taking place. When the case finally got to court in July 2014, the judge dismissed the claim on all counts. The school finally opened as an academy in September 2014 with the Loxford Trust, some 19 months after first being judged inadequate by Ofsted.

I emphasise that although the Bill proposes to remove the formal requirement to consult on academy conversion for failing schools, parents will still have opportunities to have a say in the future of their child's school. Once a sponsor has been identified for a school, it is in their interests to engage parents and begin to build a positive relationship with them from the outset. They will want to involve parents in their plans and seek their views on their proposed approach for bringing about improvement during the conversion process. I shall say more about engaging parents in these situations in the later group of amendments.

The noble Baroness, Lady Morris, made some points to which I would like to respond. I pay tribute to her chairmanship of the Birmingham Education Partnership. I was meeting with Sir Mike Tomlinson this morning and we were both singing her praises. Lilian Baylis is of course an outstanding school. We would be delighted for it to become an academy and a sponsor. The issue that we have, we can talk about this in more detail offline, is that the best way to get the maximum organisational benefits out of a multi-academy trust is for it to be in the same legal structure. No one can argue with that. We can go into a lot of detail on it but that is the practical reason.

As for resourcing the RSCs, I made a point on this earlier but we will be resourcing up the RSCs to cater for more work. I cannot comment on this precisely at the moment but I will be able to say quite a lot more about it once the spending review is out of the way—certainly, I hope, in time for Report.

Turning to the duty to facilitate and the power to direct, noble Lords have proposed Amendments 26 and 27, which would have the effect of removing the requirement for governing bodies and local authorities to facilitate the academy conversion of schools rated inadequate by Ofsted. However, the amendments would still result in the governing body and the local authority having to facilitate conversion in other cases, such as when an academy order is made for a school that meets the coasting definition or has not complied with a warning notice.

Amendment 26 removes the requirement for governing bodies and local authorities to facilitate the conversion of inadequate schools. However, it is precisely these schools where there is a real need to intervene quickly

and turn the school around without local authorities or governing bodies blocking or delaying progress. We have seen too many instances over the past five years where conversion to academy status has been delayed through long debate and delaying tactics, such as the refusal to provide important information and reluctance to take vital decisions. One example of progress being unnecessarily delayed is the case of Beechview Primary School in Buckinghamshire. The school was first judged inadequate by Ofsted in January 2013 and, despite numerous discussions with the department, the local-authority-appointed IEB consistently refused to vote in favour of becoming a sponsored academy. A further Ofsted inspection in December 2014 rated the school inadequate for a second time, and a monitoring visit in April 2015 found that the local authority had been unable to bring about the improvements needed. The department tried to restart the conversation about sponsored academy status but the IEB remained unsupportive and went on to discuss alternative options with the local authority, including amalgamation with an infant school, as a way of avoiding sponsored academy status. However, at long last, in October 2015 the IEB voted for Sir William Borlase's Grammar School to be its sponsor. Beechview is expected to open as an academy in 2016, more than three years since it was first judged to be failing its pupils.

To address the issue of unnecessary delays, Clause 10 will ensure that where an academy order is made in respect of a school that is eligible for intervention, the governing body of that school and the local authority must take all reasonable steps to facilitate the conversion of that school into a sponsored academy. In the majority of cases, the effects of Clause 10 should ensure that governing bodies and local authorities take the necessary actions to ensure a sponsored academy solution is in place quickly. However, Clause 11, which allows the Secretary of State to direct a governing body and local authority to take specified steps to facilitate the conversion, is necessary in the event that they are not fulfilling their duties or that more specific timescales or steps need to be set. Amendment 27 seeks to remove Clause 11 in the case of inadequate schools. It is crucial that regional schools commissioners have the benefit of the duties and powers in Clauses 10 and 11 in relation to inadequate schools. These provisions are crucial if we want to be able to strengthen our ability to deal with failure and to do so more swiftly.

Before concluding, I shall finally speak to Amendments 28 and 29, which probe Clause 12 regarding the power to revoke academy orders. In particular, they probe its purpose in relation to schools rated inadequate by Ofsted where Clause 7 has been clear that an academy order must be made. I have used this debate to reiterate the clear commitment in the Government's manifesto that failing schools will become academies and that academy orders must therefore be made whenever a school is judged inadequate by Ofsted. There will, however, be rare circumstances where an academy order needs to be revoked. Clause 12 addresses this by inserting a new Section 5D into the Academies Act 2010. This will allow the Secretary of State to revoke any academy order issued to a school which is eligible for intervention, including in a failing school where an academy order must be made.

We envisage that in the case of failing schools there might be a very small number of exceptional cases where the Secretary of State decides that academy conversion should not be pursued. A school may, for example, prove to be unviable and closure may sadly be inevitable, or it may have gone into special measures for a very specific safeguarding issue which has been rectified. There may be other examples in future and while we expect those examples to be exceptional, it would be wrong to remove the Secretary of State's power to revoke an academy order on any inadequate school as this amendment suggests. I therefore urge the noble Lord to withdraw his amendment.

Baroness Massey of Darwen: Will the Minister elucidate two things for me? First, I understand there is a consultation on what "coasting schools" will mean. When will that consultation be finalised, and when will we have a definition of coasting schools? Will the Bill proceed to its final stages before we have that definition? What is the state of the consultation?

Secondly, the Minister glorified, for want of a better word, the academy system. We have heard little from him about the successes of maintained schools, which the noble Baroness, Lady Pinnock, so eloquently described. Nor has he justified why a coasting school will be converted with no need for consultation. I do not understand what happens if you consult after the process; that does not seem to be consultation. A high-performing school is not required to consult. It should consult staff, parents and others who have an interest and take account of those views before entering into academy arrangements. This seems a very strange thing to do. Some people can be consulted, and some people cannot. I cannot understand why this should happen.

Lord Nash: The consultation will close on 18 December and we will announce the findings in the spring. Unlike in failing schools—

Lord Watson of Invergowrie: In looking at the document, that is indeed what it says. The Minister, I am sure, would expect the Bill long before then. Would he not?

Lord Nash: We will, of course, take into account the responses to the consultation before finalising the regulations.

Lord Watson of Invergowrie: If that is the case, if the Bill did not become law, what would apply with regard to "coasting" in the interim?

Lord Nash: The definition is in the regulations, not in the Bill. That is what we are talking about in the consultation.

Unlike failing schools, intervention on coasting schools will not be automatic, as I have said. Schools will be given time to demonstrate their capacity to improve sufficiently, either on their own or with assistance. There will already have been a dialogue, likely over quite a long period of time, about a school's plans to bring about improvements and an opportunity to share views with parents and others. I think that I have finished. In view of what I have said, I ask the noble Lord to withdraw the amendment.

Lord Addington: My Lords, on the definition of "coasting", I wonder how much the Treasury Bench wishes it had got that in place before we started. We have gone round that before and will probably go round it again.

Lord Nash: We published the definition in June.

Lord Addington: I know, but that is an administrative thing. We should have something in the Bill. Much of this discussion is about why we cannot have things in the Bill. That seems to be quite a good answer but I did not find that regulation.

My amendment is about what happens when an academy is coasting. If there were a reference to it, or if we knew that it would be published, this amendment would not have gone down. I did not table the amendment because I could not think of anything else to do; there are novels I could read and other activities I could do. But I had a look at this and it seemed that academies were excluded from the state of something being wrong, such as "coasting" or underachieving. Everyone else who looked at it said, "Yes, that seems to be correct".

I hope that on Report we will get a little more definition and guidance on when these things will come through. At the moment, we are still groping around. Some things have been published—indeed, some unfinished things have been published—so we are constantly looking. I will read the document, of which I was not aware, and I may find that it addresses the point. At the moment, though, we have the idea that some schools are bad but that does not seem to apply to half or more of the schools in the country. That is totally inequitable and removes a way of intervening to help pupils. Surely a little more time needs to be given to ensuring that we can find where the information is. We are still going through consultations and the argument on the definition of "coasting" is far from over, so we need a bit more time and effort on that.

The noble Lords on my physical right presented an interesting amendment, and I am sure that we will have a discussion about that and see what we can do about it at another stage. At the moment, though, as we are in Grand Committee, I beg leave to withdraw the amendment.

Amendment 16 withdrawn.

Amendment 17 not moved.

Clause 7 agreed.

6.15 pm

Amendment 18

Moved by ***Baroness Sharp of Guildford***

18: After Clause 7, insert the following new Clause—

"School conversion: children with special educational needs and disabilities

After section 4 of the Academies Act 2000 insert—

"4A School conversion: children with special educational needs and disabilities

Before entering into Academy arrangements in relation to a school which has been the subject of an Academy order under section 4(A1), the Secretary of State shall—

(a) provide guidance to the person with whom the arrangements are to be entered into about collaborating with other schools to provide any necessary specialist provision for children with special educational needs and disabilities, in cases where the individual school is not able to provide it;

(b) require the person with whom the arrangements are to be entered into to provide details of their plans to support—

(i) children with special educational needs and disabilities who have an education, health and care plan; and

(ii) children with special educational needs and disabilities who do not have an education, health and care plan.""

Baroness Sharp of Guildford: This is a probing amendment and it comes from the Royal College of Speech and Language specialists, who are quite worried about the present position of special educational needs in schools.

As noble Lords will know, following the enactment of the Children and Families Bill, which we dealt with in the previous Session, there have been considerable changes in the treatment of children with special educational needs. What used to be called statements are now education, health and care plans. Approximately 2.5% of children in schools have the equivalent of a statement. Many local authorities are way behind with the issuing of education, health and care plans. Therefore, at the moment there is a mix of the two. Somewhere in the region of 15% or 17% of children have special educational needs. These are now dealt with in the school framework, and we have done away with the categories that used to be called school action and school action plus. Now, it is the responsibility of the school to identify children with special educational needs and to make provision for them.

The speech and language specialists are particularly concerned with those who have special educational needs in speech, language and communication. Something like 7% of children have such needs, and around 50% of those will come from disadvantaged homes—those who are eligible for free school meals. This is the most prevalent group of children with special educational needs in primary schools.

One can see that if children come to school not able to talk properly—in some cases, not talking at all—they cannot be taught to read. The first thing you have to do is to get children chatting away. This is what many reception classes are all about: getting the children to interact with each other and talk to each other and, from that, learning how sounds are formed and so forth.

As I said, the speech and language specialists are very concerned that children with SEN, particularly those with speech, language and communication needs, who do not have statements or EHC plans may not receive the specialist support that they need to enable them to fully engage with their education. Without that support, they are at risk of not having the best start in life and may be unable to achieve their potential, both at school and in life. The speech and language specialists are trying to get the Government's thoughts on this.

The amendment does two things. First, it is designed to address whether schools will be encouraged and supported to collaborate where an individual school does not have the necessary level of specialist support for children with special educational needs and disabilities, including speech, language and communication needs. Secondly, it deals with how academies will provide support for those children with EHC plans and, crucially, given the vast number of children with special educational needs and disabilities who do not have EHC plans, those without them. It also addresses whether the Government will keep under review specialist provision for children with special educational needs and disabilities in schools of all types, both for children with EHC plans and for those without.

As I said, this is a fairly straightforward amendment. It requires reassurance from the Government that where in the past children have had specialist support, they will continue to get the support that is necessary. This is particularly true in primary schools, where the help of the specialists is particularly valuable to teachers, some of whom do not have the competence to cope. I beg to move.

Baroness Perry of Southwark: My Lords, I am very pleased indeed that the noble Baroness has tabled this probing amendment. I have for some time been very closely involved with a charity called I CAN, which works with children with severe communication difficulties. Working with the charity, I have been made aware of how extremely specialised this treatment is. Many of these children are speechless, not because they have any physical disability but because of severe emotional difficulties, and getting them to the point where they can engage in any kind of intelligible conversation is a hugely long and difficult path.

One of the most moving experiences was when the people who work with these children in specialist units demonstrated that these children can sometimes sing when they cannot speak. About eight or nine of these children came in front of us and sang, and you could hear how rusty and unused their voices were because that is the only time they use them. I am therefore very conscious of how important it is that specialist help is available. Of course, good teachers will work hard and some of them will succeed in getting these children to speak, but the idea of making sure that through collaboration they are able to have really specialist help is very important, and I look forward to the Minister's response.

Lord Addington: My Lords, it is always something of a relief when somebody from our Bench beats me to the punch on special educational needs. The idea that you need to enter into collaborative arrangements to get specialist help, especially if it is a low-frequency, high-need problem that has not got into the realms of having the label of a plan around it, is a long-term problem. It is not about just this one group. It is very good practice to bring in help and support from other schools. How this could be addressed and helped in any way is something that we should have a look at. It is a very sensible use of resources and is a good way forward. If you have a way forward, even for those at the less severe end of the scale, you should spread it around outside your own school. It is obvious that you should be doing this. I take on board what the noble Baroness, Lady Perry, has said and say to the Government: how are you going to do this? This really is very sensible. It is not doctrinaire; it is just sense.

Lord Sutherland of Houndwood: My Lords, as one who can speak but not sing, I shall speak very briefly. I thank the noble Baroness for her amendment. It gives me the chance to clarify the position on the earliest entrants to school in their earliest days in school. How long does it take before support becomes available? It has been put to me that some children require this plan to be drawn up, which may take time, before the support, of whatever kind, is available. Anything that can be done to advance that will clearly be to the advantage of the child. The younger you start, the better.

The Earl of Listowel: My Lords, this amendment prompts a question in my mind, which the Minister might be able to write to me about. Some schools are better at catering for children with special educational needs, so they attract more of them; they get a reputation as being good at it. One would not wish those schools to be penalised because they happen to be good at working with children with special educational needs. In the metric that the Government are developing to judge progress and whether or not a school is coasting, I hope we can be assured that over the three-year period there is not a risk that we penalise a school because it is very good at working with children with special educational needs. The children may not make so much progress academically but they will have been given excellent support in other ways. I hope that makes sense.

I will say one other thing. I can see that the notion I expressed earlier about allowing children to fail, particularly children in care, is a difficult concept, which I should probably correct somewhat. What I was trying to say is: allow children to fail, fail and fail again until they are successful, and each time they fail allow them not to feel so badly about failing that they do not want to try again but allow them to keep on trying until they are successful. Obviously, ideally one wants to help them to be successful the first time round.

Baroness Sharp of Guildford: I apologise for speaking again here, but perhaps I may add something. I am the special educational needs governor of a primary school, and when the noble Lord, Lord Sutherland, was talking about the time it takes to get a statement and so forth, I was thinking about the cost of supporting children with special educational needs. As noble Lords will know, a primary school receives about £4,000 a head, and the average cost of supporting those with special educational needs is about £8,000. It can vary from £4,000 to something like £16,000 or £17,000 if there has to be an extra teaching assistant because the child is disruptive. On average it takes a couple of years to get a statement for those who are at the extreme end and it will cost about £16,000. A small primary school finds it very difficult to cope in terms of resources because budgets are so tight at the moment.

The Earl of Listowel: I suppose what flows from that is that the educational attainment of other children may not progress as fast as it might because the resources are focused on the most disadvantaged children. So, again, a primary school that is good at attracting children with special educational needs may appear to perform less well—indeed, it may actually be performing less well—academically, although it is doing a good job with children with special educational needs, because its resources are being spent on those children rather than on the wider population.

Baroness Sharp of Guildford: I remind the noble Earl that schools receive extra resources for those young people—especially now, with the pupil premium. However, there is an overlap between the two groups and, although we have to be careful to ensure that the pupil premium resources are not spent exclusively on those with special educational needs, there is a reason to use some of those resources for some of the activities.

Baroness Hughes of Stretford: Before my noble friend Lord Watson speaks, perhaps I may ask a question. This is an important amendment and it made me realise that I did not know terribly much about what academies have to do in relation to children with special educational needs and disabilities. Can the Minister tell us—if not today then in writing after the Committee—what information schools have to provide, when they are to become academies, about the arrangements that they will make for children with special educational needs and disabilities? Secondly, what statistics does the department have on the numbers of children with SEND who are currently in academies, compared with those elsewhere in the education system?

Lord Watson of Invergowrie: My Lords, I am not sure which Minister will respond to this debate—I see it will be the noble Baroness. I am sure that she will tell us that the amendment is not necessary, but I hope she will say that that is because the two requirements in it are already in place. She is nodding—and if that is the case, it is most welcome.

The issue of special educational needs is much underestimated and is not fully appreciated by many people. Like other noble Lords, I have been in contact with the Royal College of Speech and Language Therapists, which provided an interesting briefing with some rather worrying statistics. Two in particular stood out for me. First, one in five of all pupils has a special educational need of some sort; that represents about 1.6 million people in England. Secondly, 50% of children in areas of social deprivation have significant language delays, which of course have all sorts of other spin-off effects, not least the fact that children with vocabulary difficulties at five are significantly associated with poor literacy, mental health and employment outcomes in adult life. So it is important that schools deal with those issues as far as possible.

While the noble Baroness's initial response is encouraging, we need to be clear whether there is any tendency—I am not aware that there is one and perhaps I could ask whether figures are available—by academies to exclude more children with special educational needs, like for like, than maintained schools. I would be concerned if that were the case. Certainly, the last part of the amendment, proposed new paragraph (b)(ii), which talks about,

"children with special educational needs and disabilities who do not have an education, health and care plan",

is the most important because those children are most at risk. The school itself has to decide, in place of the plan that exists for other children, what it will do and how it will care for those children. I suppose it is self-evident that some schools do it better than others. This is not a division between maintained schools and academies. It is obviously more challenging to deal with children with special educational needs if there are only a few of them than if there is a significant group of them within the class and perhaps teachers can specifically be there full time to care for their needs.

With those points and the particular question about the comparison between academies and maintained schools, I await the Minister's response with interest.

6.30 pm

Baroness Evans of Bowes Park: My Lords, Amendment 18, tabled by the noble Baroness, Lady Sharp of Guildford, concerns provision for pupils with special educational needs and disabilities at schools which have been judged inadequate by Ofsted and will therefore become academies with the support of a sponsor. This amendment would mean that before a sponsor could take on a failing school, it would have to submit detailed plans about how it proposed to support pupils with SEN and disabilities, both those with an education, health and care plan and those without. Where there is doubt that the individual school would be able to offer specialist provision for these pupils, the Secretary of State would have to provide guidance to the sponsor about how collaboration with other schools could provide this. The purpose of the Bill is to ensure that when a school has failed there will be swift, decisive action to bring about urgent transformation. We do not want this to be unnecessarily delayed.

In response to the noble Earl, Lord Listowel, we have set out in the draft *Schools Causing Concern* guidance that the number of pupils with SEN should be one of the factors that RSCs take into account when determining the best course of action for a coasting school, so they will consider it. While I recognise the noble Earl's concerns in this area, we believe that this amendment is unnecessary and I will set out the reasons why. I reassure noble Lords that we have a robust system in place to ensure that academies are identifying and addressing the needs of pupils with SEN and disabilities—a system that we reformed extensively only last year. All academies are subject to the same requirements and expectations as local authority-maintained schools in their provision for pupils with SEN and disabilities.

To address the concern that the noble Baroness raised on behalf of the Royal College of Speech and Language Therapists, we are not just talking here about those students with more complex needs, who qualify for education, health and care plans. We have also strengthened requirements on schools in relation

to how they support all students with SEN. The noble Baroness, Lady Hughes, asked about that system. It includes the requirement for schools to produce an SEN information report, which must be published on their websites. The report must describe the kinds of special educational needs for which provision is made at the school and information about the school's policies for making provision for all pupils with SEN. The report must also describe how it involves other bodies, including health and social services bodies, local authority support services and voluntary organisations, in meeting the needs of pupils with SEN and supporting the families of those pupils.

As I have said, academies must follow the same requirements on SEN provision that apply to maintained schools. The sponsor taking responsibility for the failing school must therefore ensure that the school complies with all these requirements. This means that information about the academy's provision for SEN and how it will collaborate with other organisations as part of that provision must be available, even without this amendment. Sponsors taking on a new school will have to give careful consideration as to how the needs of pupils with SEN at the school are met and whether they can put any additional support in place.

An example, particularly drawing on the collaboration that the noble Lord, Lord Addington, mentioned, is Dorothy Barley Junior School and Special Needs Base, which became a sponsored academy in 2013. The sponsor identified for the school, REAch2, has "inclusion" as one of its founding principles, and took care to consider the potential impact of academy conversion on SEN pupils. REAch2 committed to make provision for children with SEN through inclusion in mainstream classes and, where necessary, outside class. The trust already included a number of primary schools with specialist units providing support for children with SEN—including a specialist speech and language unit at Aerodrome Academy in Croydon, a centre for children with autism at Tidemill Academy in Lewisham and a specialist unit for children with autism and ADHD at Hillyfield Academy in Waltham Forest—so it had strong experience of delivering SEN provision and managing specialist units. We entirely agree that collaboration really helps in this area. Local authorities will of course retain responsibility for services such as education, health and care plans and for the assessment and monitoring of SEN provision once a school becomes an academy.

Academies are inclusive schools which play a full part in providing for children with SEN and disabilities. The noble Baroness, Lady Hughes, asked for some figures. Sponsored academies have a higher proportion of pupils with SEN than the average across all state-funded schools. In January 2015, 17.3% of pupils in sponsored secondary academies were identified as having some form of SEN, compared to 14.3% of pupils in all state-funded secondary schools. In relation to sponsored primary academies, 17% of pupils were identified as having some kind of SEN, compared to 14.4% of pupils in all state-funded primary schools.

The noble Lord, Lord Watson, asked about exclusions. I can reassure him that there is no trend suggesting that academy exclusions are more likely to be overturned. Academies and maintained schools have the same rate of reviews resulting in the independent review panel directing a school to consider reinstating a pupil.

I thank the noble Baroness, Lady Sharp, for raising in her amendment the matter of collaboration. There are certainly many benefits, as I have mentioned, and many MATs already have common SEN policies across their schools or share specialist provision. We therefore do not see that it is necessary to require this in law. We believe that it is right to leave it up to the professionals to decide exactly how best to meet the needs of pupils with SEN, and where collaboration between different schools would be of benefit. It is in the best interests of children with SEN and disabilities, as it is in the best interests of all pupils, for the failure of a school to be addressed as swiftly as possible. On the basis of these reassurances and my explanation of what is already occurring, we hope that the noble Baroness will withdraw her amendment.

Baroness Sharp of Guildford: I am very grateful to noble Lords for participating in this debate. I thought it was going to be just a quick debate; I am delighted to have the support that I have had around the Committee. I thank the Minister for her response, which, as I expected, was a reassurance that these procedures are already in place.

I will raise just one issue with her. Perhaps she might take this away and think about it. As she will know, with the transfer of so many schools into academies, many local authorities have run down their capabilities of coping with special educational needs and providing help. Increasingly, it is left to outside consultants to provide that help. I know that quite a number of authorities are struggling to meet the demands that are required in reviewing the education, health and care plans, and something of a backlog is building up. There is also a question of whether they have the capabilities to do the monitoring that is now written into the Act; the local authorities are required to monitor these facilities in both local authority state schools and academies. If they are to do this monitoring, it is important that they actually have the capability to do it. Perhaps the Minister and the Chief Inspector of Schools might need to think about this. With that, I beg leave to withdraw the amendment.

Amendment 18 withdrawn.

Clause 8: Consultation about conversion

Amendment 19

Moved by ***Baroness Sharp of Guildford***

19: Clause 8, page 6, line 16, leave out from "consult" to end of line 17 and insert—

"(a) parents and guardians of registered children,

(b) teaching and support staff of the school,

(c) the local authority,

(d) the governing body of the school, and

(e) any other such persons as they deem to be appropriate."

Baroness Sharp of Guildford: This is me again. I apologise for that. To some extent, we are going over ground on this question of consultation that we have already discussed at some length. In Clause 8, proposed new Section 5 of the 2010 Act is headed, "Consultation about conversion: schools not eligible for intervention". These are the schools that convert to academies of their own choice. New Section 5(1) spells it out on the consultation:

"Before a maintained school in England is converted into an Academy, the school's governing body must consult such persons as they think appropriate about whether the conversion should take place".

I believe I am right in saying that that wording comes directly from the Academies Act, and was the form of words that we eventually agreed for that Act after a lot of discussion on the issue. My amendment proposes that rather than having this rather vague wording,

"such persons as they think appropriate about whether the conversion should take place",

we should make it more specific and talk about,

"parents and guardians of registered children … teaching and support staff of the school"

and the local authority, which we need to refer to because if a local authority school is converting voluntarily to an academy, it needs to take the local authority along with it in the discussions that it has. Since the governing body will be initiating this action, paragraph (d) of my amendment is relatively unnecessary. My amendment refers also to,

"other such persons as they deem to be appropriate".

My amendment would effectively spell out the process of consultation in those circumstances. This very much picks up on the discussion we had last Thursday on consultation with regard to coasting schools. During that discussion, the noble Baroness, Lady Evans, who was responding for the Government, made it clear that in such circumstances the Government would certainly expect that there would be consultation with the parents. I remind the Committee what the noble Baroness said on that occasion:

"In practice, we envisage that where a school meets the coasting definition, the governing body will voluntarily inform parents. Issuing a communication to parents is already the normal approach taken by schools following the publication of exam results or Ofsted inspections. In fact, schools are not required to notify parents of Ofsted judgments but they do, and we would expect schools to adopt a similar approach in this situation. We would certainly expect governing bodies to be as open as possible with parents".—[*Official Report*, 5/11/15; col. GC 415]

Indeed, one does expect them to be open with parents.

However, I take issue with whether the noble Baroness was right in saying that schools are not expected to communicate with parents about Ofsted judgments. Section 14(4)(c) of the Education and Inspections Act 2006, as I read it, states that the appropriate authority, which is the governing body, shall take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the report within such period following the receipt of the report by the authority as may be prescribed, which is five working days. I think I am right in saying that under present legislation parents do have to receive a copy of the report, and that there is therefore discussion with parents about it. I basically agreed with what the Minister said on that occasion—namely, that consulting parents and staff is the least that should be expected from a governing board that decides to pursue the conversion route. However, legislation and guidance usually spell out what is expected and there seems a very strong case for spelling it out on this occasion as well.

6.45 pm

Amendment 22, which is grouped with Amendment 19, would apply not only to voluntary conversions to academies but to forced conversions. Regarding this amendment, subsection (2) of proposed new Section 5 of the Academies Act, as it would be substituted at the moment by Clause 8, deliberately omits any consultation when a failing school is to be converted to an academy. This very much reflects the views of Ministers expressed just now and at Second Reading, when the noble Lord, Lord Nash, made it particularly clear that he would not brook any delays in the process of academisation for failing schools. Indeed, during Second Reading he went on to suggest that such consultation constituted,

"roadblocks put in the way by dogmatic influences and people putting the interests of adults ahead of those of children".—[*Official Report*, 20/10/15; col. 633.]

I know that the Minister had some words with the noble Lord, Lord Watson, about that.

I will leave it to the noble Lord, Lord Watson, and his Benches to make the case for their amendments but, at this juncture, I would like to record that we on these Benches are very much offended by those words of the Minister. We agree that it is good for these processes to move as quickly as possible, for the sake of the children, but we are also of the view that the right to consultation and discussion is one of the vital safeguards of democracy. It is appropriate that the procedures here are open and clear to those who are stakeholders within the school itself. For that reason, we very much support the general tenor of Amendment 22 and the ancillary amendments which go with it. With that, I beg to move Amendment 19.

Lord Watson of Invergowrie: My Lords, I shall speak to Amendments 20 and 22 as well as to Clause 8 stand part. We are quite happy with Amendment 19, which has been moved by the Liberal Democrats, but to some extent it misses the bigger picture. Clause 8, as the noble Baroness has just said, is the Government's attempt to enshrine in law the fact that our public education system is to become two tier—not so much the haves and have-nots as the haves and those who have much less. On the one hand, we have the maintained sector: under-resourced, tarnished by having its every fault highlighted, it seems, and on many occasions characterised as not fit for purpose. On the other, we have the academy sector: shiny, polished and well-resourced. It is the brave new world where failure does not exist or is at least not publicised.

I have to echo a point made earlier by my noble friend Lord Hunt in response to the noble Lord, Lord Nash, but I would direct this equally at the noble Baroness, Lady Evans. I accept the point made by the noble Lord, Lord Nash, that the Bill is about academies—I get that. But, at the same time, when the Minister gives out all the good news about academies, by not mentioning

the maintained sector it seems that there is virtually nothing of value or merit in it. Today was one of the rare occasions when he talked about what is good in the maintained sector. I say to the Ministers in an open spirit that it would do them and their case some good if they were to highlight the fact that parts of the maintained sector are doing very well. I have no objection to them highlighting when academies are doing well, too, but there should be a little balance. As the noble Baroness, Lady Sharp, said, that is what is missing: there is no balance. There is really no attempt to give credit where credit is very often due.

Section 5 of the Academies Act 2010 is quite clear. It allows for consultation to take place before a maintained school is converted into an academy, and that is the way it should be. I would argue that that is basic democracy: putting a proposal in front of people, asking "What do you think about this?", and then listening to their considered response. I say to the Ministers: yes, that takes time, and it may not elicit the hoped-for response, but that is life, or at least it is life in a democracy. Ultimately, while the parents do not have an inalienable right to carry the day, they have an inalienable right to have their say. That is the kind of open and accessible process that we have known in this country for longer than anyone can remember. We probably take it for granted, as surely we are entitled to do. However, the Government now want to shut that down, stifling opinion and, it has to be said, not for the first time.

That wording was added to the 2010 Bill following a wall of protest, including many Conservatives, after the original draft of that Bill excluded consultation. Five years on, we have gone back to the future, but it is not a future that any of us should anticipate with anything other than trepidation because it represents this Government saying, "We're not going to ask your opinion because even if you agree with us it will take time, and that's a price we're not prepared to pay". That is not to rubbish the suggestion that one day of a child's education lost can never be regained; of course that is the case. However, it is not appropriate to say that because of that, there can never be consultation.

I have referred on numerous occasions, both last week and today, to the Government's authoritarian approach. The Minister has made it clear that he disagrees but the evidence is clear, and I am not talking simply about the Bill. The Bill seeks to disfranchise and keep in the dark local authorities, governing bodies and parents. Millions of parents are apparently unaware that they are about to lose any say as to the kind of school in which their children receive their education. How, in 2015, did we arrive at a place where neither democracy nor transparency has any place in a Bill in your Lordships' House?

There are other examples of what I would call attacks on our human rights. The Trade Union Bill currently winding its way through another place is even more shocking, making strike action virtually impossible. Then there is the Housing and Planning Bill, published last month, to which I made reference earlier in response to the noble Earl, Lord Listowel. That is one of the most centralising and anti-local-authority pieces of legislation that we have seen, effectively ending a local authority's ability to secure a mix of new homes in its local area. It has been dubbed "the end of localism", and one can understand why; it gives the Secretary of State 32 new powers, almost all of them wide open, with detail to be decided by Ministers with little public scrutiny after the Bill is through Parliament. That touches on the point that we made earlier about the definition of "coasting". The Minister said in his response that it would be dealt with through regulation. The Delegated Powers Committee said in its report that it was unhappy with that, but it appears that the Government are going to carry on regardless.

The Housing and Planning Bill also includes the enforced sale of affordable homes, often against the charitable functions of charities, which has echoes in the Bill that we are discussing, regarding the sale of church land and property following an academy order. Another example of the Government's heavy-handed approach came just three days ago when information emerged of their plans to restrict human rights further by telling our judges that they are not obliged to follow rulings from the European Court of Human Rights. The Minister may sigh, and I am sorry to detain him if he feels there is somewhere more important that he should be, but this is part of a pattern and I am entitled to make that argument because this Bill is not seen in isolation. The draconian measures in the Bill chime with a lot of other pieces of legislation that are going through, and if the Minister is not willing to listen to that then I would ask that he at least not listen to it in silence. It is not difficult to detect a distinct pattern here of intolerance of those who disagree with or threaten the more extreme plans of this Government, whose answer is to lash out and use all their power to silence and cow their critics. Added together, the measures undoubtedly amount to a display of authoritarianism that I believe we have a moral obligation to stand against.

The key part of the clause is the addition of subsection (2) to the existing Section 5 of the Academies Act 2010. That has the effect of saying that academies are to be taken out of consultation and placed on a higher plain where only the Government, their business friends or other supporters are permitted to tread. Everything associated with academies is to become almost a gated community, with entry denied to lesser mortals. For "lesser mortals" read "parents", who—the Government seem to have some difficulty in coming to terms with this—have more than a passing interest in the status of their child's school. In the eyes of this Government, though, parents are regarded as worthless, or at least their opinions are. It is a shocking indictment that this sort of proposal can come forward in a Bill and the Government expect it to be greeted with equanimity.

Amendments 19, 21 and 22 are aimed at writing academies into the whole process of intervention by including them in the process that exists under the Education and Inspections Act 2006. By amending Section 59 of that Act, Amendment 22 would specify that all the provisions on schools being eligible for intervention, and the kind of intervention that would be possible, would apply equally to academies. It would also mean that local authorities would have the same power in relation to academies as they have in

[Lord Watson of Invergowrie]

relation to their own schools. It is about treating academies in the same way as maintained schools in an intervention aimed at raising standards. I say: why not? Surely the aim of improving schools is one that we and all schools share, irrespective of the categorisation.

I have referred in the past to the Secretary of State, and indeed the Minister himself, describing the reasons for not allowing consultation. I have a quotation here from a recent press release from the Secretary of State, in which she said that,

"campaigners could delay or overrule failing schools being improved by education experts by obstructing the process by which academy sponsors take over running schools".

That, in itself, is no reason for denying everybody the opportunity to speak out. She is saying that some people may delay the process, so nobody will have the opportunity to say anything. Surely that amounts to a sledgehammer to crack a nut.

Clause 8 represents what I believe to be an extraordinary departure from the normal processes of governmental decision-making. Under the clause, the Minister is empowered to make a decision without reference to—far less without making any attempt whatever to listen to—parents, pupils, teachers, governors, local authorities or anyone who might be thought to have some local knowledge of the situation on the ground relating to a school. It was suggested earlier that the regional schools commissioners would have that knowledge. Where would they get that sort of local information from? Surely they would have to go to the sort of people whom I have just mentioned, so why not involve them in the process right from the start?

There are certainly several reasons why Clause 8 should not form part of the Bill, but a powerful one is that it runs completely counter to the Government's stated belief in devolution, or what they themselves have termed their "localism agenda". In Committee last week, I quoted from a letter to the Minister from the Constitution Committee of your Lordships' House. I return to it now. Referring to the Bill augmenting the Secretary of State's powers to intervene in matters which have previously been the responsibility of local authorities, the committee said:

"These provisions appear to be at odds with the Government's localism agenda, which emphasises the importance of local communities running their own affairs".

And it gets better—although perhaps that is a view exclusive to this side of the Room—because the committee even quotes the Chancellor of the Exchequer, as recently as 14 May this year, saying that,

"we all know that the old model of trying to run everything in our country from the centre of London is broken".

There is an element of left hand/right hand in that. We have already heard that the Constitution Committee was pretty unequivocal in its comments to the Minister. The members of the committee said that they would be interested in understanding the reason for this decision to shift power away from local communities. They were not alone.

We have today received from the Minister a copy of the letter that he sent to the committee in reply. It is slightly disappointing that we were given the letter only a couple of hours before the start of this Committee, given that it was dated 5 November—five days ago. The Minister's only response to questions raised by the Constitution Committee about the localism agenda is that the Secretary of State has devolved power to regional schools commissioners to act on her behalf. I am sorry but that is not what devolution means; it means handing power to people locally—people who are elected by their peers, wherever possible—to engage in the process and act on their behalf. Simply giving regional schools commissioners a remit and saying, "Go out and do this or that on my behalf", certainly is not devolution and it has next to nothing to do with localism. I believe that the Minister needs to revisit these issues to get a firmer grasp of what they really involve, because they are important to people at a local level. People want to be involved in decisions.

7 pm

We know that the Minister believes it is appropriate to dispense with democratic procedures when expedient. I was not impressed—I did not say anything at the time—when the Minister referred to our exchange last week on his manifesto. I have to say to him that, following that debate, I did something that I do not do very often, which was to get a copy of the Conservative Party manifesto. First, I quote what the Minister said in this Room last week. He said:

"The democracy in this is that it was clearly in our manifesto".—[*Official Report*, 5/11/15; col. GC 413.]

I have the three pages of the Conservative manifesto that cover education, pages 33 to 35, and there is nothing about education that mentions consultation. It says:

"We will … turn every failing and coasting secondary school into an academy and deliver free schools for parents and communities that want them".

So some parents will still get a say, but only if they are seeking a free school. Henry Ford and the colours in which his Model T cars were made available springs to mind here. The manifesto went on to say, somewhat opaquely, that,

"we will introduce new powers to force coasting schools to accept new leadership".

We know what "accept new leadership" means, but that is all that the manifesto says. None the less, the Minister says, "I am doing this because it was in a manifesto which we put to the people of the United Kingdom. We asked them whether they wanted to support that manifesto or not". Of course, a majority did not, but 24% of the population voted for the Conservative Party, which is more than voted for any other party and so it is in power, but it did not get a mandate for the Bill as there was no mention of consultation or transparency. It simply said it would force schools to become academies. How that is done is another matter.

This is redolent of the display we got from the Chancellor of the Exchequer two weeks ago on the working tax credit issue, when he claimed a manifesto commitment, despite there not even being a mention of tax credits in the manifesto. It is at best disingenuous, meretricious even, to suggest that somehow a manifesto gives you carte blanche to create an eighth day of the week, simply because it has been voted in by the people of the country.

I apologise for going on at length about this, but it is a fundamental issue. I talked about millions of parents not realising what is going to happen to them. If they did, there would be much more of an outcry. It is the duty of those of us involved in this Bill to publicise it a bit more because it is a shocking dilution of what parents are entitled to expect as far as their schools are concerned.

There is an unanswerable case for consultation, and there is no reason for it to be withdrawn simply because in a small number of cases people disagreed. There is no convincing rationale there at all. It effectively casts every parent in England as a potential trouble-maker because of the chance that they might, just might, have the temerity to suggest that the decision proposed for their school is not the appropriate one. If there is a more appropriate word to describe that approach than arrogance, it escapes me.

Despite the efforts of Ministers to prevent Ofsted finding out what is really happening within academy chains, we know from Ofsted how inadequate some of those chains are. I think it was the noble Baroness who mentioned the Kemnal chain, which appears to take pride in having sacked 26 of its 40 head teachers and in holding the axe over the heads of the rest with targets to be met every six weeks. This emerged in evidence to the Select Committee in another place. That is not clever, and it is not surprising that Ofsted was unimpressed with that record.

Local people and local communities are right to be extremely angry if they are shut out of decisions that affect their children. The Government's authoritarian approach denies people respect and is made even worse—even more insulting, I would argue—by being carried out largely behind closed doors. The decision about whether a school should become an academy is normally taken by the head teacher board, one for each of the regions covered by the regional schools commissioners. I decided to try to find out what my local head teacher board got up to, so I went online and downloaded the minutes of its most recent meetings. That turned out to be a bad idea. I managed to locate the minutes of the east of England and north-east London boards but, having done that, I am next to no further forward because the so-called minutes conceal far more than they reveal. They are merely a list of decisions that do not even stretch to two pages, with half of one page taken up by the list of the great and the good who were there. There is no discussion of how the decisions were reached, just a note that this or that was decided.

I have to say to the Minister that this is serious. This is about the use of public money—my money, your money, everybody's money. Yet the public—all of us—are denied knowledge of how, or even why, it is being spent. The Bill threatens to drag democracy in England back a century, which is indefensible. Thank goodness it does not apply to Northern Ireland, Scotland or Wales. This clause represents everything that is wrong about this Government's overbearing, "we-know-what's-good-for-you" approach and it should be struck from the Bill.

Lord Deben (Con): My Lords, I did not intend to intervene in this debate, except from my experience of trying to deal with schools that are failing. In my former constituency, I had a terrible case of failing schools on two occasions. My experience is that we have to face the fact that the time taken to put such schools right has been unbelievably long. The fact that that has been the case has put the Government into this position. Normally, I would have supported many of the arguments that have been made by the party opposite. I have lived through generations of children who have suffered because we could not take urgent action. I do not think that we should make these decisions without a real understanding of the history.

Listening to the debate, I want to say two things. First, I say to the noble Baroness that I do not think that law should set out a list of all the people who you might consult when you are consulting. It really is up to the people doing the consultation to decide who it should be. Of course it is true that people will naturally turn to a list which will not be dissimilar to that of the noble Baroness, but we have become very prescriptive about who would and would not be on the list. I can think of several other people who I would want to put on the list in particular places. For example, in the very bad situation that we were in in Felixstowe, I would want to put on the list discussion with local businesses about what they needed to give decent futures to the boys and girls in the schools that were so obviously failing. I could make a list that would be as credible as the one that the noble Baroness wants.

The trouble is that once you write a list like that, those who do not happen to be on it become kind of second-class citizens. However, I think that the noble Baroness would agree that by the time we put them, the church authorities, in circumstances in which that were appropriate for the school, and everyone else that we have talked about on the list, it would be as long as your arm. It seems to me very much better to have the formation presented by the Government. This was a good debate to have, but it would not progress our discussions to have that list.

Far more concerning are the comments made just now from the Opposition Front Bench. I listened with great care to the noble Lord as he put forward his case. I thought he was a little over the top in coming close to claiming that the Government were somehow dictating inappropriately and tying that up with almost everything else that the Government have done. Of course he does not like the Government; that is what he is there for. I have been in that position, and I know exactly what he is there for.

Let us be a little bit historically accurate. The truth is that local authorities for a very long time presided over a system where, when things went wrong, few things were done about it. We have all experienced that. I experienced it in a school in Leiston, where generations of children were disrupted because the local authority would not make the changes. That was a local authority whose political complexion I agreed with, so I am not making a party-political comment, I am making a comment about the historic facts of local authority control. It was very difficult to make

[Lord Deben]
serious changes. There was a curious belief that in this one aspect of life, the way things are done had to move at a very slow pace.

So it is quite understandable why the Government feel that there may well be an elongation of necessary steps. The reason that I am on the Government's side is that, in the end, I am on the side of those children. I start with the children. Indeed, I remember having a very big argument with the secretary-general of the National Union of Teachers who had the effrontery to have over her stall at the Conservative Party conference the words, "Putting teachers first". I said that that was not what she should be doing; she should be putting children first. The fact that she refused to accept that changed my views about the unionisation of teachers in a very direct way, and anybody who sees the annual teachers' conferences will see the best advertisement for home schooling I have ever come across. There is a long history of this, and we have to break it. We have to break it for those children who will otherwise be trapped since so many schools are the unique opportunity that a child has. I am prepared to go a long way with the Minister, and I hope very much that we shall see this work. I am quite sure we can come back to it if it does not, but the one thing we cannot allow is a position in which children are condemned for long periods in failing schools. It is a risk worth taking.

Baroness Morris of Yardley: It is like being in Piccadilly Circus in this Room at the moment. I shall speak briefly to this group and particularly in favour of Amendment 20 which is exceptionally reasonable and rather mild. I share some of the concerns about tick-box consultation, asI did when I was a Minister. You put the list of people in, and it becomes too mechanical if you do not watch it because the essence of consulting is lost. However, I have some reservations about Amendment 19.

I understand where the Minister is coming from on this because I experienced the same thing. I have a memory of a school in Leeds where 2% of pupils got five As to Cs. I had parental demonstrations against me taking action to close it down. I also saw the most awful demonstrators every time I went to intervene in a local authority. There is a bit of me that thinks—I wonder whether the Minister could stop talking to the other Minister because it is really disconcerting; this is a Committee to discuss the Bill, not to sort out other shenanigans—that that is the nature of the job. That is democracy. We are not Russia or North Korea. The nature of the job is that sometimes you get what you think is the most unreasonable opposition and it drives you mad. You feel like you have had a bad day at the office, but you have to get up and go through it again the next day. That is the nature of being a Minister in a democratic institution.

Some of the examples that the Minister has given during the passage of the Bill about interventions, particularly those he gave in his Second Reading speech in the discussions about Pimlico Academy, would not be stopped by Amendment 20 because all it does is state that the Secretary of State must call a meeting with the parents of the children in the school to explain what she is about to do and that she must take into account what they say. It has nothing to do with the sort of disruptions I had and which the Minister referred to at Second Reading. That is life, and it has to be got on with. This is about consulting the parents.

The other thing I learnt in difficult situations of this sort is that it is easier if you take parents with you. This is massive change for a school and the parents worry. Change frightens us all, and by not explaining it to parents and asking their view, you run the risk of driving them into opposition. What are they hiding? What are they fearing? Why do they not want to hear my view? As the Minister's view will not be there, there will be murmurs in the playground and at the school gate, which means that consultation will take place by rumour, fact and misfact. You are not going to stop parents talking about what is happening and you are not going to stop them expressing their view. They will go and get the placards and oppose an academy conversion, whereas in some cases an academy conversion might be exactly right. I ask the Minister to split off in his mind his experience, because we should not be writing legislation on the basis of one Minister's personal experience, and that perfectly understandable annoying aggravation which is the nature of being a Minister in a democracy. Look at Amendment 20 and explain how, when you are bringing about massive change that affects a group of children and their parents, you can possibly explain to them that it is unreasonable to call a meeting, invite them to attend, explain what you are going to do, listen to what they say, and take their views into account.

7.15 pm

Lord Nash: My Lords, the group of amendments including Amendment 19 proposed by the noble Lord, Lord Storey, and the noble Baroness, Lady Pinnock, and Amendments 20 and 22 proposed by the noble Lords, Lord Watson and Lord Hunt, and the noble Baroness, Lady Massey, focus on the involvement of parents and others in decisions where schools are underperforming as well as in decisions about the conversion of schools which are performing well. I also hope to use this debate to reiterate why Clause 8 is so fundamental and should stand part of the Bill.

Why the new and strengthened intervention powers in the Bill apply only to local authority maintained schools and not to academies features again in Amendment 22. I hope that following our debates at the first Committee session and earlier today, many of which probed our approach to failing and coasting academies, noble Lords will be reassured that regional schools commissioners already take swift and effective action where an academy is not performing well.

The other main issue raised by Amendments 20 and 22 is the involvement of parents when a school is eligible for intervention and will either be required to become an academy by virtue of being a failing school, or may be subject to an academy order or other form of intervention where it is identified as coasting or has failed to comply with a warning notice. Looking first at schools which have failed and have been judged to be inadequate by Ofsted, as I have already said, we are clear in the Bill and in our manifesto that any failing school must become an academy with the support of a

sponsor. It is illogical to retain consultation on whether a school should convert when our manifesto makes it so clear that that would be the outcome.

Clause 8 is also vitally important because we want transformation to take place from day one. As I said, the Bill will ensure that the academy conversion process for such schools will be as swift as possible, not delayed through debates about whether a school should become an academy or not. That is also why Clause 8 removes the requirement for consultation on whether a school should become an academy. Maura Regan, CEO of the Carmel Education Trust, a passionate woman who noble Lords heard from at last week's event, summarises the case better than I can. She said that the difficulty with allowing a consultation or vote about whether a school should convert to academy status is that it is like asking turkeys to vote for Christmas. The adults' perspective will largely always be skewed or biased. Moving swiftly to transform the school is about championing the interests of the child over and above many stakeholders not able or willing to grasp the long-term wider view. I am grateful to the noble Baroness, Lady Howarth, who made similar comments last week in Committee and to the noble Lord, Lord Sutherland, who made similar comments in an earlier debate.

As I said at the outset, this is about putting children first. I know that the noble Baroness, Lady Sharp, takes objection to the words "for too long the interests of adults have stood in the way of a child's education in circumstances where a school is failing", but sadly events prove that to be the case time and time again. I am grateful to my noble friend Lord Deben for his very eloquent remarks. It seems that we have a fundamentally different sense of urgency on this side of the Committee compared with noble Lords on the other side. I have great respect for the noble Baroness, Lady Morris, but it is as simple as that.

Baroness Morris of Yardley: My Lords, I cannot allow that to stand. I requested in the previous debate that we did not throw that kind of remark across. I hope that the Minister would wish to put on record that no one on this side does not have a sense of urgency. If the Minister is going to do nothing while a school is converted to an academy, then shame on him because other things can be done while a discussion, a meeting with parents, takes place. The school's hands are not tied with regard to changing the head teacher, getting someone in to help, putting challenge in and doing other things rather than converting to an academy. He might end up disagreeing with us but I hope he will not rest on the argument that it is because we are prepared to sit on our backsides while children fail. That is not the case, and I think he knows that if he thinks about it carefully.

Lord Nash: I fully accept that on both sides of the House we want to put the interests of children first. Maybe we have a different approach to doing that. I have already described to the House that once a sponsor has been identified for a failing school, sponsors will be keen to engage with parents about their plans for the school, ensuring that parents understand what will happen next and have the opportunity to share their views on the sponsor's approach. Widnes Academy is just such an example. The performance of the predecessor maintained school, West Bank Primary School, had declined and in May 2013 it was put into special measures by Ofsted. The Innovation Enterprise Academy, a high-performing local secondary academy, was named as the sponsor for the school, and its first action was to engage with parents, pupils and staff to seek their views about how the new academy should operate.

Lord Watson of Invergowrie: But all this is after the event. He says that sponsors will be keen to engage with parents; yes, I would think they should be, but it is then too late for parents who disagreed with the decision in the first place. Why not do it the other way round?

Lord Nash: As it said in our manifesto, a school will become an academy in these circumstances.

I go back to the excellent work that the Innovation Enterprise Academy did in the case of West Bank Primary School. It had drop-in sessions at the school for parents and appointed a parent champion to the interim executive board. Parents and pupils were invited to name the new academy and design the new uniform and logo. As a result, parents were much more supportive of the school becoming an academy.

Noble Lords who attended last week's meeting heard from Martyn Oliver, chief executive of one of our most successfully performing academy trusts, Outwood Grange. He said:

> "A prospective trust does not just ride roughshod over a school and its community. Outwood Grange has a clear vision and we are passionate about engaging staff and parents on that vision. The advantage of our model is that alongside the clear vision of the trust, local governing bodies are left with more space to focus on things like engaging with the local community. Ultimately parents are happy, especially when they start to see the dramatic improvements in results for their children".

Examples such as this show that parents will still have opportunities to have a say in the future of their children's school if it has failed, even if there is no longer a question of whether or not a failing school should convert.

Looking at coasting schools, we debated at length last week the importance of parents being aware when their child's school is identified as coasting so that they can then understand and challenge how the governing body and leadership team intend to improve sufficiently. As I said earlier, unlike in failing schools, intervention in coasting schools will not be automatic, and schools will be given time to demonstrate their capacity to improve sufficiently. There will therefore already have been a dialogue, likely to have taken place over a long period of time, about a school's plans to bring about improvement and an opportunity to share views with RSCs, the community and parents before any decision for the school to become a sponsored academy is made.

As discussed, we already expect that governing bodies in schools identified as coasting would share relevant information with parents, but we have committed to consider whether there is anything further that can be included in the statutory *Schools Causing Concern* guidance to ensure that such engagement with parents consistently takes place.

[LORD NASH]

The noble Baroness, Lady Sharp, asked about the circumstances in which governing bodies were obliged to notify parents. The legislation in this area is quite complex, depending on the status of the individual school. I am happy to write to her to explain that in some detail.

We feel confident that what parents want most is for their child to attend a school that is performing well. The Bill is all about ensuring that we have robust powers to challenge underperformance wherever it occurs, enabling us to tackle not just failing schools but now also coasting schools.

The noble Lord, Lord Watson, again referred to my tendency to talk about only academies and not schools in the maintained sector. There is an excellent example of cross-academy and local authority maintained work in the Birmingham Education Partnership, which the noble Baroness, Lady Morris, chairs. Of course we recognise that there are many excellent schools in the maintained sector, but this Bill is about failing schools. We are not here to talk about excellent maintained schools.

As for the local knowledge that regional schools commissioners have, it is excellent. I look forward to introducing the noble Lord, Lord Watson, as part of his essential due diligence on this Bill, to some of the regional schools commissioners. He can discuss with them how close they are to the coal face. I hope that he will engage with them and be very impressed. As he said, a list of RSC decisions is already published on the GOV.UK website and we are making the decision-making of RHCs and HTBs more transparent. From December, a fuller note of head teacher board meetings will be published to cover all meetings from October this year, and will contain information on the particular criteria that were considered for each decision.

I turn to Amendment 19, tabled by the noble Lord, Lord Storey, and the noble Baroness, Lady Pinnock, which relates to where a governing body is proposing that a school should convert to an academy voluntarily where it is a school that is performing well and is not eligible for intervention. The amendment proposes that rather than consulting whoever it deems appropriate, the governing body should specifically be required to consult certain persons, including parents and guardians, teaching and support staff at the school, the local authority and also itself.

The purpose of Clause 8 is to ensure that we have robust powers to take action in schools that are failing, coasting or otherwise underperforming. I want to ensure we remain focused on that very important issue. The Bill does not have any impact on schools that are performing well, but I will gladly address the amendment. As I have set out, that is why Clause 8 removes the requirement for the governing body to consult on whether a school should become an academy. It is crucial to remember that we are talking about removing consultation only in the most serious cases.

The amendment proposes that, rather than the governing body having the flexibility to consult such persons as they think appropriate in cases where they convert voluntarily, it should be specified that the governing body must consult certain people. This very matter was discussed in detail, as the noble Baroness, Lady Sharp, said, when the Academies Act 2010 was a Bill under consideration by this House, where we first introduced the prospect of schools that were performing well voluntarily converting to academy status.

Where schools are performing well, we must trust professionals to do their jobs without the unnecessary interference of central government—a fundamental principle underpinning the academies programme—and therefore it is right, as my noble friend Lord Deben said, that we leave it to those professionals to decide exactly who should be consulted on the matter of whether a good school should convert to an academy. In our view, it would not be right for us to dictate an inflexible checklist in legislation, which would not in itself ensure that consultation was any more thorough or meaningful. As my noble friend Lord Deben said, it might essentially consign some people to being second-class consultees. Having said that, we have very clear guidance to prospective converters, available on GOV.UK, setting out expectations that the consultation will include staff members and parents and should also include pupils and the wider community, but anyone with an interest can share their views.

I therefore do not believe that the amendment is necessary. The process for good schools converting to academy status is working well. In practice as opposed to theory, we have had no significant challenge or any real pressure to change the current requirements. Interest in conversion remains high: since 1 September 2014 we have received over 500 applications to become a converter academy. Converter academies continue to perform well: 2015 results show that the key stage 2 results of primary converter academies open for two or more years have improved by four percentage points since opening. Secondary converter academies continue to perform well above average, with 63.3% of pupils achieving five good GCSEs in 2015, 7.2 percentage points above the state-funded average.

While we have made the case for the need for a swifter academisation process in the case of underperforming schools, the Bill does not intend to change anything about the very successful process of converting strong schools. I hope, however, that this debate has clarified just why Clause 8 is so integral to the Bill. We still believe that sponsors and governing bodies should engage with parents about plans affecting their child's school, and of course they do, but to mandate through legislation such consultation and what form it should take would be disproportionate and would only lead to delays in schools whose performance requires quick redress. I therefore urge noble Lords not to press their amendments and to let Clause 8 stand part of the Bill.

Lord Sutherland of Houndwood: My Lords, before the Minister sits down, I make plain that you do not have to be a member of the Conservative Party to support the Government on this one. It is interesting that he quoted two Cross-Benchers who have spoken in comparable terms. It is rather important to take account of the history of this and what people's experience has been. We are not dealing with the best local authorities; there are good ones, but we are dealing with the others. Lastly, for the avoidance of

doubt, I raised the question about the word "must". I have been satisfied with the Minister's reply relating to a later clause in the Bill.

Baroness Sharp of Guildford: I am sorry; I was forgetting that I was the one who originally moved this. I thank the Minister for his reply. I have to confess that my sympathies were rather more with Amendment 20 than with the amendment that I myself moved. This is clearly an issue that we are going to return to, but in the mean time I beg leave to withdraw the amendment.

Amendment 19 withdrawn.

Amendments 20 and 21 not moved.

Clause 8 agreed.

Amendment 22 not moved.

Committee adjourned at 7.29 pm.

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