Vol. 767
No. 68

Wednesday
18 November 2015

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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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

Wednesday, 18 November 2015.

3 pm

Prayers—read by the Lord Bishop of Birmingham.

Royal Assent

3.06 pm

The following Act was given Royal Assent:
Finance (No. 2) Act.

Restorative Justice
Question

3.07 pm

Asked by ***Lord Blair of Boughton***

To ask Her Majesty's Government what assessment they have made of the effectiveness of restorative justice services in England and Wales.

Lord Blair of Boughton (CB): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I draw attention to my interests as a former chair and a current trustee of the Thames Valley Partnership, which manages restorative justice in the Thames Valley Police area.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, there has been no formal assessment to date. However, the Ministry of Justice is aware of the progress that police and crime commissioners are making in developing and delivering restorative justice services and is offering advice and guidance where necessary. The recently announced Justice Select Committee inquiry into restorative justice will help to provide a comprehensive picture of restorative justice across England and Wales.

Lord Blair of Boughton: I thank the Minister for that Answer, particularly in national Restorative Justice Week. I congratulate the Government on their interest in restorative justice and on the amount of money they have transmitted to police and crime commissioners for restorative justice services. As far as I know, restorative justice is the only criminal justice intervention which has been proved to be effective through random control trials, in the same way as medical research, in assisting victims to recover and reducing reoffending. However, there are persistent and widespread accounts of RJ services facing difficulties and delays in obtaining victim contact details from police and the courts. Without this, RJ simply cannot work. What are Her Majesty's Government going to do to clear this blockage?

Lord Faulks: My Lords, to clear the blockage, apart from other steps, the new victims' code, which was published two days ago, now requires the police to pass on victims' details to RJ service providers unless asked not to do so—in other words, an opt-out. This is in line with the mechanism for referral for other victims' services. We are working with the Association of Policing & Crime Chief Executives to ensure that its toolkit on information sharing is up to date and are making connections between areas where there is good restorative justice take-up and other areas where there is not such a good take-up.

Lord Cormack (Con): My Lords, have the Government taken carefully into account the experience of Northern Ireland, where there have been some remarkable schemes over the last decade or more?

Lord Faulks: The Government are aware that there are a number of schemes, in not only Northern Ireland, but Australia, New Zealand and parts of North America. There is no standardised way of delivering restorative justice but the Government are committed to continuing this as a significant way of improving reoffending rates and providing victims with a reasonable involvement with the criminal justice system.

Lord Marks of Henley-on-Thames (LD): My Lords, the MoJ is to be congratulated on its action plan produced by the coalition Government and on promoting Restorative Justice Week. There is strong evidence that restorative justice programmes can be effective in prisons as well as in the community, and Sycamore Tree has been running programmes in 40 prisons. Will the new prisons built to replace existing outdated ones have the facilities necessary to run restorative justice programmes, and in surroundings that are sympathetic to victims, who are central to restorative justice?

Lord Faulks: The noble Lord is right that restorative justice is provided in a number of settings, including in prisons. Of course, the new prison plans are somewhat in their infancy at the moment but I am sure that the Secretary of State will have well in mind the desirability of maintaining this tradition.

The Lord Bishop of Worcester: My Lords, does the Minister accept that, whatever the statistics regarding effectiveness, for those who participate in it restorative justice is a profoundly affecting experience? I have witnessed the restorative justice programme in HM Prison Hewell in my diocese, and for all concerned—particularly for members of the community—it is a deeply affecting experience which is profoundly for the common good.

Lord Faulks: I am grateful to the right reverend Prelate for that contribution. The statistics show 85% overall victim satisfaction and a 14% reduction in reoffending. These things have to be approached very carefully because of course not all victims want to be involved in it and they must be allowed to pull out at the last moment if they so wish. However, the take-up is remarkable.

Lord Ramsbotham (CB): My Lords, I once attended a restorative justice conference at a prison which was spoiled because, at the end of it, the prison governor admitted that he was unable to deliver any of the programme that had been outlined by the admirable

[Lord Ramsbotham]
police chairman of the commission. Can the Minister assure the House that prisons have been instructed that it is essential that they provide all the necessary support for restorative justice programmes to make certain that they are effective?

Lord Faulks: I will of course pass on that concern to the Prisons Minister. I assure the noble Lord that the standards for restorative justice are set out in the victims' code, and the necessary trained facilitation and all the necessary support should be present.

Lord Beecham (Lab): My Lords, it is some eight years, I think, since the publication of the last report validating the success of the restorative justice programme. Since that time, I believe that the Howard League for Penal Reform has made an annual award to schemes covering respectively adults and young offenders. Is it possible for the Government now to look at ways of supporting that kind of approach in order to promote the scheme and perhaps invest in it, given that the likelihood is that the development of restorative justice will cause savings to be made in the custodial system and indeed in the judicial system?

Lord Faulks: The Government are well aware of the advantages of restorative justice and in fact they have contributed to it very considerably, with £30 million having been made available to RJ services for victims over the last three years. Of course, the noble Lord is right to draw attention to the Howard League's contribution. There have been contributions from all sorts of providers in different fields.

Lord Elton (Con): My Lords, as I recall, the initial pioneering effort was made by the Thames Valley Police Authority, which deserved great credit for that. Do any police authorities not provide restorative justice services at present?

Lord Faulks: My noble friend is right to single out the Thames Valley Probation Service, and the noble Lord, Lord Blair, is intimately concerned with that. All police and crime commissioners have been provided with funds, although the take-up has varied between authorities. As I indicated in answer to an earlier question, it is important that best practice is shared among the various areas.

Human Rights: UK Application

Question

3.14 pm

Asked by ***Lord Lexden***

To ask Her Majesty's Government what steps they are taking to ensure that fundamental rights apply equally in all parts of the United Kingdom.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, the Government are committed to protecting human rights. There is already some variation across the United Kingdom, as the devolved Administrations have competence to legislate in respect of human rights in the policy areas devolved to them. The Government were elected with a mandate to reform the UK's human rights framework. We will consider the implications for devolution of a Bill of Rights as we develop our proposals and will fully engage with the devolved Administrations.

Lord Lexden (Con): Why should my gay friends in Belfast be denied the right to marry one another if they wish to do so, while my gay friends in London can exercise that right? The first civil partnership in the United Kingdom took place in Belfast, but a same-sex marriage is impossible there. Has the time not come to review the scope and extent of the so-called Sewel convention, under which this wholly unfair state of affairs has arisen? While we are about it, do we not need a new name for the convention?

Lord Faulks: I will gracefully decline to answer the last part of the noble Lord's question. As to the first part, the position is that this Government, and indeed this Parliament, were pioneers in passing the same-sex marriage Act. Since then, the Republic of Ireland has followed suit, the American Supreme Court has accepted the argument, and the European Court of Human Rights has also. We can be proud that we have set the way. We also commended it to the Northern Ireland Executive, both before and after the passing of the legislation, but ultimately this is a question of devolution. The Northern Ireland Executive are capable of making that decision themselves. The matter is the subject of two judicial reviews. At the moment, there is no inclination on the part of the Northern Ireland Executive to take matters forward, and I hope that that changes.

Baroness Whitaker (Lab): My Lords, does the Minister agree that the human rights of Gypsies and Travellers are much better protected in Wales than in England because the Government have created an obligation on local authorities to provide sites? Why can we not do the same thing here?

Lord Faulks: The noble Baroness has particular expertise and knowledge of this area, and I defer to her knowledge, as it were, on the ground. The application of the law in relation to human rights should of course be common across England and Wales.

Lord Trimble (Con): My Lords, I draw the Minister's attention to the Dudgeon case, which concerned the legalisation of homosexuality. Mr Dudgeon was from Northern Ireland, where homosexuality was still an offence when it was not an offence elsewhere. He went to the European Court, which held that human rights must be uniform throughout the country. I think that that might be relevant here, too.

Lord Faulks: The question of uniformity is difficult. Although the European Court of Human Rights maintains certain core standards, it nevertheless acknowledges a margin of appreciation for all members of the Council of Europe. We may well feel that some

countries respect these better than others, but unless there is a violation of a convention right, that is a matter for the individual country.

Lord Dubs (Lab): My Lords, it is many years since the Good Friday agreement. Surely the British Government have an obligation as regards a Bill of Rights for Northern Ireland. Have not we dragged our heels for far too long? I know that there are difficulties among the parties, but surely the British Government should take the initiative.

Lord Faulks: Once again, the question is not exclusively for the British Government. While the British Government are anxious to see the protection of human rights here, in Northern Ireland and in Ireland as a whole, it is also a matter for others.

Lord Lester of Herne Hill (LD): Will the Minister please confirm to the House that the Secretary of State has the power under Section 26 of the Northern Ireland Act to give direction to the devolved institutions in Northern Ireland to secure their compliance with the European Human Rights Convention? If he does confirm that, will he tell us whether the Secretary of State has thought about exercising that power so as—to take the example given already about marriage, or perhaps the example of defamation or blasphemy—to secure full compliance in the Province with the obligations under the convention?

Lord Faulks: I am extremely hesitant to answer a question of law from the Dispatch Box. That is a matter that I will consider and write to the noble Lord about. It is a matter of concern for the Secretary of State and I am sure that it will continue to be, as it is for the Ministry of Justice as a whole.

Lord Bew (CB): My Lords, does the Minister acknowledge that public opinion in Northern Ireland on this matter is changing rapidly? A few months ago, the Assembly voted on it, and there was a narrow vote against change. Very recently, there was a narrow vote for, which fell on a technicality. There will be a general election shortly, which will change the composition of the Assembly. Does the Minister agree that it may be better to leave this for the normal process of public opinion in Northern Ireland, which is moving very much in the same direction as public opinion in the Republic? Might this not be better than at this point raising issues such as Article 14 of the Strasbourg convention, which drove reforms on this issue in the past in Northern Ireland and could do so again? At this point it might solve itself naturally.

Lord Faulks: I am very grateful to the noble Lord. I have followed and been told about the progress at the moment and the fact that it was by only a narrow vote that the matter did not progress further. I think there may be something in what the noble Lord says about allowing the matter to develop and hope the solution will come without the rather more draconian measures which have been suggested.

Lord Goldsmith (Lab): My Lords—

Lord Forsyth of Drumlean (Con): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, I am sorry to intervene. As you know, at Question Time we try to apply a number of principles. It is the turn of the Conservative Benches, but I think on this occasion the House is calling for the noble and learned Lord, Lord Goldsmith, so we will go to him, and then we will, I hope, have time for a Conservative.

Lord Goldsmith: It is good to hear from the noble Lord the commitments to human rights and also, particularly, what he said in answer to the noble Lord, Lord Lexden. There is a more basic problem, as the noble Lord will know, even more so than that of same-sex marriages, which is the criminalisation of homosexuality in certain parts of the world. What can the Minister say about the British Government's persuasion of other countries, particularly Commonwealth countries, to get rid of the criminalisation of homosexuality and treat people decently in that respect?

Lord Faulks: The Government maintain their firm resolve to do all they can to protect human rights, both here and abroad. It is a tradition which precedes this Government; it was part of the coalition Government's policies and, indeed, those of the previous Labour Government. Nothing about any changes we might wish to make to the domestic arrangements has in any way diminished our enthusiasm or determination in that area.

Lord Forsyth of Drumlean: My Lords, is my noble friend aware of the extraordinary proposals by the Scottish Government to require a state guardian to be appointed for every child born in Scotland in order to ensure that parents are adequately looking after their children? Could he tell us what happens when those families move south of the border? Will that continue?

Lord Faulks: I am afraid that I am not seized of that particular issue, but I do know that in Scotland there are a number of different interpretations of what needs to be done in order to respect individual human rights. Some of those approaches vary considerably from the approach that we might take in this country. That is a feature of devolution.

Turkey

Question

3.23 pm

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government what active moral and diplomatic support they have given to Turkey since the Middle East immigration crisis began.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns): My Lords, Her Majesty's Government commend the generosity of Turkey and the extraordinary efforts it is making to host more refugees fleeing conflicts in the Middle East than any other country. The UK has announced a new contribution of up to £275 million over the next two years to help Turkey address the consequences of the Syria conflict. This builds on the UK's existing funding of £34 million to humanitarian projects in Turkey since the crisis began.

Lord Maginnis of Drumglass (Ind UU): My Lords, I am grateful to the Minister for her Answer, as far as it goes. While our hearts bleed for those in France who have been the victims of terrorism, is there any awareness that Turkey, our ally of more than 90 years, has, during the past four months, had something like 160 members of security forces and police and 185 civilians—a total of 345 citizens—murdered by terrorists? As well as those, almost 1,500 people have been injured. I am not suggesting that we have a volte-face like Mrs Merkel, but what are we doing to acknowledge the difficulties that Turkey has between the Peshmerga and, for example, the PKK? Are we discriminating in our support for those two organisations to try to ensure that Turkey, with its 2.5 million refugees, is not left very much on its own, as it appears to be?

Baroness Anelay of St Johns: My Lords, I am very much aware of the close diplomatic support provided by our embassy and our staff, not only in the capital but elsewhere across Turkey. The UK condemns the PKK's recent attacks on Turkey, as we condemn all terrorism. Our thoughts are with the families of those who have been killed. We have called on the PKK to cease this violence. We defend Turkey's right to defend itself against PKK attacks. PKK violence must end. We support the resumption of the peace process in the interests of Turkey and those of the wider region. We stand ready to help in any way we can.

Lord Harrison (Lab): My Lords, on his forthcoming visit to the island of Cyprus, will the Foreign Secretary consult both communities on the island about the contribution they can make to mitigating the migration crisis? Will he take the opportunity to use all influence that the United Kingdom can have in supporting what appears to be a coming-together of the two communities on the island in a forthcoming agreement?

Baroness Anelay of St Johns: My Lords, the House will recognise that it would be inappropriate for me to forecast in advance the exact movements of the Foreign Secretary today and tomorrow as he makes those visits, but I can echo the sentiment behind what the noble Lord says. We welcome President Erdogan's and Prime Minister Davutoglu's continued support for a Cyprus settlement. It is important that we talk to both communities in Cyprus about the implications of recent arrivals there. We are working very closely with the authorities over what happens to those who seek asylum and those who do not, because, naturally, it is a very sensitive area. The noble Lord can be assured that we are working closely with both communities.

Baroness Hussein-Ece (LD): My Lords, can the Minister give some more information about reports of the proposed EU-Turkey summit, which has been called to encourage Turkey to do more to stem the flow of refugees into Europe—to act, in effect, as a border guard against refugees to Europe? Can she also say why there was very little reporting or mention of the attacks in Ankara on 10 October, when two suicide bombers blew up and killed more than 100 Turks, when we have talked about other atrocities attributed to Daesh? Can she not see that not mentioning atrocities that take place outside Europe causes bad feeling and a sense that their lives do not matter? Have the Government issued condolences on that?

Baroness Anelay of St Johns: My Lords, we are sympathetic to all those who die as a result of violent acts of terrorism. Having spent four days last week in Iraq and a day in Turkey talking to the Syrian national coalition and people involved in humanitarian efforts, I was able to express appreciation of what the Turkish Government do. What is produced by way of media emphasis is a matter for the media, but, clearly, it is disappointing if there is not a focus on serious events such as those that the noble Baroness has described—it was a time, of course, when elections were under way throughout Turkey. On the EU-Turkey action plan, which I think is the matter to which the noble Baroness refers, we welcome that action plan, which sets out how the EU and Turkey can increase co-operation to ease the refugee burden on Turkey while preventing further uncontrolled migration to the EU. We work closely within that.

Lord Howell of Guildford (Con): My Lords, does my noble friend accept that our bonds with Turkey go even wider than the refugee issues that were rightly raised by the noble Lord, Lord Maginnis? First, Turkey is seeking still to be a member of the European Union, but it is a kind of European Union that needs to be reformed and which is very much in line with our own aims—so we have much common ground there and I hope we are working together on that. Secondly, there is the Cyprus issue, which the noble Lord, Lord Harrison, rightly raised. There is real hope that, with the backing and help of Turkey, we can at last see movement on that issue, which has gone on for 50 years. Thirdly, there is a vast expansion of hydrocarbons in the eastern Mediterranean, in which Turkey has some interest. Again, bearing in mind the interests of the Republic of Cyprus, I think we can help with that. So there is a very big agenda of work to be done with Turkey and I hope it will be encouraged.

Baroness Anelay of St Johns: My Lords, I think I can simply agree with my noble friend's analysis.

Lord Wright of Richmond (CB): My Lords, in discussing with our Turkish allies how to counter the threat of ISIS, will the Government take into account the fact that Turkey has very different objectives from the rest of us?

Baroness Anelay of St Johns: My Lords, we are well aware that every country may have its own security and future interests at heart. Turkey has been a key colleague in the fight against Daesh/ISIL and we are grateful that it allows the use of its airbases in the strike against such an evil opponent.

Emergency Services: Central London

Question

3.30 pm

Asked by ***Lord Harris of Haringey***

To ask Her Majesty's Government what assessment they have made of the availability of emergency services in central London, and what steps they are taking to reinforce them in the light of the attacks in Paris on 13 November.

Lord Harris of Haringey (Lab): My Lords, I draw attention to my entries in the register and beg leave to ask the Question standing in my name on the Order Paper.

The Minister of State, Home Office (Lord Bates) (Con): My Lords, working across government the Home Office has developed a police-led capability to deal with large-scale firearms attacks. We are reviewing the attacks in Paris to see if there is anything further we can learn. Further communications will be made in due course.

Lord Harris of Haringey: My Lords, I am grateful to the noble Lord for that Answer. No doubt he is aware that the London Ambulance Service has failed in virtually every London borough in every month to meet its emergency response targets, that the number of authorised firearms police officers has dropped by 760 since 2009 to below 5,000, and that the Police Federation says that the police would struggle to cope with an incident such as occurred in Paris if it were to happen here. Does the Home Secretary support the view of my honourable friend the shadow Chancellor that police emergency response teams and neighbourhood teams should be exempted from the worst of the Chancellor's cuts to be announced next week?

Lord Bates: On the specifics, the noble Lord will realise that we will have to wait for the announcement to be made as a result of the spending review next week. On the points that he made, he will be aware that since the 7/7 attacks in the capital there has been a counterterrorism strategy. There are regular operations as a result of the coroner's report into those attacks in London. She recommended that there should be much greater interoperability between the different services. That has happened. Only this summer we had Operation Strong Tower, which was a 1,000 personnel strong exercise, following which the Metropolitan Police Commissioner said that he believed we were ready to meet the challenge should such attacks happen in the capital. We want to maintain that at all costs.

Lord Paddick (LD): My Lords, over the past decade there has been an approximately 60% reduction in the number of fires and yet the Government apparently accept the fire service's argument that it needs to retain resilience for the very rare occasions when a large number of appliances are required. Can the Minister tell the House, when deciding on police budget cuts, what account the Government take of the need to ensure police resilience to deal with Paris-like incidents and the riots that we have seen in 2015?

Lord Bates: The noble Lord makes a good point about the relationship between the fire service and the police. At the present time we have out to consultation a proposal for greater collaboration between all the emergency services, but particularly between fire and police. That consultation is being undertaken by the Department for Communities and Local Government and will report shortly. That will have a bearing on our future ability to respond to emergencies in a more connected way.

Lord Clinton-Davis (Lab): Is it not right that our own defences in this country need to be strengthened as a result of the tragic events in Paris? Is it not right that those appalling scenes vividly depict the need for community action? What are we doing in that respect?

Lord Bates: This is very important. If we are going to tackle these people who would threaten our liberties, we need to work with the communities. That is why we have put forward our counterterrorism strategy, which my noble friend Lord Ahmad is leading, and we will bring forward legislation on that. Louise Casey has been asked to look particularly at what can be done to improve community cohesion. I totally agree with the noble Lord that the police and everyone in these communities should be working together to tackle this scourge.

Baroness Jones of Moulsecoomb (GP): My Lords, while it is all very well for the Minister to say that he knows the value of community, the current Commissioner of the Met Police has said that three-quarters of intelligence, whether it is about drugs, trafficking in people or terrorism, actually comes from the community, and yet the Government are savagely cutting the police budget. How do we square that circle? I do not understand why, although we can see that community intelligence is of value, police on the beat are being reduced.

Lord Bates: The key point to make is that of course we are not doing that. Neighbourhood policing numbers have increased by around 6,000 since 2010, and that is the straight answer. However, I have to say that a bigger thing is happening here. The nature of crime is changing and therefore the nature of policing needs to change. That is what the Inspector of Constabulary has said and it is the reason why a greater proportion of the budget is now being directed at cybercrime, which is dealt with by the intelligence agencies. They can provide surveillance, which is crucial to intercepting many of the terrorist attacks that have been planned in this country.

Lord Brooke of Alverthorpe (Lab): My Lords, is the noble Lord aware that the public worry particularly about security issues and riots? In 2011 we had riots in London, and according to the Met Police we barely managed to get by. Last week, the Home Secretary announced that police forces could soon be without their own firearms units and should instead be moving towards creating regional firearms units. Given some of the transport difficulties we have in London when getting from point A to point B, are these regional units going to be effective if we are hit by big riots or security issues?

Lord Bates: The armed side of things, a point referred to by the noble Lord, Lord Harris, is something on which the national policing unit liaises with the various chief constables and police and crime commissioners to check that the provision is adequate. I understand that the number of trained firearms officers is something that the Metropolitan Police Commissioner is discussing specifically with the Home Office at this time, in response to the Paris attacks.

Baroness Farrington of Ribbleton (Lab): My Lords, will the Minister agree to write to me explaining the precise use over, say, the past eight years, of the term "community police officer"? It is my understanding that he is comparing chalk with cheese and, inadvertently I am certain, misleading the House.

Lord Bates: I do not think that that is the case. Of course, the noble Baroness is absolutely right in that a number of terms are used here. We have neighbourhood policing teams, police and community support officers, and special constables. Increasingly, those eyes and ears do not necessarily need to be constabulary members, they can be people who are brought in from the community to support this work. If the noble Baroness would like me to set it out in writing, I am very happy to do so.

European Union Referendum Bill

Report (1st Day)

3.38 pm

Clause 1: The referendum

Amendment 1

Moved by ***Lord Hamilton of Epsom***

1: Clause 1, page 1, line 6, at end insert—

"( ) Regulations under subsection (2) must appoint a day at least 10 weeks from the day on which the regulations are made.

( ) A draft of regulations under subsection (2) must be laid before each House of Parliament at least 16 weeks before the day to be appointed thereby."

Lord Hamilton of Epsom (Con): My Lords, the two amendments in my name in this group were put down in the five working days we have had since Committee and I tabled them just to ensure that they were on the Marshalled List. Since then, my noble friend the Minister has very much met the concerns of these amendments, particularly in terms of the 10-week period for the regulations to come out leading up to the referendum day itself.

I also accept that the period of six weeks previous to that for the other regulations that have to be approved has proved to be rather too complicated, so I am basically happy with what my noble friend has done and I thank her for the amendment that she has brought forward, which meets the concerns. They were, of course, that until we had this provision in the Bill, the Government had the ability to call a referendum with 28 days' notice, but now this will not be possible since we will have the 10-week period enshrined in the Bill itself. That is an important modification as far as we are concerned, and again I thank my noble friend for what she has done. I do not know whether the noble Lord, Lord Kerr, is in his place, but I am sure that he will be grateful to know that I am not going to speak any longer. I beg to move.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, it may be for the convenience of the House if I speak now. I have amendments in this group and I have spoken to noble Lords who have amendments in this group—apart from the noble Lord, Lord Willoughby de Broke. I apologise for not being able to mention the fact that I might intervene early to explain the Government's position. It does not, of course, prevent me from answering questions later if noble Lords so wish.

In this group there are three areas on which the Government have carefully considered the views of Peers, as expressed in Committee, and have brought forward amendments in response. As my noble friend Lord Hamilton has kindly set out, we have sought where possible to respond entirely positively.

The Government's position is that in order to ensure public confidence in the outcome of the referendum and an informed vote, it is essential that there is a referendum period of sufficient length to allow a full and thorough debate with appropriate controls on spending donations. It was never the Government's intention to set a referendum period of less than 10 weeks. However, we listened very carefully to my noble friend Lord Hamilton, the noble Lord, Lord Willoughby de Broke, and others around the House on this matter and we agree with noble Lords that a 10-week minimum referendum period should be set out on the face of the Bill. That is the effect of government Amendment 9. I stress that it is a minimum period of 10 weeks.

I hope that all noble Lords will appreciate that this should deliver the intent of Amendments 8 and 7B. It also, I hope, provides a little extra clarity over the referendum period itself by making it absolutely clear that the referendum period ends with the date of the poll itself. The amendments tabled by noble Lords did not make that clear.

Perhaps it is not right for me to rehearse the background to my noble friend Lord Hamilton's amendment. He has been commendably brief, so perhaps I will follow his example in that regard. He has already

made it clear that he accepts that Amendment 1 is unnecessary if the House were to accept the government amendment, which puts a minimum of a 10-week referendum period on the face of the Bill. My noble friend also said that he is content not to press ahead with the second part of his amendment, which would require regulations setting the date to be laid at least 16 weeks before the referendum can be held. Noble Lords will be aware that we have an established procedure for laying and making affirmative secondary legislation, and that will be followed in this regard. That takes some time in itself.

I very much thank my noble friend Lord Hamilton and others for their constructive engagement on these issues, and I hope that noble Lords will support government Amendment 9 and not press the other amendments related to these matters.

Amendment 10, tabled by the noble Lord, Lord Willoughby de Broke, relates to the time when the process of designating lead campaigners should begin. Under the Political Parties, Elections and Referendums Act 2000, which provides the framework for national and regional referendums, the start date of the designation process is the first day of the referendum period. At the alternative vote referendum, where there was an 11-week referendum period, this caused some concern because it meant that lead campaigners were not designated until about five weeks before the referendum took place. Legislation for the Scottish independence referendum provided for a different approach whereby the lead campaigners were designated shortly before the referendum period.

While this does have the advantage of ensuring that the lead campaigners have sufficient time to use their benefits for any given date, it could restrict the time available for the referendum period, which is when the full controls on campaigning apply, or indeed could limit the choice of referendum dates. I know that that was not the intent of the noble Lord's amendment—he is not seeking that technical route.

3.45 pm

As the House is aware, until now the Government have not made a statement about the referendum period. We have not set the date of the referendum. We cannot say when the referendum period will start. Until we have completed negotiations and can indicate when a statutory instrument will be brought forward to invite both Houses to consider the date of the referendum, we are unable to get to that position. Setting the actual start date of the referendum period is therefore not something one can do now; we do not know when the referendum will be.

Accordingly, the Bill provides a degree of flexibility. As part of this, it decouples the start of the designation process from the first day of the referendum period. Instead, it is to be set by regulations. I hope that this is an advantage from the point of view of the noble Lord, Lord Willoughby. While the date and referendum period remain uncertain and we do not have to commit at this stage to a particular time period for the designation process to take place, it means that the process provides for the referendum period plus designation. Designation does not come out of that referendum period, which I know the noble Lord, Lord Willoughby, is trying to protect. Under his Amendment 10, the designation process could not start any later than six weeks before the start of the referendum period, which we think risks introducing unnecessary inflexibility, ruling out otherwise suitable dates. I do not think that is his intention; rather, I think he is trying to ensure that there is sufficient time, and I can assure him that that is exactly what is being achieved.

The Government's approach ensures that the timing of the designation process can be responsive to the circumstances prevailing once those negotiations are complete, but there is still the parliamentary process, designation and then the referendum period. That will allow an appropriate balance to be found between regulating campaigners, providing sufficient time for campaigners to make their case and inform the debate, and, importantly, not unnecessarily delaying the time of the vote.

I turn to the next issue on which we have listened to noble Lords. Amendment 11, in the name of the noble Lord, Lord Hannay, would allow the Electoral Commission to designate a lead campaigner on just one side. I wish immediately to signal the Government's movement on this issue. I have spoken to the noble Lord, and the Government agree that this is an area where we need to consider amendments on Third Reading. The amendment addresses the concern, highlighted by the Constitution Committee, that under the current rules a campaigner on one side could deliberately not apply for designation in order to deprive the other side of the benefits of that status. This risk emerges because the current rules require the Electoral Commission to designate on both sides or neither side. The noble Lord tabled a similar amendment in Committee, which received support across the House. At that stage I committed that the Government would look into the proposals further.

The principle of the noble Lord's amendment would certainly prevent gaming of the system. The difficulty is that, as drafted, it would introduce a new risk: one side may not be designated not by deliberate action, but because it fails to meet the statutory requirements the Electoral Commission must assess it against. The Government have looked carefully at these matters. Had everything been fine with the drafting of the amendment and the part of the Bill in which the noble Lord wants to place it, I would have liked to put my name to it and accept it. That would have been my first choice. Sadly, as I have explained to him, I am unable to do that because it has to be moved to a different part of the Bill and it has to take account of the extended risk. I have undertaken to return to this matter on Third Reading, and I will bring forward a government amendment. I very much welcome the opportunity to work with the noble Lord further on the shape of that amendment between now and Third Reading.

I now turn to government Amendments 23 and 24, which relate to the parliamentary process that will apply to the regulations that will set the start date of the process of designating lead campaigners. Again, this is a matter of the Government listening and responding, and bringing forward amendments to meet the points the House has made.

[Baroness Anelay of St Johns]

The Bill currently provides that the regulations setting the start of the designation process are subject to the negative procedure. Taken together, government Amendments 23 and 24 will mean that those regulations will now be subject to the affirmative procedure. These amendments give effect to the views of the House and to the recommendation of the Delegated Powers and Regulatory Reform Committee. The Government are grateful to the committee for its careful consideration of the Bill and are happy to accept its recommendation. The committee also suggested that the House ask for a fuller explanation of the need to delegate this power to secondary legislation in any event. I hope I have dealt with that in responding to Amendment 10.

Naturally, I am ready to answer questions but I hope that noble Lords feel able to support the government amendments and will not press theirs.

Lord Willoughby de Broke (UKIP): My Lords, I am most grateful to the noble Baroness for her reply to my amendment, which would ensure that bodies need to be designated before the 10-week period. If the noble Baroness will repeat her assurance, I will be very happy to withdraw the amendment. I do not want to waste the House's time. Everybody is well aware why designated bodies need as long a period as possible during which they are designated in order to campaign effectively, because of financial and other reasons. In the light of the noble Baroness's remarks, I shall not press my amendment.

Lord Hannay of Chiswick (CB): My Lords, I will speak to Amendment 11 and will respond to the Minister's very full explanation of how the Government now intend to proceed. I express my gratitude to the Minister for listening carefully to our debate in Committee, when this amendment received support from all sides of the House, and for the courtesy with which she has consulted on the matter in advance of this debate. I am entirely happy to leave it in her hands, to be dealt with by a government amendment introduced at Third Reading. I hope that that amendment will cover not just gaming but pretty well any other happenstance that might occur. Heaven knows, it is probably an "unknown unknown" but the best way to ensure that it does not damage the referendum process is to make an amendment of this sort to the Bill.

I leave this issue in the hands of the Minister and the Government, confident that they will find a way to deal with it, in which case, of course, I doubt that the provision will ever need to be used. That would be very satisfactory, as it would be much better if there were two designated institutions slugging it out in what will be a vigorous national debate. However, we do need to make sure that this issue is addressed. With that, I state my intention not to press the amendment, and again thank the Minister for the efforts she has made so far and encourage her to go further down that road.

Lord Forsyth of Drumlean (Con): My Lords, I add my thanks to my noble friend for the way in which she listened to the arguments put in Committee. I hate to rain on this parade at this stage but after reflecting on the amendment of the noble Lord, Lord Hannay, I have one or two worries which I hope that my noble friend will consider before she brings forward an amendment at a later stage in the Bill. As I understand it, this amendment would mean that if there was only one designated campaign, it would still get access to broadcasting time and taxpayers' money to carry out the campaign in circumstances where the Electoral Commission had designated only one campaign. I entirely understand the concern the noble Lord had, which was reflected in the legislation for the Scottish referendum. Suppose two competing organisations wished to be the lead campaign, and there was disillusion with the decision that had been taken by the Electoral Commission and that was subject to judicial review, and that we got into a position where there was no clarity about the position of an opposition and therefore no alternative campaign. It would then clearly be absurd to put a quango—an unelected, unaccountable body such as the Electoral Commission—in a position where it could effectively ensure that only one side was supported with taxpayers' resources and the ability to go to the broadcasters. It is highly unlikely that this situation would arise but, as the noble Lord has pointed out, his own worries, which the amendment is designed to deal with, are also highly unlikely. Has my noble friend thought about that, and what is the answer to my concern?

Baroness Anelay of St Johns: My Lords, I will refer first to the question raised by the noble Lord, Lord Willoughby de Broke. He asked for further confirmation, just to be absolutely sure about the fact that the referendum period will be a minimum of 10 weeks and in advance of that is the designation period. The two cannot be conflated. I think that gives him the satisfaction he sought that there is no way of concertinaing it, if I can put it that way.

I am grateful to the noble Lord, Lord Hannay, for his comments, but I recognise what he said about the importance of looking not just at gaming, although that will be at the basis of this. This leads neatly to the concerns rightly raised by my noble friend Lord Forsyth. As soon as one enables single-sided designation, one has to consider very carefully the inequity that may follow. That is why I was not able to put my name to the text of the amendment, even if it had been in the right place in the Bill. That is what I commit to look at between now and Third Reading.

My noble friend is absolutely right to point out that only the designated lead campaigners are entitled to a referendum broadcast. Where there is only one designated campaigner, it would indeed raise questions of partiality rather than impartiality if only one person had access to that. These are matters on which the Government have already been reflecting since Committee, and need to reflect on further. Designated lead campaigners are entitled to an equal grant of up to £600,000. It is not immediately clear how that would operate with just one lead campaigner. The Government have been reflecting and will reflect further and consider the views of noble Lords, but we need to consider how to incorporate or otherwise these benefits into a system where it will end up being possible for only one lead campaigner to be designated.

My noble friend has raised an important matter. In the light of my response to that and my commitment to work further with noble Lords before Third Reading, I hope that when the government amendments are called the House will feel able to support them, and that noble Lords will not press their amendments.

Lord Hamilton of Epsom: I think I have made it quite clear already that I am more than happy to withdraw my amendment.

Amendment 1 withdrawn.

Clause 2: Entitlement to vote in the referendum

Amendment 2

Moved by ***Lord Green of Deddington***

2: Clause 2, page 2, line 9, leave out paragraph (a) and insert—

"(a) if the day appointed under section 1(2) is before 1 January 2017, the persons who, on the date of the referendum, would be entitled to vote as electors at a parliamentary election in any constituency, or

(aa) if the day appointed under section 1(2) is 1 January 2017 or later, the persons who, on the date of the referendum, would be entitled to vote as electors at a parliamentary election in any constituency by virtue of being a citizen of the Republic of Ireland or, under the British Nationality Acts 1981 and 1983 or the British Overseas Territories Act 2002, a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen or a British subject,"

Lord Green of Deddington (CB): My Lords, Amendment 2 concerns just over 1 million potential voters. Its purpose is to establish a clear principle for the franchise at what most people agree is a historic turning point. At the same time, it would bring us into line with all our EU partners and all Commonwealth countries except New Zealand. I will speak very briefly, first to comment on the Government's response in Committee; then to explain the changes that I have made since then; and, finally, to summarise the case for the amendment.

In response to my amendments in Committee, the noble Lord, Lord Faulks, said that,

"the purpose of these two amendments is to restrict the franchise for the EU referendum so as to prevent Commonwealth citizens … and Irish citizens who are resident in the UK, from voting".—[*Official Report*, 28/10/15; col. 1269.]

That is not quite the case. Let me stress again that these amendments apply only to Commonwealth citizens who have not become British citizens, roughly 1 million people of voting age. Those who are British citizens—roughly 2 million—would be entitled to vote, which is a vital distinction. I have since added in the Irish citizens, which I will explain in a moment.

4 pm

The Minister also prayed in aid historical connections with the Commonwealth, which might indeed have relevance to a general election although only a handful of Commonwealth countries reciprocate. But this is not a bog-standard election, if I may call if that, whose results can be reversed five years later. It may be, as the Prime Minister put it last week, the most important decision that we will make in our lifetimes. The public may therefore be forgiven for questioning why more than 1 million people who have decided not to become British citizens, or who have not yet qualified to do so, should be able to vote in this historic decision.

Secondly, on the changes that I have made, I listened carefully to your Lordships in Committee and have revised my amendments in two important respects. In Amendment 2, I have included the Irish in the electorate lest there be any conflict with the Belfast agreement, a matter raised by the noble Lords, Lord Davies of Stamford, Lord Kerr and Lord Hannay. The other change stems from an intervention by the noble Lord, Lord Wallace of Saltaire. He pointed out, correctly, that the present electoral register flags up EU citizens but does not indicate which voters are Commonwealth citizens nor which of those have become British citizens. That practical difficulty could be dealt with quite easily in the coming year in the annual revision of the register that takes place between August and November. My revised amendment to Clause 2 therefore proposes that that change be brought into effect on 1 January 2017—a sunrise clause, so to speak. Of course, if the referendum is held before that date it would have to be conducted on the basis of the present register.

This second change, the postponement until 1 January 2017, has the added advantage of being consistent with the spirit of the proposal of the noble and learned Lord, Lord Goldsmith, in 2008. He suggested that the right of Commonwealth citizens to vote in general elections should be phased out. Clearly, we cannot phase out a vote for the referendum but this timing would give the opportunity to Commonwealth citizens who have not yet become British citizens to do so, if they so decided. As I mentioned in Committee, the noble and learned Lord kindly authorised me to say that he supported these amendments. These amendments would not affect Gibraltar, as my Amendment 5 makes clear, but they have two specific advantages. One is that they would remove the anomaly whereby Malta and Cyprus would be able to vote, whereas other EU nationals would not. Secondly, they would remove the absurdity whereby Commonwealth citizens could vote in this referendum within weeks of arrival.

Lord Foulkes of Cumnock (Lab): Could the noble Lord explain the position of citizens of the Falkland Islands and other dependent territories?

Lord Green of Deddington: They would have to be resident in the UK, of course, in which case they would have the right to vote. That is buried in the reference to the British Nationality Act.

Finally, on the case for change, the effect of these amendments would be to establish a clear principle for the franchise, namely that only British and Irish citizens who have become British citizens would continue to be able to vote in the referendum, as would 340,000 Irish citizens. What is clear, as I mentioned in Committee—where I think there was no disagreement about it—is that whatever the result of this referendum, there will be deep unhappiness on the part of those who consider that they have lost it. A period of reconciliation will be

[Lord Green of Deddington]
needed so it is absolutely vital that the arrangements for the referendum, especially the franchise, should be above reproach, as the Minister himself made clear.

This matter seems to have slipped through the cracks in the other place. Very few Members of Parliament will have realised that the adoption of the franchise for the general election would include something like a million potential voters who are not British citizens, nearly all of them from countries that do not allow our citizens to vote in their general elections, let alone in their referenda—this when our referendum is so critical for our future. Indeed, the matter was barely mentioned, let alone discussed.

It is surely the duty of this House as a revising Chamber to adopt these amendments and invite the other place to give this important question the consideration that it deserves but has not yet received.

Lord Foulkes of Cumnock: I am sorry to interrupt again, but the noble Lord needs to make clear which countries he is referring to. Could he spell out the number from each country and the countries in which we do not have a reciprocal right? Unless we have that information from him, we may not understand why he is moving the amendment.

Lord Green of Deddington: Yes. The number is of the order of a million—it is actually 1.2 million—who are Commonwealth citizens resident in the UK but are not British citizens. Their nationalities vary—I do not think there is any information on which nationalities they are—but they are the ones who have not become British citizens.

Lord Foulkes of Cumnock: The noble Lord has a lot of experience in these matters. Surely he could give us an indication of the number, in rough terms, from each country—from India, from Pakistan, from Australia and from Canada. It would be helpful if he could.

Lord Green of Deddington: That would be possible—you can take that information from the Labour Force Survey—but it is not relevant to the purpose of the amendment. The purpose of the amendment is that only British citizens shall be entitled to vote in a British referendum. It does not matter to me what their citizenship happens to be, nor does that affect the principle.

The Deputy Speaker (Lord Brougham and Vaux) (Con): My Lords, I must advise the House that if this amendment is agreed to, I cannot call Amendments 3 or 4 due to pre-emption.

Lord Goldsmith (Lab): My Lords, first, I apologise to the House that I was not here in Committee. I was overseas and therefore unable to speak to the amendment. The noble Lord, Lord Green, is quite right: I indicated to him that I was sympathetic in principle to his amendment, and I will explain why. I preface that by making clear that my personal position about the EU is that I very much hope that everyone will vote to stay in, but that is for another day.

After I had left office, I was asked to produce a report on citizenship by the then Prime Minister, the right honourable Gordon Brown. It became clear to me as I did that, with the assistance of people in government, that the concept of citizenship today is very blurred. That is because rights that once upon a time belonged to citizens only now belong to others, and because we have few ways to distinguish citizens in the way that some other countries do. In a report that dealt with a number of recommendations, I looked at whether there were reasons to be clearer as to what being a UK citizen meant.

In saying that, I want to make clear that one thing that came across to me was that, despite that lack of clarity, many people were enormously proud of the fact that they were UK citizens, particularly those who had become UK citizens. I attended a number of citizenship ceremonies, and it was very moving to see how proud people were of the fact that they had become British. I tried to hold a ceremony at Wembley Stadium, which was a great success but for the fact that, apparently, rights to pictures of the stadium itself had been sold to commercial enterprises, so we had to keep the curtains closed during the ceremony.

It is for that reason—it is a matter of considerable importance in principle—that we should be clear about what are the rights and responsibilities of our citizens, and that I recommended we should phase out some of the anomalies that enabled people who are not UK citizens to vote in general elections.

I am glad that the noble Lord, Lord Green, has dealt with the question of Irish citizens, because that was one qualification that I made in my report, and that his amendment, as it now stands, also has a form of phasing out, because that was also a recommendation that I made. But the principle remains right, and I am sorry that no Government have yet taken it up; this may turn out not to be the occasion for it to happen. But it is right that we should look at our citizenship regime and look at what being a citizen means so that people can feel not just proud but inclusive, not just because they have a closeness to this country but because they belong and are a part of it. At the time of the tragedies that took place in Paris—and we have seen similar things—nothing could be more important than that people feel a very strong affinity to their country.

Lord Hamilton of Epsom: Would the noble and learned Lord agree that, if the next amendment were to be passed, it would change the franchise so that 16 and 17 year-olds, probably permanently, were entitled to vote in general elections as well as this referendum? Are we not saying that this is as good a moment as any to change the franchise on this one as well?

Lord Goldsmith: The noble Lord and other noble Lords will have their own views on the next amendment, which I support, but I do not think it affects the principle of what I have been saying.

Lord Hannay of Chiswick: Could the noble and learned Lord confirm my own impression from reading the report he wrote and to which he referred, that the

phasing-out approach that he took bears no relation at all to the phasing out in the amendment before the House now, which is not a phasing out but a guillotine at the beginning of 2017? If I remember rightly—he will correct me if I am wrong—he proposed that those Commonwealth citizens who currently have the vote from this country should not have it removed from them. That is a very different proposition indeed.

Lord Goldsmith: The noble Lord is right about that. Mind you, if the recommendation had been taken up in 2008 when I wrote the report, who knows where we would be today?

Lord Wallace of Saltaire (LD): My Lords, since the noble Lord, Lord Green of Deddington, mentioned our conversation, perhaps I may say one or two things. We all recognise that our current franchise and our concept of citizenship are a mess and need attention. We are about to debate under some of the following amendments how much attention we should give to tidying up our franchise now, or whether it should be addressed more broadly later. On citizenship, I am very struck by the extent to which dual citizenship extends across Britain and elsewhere. I asked several times when in government how many dual citizens there were scattered around the world, and the answer was always that we do not know. I recall a visit to northern Cyprus in which my driver told me that he was a British citizen, a Turkish citizen, a Greek-Cypriot citizen and a Turkish-Cypriot citizen, and he enjoyed choosing between them as he travelled as to which passport he might take. As the noble and learned Lord, Lord Goldsmith, said, the question of citizenship is extremely fuzzy.

The question of when we would have the referendum is addressed in the amendment. I hope we have it before 1 January 2017. I have some doubts as to how far we should address this broader issue now, in this specific case, although we will address it again under further amendments.

Finally, I congratulate the noble Lord on his argument that we should use this as an example of where we might harmonise with other member states. I assume that that comes from his commitment to ever-closer union.

Lord Mackay of Clashfern (Con): My Lords, it was my privilege to participate in presenting to your Lordships' House the citizenship Bill in 1982, so I am sorry to think that it is all in a mess—but these things happen sometimes. I was inclined to think that, in principle, this was a sound amendment, as it would be right that only British citizens should have a vote in this referendum. That is my position in principle, and I am glad to hear that there is some way in which that can be met. However, my difficulty now is that, in a sense, the franchise will depend on the date on which the referendum is called, which is an unfortunate consequence of the practical need for the changes. Therefore, I am very willing to listen to my noble friend when he explains why I should not support this amendment.

4.15 pm

Lord Collins of Highbury (Lab): My Lords, I, too, congratulate my noble and learned friend Lord Goldsmith on raising his excellent report. It will help us in future debates because not only did he touch on this subject, but he went through all the definitions of citizenship. The issue has arisen over a number of years because there was a separation between being a British passport holder and having the right to reside in Britain. That complication grew historically from our imperial past. The issue here is that we have a report that recommends something in principle that most of us would agree with but, as the noble Lord, Lord Hannay, said, that is not what this amendment is attempting to do. In his report, my noble and learned friend made it clear that there should be transitional arrangements. Simply put, people residing here should not have the vote taken away. This amendment will, in effect, say to people who reside here and have the right to vote here that they will no longer have the right to vote in a referendum because of the date of the referendum. We cannot accept this amendment, even though there may be principles in it that are worth consideration, because it would be wrong. Someone mentioned extending the franchise. This is about not extending the franchise but taking it away from people who already have it. That is why we cannot possibly support it.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, this has been a short but informative debate. This is the first of a number of amendments concerned with the franchise, the majority of which are concerned with extending it. This amendment is concerned with restricting the franchise. It was considered in a different form, but it is in principle the same and is about whether Commonwealth citizens should be excluded from the franchise. I take the qualification of the noble Lord, Lord Green, that it would be if those Commonwealth citizens are not British citizens. In this amendment he has specified that should the referendum be held on or after 1 January 2017, Commonwealth citizens who are resident should not be eligible to vote, so if the referendum takes place before then, the existing Westminster franchise should pertain. The amendment would have the same effect for Commonwealth citizens in Gibraltar.

Noble Lords will be aware that the franchise for this referendum is based on that used for parliamentary elections, but I reiterate that it includes Commonwealth citizens who are citizens of a country mentioned in Schedule 3 to the British Nationality Act 1981—there is quite a number of countries—so long as they are resident in the United Kingdom. It is worth emphasising those words. As I have emphasised in previous debates, the Government think this is fair and consistent with the precedents taken from previous referendums. This franchise was used in the alternative vote referendum in 2011, and it is the franchise that was set out in the European Union Act of that year. Noble Lords will remember that a referendum would have been triggered in the event of the transfer of powers or competence to the European Union.

As I have said to the House before, "Commonwealth citizen" is a broad term. It is set out in Section 37 of the British Nationality Act. It includes British citizens as well as those who hold other types of British nationality, including British overseas territories citizens, British subjects and citizens of those countries listed in Schedule 3 to the Act. In order to be entitled to be

[Lord Faulks]
registered in the register of parliamentary electors, Commonwealth citizens must have leave to enter the UK or to remain under the Immigration Act 1971 or must not require such leave. While in many democratic countries eligibility to vote is based on citizenship, I set out in Committee that it is our historical ties with Commonwealth countries that justify this approach.

The noble and learned Lord, Lord Goldsmith, addressed your Lordships' House with reference to his report, which was indeed cited in Committee. He assisted the House by explaining that he was asked to review the difficult question of British citizenship, and that the quotation perfectly reasonably relied upon by the noble Lord, Lord Green, had to be seen in the context of a general review of what it meant to be a citizen and what, if anything, we should do to clarify the nature of citizenship or to record it. It is correct, as was elucidated during his remarks to the House, that he suggested that if the franchise were to be restricted to British citizens then those with an existing right to vote should have that phased out. I respectfully adopt the point made by the noble Lord, Lord Hannay, that what is contained in the amendment is really not a phasing out; it is effectively a guillotine, albeit a somewhat delayed one—a sword of Damocles, as it were.

Lord Hamilton of Epsom: Does the Minister intend to do anything about the report by the noble and learned Lord, Lord Goldsmith, or is it just going to gather dust?

Lord Faulks: I would like to be able to assist my noble friend and say that there are specific plans—I am sure that at this time the question of citizenship above all else will be a matter well in the mind of the Government—but I cannot pretend that there are any immediate plans that I am aware of to implement the suggestions made by the noble and learned Lord.

I should add that on occasions when Parliament has considered the issue of Commonwealth citizens' voting rights, it has taken the view that the situation should remain as it is at present. We consider that this referendum is not the place to address the franchise issue again. While the amendment rightly acknowledges that it would take time to implement a change to the franchise by stating that this would apply only if the referendum were to be held on or after 1 January 2017, I am sure noble Lords will agree that Commonwealth voting rights ought to be considered as a matter of principle, not merely as a happenstance of date, to answer the point made by my noble and learned friend.

Lord Forsyth of Drumlean: On the point about the happenstance of date, does the Minister think it reasonable that someone could just have arrived in this country and after as long as it took them to get on the register, which would be a matter of days, they would then be entitled to vote in a referendum that is of such crucial importance to our country?

Lord Faulks: If they are resident in this country then they are entitled to vote. Of course in an extreme example, which I think is probably unlikely to happen, someone could arrive and then immediately attempt to register, however long that might take. However, I respectfully suggest that we cannot require those who are entitled to vote to remain in this country for a specific time before they become entitled to vote in the way that Parliament has hitherto always decided that they should be allowed to. I respectfully suggest that this is not the moment to change that franchise. Whatever may or may not be considered appropriate to do by changing the nature of citizenship or endorsing the importance of it, this amendment is not an appropriate vehicle to bring that about, nor to change the franchise. In those circumstances, I urge the noble Lord to withdraw his amendment.

Lord Green of Deddington: My Lords, this matter has now had an airing and a response. I am grateful to those noble Lords who have contributed to that, especially to the noble and learned Lords, Lord Goldsmith and Lord Mackay of Clashfern. The only point that I would challenge in what has been said is the question of the guillotine, or of taking away something that people have. That would be the eventual effect but let us be clear that they would have a year in which to become British citizens, so it would be their decision not to become British citizens that would mean they could not vote. However, I think we have had the debate. It is now clear that all three parties are opposed to these amendments, and there are other matters to be pursued. Accordingly, I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendment 3

Moved by ***Baroness Morgan of Ely***

3: Clause 2, page 2, line 10, at end insert "and persons who would be so entitled except for the fact that they will be aged 16 or 17 on the date on which the referendum is to be held,"

Baroness Morgan of Ely (Lab): My Lords, Amendment 3 stands in my name and in the names of the noble Lords, Lord Tyler, Lord Hannay and Lord Tugendhat.

The Labour Party agrees with the principle of allowing 16 and 17 year-olds to vote in the EU referendum and in elections more generally. Who can forget the enthusiasm and intelligence with which the 16 and 17 year-olds in Scotland engaged with that referendum debate? More 16 and 17 year-olds voted in that referendum than 18 to 24 year-olds, and evidence from Austria and Norway, which also have votes for 16 to 18 year-olds, suggests that they are more likely to continue to vote if they start at a younger age.

At 16 and 17, many young people still live at home. They are a part of the community, have their family around them and have a sense of belonging to that society. We know that now civic education has been introduced into every school in the United Kingdom. Any noble Lords who have children or grandchildren will know that at that age they are constantly looking at some kind of screen and have access to information in a way that no previous generation has had.

It is important for us to understand that young people are and can be enthusiastic citizens who take that responsibility seriously. At 16, they are taking life-changing decisions on the future direction of their lives, deciding which A-levels to take or which vocational courses to follow, and if they find someone they want to marry, they can even do that. If they are responsible enough to deal with that, why should they not have a say in the future of their nation? I therefore hope that it is clear that we agree with the principle of allowing 16 and 17 year-olds to vote. However, the question is then: is this the right place to introduce it?

We have already discussed the issue of franchise, and it is clear that this needs and merits a much broader discussion. We therefore propose an amendment just to this referendum. This is a very exceptional situation, because it is a once-in-a-generation opportunity for them to vote on this significant issue. It is different from other elections, because within two years' time they will be able to take a position on who they want to run their country; in this instance, they will possibly never again get a say on their country's future relationship with the EU. However, they will have to live with the consequences of that decision for longer than any of us. With the current system there is also a danger that we are sending mixed messages to young voters in different part of the country, which is of course particularly true for Scotland, where they have had this opportunity to vote before.

There have been suggestions that introducing this amendment would force a postponement of the EU referendum vote. I will refute that and will address some of the technical issues relating to this amendment. Many have deliberately misinterpreted the fact that the Electoral Commission pointed out that this exercise took a year in Scotland. However, at no point did it suggest that it would need to take that long. It has confirmed that this is a matter for Parliament. We accept that there would be a need for some lead time to register these young people, who are not currently on the register. However, the Electoral Commission has stated that other options are available to help get as many voters on the register in the available timeframe. John Turner, the chief executive of the Association of Electoral Administrators, has said that while it would be difficult to do this within a shorter timeframe, it would be possible, given adequate resources, to undertake this registration by September. Let us be clear: it would not be the struggle—

Lord Forsyth of Drumlean: Is the noble Baroness aware that, in Scotland, the reason it took so long was because it was necessary to have a separate register, which included 14 and 15 year-olds and which had to be kept separate from the main register for reasons of confidentiality and child protection? Is she suggesting that it would be a quick job to register every 14, 15 and 16 year-old on a new, separate register for this purpose?

4.30 pm

Baroness Morgan of Ely: I was coming on to that, but I absolutely accept that it is imperative that data protection measures are put in place to ensure that people under the age of 18 are protected.

I think that we would need to introduce a separate register. I have spoken to electoral registration officers, who suggest that this would not be a problem. They say that in fact that kind of system is already in place to an extent for what they call "attainers"—those who are likely to reach voting age in the next few years. It would mean expanding the current registration system with the creation of a separate system. It is also important to recognise that it would not be the struggle that many people have made it out to be. Once Royal Assent had been granted, electoral registration officers could simply get on with the job.

I shall outline the current situation regarding the registration of 16 and 17 year-olds. Electoral registration officers in every county have been given additional grants this year to drive the move towards individual voter registration. Sixteen and 17 year-olds are already sent an inquiry form in recognition of the fact that they will come of age in the next few years, so most of them are already on a system. The task would therefore be to follow that up with a registration form and then to focus on getting 14 and 15 year-olds to register—those who may reach the age of 16 in the next year, known as attainers. We would need a separate registration initiative—which Scotland more or less already has—and a more comprehensive strategy in England, Northern Ireland and Wales.

We have a huge advantage here, which is that we know exactly where these young people are—they are in school. Most schools have their own data controls, and the Government could easily request that electoral registration officers should be given access to this information. Of course, data protection measures would need to be in place. We would need a separate electoral registration form for 16 to 18 year-olds, which would not be made public. It is true that we may have missed the annual canvass—

Viscount Ridley (Con): I am most grateful to the noble Baroness for allowing me to intervene. This is a question that may reveal great ignorance—if so, I apologise—but is there an issue with individual registration requiring social security numbers? I believe that they are required. I have just reregistered myself and had to produce my social security number. I do not believe that most 14 and 15 year-olds have a social security number. Would they need a number to be issued in advance of registration?

Baroness Morgan of Ely: It is correct that they would need to be provided with national insurance numbers, but I understand that that is also possible. None of this is rocket science or difficult, and we have a period of time within which to do it. My understanding from the Association of Electoral Administrators is that it is possible to do so within the timeframe that we foresee.

Lord Green of Deddington: Is the noble Baroness aware that 16 and 17 year-olds amount to 1.5 million people? If you add in the attainers, you are probably talking about another 1.5 million people. That amounts to 3 million. Is she perhaps making light of what is involved in this registration process?

Baroness Morgan of Ely: I am absolutely not making light of it. In fact, I have spoken directly to electoral registration officers within some of the counties where this would have to be done. They recognise that an increase in resource would be needed, but it is not impossible to do. We know where these people are and we would have their names, so the process of identifying them would not be difficult. It would be different from, for example, trying to find British citizens in the EU who are over the age of 15. That would be a difficult process. This is not a difficult process—we know exactly where these people are.

Baroness O'Cathain (Con): Will the noble Baroness please tell me how many people this affected at the time of the Scottish referendum? How many millions, thousands or hundreds were there? How does that compare with the 1.5 million who would have to be included this time?

Baroness Morgan of Ely: It was not millions in Scotland —there is no question about that—it was thousands, and they were able to do it in the timeframe that they were given. It is important for us to understand that it is possible to do this. We know where these people are. The electoral registration officials have said that this is a possibility, and we should accept their say.

Baroness O'Cathain: With the leave of the House, may I pursue this question? The noble Baroness said it was probably thousands. But how many thousands? Was it 99,000, 3,000 or 5,000? I just want to get this straight in my mind.

Baroness Morgan of Ely: It was proportionately exactly the same as it would be in Britain. There are about 5 million Scottish voters and in the UK there are 60 million voters. The noble Baroness is probably better at maths than I am, but if we know that it is 1.5 million for the UK then we can work out what that would be as a percentage of the 5 million voters in Scotland.

Lord Kerr of Kinlochard (CB): I can tell the noble Baroness that the number in Scotland was 121,497.

Baroness Morgan of Ely: What a great relief—no need for me to use my maths.

We have to understand that this is not a static process but a rolling register. Let us not forget also that the timetable for the referendum was not one of our making. During the discussion on the Private Member's Bill, we warned the Government of the difficulties of holding a referendum in 2017 due to French and German elections and the UK presidency. It is the Government who have backed themselves into a corner and are trapped in a very narrow window for when they can realistically hold a referendum. That is a situation that we did not create.

We believe that the Prime Minister would like to go for an early referendum vote, but he cannot put the referendum wheels in motion until he has finished the negotiation on UK membership, and that has only just started. It is clear that member states will be distracted by the rather more urgent task of keeping their citizens safe. So the probability of us coming to any agreement in December is, I suggest, extremely thin.

We know that the Government have agreed to a four-month minimum period from setting the date in regulations to the vote. Therefore, if the electoral registration officials could get started as soon as Royal Assent were granted, that would allow them plenty of time to get ready for September.

It is also worth drawing the attention of the House to the fact that noble Lords have previously supported a similar amendment on reducing the voting age to 16 in the context of the local government Bill before the summer. The principle of changing the franchise for the European referendum from the Westminster franchise has already been breached. The Government have allowed Peers, residents of Gibraltar and Commonwealth citizens of Gibraltar to have the right to vote.

I urge the Minister to take note of the strength of feeling on this issue, not just in this House but in the country more generally. I respectfully suggest that it is time to allow these young people—

Lord Spicer (Con): I do not quite see why the noble Baroness stops at age 16. What is wrong with including those who are 14 and 13? There is a very real question as to why she defines the limit at that point.

Baroness Morgan of Ely: I will tell the noble Lord why we should start at 16: civic education finishes at the age of 16. By the age of 16, young people have been equipped to deal with these measures; that education has not finished by the time that they are 14 or 15. There are also several examples of them taking responsible decisions at that age, such as being able to get married, choosing their vocation and choosing their A-levels. Those are responsibilities that they take seriously, and that is why we would introduce it at 16 and not at a younger age.

Lord Cormack (Con): Does the noble Baroness believe that 16 year-olds should be allowed to drink, drive and smoke?

Baroness Morgan of Ely: I am not getting into this debate now. There is a much broader discussion. I think that what 16 to 18 year-olds are allowed to do is a dog's breakfast, frankly—the fact that you can have sex but not watch sex is completely ridiculous. Obviously, we need a broader debate on these issues. I do not think this is the place to have that. Let us take note of what the people in this House are thinking, take note of what the people in the country are thinking and take note of the fact that young people in this country, if given the responsibility, will take it seriously. It is time to give them their opportunity to have a say in the future of their country and the future of this country's relationship with the European Union.

Lord Hamilton of Epsom (Con): The noble Baroness, Lady Morgan, said that we should not get involved in wider issues. I think that is one thing we should be

getting involved in because this is clearly going to move effortlessly and seamlessly into a general election. We are talking about changing the franchise in general elections as well. This, I believe, needs a much wider debate than just latching it on to a European referendum Bill. I do not think we should allow this through like this because it will change our franchise altogether on a permanent basis, and that is something which should be discussed at some length.

My noble friend Lord Cormack makes the point that people are not allowed to smoke and drink and so forth at the age of 16 but they can vote. There are a lot of complicated issues here. I also have a slight suspicion, seeing the names of the people who tabled this amendment, that it is designed to improve the position of those people who want to stay in the EU.

Noble Lords: Oh!

Lord Hamilton of Epsom: I hear people saying no. Let us suppose that an opinion poll came out on 16 and 17 year-olds that was 70:30 in favour of pulling out of the EU. Would we be looking at this amendment now? I can tell you we would not. Let us not fool ourselves. This is all part of trying to tilt the playing field even more in the direction of those who want to stay in the EU. It is already tilted because the Government have the option of choosing the day the referendum will be held, and this is clearly an effort to tilt it even further.

Lord Hannay of Chiswick: Is this not a case of the pot calling the kettle black?

Lord Hamilton of Epsom: The noble Lord, Lord Hannay, will have to tell me what amendment I put my name to which tries to tilt the playing field the other way. All we have ever tried to do is keep it level. My God, that is an effort in a House like this, I can tell you.

The Earl of Listowel (CB): My Lords, the noble Lord is not alone in his opinion about finding a coherent solution to this age of responsibility. He kindly provided me with the Hansard Society's submission of evidence to the report conducted by the Youth Select Committee last year, in which it said that,

"a wider debate about the age of maturity"

with a view to addressing the largely ad hoc nature of the decisions that have been taken in this area in the past,

" to reach a coherent settlement rooted in principle"

is necessary. That is very much along the lines of what the noble Lord has said.

I spoke on this in Committee and when this issue has been raised in the past. I feel it is a very important debate, with strong merit on both sides. I thought the noble Baroness put the case very well. It is really important that young people are encouraged to vote and that they get engaged in voting because there is the hope, at least, that politicians will pay more attention to issues important to young people if young people are voting. There is a lot of merit to what the noble Baroness and others are arguing for. However, I also have serious concerns which have not yet been answered. I am grateful to the noble Lord for the paper that he sent me, but the concerns that I have raised on a number of occasions have still not been answered, and I really would like those to be addressed. I will put them quickly as we are on Report.

4.45 pm

My questions are principally about increasing the vulnerability of young people and the risk that legislation that is intended to protect young people may be eroded if we lower the age of voting to 16. On vulnerability, we know from what we have learned about the sexual exploitation of children and young people that the internet can be adeptly used by adults to persuade them to do certain things. The noble Baroness referred to young people being at their screens much of the time nowadays, so that unscrupulous people who wish to influence the way they might vote can access them fairly easily. I am told that, during the last election, there was a caricature of the leader of the Opposition with a pair of donkey's ears behind his head which was very popular. That sort of approach by an unscrupulous politician might have more influence on a 16 or 17 year-old than on an 18 or 19 year-old.

We are talking about these matters in a context in which nationalism is on the rise across Europe. There was a meeting with the ambassador from Hungary a couple of weeks ago. He spoke about events last summer, when there was such concern in his country about the rate of immigration that there was a risk of the right wing coming to power. We know that there are serious worries at present about immigration pressures and about terrorism. We have found in the past that these sorts of things have opened doors to extremist politicians. For instance, in the 1930s, Hitler came to power in a much more extreme economic climate. We are in difficult times and one can see the rise of unscrupulous politicians who can reach towards young people—one thinks of the Hitler Youth in Hitler's time and, in China, of the way in which young people were targeted during the Cultural Revolution by those who were able to influence them easily. We now have this wonderful tool, the internet, for such people, so we have to be really careful to think about those issues.

Your Lordships have worked long and hard to increase protections for vulnerable young people over many years, during the Labour Government and the previous Government. The most recent example is the protection of 17 year-olds in police custody. To prevent them being held in police cells over the weekend, they now have to be put in children's homes. So a lot of work has been done to protect young people. In his evidence to the report that the noble Lord, Lord Tyler, gave me, Professor Russell said that if young people of 16 or 17 become homeless there are certain duties on local authorities to protect them. Should those protections continue if we lowered the voting age to 16?

We need to think very carefully about these concerns. Neither of them has been addressed so far and I would appreciate it if those who are advocating this measure would do so. Therefore, I am afraid that I cannot support the amendment before us today. I worry that there is a project here to lower the franchise—it is not just about the specifics of this referendum; there is a project to expand the franchise and it needs more thought.

Lord Taverne (LD): The noble Earl referred to previous considerations of this matter. Three commissions have looked at it. They disagreed about whether the age should be lowered, but they all agreed that there was a great gap in the evidence as to whether young people would be sufficiently responsible in weighing up their vote to take care to be informed about the issues. But is not the evidence now clear, because we have had the Scottish referendum where all those questions were answered?

Lord Allen of Kensington (Lab): My Lords, I support the amendment. As a Scot involved in the Better Together campaign last year, I saw first-hand 16 and 17 year-olds taking this responsibility very seriously. I had robust debates probably more with 16 and 17 year-olds than with their parents. They were not necessarily on our side, so this is not about manipulating the position. They were one of the most knowledgeable groups because they had literally done their homework. As your Lordships have heard, more of them voted. The facts are that 75% of them turned out and voted compared to 54% of 18 to 24 year-olds.

We often criticise young people for not getting involved in the political process but I think, having spent many years in television, that we, too, were part of that problem. We could not get young people to engage in the political process but now we have a great opportunity. However, surely we are putting out mixed messages. We want them to engage but we do not want to give them the vote.

The Scottish referendum showed that young people are knowledgeable and can be trusted with the vote. They take this new responsibility seriously. This House has already decided to lower the voting age for local government elections to 16; 16 and 17 year-olds will be given the vote in the Scottish Parliament and I believe that Wales will follow suit. Do we really want to say to 16 and 17 year-olds that they are old enough to be involved in the debate but not old enough to be involved in the election. These elections will have more impact on them than they will on any of us.

Lord Blencathra (Con): My Lords, perhaps I may step into the lion's den and say that I strenuously oppose these amendments and believe that we should stick with the current age of majority of 18.

Two arguments have been advanced by the proponents of 16. The first is that this decision may last for another 40 years and will affect a whole generation of young people. That is true. However, in that case, should we not push the age down so that people younger than 16 and 17 can vote, because it will also greatly affect 15 year-olds, 14 year-olds, 13 year-olds and 12 year-olds? There is an argument that it could go down to as low as 10. I am not suggesting that it should, but if one adopts the logic that this decision affects young people disproportionately and that young people should have a say, at 10 years old they have reached the age of criminal responsibility and, if we can assume that from that age onwards they have that reasoning ability, there may be no reason why they should not be able to vote. Logic dictates that there is nothing magical about lowering the age to 16 and sticking at 16.

The second argument is that young people are much more mature these days: they are more sophisticated; they understand politics and the world; and they would be enthusiastic voters. I do not deny their enthusiasm but that is not a good enough ground per se for extending the franchise. If we change the voting age based on maturity, I suspect all the behavioural experts would give the vote to girls at age 10 and to boys at age 25. Making a judgment on who is mature enough to vote is more subjective than picking an arbitrary age.

However, my main objection is that everything we have done in Parliament over recent years has involved raising the age at which young people can do things because we, in this House and in the other place, have concluded that under 18 year-olds cannot be trusted to do things on their own and do not have the maturity to make decisions. With the assistance of our wonderful Library, I have looked at the minimum ages we have set for young people to do certain things. This is in accordance with English law, I stress. Those who favourably quote Scotland should be aware that Scots law has traditionally permitted young people to do some things at an earlier age, such as marry without parental consent. That is perhaps one reason why lowering the voting age in Scotland was not such a big issue.

We know that young people under 18 can marry in England only with parental consent.

Baroness Young of Old Scone (Lab): Perhaps I may ask the noble Lord one simple question: what arguments and rationale is he going to use when explaining to the young people of Scotland aged between 16 and 17 that they are not going to be able to vote in this referendum, when they have voted previously? I would like to hear the persuasive arguments he is going to use with these young people.

Lord Blencathra: They did not have the right to vote in a referendum previously. They may have the right to vote in Scottish elections but this is a United Kingdom referendum. I would be quite happy to explain to young Scots that while they may have the right to vote in Scotland, it does not automatically follow that they have the right to vote in a United Kingdom election.

No one under the age of 18 can gamble: we passed that law in 1934. No one under 18 can get a tattoo: we passed that law in 1969. No one under 18 can serve on a jury—a 1974 Act. No one under 18 can watch a violent or pornographic film—a 1984 Act. In 1985 we banned anyone under 18 from buying solvents. No one under 18 can buy alcohol. Interestingly, the Scottish NHS and Government have been trying to push the age up to 21. They tried that in 2008 and are keen to do so again.

Under a 1987 law, no one under the age of 18 can sign a property agreement. In 1996 my noble friend Lord Howard of Lympne and I increased the age at which one can buy a knife from 16 to 18. In 2003 we banned anyone aged under 18 from buying paint stripper, and in 2005 we banned anyone aged under 18 from possessing fireworks in a public place. In 2007 we

raised the age at which someone can buy tobacco to 18, while in 2010 we banned anyone under the age of 18 from using a sunbed.

Lord Blair of Boughton (CB): I am grateful to the noble Lord for giving way. Everything he has mentioned concerns banning people from doing something. This amendment is about permitting people to do something. I do not think that the analogy works.

Lord Blencathra: I beg to differ with the noble Lord. I have almost concluded my remarks on the timescale on which we ban things and I am trying to show that, over the years, this House and the other place have been raising the age at which young people are permitted to do things. It is quite incongruous to suggest that, as we raise the age bar every year because we do not trust the ability of young people to make certain decisions, we should suddenly say that we will lower to 16 the age at which people have the right to vote in this referendum.

On 21 July this year we banned anyone under the age of 18 from buying fireworks. Without listing all the other legislation through which we have prohibited under 18 year-olds from doing things like opening a bank account, making a will or appearing in an adult court, the trend is pretty obvious. Rather than Parliament acknowledging that young people are growing up faster and can be trusted with decisions, rightly or wrongly, we have been going in the opposite direction. Almost every year we have been raising from 16 to 18 the age at which young people can do things. I simply say that we cannot have it both ways, as the proponents of this amendment are arguing. We cannot say that young people should be permitted to vote at the age of 16 because they are more aware and mature—and then push the age up to 18 for almost everything else.

I conclude by saying that if under 18 year-olds are not fit to serve on a jury and judge the fate of an individual human being, I submit that they are not fit to decide the fate of a nation.

Lord Wigley (PC): My Lords, I tabled a detailed amendment in Committee to make this provision, but I am very happy indeed to support the amendment moved by the noble Baroness.

Against the background of the constitutional referendum in Scotland last year, it strikes me that a principle has been established that we as a House and the Westminster Parliament are willing to consider, at the very least, that in constitutional matters, this may be appropriate. The rationale as I understand it in Scotland was that the decision was so far-reaching with regard to the future of Scotland that everyone who could make a reasonable contribution to that decision should be encouraged to do so, and that 16 and 17 year-olds were seen in that context. Surely the decision we are about to take with regard to the future of the United Kingdom, inside or outside the European Union, is equally far-reaching. It is going to affect those young people and people of all ages for the rest of their lives.

Of course we have to draw a line somewhere, but saying that it is all right for people aged 16 and 17 to vote does not mean that we must then necessarily say, "What about 15, 14 and 13 year-olds?". That reduces the argument ad absurdum. The principle has been acknowledged, not only in Scotland but also in Wales with regard to some of the changes to the powers of the Assembly that we may make. How on earth can we say that it is all right for young people in Scotland and Wales to vote, but not for young people in the context of the United Kingdom? Is the relationship of the United Kingdom with the European Union going to be seen as something that looks to the past and to a type of Britain that some people might identify with, but I suspect that the majority, both in this Chamber and certainly in these islands, might not? If we are looking forward, if we are outward-looking and positive and if we want our young people to play a role in that sort of community, surely we should trust them with regard to this vote. I hope very much that this Chamber will give them that opportunity.

5 pm

Lord Forsyth of Drumlean: My Lords, I do not know what I think about this issue any more. I was trying to think of the phrase and the noble Lord, Lord Kerr, helped me out as always. What is it about consistency? Consistency is the hallmark of small minds. I should like to say that I have been completely consistent on this matter. When the Government decided in their wisdom to allow the Scottish Parliament to introduce votes for 16 year-olds, I argued against it on the grounds that it would set a precedent and we would end up having to have votes for 16 year-olds in general elections and every other thing and that we should not go about these matters in a piecemeal manner.

When the Government decided to allow 16 year-olds to have the vote, not in Welsh elections but in a referendum in Wales to decide if the Assembly should have tax-raising powers, I argued that there was no consistency in this matter and asked why they were making a distinction. I have consistently argued that these matters—the matters of the age of majority—should be looked at as a whole and not on the basis of piecemeal changes. Here we are again with the amendment of the noble Baroness seeking to make another piecemeal change.

I do not want to repeat the brilliant arguments that were put by my noble friend Lord Blencathra—

Noble Lords: Hear, hear.

Lord Forsyth of Drumlean: Well, I will repeat them if you like.

The best argument I have seen in support of not changing the law for 16 year-olds can be found in the article that was written by the leader of the Liberal Democrats in the papers this morning, in which he argues that it is hypocrisy to argue against votes for 16-year-olds. He says that you are able to fight in the Army when you are 16—not true. He says you can marry when you are 16—not true. He says that anyone who pays tax should be able to vote. Noble Lords opposite all laughed when my noble friend said, "Why not 13 and 14 year-olds?" Every seven year-old pays tax when they buy a bag of sweets or an ice cream. It is VAT.

Noble Lords: Oh!

Lord Forsyth of Drumlean: Well, it is an argument. I am not surprised that the Liberal Democrat Benches are wincing because that argument was put forward by their leader this very day.

Then we have had the argument about Scotland. We are told that Scotland has led the way in this revolution, recognising the rights and responsibilities of 16 year-olds. Well, in April Scotland will introduce legislation that requires every child in Scotland from ages nought to 18 to have a state guardian to check up on whether their parents are looking after them. So, the state guardian will need to make sure that 16 year-olds, presumably in exercising their votes, are being properly dealt with. How can we have a state guardian to protect you from your parents and at the same time argue that you are able to vote? We all know why the SNP wanted 16 year-olds to have the vote. It is true that they came out very enthusiastically and voted for independence.

Noble Lords: No!

Lord Forsyth of Drumlean: They did indeed. Those noble Lords who are saying they did not did not spend much time campaigning in Scotland.

The turnout was certainly higher: 75% of 16 and 17 year-olds voted in the referendum of Scotland; only 54% of 18 to 24 year-olds voted. The funny thing about 16 year-olds is that they turn into 18 year-olds. Is it not extraordinary that the turnout fell to 54% as against 92% of people who are over 55, and 85% of 35 to 54 year-olds?

Viscount Ridley: In the spirit of bipartisan compromise, a suggestion in the previous amendment was that perhaps one should delay voting. Perhaps we should say that 16 year-olds can indeed have the vote but delay it for two years?

Lord Forsyth of Drumlean: I like my noble friend's idea of what constitutes a compromise. The Scottish position arose out of sheer opportunism by the SNP. We can argue whether or not it worked for that party, but that is why it wanted to give votes to 16 year-olds.

Having said that, the Government are all over the place on this. The Prime Minister gave an undertaking to the First Minister that he will do all he can to ensure that 16 and 17 year-olds can vote in the next Holyrood elections. Indeed, he has been as good as his word: 16 year-olds will be able to vote in the Holyrood elections in May, just as they voted in the referendum. The noble Baroness, Lady Young, who is in her place, is right that this is a rather embarrassing thing to deal with in Scotland—to explain why they could vote in the referendum on independence and will in the Scottish elections, but they will not in the referendum on our membership of the European Union. I agree that it is embarrassing, but it was the party opposite who decided to grant devolution and to devolve these powers. We are discussing a United Kingdom issue. It is very embarrassing that every 16, 17 and 18 year-old in Scotland will have a state guardian, unlike people in England. That is the consequence of devolution, which the parties opposite supported with so much enthusiasm.

My answer to the 16 year-old who says, "Why do I not have a vote in Scotland on this matter?", would be, "Because we have gone through an idiotic period of piecemeal constitutional reform". The proper thing to do is to consider all the issues that have been mentioned. Why can you not—

Lord Griffiths of Burry Port (Lab): Will the noble Lord give way?

Lord Forsyth of Drumlean: I will give way in a moment. Why can you not buy a packet of cigarettes and do all the things that my noble friend mentioned? We need to look at the age of majority and make it as consistent as possible throughout the United Kingdom in respect of every area of activity, and not to say, "Wouldn't it be a good idea to add to the confusion by making a change in a Bill of this nature?".

Lord Griffiths of Burry Port: My Lords, I am very happy to have waited that moment—more than one moment—to ask about the noble Lord's use of the word "piecemeal". I find it very ironic, coming from the Benches opposite and from a Government who have consistently refused attempts to get a constitutional convention together to look at a non-piecemeal way of effecting constitutional change, that in this instance and on this matter "piecemeal" is what he is afraid of, when his Government have consistently—that word again; a small mind—been throwing piecemeal constitutional change at us, expecting us to toe his line.

Lord Forsyth of Drumlean: If the noble Lord were a more frequent attender at this House he would know that I harry the Government almost every day on the issue of not having piecemeal reform and that I support the idea of a constitutional convention. I certainly am speaking not for the Government, but for those of us who believe that we should not make constitutional changes. Indeed, the noble Lord makes his own point. The Labour Party's position is that we should have a constitutional convention to sort all these matters out, but here it is doing the opposite of what it says that it wants and making a piecemeal change. If I may say so, the noble Lord has made a point that has come back to hit him like a boomerang.

Interestingly, in moving her amendment the noble Baroness said in her defence that it would apply only to these elections and that she was not making a general change to the franchise. I did not really understand that. She also said that we need a broader debate. Presumably she was trying to cover this point about the constitutional convention and the need to look at these things as a whole. I am sure the noble Baroness will forgive me for pointing out that she elided the issue of 16 to 18 year-olds. Only four countries in the world allow 16 year-olds a vote in general elections. They are Austria, Nicaragua, Brazil—where it is voluntary for 16 year-olds and compulsory for older voters—and Cuba. I do not think that Castro is a great symbol of democracy—although with the current leadership of the Labour Party I can see the attraction.

I have a serious point to make. In an article, the leader of the Liberal Democrats had a real go at my colleague in the other place David Nuttall. He said in a mocking way that people who are against votes for 16 year-olds even suggest that somehow it could result in sexual exploitation. To be fair to the noble Baroness, she accepted the point that a register of young people which will allow 16 year-olds to vote has to be a carefully drawn-up, separate and confidential register. I listened to all the arguments about how all this could be done very quickly and wondered whether these were the same people who, not a matter of weeks ago, were telling us that individual registration could not be done in a year because it was too difficult and there was not enough time to get people on the register. Can these be the same people? Suddenly, we are told that it is all very different. When my noble friend Lord Ridley made his point about national insurance, they said, "We will just give everybody a national insurance number". That is the most extraordinary statement. How much will all this cost, and for what purpose?

A noble Lord: Democracy.

Lord Forsyth of Drumlean: Someone is saying "democracy". Democracy involves having a consistent and well-thought-through attitude towards the franchise. It does not consist of giving young people the vote and dressing it up as some kind of liberty for them, when actually the reason some want to give 16 year-olds the vote is because they are hoping they will vote for them. That is what is behind all this and it is no way in which to determine our franchise. Therefore, I have to say, I am not in favour of this amendment.

Baroness Young of Old Scone: Will the noble Lord let me try again on this? I recognise that he finds it very embarrassing to have to explain his stance to the 16 year-olds of Scotland, but will he give it a go and tell us how he will do so? I am not sure that they will be taken with the arguments that he has given us at length over the last 10 minutes, because they have voted willingly and in numbers. I think that they will take a pretty dim view of those arguments. Will the noble Lord tell us the argument he will use with the 16 year-olds—not the ones we have heard because I do not think they will cut a lot of ice with them?

Lord Forsyth of Drumlean: Do you know what? I have often had difficulty getting people in Scotland to accept some of my arguments, and that is not just limited to 16 year-olds.

Lord Kerr of Kinlochard: I am very concerned about the public image of the Conservative Party in Scotland after the tartan obscurantism of two or three noble Lords sitting close to me. It is important to remember the official position of the Conservative Party in Scotland. Ms Ruth Davidson, the leader of that Conservative Party, is strongly in favour of this amendment. She argues:

"We deem 16 year olds adult enough to join the army … get married, leave home and work full-time. The evidence of the referendum suggests that, clearly, they are old enough to vote too".

That was the deduction I drew from the Scottish referendum. It had lots of very unpleasant aspects but the one really good thing was the engagement of so many young people in politics. They got interested and involved. That is a strong argument for this amendment. There is a small Scottish argument for it as well. The question that flummoxed the noble Lord, Lord Blencathra, which I thought also sort of flummoxed the noble Lord, Lord Forsyth, is: how do you explain to the Scots young people that Holyrood was prepared to give them a vote but Westminster is not? I think we all know what deduction Scots young people would draw from that, and it is unhelpful to those of us like me who favour the union.

Lord Morgan (Lab): My Lords, I had not intended to participate in this debate but the arguments I have heard are interesting and in some cases bizarre. I have just come back from Paris and the reaction of people, including young people, to the terrible atrocities there has in my view a bearing on what I want to say. The arguments we have heard are quite interesting to a historian—namely, that some people in our society need protection, perhaps because of their immaturity or lack of public awareness. To my mind, many of them had a strong ring of the arguments presented strongly in this House against giving the franchise to women a long time ago, and many of the same patronising and ill-informed observations about categories of our society have re-emerged.

5.15 pm

I was fascinated by the speech of a noble Lord who I greatly respect for his expertise, the noble Earl, Lord Listowel, who spoke against this amendment. His line was that young people needed protection, and that this is recognised in a variety of ways, because they were vulnerable to particular kinds of ideas, including racial and cultural extremism. My own view is that in key areas young people need rather less protection than their seniors—rather less protection, I venture to observe, than some noble Lords who have participated in this debate. There is every indication in countries across Europe that young people, while necessarily having a brief experience of life, are less prey to religious and racial extremism, and that they have a more outward-looking view towards the cultural admixture of society, the aspects of society concerned with immigration, and so on. It could be argued that, far from being in need of protection, they might serve as an example to others.

The various racialist movements that have emerged in continental Europe are broadly groups or bodies of opinion which appeal most strongly to older people. It is older people who supply the bulk of support for the Front National and a variety of national and extremist groups. My conclusion, therefore, is that young people would be more likely to look at these matters rationally and dispassionately.

Finally, the terrible events in France of course have provoked an enormous public debate. What seems to be emerging is that younger people are more inclined to take a broad view of these atrocities—not simply to indulge in an instant response of a punitive kind but to see the broader relationship between these terrible

[LORD MORGAN]
events and the social and other inequalities that have inured in France in this period. Comparatively, we have every basis for having faith in young people, not dismissing them—not using the fact that, as many noble Lords have rightly said, the law is inconsistent and perverse and treats categories of our society in different ways; as my noble friend behind me observed, so does our constitution, which is similarly fragmented. It would be in every way an educative and civilised thing if we supported this amendment.

Lord Cormack: My Lords, I am delighted to follow the noble Lord, Lord Morgan, but I cannot agree with him. I am one of those who hope that we will have a referendum with an emphatic result in favour of remaining within the European Union. Unless there are some extraordinary events between now and holding the referendum, I believe that I shall be campaigning—I hope vigorously—on that front.

Last year, my 16 year-old grand-daughter, who will be 18 tomorrow, voted—with my encouragement—for Scotland to remain within the United Kingdom. I was delighted that she did. She and her classmates took an intelligent and very sensible approach to the whole issue. But the fact that they considered it carefully does not, I believe, give your Lordships' House the freedom to indulge in what my noble friend Lord Forsyth very persuasively called piecemeal change. As the noble Earl, Lord Listowel, pointed out, this House recently decided—on his initiative, and I gave him my strong support— that 17 year-olds should not be detained in police custody overnight. He made a quietly passionate speech in that sense and I was delighted to make a brief speech supporting him.

We are all over the shop on this one. It is not coherent or sensible to argue that on the one hand you cannot smoke or drink, or do all those things that my noble friend Lord Blencathra set out in his very amusing speech, but on the other that you can vote. We need to look at two issues and this Bill is not the occasion for so doing. We need to look at the age of maturity—what one can and should be able to do at the age of 16 or 18. Have we got it right? Have we been sensible in creating more and more impediments, as my noble friend Lord Blencathra pointed out, or have we been wrong? We also have to look very sensibly and coherently at the franchise.

Lord Kinnock (Lab): My Lords—

Lord Cormack: Perhaps I may just finish, then of course I will give way. The Bill takes the UK franchise as it is, which seems to be an entirely logical and sensible thing to do. I give way to my old friend.

Lord Kinnock: I am grateful to my old friend, the noble Lord, for giving way; I would expect nothing less. I also applaud him for introducing to the debate a specific instance in the case of his grand-daughter to illustrate that fact that youngsters in Scotland voted with great responsibility and not a little insight in casting their vote in the referendum there. His grand-daughter may not be as grateful as I am to him for introducing her into this debate. Nevertheless, I am sure that she is a very grown-up young woman. Can he tell us what arguments he would deploy in convincing an 18 year-old who voted when she was 16 in the Scottish referendum, in good conscience and with good judgment, that she should not now be able to exercise the same right to vote in this referendum—presuming, of course, that she had not reached the age of majority at that time? What argument would he have used, say, on the day before her 16th birthday when she would have been entitled to vote? Can he impart those arguments to us now?

Lord Cormack: As I have already said, my grand-daughter is 18 tomorrow and she will be entirely free to vote, as I hope she will, in this referendum and every other election, and at every other opportunity when she can vote.

There was nothing inconsistent—the saying of course refers to foolish consistency as the hobgoblin of small minds, not the hallmark—in saying as I did at the time of the referendum, "You have been given this responsibility; I hope that you will exercise it responsibly; but I do not believe in general that what is being done is right". I argued that in this House when we discussed the matter. No one who was present when I argued on these things before would be at all surprised by what I am saying. My noble friend Lord Tyler—I still call him that—and I clashed several times on this issue when we were talking about the Scottish referendum and other things. The fact is that it is perfectly possible to say, "If you have been given this responsibility, exercise it, but I do not believe that we are wise". I certainly did not believe that the Prime Minister was wise to concede this in the case of the Scottish referendum, any more than I think that he was wise recently to say what he did about 16 and 17 year-olds voting in the Scottish general election. One wonders whether they will have to be accompanied by guardians—but that is another matter entirely.

Lord Forsyth of Drumlean: I am most grateful to my noble friend for giving way. I am getting bids for alternatives, and the latest is that consistency is the bugbear of a mediocre mind. Perhaps I can help my noble friend with his grand-daughter. Surely the point is that his grand-daughter would have been able to vote in the Scottish referendum but not in the general election that we have just had.

Lord Cormack: Yes, indeed: she thought that was inconsistent, and I agreed with her; of course it was. I do not think that one needs to prolong this argument. We should be getting the Bill on to the statute book as soon as possible. I hope that we will have a referendum in which I will be able to campaign for membership of the European Union by the middle of next year. This thing is dragging on far too long. We should look separately at the question of the franchise and the question of maturity and decide whether we have got it right.

Lord Tyler (LD): My Lords, I am a signatory to Amendment 3, in common with not only the noble Baroness, Lady Morgan of Ely, but Members on the Conservative Benches and Cross-Benchers. It is genuinely

across the House that we now feel that this moment has arrived. Having deployed the argument for this extension of the franchise so often in the past, as the noble Lord, Lord Cormack, so kindly said, I can be very brief. I certainly do not need to repeat the noble Baroness's excellent exposition of the advice we have now had from the Electoral Commission and the Association of Electoral Administrators about the practicalities.

In Committee, I thought that the most persuasive contribution of many was from the Conservative Benches, from the noble Lord, Lord Dobbs, who said:

"So the question I am struggling with is: how can it be right to allow 16 and 17 year-olds to vote in a referendum on Scotland but not in a referendum on Europe? There has to be some sort of consistency".

We are back there again, as the noble Lord, Lord Forsyth, has so admirably emphasised. The noble Lord, Lord Dobbs, went on to rubbish the official explanation that somehow the extension of the franchise in the Scottish independence referendum did not originate with Conservative Ministers. He said,

"although the coalition Government and the Prime Minister did not specifically approve votes for 16 year-olds, they did acquiesce in votes for 16 year-olds".—[*Official Report*, 28/10/15; cols.1227-8.]

He and others, notably now an increasing number of Conservative MPs, have warned that we simply cannot pretend that Scottish young people are somehow more mature, well-informed, responsible or capable of exercising common sense than their English, Welsh and Northern Irish counterparts. Several colleagues from this side of the House have challenged anybody from the other side to produce that argument, without any success.

The noble Lord, Lord Blencathra, referred to the United Kingdom. He is right: in the long term, we have to address the consistency of the franchise, the bedrock of our representative democracy across the United Kingdom, but we have a particular issue at the moment. We have a Bill. We have a referendum coming. It is on that issue that we need specific consistency. That was very much the argument of the noble Lord, Lord Dobbs, and he had no problem whatever with my quoting his contribution in Committee. As an avid fan of both versions of his "House of Cards", I am very disappointed that he is not able to be here today. I do not know whether I am being as cynical or conspiratorial as some of the characters in those great productions, but I wonder whether there has been some encouragement for him not to be here today. I wonder whether the Government Whips may have encouraged him to stay away, reassuring him that nothing controversial was to be discussed or decided.

One of the key lessons of the Scottish referendum was that the 16 and 17 year-old age group registered—well over 100,000 of them—and voted in larger numbers than those aged 18 to 24. Why? It is very interesting. The reason why that has been identified is that the younger cohort were often still at school and in their local, family environment, where they had much more encouragement to take the issues seriously. When they got away from home to their first job or further or higher education, they lost touch with some of the issues and concerns that might otherwise been part of their consideration.

There is hard evidence—looked at very carefully by Bite the Ballot and others—that there is a good case for a direct link between citizenship courses and electoral registration. Indeed, as the noble Baroness, Lady Morgan, said, there has been a successful pilot in Northern Ireland in that regard.

Lord Forsyth of Drumlean: On the numbers, it is certainly true that 75% of 16 year-olds voted—of course, it was a novelty—but that is not very different from the figure for 25 to 34 year-olds, which was 72%. It is true that there was a fall-off for voters aged between 18 and 24, but then a lot of those people had gone off to university and were not able to vote. So there is no evidence whatever that somehow or other, this increases participation in elections.

5.30 pm

Lord Tyler: That is simply not true. I have worked with the Electoral Commission over the years and there is good evidence that, once you start voting, you tend to continue to vote. The cohort that is missing out at the moment is very much the 18 to 24 year-olds. The turnout for them was down to 54%—it dropped dramatically. Therefore, the noble Lord is simply wrong on that point.

I wonder whether the Minister has come armed with the same wholly inadequate response that was employed in Committee, when I moved a similar amendment. The noble Lord, Lord Faulks, then extracted a very short quote from the advice given by the Electoral Commission:

"The Commission's view is that any changes to the franchise for the referendum on the UK's membership of the European Union should be clear in sufficient time to enable all those who are eligible, to register and participate in the referendum".

Today we have some additional advice from the Electoral Commission:

"Recent media reports have indicated that the Commission believes there must be 12 months between legislation passing through Parliament to change the franchise and the first electoral event to which this applies. This is not the case".

It then says, in heavy type:

"The Commission has been consistently clear that a change to the franchise is a matter for Parliament, and that we will advise on the practical implications of any such change".

I hope that the Minister will not now pray in aid the commission.

I have worked with the Electoral Commission for some years, and it is very careful in the words that it uses in advising Parliament. It is responsible to us—to Parliament, not to government—and its advice is to Parliament. It is a statutory commission, with very considerable responsibility. Noble Lords should note that clarity of intention is what it is worrying about, not whether Royal Assent has actually been granted. It can start preparing for this change, as the noble Baroness, Lady Morgan, mentioned earlier. In other words, this is an argument not for doing nothing with this change to the franchise, but for getting on with it as soon as possible.

On the evening before the day in Committee to which I referred, the Minister's ministerial colleague systematically rubbished the Electoral Commission

[Lord Tyler]
and all the advice given to us, in the context of the Government's acceleration of the electoral registration change. We should be absolutely clear now that there is no practical objection to this extension of the franchise, assuming that the referendum is not held before June 2016. For all the other reasons that have already been explained in Committee and today, it is very unlikely that the Government would contemplate a referendum before that date. Six months is acknowledged to be an adequate minimum period for the preparatory work, based on the Scottish experience. So for Ministers to drag their feet while so many in both Houses are urging them to recognise the strength of the case would be irresponsible, frankly. Indeed, trying to postpone it for as long as possible in the hope that that will make the change more problematic would be a failure of good governance.

Lord Lawson of Blaby (Con): What the noble Lord is saying, as others have said, is that the decision to reduce the voting age for the Scottish referendum is a precedent that has to be followed for all elections of all kinds. That makes it a very important matter indeed, which clearly the Westminster Parliament as a whole needs to pronounce on. Can he remind us by what majority the Westminster Parliament decided that this should happen in Scotland?

Lord Tyler: My Lords, it did not—but I quoted specifically the noble Lord, Lord Dobbs, who identified precisely that the Cabinet of the previous Government actually agreed with that change.

I am not arguing today for the extension of the franchise in all parts of our electoral system. That is not what is on the Order Paper. What we are debating is very specific. I have an expert witness—I will come to him in a moment—who says that this is an exceptional circumstance in which it should be done.

I simply do not understand on what basis the Government, without a principled or practical objection, are continuing to resist—assuming that they are.

Viscount Ridley: The noble Lord said that the Electoral Commission's advice is based on the experience of Scotland. Does he accept that when the franchise was extended to 16 and 17 year-olds in Scotland, we still had household registration without the requirement, as I said earlier, for national insurance numbers and so on, and that the process would be much more complex now?

Lord Tyler: I have had that discussion with the Electoral Commission. It does not regard that as a particular obstacle in this case. I am grateful to the noble Viscount for helping me in that respect.

Any reference to the disadvantages of piecemeal constitutional change is frankly absurd, particularly from that side of the House. When female suffrage was extended, that is exactly what we had: piecemeal changes. I used to be a historian. It was Disraeli who started this process. The Conservatives have been at it ever since. They always tell us that they want change on an incremental basis. That is constantly what we are told. It was the same with female suffrage. I think it was the noble Lord, Lord Morgan, who said that he heard some of the arguments we have been hearing today before, at the time of the extension of female suffrage. My wife and I went to see the excellent film about that subject, and there were occasions when I thought I was listening to the present-day House of Lords.

Lord Trimble (Con): I have been reflecting on this issue and the piecemeal way it has been done. Presumably when David Cameron decided that he wanted to make sure that people aged between 16 and 18 did not have a vote, it must have been because he considered, or feared, that most of them would vote to leave.

Lord Tyler: I do not follow that because I do not think that at this stage the Conservative Party has collectively made up its mind. It will be very interesting to see what happens, because a large number of Conservative Members take the view that this is an inevitable change. That was reflected in the contributions of a number of Conservative Members in the Bill Committee.

The evolution of our constitution has always been piecemeal. Indeed, down the other end, the Government are currently changing the constitution, through English votes for English laws—EVEL, or evil, as some would prefer it— on a piecemeal basis. It may be that before Christmas, the noble Lord, Lord Strathclyde, will come forward with another piecemeal change to our constitution. Are noble Lords going to be against that? Some may be, but I do not think that others will be. It is frankly absurd to argue that we cannot make a change because it is piecemeal and ad hoc.

I have a great deal of sympathy with those who say that we should in the longer term have a constitutional convention. I have no problem with that—I have always thought that—but here and now we have a Bill before your Lordships' House, and we have to deal with the franchise. We have already agreed some changes to the franchise, not least to include your Lordships in the electorate for this referendum.

I do not understand the argument that somehow, it is not the right time. That was what they said about female suffrage before the First World War, and some went on saying it after the First World War. We have a Bill before us and a big decision for the citizens of this country to take in the near future. Those young people who will be so affected by the outcome—just like their colleagues and compatriots were in Scotland a year ago—should be given the opportunity to participate in the choice about their future.

I was challenged earlier about why this situation is exceptional. I have an expert witness. Last week, David Cameron described this vote as,

"a huge decision for our country, perhaps the biggest we will make in our lifetimes. And it will be the final decision".

That is the strongest argument I have heard for extending the franchise to this particular group. The Prime Minister is absolutely right, and it must surely follow that this group of our fellow citizens cannot be denied a say in that decision.

Lord Pearson of Rannoch (UKIP): My Lords, I wonder if I could set out on a very brief quest which I fear most of your Lordships will regard as hopeless. That quest is to prick the conscience of Liberal Democrat Members of your Lordships' House if they are thinking of supporting this amendment and thus voting it through. I do so by reminding them of their policy before the last election of appointing Peers to your Lordships' House in accordance with the votes cast in the previous general election. I take the opportunity of reminding the noble Lord, Lord Tyler, and his colleagues that the percentage of their votes in the last general election was 7.9% of the votes cast. That would give them 43 Peers in this House whereas at the moment they have 112—69 more Peers than they ought to.

We have heard much from the noble Lord, Lord Tyler, and Liberal Democrat Peers about democratic legitimacy and all the rest of it, but I recall our debate on 15 September about the future of your Lordships' House. I have to say to the Liberal Democrat Peers that if they are thinking of using their hugely unconstitutional and undemocratic position in this House to vote the amendment through, I remind them that the Bill has already been through the House of Commons and has the approval of that House.

I agree with the noble Lord, Lord Tyler, with Labour and with others that we need a constitutional convention to restore our democracy because not only is the position of the Liberal Democrat party in your Lordships' House absurd but so is that of the Labour Party—and indeed that of the Government in the House of Commons, where the Government of the day, the Conservative Party, got a mere 24% of the electorate, 37% of the votes cast, yet that gave them 330 seats and an outright majority. I am sure that your Lordships would be disappointed if I did not compare that performance to the UKIP result in the House of Commons, where we got a big percentage of the electorate—one-third of the electorate of the Government of the day, 12.6% of the votes cast—but that gave us just one Member of Parliament. Still, I do not want to labour that point now. I simply say to the Liberal Democrats: are they wise if they are going to use this position to vote through the amendment? Otherwise, I agree with the noble Lords, Lord Hamilton and Lord Forsyth, who say that this is a transparent attempt to rig the referendum in favour of those who may wish to stay in the EU. As for the amendment itself, I oppose it and I hope it fails.

Lord Lansley (Con): My Lords—

Noble Lords: Minister.

Lord Lansley: I will be brief, not least because I agreed with much of what was said by the noble Lord, Lord Tyler. That might surprise some of my noble friends. I cannot agree that it is right to argue that the giving of access to rights and civic rights to young people is analogous to the age at which we protect them from harm and abuse. They are different things, and the noble Lord, Lord Blair, was quite right in making the point that he did. We should not construct this vote, on this issue, on this Bill as determining or seeking to determine the franchise for general elections.

My personal view has been for some time that 16 and 17 year-olds should be able to vote in local government elections but not yet in general elections. I think that what this comes down to—and I have not yet heard this point expressed—is that this is not just a singular election, as the noble Lord, Lord Tyler, said by reference to the Prime Minister's view about the singular nature of the referendum as an occasion upon which votes are taking place, but it is singular in terms of its impact on those young people. Of course that would be true for younger people, but we have to make a judgment where we can. The noble Baroness, Lady Morgan, was right to say that we know from recent experience in Scotland that we have young people who are well equipped to take a decision on an issue of this kind in a debate of this kind, so in my view we should support them in doing that.

The singular nature of this is that these 16 and 17 year-olds of whom we are speaking will be able to vote at the next general election—but at the next general election they will not be able to change the outcome of the referendum. So often in the past, one of the reasons that has been adduced for not extending the franchise to 16 and 17 year-olds is that, "You will access your civic rights and will have your chance to vote, and at subsequent general elections you will have the chance to change the Government if you don't like it". On this referendum they will not have that subsequent chance. If they do not like it, I am afraid they are stuck with it. In the course of what I hope will be next year's extensive debate about the future of the country in which they have to live, I, for one, would not want to argue to 16 and 17 year-olds that they should not participate in that election.

5.45 pm

Lord Faulks: My Lords, Amendment 3, in the name of the noble Baroness, Lady Morgan, would extend the referendum franchise to 16 and 17 year-olds in the United Kingdom. As I think a number of noble Lords will appreciate, the amendment is incomplete, because it would not enfranchise 16 and 17 year-olds in Gibraltar and does not make provision for the technical legislation and time-consuming operational work that would be required to register these young electors. The question of principle, however, has been roundly debated in Committee and here today. There has not been a great deal of agreement, but I hope that there may be some agreement about the House that it is essential that this referendum should be seen to be fair—and that it should be fair. We should avoid any action that could be seen as some attempt to push towards a particular outcome. That is a significant reason why, with the small changes to enfranchise Gibraltar electors and Peers, both of whom are already entitled to vote in certain elections, the Bill adopts the parliamentary franchise. We want to avoid any allegations of interference and we fear that changing the franchise, including this particular change, could be seen as doing exactly that and could seriously undermine the legitimacy of the referendum.

Much mention has been made of the Scottish independence referendum: how that came about, whether it was opportunism by the SNP, or whether the Conservative Government were somewhat asleep

[Lord Faulks]
on the job. It took place, and noble Lords have pointed to it and suggested that we should learn a great deal from it. However, just as the franchise used in Scotland was a matter for the Scottish Parliament to determine, I suggest that the franchise for elections and referendums that affect the whole of Great Britain and Northern Ireland is a matter for this Parliament to decide. As I am sure noble Lords would accept, a decision of the Scottish Parliament does not and should not prevent this Parliament taking a different approach; the example of Scottish guardians is a particularly vivid illustration.

During the course of this debate there was an interesting use of the concept of a precedent. It is said that this referendum is exceptional, and in one sense it is. However, at the same time the argument seems to be that the decisions of the Scottish Parliament after a referendum involving 16 and 17 year-olds provide a clear precedent and indicate that the franchise should be lowered for this referendum. Yet apparently, as I understand it, the Labour Party will not argue that this will therefore lead to any proposed change in the franchise for a general election. This sits rather uneasily with the argument in Committee, which was, essentially, that the genie was out of the bottle and that once you had allowed 16 year-olds to vote in the Scottish Parliament, the argument was all over. I suggest that we need to look at the argument carefully to consider whether it is right for this country.

Noble Lords have pointed to the difference, but surely, devolution by its very nature gives rise to the possibility of difference. It does not mean that we should necessarily harmonise. The fact that people may do certain things in Scotland aged 16—get married without parental consent, formally change their name, access their birth records if adopted—does not mean that the same rules must or should apply across the United Kingdom.

It is said, correctly, that the poll is exceptional and will affect 16 and 17 year-olds for longer. Noble Lords have suggested that, because the vote will—or should, in view of what the Prime Minister has said—affect everybody in this country for the rest of their lives, that means that 16 and 17 year-olds ought to have a say. But of course, without being frivolous in any way, it follows that 14 and 15 year-olds will have to live with the outcome for longer, and no one is seriously suggesting, except in order to illustrate the argument, that they should be allowed to vote.

We heard about the response of most democracies to the voting age. It is 18 in all the countries in the European Union except Austria. I leave aside Cuba and other interesting examples of democracies. It is also the voting age that has been applied in other exceptional circumstances. In 2011, when the public voted in a referendum with similarly lasting constitutional significance—namely, the voting system used to elect Members of the other place—where was the cry for 16 year-olds then?

Does the decision that we will make with this referendum outweigh in importance all other decisions that Parliament comes to? I suggest that the answer is: not necessarily. For example, there is the decision that in England all those under 18 must be in education or training, yet we do not allow individuals under 18 years of age to participate in parliamentary elections. We have to draw a line somewhere where the voting age is concerned, and I accept that there is always an element of arbitrariness about it. However, arbitrary though it is, it is one that hitherto has generally received approval.

It is said that young people have shown signs of engagement and political activity—for example, in the Scottish referendum—and that this indicates their readiness to vote. However, recent YouGov polling suggested that only 56% of 16 year-olds said that they would like to be able to vote, and that figure decreased to 42% of 17 year-olds and 36% of 18 year-olds. Using democratic engagement and the burst of enthusiasm that there seems to have been, or the lack of it, as the basis for giving or denying the vote would set a very odd precedent. There are of course many 50 year-olds who are not politically engaged, but that does not mean that we are going to disfranchise them. Simply lowering the voting age will not necessarily increase levels of democratic engagement among all young people.

I turn now to the complexity associated with the age of majority and the need to draw a line. Scientific study of the adolescent brain has yet to identify an obvious point at which we can distinguish between adolescents and adults. There is a considerably held view that it is not until the age of 25 that the adult brain reaches its ultimate state of maturity, so we look at the broader framework. A number of noble Lords, including my noble friends Lord Ridley and Lord Blencathra, did not think that at 16 young people were ready to vote. The noble Earl, Lord Listowel—few have more concern about and knowledge of 16 and 17 year-olds—also took that view.

We should not underestimate the gravity of voting. One can say that it is all great fun, we can join in and it is good to enthuse, but it is a huge responsibility. It is a momentous occasion for every individual, and of course a 16 year-old, given the chance to vote, will and should take it very seriously. However, we have to ask ourselves whether, in our desire to enthuse 16 and 17 year-olds, we may be in danger of placing too great a responsibility on them.

Lord Morgan (Lab): My Lords, is it not extraordinarily patronising to young people to suggest that they will somehow regard voting as being like a university rag and not a serious intellectual and civil responsibility?

Lord Faulks: That is precisely the point that I am not making. The point I am making is that they will not, and should not, regard it trivially. The question is whether it is appropriate for us to burden them with a responsibility which they will no doubt take seriously. It is not a question of simply saying, "This is a good thing for them to do. Therefore, we should grant them that right".

Baroness Thornton (Lab): A person's mental ability has never been taken into account when considering their right to vote, so is the noble Lord getting on to dangerous ground here? People who lack mental ability still have the right to vote. Surely he is not saying that they should not have the right to vote because they may not have that maturity.

Lord Faulks: The noble Baroness is right in the sense that we do not assess mental capacity before deciding whether somebody might vote. That is correct. However, when we take the difficult decision on where to draw the line—on whether the voting age should be 18, 16 or 21—we are entitled to inform ourselves generally about individuals' state of development to see generally what a typical adolescent might be like.

Lord Tyler: Will the noble Lord tell us whether he has seen the film "Suffragette"? The argument that he has just been advancing was the argument for not giving women the vote until after the First World War and then for not extending it to those under the age of 28. Those arguments were deployed by his contemporaries, as it were, of that period.

Lord Faulks: I am afraid that I have not had enough time to see the film, but any argument about where you draw a line could be simply dismissed as one that has been used hitherto in different circumstances. I am concerned about whether giving these particular young people the vote is appropriate.

Lord Lester of Herne Hill (LD): I am sure that the noble Lord does not wish to be offensive but the last time I heard arguments about brains and capacity was in Jackson, Mississippi, with the Ku Klux Klan showing me charts of the average Negro brain compared with a white brain. Does he not realise that arguments of that kind are deeply offensive?

Lord Faulks: I resent the noble Lord's suggestion. We are engaging in an argument about whether to lower the voting age. Seeking comparisons with the Ku Klux Klan is entirely inappropriate and I reject it.

Lord Forsyth of Drumlean: On the point about suffragettes, would it be worth reminding the Benches opposite that it was Asquith and Lloyd George who consistently denied women the vote, the reason being that they thought it would upset the men and lose votes. That was exactly the kind of opportunism that we are seeing here today from the Liberal Benches.

Lord Faulks: I said at the beginning of my remarks that I did not think it was appropriate to try to guess how 16 and 17 year-olds would vote. In fact, it would probably be a mistake even to begin to speculate—we would probably be wrong about it. Although I am grateful for the interruption, that is not the issue that I am trying to engage upon.

Baroness Crawley (Lab): Does the noble Lord accept as fact that this cohort of 16 and 17 year-olds is extremely mature and culturally aware? More than 45% of young people in this cohort will go to university or on to further education, whereas 60 years ago 5% of them did so. We have an extremely developed and mature 16 and 17 year-old cohort.

Lord Faulks: I am afraid that I cannot accept facts baldly stated—engagingly stated though they are. The answer is that many more people than before are being educated, and it is a different debate as to whether this is appropriate—

Baroness Crawley: My Lords—

Lord Faulks: Perhaps I could have a chance to answer the question first.

Baroness Crawley: Would the noble Lord accept the facts from the House of Commons Library?

Lord Faulks: I am not sure that it is going to enlighten the House very much if we try to decide how well educated or not well educated these young people are. One of the arguments was that young people spend a great deal of time on the internet or go travelling. The answer is that some 16 and 17 year-olds are extremely intelligent and well informed; others are not. The bigger point is whether, looking at them as a cohort, they have changed radically since, for example, Parliament considered this matter in the round in debating the Representation of the People Bill.

Lord Blunkett (Lab): This is my first ever intervention and I ought to explain to the House that I am a convert to the idea of 16 and 17 year-olds being able to vote. The great benefit regarding this particular cohort is that at least many of them, although not as many as I would wish, will have benefited from citizenship education in school, which is more than can be said for the vast majority of the population.

Lord Faulks: I am honoured to have been intervened on by the noble Lord, and I hear what he says.

I was endeavouring to address the House on the Representation of the People Act 1969, which was brought in by the party opposite when it was in power. At that stage, the question was whether to lower the voting age from 21 to 18. The debates in this House ranged over the issues that one would expect. Often, amendments were put forward suggesting that it be lowered only to the age of 20. There was no suggestion that it should be lowered to the age of 16. What has changed so fundamentally about adolescence between then and now?

6 pm

Baroness Young of Old Scone: I can tell the Minister what the difference is between then and now. The difference is that, now, we have a well-fed, well-educated set of 16 and 17 year-olds who are vastly more mature than I was at that age, and that was 40 years ago. Let us get on with the present.

Lord Faulks: Let me turn to something that may excite the party opposite slightly less, which is the question of what may happen in practical terms if there is a change of franchise. The noble Baroness, Lady Morgan, said that with a fair wind these matters could easily be accommodated—I hope that she will forgive me if I summarise what she said. The noble Lord, Lord Tyler, was, I think, suggesting that I had in

[Lord Faulks]
some way misquoted the Electoral Commission, but I do not think that that is a fair accusation. Let me make entirely clear what the Electoral Commission said in its publication yesterday. The commission states that it is not the case that there must be a 12-month period between a change to the franchise and the referendum, or indeed any fixed period. Reports in the media that refer to the 12-month period are incorrect.

I ask the House's indulgence while I quote accurately one paragraph from that publication:

"It is important that Parliament is aware that if the annual canvass does not fall before the electoral event that a franchise change applies to, a key opportunity is missed to get the new group of voters registered. This does not mean, however, that other options are not available to help get as many voters as possible on the register in the available timeframe. Although the scale of the challenge presented by some of these options should not be underestimated—and it must be borne in mind that every voter is now required to register themselves individually—this does not mean that steps cannot be taken to reduce the risks presented by them with proper planning and funding".

Baroness Royall of Blaisdon (Lab): I just want to ask a factual question. Can the noble Lord say whether or not the annual canvass could be brought forward? I have no idea.

Lord Faulks: I have no idea of the answer to that question. The Electoral Commission will no doubt do its best, as I said in Committee, to follow what Parliament decides should be the franchise. It is also the case that, once the Bill receives Royal Assent, there are things that can be done, notwithstanding that there are various steps necessary to implement the legislation; for example, setting the referendum date and the start date. It is a very considerable undertaking involving a great many people.

I echo the point made my noble friend Lord Forsyth that being left off the register is considered a matter of considerable importance. Although there can be a campaign to increase awareness, there is a real risk that this matter would not be achieved in a satisfactory way, notwithstanding the willingness of the Electoral Commission to assist.

Legislation as momentous as this must command consensus in both Houses and the country as a whole. Reference was made to a recent amendment voted on in this House to the Cities and Local Government Devolution Bill to allow 16 year-olds to vote: that was reversed by the House of Commons yesterday by a substantial majority.

A change of this sort needs substantial legislation; it is a very important change. We have decided that the appropriate franchise is the one that has pertained satisfactorily in previous referenda and general elections, one that pertains in every country in the EU except Austria. There may come a time for change, when we lower the age to 16. There may be a debate to be had. This is not the moment for that debate.

Baroness Morgan of Ely: I thank noble Lords for participating in this debate. I have listened very carefully to the arguments put forward by the Minister and by others.

The one thing that we can all agree on is the need for us, at some point, to generally tidy up the inconsistencies around when young people are considered legally responsible for various aspects of their lives. But that is not the point of this amendment. Young people are the future of this nation. This is their one chance to have a say in this country's relationship with the European Union. It is an exceptional case. They will have to live with the consequences of the result for longer than anyone. Let us show them that we have confidence in them, and that we respect them and their opinions. Let us give them a vote in the EU referendum.

I am not convinced by the arguments put forward by the Minister. Therefore, I would like to test the opinion of the House.

6.06 pm

Division on Amendment 3

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Amendment 3 agreed.

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Northern Ireland

Statement

6.22 pm

The Parliamentary Under-Secretary of State, Scotland Office (Lord Dunlop) (Con): My Lords, with permission, I will repeat an Answer to an Urgent Question asked by Sir Gerald Howarth MP in the House of Commons earlier today. The Statement is as follows:

"As part of an ongoing investigation by the Police Service of Northern Ireland into the events surrounding Bloody Sunday in Londonderry in 1972, a former soldier was arrested for questioning on 10 November 2015. He was subsequently released on bail.

Criminal investigations and prosecutions are a matter for the police and prosecuting authorities, who act independently of government. The Government cannot therefore comment on an individual case.

This Government are committed to the rule of law. Where there is evidence of wrongdoing, it is right that it should be investigated.

We remain unstinting in our admiration and support for the men and women of the police and Armed Forces whose sacrifice ensured that terrorism would never succeed in Northern Ireland and that its future would only ever be determined by democracy and consent.

Whether the current investigations will lead to criminal prosecution is a matter for the police and prosecuting authorities in Northern Ireland. The overwhelming majority of armed services personnel carried out their duties with courage, professionalism and integrity. This Government will never forget the debt of gratitude that we owe to them".

6.24 pm

Lord McAvoy (Lab): My Lords, I thank the Minister for repeating the Answer given in the other place. As my honourable friend Vernon Coaker said there, it is only right and proper at this time to pay tribute to our Armed Forces, who are at this very moment engaged in defending our freedoms and are in harm's way. They operate to the very highest standards and we should always remember the difficult circumstances in which they serve. That is why it is always difficult to criticise our Armed Forces if they fall below these high standards, but we cannot and must not fail to do so if evidence of wrongdoing should exist. The Saville inquiry of 2010 was clear. As the Prime Minister said at that time in his Statement to the House,

"there is no doubt; there is nothing equivocal; there are no ambiguities. What happened on Bloody Sunday was both unjustified and unjustifiable. It was wrong".—[*Official Report*, Commons, 15/6/10; col. 739.]

He also apologised on behalf of the British Government. The whole report makes very uncomfortable reading for all of us, and none of us should ever forget the victims and families of those who were killed both on Bloody Sunday and throughout Northern Ireland on so many other occasions.

Can the Minister confirm that evidence given at the Saville inquiry is precluded from being used in any court proceedings against a particular individual? Can he confirm that the arrest of Soldier J was based on evidence gathered since January 2014 by the PSNI, which has announced a new investigation? The PSNI has said that there will be no further arrests until the results of a judicial review brought by other affected soldiers has concluded. Can the Minister tell us when he expects this judicial review to be concluded? Can he also tell us what work the Northern Ireland Office is undertaking pending the outcome of that judicial review?

Lord Dunlop: I thank the noble Lord for his words and will take each of his points in turn. Yes, I can confirm that evidence given to Saville cannot be used to incriminate the person who gives it; the evidence is protected. On the specific case, it would not be appropriate

for me to comment; it is a subject of an ongoing criminal investigation and the question of arrest is a matter for the PSNI. With regard to the ongoing legal proceedings, again, I do not think that it would be appropriate for me to comment, but I understand that the PSNI is committed to not making any further arrests in relation to Bloody Sunday until the outcome of those legal proceedings.

Lord Glentoran (Con): I have two points to make, First, I had a private meeting with Martin McGuinness soon after the Prime Minister's apology to find out how the apology had gone down in Londonderry. He assured me that it had been very welcome and had been accepted. Secondly, Bloody Sunday—I was living there at the time—was very early in what we loosely call the Troubled times. There had not been much time for training and briefing of soldiers. The Paras are briefed and trained as an aggressive attack force. It was just very unfortunate that they were committed to Bloody Sunday.

Lord Dunlop: I thank my noble friend. When the Prime Minister made his Statement, I think that it was widely welcomed for the tone that it struck. I very much note my noble friend's other point.

Lord Alderdice (LD): My Lords, while it is of course important in any case to follow the evidence wherever it takes the authorities, and even though the mills of justice often grind exceeding slow—in this case, we are talking about events of almost 50 years ago—does the Minister agree that it is extremely important in these circumstances for the police, the press and people generally to understand that an arrest is not a conviction? We have the experience in recent times of a whole series of arrests by the PSNI which led to a political crisis we are still trying to find our way through in Northern Ireland, and all of those arrested have been released without charge. Is it not important to point out that the same is the case in respect of this soldier—that an arrest is not a conviction and assumptions should not be built on it until the proper processes are proceeded with?

Lord Dunlop: I very much agree with the noble Lord. I absolutely agree that an investigation is not the same as a prosecution. Indeed, an investigation is also an opportunity for someone to clear their name.

Lord Trimble (Con): My Lords, I draw the Minister's attention to a potential anomaly. I am not talking about this individual's case. If, out of all of the proceedings of the Saville inquiry, any charges are brought and a conviction obtained, the person convicted will not be able to apply for early release under the terms of the Belfast agreement. I do not know why the authorities, in drafting that scheme, put a starting date of after 30 January 1972. It was never a matter of discussion and I was not aware of it until long after the agreement. However, it is there and I am making this point because, if this anomaly arises, steps should be taken to ensure that the person is treated in the same way as other persons convicted of criminal offences during the Troubles. It would be wrong to treat people in similar cases to this person's case in a worse way.

Lord Dunlop: I thank my noble friend and note what he says. I will ensure that his views are reflected to the appropriate people.

Lord King of Bridgwater (Con): My Lords, I endorse what the noble Lord, Lord Alderdice, said. One other aspect worries me. I understand that the witnesses to the Saville inquiry were promised anonymity. On this occasion, three police cars turned up at this man's house in Antrim to arrest someone who had indicated that he was willing to go to the police station of his own accord and give evidence. I hope that this matter is taken up because it is obviously worrying and may be extremely dangerous for him and his family.

Lord Dunlop: I note what my noble friend has said. His point was also raised in the other place earlier today and the Minister said that if there were concerns about the way in which the arrest happened, the matter should be taken up with the chief constable.

Lord Hay of Ballyore (DUP): My Lords, as a Member of this House from Londonderry who lived through some of the difficult years in that city, it is important to say that we have now moved on to a better place. Sometimes when an atrocity such as this once again raises its ugly head, we forget where we have come from. I believe that in the city of Londonderry we have moved on from issues that were difficult many years ago. I agree that we should never forget the sacrifices of the security forces in protecting the people of Northern Ireland through a bloody terrorist campaign.

There was a clear belief when the Prime Minister apologised to the families of the victims of Bloody Sunday that that would more or less draw a line under it and we could all move on. Obviously that has not happened. I agree that no one should be above the law and that the police should be allowed to do their job irrespective of who the person may be.

Does the Minister agree that the new Stormont agreement announced yesterday is an important turning point for Northern Ireland? There have been five attempts to resolve the legacy issues of the past but, for whatever reason, all political parties in Northern Ireland are finding it difficult to get a resolution to the past. While we cannot get that resolution at this minute in time, it creates problems in legacy cases such as this and in dealing with the past. Will the Government and the parties continue to try to resolve this issue because, if we can, we can move Northern Ireland forward to a better place?

Lord Dunlop: The agreement that was reached yesterday was a significant achievement. I am sure the whole House will wish to congratulate all the Northern Ireland parties on reaching that deal. It has broken an impasse and created the opportunity to develop devolved institutions that work for the people in Northern Ireland. As the Minister in the other place said, it is a matter of regret that legacy was not part of the deal. We must find ways to take these matters forward and give victims and their families closure and see justice served. The Government stand ready to play their part in that process.

European Union Referendum Bill

Report (1st Day) (Continued)

6.34 pm

Amendments 4 and 5 not moved.

Amendment 6

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

6: Clause 2, page 2, line 25, at end insert—

"(d) the persons who fall within subsection (4)."

Baroness Miller of Chilthorne Domer (LD): My Lords, these amendments seek to extend the Westminster franchise to those British citizens who have lived in the EU for more than 15 years. This extension to the franchise is an exception in the same way that the Bill allows for Members of your Lordships' House to vote in the referendum.

In Committee, we heard many examples of why these British citizens should be enabled to vote in the referendum. I will not repeat all of them but simply remind the House that many in this currently excluded group have spent the whole of their working lives working for Britain. Many receive government pensions as they were soldiers, nurses or civil servants and so they pay UK taxes. In Committee, one of the points made—which was conceded even by those who seem to oppose this amendment—was that there should be no taxation without representation.

Many other people working in the EU are there because they are flying the flag for Britain. They have been encouraged by successive Governments of this country to expand their careers and look to the EU. For some this started when they were at university, with the Erasmus scheme getting them to spend time at EU universities, and for others it is because the UK has developed partnerships with firms such as Airbus. So Governments have encouraged British citizens to look on the whole of the EU as a place to study, work and live, and they cannot now pull the rug from under their feet. They should at least give them a say in whether that rug is pulled.

In Committee, some noble Lords could not understand why being a British expat in the EU is different from being an expat in, say, Singapore or Australia. As the noble Lord, Lord Anderson of Swansea, put it so succinctly, it is because of the network of arrangements upon which our citizens relied when they made their choice to live and work in the EU.

When I reflected on the Government's response in Committee, I could not understand why they are not keen to enfranchise this group of citizens. I am glad to see the noble Baroness, Lady Royall, in her place because she asked a very important question. If the Government believe it is right for British citizens to vote in future general elections, as announced in their manifesto, why is it not right to give these people a vote in a referendum that will have a greater impact on their lives than a general election? The noble Lord, Lord Lexden, rightly said that it will be incomprehensible to our fellow citizens living abroad that a manifesto commitment cannot be implemented, by one means or another, to participate in a vote of such overwhelming importance.

When I reread the proceedings of the Committee stage, the only arguments I could find were from the noble Lord, Lord Dobbs, who said that the Electoral Commission would not know where the expats lived or who they were. However, the answer is that if you want to enfranchise them, they will apply for a franchise—they have passport numbers, national insurance numbers and fixed addresses—and, after all, those who have lived in the EU for 14, 13 or 12 years can register. It is only those above 15 years who cannot. Surely the Government would not deny such people the right to vote simply on that basis. It cannot be that difficult.

The noble Baroness, Lady Morgan of Ely, seemed to be against this exceptional franchise because she does not want to set a precedent for votes for life, which her party is against. I say to her that this enfranchisement is exceptional and should not set a precedent. The noble Baroness used the phrase about those working in the EU flying the flag for their country. I am sure she believes that and I wonder whether she might soften her position.

In replying for the Government, when it came down to not wishing to agree with the amendment, the Minister said that he was simply concerned with legitimacy. He wanted no sense that there had been an attempt to skew the result. He felt that the "safest way" to do this was to stick with the Westminster franchise. We should be looking not at safety but at the fairest way. In any case, we are not sticking with the Westminster franchise because we have already made a couple of exceptions. The Government have accepted them and they are in the Bill.

All I am asking for here is that those who have lived in the EU for more than 15 years can join with those who have lived there for a shorter time, and that for the referendum they may exceptionally have the right to vote on a really important matter for this country and for them. I beg to move.

Lord Hannay of Chiswick (CB): My Lords, I rise to support the amendment moved by the noble Baroness, Lady Miller of Chilthorne Domer. We had a good debate about this in Committee and I think we established rather clearly that there is in fact no difference of principle on this matter between those who supported the amendment and the Minister who opposed it. His party has a manifesto commitment, which I am sure it is going to fulfil, to introduce legislation in this Parliament to give the vote to precisely the people we are talking about; that is, people who have been living abroad for more than 15 years. Admittedly, he is going to do that erga omnes and not just for those in the European Union, but there seems to me to be no difference of principle between us.

Nor does this amendment cross in any sense the line that has been frequently prayed in aid in previous debates—that this is a referendum which British people should be deciding. These people are British. They hold British passports and they are our citizens. The reason to give them the vote is that we are having a

referendum which could fundamentally affect a large amount of the way in which they live. It could affect their healthcare arrangements, their ability to travel freely, their social coverage, their jobs and the way their children are treated. This is a huge range of things that could and will be affected if by any chance—mischance, in my view—the electorate votes to withdraw from the European Union. Yet the Government, who want these people to have the vote and believe that they are rightly going to be given the vote under their own proposals to be brought forward later in this Parliament, feel that they should not have it in the one vote which they really mind about. They are probably not all that interested in voting in our parliamentary, municipal and other elections, but they jolly well are interested in this referendum because their interests are at stake.

It would be really good if the Government could take a deep breath and say, "Yes, we agree that these people should have the vote because that is what our manifesto says, and we agree that this referendum vote matters more to them than anything else". The Government have been saying for years now that the people must have their say. Did they really mean to exclude British citizens living elsewhere in the EU from having their say when their interests will be affected? I hope that we can move ahead with the amendment. Not only does it have logic and consistency on its side—two qualities which were given a rather hard time in the previous debate—it has common sense on its side as well.

Lord Scott of Foscote (CB): My Lords, I rise to support this amendment as strenuously as I can, very much for the reasons already given by the noble Lord, Lord Hannay. I have a personal interest which I must declare. I have a daughter who lives in Spain with her English husband. Both were born in England and are English through and through. They have both always held English passports. They met in Spain, married and have two sons, both of whom hold British passports. All those members of my family are British, but they live in Spain under the arrangements made whereby the citizens of one EU country have the right to live anywhere in the EU. They have been in Spain for well over 15 years. The eldest of my grandsons is now 18 and at university, not in Spain but in the Netherlands, for reasons I do not quite understand. At any rate, they have been living in Spain for more than 15 years on the footing that they have the right to do so.

If the referendum required this country to leave the EU, that would create the problem that I am referring to, but to say that they should not have the right to vote in the referendum, given the interest and importance to them of this country remaining in the EU, seems quite unacceptable. I therefore wholeheartedly support this amendment.

6.45 pm

Lord Lexden (Con): My Lords, I should like to return briefly to two points from among those I made in Committee. First, if our fellow countrymen and women who have lived overseas for more than 15 years are deprived of the vote in this all-important referendum, it will be because of a preventable accident of timing. As we have heard, the Conservative Party is committed to enfranchising them, but the promised Bill to do so has not appeared. The right thing to do, and this is a Government who pride themselves on doing the right thing, is to make provision for them to take part in the referendum through this Bill.

Secondly, I say again, as I did in Committee, that we should put ourselves in the shoes of our fellow countrymen and women who have been living in other EU countries for more than 15 years. How would we like it if we were deprived of the vote in a momentous referendum which will touch our present livelihoods and future prospects so intimately and directly, when we knew that at the next parliamentary election a vote would be ours? I take the view that the Bill should be returned to the other place incorporating this amendment. The issue was discussed hurriedly and incompletely during the earlier debates on the Bill there. Let the elected Chamber be asked to make a carefully considered decision on this issue. If we do that, we will have discharged our proper constitutional duty in relation to this part of the Bill.

Lord Lester of Herne Hill (LD): My Lords, I regret that I was not able to speak at the Committee stage, but I want to make one brief point. It is extremely important for us, through the Government and Parliament, to recognise the service given by our fellow citizens when they serve in the European institutions. I have made the point in the past so far as judges are concerned. It is vital to get good British judges to serve in Europe. But exactly the same applies elsewhere in the European public service.

The example that comes to my mind is that of an admirable civil servant, now retired, called Simon Palmer. He has lived in France for more than 15 years. He lives there because during the whole of that time he served the Council of Europe as a member of the European civil service. He takes his holidays in England and he is thoroughly British, but he has brought up his family in Europe. I see no good reason why he should suffer the penalty of being disqualified from the referendum simply because he has lived there for the wrong side of 15 years. His connection with this country is no weaker, and it is very important that through this debate and what comes of it, we should recognise the vital public service given by people like him by giving them the ability to vote in this crucial referendum.

Baroness Royall of Blaisdon (Lab): My Lords, I too, support this amendment, to which I have added my name. There are many people living all over the European Union who, as the noble Lord has said, have done fine service for our country and who are still receiving pensions from this country and paying tax in this country, and they deserve a voice. This is one of the most important votes that will have happened in their lifetime, and they certainly deserve a voice, as I say.

I respect the coherent position of my own party, although I disagree with it, but I do not understand the incoherent position of the party opposite, as was said by the noble Lord, Lord Hannay, and other noble Lords. The Conservative Party has, I believe quite rightly, said that it will extend the franchise. This is the

[Baroness Royall of Blaisdon]
most important vote for many of those people to whom the franchise will be extended, so why cannot it be extended now? Why cannot that legislation be brought forward before we have the referendum? That is a simple question, and I believe it is the proper one to ask.

Lord Hamilton of Epsom (Con): My Lords, why do I smell another rat here? It seems to me that this is once again trying to slew the whole playing field, which we have desperately been trying to keep level, in favour of those who want to keep us in the EU. It has been quite established for some time. There is the argument that it is very unfair for these people who have been abroad for more than X number of years that they cannot vote in the referendum. But they cannot vote in general elections either. It is quite extraordinary that we seem to be determined all the time to bring in amendments that will make it more likely that we will stay in the EU than leave it.

Baroness Ludford (LD): Does the noble Lord believe that the Conservative manifesto commitment to raise the 15-year cap in the future is also an attempt to fix the electorate?

Lord Hamilton of Epsom: A large number of commitments have been made in manifestos that have not been brought in. That is rather like, by the same token, arguing that this is the moment to change the electoral mandate for 16 and 17 year-olds. Are we going to bring all these changes in on the back of a referendum Bill? Like my noble friend Lord Forsyth, I believe that we should have a constitutional convention to look into all these things. The whole thing is becoming more messy and piecemeal as it goes along, and I certainly do not approve of that at all.

All the time, amendments are being brought forward that are designed to make it more likely that the electoral register will be slewed in such a way that more people will vote to stay in than to leave.

Lord Hannay of Chiswick: I wonder whether the noble Lord would agree that voting for this amendment will make the electorate less piecemeal, not more piecemeal. It is the exclusion of people who are British citizens that is piecemeal and which his party, which he seems to treat with contempt, proposes to remedy. This is really quite an odd thing for him to do. It would be much more logical if they were included.

Lord Hamilton of Epsom: All the time, we seem to be trying to change the existing electoral register in favour of those who are more likely to vote to stay in than they are to leave. This is quite clearly changing the whole thing in favour of those who want to stay in the EU. I do not know why the noble Lord actually denies this. Does he really think that people living in the EU for more than 15 years will vote to come out? It is extremely unlikely. He knows that as well as anybody else. We have established that there is an electoral register and now we are starting to mess about with it. Once it includes the 16 and 17 year-olds, a whole host of other people can be put in. That moves totally away from the original register on which we were having this referendum.

If everybody wants to hold a referendum in this country which is narrowly won by those who say we should stay in the EU when there is all the gerrymandering that has been going on, do noble Lords really think that that decision will be accepted by the country when it is obvious that the whole thing has been slewed in favour of those who want to stay in the EU?

Lord Green of Deddington (CB): I can help the noble Lord. He will not be surprised to hear numbers from me, or that I am repeating them. We are talking about 1.3 million people, according to the UN Population Division. Some of those will be minors because that figure does not distinguish between minors and adults, and some will have been in Europe for fewer than 15 years. There are no statistics and no way of knowing exactly how many people would be covered by this amendment, and I am not suggesting that there is. However, if we start with that 1.3 million, probably 0.3 million of them are minors, so we are left with 1 million, of which—who knows?—maybe 0.5 million or 0.3 million have been in Europe for more than 15 years. Whichever way we look at it, the noble Lord is quite right that this is a significant number of people, running into hundreds of thousands. We should be aware of that when we consider the amendment.

Lord Hamilton of Epsom: I am grateful to the noble Lord, and it is very helpful to have a few statistics to bring everything more vividly to light. I give way to the noble Lord.

Lord Howie of Troon (Lab): I did not intend to interrupt the noble Lord; I thought he had finished.

Lord Hamilton of Epsom: In which case I will sit down and listen to the noble Lord.

Lord Howie of Troon: So, the noble Lord has finished. I want to add no more than a pennyweight to this debate. It is based on personal experience, in that I have been excluded from no fewer than three referendums in recent years—two on the question of devolution in Scotland and one on the question of Scottish independence.

In my maiden speech in this House in 1978, I spoke about those who were Scots by birth or upbringing, or like me having a Scottish title, who because we had lived in London or England for some time were excluded from that referendum. All I wish to say is that, like those who live abroad and yet retain their allegiance to the United Kingdom, I living in England—and opposing independence, let it be said—retain an affection and loyalty to Scotland. Therefore, having been excluded from those referenda, I have a continuing feeling of resentment and annoyance. Those who, like the civil servant in Brussels mentioned earlier, are excluded from this referendum will quite rightly have a feeling of resentment and undue exclusion. I support the amendment.

Lord Bowness (Con): My Lords, I had my name to a similar amendment that was tabled in Committee. I have to say to my noble friend Lord Hamilton of Epsom that for me it is an issue of fairness. With great respect to him, we will not get very far if we throw words such as "gerrymandering" at each other. I suppose that those of us who want to see a positive vote in favour of remaining in the European Union could say that to exclude tax-paying British citizens—a group who have committed their lives and made decisions about their lives and who live in Europe—is also gerrymandering in trying to skew it in another direction. I do not think that that gets us very far.

I believe that the amendment is one of fairness. As I said in Committee, these are people, many of whom if not all, will not be outside the reach of Her Majesty's Revenue & Customs. The fact that you are non-resident does not mean that you are non-resident for tax purposes. HMRC will keep its fingers on you if you have property, family or a whole lot of various matters where you are judged not to have broken your connection totally with the United Kingdom.

The advice from the Electoral Commission in respect of this amendment—which, indeed, I support—says:

"It is not clear how such proof could be provided and verified by EROs".

I am rather surprised at that advice from the Electoral Commission, because I should have thought that the vast majority of people about whom we are talking are people who will be resident in one particular place. They will have evidence of employment and evidence of that residency, and they will have the same papers that the rest of us have in connection with bills, credit cards and bank accounts, which will be the kind of evidence that they would be able to present to an electoral registration officer. While I have great respect for the Electoral Commission and its advice, although it says that it is not clear how such proof could be provided, I am not clear in my mind why it is so difficult to find suitable items to prove that you are entitled to a vote in the circumstances that this amendment envisages. I support the amendment.

7 pm

Baroness Morgan of Ely (Lab): My Lords, many noble Lords believe in the principle of votes for life for British citizens, irrespective of where they now live or how long they have lived there for. Others have argued that this is a one-off, exceptional situation relating to the fact that this is an EU referendum—that UK citizens living in the EU will be directly impacted and they should therefore be given the vote. These are different arguments and we disagree with both.

I am clear that if we were to leave the EU there would be an immediate and direct impact on UK citizens living in other EU member states. Their status in the country would at the very least be reviewed. Will their qualifications be recognised? Will their pensions be uprated? Will they be able to access member states' medical services? There is a deafening silence from the Government on these issues, but it does not mean that they should be given special status in this referendum because of the possible impact on their lives.

In Committee, my noble friend Lord Grocott eloquently inquired why we allow some expats in some countries in Europe, such as Sweden, to vote, while preventing others in countries such as Norway from voting. He also suggested that we would be getting into difficult territory if we allowed only those affected to vote. If we start down that route we will get into difficulty.

Then there is the practical issue of registering these people. Who are they? How do we find them? What if we extend the franchise to 16 to 18 year-olds? The Minister suggested that if all citizens around the world were invited to register there could be about 5 million of them. That is not what the amendment says; it says, "Let's restrict this to the EU". That is 1.3 million citizens. We have just heard some very clear statistics, but they actually were not that clear. That is the problem. We have no idea how many there are. It will be very difficult to trace them in a short space of time. This is very different from 16 to 17 year-olds voting. We know exactly where they are: in school. These people are spread throughout the continent. We would not know where to start, not within the nine-month timeframe.

Many UK citizens overseas have been invited to register in the past, but as the noble Lord, Lord Dobbs, pointed out in Committee, fewer than 20,000 British expats in the European Union have taken up that right to vote, despite all the efforts and funding that has been given to advertising by the Government and to get them involved.

Lord Lexden: The noble Baroness underestimates the figure. It is not 20,000, but more than 100,000 registered to vote at the last general election.

Baroness Morgan of Ely: That is even fewer. That makes my point more eloquently. The point is, there was a huge drive to get these people to sign up and they did not take it up, although I think every one of those 100,000 has emailed me in the past few weeks to ask for this vote in the EU referendum.

The issue of citizenship and the responsibilities of citizens that my noble and learned friend Lord Goldsmith talked about earlier should be taken into account. In this country we have said time and again that we want to encourage people to integrate into their communities, to be a part of this society. It would therefore be inconsistent for us to suggest that, after 15 years in a country, they should not also be encouraged to become part of that society and to establish roots in their adopted lands.

There must be no question about the legitimacy of this referendum. We believe that there should be a cut-off point when people should lose their entitlement to vote if they have made their home abroad. We think that the current cut-off point of 15 years is about right. However, let me make it absolutely clear that there is no inconsistency in Labour's position on this. The Conservative Government have said clearly that they want to see this extended. It is in their manifesto. They want British citizens who move abroad to be able to vote for ever. We do not believe that. When that Bill comes before this House we will oppose it.

[Baroness Morgan of Ely]

I hope noble Lords will agree that there is, at least, a degree of consistency in the Labour Party's position on this issue. We do not want to see this franchise extended beyond 15 years.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, the purpose of these amendments is to allow British citizens resident in other EU member states to vote in the EU referendum, regardless of the time they have been resident overseas. They would, therefore, lift the 15-year time limit on voting rights in the referendum for British citizens resident overseas, but only for those Britons resident in the EU. I have listened to the arguments put forward today and in Committee. I fear that, as with all the proposed changes to the franchise, the Government's position remains the same.

I am, of course, sympathetic to the case. Indeed, as has been referred to, the Government are committed to getting rid of the 15-year time limit and have committed to bringing forward a stand-alone, dedicated Bill to provide for votes for life in due course. On the principle of removing the 15-year rule, therefore, I have no argument with the amendments. I can also understand the desire of British citizens who have been abroad for more than 15 years—whether they live in the EU, or within Europe in Oslo, in the point made by the noble Lord, Lord Grocott—to participate in the referendum. I appreciate that some will feel frustrated that they will not be able to participate. The other part of the 100,000 obviously sent their emails to me, rather than to the noble Baroness, Lady Morgan. They can argue that they might be affected by the vote, but I fear that that does not change the Government's position on the franchise as a whole.

Lord Hannay of Chiswick: My Lords, there seems to be a perhaps excessive interest in the probably not very large numbers of British citizens who live in Norway. It might be worth recalling that, whatever the result of the referendum, they will not be affected. They live in a country in the European Economic Area, which is part of the single market. All their rights and privileges, and all the advantages they get from that, will remain with them whichever way we vote. That is what makes them different from British citizens in EU countries.

Lord Faulks: I am grateful for that interruption. The Government's commitment is to votes for life for everybody, whether they live in the EU or elsewhere. The point is not in terms of their direct association with the EU, but whether they are British citizens who live abroad. Therefore, the point that I understood the noble Lord, Lord Grocott, to be making, which had some force, was that it is mere happenstance whether an individual lives in a country in the European Union or outside of it.

Removing the 15-year rule will be a complex and important constitutional change. It is not something that we suggest should in any way be rushed by way of a single amendment. It needs a whole Bill to be implemented properly—a Bill that plainly will be opposed by the party opposite. There are decisions to be taken. The media and the public should have a chance to scrutinise these changes. That is something of an echo of the argument I advanced unsuccessfully on the previous amendment. We will need to consider questions of potential fraud and how we should update the registration system. It is not something that should in any way be rushed through. This is just a small sample of the decisions that would need to be taken and implemented. Changing the franchise in this way is no small task. Giving effect to such a change would take a significant amount of time and resources in central government and in local authorities.

In many ways this is the most complex change to the franchise being proposed today. The group of people in question are almost by definition not known to us, as British citizens do not need to register when they move abroad. There are many, like the relations of the noble and learned Lord, Lord Scott, who will be well known and easily identifiable, but for many others it is difficult to have an adequate canvass. We could hardly go door to door, as electoral registration officials can in the UK. I entirely accept the contribution that many who live in the EU have made over a long period to Great Britain, as the noble Lord, Lord Lester, pointed out, although they have not hitherto taken part in general elections if they are outside the Westminster franchise. Verifying identities for others is a complicated task where a person has been away for at least a decade. For example, it might be difficult to prove that they have been previously resident in the UK.

These changes have to be made judiciously and carefully to ensure that the system remains transparent. My noble friend Lord Lexden said in Committee and again today that the Government should have started the process of the votes for life, which would, of course, incorporate this amendment. I know that is an issue close to his heart. I assure him and the House that the Government are committed to this change, but without knowing the date of the referendum I cannot, of course, guarantee that the change will be implemented in time. As I said, the decisions are complex.

I return finally to the point that I have made before. Indeed, I think it is one of the areas of common ground between this party and the party opposite at least. This process must be seen to be fair. There is clearly a view taken, as exemplified by the contribution of my noble friend Lord Hamilton, that a change of this sort may have an ulterior motive. I do not presume to guess how anybody is going to vote, whether they live outside the United Kingdom, outside the EU or whether they are under 18 or not. However, it is important that this should not in any way be seen to be some form of specially amended franchise so as to achieve a certain outcome. Nothing should undermine its legitimacy. The public might ask why we have made this change now just in time for the referendum. Should it not have been done as a much more careful stand-alone vote?

Lord Liddle (Lab): I am a simple-minded chap but the Government are making a special change to the Westminster franchise to include citizens of Gibraltar to give them a vote in the British referendum. Presumably, the argument for that is that they are deeply affected

by the result, as, indeed, they would be because their position in relation to Spain would become much more difficult were we to withdraw. But what about British citizens who have lived in the EU for a long time? The reason a lot of these people have gone to live there is because they were taking advantage of our EU membership. They see themselves as EU citizens as well as British citizens. What is the logic of excluding them if we are including the Gibraltarians?

Lord Faulks: The position is that British citizens are not able to vote in referenda in other European countries. This minor exception, which includes Peers and Gibraltarians who are members of the Commonwealth, is a very minor change to reflect that fact rather than to reflect the fact that Gibraltar happens to be in Europe and is part of the south-west area. I do not think it follows therefore that there should be an automatic change to the whole approach.

Lord Hannay of Chiswick: Before the noble Lord sits down—I think he is winding up—I do think it is a bit bizarre that we have got as far as the housemaid's baby now. It is a very small baby—it does not matter very much. It is a change. However, the Ministry of Justice seems to be singularly ignorant of the role that British embassies, consulates and other diplomatic missions in the EU play. They have a duty of care to British citizens living in those countries. They know where a lot of them live—not, I am sure, all of them—and they have a duty of care. If those citizens are accused of a crime, they have to try to help them. So it is no good simply saying, "We don't know where they all are. It's a huge problem". That is not actually the truth.

Lord Faulks: I would not dream of underestimating the role of British embassies and consulates around the world. They play an extremely valuable and continuing role. Nevertheless, it is asking a great deal of them—even of the most conscientious embassy—to be conscious of the whereabouts of all the various citizens living in countries outside the United Kingdom.

Lord Lester of Herne Hill: In a previous debate, the noble Lord talked about the mental capacity of adolescents to take part in elections and suggested that they might be mentally in some way less capable, or something like that. I hope that I do not put it too crudely. As regards the particular group we are discussing, is the problem that they are rather well informed because they have lived in other parts of Europe and have great experience? I have no idea how they will vote but at least they will be better informed than many Members of this House.

Lord Faulks: The noble Lord makes an entirely false point. The argument that I advanced in relation to an earlier group of amendments had nothing to do with mental capacity. In fact, I eschewed any reliance on mental capacity. I simply said that we draw an arbitrary line where adolescents are concerned—whether it is 16 or 18—and part of informing ourselves whether it is appropriate that they should vote involves looking at the development of the adolescent mind, without impugning in any way their capacity. I hope that I have made that position clear. As regards the capacity of those who are disfranchised by the current state of affairs, I do not at all wish to impugn their capacity or the level of their information or their ability to take a decision.

Lord Kerr of Kinlochard (CB): I thank the noble Lord for giving way. I quite agree with him about the difficulties of drawing a line. Why draw a line, then, at 15 years?

Lord Faulks: Fifteen years is the line drawn by a previous Government, who thought that was a reasonable assessment of somebody who had a sufficient or recent connection with the country. Any line, whether it is 16 years or 14 years, is going to be arbitrary. Sympathetic though the Government are to the general tone of these amendments, for the reasons I have given I respectfully ask the noble Baroness to withdraw her amendment.

Baroness Miller of Chilthorne Domer: My Lords, I am very sorry that the Government have not followed the suggestion of the noble Lord, Lord Hannay, drawn a deep breath and thought again about this. I am afraid that there is no logic to the position laid out by the Minister. He admits that the line is arbitrary. He says that any change has to be considered and that more time should be taken over adopting it. In that case, the Government could have made the votes for life Bill a priority at the beginning of this Session. That is what they should have done if they believe in it. I am afraid that a lot of the EU expats listening to this debate will conclude that it is humbug as they will be disfranchised.

The noble Lord, Lord Bowness, put his finger on the matter when he said that it was about fairness. That is what it is. It is very unfair that the people we are discussing have been led to understand throughout their lives that being in the EU means being part of a network to which Britain belongs. Now, when Britain may make a choice to leave it, they have no say in that whatever. That position is unfair and, as the noble Lord, Lord Lexden, said, it is an accident of timing. This is an unfairness that the Government could have rectified. I will certainly not withdraw the amendment. I wish to test the opinion of the House.

7.17 pm

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7.29 pm

Amendment 7 not moved.

Amendment 7A

Moved by ***Lord Hamilton of Epsom***

7A: Clause 2, page 2, line 32, at end insert—

"( ) Regulations under section 1(2) may not be laid before either House of Parliament unless the Electoral Commission has certified that any persons in the United Kingdom who would not be entitled to vote as electors at a parliamentary election in any constituency but are entitled to vote in the referendum by virtue of this section have had sufficient time to register to vote (the meaning of "sufficient time" having been determined by the Electoral Commission)."

Lord Hamilton of Epsom: My Lords, I hope that we are now moving into slightly calmer waters. I tabled this amendment in anticipation that the House might vote to enfranchise 16 and 17 year-olds. I do not think there can really be too much opposition in the House to my amendment because we have to ensure that the new franchise actually happens. The amendment enfranchising 16 and 17 year-olds passed by a very big majority in your Lordships' House and it may well be that it never comes back from the Commons, either. There are a number of different reasons why the other place might actually accept the amendment, so there may well be no future opportunity to amend it.

The whole point of my amendment is to ensure that we do not enfranchise 16 and 17 year-olds with one hand and disenfranchise them with the other. We have heard different stories from the Electoral Commission. The noble Baroness, Lady Morgan, said that she had been assured by people at the Electoral Commission that it would be possible to get all this through by September. But we are in uncharted waters and we really do not know how long it is going to take to get the new register drawn up; it is completely new territory. All these people have to be individually registered, which may take a quite serious amount of time.

All my amendment does, which I am sure must be acceptable to the House, is to say that the Electoral Commission must be able to tick the box for the Government and say, "Yes, we have got a decent number of 16 and 17 year-olds on the electoral roll"—I am not saying it should come back and say that it has got 100% of them—and that should be acceptable to everybody. We do not want to end up with a whole lot of 16 and 17 year-olds going round saying, "I was told that I had a vote but I never got on the electoral roll"— because the process was only half completed, or whatever. So is it really too much to leave it to the Electoral Commission to tell the Government or whoever is deciding on the date of the referendum when the new register has been drawn up and everything is in place?

I do not pretend to know how long the process is going to take. At one stage the Electoral Commission was telling us that it would take up to 12 months. It is now reining back from that and saying that perhaps it will be quicker. But that is not really where I come from. It does not matter how long it takes. If it takes three months, fine. If the Electoral Commission can come back in three months and say that the job is done, that is absolutely fine and the referendum can be held after that. But it is very important to ensure that we do not, as I say, give enfranchisement to 16 and 17 year-olds with one hand and then, by having a very early referendum, ignore all those who are not on the electoral roll and take it away with the other. That is the point of my amendment. I beg to move.

Lord Wallace of Saltaire (LD): My Lords, if I had heard the noble Lord, Lord Hamilton of Epsom, arguing against this I would think it a blatant attempt to bias the level playing field of which he is so fond by delaying the referendum. This amendment is simply unnecessary because the Electoral Commission will of course vouch for when the process has reached an appropriate stage. We therefore do not need to write this into the Bill. While I am on my feet, in his last speech during Committee the noble Lord referred to our friends and enemies within the European Union but did not specify which Governments he thought were our enemies within it. If he is going to reply, it would perhaps be helpful if he said whether they are the German Government, the French Government or others, because that would help us in understanding where he is coming from in the various amendments he has tabled.

Lord Hamilton of Epsom: That is a particularly silly point from the Liberal Benches. I was merely making the point that we have people who are on our side in certain negotiations, and people who are against us. That was the rather loose way in which I used the term "enemies". To go back to the noble Lord's earlier point, the fact is that the Electoral Commission's job is to advise the Government, who do not have to take its advice. The Government could say, "There is a wonderful opportunity now to win this referendum" and hold it after three months, when only a handful of 16 or 17 year-olds would be on the register.

Viscount Ridley (Con): My Lords, I will speak briefly in support of my noble friend Lord Hamilton's amendment. The key point was that in discussing the amendment on 16 and 17 year-olds, it was clearly said to us that it did not allow sufficient time to ensure that we get the electoral register right. We also heard that the Electoral Commission thought that there was an issue with individual registration being different from household registration. We may well see a specific issue in Scotland, in that people who got on the register for the Scottish referendum may now find that it is not so easy to get on the register for this one, given the amendment we have just passed, because they have

[Viscount Ridley]
not gone through the individual registration process. There has to be clarity and time to get the electoral register right.

I come back to the point I made in Committee and which has been made here. The crucial thing is to make sure that this is as fair and final a referendum as we can manage, so as to settle the issue once and for all. It would be a great mistake—

Lord Wallace of Tankerness (LD): Does the noble Viscount accept that the Scottish Parliament has now brought forward legislation to enfranchise 16 and 17 year-olds for the Scottish parliamentary and local government elections, the former taking place next May? I appreciate his concern about 16 and 17 year-old Scots, but the issue does not really arise because they will already be on the register by virtue of legislation passed by the Scottish Parliament.

Viscount Ridley: That is good news but there are a lot of other people in this country as well as Scots, and we have to ensure that they are properly registered. The next canvass begins, as we have heard, in July 2016. I do not quite understand how that interacts with this business of registering people for the referendum, but I beg my noble friend the Minister to take my noble friend Lord Hamilton's amendment seriously.

Baroness Smith of Newnham (LD): My Lords, I do not believe that this amendment is necessary. It is very reassuring to know that noble Lords opposite, who were opposing votes for 16 and 17 year-olds a few minutes ago, are now so concerned to ensure that those people who may now have the vote—

Lord Hamilton of Epsom: Does the noble Baroness not accept that those people who believe in democracy accept a democratic vote?

Baroness Smith of Newnham: My Lords, I am very pleased to hear that. We have all talked about making sure that this is a level playing field, so I am delighted to know that noble Lords are keen to ensure that people who will be entitled to vote can be registered. However, the issues are whether this needs to be in the Bill and whether we need to wait until the annual register, which starts in July 2016. We have a rolling electoral register. Can the Minister say whether it would be possible to look at registration at an earlier stage? Lest anyone think that I am trying to skew things by looking for a quick referendum at a later or earlier date, we do not know the date, so we have the veil of ignorance. However, we will know relatively soon when we shall have Royal Assent for the Bill. Could the Electoral Commission not set in train the process of registration as soon as Royal Assent is granted?

Lord Stoddart of Swindon (Ind Lab): My Lords, it seems to me that the noble Lord, Lord Hamilton, is trying to be helpful, and I am surprised that he should be opposed from the Liberal Benches. I did not agree with one thing he said: that we should abide by a democratic vote. The vote in this House is not and has not been democratic. The vote will be democratic only if the House of Commons agrees. It is rather an impertinence that this House should have carried the amendment on the franchise when it knows perfectly well that the House of Commons opposed such an amendment by quite a large majority—51, I think.

The noble Lord, Lord Hamilton, is being treated very badly, because he has tried to be helpful, bearing in mind that he has a different view from that held on the Liberal Benches. While I am talking about the Liberal Benches and democracy, I have to say that they came out in huge numbers to vote for the amendment on the franchise, yet they have only eight MPs in the House of Commons. That is an absolute disgrace. It is a disgrace that they should use their undemocratic power in this House to overrule the democratic House—another place.

Baroness Smith of Newnham: My Lords, I certainly have no intention of doing down the noble Lord, Lord Hamilton. We have had a vote in your Lordships' House. The Members of the other place will have the opportunity to either accept votes at 16 and 17 or to vote it down, and we will reach a point of ping-pong. The elected or unelected nature of this House is for another debate—

The Earl of Courtown (Con): Order. I think we are now clearly in breach of the *Companion*. I have been really relaxed, trying to let the debate flow, but we will want to get on with this. I suggest that during the dinner hour, noble Lords just go to page 151 of the *Companion* and take a rest.

Lord Forsyth of Drumlean (Con): I just wanted to intervene very briefly to say that it is absolutely extraordinary that the Liberals should have pitched their tent on the 16 year-old thing. There was an article by the leader of the Liberals in the paper this morning. They have brought their troops here to vote, most of whom have not been here throughout the proceedings on the Bill. Now they seem to be arguing against my noble friend's amendment, which would simply ensure that all 16 year-olds have the opportunity to cast their votes. The noble and learned Lord, Lord Wallace of Tankerness— I am seeing two Lord Wallaces —is normally very sharp. He rebukes my noble friend Lord Ridley and says, "Of course, in Scotland, we've got it all fixed". Yes, we have got it all fixed, but it took more than a year to produce the separate register for the Scottish referendum elections.

The Liberals and the Labour Party have been vociferous in arguing that individual registration would take far too long. The Government have been regularly harried about not giving enough time for people to register, and about some people being left off the vote. When my noble friend comes along with an amendment which says that it should be done in a proper manner attested by the Electoral Commission, they say that that is unnecessary and the commission does it anyway. If it is unnecessary and it does it anyway, what possible objection can there be to giving those 16 year-olds who do not live in Scotland the security of knowing

that they will have exactly the same opportunity as the Scots got by having a properly conducted register? I support my noble friend's amendment.

7.45 pm

Baroness Morgan of Ely: My Lords, of course we want proper registration to take place. We know that it will take a bit of time, and that exercise is now, to an extent, in the hands of the Government. They could start that process now. They could already indicate the direction in which they would like to go. Whether the referendum will be held up or not is therefore in their hands.

Lord Hamilton of Epsom: Is the noble Baroness saying that the process of registration should start tomorrow? Surely it can start only after the Bill is granted Royal Assent.

Baroness Morgan of Ely: Of course I understand that we have to wait for Royal Assent, but people could start to gear up: they could be given an indication that this is on its way. It is in the hands of the Government to determine whether that happens. We could gain a couple of months if the Government got on with the job right now, now that we have had a clear indication from this House of the way we want to go

Of course we want proper registration. We have spoken to the Electoral Commission, which has made it clear that it thinks it can do this within a nine-month time frame. The electoral administration authorities have said the same thing. Electoral registration officers at local authority level, given resources, can also deliver it. We now have a rolling registration process. There is no cut-off date, as in the past. None of us knows the timing of the referendum. None of us knows whether the Prime Minister will be able to convince other member states of the merits of his reforms.

I agree that we need to make sure that there is sufficient time. I do not know how long that is, and I would like to know what the Electoral Commission thinks is sufficient time before agreeing to the amendment. Given the earlier vote and the clear indication from this House, I suggest that the Minister look seriously at what needs practically to be put in place, but the amendment is unnecessary.

Lord Willoughby de Broke (UKIP): The noble Baroness made light of the Electoral Commission's recommendations. In the last paragraph on page 4 of its briefing, on registration, it states:

"This would need to be reinforced by significant public awareness activity at both the national and local level. Political literacy initiatives may also be needed, as were targeted working schools and other educational institutions to help get the message out to these groups quickly. Additional funding would also be needed to make sure that these activities could be delivered by EROs, the Commission and other relevant bodies".

It is not a matter of snapping your fingers, waving a stick and saying, "It's done". It will take a long time, and I am sure that the right thing is to accept the amendment of the noble Lord, Lord Hamilton. I hope that the House will agree with him.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, the amendment in the name of my noble friend Lord Hamilton of Epsom applies to individuals in the United Kingdom who are eligible to vote in the referendum but would not be eligible to vote in a parliamentary election. The amendment means that the Government would be unable to table draft regulations that set the date of the referendum until the Electoral Commission has certified that that group of eligible voters had received sufficient time to register to vote.

As my noble friend made clear, he was somewhat anticipating the result of the vote in this House in relation to 16 and 17 year-olds, and plainly had them in mind. I do not impugn his motives in tabling the amendment, although it is a rather late amendment—a starred amendment. As a result, the Electoral Commission has not had an opportunity to review it or to express an opinion. I question whether the commission would either welcome this suggestion or think it necessary. The commission's role in referendums is set out in the Political Parties, Elections and Referendums Act 2000. It is to help to deliver and regulate certain conduct in the referendum. In the most recent briefing referred to in the House, the Electoral Commission once again made it clear that a change in the franchise is a matter for Parliament and that the commission's role is to,

"advise on the practical indications of any such change".

This amendment would fundamentally change the relationship that the Government enjoy with the Electoral Commission, giving the commission unprecedented power. Determination of who can participate in the referendum, and when it is to be held, is a matter for the Government and Parliament, and not a matter that should be transferred, directly or indirectly, to the commission, or indeed any other body.

As noble Lords will be aware, the regulations that will set the date of the referendum will be subject to the affirmative procedure. This is a safeguard that the Delegated Powers and Regulatory Reform Committee has deemed appropriate. To prevent Parliament from even considering the date of the poll until all newly eligible electors have had sufficient opportunity to register to vote is unnecessary. This is a process that can happen in parallel.

I think it entirely possible that this amendment could be read simply as an attempt to delay the referendum poll—that was the subtext of one of the contributions—but perhaps that is not fair. It is a poll that this Government have committed to holding before the end of 2017. There seems to be a suggestion that the Government should be getting on with it now, notwithstanding that this Bill has not gone through the normal parliamentary stages. Unfair though it may be, the Liberal Democrats are not quite as well represented at the other end of the corridor as they are at this end—so the result of the next round of this saga is not something that one can anticipate. I am sure that it is not seriously suggested that the Electoral Commission should be tasked to get on now with what may not be necessary, depending on the ultimate outcome of this Bill.

I have made it clear that the Government firmly believe that the franchise used for the referendum should be based on the parliamentary franchise; subject

[Lord Faulks]
to further developments, there is to be a qualification on that, having regard to the vote that we had this afternoon. Once the legislation that will govern the referendum has been passed, the Government will then begin working with the Electoral Commission and local administrators straightaway. If a change to the franchise is to be made, we would need to ensure that newly eligible voters were aware of their right to vote and could register to do so. The Electoral Commission, as has rightly been pointed out, made it clear that there is no fixed period for implementation of a change. I corrected under the previous group of amendments the suggestion that 12 months must pass between legislation passing through Parliament to change the franchise, and the referendum itself.

The question is what should happen, and when, in relation to Royal Assent. If the referendum franchise is changed, the Government can start work after Royal Assent, rather than wait until the secondary legislation is in place—because, of course, there are various steps that have to follow Royal Assent. First, the referendum date has to be set; then the start date of the designation process has to be set; then the referendum period—the regulated period leading up to the poll—must be set; and the detailed conduct rules governing how the poll will be administered must be set. Then the designation process can take place. Under the Political Parties, Elections and Referendums Act, that is a six-week process, with four weeks for applications, and two weeks for the Electoral Commission to make a decision. The referendum period will also need to occur.

Once the legislation has been passed, work can be done. If a change to the franchise were to be made, we would need to ensure that newly eligible voters were aware of their right, as has been pointed out by the noble Lord, Lord Willoughby de Broke. As the Electoral Commission makes clear, the media and others will be expected to play a significant role in informing any newly enfranchised group of their rights, with 16 and 17 year-olds being at the moment those that may be enfranchised. It is a significant piece of work that has to be done; the Electoral Commission has a duty to discharge its role, and I respectfully say that it is not helpful to put it in the Bill or, indeed, to tell the Electoral Commission how to discharge its duty.

Lord Forsyth of Drumlean: I have just been reflecting on what my noble friend seemed to imply—that there might be some tactical reason for the amendment. He did imply that, but he might just like to note that the people who have spoken in favour of this amendment all voted against extending the franchise and that, whether the Electoral Commission or the Government are required to do this, none of us would for a moment imagine that the Government would try to rush this process. Surely he would not want to imply that there were any tactics behind that.

Lord Faulks: I accept the gentle rebuke from my noble friend. If I seemed to imply that, I would like to disabuse him. The central message that I wish to convey is that there is no point in the Government trying to second-guess the motives behind amendments, nor indeed to try to anticipate how individuals will vote in the event of a restriction or extension of the franchise. The question is whether the amendment is something that helps the Bill, and whether it is a reasonable amendment to incorporate in the Bill. We take the view that it is the Electoral Commission that should advise us how best to achieve what we must achieve, depending on what the legislation ends up telling us to do. It would not be appropriate to give the commission effectively a form of veto over the Government and Parliament's decision as to whether a referendum should be held. I respectfully say that this Government, working with the commission, electoral registration officers and civil society will do all that they can to allow any newly enfranchised voter to have the opportunity to register. However, I am grateful to noble Lords for discussing an important fact—that there will need to be some work done to respond to any change in the franchise, and it will be challenging work. The Electoral Commission will do what it is supposed to do. But I respectfully ask my noble friend, without in any way impugning his motives, to withdraw his amendment, in the reassurance that its duties will be discharged, if it becomes necessary.

Lord Hamilton of Epsom: I am very disappointed in my noble friend, because he is basically saying that the advice of the Electoral Commission could be overridden. If he is not saying that, it is quite difficult to see why he is rejecting my amendment. I think that people will find it very difficult to understand how, on the one hand, you enfranchise 16 and 17 year-olds and then, on the other, leave the Government free to hold the referendum in three months when only one-quarter of the 16 and 17 year-olds are on the register. That is the illogicality of the position that he is in. However, I am incredibly heartened by the advice that he received from the noble Baroness, Lady Morgan, because she told him that he should go away and think again about this—and I seriously echo that sentiment. I shall withdraw the amendment now, but I want him to think very carefully about this, so I shall resubmit it at Third Reading. In the mean time, he can give some serious thought as to how the problem can actually be dealt with.

Amendment 7A withdrawn.

Schedule 1: Campaigning and financial controls

Amendments 7B and 8 not moved.

Amendment 9

Moved by ***Baroness Anelay of St Johns***

9: Schedule 1, page 8, line 7, at end insert—

"( ) The period prescribed under this paragraph must be a period which—

(a) is at least 10 weeks, and

(b) ends with the date of the referendum."

Amendment 9 agreed.

Amendments 10 and 11 not moved.

Consideration on Report adjourned until not before 8.59 pm.

National Stroke Strategy

Question for Short Debate

8 pm

Asked by ***Baroness Wheeler***

To ask Her Majesty's Government what plans they have to improve stroke services, care and support, and to update the national stroke strategy to commence implementation in 2017 when the existing 10-year plan ends.

Baroness Wheeler (Lab): My Lords, I am delighted to be leading this debate today. Over the past eight years, as a result of the national stroke strategy, which was brought in by my Government and carried forward by the previous Government, there have been huge improvements in stroke outcomes. Stroke is now treated as a medical emergency, patients are getting specialist treatment from specialist staff, fewer people are dying as a result of stroke, fewer people end up with a disability after stroke because they are treated in time and the public are now much more aware of stroke, how to spot it and what to do, thanks to the excellent Act FAST national advertising campaigns. Stroke mortality has almost halved and today most areas have a hospital with a dedicated stroke unit. The number of strokes in the UK has decreased from 88,000 in 1990 to 40,000 in 2013, and incidence rates decreased by 19% over a 10-year period. The welcome reduction in the prevalence and severity of disability that stroke survivors are left with is largely because of Act FAST.

These outcomes have happened because the national stroke strategy drove the reorganisation of acute care in hospitals and ensured that ambulance and emergency care staff knew the key actions to take as soon as they reached the patient, and because more families, carers and members of the public were aware that some form of stroke had occurred when they rang 999 and that they had to act fast. The early periods of the strategy between 2006 and 2009 also saw the number of stroke consultant sessions double and the increase of stroke specialisms in multidisciplinary teams. These are all key elements that have saved lives and, in the process, millions of pounds for the NHS.

The national strategy, and the equivalent national strategies in Wales, Scotland and Northern Ireland, aimed at providing national leadership and drive from the centre to improve stroke outcomes. Today's NHS in England is very different from the NHS in 2007 when the strategy was introduced. The changes have been enormous. As the current strategy draws to a close, the evidence shows not only the progress but just how much more needs to be done. There is wide and unacceptable variation in standards of care between and even within geographical areas. For example, in the north of England, 94% of stroke patients at North Tyneside General Hospital were assessed by an occupational therapist within 72 hours, but eight miles away at South Tyneside District Hospital, the figure was only 51%.

There are also still too many smaller hospital stroke units unable to offer 24/7 stroke care. The London and Manchester models of streamlining services in centres of excellence have helped save lives, reduce disability and save money. The *NHS Five Year Forward View* recognises stroke as a key area where concentration of care brings substantial improvements in the quality of care and outcomes. However, the 2015 stroke national audit programme—SSNAP—shows that, although stroke healthcare has improved overall, there are several hospitals not only underperforming but performing worse now than they were in the previous year. Nearly a quarter of patients admitted to hospital are placed in wards deemed unacceptable for dealing with stroke.

Since I put in for this debate, I understand that the Public Health Minister in another place has expressed reservations about the continuing need for a national strategy for stroke—this when stroke is still one of the top three causes of death in England, is the largest cause of adult disability in England and is costing the NHS more than £3 billion a year and society as a whole three times that, and also when CCGs' record so far on commissioning stroke care, from prevention to long-term care, is so poor. Localised services that are accountable and sensitive to the needs of the communities they serve still need the leadership and direction of the national strategy, and I hope we will hear reassurances from the Minister today that the Government fully recognise this, because if they do not the progress made to date is in serious danger of being lost, and we will start to go backwards. The All-Party Parliamentary Group on Stoke, of which I am a vice-chair, has underlined the vital importance of the strategy continuing into the future.

The praise in *NHS Five Year Forward View* for the concentration of stroke care and the improvements to stroke outcomes will be just that without the framework of the national strategy. We know that most hospitals or CCGs will struggle to do this without direction and leadership from the centre, particularly in the face of huge financial pressures and cutbacks. Currently one in four commissioning bodies does not have an allocated lead for stroke services and only 56% have a commissioning group for stroke. Only 27% of CCGs, for example, commission vocational rehabilitation services which help stroke recoverers return to paid work, which is a major lost opportunity. How will the Government address these huge variations in quality and standards without an overarching national strategy to ensure that local service providers implement coherent stroke services from prevention to longer-term care?

The new strategy needs to set clear guidance on future reconfigurations of services to replicate the success of the London and Manchester stroke services and other models of care that have improved stroke outcomes. Reorganising and centralising stroke care has been proven to work, and this needs to be firmly set in the context of the forward view and the urgent need to reduce the number of people who are having strokes that could be avoided. For example, we heard in our recent debate on atrial fibrillation that better screening, diagnosis and treatment, including early detection of AF with an anticoagulant, would result in the prevention of more than 4,500 strokes a year and 3,000 deaths. Untreated AF is a contributing factor in 20% of strokes.

[Baroness Wheeler]

There are, of course, other key areas that the new stroke strategy needs to address, including the chronic underfunding of research into AF and stroke treatment and care compared with other killer diseases such as cancer and heart disease. The new strategy will also need to reflect the impact that new medicines, treatments and technologies, such as thrombectomy and anti-clot disrupting or retrieval treatment, could have on future care. More spending on research into the unmet needs of children who have strokes is particularly urgent. Childhood stroke affects around five out of every 100,000 children a year in the UK. People do not think that children have strokes, but they do, as the families of children who have had major strokes in the womb before birth, in early childhood or later in their teenage years know all too well. It is a key message for the awareness-raising campaign that is needed among health professionals, parents and the general public. What action do the Government intend to take to increase research funding into the unmet needs of childhood stroke, particularly into rapid diagnosis and treatment and whole-family support and advice, about which so little is currently known or understood?

Above all, the national strategy is needed to address the main area in which serious gaps in stroke care remain: post-acute care. There are around 1.2 million stroke survivors in the UK. Half of them have a long-term disability and require ongoing support. A seamless transition from hospital to home with domiciliary support, physio and occupational and speech therapy services in place is all too often the exception rather than the rule. As the carer of my partner, who had a major stroke eight years ago, I meet many stroke survivors and their carers, and their stories are frequently of a month or more waiting at home while services, adaptations and, particularly, therapies are arranged. This has to change if the five-year view of integrating care and shifting the focus into the community has any chance of being achieved.

Finally, I underline the everyday importance of being part of the stroke community to stroke survivors, their carers and their families. This is particularly important as today is carers' rights day. In my area, we are very fortunate in having a very active stroke group just down the road run by the Stroke Association and an amazing local charity called TALK to support stroke survivors with speech, memory and communication difficulties. They are both run by volunteers. Other areas are not so lucky. Many people suffering severe strokes lose their speech altogether, but speech therapy, physical rehabilitation and occupational therapy sessions are hard to come by unless you pay or spend a long time waiting for precious NHS appointments to come free. Only 45% of NHS trusts commission outpatient therapy, which is hardly the strong support needed to get people out of hospital and able to have a good quality of life and independence in the community.

The SNAPP survey sums it up as follows:

"A portfolio of services is required to provide comprehensive post-acute stroke care ... including early supported discharge, longer term neurological rehabilitation, vocational rehabilitation, exercise programmes, vascular risk reduction advice and support, and longer term follow-up and intervention for patients whose functional ability deteriorates. There is widespread variation nationally in commissioning a portfolio of post-stroke services, with too many areas failing to commission comprehensive care".

I hope I rest my case on why it is imperative that the national stroke strategy should be updated and continue into the future. It must push the reorganisation of acute care, tackle the unacceptable variation in after-stroke care and drive new advances in prevention, treatment and research. Without a national strategy, reflective of a radically different NHS, local commissioners will continue to neglect the needs of stroke survivors, improvements in stroke care will stall, and outcomes for stroke survivors will get worse.

8.09 pm

Lord Colwyn (Con): My Lords, I am grateful to the noble Baroness, Lady Wheeler, for raising this important issue. I have read the report of her debate just over a year ago when she drew our attention to the incidence of stroke in children, and I reread her contribution to the debate on atrial fibrillation on 4 November, which set the scene for our debate today. I congratulate the noble Baroness on the brilliant way in which she and my noble friend Lord Black have stimulated interest in the national stroke strategy. They have organised demonstrations of the walk-in clinics with Anti-Coagulation Europe and have had discussions with the all-party groups for stroke and atrial fibrillation—both of which I am a member of—about what might be the likely successor to the strategy in 2017.

I shall confine my few remarks to the need for a focus on prevention, particularly in relation to atrial fibrillation. I declare an interest in that I have atrial fibrillation myself, which is anticoagulated. Since the strategy was published in 2007, there have been significant advances in the prevention of AF-related stroke, including the introduction of new clinical guidelines and treatment options, but there is still more for the NHS to do and it is essential that preventing AF-related stroke is at the forefront of any new stroke strategy.

In 2014-15, there were 14,979 strokes in people with known AF and 8,831 strokes in people with known AF who were not on anticoagulation. Some 25 % of people with AF who were not anticoagulated before their stroke died, and a further 11% were severely disabled, bed-bound and in need of constant nursing care and attention. Ensuring that patients with AF are identified and anticoagulated in line with NICE guidelines could save lives, prevent disability and save the NHS money.

On average, the healthcare costs associated with an AF-related stroke are £11,900 in the first year of care alone, and the overall cost to the NHS of AF and AF-related illness has been estimated at £2.2 billion each year. I am sure we all agree that there is an urgent need for an improvement in the diagnosis of AF. Estimates suggest that about half of people with AF are undiagnosed, and therefore are not anticoagulated and are at risk of having a stroke.

The diagnosis of AF could be improved through the introduction of a national screening programme for AF in people over 65 and the introduction of pulse checks for older people at seasonal flu clinics and other settings, such as the dental surgery, where most patients are examined for problems that are likely to show up in future. Dental check-ups are unique in that

patients who are well arrange appointments to see if anything is wrong and could be prevented. Screening for AF is not currently recommended by the UK National Screening Committee. Would the Minister urge the committee to reconsider the evidence for the introduction of a national screening programme for people aged over 65?

There are now four non-vitamin K antagonist oral anticoagulants, called NOACs, recommended by NICE for the prevention of AF-related stroke. The NOACs were specifically designed to overcome the limitations of warfarin. They provide predictable, stable and reliable levels of anticoagulation and do not require routine monitoring, ongoing dose changes or dietary restrictions. All patients with AF should have access to the full range of NICE-recommended treatment options, and should have the opportunity to choose the treatment that is right for them in consultation with their doctor. At present, though, about 31% of eligible patients with AF receive no anticoagulation at all, and only 11% of anticoagulants prescribed are NOACs.

Will the Minister provide further information on what action the Government are taking to ensure that patients have access to the full range of NICE-recommended treatments? Would she consider providing specific support for clinical commissioning groups with the lowest rate of NOAC use to ensure that patients in those areas have better access to treatment?

8.14 pm

Lord Kakkar (CB): My Lords, I, too, congratulate the noble Baroness, Lady Wheeler, on having secured this important debate, and I thank her for it. In so doing, I declare my own interests as chairman of University College London Partners and my own specific research interests in the area of cardiovascular disease, including those of stroke.

We have heard already in this important debate that stroke represents a substantial burden of disease. It is still the fourth commonest cause of death in our country, with an increase in prevalence of some 26% over recent years. This is because we have a growing and ageing population who are living as a result of successes in other areas in the practice of medicine, and are therefore susceptible to cardiovascular diseases. The lifestyle of much of our population, with increasing obesity, diabetes and other important cardiovascular risk factors, also heightens the risk of stroke. That means within the coming five years we would expect to see an increase in the number of deaths attributable to stroke in our country to some 22,000 extra deaths a year by 2020. This is an important increase in the burden of the disease.

Beyond the physical burden, of course, there is the economic burden. The management of stroke costs us some £9 billion a year. Half that sum is due to health and social care costs and the remainder to informal care costs, costs associated with the loss of productivity in the economy and of course the benefits that need to be paid to those who, regrettably, have sustained a stroke.

Of course there is good news. We have heard from the noble Baroness about the success of the national stroke strategy, an important development in the mid-2000s, which has resulted in increased awareness among the public about the importance of understanding the symptoms of stroke and responding to them early, thereby improving early attendance at hospital. Over the period of time of the stroke strategy, we have also seen that now, at some point in the course of the management of their illness, some 95% of patients who suffer a stroke are managed in a dedicated stroke unit.

However, while we have seen from the Sentinel Stroke National Audit Programme some interesting and exciting data on improvements in practice, we have also seen some very serious variations in practice. For instance, the audit shows us that when process and outcomes relating to practice in stroke units are graded, some two-thirds of them get the lowest possible grades, grade D or E, with only 2% of units achieving the highest grade, grade A. We see important variation in the most important feature of acute stroke management: timely intervention by way of radiological assessment of the nature of stroke, and intervention with regard to thrombolytic therapy to dissolve the blood clot responsible for the stroke or indeed more advanced interventions such as thrombectomy to remove the clot itself using interventional radiological techniques. The reality of that situation is that, although 60% of patients suffering a stroke are transferred from A&E to a stroke unit within four hours, the variation is from around 20% of patients in some hospitals to over 80% in others. That fourfold variation is clearly not appropriate, so we have to do more to improve acute stroke management.

I remind noble Lords of my declaration as chairman of University College London Partners. Our academic health science system has been at the forefront of moving forward the stroke treatment strategy in London, along with the other academic health science centres. This particular model has landed upon the development of eight hyper-acute stroke units in London that bring together expertise in radiology and acute intervention. Patients are taken directly by ambulance to the hyper-acute stroke unit, managed there for 72 hours and then transferred to one of 24 stroke units in London for their further management. That model has been shown to save 96 lives per year in London, providing a saving to the NHS in London of some £5 million a year in treatment costs. What plans are there to ensure that the experience in London, now extended to Manchester, can be assessed for its value and utility in other urban areas in our country? Clearly it may not be suitable for all rural areas.

Indeed, how will the national stroke strategy be built on in future to address questions of better prevention, better identification of high-risk populations and the further extension of successful models at scale and pace to improve clinical outcomes?

8.19 pm

Lord Lansley (Con): My Lords, I join other noble Lords in thanking the noble Baroness, Lady Wheeler, for securing this debate and for the chance for me, early in my opportunity to contribute to debates in this House, to talk about an issue that is close to my heart.

[Lord Lansley]

The noble Baroness and some Members of the House may recall that I was chair of the All-Party Parliamentary Group on Stroke for seven years, before the 2010 election. The noble Baroness is quite right—it was a very important time for the development of stroke services, and Members of both Houses, as well as the Stroke Association, can take some credit for keeping a consistent focus on the treatment of stroke as a medical emergency. It has dramatically shifted over that decade from being thought of as a condition which people suffered—they had a stroke and then nothing much happened—to something that was treated as an emergency. Now, increasingly, we are beginning to see the development of more effective pathways for treatment that follow the acute emergency care, which is very important. It all goes back to the National Audit Office report back in 2005—so much of it flowed from that. We should not forget the critical role that should be played by the constructive but critical scrutiny that can be placed upon the service.

We have done a great deal but, as they say, there is more to do. We now know from the evidence, which the noble Lord, Lord Kakkar, eloquently set out, that a significant proportion of patients who are admitted as a medical emergency can benefit from acute care for ischemic stroke. One day I hope that the research will enable us to do something for patients who suffer a haemorrhagic stroke. However, the point is that making that very early diagnosis is absolutely critical to get patients on the right path.

We know that if patients are admitted to a specialist stroke unit rapidly, receive intensive therapy in the early stages after their stroke, and are discharged relatively early with support, all of those actions will have a significant impact upon their outcomes and, as a consequence, from the health service's point of view, will be a major benefit as regards the reduction of long-term disability. The NHS, I hope—that was my intention—should be focused on outcomes and focused for the benefit of patients on reducing the disability consequences of stroke. We will have more patients with stroke to deal with—the noble Lord is quite right about that—but that does not mean that we should not be relentlessly focused on trying to increase consistently the proportion of those patients who suffer a stroke but who avoid mortality in the 30 days after that stroke and whose long-term level of disability is reduced. I should declare an interest as a stroke survivor myself. I had my stroke 23 years ago or so, in a very different age. We can do much more for stroke patients today.

There is a need in the midst of that for the department to act as steward of the system. For the NHS, through NHS England and the commissioners, there is a responsibility to secure the best possible outcomes. There is a need to commission for the best care to meet those quality standards; I was privileged to launch the first quality standards that NICE produced, which were on stroke. However, through the stewardship of the system, the Department of Health and Ministers are able to tie together the public health activity, and we here can hold the system to account. In his reference to screening for AF my noble friend made it clear how there is a public health benefit and activity to be determined there. The social care support that follows discharge of patients in the long term is of critical importance, as, of course, is the research activity. There is now ample evidence that more research activity on stroke can pay enormous dividends as regards securing the best pathway for treatment.

In the midst of that, I will make a plea. The better care fund is a large NHS fund, whose purpose is to enable patients to leave hospital and be looked after in the community with their social care much better adapted in the future, relieving burdens on the social care system in the long run using NHS resources. There would be no better place to focus some of this better care fund than on the support of stroke patients to receive early supported discharge after they have had a stroke.

8.24 pm

Baroness Masham of Ilton (CB): My Lords, I thank the noble Baroness, Lady Wheeler, for securing this important debate.

It is said that when stroke strikes, it affects everyone who loves that person. How true this is. Every three and a half minutes someone in the UK has a stroke. Some time ago my late husband had a stroke while sitting in his armchair watching cricket on the TV. I was in the room on the telephone and I noticed immediately what was happening. When the ambulance came he did not want to be disturbed from the cricket. I followed in my car, and when I got to the hospital I was left in his room with a young student nurse from South Africa. The questions on the admission form were so inappropriate that she gave up trying to fill it in. The student nurse and I undressed him, and as soon as we got his pyjamas on, we had to change them. I had to show the nurse how to roll him, as he was a big man. When I left his room I found a charge nurse and a female chatting at the nurses' station. Why the male nurse did not come to help remains a mystery to this day. My husband was admitted in the middle of the morning; by evening he had not been seen by a consultant and no treatment had been given, nor had he had a scan. In desperation I telephoned the chairman of the hospital, who I knew, and she got the consultant, who was in his house, to visit.

That experience is why it is so important to have a national stroke strategy and to update it in 2017, when the present 10-year plan ends. I am pleased that owing to the strategy, treatment has got better, but it is still patchy across the country. Some stroke treatment is excellent but some can still be improved. Stroke is one of the top three causes of death and the largest cause of adult disability in England, costing the NHS over £3 billion. My noble friend Lord Kakkar said that it is £9 billion, so perhaps it has risen. Some people do not know that young people and even babies also have strokes.

Prevention is so important. Atrial fibrillation can cause strokes. Automatic arrhythmia detection loop monitors will greatly improve the detection of AF. At a screening last week for AF, several of your Lordships were picked up as having AF, which shows how important screening is.

When someone has a stroke, you must act fast. At the debate on AF in your Lordships' House recently I stressed that there is a need to have first aid taught in

schools so that many lives can be saved by people who know and have confidence to help save lives in threatening circumstances. Little did I know that there is currently a Bill in another place on first aid in schools, presented by Teresa Pearce MP. I hope that it succeeds.

The streamlining of specialist services with specially trained staff, which has saved lives and money, needs to continue as we build upon the improvements in acute care. This can only be pushed through at a national level.

Post-acute care, where the most serious problems persist, is where many survivors and their families are not getting the help that they need. This has to be improved. Some people do not have family support and have to rely on carers and a variety of help. It is worrying that, with the cuts to local authorities, services such as Meals on Wheels are being reduced or cut. All those providing care services, including volunteers, should work in collaboration. We must improve the service.

8.29 pm

Baroness Hodgson of Abinger (Con): My Lords, I, too, thank the noble Baroness for bringing forward this debate on a subject that is all too often overlooked. Strokes are devastating—they not only kill but cruelly maim. I have seen it personally. My father, aunt and mother-in-law all had strokes, so I know only too well about the terrible suffering and anguish that they cause. For some, it will be the end of their normal functioning lives, and even those who return to independent living often feel very vulnerable and suffer from depression.

Sadly, strokes are all too common. In the UK around 150,000 people suffer a stroke every year and, as we have heard, it is one of the largest causes of death. Even when not fatal, strokes can be desperately debilitating. My aunt changed from being an energetic, lively and outgoing person to being paralysed down one side and unable to speak. Even the mildest strokes tend to leave a mark.

Despite all that, there is a concerning lack of awareness of the symptoms, of the fact that, as we have heard, people of any age, including children, are susceptible, of the risk being greater among those of Asian or African origin, and, perhaps more importantly, of the fact that so-called mini-strokes are often a precursor to a much larger, more threatening stroke. It is estimated that if mini-strokes were properly identified and treated, around 10,000 major strokes could be prevented each year.

The noble Baroness, Lady Masham, highlighted very well how prevention is crucial, and many strokes are preventable. Much can be done to reduce the risks: diets, alcohol consumption and levels of exercise can all play a key role. Underlying conditions such as high blood pressure need controlling where possible. As we heard from my noble friend Lord Colwyn, less well known is the fact that atrial fibrillation can also be a serious risk factor.

The national stroke strategy, which was introduced in 2007 and to which many have alluded, has sought to develop and implement a comprehensive way of treating strokes. A further milestone was the set of quality standards focusing on clinical aspects developed in 2010. The National Audit Office has found that these have not only improved outcomes but saved the National Health Service an estimated £456 million since 2007. Where research leads to the development of new, improved treatments, it is important that these are adopted because, although they may be initially more expensive, in the long term they will improve lives and thus will equate to further financial savings.

More needs to be done so that people recognise when someone is having a stroke, as outcomes for stroke patients are intrinsically linked to response speed. The acronym FAST—face, arms, speech, time—is now the standard for identifying stroke symptoms. For strokes caused by clots, there is a maximum three-hour window to administer clot-busting drugs that will minimise damage. After that, it is too late. However, according to the Stroke Association, 60% of stroke emergency attendees at A&E arrive out of time. Rapid response from ambulance services is crucial, particularly in rural areas, where hospitals with the necessary expertise may be a long way away. Therefore, I ask the Minister whether monitoring is in place to ensure that all those who call for an ambulance in response to a stroke receive timely treatment, wherever they live.

I understand that nearly half of all stroke patients are scanned within an hour of reaching hospital, and 90% within 12 hours, but what about the 50% who are not scanned within one hour? How many of them could have been helped had they been? And are patients who need speech therapy or physiotherapy now given enough to enable them to make as good a recovery as possible? My aunt, some years ago, was offered speech therapy once a week when she actually needed it several times a day in short bursts if she was ever going to speak again. Consequently, she never did. Can I have an assurance from the Minister that older patients are given the best possible treatment? Anecdotally, I have heard of cases where those over the age of 75 are less bothered with. Much more attention also needs to be given to rehabilitation, as in a survey of stroke survivors 43% said that they wanted more therapy support once discharged home.

I, too, hope that the national stroke strategy will be revisited at the end of its current implementation period in 2017. Consultation with a wide range of healthcare professionals, stroke sufferers, carers and voluntary organisations will ensure that a revised strategy builds on the gains and adopts the latest research and treatment.

To conclude, I hope that the Government will ensure that stroke medicine across the country is adequately provided for and funded, including prevention measures, timely access to specialist services and necessary aftercare support and therapy, including psychological support. This, in turn, will mean better outcomes, healthier lives and a lower overall cost to the taxpayer.

8.35 pm

Lord Lisvane (CB): My Lords, I should preface my remarks with a declaration: I am the patron of Herefordshire Headway, which provides services to adults who have a head injury or an acquired brain injury. It does marvellous work through its day centre, offering a range of activities and therapies led by specialists.

[Lord Lisvane]

I warmly endorse the view of the noble Baroness, Lady Wheeler, that there needs to be a continuing national strategy, and I suggest that an important emphasis must be on increased resources for rehabilitation. I was delighted to hear what the noble Lord, Lord Lansley —I hope that, in view of our former happy and close working relationship, I may on this occasion call him my noble friend—said about funding at the point of discharge and thereafter.

In terms of rehabilitation, there needs to be greater availability of physiotherapy. Frequently, that is only 30 minutes or so a week, which clearly is simply not enough. Repetitive movement of affected limbs may well help the development of new brain pathways and connections. The improvement of robotic machines to help in this will play an important part, but once again resources are key. It is a real challenge for people to do the hard slog of rehabilitation on their own. Group support can make a real difference. Here again rehabilitation centres where that group support is available have an important part to play. There is a lot of scope for much greater joint working between the NHS and rehabilitation centres such as Headway, and for joint funding between health and social care. Rehabilitation after stroke helps people rebuild their lives, and the lives of their families. That in itself should be a strong argument for it to be a spending priority. But also it is the wider community that benefits, and faster and more effective rehabilitation leads to savings in other areas as well, as my noble friend Lord Kakkar pointed out a few minutes ago.

Point 7 in the original strategy's 10-point plan for action is spot-on in seeking to ensure that,

"health, social care and voluntary services together provide the long-term support people need".

It asks:

"Is commissioning and planning integrated across the whole care pathway in your area?".

Spot-on indeed, but has it really happened?

If availability of longer-term support through the charities, with their low overheads and costs per hour, could be built into the national stroke pathway then CCGs would be encouraged to commission the most appropriate providers in their area. I am confident that we would thereby get more for less.

8.39 pm

Baroness Walmsley (LD): My Lords, I start by congratulating all those who lobbied for the 10-year national strategy and all those who have made it work so well. If it had not been for the vision behind its establishment, and the hard work and co-operation of all those who have made it work, many more people would have died of stroke and many more survivors would have struggled with inadequate services.

Clearly, the additional specialist services and the community stroke teams have been a great success. However, every plan of this nature, especially those starting from a low base, has to be seen as a work in progress. The national stroke strategy is one of those for several reasons.

Medical research has, of course, moved on over the eight years of the strategy so far, and new ways of preventing stroke and treating and supporting people who have a stroke have emerged. In addition, because of the lowered mortality rate, there are now more people living with the consequences of stroke, and they require support. Add to that the changes in the structure of the NHS and commissioning since the strategy began, and the further pressures on the NHS which we have debated many times in your Lordships' House, and we find ourselves looking at a strategy that needs updating, even though it has not yet reached its nominal sell-by date. So I am most grateful to the noble Baroness, Lady Wheeler, for giving us this opportunity to take a long, hard look at it.

It is clear from the briefings we have received that the scope of the strategy needs to be wider to include vascular dementia, a set of conditions that are closely linked to what we normally think of as stroke because they affect the delivery of blood to the brain. It is also clear to me that we need to invest in the wonderful new methods of prevention that have been mentioned.

Many of today's speakers will, like me, have attended the walk-in briefing and testing session about atrial fibrillation last week—I was delighted to get a big green tick. I was impressed by the modest cost and ease of use of the kit, which can identify atrial fibrillation, and its potential for preventing strokes before they happen. I look forward to the analysis of the pilot scheme, which is putting 200 units into GP practices. Prevention is always better than cure, especially when action can be taken to prevent a serious condition such as stroke. I hope that the Minister's department will look carefully at the cost-effectiveness of this initiative. Combine this screening with access to the NOAC drugs mentioned by the noble Lord, Lord Colwyn, and we have a formula for saving lives and saving money.

We know that strokes kill about a quarter of sufferers outright, as I know from personal experience in my family. When I listened to the noble Lord, Lord Kakkar, I thought, "Well, if you're going to have a stroke, the best place to have it is in London". But 20 years ago, when my late husband had a massive stroke, it was in Brussels. He was picked up by an ambulance in minutes, and within half an hour of collapsing in our hotel room was in a scanner being screened. That is why I think that four hours is an awfully long time.

We know a great deal about the lifestyle changes that can help to prevent strokes, but successive Governments have struggled to persuade the population to take these known preventive measures. Perhaps we need another public information campaign. I think that the public still lack knowledge of how to recognise when someone is having a stroke, as the noble Baroness, Lady Hodgson, outlined. Having taken an interest in the matter, I think that I know what to look for, but many people do not. Go out on to the street and ask people—despite the public information campaigns that we have already had, I think at least half of people would not know what to look for. We have to keep on telling them.

Given that successful outcomes depend a great deal on rapid diagnosis and access to treatment, it is vital that we have regular public information campaigns as part of the new stroke strategy. I suggest that such campaigns combine information on how to avoid having a stroke yourself alongside the messages about how to

recognise it in others. If those around you recognise that you are having a stroke and call for help quickly, you have a much better chance of survival—and survival without serious disability.

The other thing that has been criticised in the briefings and by some noble Lords tonight is the patchiness of services for stroke survivors. This can only get worse, unless local commissioners are on the ball. We have learned from the briefings about the economic and lifestyle benefits of speech and language assessment and therapies for stroke patients, but not all patients have access to adequate amounts of these. They are clearly services which need to move seamlessly from hospital into the community, but they vary a lot from place to place. As a lay person, I have long been aware of the need for physiotherapy for legs and arms that have been damaged by stroke and for help with speech problems, but I was not aware, before I read the briefing, of how widespread swallowing difficulties are. Apparently, 40% of stroke victims have difficulty swallowing and a third have communication problems. What can the department can do to ensure, first, that there is an adequate supply of speech and language therapists—I believe there is a shortage—and, secondly, that CCGs are aware of the benefits of providing the services that have been discussed this evening?

Finally, do we really have to wait another two years to amend the national stroke strategy? The evidence is there. Why can we not start now?

8.45 pm

Baroness Chisholm of Owlpen (Con): My Lords, I thank the noble Baroness, Lady Wheeler, for initiating this debate. As so often with these short debates, this was of a high standard, and I only wish we had longer to discuss the issues. Stroke is one of England's biggest killers and is the largest single cause of serious adult disability in this country. Its effects can be devastating, both for those who have a stroke and for their families and loved ones. However, good progress on stroke has been made in recent years—the mortality rate has fallen by almost 12% since 2010—but we know more needs to be done.

Both the noble Baroness, Lady Wheeler, and my noble friend Lord Lansley spoke about the national stroke strategy and asked whether we are going to carry it on. There are no current plans to do so. The reason for this decision is that the NHS *Five-Year Forward View* recognises that quality of care, including stroke care, can be variable and that patients' needs are changing and new treatment options are emerging. The *Five-Year Forward View* sets out high-level objectives to address these issues. Initiatives include ongoing work in virtually all parts of the country to organise acute stroke care to ensure that all stroke patients have access to high-quality specialist care, regardless of where they live or what time of day or day of the week they have their stroke.

The Cardiovascular Disease Outcome Strategy, published in 2013, includes many stroke-specific strategic ambitions. Alongside this, a CVD expert forum hosted by NHS England will co-ordinate delivery of the work initiated in the *CVD Outcome Strategy.* Also, NHS England's National Clinical Director for Stroke works with the strategic clinical networks, voluntary agencies and individual providers to support best commissioning and provision of stroke care. Like the noble Baroness, Lady Wheeler, I want to pay tribute to the Stroke Association, the Carers Trust and the Princess Royal Trust for Carers, which do so much to help stroke victims.

Alongside initiatives being put into place when the national strategy comes to an end in 2017 is the Clinical Commissioning Group Outcomes Indicator Set, known as the CCGOIS. These are indicators for improving recovery from stroke. People who have had a stroke who are admitted to a stroke unit within four hours of arrival in hospital receive thrombolysis following an acute stroke, are discharged from hospital with a joint health and social care plan, receive a follow-up assessment between four to eight months after initial admission, and spend 90% or more of their stay on an acute stroke unit. These indicators are being monitored by the Sentinel Stroke Audit Programme.

I want to touch on prevention, which is so important if we are to see fewer stroke victims in our hospitals. First, we know that obesity and high salt intake greatly increase the risk of stroke. Tackling obesity, particularly in children, is one of our key priorities. We will put forward our plans for action in our childhood obesity strategy in the new year. Alongside this, the UK salt reduction programme is world leading, with the population's average salt intake being reduced by 15%. Major retailers, manufacturers and caterers are working to meet these targets by December 2017.

Secondly, simple lifestyle changes can help reduce the risk of stroke, as we all know. Public Health England is working with a range of public sector and commercial partners to promote healthy behaviour across the course of life. These include encouraging greater physical activity, highlighting the harms of smoking and drinking and urging older people to make sure that they take action on the signs and symptoms of stroke.

Thirdly, the noble Baroness, Lady Wheeler, mentioned the treatment of atrial fibrillation, as did the noble Lord, Lord Colwyn, and the noble Baroness, Lady Walmsley. We covered most of the issues in our recent debate, but it is a high priority in NHS England's *Five Year Forward View.* As we know, AF is a major cause of stroke. I want to mention NHS Improving Quality, which has developed GRASP-AF, an audit tool to identify patients with AF who are not receiving treatment. There are also the quality and outcomes framework indicators on the use of anticoagulation therapy for AF patients to incentivise good practice in prescribing anticoagulants in primary care. Screening for AF will be discussed at a meeting on 2 December—in which I think the noble Baroness, Lady Wheeler, will take part with my noble friend Lord Prior—where more will come out about what the plans are for such screening.

Improving awareness of signs and symptoms of stroke is key to improving outcomes. The hugely successful Act FAST campaign, as mentioned by the noble Baroness, Lady Walmsley, has helped 40,000 people to receive the immediate treatment they require, resulting in an estimated 4,600 fewer people becoming disabled as a result of a stroke since the campaign began in 2009.

[Baroness Chisholm of Owlpen]

There are certainly no plans to stop this campaign. All ambulance trusts are now asked to use this treatment facility when they are triaging patients in an ambulance.

Diagnosis and treatment has improved over the years. Access to immediate brain scanning has improved, with 46% of patients being scanned within one hour of hospital arrival and 90% within 12 hours. Clot-busting drugs give a certain cohort of stroke patients a better chance of regaining their independence. Twelve per cent of all stroke patients admitted to hospital receive these drugs, which is a rate higher than most other developed countries.

We are aware that stroke patients do better when they are treated on stroke units. Some 83% of stroke patients now spend more than 90% of their time in hospital on a stroke unit.

As was mentioned by the noble Baroness, Lady Wheeler, the academic science networks and strategic clinical networks work at local level to help improve services. They work with local commissioners and providers on the configuration of stroke services. As we know, there have been problems in various areas.

We know that there have been issues in the past with stroke patients experiencing a poorer level of care at weekends and evenings than they might experience during weekdays. Ninety-nine per cent of hospitals are now providing a 24-hour, seven-day-a-week thrombolysis service, either themselves or through a formal arrangement with a neighbouring trust. Two-thirds of hospitals admitting acute stroke patients are operating seven-day-a-week consultant ward rounds.

The noble Lord, Lord Kakkar, mentioned the success of the London model, which is very true. Good practice is taking place in other places, too—indeed, the noble Lord mentioned how such practice had been set out in Manchester. Certainly, the Royal London, Tower Hamlets and Wandsworth are providing high-quality responses, seven-day in-patient rehab and early supported discharge. The Society of Chartered Physiotherapy highlights the good work of the North Devon Healthcare Trust stroke therapy team, which provides stroke rehabilitation services, including early supported discharge, across a rurally dispersed population. Not only does it give high-quality specialist integrated services but it delivers improved outcomes. It has reduced length of stay by six days, saving almost £900,000. We accept that there are areas where support can be improved, but some excellent work is definitely going on.

Following on from prevention, diagnosis and treatment, it is critical for stroke patients to receive good aftercare. That is why the *NHS Outcomes Framework* and our mandate to the NHS both set out improving recovery from stroke as a key area where progress is expected. There has been growth in availability of services such as early supported discharge and community neuro-rehabilitation teams over recent years. For example, recent data show that 74% of hospitals had access to stroke-specific early supported discharge and 72% to specialist community rehabilitation teams.

Transparency in information and data about the quality of the services provided will drive improvements. It worked in cardiac surgery and we are beginning to see the benefits of this approach in other services such as stroke.

Also incredibly important in all stroke care is joined-up care. My noble friend Lord Lansley mentioned the Better Care Fund. Some 84% of stroke patients on discharge have a joint health and social care plan, and 89% of patients are given a named contact on discharge in case there are issues they wish to discuss once at home. Whether it be speech, language therapists for aphasia, which is such a distressing side-effect for stroke suffers, or physiotherapy to improve mobility, joined-up care is absolutely vital as far as stroke rehabilitation is concerned.

Joined-up care must also include psychological support, as the noble Baroness, Lady Hodgson, mentioned. The CVD outcomes strategy and national stroke strategy both recognise that stroke services which incorporate psychological care deliver the best outcomes for people who have had a stroke. NHS England is exploring how to improve the existing resources to ensure that stroke patients receive the psychological and emotional support they need.

Noble Lords may be aware of an improving access to the psychological therapies programme, known as IAPT. This is an NHS programme rolling out services across England, offering interventions for people with depression and anxiety disorders. Many areas now have an IAPT service. Some IAPT services have developed psychological support skills through enhancing the training of nurses and therapists, and some have employed counsellors to support people with stroke in the community.

Clearly, ambulance times are paramount in rural communities, and where extra time is taken in travelling this will be made up as quickly as possible when they reach hospital. For example, in Northumbria, a new hospital is taking all acute stroke patients who previously went to three hospitals. This has shortened the time taken for patients to receive clot-busting drugs after arriving in hospital from over an hour to 30 minutes. A couple of trials are going on involving paramedics. In one, paramedics are recruited to help trial a rapid response treatment for stroke patients, whereby medicated skin patches that lower blood pressure quickly after a suspected stroke are administered in the ambulance. In the other, paramedics can request a brain scan and transfer the patient directly to the scan room on arrival, which can reduce the waiting time for thrombolysis.

I am running out of time, which always seems to happen on these occasions. I have not been able to mention much about childhood stroke, but spend on research for all types of stroke by NIHR increased from £20 million in 2011-12 to £26 million in 2014-15. However, I would like to get back to the noble Baroness, Lady Wheeler, on the specific research into childhood strokes, which is so important.

I hope that I have given some reassurance—although I feel that I have only touched on many issues—but if there are points I have not managed to deal with, I ask noble Lords to get in touch with me so that I can make sure they get the proper answers they want. As always with these debates, some fascinating issues have been brought up which we need to take further. Once again, I thank all speakers for their participation.

European Union Referendum Bill

Report (1st Day) (Continued)

8.59 pm

Amendment 12

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

12: Schedule 1, page 17, line 1, leave out sub-paragraph (2) and insert—

"(2) Paragraph 1 of that Schedule (limits in relation to referendums held throughout United Kingdom) has effect for the purposes of the referendum as if for sub-paragraphs (2) to (5) there were substituted—

"(2) The Electoral Commission shall by order set a limit on the total permitted referendum expenses for those campaigning to remain a member of the European Union, and for those campaigning to leave the European Union.

(3) The limit set under sub-paragraph (2) shall be the same for both campaigns.

(4) For each campaign, the limit set under sub-paragraph (2) shall apply to the sum of—

(a) expenditure by the designated organisation for that campaign, and

(b) expenditure by any registered party in support of that campaign.

(5) An order under sub-paragraph (2) may specify, within the overall limit, a sub-limit for the designated organisation for a campaign, and sub-limits for specified registered parties supporting that campaign.

(6) An order under sub-paragraph (2) must be made by statutory instrument, which must not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.""

Lord Forsyth of Drumlean (Con): My Lords, I raised this issue in Committee, but in the debate it was made pretty clear that my previous effort did not work because it had the effect of preventing political parties from spending any money at all. I do not want to repeat the arguments that we had in Committee, but what this is about is tackling the basic unfairness which the Bill creates for spending limits between the two camps—the leave and the stay camps. As the Bill is currently drafted, it will mean in practice that those who wish to campaign to stay in the European Union will have more than twice the funds to spend of those who wish to campaign to leave. Perhaps I am a bit naive, but I thought that the whole point of having expenditure limits was to ensure fairness so that no party, whichever side it is on, is able to outspend the other unfairly. Yet what the Bill does is to enshrine in legislation as an absolute fact the ability of the stay campaign to spend more than twice what the leave campaign can spend.

This arises because, although the Bill provides for equal expenditure for the two designated campaigns, the political parties are able to spend money at similar levels according to the share of the vote that they got at the last general election. I just do not understand why the amount that the political parties can spend on the referendum campaign should be related to the votes they got at the last general election. In the case of the Conservative Party, many of the people who voted Conservative will have wanted to leave the European Union. To be fair to the Conservative Party, it has decided that it will be neutral during the course of the campaign.

I suppose it could be argued that the Labour and Liberal Democrat parties have no money because they have been bankrupted by their efforts in the election campaign and therefore that this is not something to be too concerned about. But that does not stop people giving money to those parties in order to support the campaign that wishes to stay in the European Union. This seems to go to the heart of what these limits are about. My first question for the Minister is: if we cannot devise a way in which the limits ensure that both campaigns are treated fairly and are able to spend the same amount, what is the point of having the limits at all? Further, why should these limits be related to the vote at the last general election?

I noted that the Electoral Commission sent out a missive to us all suggesting that it could not support this amendment. I had a word on the telephone with the nice lady who sent out the press release and asked her to explain why the Electoral Commission was not concerned about the issue of fairness. She said that it was a matter for the political parties and not something that the commission could concern itself with. I asked her to send me a brief indicating what the position of the commission is on these issues, but I have to say that it has not come in time to discuss the amendment—which I suppose could be because the commission is short of resources. It does actually cost as much as half the cost of the Royal Family; it is a very expensive quango indeed, and I would have thought that it would have been able to find the resource to think of a way to ensure that there is fairness in the funding of these campaigns. Rather naively, I thought that the reason we are spending £25 million or £26 million of taxpayers' money every year on the Electoral Commission is so that it can ensure that elections and referenda are fair. But apparently the commission cannot think of anything and it is not its job to do that, it is up to the Government.

At an earlier stage my noble friend said that it was quite difficult to make this work. I did not draft the legislation and I did not suggest the limits. I cannot for the life of me understand why we should have limits which have the perverse effect of creating a great unfairness. Earlier in our consideration of amendments today, my noble friend Lord Faulks made a really important point. He said that it was very important at the end of the day that everyone accepted the result of the referendum and that no one could cry unfairness. I do not know how, if it turns out that one side is able to spend two and a half times or 2.3 times as much as the other, it will be possible for the Government to avoid the accusation of unfairness.

Some people say, "Actually, how much you spend does not have much of an influence"—in which case, why have spending limits? The perverse effect of this legislation, as it stands, is that it will limit the amount that those of us who wish to leave the European Union can spend, simply because the political parties have taken a particular view. In the case of my own party, where the leadership has a particular view that seems to be towards staying in the European Union,

[Lord Forsyth of Drumlean]
the vast majority of the members would take the opposite view. It could be argued—I do not want to tread into the dangerous territory of suggesting that there is some kind of operation going on here—that the decision to make the Conservative Party neutral was to avoid the embarrassment of finding that the money which it could spend, some £7 million, might have gone to the leave campaign.

I know that my amendment may not be perfect. I know that the Electoral Commission cannot possibly take on this role because it does not have the resources even to explain why it cannot take on the role, or how it could ensure fairness if it did take it on. I think that my noble friend needs to think about this from the point of view of ensuring that we have a fair campaign and that we do not have all kinds of abuses happening. We can see, for example, that people might be tempted to fund the political parties that wish to stay as a way of getting round the limitations that are put on expenditure that would otherwise be available to the campaigns.

I apologise for raising the issue again, but I have produced a different amendment which approaches it in a different way. I am not as clever as my noble friend and I certainly do not have the resources of the Electoral Commission, so I cannot believe that between them they could not devise a way to ensure that we have a limit on expenditure that is fair to all parties. I beg to move.

Lord Hamilton of Epsom (Con): I very much support my noble friend Lord Forsyth in his amendment. He mentions that, because we have this completely disparate allocation of funds, we may have a rather ridiculous situation. Let us suppose that a Conservative donor wants to donate towards staying in. He cannot donate to the Tory party because it is neutral and is not allocating funds in either direction, so he may end up giving funds to the rather bankrupt Liberal Democrats as a way of getting his funds into supporting the staying-in campaign.

The real problem with all this is that the results of the last election are completely immaterial. Why should somebody who is Labour vote to stay in? I can tell noble Lords that hosts of Labour supporters will vote to come out. Even some members of UKIP will vote to stay in. This will break in every direction. The Liberal Democrats are these fanatical pro-Europeans. Their supporters, who I know well down in the West Country, are not fanatical pro-Europeans. Many of them were extremely tempted to vote for UKIP in the last election. The reasons are: they are chapel, anti-establishment and do not terribly like the major parties either way round. The Liberal Democrats know that well but they have a leadership in the country that is completely unrepresentative of their members and voters all around.

This is the problem: all parties will break in different directions, so what on earth are we doing basing the financing of an in or an out campaign on the results of the last election? It is completely irrelevant because everybody will vote in different directions. They will be influenced by a lot of different factors. It is inconceivable how we could have dreamed up this extraordinary funding system, which allocates a lot more money to the "stay in" campaign than it does to those who want to pull out. We know the figures: £7 million for each—£7 million for the Labour Party because it seems to be pretending that all its members want to stay in. Then the Liberal Democrats get £3 million; the CBI and the SNP will allocate their funds for staying in. That comes to more than £11 million. What have we got on the other side? We have £7 million for the allocated body, then we have £4 million for UKIP, which makes £11 million, so you have £11 million against £18 million. This is supposed to be a fair, level playing field but the financing of it is completely skewed. Everyone will say that money was used to completely skew the result.

Lord Forsyth of Drumlean: It is £11 million to £18 million only because the Conservative Party is remaining neutral.

Lord Hamilton of Epsom: My noble friend is absolutely right. If the Conservative Party had decided to support the "staying in" campaign it would have been £25 million to £11 million, which is extraordinarily disproportionate in the circumstances.

I do not know what the thinking is behind this. I cannot understand where everybody is coming from. This is a referendum on whether we stay in the EU or whether we leave. It is nothing to do with how we all voted in the last election. How can the whole basis of financing be based on that? It is quite beyond me.

Lord Stoddart of Swindon (Ind Lab): My Lords, I support the amendment because it is absolutely necessary. I support it very much because I took part in the last referendum in 1975. The claim that those of us who wanted to come out at that stage have always been able to make—of course, some, like myself, remain of the opinion that we should come out as soon as possible—was that we were on the outside, outgunned in finance by £20 million to £1 million. That was why the in side was able to convince the people that they should remain—by money, not by any other means. In spite of that, 33% of the voting population voted to come out, so there is all to play for when we get to the referendum.

It is important that we get balance. The system that has just been outlined, where the funding is dependent on the votes cast in the last election, is absurd. What is even more absurd is that the Conservative Party, which would get about £9 million, I think, is not going to use it. I have never had much respect for the thinking of the Tory party, but this really takes the biscuit. We have a party led by a Prime Minister, who is negotiating with his partners in Europe and is apparently agreeing with his party that it should be outspent by the other parties. That seems absolutely crazy. I would have thought that the Tory party would be up in arms about it, sending in resolutions, demonstrating outside the headquarters and all that sort of thing so that we could have a bit of fairness.

So I agree with this amendment and for other reasons, too. In 1975 the Tory party campaigned to stay in Europe, as of course did the Liberals—I think they were called the Liberals then, not the Lib Dems—and big business. I well remember that Sir Donald Stokes, who later became Lord Stokes, wrote to all my former

constituents in Swindon, because there was a BLMC factory there, warning them that if they voted to come out their jobs would be at stake. That, of course, was a lie because at that time we had a surplus in car exports to the continent. However, by 1975, we were in deficit. That deficit had grown to a huge figure of £69 billion overall per annum. My constituents were told not only by Sir Donald Stokes but by those running other big businesses in Swindon and elsewhere that coming out would harm their prospects. Of course, that is where the big money came from—big business.

It is essential that there should be fairness between the campaigns. The amendment of the noble Lord, Lord Forsyth, would ensure that that happens, or at least go a long way to do so. If it does not, once again we will hear the losing side say, "We were outgunned by the others on finance". Therefore, I hope that the Government will accept the amendment. The Tory party may be able to exert influence over the Government by saying to them, "Look here, you have this opportunity. You really must take it so that there is a proper balance between the parties during the referendum".

9.15 pm

Lord Willoughby de Broke (UKIP): My Lords, I support the amendment in the name of the noble Lord, Lord Forsyth. I declare my interests as a member of UKIP and a dedicated "outer". I am not sure which members of UKIP the noble Lord, Lord Hamilton, thinks will vote to stay in. I hope he was not referring to my noble friend Lord Pearson. I assure the noble Lord that he definitely wants us to get out. I cannot imagine that a UKIP member would vote to stay in the EU.

Leaving that aside, on all the previous amendments the noble Lord, Lord Faulks, rightly made the point that this referendum needed to be seen to be fair. He has said that on several occasions today and in Committee. However, regardless of who wins or loses, the referendum will be seen to be manifestly unfair if one campaign, whether in or out, is preponderantly better financed than the other. I do not agree with the noble Lord, Lord Stoddart, who seemed to imply that just because an organisation has less money, it will lose. That is not necessarily the case at all. Even if we have a few pounds less than the "stay in" campaign, we will still win. However, it would be much nicer and better, and would be seen to be fairer, if the campaigns had equality of financing.

Lord Hamilton of Epsom: Surely the real problem is that if the "stay ins" win the referendum by a very narrow margin, and they are seen to have been financed much more heavily than those who want to leave, those who want to leave will cry foul and say that the others won because they had more money. Whether that does the trick at the end of the day is debatable, but the fact is that it would be used as a reason to say that the referendum was completely slanted in the direction of the people who wanted to stay in.

Lord Willoughby de Broke: The noble Lord is absolutely right. I do not disagree with him, but it reinforces the point of the amendment of the noble Lord, Lord Forsyth, that we need equality of financing, however that may be achieved. That is up to the Government, I hope, in spite of the Electoral Commission's worst efforts. We do not seem to be getting anywhere with the Electoral Commission so the Government ought to take this amendment seriously and look at how they can reallocate the financing arrangements so that both the ins and the outs have the same amount of money to spend. It is not, as they say, rocket science. It is actually quite simple to do. That will eliminate the concerns that the noble Lord, Lord Hamilton, expressed, that either side may have cause for complaint at the end of the referendum. There has to be equality of financing so I very much support the noble Lord's amendment.

Lord Collins of Highbury (Lab): I am going to repeat some of the arguments I made in Committee because I think that this amendment is basically doing the same thing.

There is an assumption behind the contributions we have heard so far that we are dealing with a pot of money. We are not. We are dealing with a spending limit. We are not dealing with an allocation of funds that should be distributed fairly. Perhaps we could do that. I have not heard many noble Lords opposite support state funding of political parties, but that is the only way to guarantee fairness.

I am really surprised by the noble Lord, Lord Willoughby de Broke. Let us say the leave campaign got all the money in, spent the upper limit and then it was discovered that UKIP spent more than the limit. UKIP would then have to give all its money back. That is the reality. You are trying to set a limit when you do not even know who is going to be participating in the campaign.

First, it is not a pot of money to be spent. Secondly, this referendum is not going to be fought by just two sides. Political parties, civil society, trade unions, churches and other groups that have an opinion will not keep their mouths shut simply because the Conservative Party is unsure of what position it will take as a whole. Perhaps the noble Lord, Lord Lawson, is correct that this whole thing about registration and the Conservative Party not registering is more to do with the state of the Conservative Party than the rights and wrongs of how the referendum campaign should be conducted.

Lord Forsyth of Drumlean: I do not know whether the noble Lord has had a chance to read my amendment, which is completely different from that which he made a speech about in Committee. But I am following his argument so would I be right in deducing that he would be quite happy to have no limits at all?

Lord Collins of Highbury: No, I would not because the Electoral Commission is trying to address quite a complex situation. A referendum is not a usual situation. Political activity in this country is predominantly, although not wholly, through political parties, and PPERA sets out all kinds of constraints and limitations on donations. It has created an environment of transparency, and spending limits.

My view is that spending limits are not particularly effective in establishing a level playing field, particularly when they are set so high and no one can ever reach

[Lord Collins of Highbury]
them. That is why we have quite big imbalances in general elections. That is why the Conservative Party regularly outspends the Labour Party: it has at least 300 people who can give more than £50,000 a year to the party, which I suspect is why the party has in the past supported a cap of £50,000 on donations. Personally, I think the smaller the cap the fairer it becomes. You would then have to look at how to replace that money and what mechanisms to use to ensure that there is an allocation of public funds on a fair basis—hence, I suspect, why the Electoral Commission is using that methodology.

The fact is that spending limits are not the whole picture. What the Electoral Commission is trying to say to us is that the "remain" and "leave" campaigns are not the only participants. We are not going to silence everyone else in this referendum. We are not going to say to civil society, "You have no right to speak", and we are certainly not going to say to UKIP, "By the way, you will have no right to spend money in this campaign unless it is through the official 'leave' campaign". I do not think that it would tolerate that or accept it—I would not—but that would be the effect of the noble Lord's amendment. We cannot be certain of what other people will be spending and we do not know the number of participants.

The rules should not be used to reduce the number of participants. That would be unfair and not democratic. I do not want to bang on too much about this, as I have given sufficient reasons why we will not be supporting this amendment, but it is clear that the amount of money available will not be determined by rules set out in the Bill. It will be determined by people donating and raising money. I do not think that even the Conservative Party, if it said that it would register, could put its hands on £20 million that easily. I certainly know that the Labour Party cannot put its hands on £9 million that easily. We have to understand that these are mechanisms to ensure transparency and accountability but they will not necessarily deliver fairness because the campaign is not designed that way.

Lord Hamilton of Epsom: The noble Lord says that the Labour Party cannot lay its hands on £9 million to fight the referendum. Why does he take this depressing view? Are there not a very large number of business people out there who are passionate to stay in the EU? They would be more than happy to finance the Labour Party, even if they are not Labour supporters. As long as the money goes into the "stay in" campaign, they would not care what label it comes under. Why is the noble Lord taking this despondent view that the Labour Party will not be able to raise the money?

Lord Collins of Highbury: I am not taking a despondent view. The Labour Party will no doubt raise a lot of money through a lot of individuals, as it does at every general election, and it will account for that. For me, the most important element of this referendum campaign is about who is donating—to have transparency on how much—not the idea that we should limit the campaign. This amendment would in effect limit the number of participants. I repeat the point about UKIP: if the "leave" campaign spends the limit laid out in this amendment, what is left for UKIP to spend? What if it has already spent it? Does it then have to hand all the money back?

The fact of the matter is that this campaign will be about a range of voices. The noble Lord, Lord Stoddart, talked about the 1975 campaign. I was a participant in that campaign and there were a lot of different voices in it. There were certainly voices that did not share the same platform; I think that will be true of this referendum campaign. The policy of the Labour Party and its views about the future of the European Union are not necessarily those of the Prime Minister and the Conservative Party. There will be different views and expressions of what they hope for the future, and we have to make sure that this referendum campaign is able to hear those different views. We should not have rules that limit it.

9.30 pm

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, my noble friend's Amendment 12 would introduce an overall cap on referendum spending by political parties and the designated lead organisations that will campaign for each outcome: either leave or remain. As my noble friend explained, it arises from his concern that the rules as they stand create great unfairness and that the remain side will be able to spend more than the leave side.

Amendment 12 would unpick one of the fundamental principles in the Political Parties, Elections and Referendums Act 2000, which provides a framework for this as for other referendums since its passage. My noble friend Lord Forsyth asked why we have limits and why are they linked to the results of the general election. My noble friend Lord Hamilton asked how we arrived at the provisions. We arrived at them after an exhaustive and exhausting parliamentary method of having draft legislation scrutinised carefully by Members of both Houses. After draft legislation, a Bill was drawn up that reflected the submissions that had been made. In particular, the Fifth Report of the Committee on Standards in Public Life, chaired by the noble Lord, Lord Neill of Bladen, provided recommendations that led to PPERA being passed. These provisions have been in place for 15 years. I was in the House 15 years ago. I did not take part in discussions on the Bill—at the time I was on the Front Bench carrying another brief—but I recall that much careful attention was paid to the Bill.

Having said that, I appreciate that there are concerns about unfairness. In this particular case, the concern appears to be that particular parties may support particular sides of the referendum. That is as may be. The report produced by the Committee on Standards in Public Life considered an overall cap for all campaigners on each side of the argument. The noble Lord, Lord Neill, concluded:

"The administrative apparatus required would resemble one of Heath Robinson's most outlandish contraptions—and would almost certainly not work".

Those are his words, not mine. As well as being administratively impractical, the report further noted that such a cap,

"would, or at least might, impose an unwarranted restriction on freedom of speech".

I appreciate that my noble friend has tried to avoid some of the pitfalls of his earlier amendment in devising this one by focusing purely on certain categories of potential campaigners—the political parties and the designated organisations. However, as others, including the noble Lord, Lord Collins of Highbury, said, if one is a Conservative and finds that one's national party is taking a neutral position, there are still places where one can put one's money if one wants to bet on the outcome of the referendum. Political parties will not be the only campaigners at the referendum—far from it.

Although I know that my noble friend has tried to take great care to narrow down his amendment and focus it more, it still will not deliver what he might intend. The amendment provides that the Electoral Commission must set an overall spending limit and can then apportion this between the political parties and lead campaigners on each side. We believe that the spending limits are a matter for Parliament. They were decided by Parliament in legislation, on the basis that changes would also be made by legislation. The spending limits which apply to the EU referendum are therefore in the Act and, as I said, have been in operation for 15 years.

There is no guarantee that each of the campaigners within the umbrella cap will be able to raise the funds necessary to hit the spending limits. One or two noble Lords have referred to that, perhaps with some feeling of regret. We will have to see what happens. Perhaps to avoid the risk of restricting freedom of speech, the amendment does not deal with the other committed participants, each of whom will be able to spend up to £700,000. So the referendum will not only feature campaigning by political parties and the lead campaigners; there will be interest, and lots of voices, on both sides. But I would say that it is highly unlikely that exactly the same number of committed participants will register on each side of the argument. One can imagine that it would take an imbalance of only 10 campaigners on one side or the other to create a £7 million difference in overall potential spending.

These are the kind of vagaries with which this House and another place had to struggle when the initial Bill was considered and became an Act. Indeed, I note that when the draft Bill was published, the spending limits for political parties were the same—but it was then challenged during the course of the scrutiny of the Bill, particularly by the Committee on Standards in Public Life, which questioned whether it was right that political parties were subject to the same limits regardless of their respective number of MPs. So the sliding scale that we see now in PPERA was introduced in response to consultation on the Bill back in 2000. Therefore, we are not seeking to amend that basic framework.

These matters have been of concern before and I recognise my noble friend's concerns, but they were considered carefully when the legislation was under consideration here, both in draft form and on the Floor of the House. Certainly, it is the case that the approach taken in this Bill by applying PPERA is that those who seek to spend modest amounts—that is, no more than £10,000, which I know some people reading this debate in *Hansard* may consider is by no means modest, but in the context of elections it is—can decide not to register and so be subject only to a relatively light-touch regulatory regime. Meanwhile, to prevent wealthy campaigners having an undue influence, there are individual spending caps for those who register.

What we see in the Bill is a well-established approach which is practicable and enforceable and, most importantly, encourages participation. So although I understand my noble friend's concerns, I hope that, with that explanation, he will feel able to withdraw his amendment.

Lord Forsyth of Drumlean: Oh dear. I have to say to my noble friend that, although I understand the practical difficulties, she has not addressed the point. The reason why we have spending limits is to create fairness. People will be able to provide funding through political parties and other organisations. Some may say that people could set up 10 organisations to compensate for a political party's spending, but a political party will have an organisation on the ground. It is not about the quantity of money; it is also about how it is spent, the organisation and the machine behind it.

Throughout the conduct of this Bill, my noble friend has been extremely patient and helpful and I pay tribute to the way in which she has handled the Bill, but this just will not do, because the Government's declared policy is that there should be seen to be a level playing field.

Baroness Anelay of St Johns: My Lords, I am not trying to address the overall point of fairness. In each and every referendum, the perception of what is fair will vary according to the position taken by the groups, as my noble friend has pointed out in his amendment, and according to the nature of the event. I am saying that these matters were considered carefully by this House and another place in drafting the legislation used for referendums. It is only on that basis that I am explaining that there is statutory provision for how we address the matter of donations. I am not seeking to put the world to rights in this case, in the way that I know my noble friend would like to put it to rights, as he sees it. I am saying that there is a statutory basis on which this system has to rely.

Lord Forsyth of Drumlean: But my noble friend is the Government. It is not necessary to rely on the provisions in the PPERA legislation. It would be perfectly possible to put in place arrangements with regard to expenditure that ensured fairness. Once this legislation is in place, if it remains as it is, throughout the whole campaign I certainly will be arguing that it has been rigged in a way that gives an advantage to people who wish to stay in the European Union. I can understand why the Labour Party may feel at the moment that it may not be able to get lots of funding from people, but there will be people who will see this as an opportunity to provide more resource for what they believe to be an appropriate decision for the country. If we end up with limits that have the perverse effect of giving one side more funds than the other, it will be a source of grievance throughout the campaign—and if we end up with a close result, as has already been pointed out, people will argue that the result was bought and that it was unfair.

[Lord Forsyth of Drumlean]

I understand the difficulties from the Government's point of view, but to argue that legislation that was passed in 2000, which was thinking of referenda where, by their very nature, political parties would be divided, as opposed to this European issue where the first referendum was about sorting out the problems in a divided Labour Party—

Lord Collins of Highbury: Now it is your turn.

Lord Forsyth of Drumlean: I do not think the noble Lord is in a very good position to talk about divided political parties at the moment. If I were him, I would keep my head down on that subject.

It is very disappointing that my noble friend is not able to respond, and I hope that she may give further thought to this and that the vastly expensive Electoral Commission with its vast resources may be able to be a little more constructive than saying that it is all a political problem for which it has no responsibility. I will reluctantly withdraw the amendment because I do not think that if I divided the House at present it would be much appreciated by my noble friends or anyone else, but the response is very unsatisfactory and I think it will be a source of grievance unless it is addressed before this Bill reaches the statute book. I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendment 13

Moved by ***Lord Hamilton of Epsom***

13: Schedule 1, page 17, line 19, at end insert—

"Restrictions on campaigning by the EU institutions

For the purposes of the referendum, the following is to be treated as inserted after section 119 of the 2000 Act—

"119A Restrictions on the EU institutions

(1) Notwithstanding the European Communities Act 1972, during the referendum period, an EU institution must not incur referendum expenses or do anything else for referendum purposes.

(2) Notwithstanding the European Communities Act 1972, a permitted participant must not accept a donation from an EU institution.

(3) In this section, "EU institution" has the same meaning as in Article 13(1) of the Treaty on European Union.

(4) In this section, "for referendum purposes" and "referendum expenses" have the same meaning as in section 111 of this Act.""

Lord Hamilton of Epsom: My Lords, I shall speak also to Amendment 18. Amendment 13 is to do with the EU Commission and the EU generally in terms of financing, by one means or another, this referendum. We were reassured in Committee that there are two reasons why we should not worry about this. The first was that an undertaking had been made by the EU Commission not to interfere in this referendum and the second was that John Penrose had said in another place that the EU is not so stupid as to get involved in a UK referendum.

I agree with him on one thing: the EU is not stupid. Just to give an idea of how much it is intending not to interfere, it has an EU task force to do with the UK referendum which is made up of six administrators and two assistants. In 2014, the EU spent €560 million on self-promotion. The reason why it is not stupid is because it has spent money before interfering in other people's referenda with enormous success. It spent €1.5 million to persuade the Irish to vote for the Lisbon treaty and €3.8 million over three years to persuade Croatia that it was a good idea to join the EU.

If you judge the EU, and the EU Commission particularly, on what they do rather than on what they say, the answer is that they have moved into the former offices of the Conservative Party in Smith Square. I have no doubt that there is a very large number of people sitting there, and do we really imagine that they are going to be sitting on their hands doing nothing during a referendum on whether the United Kingdom should leave the EU saying "It's nothing to do with us. We're completely neutral on all this. We're just going to sit here and answer emails and provide information where it is requested"? Come on—let us live in the real world. In Ireland it went so far as to spend a very large sum of money on issuing 1.1 million pamphlets to the Irish about why the EU was such a good idea. The problem with all this is that the EU has set itself up so that it can interfere in our referendum, and because of the total lack of democratic accountability—

Baroness Smith of Newnham (LD): My Lords—

Lord Hamilton of Epsom: I will give way in a moment. We cannot actually stop the EU interfering in our referendum because it is written into its treaties that it is allowed to spill out information at will and there is nothing we can do to stop it.

9.45 pm

Baroness Smith of Newnham: My Lords, I believe that the noble Lord, Lord Hamilton, may be conflating two different things. The first is the period of renegotiation that Her Majesty's Government are undertaking at present and the second is the referendum. My understanding is that the task force is actually to deal with the renegotiation, which is at the request of the Government, not an initiative of the European Union, and therefore is not an interference in the referendum. I also believe that such interference would be misguided; it would not be right for the EU institutions to be involved.

Lord Hamilton of Epsom: At the end of the day, the EU thinks that it is free to issue information. Information can take many different forms, and I do not see that there is anything that can be done. The Minister has already said that we cannot actually stop the EU financing activities because they are all done in the name of information—and what is the difference between information and propaganda?

Lord Liddle (Lab): Is the noble Lord a regular reader of the *Daily Express* and the *Daily Mail*? Does he think that they provide objective, truthful information about the European Union?

Lord Hamilton of Epsom: I have to say that that is an entirely different issue.

Lord Liddle: My Lords—

Lord Hamilton of Epsom: The noble Lord has intervened so let me answer his question. I think that the *Daily Mail* and the *Daily Express* have their own views, as do the *Guardian* and the *Independent*. We have a free press; it is up to them what they do. We are talking here about what the EU does to finance activities during this referendum.

Lord Liddle: My Lords, does the noble Lord believe it is wrong for the EU to provide factual information about what it does when in large sections of our press, which are foreign owned, lies are printed about the EU virtually every day?

Lord Hamilton of Epsom: As the noble Lord, Lord Liddle, will know well, factual information from the EU amounts to it advertising that it is spending inordinate amounts of money on different interest groups of one sort or another around the UK, as if this were all manna from heaven: "Gosh, you're lucky, the EU has decided to spend some money on you". What it does not bother to tell people is that it is their own money.

The great problem that Lord Joseph had when he was in the Thatcher Government was to persuade Ministers to talk not about "public money" that they were being so generous with, but about "taxpayers' money". He managed to hold that line for a time with the Conservative Cabinet, but quite quickly it drifted off and we got back to Ministers constantly talking about how incredibly generous they were being with "government money", as if all this stuff came from heaven. Of course, half the government money that we have now is borrowed anyway. It is an absurd mentality to think that people can be generous with other people's money and get credit for it. Why should they, when it is actually the money that they have taken off the people of this country? We must live in the real world.

Amendment 18 is about purdah. The problem with purdah, as we all know, is that the Government are arguing that they have to allow the normal functions of government to continue. Obviously that is quite justifiable, but the point of my amendment is to restrict what can be done with regard to purdah. To return once more to my noble friend Lord Forsyth's argument that this has to be seen to be a fair referendum, our worry is that we should not, as we did in the Scottish referendum on independence, suddenly have an enormous initiative from the Government to try to swing the vote because the polls are going the wrong way. We do not want some great initiative from the EU saying how incredibly generous or wonderful it has been in order to try to swing the vote here.

Lord Liddle: I moved an amendment on this in Committee, partly in jest. If the noble Lord wants a fair referendum, why does he not persuade his friends in the Conservative newspapers to give equal space to people who are in favour of our membership and people who are against?

Lord Pearson of Rannoch (UKIP): My Lords—

Lord Hamilton of Epsom: I think that was for me. I am confused by the noble Lord, Lord Liddle, because he always produces these amendments in jest. I remember another one that said that the referendum should be delayed until 2019. That was tongue in cheek, was it not? The fact is that the Government do not control a free press in this country. You either have a free press or you do not, and if it is free it can take whatever line it wants to take. Perhaps we should be controlling the *Guardian*, with its attitudes to all this. This is absurd. We have a free press, which takes different sides on different things, and that is not a responsibility of the Government. Does the noble Lord want me to give way again? No, he does not.

The Earl of Courtown (Con): I remind the House that before the dinner break I suggested that noble Lords should read page 151 of the *Companion*. I will repeat it, because obviously noble Lords have not been able to remember it:

"On report no member may speak more than once to an amendment, except the mover of the amendment in reply or a member who has obtained leave of the House, which may only be granted to: a member to explain himself in some material point of his speech, no new matter being introduced".

Lord Pearson of Rannoch: My Lords—

Lord Hamilton of Epsom: I am very grateful to my noble friend for that; can I now give way to the noble Lord, Lord Pearson?

Lord Pearson of Rannoch: My Lords, I think this is the only time I have spoken on this amendment, and with the permission of the noble Lord, Lord Liddle, and your Lordships, I will do so. I would add the BBC to the list of media outlets that my noble friend has been good enough to name. I ask the noble Lord, Lord Liddle, whether he has read the News-watch website about the BBC's behaviour in this matter and whether he hopes that the BBC—

The Earl of Courtown: Order. The noble Lord has not yet moved his amendment.

Lord Hamilton of Epsom: I am afraid that the noble Lord, Lord Pearson, has slightly confused things, because he was intervening on the intervention of the noble Lord, Lord Liddle, on me. Therefore this adds to the confusion. However, I do not think we will revert to talking about the free press and the fact that different newspapers have different views on things—I am not sure how productive that is. What we were talking about—or what I was talking about—was purdah and the fact that there is a concern, which I hope the Minister will address, that there will be some last-minute intervention, if the polls indicate that the country wants to pull out, to try to swing the vote with some bit of propaganda from the EU. Clearly, business has to continue to be done with the EU, but at the same time we do not want to see the whole referendum slewed by a last-minute intervention where the EU is

[Lord Hamilton of Epsom]
being inordinately generous with other people's money and doing something to try to swing the vote. That is what my Amendment 18 is about. I beg to move.

Lord Forsyth of Drumlean: My Lords, I certainly support my noble friend, but I will speak to Amendment 21 in this group, which is in my name. We have had a lot of discussion, and my noble friend Lord Hamilton has emphasised the importance of having rules on purdah. I have to say to the noble Lord, Lord Liddle, that he needs to distinguish the difference between public and private money. The *Daily Mail* and other newspapers are not spending taxpayers' money, while the EU is. My noble friend is concerned that money that is provided by the taxpayer should not be used for a political purpose. That is a very important principle. I know that he is so enthusiastic about the European Union that he sometimes finds it difficult to see the distinction, but that is what we are talking about, and that is why we have these rules on purdah.

It was with some dismay and utter disbelief that I discovered that if people break these rules on purdah—the Scottish Government, the British Government or some other public agency—there is no sanction or penalty for doing so. It is true that people can seek judicial review at vast expense and then get a judgment after the event. I think it very unlikely that any court would say, "You've got to rerun the referendum because a public body spent money which was prohibited by purdah". Therefore, with this amendment I am seeking to create some kind of sanction.

In Committee, I suggested that we bring back the old thing that applied in local government. Very spectacularly, Dame Shirley Porter ended up getting a bill for £20 million for having transgressed in terms of her abilities to operate under statute. I understand that that system of surcharging councillors has now disappeared. In Committee, I suggested a system of surcharging but it was dismissed on the grounds that it was inappropriate. My friends in the Electoral Commission said that it would be wrong to hold individuals to account. I do not really understand that. I think that if people are responsible for spending public money in a way that is ultra vires, they should be held responsible for it. If no one is responsible then no one is going to make sure that the rules are obeyed.

Having found that that suggestion did not find favour with my noble friend the Minister, I have had another go. This amendment suggests that we create a system where a fine is imposed on whoever is responsible and that it should be not less than the amount of taxpayers' money which they have had cause to spend in breach of the purdah rules. This may not be the ideal solution, but in Committee my noble friend was kind enough to indicate that she recognised that there was a problem and she said that she would think about what could be done by way of a sanction. I am hopeful that she might consider Amendment 21 to be the answer to this problem but, if it is not, that she herself will have an answer. If there is no effective sanction, it rather begs the question: what is the point of having the rules on purdah if they can be breached?

I anticipate that somewhere in her file my noble friend will have a note saying that it would be very embarrassing for any public institution to breach the purdah rules and that it would be disadvantageous to it in the campaign. All I can say is that, having experienced the Scottish referendum campaign, I would not put much trust or hope in that limiting the kind of misuse of public funds which my noble friend Lord Hamilton has talked about.

Lord Hamilton of Epsom: Does my noble friend agree that, if it comes to the difference between winning a referendum and losing it, a bit of embarrassment can be lived with?

Lord Forsyth of Drumlean: I am sure that, like me, my noble friend would want always to strictly obey the law and the rules and that he would not be tempted to stray from the true path by the prospect of winning or losing. However, I am rather concerned that that might not be true of Governments. Individuals are not held responsible for the actions of Governments, which is why I am proposing this amendment.

Lord Pearson of Rannoch: My Lords, if I am free to talk to the amendment of the noble Lord, Lord Forsyth, there is perhaps a way in which we can penalise the European Commission if it cheats in this matter, as I assure your Lordships it will. We could withhold from our contribution to the corrupt coffers of Brussels an amount which would make the Commission think again before it behaved in a manner in which it certainly will. In the background, we have the gross figure that we pay to Brussels every year. According to the 2014 Pink Book, which has just come out, the figure was £19.994 billion, of which Brussels was graciously pleased to give us back £7.66 billion. That leaves £12.329 billion, which we pay net into the coffers of Brussels every year for it to waste on matters which do nothing in our national interest. I suggest to the Minister that the Government think about this. I ventilated this idea in Committee and repeat it now: if it behaves in the way that it certainly will, and if it knows that it is going to suffer a financial penalty, perhaps that will make it not worth its while doing so.

10 pm

Viscount Ridley (Con): My Lords, I would like to speak briefly in support of the amendments from both my noble friends.

As my noble friend Lord Hamilton said, the Commission's denial that it will campaign is belied by the evidence. We cannot take that promise on trust. Jonathan Faull stated in a letter dated 4 September that:

"The Commission will play the role that it is given by the treaties, notably to promote the general interest of the EU".

That could be interpreted as campaigning or it could be seen as being more innocent than that. On 2 October, Jean Claude Juncker said that the European Commission would have,

"input into information activities in the run-up to the UK referendum".

As my noble friend Lord Hamilton said, in the Irish referendum in 2009 and the Croatian referendum in 2012, it was very clear that the European Commission did use finance to, in the case of Croatia, foster an,

"increased level of public and political support to the EU".

The EU institutions have budgets worth £3.1 billion, which include clauses allowing promotion of the EU.

In this country, the European Communities Act 1972 allows EU institutions to engage in activities that are authorised by EU law. To the extent that they are operating under EU law, EU institutions are exempt from UK campaign controls. The Electoral Commission says that it has no regulatory powers that could be used directly against these institutions if they do undertake such activity. That question needs to be addressed.

On Amendment 21, from my noble friend Lord Forsyth, I agree that judicial review is clearly a nuclear option that is not going to do much good if these rules are transgressed. If purdah is to be taken seriously, a more effective, prompter enforcement mechanism must be found.

Lord Stoddart of Swindon: My Lords, I do not want to say too much at this time of night but I want to make a couple of points.

First, on the amendment from the noble Lord, Lord Hamilton, the Commission can interfere, as he said, in all sorts of ways. One of the ways—this has some relationship to the alterations that were made earlier to the franchise—is through its entry into primary and secondary schools with what some of us would term propaganda material. The Education Act 1996 makes it clear in Clauses 406 and 407 that there should be balance. In spite of that, the Government, according to their Answers to my Written Questions, seem not to be very concerned with this and will do nothing to ensure that schools and head teachers make sure that there is balance on the question of Britain's membership of the European Union.

Even now, the EU is seeking to advertise itself in our countryside. It wants farmers to put up huge advertising boards, saying, "You are getting all this money from the EU; you should be grateful and should therefore advertise the fact that this money is coming from the EU". Not many farmers are going to be fooled by that, because they will know that, for every pound we get, we have first to give the EU three, so the grants to farmers are in fact some of our own money coming back. The rest of it, or much of it, goes to other farmers to subsidise their much less well-farmed areas.

There are all sorts of ways in which the EU can intervene in our affairs. It does so and it will continue do so. One way or another, by hook or by crook, the EU will interfere in the referendum when it comes.

Lord Willoughby de Broke: My Lords, I want to pick up on the point made by the noble Lord, Lord Stoddart. As a farmer—I declare my interest as a farmer—I remember getting this directive that we must advertise that we are getting money from the EU through the single farm payment, or what now is the basic payment scheme. Of course, my noble friend Lord Pearson made the point it is not EU money at all. It is money that is given to the EU by the British taxpayer—mulcted from the British taxpayer—and recycled through Brussels, who tell us what to do with it. It seems completely absurd that we have to put up a big sign on our fields saying how generous it is of the EU to give us this money. It is not. I, of course, alter those signs slightly to put a different twist on them.

On the broader point of the noble Lord, Lord Hamilton—he made the case, I will not repeat it—it is essential that this provision be included in the Bill. Of course, the EU Commission has form when it comes to referendums, as we have heard, and I will not repeat the point. It is essential that Mr Jonathan Faull's letter not be taken as gospel and that is the end of the story. Again, it is about fairness and the referendum's being seen to be fair. It will not be seen to be fair if the EU Commission starts chucking its weight about, which it has always done and wishes to do in this case.

Lord Wallace of Saltaire (LD): My Lords, I regret that some Members of this House appear to regard the European Commission as a malign force that is out to do down the United Kingdom. Jonathan Faull is head of the task force sent by the Commission to negotiate the renegotiation with the United Kingdom, which is an entirely legitimate and useful thing to do. I have no doubt that our free press will be very watchful if the Commission does anything in the referendum that is seen by the *Telegraph* or the *Mail* as overstepping the mark.

I want to say something that links this amendment with the one we will be coming to next, which is about impermissible external funds. I am very conscious that the Russian Government are supporting a number of right-wing parties in other countries in western Europe, and that Russia is the only major state which is thoroughly in favour of Britain's leaving the European Union. I am not in any sense suggesting that funds have begun to pass in any direction to anyone. However, when I was in government and involved in the Transparency of Lobbying Bill, we were much concerned about funds from other countries—from right-wing sources in the United States, for example—coming to various campaigning bodies in this country. The amendment of the noble Lord, Lord Jay, touches on that issue.

Of course, we have to be concerned that this is a British debate and a British campaign, and that applies to all external actors. I think all of us agree that the Commission needs act extremely carefully. On the other hand, other Governments within the European Union will have their say, because they have national interests which they will wish to express. Therefore, the question of how we play this game—whether we would regard an intervention by the German Chancellor or the Dutch Prime Minister as untoward—is the sort of issue we will no doubt discuss. On the finances, we will wish to police this very carefully, but let us not go over the top. The noble Lord, Lord Hamilton, sometimes gives the impression that the enemy lies in Brussels and threatens to subvert our national sovereignty.

Lord Collins of Highbury: I think the noble Lord, Lord Wallace, hit the nail on the head when he said that transparency is key here. Obviously, the European Commission is acutely aware that any perception of interference in this referendum will have the opposite effect to what it intends.

Lord Hamilton of Epsom: The EU intervened on the Lisbon treaty referendum in Ireland, and the Irish passed it. The EU intervened for three years on trying to get Croatia into the EU, and Croatia came into the EU. It intervened in those two cases very successfully. Why should it change its spots and not intervene in this one?

Lord Collins of Highbury: Precisely because of the point that I make: I suspect that such intervention will have completely the opposite effect, whereas in Ireland perhaps it even encouraged people. I do not think that that will be the case here. If there is seen to be interference, people will see it that way and will not be very happy.

I am grateful to the Minister for circulating the correspondence on this, including the commitment by the Commission. Obviously, it states that it will carry out its treaty obligations, but in no way will it be involved in anything that could be perceived as interference in a matter that is strictly for the British people and the British Government—I agree with the noble Lord, Lord Wallace, on that.

Turning to the amendment in the name of the noble Lord, Lord Forsyth, I think that there is a legitimate point here that needs to be properly addressed—he should not look so surprised that I agree with him; I suspect that we agree on a lot of things. The point is that we have an offence where the sanction is in a way paid by the victim, which does not make sense. The Electoral Commission does not agree with the formulation because it does not want to accept such a responsibility. In Committee, I referred to sanctions other than judicial review that could be considered in relation to individuals. In all walks of life, people are subject to such sanctions. In the case of public office and civil servants, there is the *Ministerial Code* and the Civil Service Code. I would be keen to hear from the noble Baroness whether she has given any thought since Committee to how we can have a regime where, if an offence is committed, the perpetrator pays the cost and not the victim.

Baroness Anelay of St Johns: My Lords, Amendment 13, tabled by my noble friend Lord Hamilton, relates to the role of the EU institutions during the referendum. It follows the wording of a similar amendment that my noble friend tabled in Committee. The concern that he and other noble friends have expressed is that EU institutions may have an undue influence on the outcome of the referendum.

Although there are differing views on that, it is no doubt a legitimate concern and certainly one which the Government share. This is a referendum to be held on Britain's membership of the European Union. It is therefore clear that the impression of outside interference or direct campaigning by overseas bodies with a vested interest would undermine public trust in the outcome. It would also be completely counterproductive; I think that people would see through it.

That is why the Government have ensured that sensible controls will apply on who can spend money to influence the referendum and how they can be funded. Some 44 of the Bill's 62 pages relate to exactly these issues.

Campaigners at the referendum can accept money only from individuals or bodies who have a sufficient connection to the UK or to Gibraltar. In Committee, I went through in detail issues relating to permitted donors and permitted participants—I think that it would be wrong if I tried to go through that again on Report.

As the EU institutions are not eligible donors, a permitted participant would be committing an offence if they accepted money from the EU institutions to campaign. I should re-emphasise that permitted participants cannot accept donations of more than £500 from EU institutions. In part, therefore, my noble friend's amendment is unnecessary.

The amendment has another arm to it, which applies directly to the EU institutions and would prevent them actively engaging in campaigning.

Lord Stoddart of Swindon: My Lords—

Baroness Anelay of St Johns: My Lords, I wonder whether I might address my noble friend's point, because we are on Report and I am trying to give an answer to questions put by him in speaking to his amendments.

Specifically on that point, in the letter that the European Commission wrote—I refer to the letter that was circulated—the last part states that,

"the referendum itself and the related campaigns are a matter for the British government and the British people in which the Commission, in view of its institutional role, cannot and will not take an active part".

I gave an undertaking, which the Government have fulfilled and will continue to fulfil, that we will engage at a diplomatic level with the European Commission to ensure that that is observed in spirit as well as in the letter.

Lord Stoddart of Swindon: On the question of EU institutions that broke the rules, what sanctions could be used against them?

Baroness Anelay of St Johns: I am saying that we are working with the European institutions and they should not break the rules. That, of course, is a matter of interstate agreement.

Where the institutions are operating in their official capacity within our jurisdiction they are afforded immunities and privileges under EU law. I know that the noble Lord has previously referred to that. However, as the Government have already made clear, the best way to prevent EU institutions from influencing the outcome of the referendum is through the process of constructive dialogue. That is what we have been doing and will firmly continue to do. That is why I circulated the letters. Indeed, I note that a written question was put in the summer or the spring—I suppose you could call it autumn in parliamentary terms; I always wonder what the seasons are—and on 4 September an answer was given by President Juncker on behalf of the Commission. He simply said that the Commission does not campaign in national referendums. We will hold him to that, and that is exactly the point.

Lord Hamilton of Epsom: My noble friend has referred to constructive dialogue. Does she think that there was constructive dialogue between the Irish Government and the EU when they put out 1.1 million leaflets, at a cost of €139,000, during the Lisbon referendum? Presumably the Irish Government were quite happy that the leaflet should go out, but it upset the people who did not want to accept the Lisbon treaty.

Baroness Anelay of St Johns: My Lords, the Government would not be happy with any such move and the European Commission is clearly aware of that. We are not the Irish Government and this is a referendum on a different matter.

I understand and recognise the legitimate concerns about these matters and that is exactly why the Government are putting so much effort into trying to address them. It is not a matter of taking our eye off the ball: we will continue working on these issues.

My noble friend Lord Hamilton has tabled two amendments, Amendments 18 and 19, to Clause 6. The clause provides a power for the Minister to make regulations modifying Section 125 for the purposes of the EU referendum. However, I repeat the assurance that I made in Committee that the Government have no plans to use the regulation-making power under Clause 6. I tried to make that as clear as I could. I appreciate though that my noble friend seeks to limit the power so that Ministers can make regulations only where they have reasonable grounds to consider that regulations are necessary to secure the continuing function of the Government or the safety of the public or a section of the public.

This follows on from our discussion in Committee when noble Lords were trying to get me to posit the future—to look into a crystal ball and say, "This is what may happen". The very nature of why Clause 6 was inserted in another place was because this would be something that people could not foretell. Not one voice in the other place was raised against Clause 6 going into the Bill. We ought to bear that in mind because, having given the undertaking that we have no plans, we cannot foresee the future. We have to have a care for the safety and security of this country and it would be unfortunate for this House to consider constraining the ability of the Government properly to be able to respond.

The reason, I suspect, why not a voice was raised in another place is that safeguards requested by the other place were put into the use of this power before the amendments were brought forward. These state that regulations would need to be made at least four months ahead of the poll following consultation with the Electoral Commission—and of course that would be subject to the affirmative resolution procedure in both Houses.

As I say, although there are no plans to use the power, there may be exceptional circumstances which would require the Government to lay regulations before Parliament on this issue. No doubt we would all be rather surprised if that were to happen, because, as I say, we have no plans to do so at the moment. However, a responsible Government should be able to keep the power available.

My noble friend also tabled an amendment to remove Clause 6(8) because he is worried that it might ensure that the Government cannot disapply the restrictions in Section 125 under the power in Clause 4. What I hope to be able to do is give my noble friend a reassurance that his concerns are misplaced in this respect. I can assure him that Clause 4(1)(c) as currently drafted simply would not allow the Government to disapply in regulations the restrictions in Section 125 for the EU referendum; we could not do it. Like Clause 6, it could be used to modify aspects of Section 125, although we do not have plans to do so. But we consider that Clause 6(8) is necessary for a rather technical reason. It ensures that the power to amend Section 125 in Clause 6 does not in any way call into question the general regulation-making power in Clause 4 to make modifications to PPERA for the purpose of the EU referendum. The general regulation-making power is essential for aspects of the published conduct rules; it is not about the purdah enshrined in Section 125, about which I know and understand why some noble Lords have concerns. In this case, it could be used if we identify other issues with the PPERA provisions. I can give my noble friend an assurance that, like Clause 6, the power in Clause 4 can be used only following consultation with the Electoral Commission and will of course be subject to the affirmative resolution procedure.

Finally, I come to the amendment tabled by my noble friend Lord Forsyth, proposing a penalty for a breach of Section 125. Interesting questions have been raised about the whole issue of how one holds people to account. My noble friend is seeking to impose a monetary penalty on a person who breaches the restrictions in Section 125. The Electoral Commission has no role in the enforcement of Section 125, and has said in its response that it is not clear how this significant change to its role and powers would work in practice. That is the issue; it is not what the commission was set up to do and it would change its role.

We believe that the current arrangements are appropriate and that they work. Those within the scope of Section 125 will be legally obliged to comply with it. Like other legal obligations on public authorities across the statute book, it can be enforced through judicial review. That is the purpose of judicial review: to ensure that public authorities comply with the law. I know that my noble friend has concerns that this may be a paper tiger, but he has been an admirable Secretary of State in difficult times. He will know how difficult it is for a Government to face judicial review; he will know about the inconvenience and the cost. I would expect that others would be mindful of that as well. Judicial review is something that this Government seek to avoid having to incur, and I am sure that other public bodies take the same approach.

Lord Forsyth of Drumlean: The point is that judicial review is closing the stable door after the horse has bolted.

Baroness Anelay of St Johns: My Lords, with due respect, given the legal system of this country—in which I should declare an interest because my husband is a barrister—I would say that if a prosecution were to be brought in a civil case, or indeed in a criminal

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case, I doubt whether it would be resolved before the referendum had taken place. However, my noble friend has raised a justifiable concern about how we deal with these punitive matters. If we had the luxury of a separate piece of legislation to look at how all these matters are to be resolved, consideration could be given in relation to that. However, I think that that is a long way off at the moment. Of course, as a politician at the Dispatch Box, "long" to me can be a matter of just a few weeks because they can seem like a long time, too—particularly if I have breathing down my ear on my right-hand side a Chief Whip who has had an overfull session already, so I shall not try to offer extra legislation. I want to get out alive.

Lord Pearson of Rannoch: I do not know whether the noble Baroness is coming to the end of her peroration, but I have not yet heard her answer the question that I asked. Perhaps she will do so, in which case I will sit down and wait for the answer. I suggested in Committee, and again this evening, that because we are dealing not so much with the leopard that does not change its spots but with a corrupt octopus that cannot do anything else but extend its tentacles around every morsel of our democracy which comes within its reach, it is entirely possible that the Commission will break the rules. My noble friend Lord Hamilton mentioned Ireland and Croatia. I would mention Denmark and France—which voted clearly against the constitution that came back in the shape of the Lisbon treaty and it was persuaded to vote in favour of it.

We are dealing with a fundamentally dishonest, corrupt and failed body, which is bound to try one way or another to make sure that the British people do not vote to leave its clutches. I repeat again: why do we not make it clear to the Commission that if it breaks the rules and we catch it at it, we will fine it by a multiple of the amount of money it has spent? We have £12.329 billion at our disposal. Surely we should be able to make that clear to it.

Baroness Anelay of St Johns: My Lords, this Government are not corrupt. This Government have strong leadership. This Government have given their word to work with all our colleagues across Europe to ensure that this referendum is as fair as it can be—and this Government will deliver. I hope that my noble friend will feel able to withdraw his amendment.

Lord Hamilton of Epsom: My Lords, the amendments I tabled by necessity were probing for the simple reason that we cannot stop the EU getting involved in our referendum. All we can rely on is the voluntary statements that it has made. We need to have an act of faith over this. We have to presuppose that if this referendum runs and it is getting very tight up to referendum day, and it is debatable whether the country will vote to stay in our pull out, somehow the EU will stand back and not do anything when it has the power to do it—to actually influence that final result.

Some people will believe that the EU will be totally honourable to its word on this. Others will say that it had such success in Denmark, Ireland and Croatia, so why should it not try it here? The great argument is that it will not do it because it would be counter-productive. I do not quite understand that argument. It was not counterproductive in Denmark. It was not counterproductive in Croatia. It was not counterproductive in Ireland. Why should it be counterproductive here?

But as I say, these are probing amendments. There is nothing the Government can do to constrain the EU. I suspect that the idea of the noble Lord, Lord Pearson, that we should fine it is out of order completely, so there is nothing that we can do in this Bill to stop the EU interfering. If it does not, in my opinion it will be a miracle. But I am happy to withdraw the amendment.

Amendment 13 withdrawn.

10.30 pm

Amendment 14

Moved by ***Lord Jay of Ewelme***

14: Schedule 1, page 22, line 34, at end insert—

"Prohibition on use of impermissible funds to meet referendum expenses

For the purposes of the referendum, the following section is to be treated as inserted after section 119 of the 2000 Act (control of donations to permitted participants)—

"119A Prohibition on use of impermissible funds to meet referendum expenses

(1) Any money or other property received by any individual or other body, at any time, from a person who is not at the time of its receipt a permissible donor falling within section 52(2) or a person falling within paragraph 6(1A) of Schedule 15, must not be used to meet any referendum expenses.

(2) Any person who allows the use of such money or property as set out in subsection (1) to meet referendum expenses shall be guilty of an offence.

(3) Where a person is charged with an offence under subsection (2), it shall be a defence to prove that the person was unaware that the money or property was not received from a permissible donor.""

Lord Jay of Ewelme (CB): My Lords, Amendment 14 is a technical and—as I reassured the noble Lord, Lord Hamilton, in advance—neutral amendment, but nevertheless an important one. Its effect would be to clarify that funds from an impermissible source, whenever received, should not be spent on referendum campaigning.

The amendment is supported—indeed, encouraged—by the Electoral Commission, which has identified a clarification that is needed in the provisions designed to stop donations from foreign sources being spent on the referendum. My amendment is designed to address this.

As background, the Electoral Commission has come to the view that the controls in the Bill, which flow from the usual PPERA regime and which prevent campaigners accepting donations from foreign sources, come into effect only at the point the campaigner registers with the commission to be a permitted participant in the referendum. In practice, this means that there may be no control on the sources of funding a campaigner receives before it registers with the Electoral Commission, even if those funds are then used for campaigning during the referendum.

My amendment is designed to make clear that a campaigner cannot use any money for its referendum campaign from a source that would otherwise be impermissible under the PPERA regime. That, of course, includes donations from foreign sources. Without this clarification it would be possible for a campaign organisation to receive significant donations from foreign sources before it registered as a permitted participant. That money could then be spent in its entirety on campaigning during the referendum period. As I said, the amendment is designed to remove that risk.

This is a technical, neutral but important amendment that will help reduce the risk of accusations after the referendum that one side or the other has behaved improperly. I beg to move.

Lord Forsyth of Drumlean: My Lords, this seems a very sensible amendment. I was going to try to save time by asking the noble Lord before he sat down whether "foreign sources" includes the European Commission and the European Union. I will give way to the noble Lord so that he can intervene and tell me the answer.

Lord Jay of Ewelme: It may do—the Minister will be able to answer that question when she comes to sum up the debate.

Lord Forsyth of Drumlean: Because it seems to me that if it did not include the European Union and the European Commission, it would make something of a nonsense of the argument that he put forward. Perhaps my noble friend could indicate what the position is.

Lord Collins of Highbury: I have one brief question relating to Gibraltar. Political parties currently are not permitted to accept donations from Gibraltar, but when the Bill becomes enforceable they will be if it is for the purposes of the referendum. I want to understand how the amendment will impact in particular on the changes relating to Gibraltar.

Baroness Anelay of St Johns: My Lords, Amendment 14, tabled by the noble Lord, Lord Jay, relates to the controls that apply to donations received by campaigners. I was asked about the European Commission. As I explained in Committee, one of the technical issues is that permitted participants in these matters are individuals and bodies that intend to spend more than £10,000 on campaigning during the referendum period and so register with the Electoral Commission. The European Commission cannot be a permitted participant. If it were to spend money outside the campaign and in Europe, there are controls over where it can give that money and how it can give it. For example, there is a prohibition on accepting donations of more than £500 from an ineligible source, so people cannot accept money from it.

I was going to try to reduce the amount that I would read out at this late hour, but it looks as though I am being sucked back into doing exactly that. Perhaps I ought to try to address more closely Amendment 14 itself.

In considering the amendment, two questions have to be asked: is there a problem, and, if yes, does the amendment provide the solution? To the first question the answer is not straightforward, which is why the noble Lord tabled the amendment. He has done so after discussion with the Electoral Commission. It may come as a bit of a surprise to see this briefing from the Electoral Commission at such a late stage, particularly because I notice that my noble friend Lord Forsyth has been trying to get other information and has not been given the opportunity to obtain that. All I can say is that this briefing from the Electoral Commission that we have all seen arrived at about quarter to 12 in noble Lords' in-boxes yesterday. The Electoral Commission has suggested that the rules are unclear. As I remarked earlier, it is 15 years since PPERA became an Act. Over that period, all the conditions which the Electoral Commission now calls into doubt have been operating. Therefore, it is rather a surprise that these matters have been raised at this stage, but there you go.

The conditions in PPERA applied for the AV referendum and were replicated, through an Act of the Scottish Parliament, for the Scottish independence referendum, and nobody called them into question then. Indeed, at that stage, guidance from the Electoral Commission itself clearly and accurately explained the rules to campaigners in Scotland. Furthermore, the commission's own report on the Scottish independence referendum noted that it provided,

"a model that can be built on for any future referendums".

Despite that, as noble Lords will note, the Electoral Commission's briefing supports this amendment because the commission now has concerns about the rules. We have to take those concerns seriously because that is the whole point of trying to have rules upon which a fair referendum is to be based. The concerns relate to the fact that PPERA does not prevent campaigners accepting donations before they register as permitted participants, if the donation would have been impermissible after registration. If noble Lords consider that this is a problem, it must then be asked: is Amendment 14 the solution? Here the answer is clearly no for three reasons. First, it goes too far. The amendment would apply to donations received by any individual or organisation, regardless of whether or not they are, or later become, a permitted participant. At any point prior to the referendum, anyone, regardless of the size of the donation or the amount they will spend, could commit this new criminal offence. This really would be a sledgehammer to crack a nut.

Secondly, the amendment is unworkable. It would create an offence of allowing the use of money received from an impermissible source to meet referendum expenses. Currently, the rules do not require campaigners to track what each pound received is spent on. This is for a good reason, as attempting to do so would be a herculean task in administrative time. It would only ever create an arbitrary link between money in and money out. I find it difficult to imagine how that might be accurately assessed. How would anyone be able to prove that the £1,000 a campaigner received from a particular source was the exact same £1,000 spent on referendum expenses several months later? How could it work for charities and other organisations

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that receive donations from all over the world for different reasons? Clearly, that matter would have to be looked at if the amendment is to be put right but, as the amendment stands, it does not work.

The fundamental changes that Amendment 14 would introduce would begin to unstitch the fundamental principles that apply in PPERA, in particular the purposes of having a referendum period and permitted participants. These are all concepts which, to date, have been accepted by Parliament and endorsed by the Electoral Commission, and have provided the framework for well-controlled referendums in the UK.

The Government had questioned the whole issue of the potential for concern over donations received prior to registration. That is the kind of questioning one has to do. That is why we have required reporting ahead of the poll in the Bill, following the approach taken at the Scottish independence referendum. Where PPERA provides only for permitted participants to report on donations after the poll, the Bill also requires them to report publicly before the poll on donations received. That has two benefits. First, registered campaigners must be transparent about the sources of their funding before the vote takes place. More significantly in this context, the reports must detail reportable donations received during a set reporting period, even if received prior to that campaigner becoming a permitted participant—because you can change from being a campaigner to being a permitted participant—provided the donation was for the purposes of meeting referendum expenses during the referendum period.

This gives a flavour of how complicated this issue is. This approach works within the existing framework and maintains a proportionate approach to controlling campaign funding. Given the concern over the influence of overseas funding, we believe that having to report all these matters immediately prior to the referendum would act as a deterrent in most cases, even though the rules do not seek to regulate everybody at all times. It does mean that if you become a permitted participant, money received prior to that point from a source that would be impermissible once you had registered would have to be publicly declared before the referendum took place.

I come back to the underlying principle that it is important to ensure that there is transparency and that the transparency requirements imposed by pre-poll reporting are as effective as they can be. In the light of the noble Lord's concerns, I give an undertaking that the Government will look again at how the controls on pre-poll reporting work to deliver the appropriate level of transparency, balanced with a sensible compliance burden. We will consider these matters but they are complicated and technical. I cannot promise to come back with something that actually works but we will do our best.

In coming up with its proposals, the Electoral Commission has diagnosed what it now sees to be a problem but has not found the solution in its amendment. I therefore hope that at this stage, with the commitment I have given to look at this very closely, the noble Lord, Lord Jay, will withdraw his amendment. Of course, I undertake to work with him between now and Third Reading to see what can be achieved on these matters.

Lord Jay of Ewelme: I am very grateful to the Minister. I think there is an issue here but I am grateful for her commitment to look into it and particularly to focus on the need for transparency. In the light of that commitment, I am happy to withdraw the amendment.

Amendment 14 withdrawn.

Clause 4: Conduct regulations, etc

Amendment 15

Moved by ***Baroness Anelay of St Johns***

15: Clause 4, page 3, line 9, after "enactment" insert "(other than this Act)"

Baroness Anelay of St Johns: My Lords, in moving Amendment 15, I will speak also to government Amendments 16 and 17. These are technical amendments required to implement one of the recommendations of the Delegated Powers and Regulatory Reform Committee. They are to Clause 4, which provides that the Minister may make regulations about, among other things, the combination of the referendum poll with other polls taking place on the same day. The Delegated Powers and Regulatory Reform Committee raised concerns about the scope of the power to make combination regulations set out in Clause 4(2), as currently drafted. The committee's concern was that the power to amend what will become the European Union Referendum Act itself was too broad.

I begin by saying that the Government have no intention of combining this poll with any other planned election, as I made clear at earlier stages. The Bill already prevents the referendum from being held on days in May 2016 or May 2017 when elections are already planned. So this power is very much a contingency one.

We have considered carefully the committee's recommendation and the amendments we have tabled narrow the power contained in Clause 4(2) to amend or modify the Act. Under the amendments, the power would apply only to those parts of the Act that may need to be amended or modified in the event of the combination of the referendum with another poll. The relevant parts of the Act are: the definition of "counting officer" in Clause 9(1); Clause 9(2), which defines the voting areas to be used for the referendum; and Schedule 3, which makes further provision about the referendum. The power may not be used to amend any other part of the Act.

I am grateful for the work carried out by the Delegated Powers and Regulatory Reform Committee, as I said on the first day in Committee. I am pleased that the Government were able to respond by agreeing to all the committee's recommendations. I beg to move.

Amendment 15 agreed.

Amendments 16 and 17

Moved by ***Baroness Anelay of St Johns***

16: Clause 4, page 3, line 16, leave out "this Act or any other" and insert "any"

17: Clause 4, page 3, line 18, at end insert—

"( ) The reference in subsection (2) to any enactment includes—

(a) the definition of "counting officer" in section 9(1),

(b) section 9(2), and
(c) Schedule 3,
but does not include any other provision of this Act."

Amendments 16 and 17 agreed.

Clause 6: Power to modify section 125 of the 2000 Act

Amendments 18 and 19 not moved.

Amendment 20 had been retabled as Amendment 7B.

Amendments 21 and 22 not moved.

Clause 7: Regulations

Amendments 23 and 24

Moved by ***Baroness Anelay of St Johns***

23: Clause 7, page 4, line 42, leave out paragraph (b)
24: Clause 7, page 5, line 2, leave out subsection (5)

Amendments 23 and 24 agreed.

Consideration on Report adjourned.

House adjourned at 10.46 pm.

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