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PARLIAMENTARY DEBATES  
(HANSARD)

# HOUSE OF LORDS

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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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# THE PARLIAMENTARY DEBATES

(HANSARD)

IN THE FIRST SESSION OF THE FIFTY-SIXTH PARLIAMENT OF THE  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
COMMENCING ON THE EIGHTEENTH DAY OF MAY IN THE  
SIXTY-FOURTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

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SEVENTH VOLUME OF SESSION 2015-16

## House of Lords

*Monday, 11 January 2016.*

2.30 pm

*Prayers—read by the Lord Bishop of Rochester.*

### **Retirement of a Member: Lord Soulsby of Swaffham Prior**

*Announcement*

2.36 pm

**The Lord Speaker (Baroness D’Souza):** My Lords, I should like to notify the House of the retirement, with effect from 31 December, of the noble Lord, Lord Soulsby of Swaffham Prior, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I should like to thank the noble Lord for his much valued service to the House.

### **War Pensions: Uprating**

*Question*

2.36 pm

*Asked by Lord Touhig*

To ask Her Majesty’s Government, further to the Written Statement by Earl Howe on 9 December (HLWS366) on the 2016 Uprating of the War Pensions Scheme, when war pensioners can next expect an increase in their pensions.

**The Minister of State, Ministry of Defence (Earl Howe) (Con):** My Lords, the reason war pensions are uprated is to ensure that they reflect any increases in the cost of living. They are uprated annually in line with the consumer prices index—CPI—figure, which is the same measure the Department for Work and Pensions uses for uprating social security disability benefits and is in keeping with other public service schemes. Our approach ensures consistency with the measure of inflation used by the Bank of England. War pensions will increase when the annual CPI figure next increases.

**Lord Touhig (Lab):** The Government deserve credit for enshrining the Armed Forces covenant in law, and I am sure that the entire House endorses the words of the Defence Secretary, who said in the latest covenant report that,

“we have a duty to ensure that our servicemen and women are treated fairly”.

Yet within days of his making that statement, his department published a Written Statement entitled *War Pensions Scheme—Uprating 2016*, although there is no uprating, and in fact war pensions have been frozen for two years. Does the Minister agree that war pensioners should be treated the same as, say, someone like me, who is in receipt of a state pension, which, as a result of the triple lock, is guaranteed to increase every year? As the Defence Secretary said, we have a duty to ensure that our service men and women are treated fairly, and surely none more so than those who have been injured while serving our country.

**Earl Howe:** My Lords, it is important to make it clear that despite its name, a war disablement pension is not a state pension but a form of compensation for disablement and/or injuries caused by service to the country. It is tax free and payable in addition to the state retirement pension. Payments are set at a higher rate than similar disability benefits and most war pensioners who have reached retirement age will be in receipt of both pensions.

**Baroness Jolly (LD):** My Lords, the war pensions scheme includes allowances related to employment, so the annual uprating should be related to earnings inflation and not price inflation. Will the Minister tell the House what it would cost the Treasury to link the war pensions scheme to earnings and not to inflation?

**Earl Howe:** My Lords, I know that the Royal British Legion has come up with its own calculation. To answer the noble Baroness’s question, I am not aware that the Treasury has done so. However, the principles should be clear here. Under the Armed Forces compensation scheme and the war pensions scheme which preceded it, an injured service man or woman is

[EARL HOWE]

assessed on their level of disability, and based on that assessment they are compensated for their deemed loss of earnings in civilian employment. After that, the guiding principle is that the real-terms purchasing power of the annual payment should be maintained, and it is therefore indexed to the consumer prices index, which, as I said, is the index applied by the DWP to all disability benefits.

**Lord McFall of Alcluith (Lab):** My Lords, the Royal British Legion is very clear in saying that war pensions are losing value compared with military and civilian salaries. It is inexplicable that our injured and disabled comrades cannot have the same as others in society—the triple lock. Is it not a sad commentary that the Royal British Legion and others are correct in saying that, in this case, we are not all in this together?

**Earl Howe:** My Lords, the triple lock applies only to the basic state pension. Members of the Armed Forces will therefore benefit from the triple lock once they reach state pension age, but there are broader issues to be considered here. One is that maintaining parity with social security disability benefits is in principle the right thing to do, but secondly, there is the affordability issue. As a Government and, I believe, as a nation, we have to stick with the long-term economic plan and we have to continue to live within our means.

**Lord Foulkes of Cumnock (Lab):** Is the Minister not surprised that no Conservatives are rising to their feet to defend our servicemen? They are quite prepared to go along and lay a wreath and to go on marches, but when it comes down to it, the Minister gave it away: he said the word “affordability”. These are people for whom we must afford to uprate their disabled benefits, along with pensions; otherwise, we are really not honouring the memory of those who died for our country and served it so well.

**Earl Howe:** As I have explained, we do uprate the war pensions scheme, in line with the CPI, which is exactly the measure used by the DWP for all disability benefits, so those people are not disadvantaged.

**Baroness Gardner of Parkes (Con):** I had a past interest as the first chairman—I suppose that was my title—of the War Widows’ Association. Indeed, my noble friend Lady Fookes is now in the same position and has been very successful in that regard, as have other Members of this House. Can the Minister tell me whether the wonderful change, brought in by a Conservative Government, whereby war widows can marry again without losing their pension, is affected in any way, or will they still be able to live whatever life they choose as the widow of a war pensioner?

**Earl Howe:** My Lords, a change was introduced. As from 1 April last year, those who are widowed and have a war widow’s pension can keep that pension whether or not they subsequently marry. However, regarding cases that fall before that cut-off point, it

has been the policy of successive Governments that changes or improvements to all public service pension schemes should not be applied retrospectively, so there are no plans to reinstate war widows’ pensions for war widows who remarried between 1973 and 2005. However, from 1 April last year, those who have already surrendered their pension due to remarriage or cohabitation can apply to have their pension restored for life, should that relationship end.

**Lord West of Spithead (Lab):** My Lords, 210 years ago on Saturday, Lord Nelson was put in the crypt at St Paul’s. He always said that when he died, he would have “lack of frigates” engraved on his heart. We had some 220 frigates at that stage; we now have 13. Does the Minister feel that Lord Nelson might be a little disappointed by that, and when will he order new frigates to replace the ageing ones?

**Earl Howe:** My Lords, with great respect to the noble Lord, I think that is another question.

### Four Seasons Group *Question*

2.44 pm

*Asked by Baroness Wheeler*

To ask Her Majesty’s Government, in the event of the financial collapse of the Four Seasons Group, what contingency plans are in place to provide alternative accommodation, care and support to ensure the safety and well-being of over 20,000 residents currently residing in Four Seasons homes.

**The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con):** My Lords, managing provider failure in the adult social care market is a local responsibility. I cannot comment on the finances of individual providers. However, the Care Quality Commission has financial oversight of the larger providers and would supply local authorities with early warning if one of the businesses were to fail and its regulated activities to cease, allowing time for local contingency plans to be implemented. The Department of Health would co-ordinate any appropriate national response.

**Baroness Wheeler (Lab):** I thank the Minister for his response but it is disappointing that he cannot be more reassuring on government contingency plans for the fallout that would result from the collapse of major and small providers in the care industry. The problem goes wider than Four Seasons, given the rising costs of care, the postponement of the care cap and the inability of cash-starved local authorities to increase fees to meet rising costs and demands. The Southern Cross collapse affected 31,000 frail and elderly residents, who had to be found alternative care. Surely the Minister recognises that and the fact that there needs to be a wider government strategy to ensure the financial sustainability of the sector and to deal with the huge scale of closures that will happen unless the funding problems are addressed.

**Lord Prior of Brampton:** My Lords, the collapse of Southern Cross in 2011 was the main reason that the previous Government gave the CQC market oversight responsibilities, which will give early warning of any failure of a large provider. It is worth noting that the LGA believes that at least 95% of all local authorities have contingency plans ready to be implemented.

**Baroness Greengross (CB):** My Lords, the former Health Minister, Norman Lamb, called for a cross-party commission to review future funding for health and care services in this country. Does the Minister not agree that we have to start talking, honestly and openly, about what standards of health and care older people can expect now and in the future? Having a commission to look in depth at this and to come up with strong recommendations seems—to me, at any rate—a rather good idea. Does the Minister agree, and will he comment on whether such a commission might be established?

**Lord Prior of Brampton:** My Lords, the idea of having a commission has been discussed a number of times in this House, and there will be a long debate on this matter on Thursday. In the spending review the Government are enabling local authorities to increase their precept by 2% and they are increasing the contribution to the better care fund by £1.5 billion, which will see a real increase in the resources available for adult social care.

**Lord Lansley (Con):** My Lords, does my noble friend agree that in circumstances of provider failure one of the most important things is for residents to be maintained in their existing homes? In fact, that was achieved in the overwhelming majority of cases following the Southern Cross collapse. It is often possible to separate the going-concern basis of individual homes from the commercial situation of the provider as a whole.

**Lord Prior of Brampton:** I fully agree. Our interest is in the residents in the homes. The CQC's oversight regime is not intended to prop up a provider—that is an entirely different matter. My noble friend is absolutely right that when Southern Cross went into insolvency, very few homes—in fact, I do not think that any homes—closed as a direct result at the time; most of them carried on as going concerns.

**Baroness Brinton (LD):** My Lords, is the Minister working with the Department of Health, the CQC and BIS to ensure that the new financial instrument, whereby an individual can invest in a single room in a care home for a guaranteed rent, protects the user of that room as much as it provides any yield for the investor? Evidence in the student sector has shown very mixed results. Students can move on elsewhere, but elderly care residents have nowhere else to go and their protection, and indeed the trading viability of a care home, could be affected if investors had to move out quickly.

**Lord Prior of Brampton:** My Lords, I could not see where the question was coming from. I am not fully briefed on the financial instrument that my noble

friend—I am sorry; the noble Baroness—referred to. I will have to research it and get back to her.

**Baroness Pitkeathley (Lab):** My Lords, does the Minister agree that Four Seasons, which is the subject of the Question from my noble friend on the Front Bench, is only one of the groups facing financial crisis? It is estimated that by 2020 there will be a funding gap of £3 billion for the residential care sector, and 15 social care groups warned the Chancellor of this before the Autumn Statement. Have the Government any long-term plan for funding and improving social care or are they committed to short-term solutions and to saying that it is a matter just for local authorities?

**Lord Prior of Brampton:** My Lords, clearly, it is a matter principally for local authorities. However, the Government are making available in the spending review another £1.5 billion for the better care fund and allowing local authorities to raise a special precept of 2%. The oversight provisions of the CQC cover 45 providers, which cover some 20% of the market. It is intended that that will give early warning to local authorities of any likely collapse.

**Baroness Barker (LD):** My Lords, can the Minister confirm that anyone who has their care package funded by a local authority is entitled to alternative provision? Anyone who is a self-funder under the law is entitled only to advice. Are the Government taking steps with local authorities to ensure that older people and their families are aware exactly what their entitlement would be in the event that their care home were to close?

**Lord Prior of Brampton:** My Lords, it is up to local authorities to have contingency plans in place in the event of the closure of a home in their area. As I said earlier, the Local Government Association has indicated that at least 95% of local authorities have contingency plans in place.

**Lord Sutherland of Houndwood (CB):** My Lords, the problems of care home residents through the demise of Southern Cross was dealt with very significantly by the rest of the care home sector; a condition of that happening was that it was in “robust condition”. Can the Minister reassure us that the care home sector is currently in equally robust condition?

**Lord Prior of Brampton:** My Lords, it is true, as the noble Lord says, that the fallout from the collapse of Southern Cross was that the industry took on most of the homes currently owned or operated by Southern Cross. I think that if a large provider went into insolvency, many of those homes would be taken over by the industry. The important thing is that the industry has confidence in its long-term future. As I said earlier, I believe that the commitment to increasing the better care fund and allowing local authorities to have a 2% precept for social care will provide that level of long-term confidence.

## Fire and Rescue Service: Thomas Review Question

2.52 pm

Asked by **Baroness Bakewell of Hardington Mandeville**

To ask Her Majesty's Government when the Thomas review into conditions of service for operational staff in the fire and rescue service in England will be published; and whether they will provide an update on the progress of that report.

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con):** My Lords, the Government are looking at the detail of the review's findings and will publish it in due course in the light of the proposed governance changes for the fire and rescue services resulting from our consultation, *Enabling Closer Working Between the Emergency Services*.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, I thank the Minister for her response. I hope that the transfer of fire and rescue services to the Home Office may bring about some urgency in the publication of this important document and that the new Minister will set out a timetable for publication of the review before the anniversary of the original deadline for the submission of the report to government, which was in February 2015. The delay in publication is causing unnecessary problems in forward planning. Will the Minister agree to meet me and the chairman of the LGA's fire services management committee as soon as possible to discuss this important matter?

**Baroness Williams of Trafford:** I am certainly very happy to meet the noble Baroness, but she may like to meet my noble friend Lord Bates—or perhaps she can meet both of us.

**Lord Kennedy of Southwark (Lab):** My Lords, first, I pay tribute to our brave men and women in the fire service. We have all seen their bravery during the recent floods, along with that of our other emergency services and the Armed Forces. The Government have had this report since February 2015 and the Fire Minister made reference to it in a speech to the LGA in March. Can the Minister give more of an answer to the House—her response was not very satisfactory—and explain why the Government have sat on this report for 11 months?

**Baroness Williams of Trafford:** My Lords, as I said, the Government will be deliberating on the report. The themes of the review are already in the public domain and we will respond in due course. I echo the noble Lord's words about the bravery of our fire and rescue services, and in fact all the emergency services, over the Christmas period. Certainly in the areas that I visited following the flooding, their services have been absolutely exemplary.

**Lord Foulkes of Cumnock (Lab):** I am surprised that no Conservative Members are standing up to say what a wonderful job the fire and rescue services did. While we were all sitting at home eating our Christmas

dinner or drinking our new-year drink, they were out in the flooded areas in the north of England. I am afraid that most of the Members opposite who come from the south-east of England do not realise the problems that the north of England and Scotland faced. What discussions has the Minister had with her counterpart in Scotland to find out the ways in which the Scottish fire and rescue services have also been doing a very good job?

**Baroness Williams of Trafford:** My Lords, I have visited Bury, Salford and Rochdale over the Christmas period so it is unfair to say that noble Lords on these Benches have not shown an interest—and I am from Trafford. In addition—by sheer good fortune I was in the west of Scotland last week and missed the east coast flooding—I know that communities, local authorities and faith ministries have all pulled together just as they have in England. The community response has been humbling and I commend everyone who has played their part in the clean-up operation.

**Lord Cormack (Con):** Will my noble friend remind the noble Lord, Lord Foulkes, that care and concern is not the monopoly of any group within this House?

**Baroness Williams of Trafford:** My noble friend is absolutely right.

**The Earl of Sandwich (CB):** My Lords, can the Minister confirm that educational services have been cut drastically recently and that firemen are not going out to give enough fire safety training?

**Baroness Williams of Trafford:** My Lords, fire safety training has been more focused on areas of high need—for example, the elderly and the disabled. There has certainly been a big push for smoke and carbon monoxide alarms, as this House has debated on a couple of occasions. The fire and rescue services are focusing their efforts much more. I was going to say something else, which I have forgotten, but it is a more focused effort.

## Rough Sleeping Question

2.57 pm

Asked by **Baroness Grender**

To ask Her Majesty's Government what steps they are taking to reduce the number of people who are sleeping rough.

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con):** My Lords, the Government remain committed to protecting the most vulnerable in society. That is why we are maintaining homelessness funding over this spending review period, building on our significant investment since 2010. But even one person without a home is too many, so we have committed to work with homelessness organisations and across departments to consider options, including legislation, to prevent more people from becoming homeless in the first place.

**Baroness Greder (LD):** Can the Minister explain how a Prime Minister who believes that affordable property in London is £450,000, and a Housing and Planning Bill which sells off social housing but with no legal guarantee of replacement, can be interpreted as anything other than the abandonment of a homelessness strategy and a return to the 1980s when kids out of care and troops returning home had no choice but to sleep rough?

**Baroness Williams of Trafford:** My Lords, the Prime Minister has not said that £450,000 is the price for an affordable home in London: it is the cap at which an affordable house can be provided in London. I apologise but I did not hear the second part of the noble Baroness's question because there was a slight disturbance. Perhaps she would like to repeat it.

**Lord Spicer (Con):** My Lords—

**Noble Lords:** Order!

**Baroness Greder:** I will repeat the second part. With the Housing and Planning Bill, which sells off social housing but has currently no legal guarantee of replacement, how is it possible to interpret it as anything other than an abandonment of homelessness strategy by this Government and a return to the 1980s when kids coming out of care and troops returning home had no choice but to sleep rough?

**Baroness Williams of Trafford:** My Lords, the Government are committed to building 1 million new homes by 2020 which will include affordable houses and homes for rent with a mix of different tenures. I must repeat that we will maintain and protect funding for local authorities, which by 2019-20 will be £315 million.

**Lord Spicer:** My Lords, as the housing Minister who introduced the rough sleepers allowance, I often wonder whether I was right to do so. Would it not have been better to have introduced more money for the provision of hostel places? Can I ask my noble friend how many hostel places are available today as compared with the number of those sleeping rough?

**Baroness Williams of Trafford:** My Lords, I cannot give an exact figure for the number of hostel places, but what I can say to my noble friend is that I think he was absolutely right to do the work that he did. We introduced a £20 million homelessness transition fund that has supported the rollout of "No Second Night Out" across England, which has been very effective.

**Baroness Lister of Burtsett (Lab):** My Lords, the Chartered Institute of Housing was recently quoted as saying that the main cause of increased homelessness is social security cuts. Can the Minister tell us what assessment the Government have themselves made of the impact of benefit cuts on the number of homeless people?

**Baroness Williams of Trafford:** My Lords, I cannot agree that the cause of homelessness is social security cuts because, in line with the housing benefit cuts, the welfare reform Bill will introduce a 1% reduction in social rents. My understanding is that the biggest cause of homelessness is in fact the end of tenancies.

**Lord Davies of Stamford (Lab):** My Lords, I think that the whole House will be disappointed that the noble Baroness was not able to estimate the number of people sleeping rough in London—and perhaps the Government do not have the figures. Could she at least answer the second half of the question put by the noble Lord, Lord Spicer; that is, how many hostel places are there in London at the present time?

**Baroness Williams of Trafford:** My Lords, I think I made it clear that I do not know the number of hostel places, but I will get that figure both for my noble friend and for the noble Lord.

**The Lord Bishop of Rochester:** My Lords, in my capacity as chair of the charity Housing Justice, an interest that I declare, I am very aware of the work of church and community winter night shelters. Indeed, the organisation provides a charter mark for such initiatives. In the winter of 2014-15, these shelters used some 500 church and other buildings, including mosques and synagogues, to provide winter accommodation, along with tens of thousands of volunteers who welcomed several thousand guests. Sadly, this work is expanding, although I wish it were not. Perhaps I may invite the Minister to affirm the Government's support for initiatives such as winter shelters not simply as places of temporary shelter but, more importantly, as places where homeless people can be assisted to find longer term, permanent solutions to their circumstances.

**Baroness Williams of Trafford:** I am very happy to endorse what the right reverend Prelate does and the work of organisations like the church. It is absolutely vital, particularly in the cold winter months, in taking rough sleepers off the streets and giving them warmth and shelter.

**Baroness Jones of Moulsecoomb (GP):** My Lords, can the Minister explain why the Prime Minister has actually chosen to deal with some of the symptoms of problems in our society but not the causes? He has suggested that he is going to knock down sink estates, whereas in fact what we need is poverty alleviation.

**Baroness Williams of Trafford:** My Lords, I think that this Government and the coalition Government before them focus quite heavily on the causes of poverty and alleviating it. Certainly the troubled families programme has been extremely effective in taking either a whole-family or whole-community approach in dealing with these complex, long-term problems.

**Baroness Hussein-Ece (LD):** My Lords, I am not sure whether the Minister has seen the Centrepoint report which states that the number of homeless young people aged between 16 and 25 years old has more

[BARONESS HUSSEIN-ECE]

than doubled since 2011. It has called on the Government to make more hostel provision and support services to stop very vulnerable young people ending up sleeping rough on the streets. Do the Government have a plan to address this directly?

**Baroness Williams of Trafford:** My Lords, we most certainly have. Young people getting into a homeless situation can often also cause other problems. The Government totally support what the noble Baroness is saying. The idea of prevention at that stage is vital for that young person's future.

**Lord Beecham (Lab):** My Lords, in addition to the worrying increase in homelessness and rough sleeping, more and more people are being driven to rely on food banks. Which of these consequences of government policy do the Government regard as the more serious? In any event, will they now include provisions in the Housing and Planning Bill to address what David Cameron once described as the "disgrace" of having people sleeping on the streets?

**Baroness Williams of Trafford:** My Lords, both aspects are important. People being homeless or using food banks is a worry for society, which is why the Government are investing centrally and locally to address the issue.

**Lord Roberts of Llandudno (LD):** My Lords, the Immigration Bill will try deliberately to force people into destitution and discourage them from being immigrants in the UK. Listening to the Minister's replies, does that mean that the Government will withdraw that section of the Immigration Bill which deliberately tries to force people on to the streets?

**Baroness Williams of Trafford:** My Lords, I am not totally au fait with the Immigration Bill. The Government believe that, while no one should ever have to sleep rough, EU nationals who choose to do so are abusing the freedom of movement, which will not be tolerated.

**Lord Clarke of Hampstead (Lab):** The Minister may not have the figures she was asked for but she may be interested in the figures of people sleeping rough in Watford. Prior to the Christmas appeal for what, in the last few years, was for food, this year the charity which looks after the homeless and those who sleep rough in Watford reported that four years ago approximately 30 people were sleeping rough; currently, there are 79. This year, they were not asking for food but for sleeping bags. Does the Minister have any conscience about what has happened to these people?

**Baroness Williams of Trafford:** My Lords, indeed, I have a conscience about what is happening to these people, but I am very proud to say that homelessness is still half what it was at its 2003 peak.

## Trade Union Bill

### Second Reading

3.08 pm

Moved by **Baroness Neville-Rolfe**

That the Bill be now read a second time.

*Relevant document: 15th Report from the Delegated Powers Committee*

**Baroness Smith of Basildon (Lab):** My Lords, I do not want to delay the House and I wish noble Lords a very happy new year, but perhaps I may seek guidance and advice from the Government. We are about to start our deliberations on the Trade Union Bill, in which there is considerable interest in your Lordships' House today, yet, not for the first time, we have no impact assessment. This has happened before but this Bill started around five months ago in the House of Commons and we still do not have that impact assessment. I am sure the noble Baroness is aware that the Cabinet Office manual on impact assessments states:

"The final Impact Assessment must be made available alongside Bills published in draft for pre-legislative scrutiny or introduced to Parliament, with 80 copies sent to the Vote Office ... and 10 to the Lords Printed Paper Office".

We do not need 10: we will settle for one but we would like it as soon as possible.

**The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con):** My Lords, I thank the noble Baroness for raising this issue, which I was intending to cover today. To assist the House, I am happy to clarify that the Government have already published consultation impact assessments alongside the public consultations that support our package of reforms, as well as an equality impact assessment. As foreshadowed when I met noble Lords before Christmas, we will publish a further impact assessment on the Bill before Committee.

This is an important Bill, dealing with a very important subject. Trade unions have a long and distinguished history. They first came into being when many workers led a precarious existence and incapacity in a family's main breadwinner could spell tragedy. They helped bring about higher wages and safer workplaces, and have many more worthy accomplishments to their credit. Everything I say today should be seen against this background.

In an earlier life, I worked at a company that had excellent relations with its main trade union, which achieved many benefits for its members in the company. However, every great social institution requires occasional modernisation if it is to remain relevant and responsive. I know how keen on modernisation noble Lords opposite are. Every institution can benefit from greater transparency, better accountability and clearer regulation.

The Bill seeks to modernise trade unions—not to undermine their place in society, but to strengthen it by making sure that they are accountable and transparent and use their powers responsibly. It is not fair that a

strike in the education sector in 2014 organised by the National Union of Teachers was held on the support of just 22% of its members. Similarly, in 2014 a strike among NHS workers was called by Unite on the basis of the support of just 12% of members.

The consequences of strike action can be widespread and severe for many. I think especially of those having to juggle childcare whenever schoolteachers or Tube drivers take industrial action. As a parent and, indeed, now a grandparent, I know just how difficult such disruption can be. and remember that in Britain today we have the highest level of women's participation in the workforce ever.

Some people have described the Bill as an attack on trade unions, on workers' rights, on their ability to strike, and even on human rights. Nothing could be further from the truth. The Bill is about bringing more democracy and transparency to industrial relations. It seeks to achieve a better and fairer balance between the rights of workers and the needs of people who rely on important public services.

Taking democracy first, the key purpose of the Bill is to ensure that strikes take place only where there is a genuine democratic and recent mandate. The Bill therefore provides that all strike ballots will require at least a 50% turnout before industrial action can commence. In addition, in important public services we will require at least 40% of members eligible to support a yes vote. We need to find a better balance to ensure that people who rely on these services do not find their lives disrupted at short notice by strikes that have the support of only a small proportion of union members. The Government's reforms will restore public confidence that, where industrial action takes place, it always has the strong support of union members.

The Bill also requires unions to provide their members with a more detailed explanation of what issues are in dispute and what form of industrial action is planned on the ballot paper. This will allow all members to vote meaningfully and with confidence. Once a ballot has been won under our proposals, it would be valid for four months. This measure means that a strike can be called only on a recent decision by union members, not on a ballot that happened years before. The National Union of Teachers called a strike in July 2014 on a mandate from June 2011. We cannot go on in this way.

Moving on to transparency, the Bill will allow individual union members to make an active choice whether to contribute to a union's political activities. Paying into the fund automatically will no longer be the default position. Having taken the decision, we want members to consider whether they want to continue to support the political campaigning of their union. That is why the Bill requires that union members will have to refresh the decision every five years. There is no reason why this new transparency should reduce the appetite for individual members to contribute to a union's political fund. Indeed, we hope that it will increase the democratic debate within unions about the appropriate use of such funds.

Facility time is another area where we want to increase transparency. Most taxpayers are surprised to hear that some public sector workers are paid by the state to do a specific job, but spend a significant

proportion of their time—indeed, in some cases, all their time—working on union matters. This, however, does not mean that the duties carried out by union representatives are not valuable. The measure will aid a more effective use of taxpayers' money, while allowing public sector employers to focus on those areas that are vital to maintaining good industrial relations. It allows Ministers to require employers to publish information on the use of facility time in their own organisation. In the Civil Service, we have already introduced such a transparency requirement. Before these 2012 reforms to facility time, the cost to the taxpayer was around £36 million annually; now it has reduced to £9.45 million a year. Although we have taken a reserve power to set a limit on facility time, we will use that only if facility time is disproportionately high.

I now turn to measures to ensure a modern framework for union activities. We are grateful for the democratic debate that has taken place during the passage of the Bill through Parliament so far. We have listened, which has allowed us to improve the Bill. For example, our manifesto committed us to tackling the intimidation of non-striking workers. We held a wide-ranging public consultation and published our response in November. Much concern was raised during that consultation over what we may and might not do, most of which was unfounded. For example, we were never going to approve the text of individual tweets. Following the consultation, we are not pursuing a new offence of intimidation on the picket line. However, the consultation has allowed us to be clear that we need to update the 1992 code of practice on picketing to ensure that it addresses the use of social media. The Bill also makes an obligation of the appointment of a picket supervisor. This requirement is already in the code of picketing, which has been followed without difficulty on many occasions by many unions.

We believe that better transparency and democratic accountability will be further enhanced by a stronger and more direct relationship between unions and their members. That is why we are ending the practice of check-off in the public sector. Nowadays, in a world of direct debits and easy online payments, it feels unnecessary. Unions need to have a more direct relationship with their members.

We are also reforming the role of the Certification Officer to allow proper, robust and proportionate regulation. A modern regulator should not be a burden on the taxpayer. That is why we are asking trade unions and employer associations to pay for their regulator via a levy. This is not an unusual approach. The Bill equips the Certification Officer with appropriate new powers for a modern regulator of trade unions and employer associations. We are widening the Certification Officer's powers of investigation in relation to suspected breaches of statutory requirements. These are neither unusual nor draconian. For example, the CO will be able to request the production of documents where there is good reason to do so. He or she will be able to consider concerns from third parties in deciding whether to investigate potential breaches. He or she will also have the ability to impose financial penalties for those who do not apply the statutory requirements. I shall say more about the exact levels of financial penalties at a later stage of the Bill.

[BARONESS NEVILLE-ROLFE]

I recognise that many noble Lords feel passionately about unions and industrial relations and are wary of any attempts to change the laws relating to them. I hope they will accept that these are sensible, proportionate measures that will bring industrial life into the 21st century.

3.20 pm

**Lord Mendelsohn (Lab):** My Lords, I rise to reply on behalf of these Benches, and look forward to hearing some excellent maiden speeches in the course of this debate. I hope that my comments, or aspects of them, may find some resonance across the House. I do not think that it will not be too much of a surprise to anyone when I say that the Bill is extraordinarily partisan, vindictive and selective. It breaches legal conventions, civil liberties and settled agreements between political parties, and it reintroduces adversarialism. It clearly impinges on the capacity of the devolved authorities to manage the functions for which they have responsibility, thus fuelling the argument in favour of separation. It fails to achieve its stated purpose—not least as its analysis is poor and its measures counterproductive.

I am a businessman. I have never been a member of a trade union, but I have dealt with them, including on employment matters, where they have played a valuable and pragmatic role in dealing sensibly with issues—far more so than the intervention of lawyers. I do not come from a great trade union background in my attachment to my party; there are many with experience and wisdom who have that background, and I look forward to hearing from them in the debate today. But I have worked with trade unions, done business with them, criticised them and, some years ago, even discussed change and modernisation with a trade union. I am neither closed nor precious when it comes to considering issues around trade unions, and there is nothing like a good examination of trade unions—but this is nothing like a good examination of trade unions.

I deeply regret that the Government are yet to publish the consultation; it is unorthodox. The very serious nature of this Bill has been pointed to by a very respected body of this House already, and I am unsure how much clarity the impact assessment will provide following the Regulatory Policy Committee's scathing criticism of the Government's three impact assessments on thresholds, picketing and use of agency staff, which were red-flagged and deemed not fit for purpose. It is worth noting that in the previous Parliament the RPC issued just over 2,000 opinions, and there were only 14 instances in which a department proceeded to the next stage of the policy process on the basis of an impact assessment rated by the RPC as not fit for purpose—and in this case three were deemed not fit for purpose.

So why is this Bill so bad? First, in principle, it does not address the right issues. There is no evidential foundation to say that there is a significant problem that needs to be addressed by many of the measures that it has chosen—certainly compared to the rest of Europe, where we are at just over 50% of the general average loss of days taken up by strike disputes. In the 1980s, 7 million days a year were lost on average; over the past decade, the running average was around 670,000,

and the numbers have been in decline steadily and consistently. In 2014, there were 151 stoppages, and most disputes where there were ballots were settled without strikes; 56% of these were in the private sector. Detailed data and research undertaken by the OECD have shown that all statistics have roughly halved in each decade since the early 1980s; reductions are steady in industry sectors and in dispute duration; and these declines are exemplary in places with high union membership and collective agreements. Low inflation has led to a reduction of the incidence of pay disputes.

So where is the evidence that there is a particular problem, and why are the Government taking a risk in acting so disproportionately? I have searched for any study or evidence that the Government could even point to, to suggest a strong public interest case. I have looked at the writings and research of economists, but they, too, cannot see the logic. In fact, a recent University of Oxford paper entitled *The Benefits of Enforced Experimentation*, studying the impact of the RMT Tube strike on the travelling habits of 18,000 commuters, concluded that a 48-hour stoppage was economically efficient—encouraging consumer behaviour to examine alternatives in markets where there is not perfect information, far better than the benefits of technology—and actually helped commuters in the long run, including and especially working mothers. I am not arguing in favour of conduct based on this analysis; I am just pointing out the absolute dearth of any evidence to support not just the Government's stated figures but their measures and means to achieve their objectives.

Business support is lukewarm and detailed analysis has been negative. The Chartered Institute of Personnel and Development has said that the Bill's plans are,

“an outdated response to the challenges of the modern workplace”.

CIPD research with employers and consultation with its own members show that employer relations with trade unions are generally good. Therefore, a more logical way forward for employers would be to build a better dialogue with their workforces and consider alternative approaches such as no-strike agreements rather than focusing on ballot thresholds.

Secondly, as a businessman, my frustration with the Bill is that it is entirely one-sided. It utterly fails to take into account the most significant driver of the working environment at the current time; that is, management—leadership. Today the major variants owe more to the role of management than to employees and nowhere is this more evident than in the public sector. I was encouraged that I seem to share the approach of the Permanent Secretary of the Minister's department. Responding to ACAS's excellent work on building workplace co-operation to improve productivity, he welcomed it as strongly recognising,

“the impact that good management can have”.

There is an interesting contrast here with the public sector because of course many of the disputes were identified previously in the private sector. In the UK economy, productivity gains have been the strongest in the private sector in the largest companies, particularly in areas with long-established ways of working with unions and representation; for example, in the car industry or the impressive and world-leading work



between unions and management in the UK oil industry. The public sector has a significant mass of disproportionately large entities and here the productivity has been weakest.

According to the last full report of the ONS, 131 million days were lost due to sickness absence, of which 15 million were through stress, anxiety and depression. The trend line of days lost has been in decline since 2000, since partnership emerged quite strikingly. Public sector workers are still running at 2.9% of working days lost; in the private sector the figure is 1.8%. That has come down in the public sector from 4.2% and in the private sector from 2.8%. Certainly there is a fantastic opportunity here for public sector managers to see and maximise greater advantages. In managing motivation and the problems of sickness, absence, stress and depression, we can make a big difference, particularly where the public sector lags. Here is the most significant lever that could be used to make significant changes in line with the outcomes the Government profess to want, and I hope it is here that the Government will be willing to consider some helpful amendments.

Thirdly, the Bill is a great example of penny-wise and pound-foolish. For all the political bluster, it achieves little and creates in its wake a series of unforced errors and costs. I will quantify this point later but I was once taught some very important lessons on how to manage well and avoid disputes. Do not give conflicting messages: say what you mean and act to show that you mean it. Give your employees the tools they need to do their jobs; if they cannot get the job done because they lack the tools, whose fault is it really? Learn to lead from the background: delegate authority properly and provide the instructions and tools necessary. Meet regularly with union representatives; do not cancel or avoid meetings and keep the lines of communication open. Be fair but do not give away the farm. These are probably the most significant lessons for public sector managers and especially Ministers. Manage the workforce in the public sector better and you will get better outcomes. The measures in the Bill are draconian.

Finally, the Bill is unworthy of how politics in this country should be conducted. The Government's clear attempt to defenestrate the Labour Party's finances does not just breach the long-standing agreement that any measures which have a bearing on the finances and capabilities of the parties should be only by agreement with all the other parties but has led to the most ludicrous denials I have ever heard. "This is not about party funding", it is said. Is that really plausible after this has been a repeated topic of discussion during rounds of party funding discussions, and after it was discussed during the coalition but was rejected because it breached an agreed convention and because of the patently obvious impact that it would have? There might perhaps have been a scintilla of a chance of carrying this off, were it not for the punitive timetable set out in the Bill to inflict maximum damage as soon as possible.

I want to make it clear that I hold the Minister in the highest regard. She is a capable and decent Minister. I appreciate that in her role she has to perform many duties and that this is a script which comes from

somewhere else. There is less dispute over the ultimate authorship of the Bill than there is with Shakespeare. Such a political calculation may be a strong indication of the future of the Chancellor but I hope that, in the traditions of this House, the Minister will be willing to see what can be done to make the Bill better in any way possible.

I want to go briefly through some of the measures that the Bill addresses and some of its problems. In relation to thresholds, are the Government really saying with conviction that they want to hear the democratic voice? If this is so, why were they so resistant to introducing any of the changes that would allow for participation to increase? All the methods which are now widely used are still resisted. If the Government are serious about the democratic voice, they will be open to allowing participation consistent with the current standards of balancing processes to be introduced.

In relation to certification officers and the Government's wish to turn a regulator into an investigator, they are not just lowering the threshold for what investigation can be made to the lowest possible but allowing for punitive powers for costs to be applied to the union, no matter what the circumstances. Is this really the way that we want a regulator to operate?

In relation to check-off—simple payroll administration—I am absolutely astounded. I heard the argument when a Minister in the other place said that this costs the public purse £6 million. Frankly, an economist and someone who professes to have worked in a family business, which was a payroll software system business, should understand marginal cost. The marginal cost of introducing an employee is so small that in a number of organisations where the unions are willing to pay the cost of it, the cost cannot even be calculated because it is no different to adding the costs in relation to bikes, student loans and other matters. The public sector has not actually been subsidising this; it makes money from it. There are a number of organisations which charge considerable fees to trade unions so the loser on the costs will actually be the public sector, not the trade unions. The actual cost is being impaired. What has happened is that the charges made to the public sector are an actual loss in their accounts.

Most employers who use this method in the private sector consider it a major benefit. It creates information and transparency in relationships. Great companies have used it, such as GKN and Tesco, where the Minister herself was one of the people involved in the process of discussion with the trade unions to great effect. There is no case on check-off. There is less evidence for it than in a press release.

In relation to facility time, I notice the clever device to suggest that the taxpayer costs for this will be reduced from £36 million to £10 million, but how do you make a saving in government? You transfer the cost to another budget line and then do not measure it. Many of the activities that facility time was available for—negotiating with employers, representing members individually and collectively, particularly in labour disputes, performing health and safety functions, attending union training courses and performing some union functions—will still be conducted. Considerable levels

[LORD MENDELSON] of unpaid time were identified in previous research. By many factors of the time that was paid under facility time there was time conducted by the employee. Frankly, this is now no longer calculated or understood; the activities still take place and the costs now go on to the payroll. This time is used by the private sector and it should be by the public sector—to make sure that a better trained and more productive workforce is there, to help to build loyalty and reduce absence, and so that safety and efficiency, which go together, can be introduced to the public sector.

There are a variety of measures here—we are looking at all sorts of restrictions—for which we will find it extraordinary to have a sensible justification from the Government. This is not a straightforward Bill. It is transparently poor. I am aware that many noble Lords around this House have concerns, including many on the Benches opposite. It cannot be right to claim to believe in less regulation but to introduce so much just to target trade unions. It cannot be right that a Government who wish to discourage vexatious claims and to avoid incentivising claims without a just apportionment of costs can redesign a system to make that the very outcome for certification officers. Surely a Government who accept the legitimacy of police and crime commissioners with a vote of 15.1% can see the irony of their position on the democratic voice.

What concerns me is that the Bill has so little evidential foundation and operational soundness that it will undoubtedly have intended and unintended consequences that will be neither beneficial nor just for our country. For what? Is it for some satisfaction that political foes can be weakened or—as with one of my sons reading the classic novels when he was four years old—so that imaginary evils can be defeated by some dashing white knight riding to the rescue?

This is a very poor Bill and it will be the duty not just of these Benches but of the whole House to make some measured and sensible improvements. We are conscious of our role and the conventions of this House, but we will not recoil from vigorously opposing that which is wicked and unjust, and we will not shy away from suggesting improvements where we can. I have never thought that putting lipstick on a pig was a very good idea, but this Bill has made me revise my view.

3.36 pm

**Baroness Burt of Solihull (LD):** My Lords, the Bill reminds me of a prize fight between two old adversaries. The boxer in the blue corner has picked the fight, knowing that the boxer in the red corner is severely weakened following a recent devastating defeat—not to mention the debilitating condition that he currently endures. The aim of the blue boxer is to finish off the old adversary. What he really wants to do is to take his gloves off and give the red boxer a good old slapping before he has even left his stool.

Fortunately, in this House, this fight takes place in an arena which, although somewhat partisan, also has respect for the rules of the game and for fair play. The referee consists of Liberal Democrats and Cross-Benchers, who have some power to decide the fairness of the play. We on these Benches, who are not renowned for

our love of blood sports, intend to ensure that this happens. In playing this role, we must also point out to both sides, but particularly to the Government, that we feel this is entirely the wrong game to be playing. Our country plays on an international playing field, and the energy and effort currently being expended on internecine fighting would be much better spent on putting together a team to play together and fight for Great Britain on the world stage.

Your Lordships will have guessed by now that the Liberal Democrats are not hugely supportive of the Bill. It was blocked time after time by Liberal Democrats in coalition as unnecessary, unhealthy and unfair. Despite the attitude of some in the trade union movement to Liberal Democrats as part of the coalition Government, it is rapidly becoming clear that we were the best friends they never knew they had in this battle.

The fact is that the Bill is undemocratic, unneeded and unwanted. However, before I launch into what is wrong with the Bill, it is important to acknowledge what I assume to be the Government's motivation in drafting it. We have to consider the other side of the story: legitimate concerns that trade unions have been more interested in getting party political advantage than serving the interests of their members at times.

In a healthy democracy the people should call the shots, and the determination of election results by huge sums of money has been the subject of serious concern for many years. This is something that urgently needs to be fixed if the public are to have confidence in our democratic process. But we will only reach a long-term solution by tackling the problem by consensus, without the two biggest sides in this battle seeking to use the exercise purely to further their own ends.

Sadly, both Labour and Conservative parties have consistently failed to come to the table in this spirit. Given the need for reform to continue by consensus, it is particularly disappointing that the Bill specifically flouts the recommendations of the Committee on Standards in Public Life that reductions in funding should be made and that they should be proportionate to both sides. Given the fact that neither trade unions nor big business fund the Liberal Democrats, we can truly be held to be in neither camp. We will be favoured with remarks by the noble Lord, Lord Bew, who chaired the committee, and my noble friend Lord Tyler, who will move his amendment later, so I shall concentrate the rest of my remarks on other aspects of the Bill.

Clause 2 introduces a 50% turnout requirement for industrial action ballots, in addition to the requirement for the existing majority vote in favour of action. Clause 3 requires for important public services a positive vote by at least 40% of those entitled to vote in the ballot. Why 40%? If you have the required minimum turnout of 50%, the percentage voting for strike action would need to be 80%. The higher the ballot percentage needed, the more hardened the position of the workers needs to be before strike action can be called. We believe that this clause will ultimately lead to any strikes that go ahead, such as the junior doctors' strike due to take place tomorrow, being harder to stop, lasting longer and doing more damage to the relationship between employees and employers. The same can be

said of Clause 8, which requires any mandate for industrial action to expire four months after the date of the ballot. This will foster new pressure and escalate tensions in a dispute, not subdue them—both parties will feel pressure as the deadline rushes towards them. That makes the likelihood of industrial action greater, not smaller.

If the Government are serious about reform in this area, why have they refused to allow the most sensible reform of all: allowing the use of electronic voting in industrial ballots? Electronic voting would allow the true voice of workers to be heard and ensure that strikes have legitimacy, yet trade unions are banned from using these systems. Despite repeated calls, the Government have resisted allowing electronic voting as part of the Bill. This has little to do with security of the ballot, and it is out of step with the trend in electoral processes. The Speaker's Committee suggested that electronic voting should even be available for the general election of 2020. It is not even a philosophical dislike of electronic voting. The Conservative Party itself utilised online voting for the selection of its London mayoral candidate. Again, the only reasonable conclusion is that the Government's aim is not to reform trade unions to reduce workplace conflict but simply to make it harder for unions to operate.

Clause 9 introduces new rules related to protest and picketing. This clause illuminates just how little the Government appreciate the importance of how employers and unions manage the process of negotiations together. The Government have rowed back a little in some of the elements of the clause, but it will still do nothing to enhance or improve relations between employers and unions. Indeed, it will foster discontent, drag police into what has up till now always been a civil matter and make a special case of trade union protesters, who are required to wear armbands, as against other protesting groups, who are not. In addition, there are civil liberties consequences here. The requirement to provide police with plans before strikes and contact details during them calls into question opportunities for blacklisting and more.

Clauses 10 and 11 expose one of the main intentions of the Bill: to attack the funding of the Conservative Party's main political opponents. Those in the Liberal Democrats who have been on the receiving end of the Labour Party's mobilisation of trade unions against us understand the frustration that can be felt about the unions' use of political funds, but, ultimately, it is not for a Conservative Government unwilling to make changes to their equally cynical funding sources to determine how trade unions spend their money. That will not be solved by this legislation, nor by political tactics by the Conservative Party. If they are serious about solving the unions' funding problems, will the Government commit to new cross-party negotiations and withdraw these measures from the Bill until a deal is reached?

I worry about many aspects of the Bill. Strike activity in this country has reduced by 90% over the past 20 years, but there is nothing in the Bill that promotes that state of affairs continuing, let alone pursuing its downward trajectory over the next 20 years—quite the reverse. This Bill seeks to pick a fight where no will exists on behalf of employers or trade unions

to fight and to marginalise the activities of trade unions instead of drawing them into a more mainstream partnership position with employers. To use the American phrase, it ain't broke, so for goodness' sake let us not try to fix it.

3.46 pm

**Baroness O'Neill of Bengarve (CB):** My Lords, I declare an interest as chair of the Equality and Human Rights Commission. I shall talk about some of the human rights that are engaged by the Bill.

The Bill sets conditions on the activities of trade unions. It therefore engages the right to freedom of association, which is an important human right. It might seem that this is the worst of moments to discuss the human rights implications of this or any other Bill since we are expecting the Government's consultation on a future Bill of Rights shortly and changes in the background assumptions or the configuration of some rights might be proposed or implemented.

But now is now, and the right at stake here is unlikely to be changed. It is an ancient one in our country, and one not likely to be ditched by this—or, I hope, any other—Government. Nor do I think that the specification of this right, as drafted for the European Convention on Human Rights by the late Lord Kilmuir, who was a Conservative Lord Chancellor, is likely to be ditched or radically revised, or that it is defective.

Article 11 of the convention, as Lord Kilmuir drafted it, sets out the right to freedom of assembly and association in the following terms. Paragraph 1 states:

“Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests”.

Paragraph 2 states:

“No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others”.

There are other provisions I shall not mention. This is a distinctive right which may be restricted only for one of the reasons set out in paragraph 2 of Article 11, and not, for example, for administrative convenience or efficiency. That is not a sufficient reason to restrict. Each restriction enacted must meet at least one of the tests set out in paragraph 2 of Article 11.

Article 11 has certain interesting parallels with Article 9 on freedom of thought, conscience and religion, in that both explicitly set out rights that are to be exercised in conjunction with others. Article 9 reads:

“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance”.

The article goes on, completely in parallel with Article 11:

“Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others”.

[BARONESS O'NEILL OF BENGARVE]

What is distinctive about these rights is that they focus on protecting shared or joint, yet fundamental, activities, not just on protecting individual choices for optional activities. Freedom of thought, conscience and religion is not designed to protect individual opinions; for that, the right to freedom of expression is appropriate and sufficient.

However, when we reflect, we all know that freedom of religion and belief is important because it is about protecting shared beliefs and practices that manifest life-orienting beliefs, and is not to be invoked on behalf of isolated or decontextualised opinions. I fear that sometimes it is in employment tribunals, but that is another matter. Equally, the right to freedom of assembly and association with others, including the right to form and to join trade unions for the protection of interests, is not a mere right to choose or refuse membership of a voluntary organisation. It is a right to form such organisations with others for a common purpose, including specifically the protection of interests.

It is evidently legitimate for legislation to set conditions that are necessary on the exercise of this right, as of other rights. It is within the power of Parliament to determine which restrictions will be lawful, but it will need great care and judgment, not merely at Second Reading but above all in Committee and on Report, to test whether each proposed condition set on the operation of trade unions is indeed,

“necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others”.

Those are the tests to which we should look. These tests are addressed up to a point in the useful memorandum from the Department for Business, Innovation and Skills on the way in which the proposed conditions to meet the European convention requirements are to be met, but a lot of work is going to be needed to test the detail of whether the proposed conditions actually meet the required tests.

3.51 pm

**Lord King of Bridgwater (Con):** My Lords, I am most interested in the contribution that the noble Baroness has just made, and I am sure that those issues will come in for further discussion during consideration of the Bill. I am delighted at the interest that both Ministers are taking in the Bill because this House has a unique contribution to make, with a number of people on all sides who have some experience and background in these matters.

The challenges and problems posed by the abuse of trade union power were one of the reasons why I came into politics in the first place. I worked in the printing industry for 12 years of my life. For the last five years before I came here I was running a printing plant in Bristol, employing 700 people with nine different unions. While in the main the union relationship was extremely good, one did not have to look very far, to Fleet Street, to see some of the real abuses that were taking place at that time, before Mr Murdoch decided unilaterally to change the arrangements. Such abuses did real damage. I saw the amount of work that the UK printing industry lost overseas because of the uncompetitiveness of the restricted practices that existed in it.

In no sense am I anti-union, and I hope that those who have worked with me on both sides of the House know that I recognise entirely the positive role that responsible trade unions can play. On a personal note, my father was the human resources director of a company called the Dickinson Robinson Group, which employed many thousands of people and was headquartered in Bristol. His most treasured possession when he retired was the gift that he got from the fathers of the federated chapels. I always thought that that was a wonderful term in the printing industry; instead of having common shop stewards, their shop stewards were called “fathers of the chapel”.

I came into Parliament in the wake of the failure of *In Place of Strife*. If one thinks forward, one can look at the Benches opposite and feel the sadness that there must be in some hearts that *In Place of Strife* did not happen. I recall that at the end of 1978 the Labour Government held a five-point lead, while at the end of the winter of discontent the lead was 20% to the Conservatives, and in a very real sense that helped to put Margaret Thatcher in power.

There is a need for sensible, constructive reform. I said in the 1971 debate on the Bill introduced by Robert Carr, as he was then, and Geoffrey Howe—a less than wonderful industrial relations Bill dealing with the problems at that time—that if trade unionism,

“is to flourish, it must be on the basis of encouraging voluntary union membership ... and not upon the basis of compulsive sanction”.—[*Official Report*, Commons, 27/1/1971; col. 688.]

That lasted until the Conservative Government came into power and introduced a programme of trade union reform. Jim Prior, as he then was, introduced the 1980 Act, which sought to tackle the abuses of the closed shop and the picket lines. In 1982 my noble friend Lord Tebbit, who is not in his place, removed the immunity from trade unions which organised unlawful industrial action, made closed shops subject to ballot, and introduced postal ballots for the election of officers and taking industrial action. At the time my noble friend Lord Tebbit made it clear that we would have preferred voluntary action by the trade unions, but in the absence of that we legislated.

The legislation was not entirely disagreeable to many Members of the party opposite. I did a little research and found that there was an Early Day Motion in 1975, during the Labour Government, which was signed by two Members of the Labour shadow Cabinet and by five other Front-Bench Members, including the noble Lord, Lord Evans—a Member of this House—urging the Government to legislate to fund postal ballots. That is the background.

In 1983 I introduced what became the 1984 Act. I remember being hugely influenced by a conversation I had with Sir Michael Edwardes, who had been the chief executive of British Leyland. Those were the days of “I’m All Right Jack”—of the car park meeting, being called out on strike by an aggressive trade unionist, and of the notorious Red Robbo. Sir Michael Edwardes told me that in his first year as chief executive, there was not a single day when one or other major plant of British Leyland was not on strike. My God, what happens to a group like that, faced with that sort of industrial challenge and difficulty? I can tell you what

happens—we all know it. You can see Honda—not Nissan, which has a new factory—BMW in Oxford, Tata and the Jaguar factories; you can see where other companies have come in and a great British company was effectively destroyed.

When I introduced our Bill in 1983 I claimed that nothing was being proposed in the Bill that was not being done by one union or another. Indeed, the AUEW was particularly active in the field of secret ballots, which is one of the provisions I introduced in the Bill. I said:

“If some trade unions can follow proper democratic procedures, why should they not all do so?”.—[*Official Report*, Commons, 8/11/83; col. 159.]

We have been here before. We heard an interesting speech by the noble Lord, Lord Mendelsohn. However, I recall the late John Smith. We had both just come to our new responsibilities, and in 1983 he was leading for the Opposition, backed up by the Member for St Helens North, John Evans—as he was—on the Front Bench. Referring to secret ballots and secret postal ballots in advance of strikes, John Smith said,

“when we come to power ... we shall repeal it”.—[*Official Report*, Commons, 8/11/83; col. 173.]

Sadly, John Smith did not live long enough to come to power. However, someone who came to power will be well known to Members of this House: a promising young brand new Member of Parliament, the honourable Member for Sedgfield, Mr Tony Blair. He said:

“We shall oppose the Bill, which is a scandalous and undemocratic measure against the trade union movement”.—[*Official Report*, 8/11/83; col. 210.]

He was backed up by another promising new Member of Parliament called Mr Gordon Brown. I notice that the noble Lords, Lord Hoyle and Lord Foulkes, both took part in that debate, and they will remember it.

It is perfectly understandable that when Labour came to power the trade unions expected that that would be repealed. As we know, nothing happened, and I seem to recall Mr Blair, as Prime Minister, saying, “How could anybody take away from democratic union members the right to a vote in a secret ballot?”, so when I hear the dire warnings about what this Bill proposes, I remember that history.

If trade unions are to continue to enjoy public support for the very special immunities they enjoy under the law, it is our duty to ensure that we keep trade union legislation up to date to meet current issues and concerns, which is very much the point the Minister made in her speech. At the same time, I absolutely accept that the Bill covers a number of quite separate issues. I am concentrating on Clauses 2 and 3, which deal with ballot turnouts and majorities. I also accept that some difficult issues will have to be discussed, such as modernising voting and how to maximise voting turnout. We have heard a lot about electronic voting. We live in a world of cyberspace and hackers of all descriptions. The Speaker’s Committee has already warned about the challenges and difficulties in trying to move to electronic parliamentary voting.

Turning to the responsibility for calling strikes, the House may notice that among the briefing papers on the Bill is one from the Mayor of London. It is well

known that Boris Johnson is in favour of requiring a higher turnout. The paper from the TUC says that unions and employers have a shared interest in the success of their organisation. If it is Rolls-Royce or BAE Systems, for example, that is right. If they do not reach a sensible agreement, they are out on strike, and they will lose orders and lose their jobs. However, we know the challenge when it comes to essential public services. Nobody in this House has any excuse not to recognise it, because we have lived through tube strikes in London, for example, and the chaos that they cause. I do not think we have ever had an accurate check-back on what tragedies may have occurred during those periods as a result of people being unable to get to hospital, for example. My noble friend talked about the problem of people having no care facilities. All those difficulties emerge. It is not just a question of essential public services such as transport. I dare say that if there was a bus strike in Bridgwater—my old constituency—people would get by. A bus strike in London is a very different matter, however.

I look forward to a serious and constructive Committee stage. I have some reservations about certain aspects of the Bill, but it is important that this House adopts a constructive approach and makes sure that trade union legislation takes account of the challenges of our time. The time has come to consider that issue.

4.03 pm

**Lord Monks (Lab):** My Lords, it is always a pleasure to renew working with the noble Lord, Lord King of Bridgwater. I was very disappointed, though, that during his trip through the history of industrial relations in the 1970s and 1980s, he did not refer to more recent history and the positive role played by trade unions in turning round Jaguar Land Rover, the BMW plant at Oxford and a whole range of other places where unions have played an extremely positive role—often with very little encouragement, I might say, from the Benches opposite.

For those of us who also believe in constructive and positive trade unionism, it is very sad to sit here as a Bill is presented which is disproportionate, disrespectful and malicious as far as responsible trade unionism is concerned. Despite the Minister’s able “one nation” rhetoric, the Bill’s purpose is crystal clear: it is to reduce the influence of trade unions. It aims to dump on them a great dollop of obstacles and requirements which would severely limit their freedom to act in both the industrial and the political spheres.

The Government have claimed the Bill to be “moderate, necessary and welcome”. Words such as “reform” and “modernisation” are never far from Ministers’ lips. There really is a case here for referral under the Trade Descriptions Act, for no amount of cosmetic spin or lipstick on the pig can camouflage the Bill’s real intentions. It is not moderate, as is demonstrated, for example, by the one-sided attacks on union political activities, while absolutely nothing is done about the other, often controversial, sources of political funding. It rides roughshod over this country’s obligations to the International Labour Organization regarding the rights of unions, and it wilfully breaches similar obligations under European and human rights laws.

[LORD MONKS]

Are employers interested? I cannot find any employers with a significant interest in any of this. They are not in the Michael Edwardes position, to which the noble Lord, Lord King of Bridgwater, referred. Times have changed—

**Lord Dobbs (Con):** The noble Lord says that he does not know of any employers who are interested in this. Has he ridden on the London Tube recently during one of the endless strikes?

**Lord Monks:** I ride on the London Tube every day and I suffer when other people do, but it is quite typical of the Benches opposite to blame the unions every time there is an industrial dispute or a strike. They do not know the causes. Far too often, they are not interested in the causes, and it is time they looked at the background. I do not know the details of the problems on London Underground, but I know that the issues can be quite complicated and difficult. It is too easy to jump to blame people in industrial disputes but it is much more important to get to the bottom of what is happening.

I hope that this House will always remember what unions have achieved in this country. Rather ironically, if noble Lords had walked through Westminster Hall recently, they would have seen an exhibition on the progress of British democracy from Magna Carta onwards. Hanging high and proud in that exhibition was a banner paying tribute to the history and contribution of the trade union movement, and the Tolpuddle martyrs got a mention. How come Conservative headquarters did not stop that positive reference to trade unions? How did that slip through the net when it came to trying to create an image of us as somehow being an enemy of the people—an image that underlies the principles of this Bill?

The unions have done a tremendous amount. Where did the weekend, six weeks' paid holiday, including public holidays, health and safety standards that rank with the world's best, and equal pay for women all come from? We should remember the Ford sewing machinists at Dagenham. In addition, terms in unionised workplaces would, if more general, make it unnecessary for Governments to legislate on the living wage. I could go on about unions' achievements.

Many Members of this House will remember, and quite a few participated in, the fierce debates of the 1970s and 1980s about the proper place of unions in our society, as was referred to by the noble Lord, Lord King. We all remember that it was commonplace for unions to be described as “overmighty subjects”. Today, no one—not even the Mayor of London—makes that charge. We are well down the list of “mighty” subjects, yet today it seems to be a rite of passage for Conservative Governments to emulate their predecessors and give the unions a kick, regardless of current realities. Just what are those realities? They are companies such as Sports Direct and Amazon treating workers as casual, disposable objects; companies concentrating on the short-term deal, rather than on investment in new methods and skills; and companies paying disproportionate amounts to not very impressive executives at the head, with the inevitable consequence of widening inequality.

I quote Simon Walker of the Institute of Directors, who said recently:

“Runaway pay packages, golden hellos, and inflammatory bonuses are running the reputation of business into the ground”. I ask the other side of the House in particular, and others, to consider those words from an organisation that was at the heart of pressing for changes in the 1970s and 1980s. What does the Bill have to say about these and other overmighty subjects, such as the media barons and the banks? In both cases, the impetus to regulate seems to have lost steam and the “light touch” is certainly back in vogue.

I ask all Members of the House to take a lively interest in this Bill. I particularly appeal to those on the Government Benches with ministerial experience of employment matters to bring their expertise to bear on the Bill—even a little bit of back-seat driving would be welcome.

I turn very briefly to the specifics of the Bill. It is important to see this alongside legislation that is already restrictive by the standards of other western democracies. Take the proposed thresholds on industrial action. I will not get into the debate about it being only us who are going to face these kinds of requirements—the Government would not have been elected if similar thresholds were applied to the Westminster elections—or the embarrassingly low turnout for the elections of police commissioners. Leaving all that aside, we must remember that unions are compelled to use postal ballots. Things have moved on since Jim Prior and the debate of the 1970s and 1980s. There are now other ways of doing these things, using technology in the way that the Conservative Party did for the election of its candidate in the mayoral election in London. I do not like the proposed thresholds in principle, but if they were linked to independently-supervised electronic and workplace ballots, maybe a way forward begins to open up.

Clauses 4 and 8 go on to introduce more legal hurdles on what unions must do. I looked in vain, but not with any surprise, for any equivalent obligations on employers. There is nothing at all; the obligations are only on us.

Clause 9 aims to enshrine the existing code of practice on picketing into law. I am absolutely unaware, and have been for a long time, of any problems raised by the police or employers with picketing. I agree with the National Police Chiefs' Council, which thinks that the new measures are unnecessary and would waste police resources. That is what the police think, and I ask the Government to consider that point.

Clauses 12 and 13 are about facility time, which the Government regard as wasteful expenditure. However, I wonder whether they have considered recent research by Professors Hogue and Baron that points out that managers in public services overwhelmingly regard facility time in certain locations as useful. The same research showed that 86% of public sector managers believe that union representatives can be trusted to work with honesty and integrity—the banks would kill for a figure such as that in terms of public trust in their integrity, or lack of it.

Clause 14 is a key provision aiming to prevent public sector employers—not just the Civil Service but the NHS, local authorities, the Scottish Government,

the Welsh Assembly, the nuclear decommissioning estate and more—from deducting union subscriptions from the payroll. The reason given is that somehow check-off is outdated and that direct debit is a much more modern arrangement. But deductions from payroll are an integral part of the auto-enrolment of pensions, and of childcare, travel, charity donations and, as we have heard, bike purchases. Are these old-fashioned, too? Are the Government going to do something about that? It is ridiculous that we get involved in the detail of management in these bodies, which are not the direct employees of government.

I turn very briefly to the political fund rules. The noble Lord, Lord King, did not mention his agreement with the TUC in 1984 that the unions must make it clear to all members that there is an opportunity to opt out from the political fund and to do so on a regular basis—an agreement we kept and about which there has never been a complaint. At the time, Mrs Thatcher believed that opting in would be regarded as an attack on the Labour Party—and now we have that attack on the Labour Party. There are no balancing requirements. Wise words were said earlier about the need to look at these matters together and not in isolation if a reaction is not to be provoked. Not all unions with political funds are affiliated to the Labour Party. None the less, the new proposals will affect them, too.

My final point is on the issue of the certification officer, who will have the power to initiate investigations without the need for anybody to complain. The investigations can be outsourced—no doubt to expensive law firms and consultants—and the union side will bear all the costs. This is a big step towards state supervision of trade unions. It offends the principle of autonomy and is a distant echo—I emphasise “distant”—of a totalitarian and certainly an arrogant approach. Where is the justification for it? The certification officer deals perfectly adequately with complaints now and has not been seeking new powers. It is a vindictive step.

Noble Lords have been patient with my heartfelt contribution. However, as a former general secretary of the TUC and current president of the British Airline Pilots Association, I cannot regard this Bill as a minor tidying-up matter. It is not a series of modest adjustments but offends our pluralistic democracy. It is a mortal threat to some unions. I hope that we can persuade many noble Lords to think similarly in the weeks ahead.

4.16 pm

**Lord Tyler (LD):** My Lords, I start with a text:

“It has become a well-established custom that matters affecting the interests of rival parties should not be settled by the imposition of the will of one side over the other but by an agreement reached either between the leaders of the main parties or by conferences under the impartial guidance of Mr. Speaker”.—[*Official Report*, Commons, 16/2/1948; col. 859.]

That was Mr Winston Churchill, leader of the Conservative Opposition, speaking in the Commons on 16 February 1948. I agree with him. That is why there is a Motion in my name on the Order Paper relating to the Commitment Motion today.

It was one of the great disappointments of the coalition period that more progress was not made in

this area because funding scandals are a running sore in British politics for all parties. In 2011, the independent Committee on Standards in Public Life offered the political system a way out of its own mess through a carefully considered, well-balanced package sitting fairly on the foundations of the recommendations in the Hayden Phillips review set up by Labour in 2006. The committee’s proposals were so helpful that, alongside Conservative MP Andrew Tyrie and Labour MP Alan Whitehead, I had them turned into a draft Bill for consultation. That is still available and I commend it to the Minister for her reading before we reach Committee.

In proffering its recommendations, the committee said that,

“this situation is unsustainable, damaging to confidence in democracy and in serious need of reform. This was also the view expressed by the three major parties at the last election. All three made commitments in their manifestos to reform the big donor culture. They now need to deliver those commitments”.

It continued:

“It is critical too that the proposed reforms command the support of all parties. They will not otherwise prove to be sustainable. It would be unfortunate if the parties looked at them only in terms of political party advantage. It would also be a lost opportunity. All share a common interest in public confidence in the integrity of the democratic system. Their manifestos for the last General Election recognised that fact. Implementation of our proposals will, however, require political courage”.

What we have before us today in Clauses 10 and 11 is not so much an example of political courage but of naked political opportunism.

It is worth recalling precisely what the recommendations of the CSPL were. First, that there should be a cap on individual and corporate donations of £10,000; secondly, a 15% reduction in campaign spending limits; thirdly, a new system of public support to political parties to be introduced, relating to support at the ballot box; and, fourthly, changes to ensure that donations through trade union political funds by individual trade union members are all on an “opt-in”, transparent basis. This Conservative Government are taking just the fourth of the recommendations and ignoring the other three. Instead of taking the comprehensive, balanced package, and seeking to implement this without paying any attention to the others, they are being selective; they are cherry picking.

Ministers are also taking only one of their own manifesto promises on this subject, which read clearly in two consecutive sentences as an even-handed objective as follows,

“we will legislate to ensure trade unions use a transparent opt-in process for subscriptions to political parties. We will continue to seek agreement on a comprehensive package of party funding reform”.

Are they? It is the first I have heard of it. The question of opting into or out of political fund levies is absolutely central to the overall balance of rules on party political funding. It cannot, with an even hand, be extricated from the other questions of a donation cap, reduced spending limits and some measure of public funding to make up the difference. To try to do so represents a nakedly partisan attempt to rig the system against one party—the Labour Party—and, by extension, in favour of the other. It is exactly the kind of unilateralism that Winston Churchill warned us against.

[LORD TYLER]

For all that, the need for comprehensive funding reform has become a great deal bigger since the report in 2011. Jim Messina, who was a key adviser to the Conservatives in their 2015 election campaign, recently told the *Spectator* that the party spent £30 million on the campaign. That is quite an admission since the legal limit for parties contesting all GB seats is just under £19 million. We do not yet know whether the figures are correct because we have not seen the Electoral Commission's report, but I suspect that it will be a lesser sum than his boast. However, what we do know is that the scale of donations to each party—the ammunition in the arms race—during the four quarters running up to and including the 2015 election, shows that the Conservative Party raised £38.1 million. That is about 60% more than Labour, which was on £23.8 million, including all the trade union donations which this part of the Bill attempts to undermine. So there is already a huge disproportion of advantage between the two major parties. The Bill would make it eye-wateringly worse, and no fair-minded person could think that that is reasonable.

Before concluding, I want to make it clear that my party and I agree with the Government that it is right in principle for trade union funding of political parties to be made transparent. That is not what my amendment is concerned with. Indeed, we should know who is donating through a political levy, how much represents block donations and so on. But we should not impose such rules without some balancing provisions in the form of a donation cap, which would affect all parties, including my own. To accept the Government's partisan proposals is to give in to the tendency that the CSPL specifically warned us against in its 2011 report. How prescient the committee was when it said:

"It is important that proposals are regarded as a package. Failure to resist the temptation to implement some parts, while rejecting others, would upset the balance we have sought to achieve".

That is precisely the temptation that motivated the authors of this Bill.

Your Lordships will recall that the CSPL was set up by the last majority Conservative Government and it was given seven key principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The committee has served the nation and this Parliament well, but this legislation in its present form offends just about all those seven guiding principles. It is difficult to imagine a proposal that is more clearly selfish and subjective, or one for which the case has been made with more opacity and dishonesty.

Your Lordships' House has a special role in identifying power grabs by the Executive and, in this case, by one party for its own interest against that of its rivals. In this House, we have the benefit of independent Cross-Benchers to act as honest brokers. I feel sure that colleagues on those Benches will see the partisan nature of these proposals for what they are. We have a responsibility to ensure that the motives behind and the consequences of legislation such as this are properly scrutinised. I can think of no better place than a Select Committee of your Lordships' House to ensure that that scrutiny happens. I hope therefore that the House will join me in referring these controversial sections of

the Bill to a special Select Committee of your Lordships' House and that the Government will then deliver on their full manifesto promise for a comprehensive package of party funding reform.

4.25 pm

**Lord Hain (Lab):** My Lords, I very much welcome the speech made by the noble Lord, Lord Tyler, and I hope that if his amendment to the Motion is not carried tonight there may be another vehicle for addressing what he quite rightly described as a partisan and, indeed, pernicious attack on the funding of one particular political party: the Labour Party. I also ask the Minister to acknowledge that throughout modern history, and right across the world, when Governments have moved to attack democracy, they have always targeted trade unions first.

However, today I am asking that special consideration be given to the interests of Wales, for which I served as Secretary of State for seven years and was responsible for the Government of Wales Act 2006—the basis for the settlement that has operated since then. On 14 October last year, the Welsh Minister for Public Services, Leighton Andrews, argued on behalf of the Welsh Government that,

"we believe this Bill and the associated proposal to remove the ban on the use of agency workers during industrial action will ... lead to more confrontational relationships between employers and workers. These proposals will ultimately undermine, rather than support, the delivery of public services and the economy".

The Welsh Government's position on the Bill was set out in a Written Statement to the Assembly on 9 September 2015, which argued that the Bill relates to its devolved responsibilities. As the author of the 2006 Act I agree, and I believe that the Bill should therefore not be applied to Wales without the explicit legislative consent of the National Assembly for Wales. This, I submit, should be very important to your Lordships, who have an acknowledged expertise on constitutional matters. Significant parts of the Bill relate specifically to "important public services" that are clearly devolved, for instance the additional 40% overall membership support threshold for industrial action.

On 20 November 2015, a legislative consent memorandum was laid before the Assembly by Mr Andrews. It sets out the Welsh Government's view that the Assembly's consent should be required for Clauses 3, 12, 13 and 14, as they relate to devolved matters. The memorandum argues that these clauses fall within the legislative competence of the Assembly in so far as they relate to public sector employers in Wales involved in the provision of a range of public services, including education and training, fire and rescue services, health services, local government and transport facilities and services. The memorandum also stated an intention to table a legislative consent Motion under Standing Order 29.6 seeking Welsh Assembly Members' consent to the inclusion of those clauses, and argued that consent should not be given.

Very significantly, in 2014—I hope that your Lordships will note this—the Supreme Court adopted a broad approach to the interpretation of the Assembly's legislative competence when considering a challenge by the UK Government against the Welsh Assembly's Agricultural Sector (Wales) Bill. Lord Reed and the noble and



learned Lord, Lord Thomas, giving the judgment of the Supreme Court, held that, when determining the meaning of the relevant subject within Schedule 7 to the Government of Wales Act 2006, the court should consider that:

“Each is intended to designate a subject-matter which is the object of legislative activity”.

In the context of determining the meaning of “agriculture” as a subject heading, this justified a broad interpretation,

“as designating the industry or economic activity of agriculture in all its aspects, including the business and other constituent elements of that industry”.

The Supreme Court found that the Agricultural Sector (Wales) Bill had as its purpose the regulation of agricultural wages so that the agricultural industry in Wales would be supported and protected. Therefore, it was aptly classified as relating to agriculture. By contrast, the Attorney-General argued to the Supreme Court that the 2013 Bill related to “employment” and “industrial relations”, and that it was outside the Assembly’s legislative competence, as neither employment nor industrial relations are listed as a subject in Schedule 7 to the Government of Wales Act.

Although the Supreme Court accepted that the 2013 Bill could also be classified as relating to employment and industrial relations—a subject matter that is not devolved—the court argued that that did not bring it outside the Assembly’s legislative competence. This is crucial, and I submit that much the same argument applies to the Trade Union Bill in so far as it covers public services devolved to Wales. It is therefore not acceptable for the UK Government to impose it on Wales. Policy on how best to support and protect the effective delivery of devolved public services is for the Welsh Government and the National Assembly for Wales. This includes the way public sector bodies in such devolved services work with trade unions to ensure effective delivery of services to the public.

There is an increasing divergence in approach to delivery of public services between England and Wales. It would be wrong and potentially damaging to the UK Government’s stated aim of protecting public services for decisions based on English structures and approaches to be imposed on different service delivery models in Wales, especially when its Assembly has expressly opposed that through a cross-party Motion—I stress “cross-party”—supported by not just Labour but the Liberal Democrats and Plaid Cymru, although sadly not the Conservatives.

How can it be right for the UK Government, who have no responsibility for, or direct knowledge of, policy priorities and devolved service delivery reforms in Wales, to specify how much union facility time devolved public sector employers should allow, or to end the check-off system in the Welsh public sector? That would be disruptive, harming the viability of trade unions, which have, under devolution, been constructive partners in delivering public services of all kinds in Wales, where they are viewed as establishing good and stabilised industrial relations. My noble friend Lord Monks mentioned that point in respect of the many private sector employers, from Jaguar to Nissan, in Sunderland, where trade unions are very strong.

Of course, the Sewel convention provides that the UK Parliament may not legislate for devolved matters without the consent of the devolved legislature affected. I hope that your Lordships will bear this in mind. I therefore hope and trust that your Lordships will accept in Committee, or later on Report, that the Government’s intention to force the Bill upon Wales is fundamentally wrong, and that it is also deeply unwise when the future of the United Kingdom remains uncertain because of the Scottish Government’s separatist stance. If I cannot persuade the Minister and the Benches opposite, I hope that the Liberal Democrats and the Cross Benches will support the case for Wales to be specially protected in this way.

4.33 pm

**The Lord Bishop of Rochester:** My Lords, we on these Benches are always wary of involving ourselves in debates that, as we have already seen, are likely to become fairly polarised in political ways. Of course, this is a Second Reading debate, in which we try to focus on matters of intention and principle. Therefore, I dare to step in. Indeed, it is only because my right reverend friend the Bishop of Bristol has conspired to get himself on a plane to Uganda at this precise moment that I am standing in his place at all. I rather wish that he had been here instead of me, but there we are.

We have an interest in these matters, because many of the origins of the trade union movement lie in close partnership with the churches of this land, not least the Methodist Church but others also. From these Benches, we have a continuing concern for the flourishing of those things that are to do with civil society in our nation, and, within civil society, of those things that we think of as intermediate institutions, of which trade unions are a very good example. Therefore, the place of trade unions is of concern to us.

It is unfortunate that often in public debate, not least in the reporting of public debate on trade unions, there is a tendency to focus on what might be seen—certainly from a publicity point of view—as the sharp end of trade union activity: that is, activity around industrial action. However, as has been indicated in this debate, the reality is that an awful lot of trade union work is much more mundane and low key and is about a whole range of issues to do with well-being and welfare in the workplace and, indeed, the economic vitality of many of our industries. When trade union activity works well—as it very often does—it fosters good relationships in the workplace, reduces absences from work, resolves disputes, promotes mediation and avoids recourse to employment tribunals and their associated expense. Good evidence and research illustrate those things.

In a debate in your Lordships’ House in November last year, my right reverend friend the Bishop of Derby spoke eloquently about trade union participation and involvement. I will not repeat what he said but simply encourage noble Lords to read that contribution.

My questions on the Bill, and the area to which I hope that this House will give attention, not least in Committee, concern whether all the proposed prescriptions are strictly necessary, as has been mentioned by one or two other noble Lords. Indeed, there is

[THE LORD BISHOP OF ROCHESTER]

always a danger that we end up with the unforeseen consequences of prescribing things and find that prescription demotivates and therefore militates against the participation we wish to encourage. As a representative of the Church of England, I know only too well that we have an increasingly non-joining culture. We want people to participate in our institutions at the various levels that are possible within our society. It would be deeply sad if the prescriptive elements of the Bill were to discourage voluntary activity and working together. Trade unions are part of the picture we wish to foster and encourage.

I have heard from an episcopal colleague, who is unable to be here today, of a large and by no means left-wing local authority whose leader is seriously worried about the level of prescription in the Bill, which he believes threatens to undermine the existing good and effective working arrangements between employers and trade unions. For example, they have reached agreement on facility time and have a working arrangement for collecting levies and suchlike. These things are working perfectly well in that setting. What has our talk about devolution and localism achieved if we cannot trust those arrangements to work without having to prescribe them in what might be seen as a heavy way? I support every possible initiative to increase participation in all sorts of institutions within our society. I was interested, therefore, to hear about electronic ballots in this context, and whether we can increase their use. I worry about the introduction of imposed thresholds and hope that we will have more debate around that, because in most other parallel situations there are no such thresholds. Reference has already been made to the election of police and crime commissioners. If we had 40% thresholds there, we would have some interesting scenarios to look at. Therefore, there is a bigger debate to be had about this sort of thing in the context of encouraging participation.

The noble Lord, Lord Tyler, spoke eloquently about the whole matter of funding. That, too, is a wider debate. We will see where that goes and I look forward to the noble Baroness's response to his contribution, which seems to me to merit further consideration.

We do not have to look very far to see places where people do not enjoy good conditions in the workplace—not only internationally, although it is easy to see examples there, but in the UK. Those are concerns that led among other things to the passing of the Modern Slavery Act, which was a good piece of legislation. Issues were also raised by the Gangmasters Licensing Authority in relation to practices in parts of the agriculture, construction and hospitality sectors. Trade unions at their best protect people who are vulnerable in the workplace and where there is a danger of exploitation. We want to encourage modernisation, good practice and all those sorts of things. In looking at this legislation in detail, as we will in coming weeks and months, we need to make sure that we employ positive encouragement towards good practice, which always works better than measures that rely on inappropriate prescription and control. In applying our wisdom to the Bill, I hope that we will bring those kinds of things into consideration.

4.40 pm

**Lord Balfe (Con):** My Lords, I start with a declaration of interest that does not usually come from this side of the Chamber. This month I celebrate my 50th continuous year of membership of the TUC-affiliated trade union movement. I am the president of the British Dietetic Association, which is a TUC-affiliated union, and I am an adviser to BALPA, which still has blessed memories of the noble Lord, Lord Tebbit, and more recent memories, of course, of my friend the noble Lord, Lord Monks. So I speak with some sort of background.

I was struck by the level of consensus that I detected in the speech from the noble Lord, Lord Mendelsohn. The role of this Chamber is to revise, and there are certain areas of the Bill that could well be revised without us departing from the manifesto commitment of the party on this side of the House. I noted that the noble Lord made reference to the 1980s and compared it to today; what he did not say, of course, was that the last Labour Government kept in place all the legislation that was passed by their predecessor, by my noble friend Lord King and other Conservative Secretaries of State. I would predict that the central part of this Bill, on thresholds in public sector services, will not be repealed when the Labour Party, as it eventually will in a democracy, comes back to power. They will probably stay, because the point has been made—my noble friend Lord King made it—that there is a distinction between the industrial workforce and the public sector.

There is no doubt in my mind that a number of public sector strikes have been deeply unpopular. I have a briefing from the Mayor of London—I do not know whether the Opposition have had it—which says that, of the 26 disputes in London which have led to Tube strike action since 2008, 19 would have been prevented under this new legislation in relation to workers in essential services. That is quite a high figure, but of course it also presents an organisational challenge. There is a tendency, which people sometimes slip into, to think that trade unions are somehow led by people who are not followed by their workers. One has only to look at the strike that is going to take place tomorrow to see that you get quite high turn-outs for industrial action in ballots. One sometimes must reflect, as the noble Lord, Lord Monks, mentioned, that in a dispute there may be two sides to a story and that both sides need to sit down and talk to each other. That is the whole purpose of ACAS.

I would also say to the trade unions that they need to get out of their sectarian silo. I am sorry to keep on referring to the noble Lord, Lord Monks, but he has been the secretary-general of the European TUC. He will know that, outside this country, it is very unusual for the entire trade union movement to be dedicated to the support of just one party. That is not good for the trade union movement, particularly when we know that one-third of its members actually vote for the Conservative Party. Of course, a good number of the others do not vote at all and a handful, I am sorry to say, vote for the Liberal party. I think both sides of the Chamber can agree that that is not what either of us would like, but it is none the less the case.

I say to the trade union movement: reach out. You could have a Conservative Government for some years yet. Good relations and the interests of the members of the trade union movement are not served by the blanket refusal that you get on the part of some unions—I single out Unite particularly—although not all of them, to engage in any sensible dialogue with the governing party. That is not sensible. It is not good news for the members of that union.

**Lord Monks:** Does the noble Lord accept that the publication of the Bill makes that kind of dialogue even more unlikely?

**Lord Balfe:** I say to the noble Lord that the publication of the Bill probably arises in part from the fact that there is no strong trade union voice on this side of the House. There is no one around to say at the higher policy levels of the Conservative Party, “Hold on a minute, there is another side to this story”. I was about to say that unions such as BALPA, the BDA—the union that I am president of—Prospect and others have reached out and begun a dialogue, and I hope that that will continue.

We are, I hope, going to join together and look for some concessions from the Minister. I do not propose to go through them in detail because they will come up in Committee. With regard to facility time, the Conservatives’ manifesto actually said that they would legislate to,

“tighten the rules around taxpayer-funded paid ‘facility time’”.

You can tighten rules and still preserve a local interest and the right of local democracy to determine what happens. It is, frankly, not a localism agenda if you start telling district councils, such as the one my wife served on in Suffolk, how to regulate the 25% of the week that one person spends on facility time—generally doing things for the local authority, actually. We need to look at this with a broad brush. We want transparency on facility time, but we do not want day-to-day control. We cannot exercise it. We cannot say what matters in Forest Heath District Council in Suffolk or any individual authority. We can say, “You must publish—you must be in the daylight”, but we cannot lay down the rules.

Similarly, if e-balloting is okay for selecting the Conservative candidate for Mayor of London, the ruling body of the Royal Statistical Society, of which I am a fellow, and the board of directors of a venture capital trust that I am investing in, I do not see that we can rule it out. Certainly, if we look at making it subject to some control or sanction by the certification officer, there must be a way forward. We cannot just write it off.

The third thing I want to mention is the financial aspect. If it were left to me, I would ban all financing of political parties beyond a very low amount, probably £5,000 per head. I would not have any hedge funds donating to parties. I would make parties fight for votes. But I say this: is it healthy for democracy to work in this direction? I just put that question. Is it a good thing that we should patently attack one of the three unsatisfactory wings of funding? I leave that question up in the air because, if it were left to me and if I were the Labour Party, I would not turn the clock

back. When I came into power, I would immediately ban donations to political parties above a quite low level and say that everybody above that level could not donate. It would not be that they had to say how much; I would say, “You cannot donate. You cannot buy democracy”. But until that day comes, let us be careful to look at what we are doing and think about our responsibilities to democracy, which go further than our responsibilities to one or other side of the House.

4.50 pm

**Baroness Prosser (Lab):** My Lords, I am sure that we are all entirely grateful to the noble Lord, Lord Balfe, for his words of wisdom. We have all listened very carefully. I start my contribution by declaring an interest as a member of Unite the union and as a pensioner of that union.

Along with others, I am sorry to be spending time discussing this proposed legislation. It seems designed not to improve or help build good relations in the workplace but rather to inhibit the ability of trade unions to organise and represent working people. The Bill is only one example of actions taken by this Government the main purposes of which seem to be a desire to stymie debate, reduce opposition and limit the value or influence of voices with which they disagree. There are proposed boundary changes and electoral reform—the result of which will almost certainly reduce the votes of the Opposition—EVEL and the reduction of Short money. All these actions tell the story of a Government unable to win on the strength of their arguments, and reduced to introducing procedural changes designed to quieten opposition voices.

But today there is the Trade Union Bill. Changes to check-off arrangements and political fund payments are of great concern. Many meetings were held in the last Session of Parliament where union representatives were mainly those who deal daily with running membership systems or ensuring that ballots, whether for strike action or internal elections, are based upon valid lists. Check-off of course makes membership validation a relatively straightforward affair. One meeting was called by the Minister, the noble Baroness, Lady Neville-Rolfe, and we welcomed the opportunity for a conversation with her and the Minister responsible in the other place, Mr Nick Boles.

In answer to a question about the thinking behind the proposed changes to check-off and political fund payments, Mr Boles, with quite a straight face, explained that the Government wanted to see an improved and closer relationship between the union rep and the union member. Meeting and talking to each other while dues were being collected, he said, would help them to better understand each other’s needs and concerns. I concluded that Mr Boles had missed his vocation in life; he should have been a stand-up comedian.

In a month of Sundays I never would have guessed that that was the Government’s thinking when the relevant clauses were being drafted. Do the Government think that employers are going to welcome these proposals? Having the union rep spending his or her time wandering around the workplace chatting with this person and that, collecting money and finding change, will work wonders for the UK’s productivity

[BARONESS PROSSER]

problem. The whole concept is ludicrous. A check-off system brings order and transparency not just to the union but to the employer, who also likes to know who is a member and who is not.

The Government have said that operating the check-off system can be financially onerous. If that is the case, the terms of the arrangement can be renegotiated. It has been found by the ILO that the deduction of union dues by the employer and the transfer of those dues to the union is a matter which should not be excluded from collective bargaining. Are the Government intent upon interfering in collective bargaining? Do they think they know better than employers and unions about how these things work? I thought that I had heard many a government Minister bemoaning the nanny state—but not of course when it suits them.

Please do not tell us that all this can be put right by workers paying their dues by direct debit. First, that would not meet Mr Boles's criterion of happy families. Secondly, employers would not know who was in and who was out; and, thirdly, many low-paid workers have a pay packet that goes into the bank and out again on the same day, with no room for arrangements such as direct debits.

If these proposals are not likely to achieve improved relations in the workplace, what are they designed to achieve? The union reps who spoke to us emphasised that changes to check-off had to be seen together with the proposed changes to payments into a political fund and to the requirements for checking eligibility to take part in a strike. There is a knock-on effect between each of these. All the unions believe that these changes will reduce their membership and campaigning income. In turn, the unions affiliated to the Labour Party will have their ability to help fund Labour's programme decidedly cut short. All unions believe that the likely loss of membership will affect their affiliation figures to the TUC—which, by the way, is renowned globally and looked upon by the global trade union movement as the example of how an umbrella trade union organisation should operate.

There we have it: a mean-spirited piece of legislation that is not designed to address the outstanding workplace issues of the day, such as the lack of skills, insecure contracts, and unequal and low pay that has to be subsidised by the taxpayer. No, it addresses none of these. No energy is being expended on addressing or fixing these problems, which impact badly on the UK's productivity rating, which is embarrassingly low compared to those of other, like nations. Instead we spend our time attacking the very people and structures we should be engaging with. Other countries engage with labour organisations with great success. Look at Germany or the Scandinavian countries, which are not afraid of organised labour and do not behave as though trade unions are proscribed organisations—the enemy within, as famously noted by a previous leader of the government party.

There are a number of other aspects to the Bill which require attention, such as the use of agency labour to replace workers taking legal—yes, legal—strike action. That has been dismissed by the Recruitment and Employment Confederation, which says that it is not willing to get involved in what would be very

difficult industrial relations situations. In any case, it doubts that replacement professionals could be found, particularly for example for the health service. There will be time of course at a later stage to address these issues in detail. Ballot methods and thresholds, and the role of the certification officer, for example, will come under close scrutiny, as will the issues I have already mentioned. Many organisations, including the Equality and Human Rights Commission and Liberty, have expressed concern at the proposals on picketing and rights to facility time, and are checking to see that the relevant clauses comply with our responsibilities under the European Convention on Human Rights. Our own Joint Committee on Human Rights is of course also studying the Bill and will no doubt make recommendations as appropriate.

I will not take any more of the House's time now—but rest assured that those of us with knowledge and experience of, and respect for, the trade union movement will do all we can to see that the Act which emerges at the end of our proceedings will help the trade unions to contribute positively to improving industrial relations and will ensure that the world of work can contribute positively to the UK's place in the world. My final comment to those who have spoken or will speak from the management perspective is an expression which contains a great deal of truth: managements get the unions they deserve.

4.58 pm

**Baroness Bakewell of Hardington Mandeville (LD):**

My Lords, I welcome the opportunity to participate in this very important debate. Years ago, part of my O-level history course included the Industrial Revolution, which covered many brilliant innovations and advances to ensure the prosperity of the country and of the manufacturing and weaving industries. These advances did not always benefit the people working on the factory floor but gradually, over time, improvements were made to the safety of the working conditions, the shortening of the working day, the employment and education of children, and the general welfare of the workforce. This is all to be welcomed. I would be the last to suggest that this Trade Union Bill we are debating today takes us back to the 19th century, but it does fill me with foreboding over where the next step will be if the Bill is passed unamended.

Many have made very valid contributions this afternoon, far more eloquently than I can, but the Bill raises a number of issues, and I will concentrate on three substantial items. One is the refusal to allow electronic balloting, the second is the percentage turnout thresholds and the third is check-off.

I am at a loss to understand why electronic balloting should be outlawed. As long as there is a reputable third party present, there can be no problem with this method. It is cheaper and quicker than the paper ballot, and individual polling numbers prevent abuse. Reputable organisations such as the National Trust and others allow it. Postal ballots are much more likely to be abused, with the possibility of those casting their votes being pressurised on how they vote.

Like others, I am concerned about the percentage turnout required for a union ballot to be valid: a 50% minimum turnout of those eligible to vote. Of that

50%, 80% must be in favour of strike action before a strike can legally take place. Sitting on this side of the House, I know that the Conservatives claim to have a majority to govern on a far lower turnout of those eligible to vote, with only 37% of those who did turn out to vote in the general election actually voting for them. We appear to have double standards being applied. This is deplorable and not a shining example of democracy. As for counting abstentions as no votes, where would the Government be if all those who chose to stay at home in the general election were counted as voting “none of the above”? Those people would be a very large minority in some seats, and in the police and crime commissioner elections, which have already been referred to, they would be the majority.

Thirdly, I turn to Clause 14 and the subject of check-off agreements. This system of deducting donations from payroll has a long and reputable history. Currently, employees contribute to their favourite charity, the local sports club lottery or to the union that covers their area of employment. There is provision within existing legislation for employers to charge for this service but, currently, only about 25% do so. Why is it now necessary for those employees in the public sector belonging to a union to be prevented from having their union subscriptions deducted at source from their pay? That is not required in the private sector. Many private employers which provide vital services, such as electricity, are able to operate check-off, but health, local government, the police, the fire service and others will be prevented from doing so. This seems perverse in the extreme, not to mention spiteful.

Current arrangements have been negotiated over time, and a move away from that takes no account of local circumstances. This is a retrograde step and out of kilter with the Government’s general localism agenda of allowing decisions to be taken locally, as demonstrated in the Cities and Local Government Devolution Bill, which was debated at length in this Chamber. I hope the Government will recognise that such a move will not help employers to identify just who is and who is not a member of a union, and is likely to engender poor working relationships rather than better ones, as others have said.

I understand that there is little or no employer support for the measures in the Bill. It would seem that the Government are likely to be throwing the baby out with the bathwater in introducing this bureaucratic and regressive piece of legislation. Although it may be inconvenient for some services to be disrupted by those striking for improved pay and conditions, I believe that we should uphold the rights of employees to exercise their wish to strike. I am proud to be a citizen of a country that allows free speech and welcomes all views expressed through written articles, marches and demonstrations. We cannot return to the days when strikers in years gone past were deported, as in the case of Tolpuddle, just for publicly expressing their views. This is not democracy, and we must uphold the right to strike when there is no other way of bringing matters to public attention. We must not make it impossible for employees to achieve this.

5.04 pm

**Lord Bew (CB):** My Lords, I declare my interest as chair of the Committee on Standards in Public Life, which has been referred to a number of times in this debate and is referred to in the Motion tabled by the noble Lord, Lord Tyler.

It might be helpful if I remind the House, as the noble Lord, Lord Tyler, has already said, that the committee was established 20 years ago by John Major and includes lay members and representatives of the main political parties. As I look around me, I see distinguished Members on all sides of the House who have served on the committee. I will return to that point before I conclude my remarks.

I have been chair for two years. In November 2011, my predecessors on the committee produced a comprehensive report on this issue. With great effort, they attempted to produce a balanced and sustainable package of reforms to address the big donor culture in party funding. The committee’s research showed that the public are highly sceptical about the motivations of donors, whether they are individuals, organisations or, indeed, trade unions. Reform of party funding to end the big donor culture appeared in the manifestos of the three main parties in the recent general election.

The committee made it clear at the time that the package it recommended was intended to be reasonably fair in its impact on different parties and called for all parties to act in the national interest to benefit the health of UK democracy rather than for narrow party advantage. For example, chapter 15 of the committee’s report states:

“It is important that proposals are regarded as a package. Failure to resist the temptation to implement some parts, while rejecting others, would upset the balance we have sought to achieve”.

I insist on this as a central point. To extract one element—this afternoon we have discussed Part 4, which deals with trade union funding—without implementing the other reforms is not in the spirit of the Committee on Standards in Public Life’s 2011 report. Nobody who reads it can be in any possible doubt about that.

Having said that, I shall make some further points. The committee’s report needs some updating. Years have passed since 2011. We need better current figures, and my committee is undertaking further research to test the public’s view. In particular, it is important that all parties set out their sources and use of funds in an easily intelligible way and use common, publicly available standards so that proper analysis and comparisons are possible.

When the committee’s original report was published in 2011—this is why I mentioned the party-political composition of the committee earlier—Margaret Beckett MP published a dissenting note for the Labour Party, as did Oliver Heald MP for the Conservative Party. Those dissenting notes were published by the committee. Oliver Heald in particular pointed to a lack of adequate information about parties’ funding and called for consistent accounting.

This has led me to the view, which I think is the view of the committee today, that it is essential to promote a vigorous and well-informed debate. I wrote

[LORD BEW]

to all the party leaders after the general election, drawing attention to the commitments that were in their manifestos. There now needs to be a broad debate on these issues. I am confident that there are sufficient public-spirited people in all parties. If one reads the press associated with the main parties in our system, one can see a reflection of this opinion. If one listens carefully to what Members of Parliament have said, I am confident that there is sufficient informed and genuinely public-spirited opinion on this matter to produce a serious debate. I entirely respect the opinion of the noble Lord, Lord Balfe, that we may have to wait one or two Parliaments before this matter moves on but, while I respect it, it is the role of the Committee on Standards in Public Life at this point to push for a broader, intense debate on these fundamental issues.

5.09 pm

**Lord Livermore (Lab) (Maiden Speech):** My Lords, I speak for the first time in your Lordships' House, and I do so with a great sense of humility and no little trepidation. I am acutely aware of the experience, expertise and wisdom that reside on all sides of this House, and I am genuinely grateful for the warm and generous welcome that I have received. I thank the doorkeepers and the staff and officers of this House for their kindness to my family on the day of my introduction, and for their continuing help to me since.

I am also deeply grateful to those noble Lords who did me the honour of introducing me: my noble and learned friend Lord Falconer of Thoroton and my noble friend Lady Nye. I particularly thank my noble friend Lady Nye for her wise and patient advice as I acclimatised to your Lordships' House. It is said that when Harold Wilson resigned from the Labour Government together with Aneurin Bevan in 1951, he was called "Nye's little dog". At times I felt a little like that myself as I followed obediently behind the noble Baroness.

Improving democracy in the workplace is said to be a key objective of this Bill. Democracy has played an important part in my own career, as I have worked on four general election campaigns over the past 18 years. Over that time, all political parties have sought to increase engagement and participation in the democratic process. As technology has evolved, the challenge of modernising our democracy has become ever more pressing, and it is encouraging that thousands of organisations in the private sector, from the Federation of Small Businesses to the Royal College of Nursing, from HSBC to the National Trust, have risen to this challenge and now use electronic voting in their own elections and consultations. It therefore seems a curious anomaly that this Bill should leave trade unions as the only organisations in Britain prohibited from harnessing technology to modernise their own democratic procedures. Modernisation is vital, and I hope that in the passage of the Bill that anomaly can be rectified. I hope, too, that in time we can find new ways to use technology in general elections to engage a whole new generation of voters.

At their best, trade unions have been not just the voice of working people but the route for many to a better life, opening up opportunities that otherwise

would not exist. From their earliest origins in co-operative and friendly societies to establishing working men's libraries, through to funding university scholarships, trade unions fought not only for collective solidarity but for individual self-improvement. Arguably, too much of that early tradition has been lost, and a key test for the Bill is whether it closes down opportunities for working people or enables trade unions to once again fulfil their historic function in breaking down barriers to aspiration. The latter is much needed. As the Prime Minister said last week:

"We live in a country where too many people are stopped from reaching their potential because of their background".

In Britain today, a boy born into a middle-class family is 15 times more likely to be middle-class himself than a boy born into a working-class family. I know that to be true. When I was 16, a careers teacher came to visit my school. Seeing each of us in turn, she sat me down in the classroom and asked what my next steps might be. I said that after my A-levels I wanted to go on to university to study economics. "Oh no," came her reply, "university isn't for pupils from this school". I express gratitude today not only to my family for their support and encouragement but to that careers teacher too; I found her to be a powerful source of motivation as I sought to prove her wrong. I was very proud to go on from school to university, but I remain angry that I was the only one in my school year to have done so.

Our country cannot afford to limit opportunities, shrink horizons, and waste talent like that. However, I do not believe that tackling this lack of social mobility and ensuring everyone can reach their full potential can be achieved by government alone. For 10 years I worked in the Treasury as special adviser to the Chancellor of the Exchequer in the last Labour Government. Improving life chances was at the heart of what we sought to achieve. We took action on employment and on child poverty, and the life chances of the poorest improved dramatically. However, reflecting on that time in government, it is clear to me that for those who are not poor, those who are closer to the middle, improving life chances is about more than a poverty of income—it is about a poverty of aspiration. For these children, too often it is not a lack of means but a lack of dreams. Social mobility must of course be built on a foundation of income and employment, but I know from my own experience that it also requires education, enterprise and ambition.

Since leaving government I have worked in the private sector, and have greatly enjoyed contributing to building a successful strategy business. I have learnt much from this time but in particular I have learnt that business has an incredibly important role to play as a powerful engine of social mobility, and within businesses modern trade unions have a crucial play to play, too, in developing new skills, raising ambitions, and increasing personal prosperity as a result. Initiatives such as the Union Learning Fund were great innovations. Now, one of the greatest services modern trade unions could offer 21st-century workers would be bargaining for skills, which benefits both the company and the individual worker by promoting their progression in the workplace.

I have taken Rotherhithe, in the London Borough of Southwark, as the geographic part of my title, where I have lived for many years. Rotherhithe has a proud industrial history, from building ships for the Royal Navy in the 1650s to being at the heart of London's Docklands until the 1960s. Running through that industrial history is a strong heritage of internationalism, and perhaps our proudest claim is that Rotherhithe is where the "Mayflower" first sailed from on its journey to the New World in 1620. Those on board helped, by imagining a greater destiny for themselves, to found the ideals that created the American Dream, that prosperity would come from hard work, and that if you were willing to work hard you could make a better life for yourself and your family.

In 1774, the Royal Governor of Virginia said that Americans,

"forever imagine the lands further off are still better than those upon which they are already settled".

That instinct to continually search for a better life, that expansive belief in possibility, is to be admired. It was a gift to America from Britain. It is a British belief, a British value, but one which we must ensure reaches every community in our land. This is a task in which this House has an important role to play, and to which I commit myself to playing my part in the years ahead.

5.17 pm

**Lord Sawyer (Lab):** My Lords, it is a great privilege to congratulate my noble friend Lord Livermore on his most excellent and outstanding maiden speech. As I expected, we heard the views of a thoughtful, intelligent, mature man on some of the issues facing our nation at the present time, particularly the important issue of social exclusion and improving life for ordinary people, which I know my noble friend has always been particularly and deeply interested in. I am sure we will hear a lot more from him on this subject as the years go by.

I had the opportunity to meet my noble friend when he was a young man, even younger than he is today, when he came as a young graduate from university to work at the Millbank Tower before the 1997 general election campaign. I am not sure whether he remembers this, but he had a desk outside my office; I knew he was an ambitious young man when he provided me with a lovely cup of tea at the start of every day's work. I knew at the time that he would achieve great things, and that not just his ability would take him to high places but his courteous manner and polite approach to all his colleagues, which is still a feature of his contribution to public life.

My noble friend went on to achieve great things, to become a senior strategy and communication professional, helping to win two more general elections after 1997 and helping Labour leaders at the highest level—Prime Ministers and Chancellors of the Exchequer—in and out of No. 10 and No. 11, to achieve outstanding and excellent results. In addition, my noble friend has developed a private practice, where he advises private companies on issues relating to communications. I hope that we have the opportunity—in fact I am sure we will—to hear further excellent speeches from my noble friend in the months and years to come.

Today, the task is unfortunately not as pleasant as simply congratulating the noble Lord, Lord Livermore; rather, today is a day that brings great shame to our Parliament. This Bill, which has high-level political motivations, is masquerading as a Bill to give the unions back to their members, and that, essentially, is deceitful. The Bill pretends to help workers but ends up hurting them, particularly part-time women workers, who are especially vulnerable to the measures in it. This Bill will make it much more difficult for workers to become trade union members, to be represented by the only collective agent that has ever fought on their behalf: the British trade union movement. This Bill comes along and crashes in a most ungainly way into the world of employee/employer relations, ignoring good practice, ignoring employee representations, ignoring what is best and what works in public service practice. That is unforgivable.

I would like to say something, as other noble Lords have done, about the trade union movement itself. Lots of past Bills and White Papers have had euphemistic titles such as the Industrial Relations Bill or *In Place Of Strife*. This Bill is actually called the Trade Union Bill. Noble Lords have spoken about the importance of the trade unions. This party, which sits on these Opposition Benches, would not be here if it were not for the British trade union movement, which shows its importance in the history of this country. I do not want to go through all the things that Labour Governments have brought to fruition, but we would not be here without the British trade union movement.

As I look around the Chamber today, I see my noble friends Lady Prosser and Lord Pendry and other noble Lords who would not be here without the British trade union movement, which has given so many people the chance to do things in public life that no other institution has been able to provide. It is very important that that be recognised, respected and celebrated.

Of course, trade unions have done much more than simply in the workplace. They have done lots of things in the community, such as helping unemployed people and the homeless. I am not that old—I do not go back to the dark ages—but the street of 70 houses in the north-east of England that I was born in had only one telephone. It was owned by the union man, and 70 households could all use that telephone. That is what the trade union movement did for us: it allowed us to use the telephone when none of us could afford one. So, when our children were ill or there was a family crisis and nobody else was around to help—in those days, the state was not there—the trade union helped us. We should never forget that.

As my noble friend Lady Prosser said, the British trade union movement is the oldest, most democratic and most representative such movement in the world. It has given so much at both a personal and local level, helping to win two world wars, helping in the fight for civil rights around the world, and—most importantly in the context of this debate—helping to make businesses successful and workplaces fair and safe.

This Government could have given us a Bill that built on that legacy. It did not have to be a bad Bill; it could have helped to strengthen and unite people to

[LORD SAWYER]

fight zero-hours contracts, to end poverty pay, to promote partnership and best practice at work. It did not have to be this negative Bill.

When I read the Bill, I wonder what the Government think the millions of public service workers look like. I have concluded that it is a male, full-time worker stood angrily on a picket line, preventing services being provided. We heard earlier in the debate about “Red Robbo”. Who remembers Red Robbo? Who remembers *In Place Of Strife*? That is not the British trade union movement. The typical British trade union member is a public sector worker who is part-time, female and low paid. That is what we are talking about today, not Red Robbo. Goodness me! We need to move into modern times.

These people work hard. They have a difficult job as they daily try to deal with the consequences of the enormous public expenditure cuts that this Government have placed upon them. At home, what will be the reality of their place in our economic hierarchy? Finding it hard to manage, not having an easy time, as they work hard to provide good services. I say to the Minister that it is on the heads of these people that the Government are directing this legislation, making it difficult—probably impossible—for them to have an effective voice at work because the Government are hitting their union.

I wonder how much noble Lords on the other side know about employer relations in the public sector. I wonder how much experience of them they have. I accept that in some ways they are not too different from those in the private sector, but of course the private sector is not having deductions made at source. Effectively that is happening only in the public sector.

One of the important things about the public sector is that it has an established culture of collective bargaining. Millions of people work in a culture where their pay and conditions are governed by a bargain between trade unions and their employers. This is very big stuff, and the Government are affecting all those people with this legislation. Another facet of public services is that people do not work in one place; they work in lots of places. If you take any borough anywhere in Britain—Sheffield, Newcastle or Salisbury—you will find several thousand people in workplaces of two or three people. They all have to be organised, talked to and communicated with. That is the job of the trade union but it is also the job of the employer—employers and trade unions need to do it together. It is what they have always done in the public services and it is what they want to continue to do.

It is very important that we recognise the nature of public service and of public service workers. Public service works primarily through employers and employees focusing on what is best for the customer. Would your Lordships believe that? It is important that somebody says that in this debate. This debate is about the customer. It is not just about workers, unions and employers; it is about customers or taxpayers—people who want a good service but will not get it unless the collective bargaining system works. We have to make it work, as it does now, and we should not damage it. It is really important for millions of people that it works.

There is not a single council leader, NHS chief executive officer or HR director who wants to do what we do in any other way. There is no support among the political or professional leadership for the public service measures in this Bill. In Teesside, where I come from, 50,000 people work in the public services—in local government and health—and they will all be affected by this Bill. All of them are managed well and are working well—I hope that is the case, although there is always something that is not perfect—and none of them wants this legislation. None of the employers and none of the workforce wants it, so what is going on? We need strong and competent management, as well as strong and competent unions, and they should be able to work together from a position of mutual respect and strength.

Unions need to represent the workforce. They need the workforce’s membership and, to achieve that, they need sensible and proportionate help. Unions are voluntary organisations. Let us not forget that the vast majority of the people taking on representative roles are unpaid volunteers. Unions are not full of full-time, paid officers driving around in cars. They are about lay people—ordinary people—doing work for nothing to help smooth the wheels of good employer/employee relations, and we must not lose sight of that. People who work for a union work in the interests of both sides, keeping the workplace successful and safe. That is what they do and it is why we have to support them.

Noble Lords will have heard people talking about losing the check-off facility. I well remember when I was a local organiser being asked to go to a council in Sunderland. The council said to me, “We’ve got a problem here. Lots of the people we employ are not in a union”. I replied, “Well, I don’t know why that is”. I was told, “The reason is that we pay them through the post and send their work rosters through the post and actually nobody ever really meets them”. I said, “There are two things there. The first is that the management needs to take a more proactive role, meeting, managing and encouraging these people, and the second is that the union should as well”. I spent a lot of time getting those people to become members of a trade union and it was hard work. I used to ask them, “How do you want to pay the union subs? Do you want to pay them by direct debit or through the bank, or do you want to pay by check-off?”. The vast majority said, “I want to pay by check-off because this is to do with what I do at work. It’s nothing to do with the bank and I don’t want it on my bank statement”. People have different reasons for not wanting things to appear on a bank statement.

I have gone on a little bit, primarily because I wanted to say something appropriate about the great speech made by my noble friend Lord Livermore. I probably have taken up more time than I should have, but I would like to leave the House with the thought that this is about people working together and about good practice. Employers and trade unions, both strong and both equal, need to help each other. I believe that the trade unions should talk to the Government—my view might be different from that of some of my colleagues; I do not know, I have never discussed it with them—and try to persuade them more and more about what really happens at work in the public services,



and convince them that some of the measures in this Bill are going to damage good industrial relations and therefore the customer. No matter how bad people might think they are, I do not believe that the Government really want to go down that road.

5.30 pm

**Lord De Mauley (Con):** My Lords, I have listened very carefully to what noble Lords have had to say today so far. Much has been said of the good done by unions, and I have witnessed some of that myself. But nothing that has been said today so far has done anything to address my concern about the effect on inoffensive and uninvolved members of the public whose efforts to get to and from work or education become severely hampered by industrial action.

The public sector strikes in 2011 closed 62% of England's schools, and the NHS cancelled tens of thousands of operations. Yet the ballot of the teachers' union ATL had only a 25% turnout, and UNISON's was about the same. Polls indicate that a majority of the public strongly agree that strike action should be taken only as a last resort. That is why it is right to introduce, as the Bill proposes, a requirement for a turnout of at least 50% in strike ballots.

Neither has anything that has been said so far in this debate explained why it is reasonable that industrial action can take place based on an ageing mandate. The NUT strike in 2014 led to the full or part closure of almost 1,500 educational establishments across England on a ballot that was almost two years old. As a matter of fact, there was also an alleged voting turnout of just 20%. I am aware of several other incidences of strike action that occurred in the year to October 2014 in which the mandate was more than 18 months old, and one of them no less than three years old. The CBI says that placing time limits on ballot mandates is important to ensure that industrial action is limited to the original dispute and not extended to other matters. I look forward to hearing what the Minister has to say about that. It seems to me that that is why it is important that the Bill introduces a requirement that a ballot mandate must be no more than four months old.

I am also concerned that the number of days lost to industrial action in the public sector has doubled over 15 years, whereas in the private sector it has halved. Therefore, I am pleased that the Bill introduces a requirement that, if a strike is to take place in certain important public services, 40% of those entitled to vote must vote in favour of strike action.

These are some of the issues that the Bill we are about to get into seeks to tackle. The public gave the Government a mandate at the general election, and the public are looking to the Government to fulfil that mandate.

5.34 pm

**Baroness Primarolo (Lab) (Maiden Speech):** My Lords, I speak for the first time in your Lordships' House, like my noble friend Lord Livermore, with some nervousness. I am fortunate indeed to have been given the privilege and opportunity of joining your Lordships' House, and I am grateful for the warm

welcome that has been afforded me. I would like to thank my two distinguished supporters, my noble friends Lord Monks and Lady Royall. Both are experienced and respected Members of your Lordships' House, and their advice and guidance is invaluable to me. I would also like to thank the staff who have been so helpful in advising me on procedure and protocol, although of course I should add that any mistakes today are entirely mine.

For the last 30 years, I have represented the good people of Bristol South, first as a councillor for Windmill Hill and then as the MP for Bristol South. My constituents, or those who were my constituents, are fair-minded, straight-talking, resilient, resourceful people who have modest aims: a decent job with fair wages, security for their families, the opportunity through education to improve their lives, and decent healthcare. They believe that these aspirations should not just be the preserve of those at the top of the tree but should be on offer to everyone: an economy where rewards are fairly shared.

It is of particular interest to me, therefore, that the Government are seeking to change the law governing trade unions. It is worrying that, whether intentional or not, the effect of the Government's measures will be to weaken the rights and ability of already vulnerable workers to defend themselves from predatory and exploitative employers. By undermining the trade unions, as my noble friends have already eloquently identified in their contributions, there is a huge gap between the Government's explanation of their intentions and the details of this Bill.

Noble Lords will know from recent revelations what can occur when workers are powerless to stand up to employers who have no conscience and no scruples. Unfortunately, some employers push beyond the bounds of decency. Look at Sports Direct. In pursuing profit, expansion and success for the company, it has deployed unacceptable employment practices. The absence of a trade union means that employees have no voice and no one to represent them, and are unable to do it themselves for fear of victimisation. Desperate to keep their job, they suffer degrading and humiliating conditions, and their relationship with their employer resembles that in a Victorian sweatshop.

As has been acknowledged in earlier contributions, trade unions do not just provide the defence against these unscrupulous employers but play a positive role in partnership with employers in the workplace. Through the workplace they facilitate improving skills, productivity and the quality of services. Their common aim with employers is a high-value, highly trained, fairly rewarded workforce in a thriving economy. They seek fair pay, safe working conditions, and security and safety in the workplace—aims that I am sure we would all agree are just. I do not think anyone is suggesting that the Government are seeking to create workplaces where the employer has unchallenged control of work practices and can exploit the workforce, but it may be the unintended consequence of these measures—if we are to be generous.

Weakening the organisational capacity of trade unions also threatens an important element of our democracy. When employers and trade unions can agree on check-off, why do the Government need to

[BARONESS PRIMAROLO]

intervene? When employers and their workers are in disagreement and are negotiating a way forward with trade unions, why do the Government think that they alone know best and can override those structures? Why do the Government seek to curtail trade union rights and activities? By undermining the right to strike action, the Government could unintentionally damage the incentives for employers to listen to their workers, resolve disputes and engage in constructive relationships with trade union representatives. Employees being treated fairly at work and having someone to speak up for them and make sure that they are not denied their rights is a fundamental part of our democracy.

Constructive partnerships between employers and employees are about putting in place agreed boundaries: boundaries for employers to make sure that decency, respect and equality is the hallmark of the working environment; boundaries for trade unions to negotiate in good faith in representing their members. The Government are in serious danger of undermining this partnership by weakening trade unions and damaging the incentives for employers to engage in constructive talks with trade union representatives or, worse, removing the boundaries of acceptable behaviour in the workplace, which opens the door to the unscrupulous.

Your Lordships will know that there is a wider principle at stake here. Our liberal democracy is built on a foundation of tolerance: of citizens professing reasonable but conflicting views living in tolerance of those with whom they do not agree; where the strong do not exploit the weak; where the majority does not overwhelm and abuse the minority; where we respect the rights of citizens to disagree and we value difference. Sadly, the Government's proposed trade union legislation is illiberal, potentially punitive and therefore damaging to our democracy.

I sincerely hope that the Minister will think again and significantly amend these proposals, and that your Lordships' House will deliver a fair and balanced Bill reflecting modern, progressive workplaces.

5.41 pm

**Lord Morris of Handsworth (Lab):** My Lords, it is my privilege to follow the noble Baroness, Lady Primarolo, and to congratulate her on her maiden speech. It was a speech of content and understanding, and passion was the hallmark of her delivery. I am sure that the House looks forward to many contributions from the noble Baroness.

I start by quoting the words of the Secretary of State for Business, Innovation and Skills when he opened the debate in another place to introduce the Trade Union Bill that is before your Lordships' House today. He said:

"Since the industrial revolution, Britain's trade unions have done much to help to deliver that fairer society ... They have helped to secure higher wages, safer workplaces and stronger employee rights. They have fought for social justice and campaigned for freedom and democracy, and they have supplied the House with some of its most eloquent and influential Members, including Leaders of the Opposition. Unions helped my father when he first worked in the cotton mills. They helped him again when a whites-only policy threatened to block him from becoming a bus driver".—[*Official Report*, Commons, 14/9/2015; col. 760.]

There is a testimony for the House to ponder when considering the role of trade unions in a wider society. I could not have put it better myself. The Secretary of State eloquently spelled out the role of trade unions, both in the workplace and in the wider society. However, whatever his words in introducing the Bill, sadly, his determination to destroy the trade unions which supported his father is not in keeping with popular expectation. He seems determined to have his name etched on a long list of politicians down the ages who had a determination to be anti-trade unions, one of whom even branded the trade unions in time past as "the enemy within".

However, before the Secretary of State gets too carried away, let me remind him of one of the roles of trade unions in a democracy. In coming to this debate, I take the view that one of the pillars of a democratic society is free and independent trade unions. Today's trade unions accept that they must look beyond social solidarity and embrace a broader agenda at home and abroad. In a world of change, trade unions often lead the debate for investment in skills, people, equipment and innovation. As general secretary of my union, I travelled more miles than some Cabinet Ministers in making the case for inward investment to the United Kingdom. Based on my experience, I would say that trade unions are not only a force for good but the greatest under-used resource in British industry today.

My worry about this Bill is its propensity to destroy the partnerships and good practices built up over many years in many workplaces as part of the post-war settlement. Any decision to undermine a check-off system which is agreed with employers will add nothing to productivity, but is a vindictive proposition and a deliberate attempt to put some trade unions out of business. The requirement for trade unions to report to the police on industrial action puts the notion of a free, independent trade unions but one step away from a police-state trade union. On the same level, the new threshold for trade union ballots has no parallel with any other organisation, including political parties. What is so different about a trade union that it should not enjoy the same privilege and the same freedom in the same democracy?

The Secretary of State spoke movingly of his father as a new arrival in Britain and of how he was helped by the trade unions. I know that journey. I, too, arrived here as a 16 year-old and benefited from the values of opportunity and the support that my union gave me. My union underpinned my adult education and gave me most of my life's chances, including the privilege of becoming its general secretary. However, there is a difference between me and the Secretary of State. My trade union values taught me that you help yourself to gain access but that you never ever pull up the drawbridge.

Why are these proposed changes necessary? What is the problem that we are trying to fix? Why are the Government attempting to command and control the orderly process of the political levy system? How many companies have received complaints about political levy payments? Where is the evidence to support these complaints? Why are the Government trying to fix a system that is not broken?

The real problems in British industry today are: lower productivity compared with our competitors; low investment; low pay, low spending on training and apprenticeships; job insecurity; zero-hours contracts; low skills; low esteem; and, worst of all, bullied employees in companies such as Sports Direct have lost their pride and passion for what they do.

Why is it felt necessary that the full force of the law should now be brought to bear on trade union activities, particularly where there are disputes between two sides, the employers and the trade unions? This is not the democracy which enables free workers to withdraw their labour, subject, of course, to normal procedures.

What are the plans and objectives which form the next steps from this Bill, I ask myself. Its provisions bring out the worst features of the “them and us” society that the Government are creating step by step. I say that because this is the most vindictive and one-sided piece of legislation that I have seen. Where is the legislation to deal with the scandal of zero-hours contracts? Where is the legislation to stop bullying at work in many companies in particular sectors of the economy, which we read about constantly? We need new laws to ensure that workers are no longer blacklisted for exercising their democratic right to withdraw their labour. We need new legislation to ensure that the punitive fees and charges that stop a lot of low-paid workers gaining access to justice in an industrial tribunal are swept away. We need new laws to ensure that the blacklisting of workers that we have seen in the construction industry becomes a criminal offence with a mandatory custodial sentence for those who perpetuate this practice. We need new legislation, but we do not need this Bill. It is time for it to be confined to the archives of history where it belongs.

5.51 pm

**Lord Dykes (Non-Aff):** My Lords, it is a great privilege to follow the noble Lord, Lord Morris of Handsworth, with all his knowledge and experience, and his reputation for being a sensible and moderate trade union leader over the years. Other senior trade union people are represented in this debate, mostly Peers on the other side, who have contributed some excellent thoughts to the debate.

I want briefly to add my thanks to those of others for the maiden speeches of the noble Lord, Lord Livermore, and the noble Baroness, Lady Primarolo. They have shown their capacity and skills in different ways, with the noble Lord, Lord Livermore, as a much newer Member of this Parliament. I was scandalised on his behalf by his example of the recruitment agent being so discouraging. That was only a few years ago; engagingly, the noble Lord is still extremely young. Many decades ago it would have been a different but still quite shocking story. I am glad he retold it to the House. The noble Baroness, Lady Primarolo, showed her enormous experience over the years, not only in a ministerial capacity but as an excellent and successful Member of Parliament and, of course, in the Speaker's Chair in the other place. It is important to hear again the excellent remarks of the noble Lord, Lord Monks, and I thank the noble Lord, Lord Mendelsohn, for his speech, particularly when he strikingly reminded us that he was a successful businessman and therefore

may be inclined, in the lore and practice of the tabloids nowadays, to be automatically anti-union. Not a bit of it, and we are grateful to him for his contribution.

I was glad that I had a chance to take part in the excellent debate on trade unions launched by the noble Lord, Lord Foulkes of Cumnock, on 19 November last. We reminded the House that the present Government were proposing draconian new restrictions on the right to strike in Britain, a right enshrined in our deep democratic traditions since the turn of the 19th century. Controversial restrictive ratios were to be imposed on unions to secure what could be called a “proper strike ballot result”, which is a total distortion of what legislation should do.

I had to emphasise then, as did others in the debate, that these reactionary new proposals are included in the Bill now before us, presented by an Administration with some 37% of those voting in the last general election supporting it, or around 24% of the total electorate. I can think of no worse source of advice on ratios and percentages for election procedures in whatever bodies, and indeed in national elections. There is a great lack of justification in this recent list of some rather dodgy “manifestoitis” Bills, but this piece of legislation shows sheer brutality in the parliamentary context of the need for moderate politics. I do not recall a Government in any EU country introducing such a restrictive package as this on what is a flimsy and inadequate basis of support. In fact, they could not do it because, unlike us, they are lucky enough to have the benefit of written constitutions and a constitutional court system that keeps any Government on the virtuous path of not abusing legislation in the manner of our unreliable three-line whipping system in the other place, which carries a Bill through without proper discussion. Other countries require coalitions, usually under PR voting systems, if a party has the support of fewer than 50% of those voting, with the main exception being France, where I also live. It is the only other country with a simple majority system, but at least there is a 50% requirement for round one, which provides some mitigation, although not much, between the total number of seats and the genuine percentage of the public voting.

The right to strike and to protest are fundamental in any truly democratic society. We can hardly say that there have been too many strikes in Britain in recent years—quite the contrary. In Germany, the Chancellor of even the Christian Democrats would routinely address the annual conference of the equivalent of the TUC, which is virtually unthinkable in this country because of the gaps, divisions and, indeed, hatreds fostered by thoughtless people in various political organisms. I agree with the moderate and sensible TUC leadership when it asserts that this wretched Bill also ignores international standards. That is a very worrying factor.

We are in a society where modern welfare capitalism, which we were used to yesteryear, has receded more and more against the onslaught of relentless US-style brutal capitalist behaviour, scarring our formerly green and pleasant land where the only things that matter are the chief executive's remuneration and shareholder profits. We need to restore the balance between the

[LORD DYKES]

different legitimate sections of modern society, and to restore a harmonious link between the very large number of decent business employers and trade unions.

The Bill will allow employers to bring in agency workers to break strikes. That is such a provocative proposal as to alienate broad sections of moderate opinion on these matters. A wartime emergency might possibly justify such a controversial move, but surely not in normal times when social peace is a natural priority. The wholly illegitimate new threshold figures for strike action will make it far more difficult for ordinary workers to ensure that they are protected by a framework that allows normal organisational activity to protect their jobs, aspirations and the quality of their daily working lives. I have been told on good authority that when ILO senior officials in Geneva were notified of these plans, they reacted with surprise to say the least, and they are normally very guarded in their comments.

The Government have blandly ignored the idea of voters abstaining in a general election as being like a no vote, but say exactly that in the case of abstainers in a strike vote in the Bill. The Bill is also much harsher on public sector workers based on some flimsy arguments. That affects women more since the proportion of women in the public sector is much higher. I cannot understand the intrinsic vindictiveness in these proposals, apart from the woeful reminder they provide of the hatred that the supporters of a certain Prime Minister in the past felt towards union members, described in one of the worst phrases in the history of British politics as “the enemy within”. Nowadays we see very little disruption through industrial action, so harsh has daily working life for millions of people become. People fear losing their jobs in case they cannot get another one. In the days when Harold Macmillan was Prime Minister, unemployment fell to 180,000, which is like saying there was no unemployment at all. The number of days lost has fallen very strikingly and is, I believe, some 10% of the total of lost days in the 1980s.

Why are the present Government so reluctant to modernise union and employer procedures by encouraging electronic and workplace ballots? Companies and other entities use them, and even the Tories used electronic balloting for elections, as has been pointed out by other speakers.

There are many other aspects of this very questionable Bill which we will need to examine in Committee line by line, and perhaps some of it through a Select Committee procedure, as has been suggested by the noble Lord, Lord Tyler. We need that even more because consideration of the Bill in the other place was woefully inadequate. For example, there are some onerous new requirements for supplementary information to avoid legal challenges by employers, which would perhaps have the effect of prolonging disputes unnecessarily, thus increasing the danger of a hardening of attitudes. Clause 8 will need meticulous inspection, while the danger of Clause 9 is that unfair extra burdens will be put on the police, thus increasing tension between them and union representatives. ACAS, too, is apparently worried—I am only guessing, but that is the hint which has been dropped—that the

positive side of workplace consultation good practice, which often helps to lower the temperature, will be upset by the new unfair imbalances in relations between employer and employee.

We need to look very carefully in Committee at the planned upset in check-off arrangements, which are often very helpful to employees. The Minister in charge of this is a very moderate and highly respected individual, capable of moderate thinking even about this dangerous Bill. The Government need to think again about many sorry aspects in this sad and reactionary measure. It surprises me that it is being introduced. It harks back to the days of right-wing warfare on the unions. We need a more modern approach, consensus and co-operation, as there is in Germany and other countries. Do the Prime Minister and his ministerial colleagues have the imagination to make the really big changes that will allow this Bill to go through? I hope so.

6 pm

**Lord Dobbs:** My Lords, it is a pleasure to take part in a debate with so many fine maiden speeches—namely, those of the noble Lord, Lord Livermore, and the noble Baroness, Lady Primarolo, and it is an honour to be the warm-up artist for the noble Lord, Lord Watts. I am sure we wish them all well.

I suppose that we are all hostages to our upbringing. If I had been born in a different age, I would have watched what happened to the Tolpuddle Martyrs with shame; I would have supported the match girls’ strike; and I like to think that I would have taken part in the hunger marches of the 1930s. Those were battles that needed fighting. I not only pay tribute to what many trade unions have achieved, I would have been proud to have been part of it.

However, for better or for worse, I was a baby boomer, so I remember the three-day week. That time is seared on my soul, because my mother was a worker. She went out to work despite having four kids. But, of course, that is why she went out to work—because she had four kids. Then the three-day weeks began. The power was cut, the heating failed and the lights dimmed, yet my mother still had to go out to work. She was sick that winter—although we did not know it, she was dying—but she still had to work. She put on two overcoats, a woollen hat and gloves, and sat shivering through the working day in order to provide for her family. My mother was earning much less than a miner, yet that did not stop her being used as a pawn in that dispute: she was collateral damage. The point I am trying to make is that workers’ rights do not exist in isolation. They stand alongside the rights of other workers and sometimes they compete, and on occasions conflict, with those other rights. One man’s strike can be another man’s misery.

Let us take the London Underground. How can it be that we are once again faced with even more Tube strikes? Apparently, the unions have problems with the work-life balance of their members. I just wonder about the work-life balance of those who rely on the Tube. What of them? What about the rights of the millions of workers who need the Tube to get to their own work or the innocent victims of what is still so strangely called industrial action?

The union leaders who gathered today to discuss yet more strikes are the same leaders who less than a year ago organised a strike in support of a driver who failed not one but two random breath tests. The London Underground carries 4 million passengers a day. That strike was backed by 299 votes to 221. More strikes have been agreed today. What absurd timing and what world do they live in? There is a right to strike, which is important, but there is also a right to work. Despite the Nelsonian blind eye of the noble Lord, Lord Monks, although perhaps it is more like the blind eye of Mr Arsene Wenger when one of his men handles the ball in the penalty area, these endless Tube strikes are not only futile but also a direct assault on the rights of millions of other workers who have families too.

The overall number of strikes has fallen dramatically. We have heard that, and thank goodness, but there are still those determined to deny any sense of fairness or balance. That is why we need to ensure that there is a sensible voting turnout before a strike and that votes are held within a reasonable time period—not in order to bash those who want to strike but in defence of those who want to work. The Bill contains much more, of course. It is about finding a balance between the rights of one set of workers and the rights of others. Perhaps the details need clarification. Without wishing to unduly excite noble Lords opposite, why not have electronic voting, for instance? Do designated picket supervisors really need armbands? This House, as always, will do its job on the details.

I, for one, do not want to see the impoverishment of the Labour Party. We need healthy, properly funded political parties and not a,

“bunch of far-left antiwar former communists”,

as one recently politically deceased member of the shadow Cabinet said over the weekend. It has already been a bad day, with more resignations, in a difficult month in a tormented year for the party opposite but I hope that the Opposition will find it possible to come forward with balanced suggestions for improving the effectiveness of this Bill. I hope that the Government will listen. This Government have the clear moral and political authority for this Bill and the backing of public opinion, which grows stronger with every ridiculous Tube strike. It is important that we as a party and a Government work hard to keep that support.

Last week, I spent some time talking with a very senior foreign ambassador. He said that there was something rather remarkable going on in this country. He very much admired how we are working our way out of the terrible economic mess in a more successful manner than almost any other country. This Bill is part of that effort. It is a Bill for ordinary workers, which ordinary people like my mother would have supported.

6.07 pm

**Lord Watts (Lab) (Maiden Speech):** My Lords, I start my maiden speech by thanking the staff and officials of the House of Lords, and my fellow Peers from all sides of this Chamber for the warm welcome that I have received since I entered this establishment on 3 December. Having spent 20 years in local government

and 18 years in the other place, it is somewhat of a shock to receive such kindness. When I first started my political career as a working-class boy from Liverpool, I had no idea that I would end up as the leader of my local authority, one of the town's local MPs for 18 years, chairman of the PLP and now an appointed Member of this House.

I came to politics by accident after becoming active in the trade union movement in my teens. During the time that I was involved in my union, I came to understand that trade unions can protect workers and promote equality only up to a point. Working people needed a political party to represent them in Parliament. I believe that that principle was correct then and that it remains correct today.

If noble Lords consider every progressive change taken over the last 100 years, they will see that the Labour Party and the trade unions together have made this country a more just society. This includes the creation of the NHS, the welfare state, equal pay, the minimum wage, the Race Relations Act, the introduction of tax credits, and equality in the workplace and the home. The list goes on and on.

Despite being active in politics for nearly 40 years, I feel that I have failed in my main aims. I wanted to work towards a fairer and a more equal and just society. But I have to say that, despite my many years in politics, I believe that we have been moving backwards over the last five years. It is still the case today that a child's life chances have more to do with where they are born rather than their own talents and abilities; it is still the case that the best schools and universities are kept for the rich and powerful; it is still the case that people's job security depends on their class; and it is still the case that people will live longer in rich communities than in poorer towns and cities. It is impossible for many young people from poorer backgrounds to own their own homes.

This problem is not exclusively a British one: all around the world, the rich are getting richer and the poor are getting poorer in relative terms. I believe that rejection of mainstream political parties is a direct consequence of many people feeling that their Governments around the world are on the side of the powerful, not ordinary families such as theirs.

I ask myself one question: will the Bill make the present situation better or worse? In my view it will make it worse. It will further empower poor employers and disadvantage millions of workers. The Trade Union Bill is a solution looking for a problem. It is not the case that trade unions are presently too powerful; in fact, it is the reverse. Employers are already in a powerful position. The legislation will simply make poor employers even more determined to enforce their will on employees and drive down wages and conditions.

There is simply no evidence to support the Bill: strikes are already at a very low historic level; wages have fallen in real terms over the last five years; and workers are already reluctant to take strike action because they fear the financial loss that they would incur. Millions of workers are no longer unionised and workers feel insecure and vulnerable. The balance between employers and employees has already

[LORD WATTS]

dramatically shifted in favour of the employer in recent years. If the Government really wanted to help working people they would provide more security in the workplace. They would make it easier for trade unions to represent working people in the workplace who are currently being abused by 17th-century employers, such as Mike Ashley in Sports Direct, who seems to treat his employees like a character out of a Charles Dickens novel.

I will deviate for one second from my main speech and the main point I wish to make. I say to my own party leadership that last week was disastrous for us. When we should have been concentrating on holding the Government to account for the floods and for this Bill, we involved ourselves in an unnecessary reshuffle. We lost two of our best communicators, Michael Dugher and Kevan Jones. My advice to my own party leadership is that they should take less notice of the London-centric, hard-left political class who sit around in their £1 million mansions, eating their croissants at breakfast and seeking to lay the foundations for a socialist revolution. It is not the job of the Parliamentary Labour Party to sit around developing ultra-left-wing policies that make it feel good; it is its job and responsibility to come forward with policies that will help us to win the next general election. For those who do not want to take on that task, can I suggest that they join a society in which they can enjoy sitting around having a philosophical debate about the meaning of socialism? Working people need a practical Labour Party and trade union movement that will address their practical, day-to-day issues.

The Bill, along with other government Bills, shifts the political balance away from the party that represents working people's interests to already powerful groups. It seeks to reduce funding to the only party that truly represents working people. It also builds on other government policies aimed at weakening the trade union movement, the Labour Party and other opposition parties, such as cutting the Short money to opposition parties, instructing the Boundary Commission to follow a political agenda for the first time in our history, and measures that will reduce the level of funding to trade unions. These will make it much more difficult for the Labour Party and the trade unions to oppose unfair and unjust policies. It will make it much more difficult for trade unions to represent working people and it will hand massive powers to bureaucrats who will have the power to bankrupt trade unions. It will allow employers to recruit temporary workers to break strikes and provide them with the time to do so. Such policies are unfair and unjust, and will leave millions of workers feeling that all political parties now represent the powerful and rich, not ordinary working families.

The Bill will concentrate power in the hands of one political party, poor employers, and the powerful and rich. It will not make our country for one second a more fair and just place to live. Thank you, my Lords.

6.14 pm

**Lord Bragg (Lab):** My Lords, it is a great pleasure to congratulate my noble friend Lord Watts on his maiden speech. I agree with every word of it—that helps—and clearly with the influence of Liverpool

above all. Local government, the House of Commons and charring the PLP—wow. That is enough of an introduction to this place, and I hope that he intervenes a great deal more often.

On Sir Christopher Wren's tomb in St Paul's Cathedral, as I am sure noble Lords will know, there is an inscription that reads, "Si monumentum requiris, circumspice"—"If you seek a monument, look around". I would say that the same thing has happened today in this House. Look around at the monument of opinions of so many in this House of unparalleled experience and expertise in this matter, and listen to the quality, pinpoint detail and strength of their objections to the Bill. It has been dismantled. Their voices have allies all over the country. The senior political adviser at CIPD said:

"We do not really see the need for legislation on this topic".

Liberty, Amnesty International and the British Institute of Human Rights argue that the Bill would undermine the rights of all working people. Some 70 local authorities and NHS employers have publicly criticised it.

Why are the unions the only organisation in the UK legally required to hold postal-only ballots, which tend to be more expensive and lead to lower turnouts? Why is it so rarely said that unionised workplaces are safer places and that union representatives play a big role in improving morale? Yet this Government seem to believe, in an ancient way, that the trade union movement is some sort of demon dragon in our society that needs to be made toothless.

For centuries, this country—as others, but we are talking about ourselves today—has suffered from damaging splits between the powerful, the less powerful and the powerless. We have had slaves over the centuries, serfs, indentured servants and unsecured labour, all dominated by the hydra-headed powerful. There is a sense in which that chasmic characteristic still obtains. National characteristics persist, and the powerful and the privileged, often in new shapes and forms, have fought very hard indeed to hold on to their power and privileges. Only an organised power of at least equal determination can curtail and civilise such entrenched autocracies, as my noble friend Lord Watts referred to in his excellent speech.

Until comparatively recently—a mere 100 years ago—we have had bestial housing, the herding of insecure workforces and a life for most of the people in this country that was nasty, brutish and short. This was often at times when we were among the richest countries—sometimes the very richest—not only in the world then, but perhaps which the world had hitherto ever seen. That has changed, but only because of constant struggle. It has been helped by honoured men and women of all classes, and of all political and religious persuasions and none, but it was the trade union movement that got a grip on it in the late 19th century and established a foundation on which a fairer society could exist, in which many more shared in economic prosperity and in which many more than ever before had opportunities to improve their condition. Many more could live a life worth living, instead of being humiliated, discounted and degraded.

Lest we forget: just as we pay our dues to the continuing stabilising influence of the Queen and this

parliamentary system in our constitutional democracy, and just as we respect hard-won victories in the law and the Armed Forces, so we need to bear in mind and honour what the trade unions have done and still do for our society. These men and women gave to millions over the centuries a life unimaginable to them beforehand. To merely demonise them is unworthy. We owe them a great debt. Of course, at times the unions have seemed unreasonable and implacable, and sometimes appear to be bent on frustrated wrecking as the only way they can expedite change. But that is not the greater part of their history—not a bit of it. Their achievement has been to liberate and improve the lot of the mass of the British people. That is what they have done.

Let us compare the other side, because we have two sides here. What about the great controllers: government and management? What have they contributed along the way? How did management and government manage to lose the basis and guts of what, until the middle of the last century, was one of the greatest manufacturing conurbations in the world? How did British management and government, for instance, lose our mighty shipbuilding industry when other comparable countries kept or improved theirs? It was not only the unions that were intransigent and incompetent, so why has an island that has built ships since the time of Alfred the Great managed to kill off such a major tradition?

Where were the new ideas from our controllers and managers? Where was the long-term investment? Where was there any understanding of the inevitable economic and personal devastation? Where was the will to build anew? Where was the leadership? Absent. And on what grounds was that wasting of other great industries, especially in the north, leaving 3 million often highly skilled people unemployed and without provision for their future? Has that ever been convincingly justified by management or government?

We live in a country that is still lucky to have outstandingly clever people at all levels of our society and in many disciplines. It is worth remembering that arguably the greatest revolution in world history, the Industrial Revolution, which founded our prosperity, started, flourished and conquered from here, and was seeded and nourished by working men, most of whom had left school by the age of 13 or 14. It is also worth reminding the House that today in science, thanks to our universities, we are the second greatest research engine in the world.

It used to be said that we were a providential island—a special case. Indeed, for a small place we have had, and still have, an extraordinary—perhaps unique—range of the highest talents across the waterfront throughout our history, save one: we have not the talent to mend the rifts between the powerful and the powerless, between them and us—or “them and uz”, as the poet, Tony Harrison said—and all the permutations of that. Why can we not merge these two forces and each learn from the other and be prepared to respect, encourage and involve the other? This is not a dream. Today we are a small island in a world which demands bigger and bigger forces and commitments. We need creative parity: instead, we have an unimaginative, unsympathetic, old class act.

Instead of exacerbating basic divisions in this country, which this Bill seeks to do, why cannot the Government work out a well thought through, permanent structure for a more equal playing field, with full contributions from all parts of our increasingly diverse society? Why is there no vision, or any hope of that, in the Bill? So many people want it to happen. It need not be so very difficult—and, if it is, it will be all the more rewarding to succeed. What I am saying may seem simplistic and obvious and pie in the sky, but can anyone propose a better option for bringing to an end this unjust, oppressive, regressive civil struggle? I look forward to an amended Bill.

6.22 pm

**Lord Adebowale (CB):** Right. Well, I have drawn the short straw in that I am the 23rd speaker on the list and I follow the noble Lord, Lord Bragg. To be honest, I think that I should sit down now. The noble Lord made a cracking speech. I have listened to some 20 informative and incredible speeches containing a lot of detail, knowledge and history. My contribution is a modest one.

I thought about whether I should speak at all. However, I say to the noble Lord, Lord Dobbs, that I was encouraged to speak by the experience of my mother, who was a public sector nurse in the NHS. We sat through the three-day week and the strikes. She went to work in the cold but she supported the right to strike and to cause inconvenience. In fact, I am here because of the threat of inconvenience. During the Bristol bus strike of 1964, there was a boycott by BME groups in Bristol. At first they were not supported by the unions, but the unions subsequently got behind black and minority ethnic groups in Bristol who were being discriminated against by an employer who casually did not employ black people on the buses. The excuse given for not employing black men on the buses was the perfectly reasonable one to his mind that the daughters of white people would be at risk.

I think—and my mother would agree—that there are many incidents of poor behaviour on the part of the unions but, believe me, there is an equal number of incidents of appalling behaviour on the part of employers. In listening to the eloquent and emollient introduction of the noble Baroness, Lady Neville-Rolfe, I wondered whether the intention of the Bill was matched by its process and content. I have read the Bill and its intention and the stuff presented by the TaxPayers' Alliance and others. However, I am still concerned about the Bill's content and whether it has an honest link to any intent to create an “and/and” society rather than an “either/or” society in which you are either a boss or a dastardly trade unionist, akin to a communist or a socialist—which is becoming something of an insult these days. However, I am a Cross-Bencher, so I guess that I can slag them all off.

The organisation for which I work employs 4,000 staff. It is a not-for-dividend organisation. I do not say not for profit: just because we are not for dividend does not mean that we are for deficit. I always take the opportunity—as I do now—to pay tribute to every single one of the employees, who do amazing work at the front line. We have a trade union, with which I have not always got on—after all, I am a boss. But I

[LORD ADEBOWALE]

respect its right to cause inconvenience. I use public transport and suffer when there is a Tube strike.

When I talk to trade union members about what they are doing and why, I do not get the impression that they are doing it lightly or are doing so just to be bloody-minded and to make me walk or scoot to work. They are doing it because, by and large, they are forced to do so—just as my mum, as a public sector worker, had to use the weight of the union to fight the racist discrimination that existed in the NHS. I do not understand why there is one rule for the public sector and another for the private sector. That seems inherent in the Bill. It is as though racism, discrimination and bullying cannot take place in the public sector but somehow can take place in the private sector. That does not make sense. It needs to be explained and clarified in more detail by the Minister.

One of the privileges of speaking 23rd is that much has already been said, so there is no point in repeating it. But the electronic workplace ballot issue strikes me as rather odd. If ever there was evidence that the intention of the Bill is not entirely honourable, it is in the refusal to allow electronic workplace ballots by trade unions. I have spoken to the TUC, heaven forfend. I have spoken to its researchers and other organisations about whether they use electronic postal ballots. Frankly, the only organisation that I can see is banned from using them is the trade unions. That does not make sense.

The notion that the electronic ballot might be at risk of hacking, as the noble Lord, Lord King, said, does not stand up to scrutiny in an age when virtually every single one of us has an electronic bank account. I have certainly used electronic voting in many of the organisations with which I have been involved. As a litmus test of the evidence that this Bill is meant to create an “and/and” and more balanced relationship between workers and trade unions and between bosses and workers, doing something about electronic ballots would certainly indicate to me that there was a serious intent to do something useful.

As I listened to many of the contributions made today, including that of the noble Lord, Lord King, I wondered whether the Bill was about a battle that took place in the past, given the references to miners’ strikes, “Red Robbo”, the three-day week and even the Tube strike. I wonder whether this is about past battles between parties and old ideologies.

We need a Bill that looks to the future and that represents the people who are inconvenienced and those who would wish to put inconvenience upon them—in other words, the leaders and managers who have disrespect for the people who work for them. We should be creating a Bill that is about the future and put the past behind us. This country needs an “and/and” Bill.

6.31 pm

**Lord Leigh of Hurley (Con):** My Lords, I am grateful for the opportunity to speak tonight in support of the Bill, as many of my noble friends have already done. I begin by making reference to the much cited ONS data that show the very low number of days lost to

industrial action in current times, compared to the peaks of the 1920s and the General Strike and, as we have just heard, the industrial strife of the 1970s. My noble friend Lord King reminded us of the relevance of the terrible times which are behind us when the rubbish lay on the streets, Red Robbo called the shots and Britain became the “sick man of Europe”. Given our comparatively low level of days lost to industrial action today, some have argued that there is no need to continue to modernise and reform our trade unions.

This is complacent thinking which ignores modern economic reality. It is complacent because we should not consider it acceptable that 700,000 of the 788,000 days lost to strike action in 2014 were in the public sector. This implies that private sector employers, employees and unions have got their act together; they have sorted matters out and progressed. The economic reality is that we exist in a globalised economy where capital flows across borders and we must compete with a hundred countries—instead of a few—for precious inward investment. We have been successful. My noble friend Lord Balfé reminded the House of the Mayor of London’s comment that, if this legislation had already been passed, 19 of the 26 disputes on the London Underground since 2008 would not have happened.

Critics of the Bill frequently try to portray it as an attack on the inalienable right to strike, but such rights cannot be considered in isolation. It is the job of the elected Government to look after the whole country and we may be discussing strike action that infringes the rights of millions of people. I am sure your Lordships would agree that, as such, a right to strike must be accompanied by an obligation to use it responsibly. For example, it seems self-evident that where something as disruptive as strike action is mooted, the ballot that conveys its legitimacy is itself put beyond reproach. The Bill does this by introducing thresholds of 50% turnout of those eligible to vote and, for vital services such as health, fire, transport and security, 40% of those eligible to vote must do so in favour of the action. This is action that disrupts the lives of millions of workers, so it is a small ask indeed that half of members should actually participate for the balloting to be valid.

The Conservative manifesto—on which the Government were elected—specifically referred to health, education, fire and transport as important public services. A recent BIS consultation then added border security and nuclear decommissioning. Does this go far enough to protect the public? The wording in the consultation refers to a situation that could have,

“far reaching effects on significant numbers of ordinary people who have no association with the dispute”.

For example, does transport incorporate all of the ancillary activity that goes to support it? If baggage handlers go on strike, using the lower ballot requirements, this would quickly and materially affect the lives of millions. Similarly, what about energy and utilities? There is no mention of them, but nothing is more essential than the provision of heat, power and water to Britain’s businesses and families. Would the Minister consider using a wider lens when determining what activity goes to make up an “important public service”?



In the other place, arguments against these thresholds centred on introducing a new clause on e-balloting. Leaving aside the fact that the data security and privacy issues have not been addressed, let alone accounted for, this amounts to moving the goalposts and raises suspicions that the trade union movement is not optimistic about meeting even these modest requirements in future, as well as casting a shadow over ballots of the recent past. Furthermore, measures in the Bill that mandate more clarity on what the dispute is actually about, and what possible action is proposed and for when, are eminently sensible, as is the expiration date of four months on the ballot itself. I am sure employers will, similarly, welcome being given 14 days' notice of impending strike action instead of seven.

Also worthy of mention are the measures in the Bill to increase transparency in the use of facility time—union activity conducted during paid working hours. We have seen much-needed modernisation in this regard in government departments, led by my noble friend Lord Maude, under the Cabinet Office's facility time framework for the Civil Service. For example, the annual bill for facility time in the Civil Service was £16.7 million in 2013, which included £500,000 to send employees to union conferences. It is now down to less than £10 million. The Bill simply seeks to embed a similar approach across the public sector, in addition to the Civil Service, by having employers publish more information, including the amount spent on union activity and disclosure of the number of trade union representatives on employee rolls. Does the Minister agree that taxpayers deserve to know how much of their money is being spent on facility time? Indeed, if the savings we have seen in the Civil Service, where facility time costs were reduced from 0.14% to 0.07%, were replicated across the whole of the public sector, the taxpayer would save up to £150 million a year.

In summary, the measures in this Bill are proportionate, beneficial to union members and the public, and will entrench our competitive position in the global economy. There are, of course, vested interests and I quite understand why the Labour Party is concerned about the funding proposals. However, I believe that the Labour Party would be better off if its funding was not dependent on the whims of a very small number of senior union executives. The shadow Business Secretary—or that is what he was this morning—said in the other place that the Bill was a threat to health and safety. These must be the same phantom health and safety issues that taxi unions are citing against their competitor Uber, to the detriment of consumers. Another honourable Member said that the Bill would reduce civil liberties and human rights. Surely it is the rights of workers and consumers of public services that are most threatened by some of this activism. One union leader even compared the Bill to the treatment of unions in Nazi Germany. Such hyperbole does not help in facilitating meaningful debate.

I hope that this Bill passes through the House and that your Lordships will seek to protect ordinary workers and users of public services, as well as continue to wave the flag for Britain as the best destination for inward investment. It is true that the public sector no longer builds ships, but we are Europe's major producer

of cars and the private sector also produces luxury yachts. It is possible to make progress in industrial relations. I therefore entirely welcome the Bill.

6.39 pm

**Lord Brooke of Alverthorpe (Lab):** My Lords, I did not speak in the dress rehearsal on 19 November, when my noble friend Lord Foulkes of Cumnock moved a Motion about the trade unions. I was here for most of the debate and read all of it. It was generally positive and constructive and we did not get the digging in to extreme positions that we have occasionally heard during today's debate. In particular, I read the Minister's contribution. She said that the Government recognise,

“that trade unions have a valuable role to play in developing our workforce and in ensuring that the vulnerable are able to participate in work”.

She stressed,

“the importance of trade unions and why I believe it is right that the legislative framework needs reform ... to modernise the relationship between trade unions and their members and to redress the balance between the rights of trade unions and the rights of the general public”.—[*Official Report*, 19/11/15; col. 314.]

She pointed out, as she has done today, that the Government pledged in their manifesto to undertake these reforms and bring the Bill forward and this is what you have done.

I read the manifesto to check what you had written and what you have brought forward. Page 18 carries about 2,000 words that cover this. There is no mention, however, of the proposal to change check-off. If the Government are supportive generally of trade unions and their aims and do not want to undermine them, I would like the Minister to explain why they did not have that in the manifesto and why it has now suddenly appeared. If she has been listening carefully to the contributions today, she will know that this is one of the changes that will seriously undermine not just what might happen with money between the unions and the Labour Party but the ability of some unions to perform.

That is not because there is a mismatch between the interests of the members and the unions. Previously I have seen check-off withdrawn in the Civil Service from the Prison Officers' Association. Many years ago that was undertaken and what happened? It weakened the union because in due course the number of members went down, not because the members were opposed to the union or were not prepared to put themselves out; it was simply an issue of them not being willing to do anything more than say, “Yes, I will agree to check-off but I am not going to start fiddling around with my bank account and the rest of it or start going into other areas”. It was as straightforward as that.

So if you are not truly about undermining the unions, you need to explain why you are going to go ahead with this quite dangerous piece of change. I rather support the view of the noble Lord, Lord Adebawale, that these are the kinds of issues where a test is brought to bear on whether the Government are serious about making matters better or whether they are being quite malicious and determined to knock one side down. I hope you are not, but on the face of things it looks very much like that.

[LORD BROOKE OF ALVERTHORPE]

Having embarked on this little exercise, I took the trouble of going through the rest of your manifesto—the whole 81 pages—and, given that we keep hearing the Chancellor speaking about your party being the one that represents working people, I was looking to see on how many occasions you said anything about life at work. With this Bill we are talking about a much diminished trade union organisation compared to what it was some years ago. We now have barely 6 million or 7 million trade union members, yet we now happily have 30 million people at work who, for one reason or another, are not members of a trade union. I went through what you were offering the whole of the population who were able to vote, not just those who were trade unionists or non-trade unionists, and it was quite interesting to pick up some little statements where you said you were going to back people at work. You are going to work to reduce inequality—

**Lord Elton (Con):** I do not want to restrict the flow of the noble Lord's very eloquent speech, but we have not heard whether the "you" he keeps using is singular or plural. If he could revert to using the third person, as required in the *Companion*, that would make it much easier.

**Lord Brooke of Alverthorpe:** I am grateful for being put right and I will endeavour to do my best on that score. I cannot guarantee it, however. You have nicely thrown me off my line as well. Thank you very much for that.

After looking at the relatively modest references in the manifesto to working conditions for 30 million people, what I really wanted to look for in the legislation, when it came, was the whole point about what is going wrong with industrial relations that needs rescuing—I pick up the contribution of the noble Lord, Lord Morris, particularly—to see whether we can find some way of having a piece of legislation that was not simply negative but would perhaps look to the positive as well.

On 19 November, the Minister reminded us:

"This is a free country. Everybody has the right to belong to a trade union. Equally, there is no compulsion in the workplace to do so. Closed shops are a thing of the past".—[*Official Report*, 19/11/15; col. 312.]

Of course they are. However, what she or some of her friends may not realise is that we now have millions of people at work who do not know what we are talking about when we talk about the closed shop. It is in the past. But if one looks at the evidence that has come from a whole range of organisations about the nature of conditions at work, what many people know is that when they go to work, where they spend much of their lives, they have very little control over it; as technology develops, they have less and less so, and there is often a diminishing respect between employer and employees. If she cares to look at the work that has been done by the Chartered Institute of Personnel and Development, she will see that one in three employees experienced a form of interpersonal conflict at work in the preceding year; and that a lack of respect is the most common way in which conflicts affect behaviour at work, with 61% saying that they have difficulties with those issues.

Yes, those 24 million people are free to join trade unions if they wish, although there have to be 50 or more workers employed and the majority of them voting for it for a trade union to be admitted to represent them. Since over 90% of those employees are in small to medium enterprises with fewer than 50 employees, it is not surprising that there is an ever-growing body of employees with no representative rights at work. Going back to your manifesto, will you tell the 24 million to 25 million UK employees who are not in unions how you will fight for them, how you will fight for equal opportunity, and how you will see greater gender equality at work and the other aspects that are mentioned in the manifesto?

In the main, most of these issues cannot be resolved by legislation at the centre. They have to be worked at. Those of us who have worked in workplaces know that the solutions are to be found down at the workplace level. But now, as I say, an increasing number of people are effectively voiceless. Although unemployment has been falling, there is a rising number of low-skilled jobs, zero-hours contracts and low pay, with stagnant productivity across the country and ill-equipped and poorly trained staff. Are the trade unions responsible for that? I would say no, and I do not believe the Minister herself would agree with that.

What we therefore need is something to go in this legislation which is positive, which works for the other people who are there. I know that the unions did not particularly want to see changes in the legislation that was introduced in 2005 on consultation. Perhaps the Minister might go back and have a look at that and see whether we cannot find something that would be positive and of benefit and would get us away from the continual divisions that we find on industrial relations and produce the consensus that is needed to make things better.

6.48 pm

**Baroness Janke (LD):** My Lords, I speak as the former leader of a city council which has a history of good working relationships with public sector unions. Colleagues and I worked in partnership with the trade unions throughout a period of fundamental change in local government in Bristol—it is good to hear so many people from Bristol here today. We found it essential that unions represented their workers, particularly when their jobs and working conditions were affected by major change, but also in enabling affected members of the public to understand the impact of such change on their lives. We may have had disagreements but the freedom to negotiate and agree matters locally was both essential and beneficial.

For example, I and colleagues found that when it was necessary to introduce changes in sensitive services in the city, such as how care and respite services were provided, it was absolutely essential to work in partnership with the trade unions for the reassurance of workers and care users, as well as their relatives. When this happened in the past without this level of partnership and joint working, the disruption, stress and anxiety suffered by the most vulnerable people has been intense. We also found that in the introduction of new working practices, whether on single status or flexible working,

the trade unions provided explanation, education and, often, innovation in taking them forward on an agreed basis.

The recent cuts to major services in local government have affected the most vulnerable, whether workers or members of the public. Partnership with the unions has provided insight and understanding among those affected and has often led to ideas for improvements and alternative ways of providing services. We found that discussing and thrashing out issues at local level, even if it took some time, led to better decisions and that local discretion led to much better industrial relations. Having heard some of the battles of the past being re-enacted, I think it is necessary to remember just how much change has taken place since the 1980s.

If I were still leader of Bristol City Council, I would find the proposals in the Bill very undermining of relationships between unions and employers. The right reverend Prelate the Bishop of Rochester mentioned his conversations with leaders of councils who are very worried about these proposals. Years of work to establish partnerships could be wasted if changes in practices for employers are required, such as the capping of facility time and the end of check-off, which has been considered mutually beneficial by many union members and a wide range of employers. While talking of devolution, the Government are imposing practices in this legislation which would be much better negotiated and agreed locally.

If I were still a leader in local government, I would also find that the Bill introduced unnecessary and bureaucratic burdens, which may make resolution of disputes longer and more difficult. The introduction of arbitrary thresholds for voting on strike action, which many Members have already dealt with, without the possibility of electronic voting, will impose a huge and unreasonable burden on unions and make it much more difficult for them to organise legitimate action. It will also seem unnecessarily punitive for public services that the Bill defines as “important services”.

The introduction of new powers for the Certification Officer would, I imagine, also be seen as a major intrusion into the right of workers and their unions to privacy. The measures in the Bill seem high-handed and override existing good practice. They are dismissive of the positive work done over the years by unions and employers and will make employer-union relations more fraught if new and oppressive national policy is implemented, and if employers are obliged to do this locally on behalf of the Government.

In addition to my concerns about employers in local government, I would oppose any restraint on unions’ ability to campaign. As many Members have already said, unions seem to have had a hugely beneficial influence on employees’ rights such as equal pay, minimum wage and minimum holiday entitlement, and in the recent legislation to combat modern slavery. There should be no interference with this right, in my opinion. There is still exploitation. There are still very dubious working practices and many unjust working circumstances for people in this country.

I also say here that I support my colleague and noble friend Lord Tyler in his efforts to separate the measures in the Bill from the issue of party funding,

which should be a matter for all-party consideration. As an issue fundamental to our democracy, it should not be treated in a prejudicial and partisan way, as it is in the Bill.

I am sure that the Minister and her team are listening to the important points being made today; I realise that there are still more to be made. I very much hope that we can work together in this House to bring about some changes, and to work for good industrial relationships in future and positive attitudes to workers in the workplace. This would benefit all, as it would benefit the economy of the country.

6.54 pm

**Lord Lennie (Lab):** My Lords, I add my congratulations on the three maiden speeches that we have heard from my noble friends on this side of the House. They are my noble friend Lady Primarolo, of whom I was a former constituent back in 1983; my noble friend Lord Livermore with whom I worked for many years in the Labour Party, campaigning from 1997 onwards; and my noble friend Lord Watts, from whose speech I gather he is not about to seek promotion to the shadow Cabinet any time soon. I might be wrong—who knows?

I want to share a story with your Lordships arising from what became the Trade Union Act 1984, which the noble Lord, Lord King, introduced under the Thatcher Government of that time. We seem to be trying to deal with the same problems all over again despite the fact that, as many people have said, they no longer exist in the industrial relations of modern Great Britain. The legislation introduced then by the noble Lord, Lord King, also introduced the notion of balloting among unions if they wished to retain political funding. I think he said that no piece of that legislation was not already being undertaken by one or other of the unions at that time. I do not think that balloting for political funds was being undertaken then but I may be wrong, and that is not the point of my story. The point is that we had a somewhat arrogant Tory Government at the height of their power. We had a much weakened Labour Party that had suffered two big defeats and was wrecked by infiltration from outside forces, which we managed to get rid of in the end. We also had the dear departed David Bowie, God rest his soul, riding high in the charts at that time with “Let’s Dance”—and let us listen to that more often.

My personal role at that time was as a lowly, newly-appointed trade union official. I had originally been recruited to the trade union movement up in the north-east of England by my noble friend Lord Sawyer. I was then appointed as an official to the then union NALGO, which looked after workers in the public sector and was very keen to retain its political fund. It was not sure whether its membership would vote to retain the fund but we were determined to do whatever we could to ensure that it happened. Dave Prentis, who is now the general secretary of Unison, was then the assistant general-secretary of NALGO and my boss, and I think Rita Donaghy, now my noble friend Lady Donaghy, was probably its president at that time. They had the modern answer—the campaigning tool that would win the argument among the membership. It was a video, a cutting-edge piece of campaigning kit

[LORD LENNIE]

which ensured that a consistent, clear message would be received by all the members of the union, wherever they were throughout the country.

The video was entitled “NALGO—the political fund explained”, and all the arguments were there. There was everything necessary to win the hearts and minds, and indeed the votes, of a sceptical membership. “Show it to win it” was the slogan. What could possibly go wrong? In modern terms, we had been weaponised with the use of the video and could not lose. I was a keen young official but I made a fatal mistake: I volunteered to be the guinea pig, the first to show the new video at the first mass meeting of members of the then union, which was the City of Newcastle NALGO branch. Sir Jeremy Beecham, now my noble friend Lord Beecham, was the leader of the council at the time. He gave us facility time for the meeting and the room to have the meeting in: the civic centre’s main hall. The campaign strategy was good. It was to get the big branches of the union convinced and persuaded first, and then to cascade out from them to the smaller branches. The momentum was unstoppable. We were going to win.

So there I was in Newcastle Civic Centre, setting up this cutting-edge technology, the video machine. There was a large screen behind me, and the video player was in front of me, awaiting the members’ arrival. They arrived in droves—a full house for the first showing of NALGO’s video explaining the political fund. People were rapt in anticipation. My fear, as I am sure noble Lords will recall with video machines, was that it would not work: the machinery or the video would let me down and the argument would be lost, or indeed the video might not arrive. It was being sent from the dispatch department in NALGO headquarters in London, up to Newcastle for this first ever showing. I do not know why they took the risk, but they did. However, the video arrived, despite my fear that it would not and I would be left high and dry.

My fear was overcome as the welcome sign of a green light came up on a button that said “Play” and a dispatch rider came in with the video in hand, wrapped up in its packaging, uninterfered with, ready for me to play to the massed ranks of the NALGO membership in Newcastle. I put the video in the machine, which did all the right things: it swallowed the video, a whirring sound started and the green light stayed on. I began to relax. I was pioneering the use of video technology as a campaign tool—the weapon, as we called it. But then a lot of the audience started to titter and snigger around the room. I turned round to look at the screen, and horror struck as I read the title page of the video that they were watching behind me to explain NALGO’s political fund: “*The Kama Sutra Rides Again*”. It was a full-colour cartoon of the famous book of love. They were hooked; I was mortified. It was not a deliberate attempt inspired by NALGO, Dave Prentis or Rita Donaghy—my noble friend Lady Donaghy—to set me down a little bit, but sabotage by the video distributors, having a laugh at my expense. They did not know me and I did not know them, but I am sure they were laughing as much as the rest of the audience. Your Lordships will be

glad to know that we overcame the problem and the legislation, and won the ballot to retain NALGO’s political fund.

Here we are at the next attempt. I do not know what the technology will be this time, but we will probably have streaming—all kinds of stuff coming online—and all kinds of ways of combating, countering and overcoming the hurdles of the legislation. But there seem to be three particular problem areas with the legislation, which we need to get right but which we are getting very wrong.

First, there is DOCAS. We have heard this before and will hear it again, but there has been no call from any quarter for DOCAS to end. In her opening speech introducing the legislation, the Minister said it was an unnecessary part of the relationship between unions and their members. Unnecessary to whom? Employers think it is necessary, employees think it is necessary and the trade unions think it is necessary. I have heard of nobody who feels that this is an unnecessary facility to have. Deduction of contributions at source—check-off or whatever you want to call it—is an important part of the relationship to make sure that union membership is what it is in the public sector.

We heard from my noble friend Lord Hain the arguments about why this legislation should not apply in Wales, and I am sure that is probably true of Scotland, too. One of the explanations for this legislation covering both devolved areas of Scotland and Wales is that employers have to deal with members or workers in all the countries and would get confused—it would get too complicated for them—if they had to deal with possibly three different sets of legislative frameworks on deduction of contributions at source, or not as the case may be. I have to say that in the modern economy, companies have employees all over the world and deal with dozens of such issues without it apparently causing confusion, so I cannot see any logic for not excluding Wales and Scotland and letting them do their own thing under their devolved Administrations.

The second area is political funds. I was a part of the discussions about these and, as many people have said, it is true that there has been, if not quite a convention, a long-standing understanding between the parties that you do not move on the issue of funding political parties unless you have all-party agreement. The argument that this is not about the funding of political parties is simply hollow. It is not true. This is all about trying to hurt the Labour Party at the time when it is at its weakest in the cycle, in preparation for election campaigns to come. Many hours of discussions involving the noble Lord, Lord Tyler, the right honourable Jack Straw when he was a Minister and Andrew Tyrie, who I think was the main spokesperson at that time for the Tories, sought to find agreement on these things. We came very close to agreement on many occasions, only for one or other of the parties to pull back from signing such an agreement, for reasons that are frankly beyond me. We came very close to it, and since then there have been independent reports, including the latest in 2011, warning that you do not move on these things unless you have all-party agreement. It is dangerous and undemocratic and will no doubt lead to future vengeful acts, to which I

would not want to be a party, from this side of the House on that side of the House, should it choose to go in that direction.

The third area is time off for trade union duties: time off to promote health and safety issues, to represent members in difficulties, to advise people at work as to their rights, to represent people with grievances and those facing disciplinaries or other hearings, and all the rest of it. These are the day-to-day routines of trade union activity which keep industrial relations stable, good and modern in Britain. To limit such things by simply denying the right of time to do them seems wrong. If there is a problem with a particular employer, employee or union in a particular place in a particular part of the country, then deal with it. That is what managers are paid to do. We should not have a full-blown piece of legislation aimed at the heart of the trade union movement.

I look forward to future contributions, particularly to where the Government will move and make amendments, at the next stage of this piece of legislation.

7.07 pm

**Lord Mawhinney (Con):** My Lords, bearing in mind that this is a debate, I will start by referring to a comment made, in an earlier speech, by the noble Lord, Lord Monks, who gave us the benefit of his very considerable and balanced experience. Slipped in amid all that erudition and common sense was just the slightest implication that maybe all of us on this side of the House do not much like trade unions—or maybe it was not quite so subtle. I start by declaring an interest. For five or six years, I was on the executive of the Conservative trade union committee, and led it as chairman for three of those five years.

My second declaration of interest is that that in turn stemmed from my personal experience when I came back from America and started teaching medical students in this country. In the early 1970s I joined the trade union, and stayed with it for all the years that I taught. When it came time to leave the medical school and spend all my time in the House of Commons, I had a decision to make. The decision I made was that I would take out life membership of that trade union. It has lasted for over 40 years, so there is at least one person on this side of the House who cannot be accused of being unduly anti-trade union. It is important to say that, because some of the other things I want to say need to be balanced against that start.

The third declaration of interest is that I had the privilege of being the Secretary of State for Transport who presided over the last national rail strike in this country back in 1994. My noble friend—he is also my friend—Lord MacGregor stepped down after the first four weeks, and I did the last 10 up to and through the resolution of that dispute. I learned a lot about trade unions in that 10-week period, I learned a lot about the management of public services in those 10 weeks and I learned a lot about how each of them was focused on where they were coming from and what they aspired to achieve. What struck me was that we spent not nearly as much time talking about the inconvenience to the travelling public as we did about the rights and wrongs of the trade union views or the management of the public services.

The noble Lord, Lord Adebawale, encouraged us not to refight the battles of the past, and I assure your Lordships that I do not intend to do that by this reference. The history is that the strike was eventually settled on terms acceptable to the Government. That was a long time ago, but it shaped me. I have never forgotten it.

I suppose you could argue that, in a democracy, I was the representative of millions of people, but I am not sure that that is good enough in today's world. Angela Eagle, the shadow Secretary of State for Business, Innovation and Skills, said in the other place that the Bill was,

“the most significant sustained and partisan attack on 6 million trade union members and their workplace organisations that we have seen in this country in the past 30 years”.—[*Official Report*, Commons, 14/9/15; col. 774.]

I chose to discount most of the hyperbole, but the mention of 30 years caught my eye because about 30 years ago—at that time, I was down the other end of the Corridor, as the Parliamentary Private Secretary to my noble friend Lord King of Bridgwater—the language of her predecessors was just the same. They said that there was a vindictive piece of legislation designed to—I had better be careful; I am in your Lordships' House—rubbish the Labour Party and the trade union movement and, perhaps, settle a few historic scores. That legislation transformed this country's industrial relations. Do you really think that the reduction in the number of strikes would have happened without that legislation? Forgive me if I do not get excited about the hyperbole, but I am interested in the transformational effect of what all our predecessors went through 30 years ago with the same language, which produced an outcome very few, even in my party, predicted.

Over the past 40-odd years, I have had the pleasure of hearing the Labour Party, including some in your Lordships' House and some then at the other end who are now in your Lordships' House, telling me that the Labour Party was for the many and we were for the few. I will be interested when we get to Committee to see how the many are resolved in the context of all the inconvenience of the public, who represents them and whether it is not time for a change.

I thought about that as I read this morning's *Guardian*. I suppose that it is not surprising that the Labour Party should think that Clause 10 is an attack on its finances, but its internal document, if the *Guardian* is to be believed, says that if we go to opt-in from opt-out, nine out of every 10 people who are at the moment contributing to the levy will stop. That is from 3.3 million down to 330,000. Nine out of every 10 will retain their own money to decide how they want to spend it, for political reasons or otherwise. That, my friends, is a representation of the many for whom the Bill is, at least in part, designed to be helpful.

It is time for a change. It is time to move away from the past, it is time to find a better way forward and, above all, it is time to find some way to give recognition to the voice and needs of the many who should be the recipients of the services that too often do not happen. This Bill takes a small step in that direction.

7.15 pm

**Baroness Bakewell (Lab):** My Lords, I speak from two perspectives on this Bill. My title comes from Stockport, where I grew up and where some of the earliest trade unions were active and powerful. As long ago as 1829, textile industry employers there reduced cotton spinners' wages and brought in substitute labour, provoking strikes in Stockport that got violent. Troops were called in and there was one hanging and three transportations. I do not believe things are as bad as that today—certainly not in Stockport.

I grew up to study the trade union movement at university and was at one time a member of three unions simultaneously: the ACTT, the NUJ and Equity. The trade union movement in this country has sustained and fought for the interests of working people for over 100 years and will go on doing so. That is the past, but it is also the future.

Today, we see in the Bill a government attack on the trade union movement that is unremitting and partisan. It will, we recognise, strike a deep blow to the funding of the Labour Party, whose roots are deeply entwined since early in the 20th century with those of organised labour. In so doing, it will strike at one of the pillars of our democratic life by which ordinary working people can exercise some control over the forces that shape their lives.

In launching the Bill, the Government make much of statistics: percentages of the voters, of the workforce, et cetera. Let me offer as a sideline comment some other statistics. In 2014, according to statistics from the Department for Business, Innovation and Skills, there were 6.4 million trade unionists in this country, constituting 25% of the workforce. Membership of the Tory party is currently 150,000, and of the Labour Party 370,000. The Tories won the election by a majority of 12 seats in 2015, the smallest majority since 1974. They did so with less than 24% of registered voters—so let us not play with statistics.

It now seems that the Tory Government are embarked on a policy of redrawing constituency boundaries and the electoral registration rules in a way that is calculated to change the balance in favour of the Tory party. They do that in the name of efficiency, yet resolutely refuse to enter into discussions with trade unions to allow electronic and workplace balloting: a contradiction. In this flawed version of democracy, it is worth adding that 4 million people voted for UKIP and got only one seat in the House of Commons. Things are not fair.

We see in this Trade Union Bill just one part of a strategy that appears to be loading political representation of the people towards one end of the political spectrum. The trade union movement speaks to this crisis in constitutional affairs and calls for serious amendments to this Bill.

I shall now speak to the concerns of the NUJ, a small but important union with some 30,000 members that is not affiliated to any political party and does not have a political fund. Clause 9, on picketing, introduces a number of bureaucratic rules intended to make picketing more difficult and thereby weaken its effect. This impacts on the NUJ because of the known hostility of many employers and the media to trade union membership. To take a small example, only last

year the *Rotherham Advertiser* targeted the NUJ father of the chapel for compulsory redundancy. He had worked there for 30 years and was the only one of 14 editorial staff to be selected from the consultation. The workforce threatened a 24-hour strike and management rescinded its decision. We can do without this kind of confrontation.

The NUJ is also concerned, as are other unions, about the increasing involvement of the police in matters of picketing, in the giving of names and the ongoing surveillance of NUJ members investigating corporate and state misconduct. There should be no requirement to supply personal details of trade union representatives to the police, who may—who knows?—in some cases be the subject of investigative journalism themselves.

The trade union movement is a strong and vigorous part of our democracy. It is recognised and celebrated as such in our popular culture, in films such as “Pride”, “Brassed Off”, “Made in Dagenham”, in shows such as “Billy Elliot”, and in Turner prize-winner Jeremy Deller’s “The Battle of Orgreave”, which is dedicated to the miners’ strike. These and many more celebrate the struggle working people have to live their lives in peace and security. That is why we seek to amend this damaging Bill.

7.22 pm

**Lord Beecham (Lab):** My Lords, like the noble Lord, Lord Hunt of Wirral, who is not in his place, I spent a large proportion of my professional life acting for trade unions and their members—and the firm of which I am an unpaid consultant continues to do so—pursuing claims for personal injuries and appearing before employment and medical appeal tribunals. I recall lecturing to Workers’ Educational Association schools and individual union gatherings on the groundbreaking Redundancy Payments Act introduced by the Labour Government in the 1960s. I see that the noble Lord, Lord Hunt, is now in his place.

Just a few months ago, I came across another example of my interest in trade unions while casually browsing through the verbatim records of Newcastle City Council meetings, of all things. In March 1975, it fell to me to reply to a debate initiated by Conservative councillors—some 21 years before they became an extinct species in the City—in which strong criticism was levied at the Community Development Project, created by the Heath Government, for having the temerity to display posters and materials about trade unions on its premises. By sheer chance, I was able to quote the following passage, which had appeared in the press the previous weekend. It stated that,

“for over 100 years, ever since Disraeli’s day, since before the Labour Party ever existed, it has been the belief of the Conservative Party that the law should not only permit, but that it should assist, the trades unions to carry out their legitimate function of protecting their members”.

They were the words of a Conservative politician, one Margaret Thatcher, which she proclaimed within weeks of becoming her party’s leader. What better test could be applied to the provisions of this Bill than to see whether, and to what extent, it conforms to that ringing declaration?

Against a background in which the number of days lost through industrial action has long been much reduced, the Government have chosen to interfere with the working and finances of trade unions and, indeed, in some respects, of their employers in ways not contemplated—or if contemplated, at least not implemented—in the most troubled years of the 1980s. Moreover they have spatchcocked into this Bill a measure deliberately designed to damage the finances of the Labour Party, going well beyond the restrictions imposed by the noble Lord, Lord Tebbit, even though the so-called political levy amounts to around 16p per head per week in the case of Unite, not all of which goes to the Labour Party but is spent on campaigns on contemporary issues. Moreover, of course, not all unions are affiliated to Labour.

This approach is not confined to trade unions. It is a political agenda. It is echoing the pressures applied to third-sector organisations in the so-called lobbying Act and to the BBC. Bankers, on the other hand, and business go effectively unregulated when it comes to party financing or, indeed, in the case of the banks, to the way they conduct their business despite the havoc they wrought on the world economy. No limit is applied to donations effectively funded by us all as customers and consumers of goods and services by organisations which exercise their right to contribute to the funds of the Conservative Party.

Further, a Government elected with the support of only 24% of the electorate, or 36% of those actually voting, require a minimum turnout threshold of 50%—five times as many as voted in some of the Police and Crime Commissioner elections—with 80% support before industrial action can be taken. The refusal to permit electronic balloting, which the Conservative Party itself uses, is equally wrong-headed, especially in the light of the institution of postal balloting, which the noble Lord, Lord King, referred to, by the noble Lord, Lord Tebbit, 30 years ago.

Nor does it end there. It would be reasonable to require the costs of a check-off system, whereby union dues are retained by the employer and handed over, to be met by the recipient union. It is already a widespread practice. However, to render agreements between employers and unions in the public sector unlawful is a grotesque interference with, for example, the autonomy of local authorities to conduct their affairs. In fairness, when this was debated in the Commons the Minister, on being pressed by some of his own Back-Benchers, appears to have agreed to consider this aspect further. It will be interesting to learn whether any further discussions have taken place. The Minister said that,

“we absolutely do not intend the measure to be a way of making life difficult for unions”.—[*Official Report*, Commons, 10/11/15; col. 325.]

However, it will have that effect, and I hope Ministers will listen to the reservations of their own supporters in that respect.

The proposals centrally to control arrangements for facility time, social partnership forums, health and safety representatives or learning representatives are equally unacceptable, as the North East Regional Employers' Organisation, representing the region's 12 local councils has made clear. It stated:

“We are surprised and disappointed that we are to lose the autonomy to take our own decisions around these important areas for employee engagement, particularly given the government's rhetorical commitments to the localism agenda. We call on the government to think again”.

Similar views have been expressed by those radical organisations, the Royal College of Nursing and the Association of Educational Psychologists, neither of which is affiliated to the Labour Party.

There are also questions to be asked about what counts as a public service, since the Government seek to apply their most stringent restrictions to unions operating in that sphere. Will the new regime apply to outsourced public services, such as prisons and academies or free schools, or perhaps extend to privatised industries, such as the utilities or the railways?

The problem is that, quite apart from its party-political motivation, echoing the reduction in Short money support for all the opposition parties while the pay bill for government special advisers soars, the Government, unlike many others, notably in Germany, do not value the role of trade unions as partners in the economy or in the provision of public services. They seem all too ready to acquiesce in, if not actually to promote, a Sports Direct approach to workers and their rights. That is not the right path for a modern productive economy and well-run, responsive public services.

To return to Margaret Thatcher's words in 1975, this Bill limits rather than permits and assists the trade unions in carrying out their legitimate function. In the words of an even higher authority, cited in the Book of Daniel—that is the prophet, not the noble Lord, Lord Finkelstein, who is no longer in his place—too many of its provisions have been weighed in the balance and found wanting. The Government need to think again and this House should assist them in so doing.

7.29 pm

**Lord Kerslake (CB):** My Lords, I declare my interest as president of the Local Government Association. My other interests are listed in the register.

I suspect that I have been subject to as much personal challenge from the trade unions in my different roles as almost anyone in this Chamber. In Sheffield, I as chief executive had to take forward some very tough budget decisions, including major spending reductions, staff redundancies and outsourcing of services. The setting up of the Homes and Communities Agency involved bringing together two very different organisations, with consequent major restructuring and relocation of services. As Permanent Secretary to the Department for Communities and Local Government, I oversaw the reduction in size of the department by more than one-third and the closure of the government offices. The Civil Service, while I was head of it, experienced the largest cuts since the Second World War. Each of these changes was fiercely contested by the trade unions affected. Although I was clearly implementing the decisions of elected politicians, it was not unusual for trade unions to play the man, not the ball. I would say in passing that there were some tweets that I could not repeat in this Chamber or indeed anywhere else in polite company.

[LORD KERSLAKE]

Given that experience, you might think that I would welcome the Bill. I most assuredly do not. While there are measures to bring greater transparency that I welcome, the main thrust of the proposals seems to be both partisan and disproportionate to the supposed problem that they are trying to address. When this is taken with the other measures being put forward by the Government—the curtailing of the powers of this House, the moves to water down the Freedom of Information Act and the reduction in so-called Short money to support opposition parties—there appears to me to be a worryingly authoritarian streak emerging from this Government, who are uncomfortable with scrutiny and challenge. I am sure that the Government will protest at this and say that it is unfair and that each issue needs to be considered on its own merits, but for me the cumulative effect of these measures seems hard to deny.

All Governments are inclined as time goes on to become more arrogant, less good at listening and more certain that their view is right. The electorate quickly work this out and vote accordingly. What is much more worrying is when a Government act to weaken those institutions and organisations that have the temerity to oppose them. It is this point that all of us in this House, in all parties, should become more concerned about. It is against that test and our commitment to an open, plural democracy that the Bill needs to be judged.

I have four main concerns with the Bill as drafted. The first is its provisions for ballots for industrial action. It does not seem unreasonable to set a threshold for turnout; indeed, most trade union leaders would think carefully about pursuing industrial action without such a mandate. It is worth noting in passing, though, that we will have no threshold in the referendum on whether we remain in the EU, and this threshold would be a level of turnout that police and crime commissioners could only dream of. The 40% support of the membership required for action in important public services is a very stiff test indeed. As has been said, the current Government happily govern with fewer than one-quarter of the electorate supporting it, and fewer than 40% of those who voted. That tells me as much about why we need electoral reform in this country as it does about trade union democracy.

What is hard to contend with, though, is that trade unions will not be able to conduct such ballots electronically. As chief executive of Sheffield, I was responsible in 2007 for running what is still probably the largest electronic voting pilot in this country. The scheme had its challenges, as I am sure the noble Lord, Lord Scriven, will testify, not least the compressed timescale for implementation. However, I became convinced during the pilot that electronic voting can provide at least as much, if not more, security than postal voting. Since that time, people have come to carry out vastly more of their day-to-day activities online, from banking to shopping to hospital appointments. It would therefore be an entirely logical extension to be able to vote in trade union ballots in this way. The denial of that option seems therefore to be to frustrate the efforts of unions to secure their mandate for action.

My second concern is the introduction of the opt-in requirement for union members to contribute to political funds. Other noble Lords have spoken about this at length, so there is no need for me to repeat what they have said. However, in the absence of a proper review of the funding of all political parties in this country, this can be seen only as a one-sided attempt by one political party to undermine the main funding source of another. It is hard to see how it serves any other purpose than that. The first step before any such change is implemented therefore ought to be a cross-party review of funding.

My third major concern is the proposed reserve powers on paid time off for union officials and the prohibition on the deduction of union subscriptions from payroll. As has been said, these would apply to all public bodies, central and local, regardless of whether those bodies themselves want to act in a different way. These measures seem extraordinarily centralising and completely disproportionate to the issues involved. The introduction of these types of arrangements was designed to facilitate good industrial relations and make it easier for employees to pay their subscriptions. There are arguments for and against the actual level of trade union facilities in any organisation, and indeed whether officials should be full-time or part-time, while it is perfectly reasonable—indeed, it should be an option—for members to pay their subscription through direct debits rather than the payroll. What seems completely unacceptable, though, is for central government to dictate this.

Local government in particular ought to be able to come to its own local arrangements with its trade unions and employees. The transparency provisions of the Bill, and indeed the Freedom of Information Act, will mean that the local electorate can see just how much this is costing. Indeed, local authorities should be, and in some cases already are, able to make an economic charge for the cost of deductions, which in my personal experience is a minimal sum. For a Government who are committed to decentralisation then to seek to dictate in this level of detail how a local authority conducts its industrial relations affairs is perverse in the extreme. It is worth mentioning that this measure applies to the whole of the United Kingdom when it is abundantly clear that there is absolutely no appetite for these changes in the devolved nations.

My fourth and final area of concern is the extension of the role and powers of the Certification Officer. These changes will bring considerable new responsibilities and costs to the office. They will bring new regulatory burdens to the trade unions themselves and, if the levy provisions in the Bill are agreed, significant additional costs in funding it. For the smaller unions, such as the First Division Association, which I worked with extensively and constructively as head of the Civil Service, this will not be a small burden. I have searched as hard as I can but have found it impossible to establish any independent evidence supporting the need for this additional regulation. Given the Government's commitment to reducing regulatory burdens, we might have expected to see significant concerns being expressed by either employers, trade union members or indeed the Certification Officer himself about the current arrangements. I have taken the trouble to go back and



read the last annual report of the Certification Officer—there is dedication for you. The most eventful thing that I could find in it was the enforced move out of Euston Tower to the BIS headquarters in Victoria Street due to the building being structurally unsafe. It is hard to think of any other sector where new regulatory burdens of this sort have been or would be introduced with such little evidence to support them.

The biggest mistake of this House would be to see the Bill in purely technical terms. Its import is much greater than this. A Government elected with less than a quarter of the votes of the electorate should act with humility and balance. This is not a balanced Bill. I note, as others have, the continuing human rights issues that the Equality and Human Rights Commission has expressed about the Bill.

For all the frustrating moments I had in dealing with the unions over the years, I could see the important role they played in representing the collective and individual interests of their members. There was also a real benefit to me as a manager in being able to work with them to resolve individual issues and reach collective agreements on change. They have a powerful role, which we should seek to support. I hope that, notwithstanding their manifesto commitments, the Government will be open to making significant changes to the Bill as it passes through this House. It most certainly needs it.

7.41 pm

**Baroness Morgan of Ely (Lab):** My Lords, many speakers today have underlined how pernicious and unnecessary the Bill is. As many have noted, it is one of a catalogue of attempts by the Government to curtail and control opposition in this country in an attempt to stack the cards in favour of the Conservative Party. It is a nakedly partisan Bill and is wholly unnecessary at a time when strikes are at an all-time low.

Many distinguished trade unionists who have spoken today have noted how wrong it is to insist that there should be a minimum threshold of votes for strikes to happen, and yet the Government will not allow the use of electronic or workplace balloting, despite the fact that we know that this increases turnout. E-balloting was good enough for the Tory mayoral selection procedure; why is it not good enough for trade unions? It is wrong to insist that trade union members will have to opt in to allow funding to go to a political party, although it is notable that the same individual consent is not demanded for hedge funds nor shareholders in companies which contribute to the Tory party. It is unfair to push for intrusive requirements for anyone who is involved in picketing, and it is vindictive to introduce a measure which means that in future you will not be able to deduct union subscriptions via payroll. However, today I will concentrate, as did my noble friend Lord Hain, on the constitutional breach which is being proposed in the Bill, with its insistence that the measures introduced in the Bill will impact not just on England but on other parts of this devolved country.

The Bill works on the assumption that employment and employment law is a reserved matter, on which the UK Government speak for the whole of the United

Kingdom. I make it clear that I agree that, in general, employment law should continue to rest with the UK Government. Unravelling the minimum wage, health and safety standards and employment rights across the UK could lead to a race to the bottom, a situation which would undermine the hard-fought rights that UK workers enjoy today. However, goodness knows what the Bill might have looked like had we not been a part of the European Union, where the protection measures in place because we are a part of the European Union have prevented the Government going even further. Nevertheless, the lines are blurred—in particular, on the broader aspect of how trade unions interact with public services—when it comes to where Westminster powers start and stop. Many of our key public services—health, education, local government, fire, transport and public administrations—are devolved. I will focus my comments on how the Bill relates to Wales.

Conventions have developed, and have been respected, since 1999 which have made it clear that Westminster should not intervene in matters which have been devolved. I underline that the Welsh Government are extremely exercised about the fact that the UK Government are trying to intervene in matters which they believe are rightly matters for the Welsh Government to decide. The introduction of the Bill will undermine the Sewel convention and will lead to a long and protracted battle in the courts, certainly between the Welsh Government and the United Kingdom Government. The Welsh Government are concerned that there is a breach in the Bill as regards matters which relate to the 40% threshold in support of strike action in public services, the ability to place restrictions on trade union facility time in the public sector, and banning check-off arrangements in the public sector, despite the fact that many public service employers draw an income of at least 2% for making such deductions.

Of course, many would argue, “The Welsh Government would say that, wouldn’t they?”. They are of a different complexion politically and, unlike the Tories in the United Kingdom, they have a close working relationship with the trade unions, which has led to successful schemes and measures being introduced such as the pioneering Jobs Growth Wales plan, which has ensured that 15,000 young people have found new jobs. The Welsh Government have worked hand in glove with the trade unions. That is not a bad thing. That model has served Germany and other countries extremely well over recent decades.

Where are the doctors going on strike? It is in England, not in Wales. Strike action in the NHS in Wales over the last decade has been minimal, despite significant organisational change and the introduction of changes to terms and conditions. Indeed, debate and discussions with trade unions helped to lead to the living wage being introduced throughout the NHS in Wales. However, not only the trade unions and the Welsh Government are concerned; the people who run the public services in Wales are extremely concerned that the Bill will lead to a deterioration in industrial relations. The Cardiff and Vale University Health Board chief executive has written to the trade union Unison to state very clearly that;

[BARONESS MORGAN OF ELY]

“The Trade Union Bill could have a detrimental effect on the mutually beneficial working between the health board and its personnel and could potentially lead to unnecessary challenging industrial relations in future”.

Public sector employers in Wales do not want this to happen.

However, I argue that this is not just about politics and party-political positions. It is about respecting the devolved settlement. In the amendment that we will set out, we will attempt to ensure that the UK Government do not finish up paying hundreds of thousands of pounds of taxpayers’ money on High Court battles, which will happen in order to settle this issue if the Bill gets through in its current format. It is understood constitutionally that, if the United Kingdom Parliament wants to introduce a law on a devolved matter, it needs the consent of the Assembly before it can pass that law. This is given through a mechanism called the legislative consent Motion. The Welsh Assembly will be voting on a legislative consent Motion on this issue on 26 January. It will argue that the UK Government are working beyond their mandate on this and it will encourage Assembly Members to vote against giving legislative consent, which will lead to a collision course with the UK Government unless things are changed.

I am quite an old-fashioned politician when it comes to who should decide what. I guess that it is a bit ironic to say, sitting here in the House of Lords, that elected politicians should decide these things and not courts. That is yet another example of why it would be beneficial for us to have a comprehensive debate on constitutional matters in a constitutional convention, which could iron this matter out along with so many others. However, on which side are the courts likely to settle? My noble friend Lord Hain referred to the attempt by the Welsh Government to introduce a law which would give protection in terms of wages to Welsh agricultural workers. This was challenged by the United Kingdom Government, who claimed that the Welsh Government had gone beyond the powers allocated to them in the Wales Act. The Supreme Court came down firmly on the side of the Welsh Government. It acknowledged that employment matters were not devolved or given a specified exemption, but it decided that, as agricultural issues came firmly under the remit of the Welsh Government, they should decide on agricultural wage levels. It concluded that the legislative provision may relate to both devolved and non-devolved subject matter.

The evidence would therefore suggest that, if this matter came before the courts, they would refer to this earlier judgment and would come down on the side of the Welsh Government on the matters referred to in this Bill. The TUC in Wales has also had Queen’s Counsel advice suggesting that, even if the Bill is enacted in its current form, there would be nothing to prevent the Welsh Government and the Assembly enacting legislation that would overturn, in full or in part, the effect of this Bill in Wales, as long as that legislation relates to a devolved subject matter.

I therefore hope that the Government will not just be open to the view that this Bill could lead to deteriorating industrial relations across the whole of the United

Kingdom, but will respect the devolved settlement of this country and not impose these rules on the whole of the United Kingdom.

7.51 pm

**Lord Young of Norwood Green (Lab):** My Lords, I first congratulate my noble friends on their maiden speeches, which showed great promise of some superb contributions to come.

Unfortunately, the Minister is not in her place. I listened carefully to her contribution, which was short—I suppose we should be grateful for that in some ways—but I was not convinced that she was convinced about many aspects of this Bill. I find that surprising. I spend some of my time working constructively with her, in a semi-industrial relations way, on apprenticeships, and I did not see the same conviction in her presentation today.

I have spent most of my working life involved in industrial relations, as I said in the 19 November debate that has already been quoted today, and which was introduced by my noble friend Lord Foulkes. As I said then, I owe most of my education—for better or worse, as one can judge on this contribution—to the trade union movement.

I, as general secretary, and my noble friend Lady Drake negotiated our way through some very difficult challenges, including large-scale redundancies, without strike action. Why? Because we had a constructive engagement that involved the positive approach to industrial relations, which, I would submit, most of the trade union movement in this country participates in. I sometimes reflect that it is unfortunate that the history of the trade union movement is often focused on the great strikes, which tends to take away the emphasis on all the work and activity that takes place without strike action. We have heard mentioned many times, so I need not repeat it, all the work that takes place on education and defending workers’ basic rights.

Is this Bill really going to make a constructive, positive contribution to improving industrial relations? For the life of me, I cannot see where in the Bill such a contribution is made. It is not as though we do not need it. We do face some real challenges. If the Bill was doing something about the real challenges of improving productivity and creating a more skilled workforce, I would be willing to look at it much more favourably. But there is nothing in this Bill.

There is a real problem with workforce industrial relations, as has been acknowledged by the Chartered Institute of Personnel and Development, and with management training. A significant number of management personnel still do not have any training at all, and a significant number of employers still do not provide reasonable training or take on apprenticeships. Those are the real challenges that we face, and they are not going to be addressed by this Bill.

I will not focus on the points that have been made exceedingly well by my noble friends Lord Mendelsohn and Lord Monks, because they made a better job of doing so than I would. I was interested in the contribution of the noble Lord, Lord Kerslake—unfortunately, he is not in his place—who could not be described as “one of those trade unionists, so he would say that,

wouldn't he?" You could say lots of things about him, but you cannot characterise him in that manner. He identified the issue. We have heard it said time and again in this debate: where is the call for the many wonderful features—that is my attempt at irony—of this Bill?

I was also fascinated by the attempt by the noble Lord, Lord Mawhinney, to establish his trade union credentials, which I do not doubt. I was just concerned about the bit where he talked about the Conservative association of trade unionists. I regard that phrase as an oxymoron—a contradictory cliché, for those who are not sure. I struggle to remember the campaigns that were led by the Conservative association of trade unionists. Maybe I missed them. Maybe it was leading the minimum wage campaign or the fight for equal pay; if so, I clearly missed it. No doubt the noble Lord, Lord Balfe, is about to tell me of the great campaigns. I knew he would rise eventually.

**Lord Balfe:** I remind the noble Lord that 30% of trade unionists vote for the Conservative Party but they are not widely represented in the leadership because the leadership replicates itself. The fact that the Conservatives are not often approached by the unions actually weakens the unions' case.

**Lord Young of Norwood Green:** I thank the noble Lord. I have always been aware of the fact that a significant number of my members voted for the Conservative Party, despite my attempts to persuade them otherwise. We did not use the video, thank goodness—if we had they might have been convinced of something, although I do not know what.

Although I have tried to lighten my approach to this debate, it is a serious Bill that, as many people have rightly said, is partisan in many ways, whether intentionally or otherwise. The Minister must address that point. A number of people have asked whether the Government can really justify undermining check-off arrangements when there is no call for that. This Government are making a serious mistake and losing an opportunity, as I have said, to address the real challenges and problems that we face.

When the Minister reads my scintillating contribution in *Hansard*, I hope she will take into account the key points that I have made, and that others have made throughout this debate. This Bill does nothing to improve industrial relations and does not address the real challenges that we face in this country.

7.59 pm

**Lord Suri (Con):** My Lords, my research prior to this speech took me a long time back. Unlike those in the other place, most of us can remember the terrible industrial strife of the 1970s and 1980s. The unions bedevilled Labour and Conservative Governments alike. The three-day week and rubbish piled to the shoulder in the street—I remember it all. Trying to run a business in those times was fraught with difficulty. It seems amazing to younger businessmen that there was once a real risk that you might go to the office, flick a switch and remain in darkness.

The level of dispute has gone down, thankfully, but unions still reserve the power to cause immense disruption. As a Londoner, I know that every day that the Tube drivers go on strike we lose up to £40 million—and that I might be late in coming here, which I am sure all noble Lords would be very sad about. As a result, it seems to a lot of the people whom I meet that many unions are concerned not with what they can do for civil society but with what they can get from civil society—a view with which I strongly sympathise.

The political activities of the unions also trouble me. How is it fair that the unions can exert a political levy on their members to fund parties that many of them do not vote for? If union members want to fund the Labour Party, they are perfectly capable of signing up for direct debits. Of course, a big chunk of that money goes towards the Trade Unionist and Socialist Coalition—an attempt at a political party that managed to do even worse than the Official Monster Raving Loony Party. If I were a unionised worker seeing my hard-earned wages going towards this failed and ideologically motivated cause, I would be furious.

Trade unions serve a number of useful functions. As a boss, I have always endeavoured to treat my staff with the respect they deserve and to remunerate them fairly, but I would be naive to suggest that all bosses think the same. Employment law provides the checks but unions provide the balance. At their best, unions provide a way of shielding the worker from arbitrary harm, and some unions do this admirably.

I was impressed by the recent Unite campaign to stop restaurant workers' tips being taken. It managed to get a number of restaurants to change their policy and forced the Government into a review of the law, helping both its members and the customers, who expect their tips to go to their waiters or waitresses. Sadly, far more unions seem less concerned about helping society and their members, preferring to focus on political campaigning. Ideologically motivated actions, urged on by the clique of hard leftists who run many unions, damage public trust in unions and damage society.

The fact that a strike can be called on a member turnout of less than 25% is clearly ridiculous, and I am glad that the Bill will put an end to the nonsense of national strikes on derisory turnouts, holding up people and businesses. It is a shame, because I remember some union leaders as sensible moderates—more social democrats than democratic socialists. They managed to drag the Labour Party back to electability with Kinnock, but they seem now to be pushing it as far as they can from the Overton window.

This Bill addresses the basic unfairness of the political levy and the increasing propensity of strikes. I congratulate the Business Secretary and his team on creating legislation that strikes the balance between regulating the pernicious aspects of union activity and maintaining their existence.

8.04 pm

**Lord Hunt of Chesterton (Lab):** My Lords, I began my interest in trade unions as a student of engineering when I was at Cambridge University. I spent my vacations in various factories and on building sites,

[LORD HUNT OF CHESTERTON]

and I began to see that unless management and workers could collaborate, we were never going to develop our industry as well as we should.

I had other experiences of being a member of a trade union when I worked for the Central Electricity Generating Board. I was so impressed with the trade union that I then became branch secretary. Later, I realised that trade unions were extremely important for management. On my first or second day as head of the Met Office, I talked to the trade unions and learned a great many things that I had not learned from other people. One of the extraordinary things about being both a staff member and a trade union person in an organisation is that you see a cross-section of the organisation.

The Minister mentioned some positive aspects of trade unions when she introduced the Bill. She also said—I think she is right—that some elements of the Bill are useful, with a move towards greater openness and more information. However, as we have heard in this debate from the opposite side, the general spirit is not as constructive as one would like to think in trying to move this country forward from a spirit of division and inequality to the kind of modern country that one sees in Germany. Of course, it was the UK after the Second World War that encouraged Germany to have a trade union role on the supervisory boards of companies, but we debated the Bullock report in the Lords and regrettably the conclusion was that we were perhaps too divided to have the same kind of approach as in Germany. In the UK, public and private bodies have ad hoc roles for union involvement that relate to pay, welfare, safety and the functioning of the organisation, but they do not have the same strategic role as in Germany.

Paragraph 54 of the Explanatory Notes is explicit that the proposals to reduce the time spent by trade union officials in running public bodies will lead to some reduction in cost, and various very small numbers have been mentioned this afternoon. The question is whether reducing the involvement of trade union representatives and management in public and private bodies will make business and organisations more competitive—a point made by my noble friend Lord Young. In fact, modern organisations are increasingly complex and put increasing responsibilities and stress on staff at every level.

The authors of this legislation in BIS or the drafting office clearly have never run, and know nothing about running, a large public sector organisation. It is very important that higher management, technical staff and trade unions work together and take more time away from their daily duties to attend courses and meet professional colleagues. The evidence given to us in documents by the Royal College of Nursing was extremely powerful. It said that without spending time on understanding the whole management, mistakes will be made, and we will not be able to use modern technology in medicine.

Of course, I look forward to a future Labour Government, when Ministers will ask City of London companies how much time their staff spend hobnobbing and drinking at City livery companies, and perhaps seek rules to reduce that. We all know that these

organisations are simply front organisations for the Conservative Party and are far from being the national representative bodies that one would expect in a country no longer in the Middle Ages. I should have said “England” in the Middle Ages; Wales has clearly moved somewhat further ahead.

As head of the Met Office, I had 3,000 staff and excellent, responsible trade union representatives, which I found very helpful in an informal way, as well as the more formal methods of the well-established Whitley Council meetings. What is extraordinary is the proposal, referred to by the noble Lord, Lord Kerslake, that some Minister—perhaps the noble Lord, Lord Maude, in an earlier existence—will be sending out orders to the chief executives of public sector bodies to tell them how much time they can allow staff to spend on trade union activity. This is a grotesque diminution of the managerial role of these chief executives. I do not think that even “Yes Minister” would have conceived of this level of managerial small-mindedness.

Surely what we should be doing is moving in a different way. The Lord Maudes of this world should in fact be encouraging chief executives to have in their job description that they should work closely with the trade union movement to improve the way that companies operate and to have wider participation in the management of companies. This will be the most important way to reduce disruption and make this country safer and more modern.

When the coalition Government took power in 2010, they waxed lyrical about the need for people’s greater involvement. Clause 14 is another step backwards from this modern public and private organisation. It seems curious that, now we have a Conservative and not a coalition Government, they are a bit cooler about this idea of the people’s society. Surely a strong society is one where people join and collaborate in organisations, and people need to be encouraged. We know, after all, that the Government give tax relief for donations to charities. In most progressive private organisations, subscriptions to professional bodies by professional staff are subsidised and paid for completely by the organisation. Even small enterprises, such as the one that I am chairman of, do this for staff. No one is suggesting that subscriptions to a trade union should be subsidised by the company. All that we are asking, for reasons explained by my noble friend Lord Mendelsohn, is that employers should make it easy for people to join a trade union. Only with people joining trade unions will we have companies working in a modern way, as they do in Germany.

Sadly, the noble Lord, Lord Tebbit, is not with us today, but I have had many conversations with him. He was a very active member of the BALPA trade union when he worked in BOAC. His dynamism as a trade union official clearly benefited the entire organisation; it is not just about, as it were, looking after a narrow interest. That was the reason that I joined a trade union: the Electrical Power Engineers’ Association. I could see that, through joining, I could understand the whole organisation. You have quite a different role in a company when you are on the trade union side and the management side; you see different aspects of the organisation. This positive, visionary aspect of the union movement needs to be emphasised.

The other important point I expected to be discussed more today is that women are often slow to see the advantages of trade union membership—perhaps the culture of trade unions is sometimes rather on the blokeish side. But the role for women in trade union organisations is very important, and management everywhere must see the advantages of stronger involvement by women. One way to do that, of course, is to make sure that it is very easy for people to join a trade union and to have their subscription taken from their pay.

I will give noble Lords a story. We have discussed here the need for an understanding of the positive role of trade unions. In the 1970s, I encouraged a brilliant woman medical researcher at a certain university to join the Association of University Teachers, which then took up her case of the unreasonable age-related withholding of tenure, which was very widespread in the university world. Her case went to a tribunal and, subsequently, an important change was made in the way that tenure decisions for women were made. Many, many more women now have a more advanced career in universities.

Similar problems arise all the time and it is, therefore, essential for the Government not merely to withdraw the pernicious Clause 14 but to change it and put an obligation on trade unions and employers to provide more information about trade unions so that staff can participate. The Government should also make it easier for staff to pay their subscription.

In the Minister's opening remarks in this debate she sounded so progressive, but we then learned many of the rather negative aspects of the Government's view of the trade unions. That certainly did not reflect a modern, effective, democratic, technically advanced country. Technical advances have not been allowed to be used and, therefore, this is a disappointing Bill. As my noble friend Lord Bragg implied, the future of England as a divided and ineffective country comes nearer with this Bill.

8.14 pm

**Baroness Donaghy (Lab):** My Lords, I have been a public servant for most of my working life and an active member of a public service trade union. I am very proud to have been a trade unionist, and I take this Trade Union Bill rather personally.

I regret that we are starting the new year in our tribal groups, emphasising differences, rather than promoting co-operation and employee involvement. I believe that, in pandering to their backwoods supporters, the Government will find that the Bill will do more harm than good. It will make David Cameron's negotiations with European leaders on a reformed Europe more difficult—perhaps that is the intention.

While top employers are earning 180 times the average wage, and that gap is growing, the government response is to try to weaken trade union influence. In my contribution I want to cover the Certification Office, the deduction of subscriptions from source and the right to strike.

As noble Lords will know, the Certification Office is part of the ACAS family. The coalition Government made it part of the bonfire of the quangos: does

everybody remember that one? The Certification Office was considered so insignificant that it was merged with another organisation so that BIS could claim it had halved the quangos in this area. Although it was a great PR exercise, the tiny office and tiny staffing remained the same—but it did lose one photocopier.

Then came the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill in 2013. The Certification Office was rescued from the bonfire in Part 3 and its powers were increased to allow more investigatory powers and to tie up the trade unions and employers' organisations with more red tape. I urged the then Government to avoid politicising the role of the Certification Officer. Now a Conservative Government has come along—presumably adding the bits the Lib Dems did not like—trying to create a Trojan horse whereby trade unions can be investigated on the initiative of any Nick, Sajid or Anna when the spirit moves. It is this kind of clear-sighted vision which makes politics so admired.

The Certification Office will not only become a highly political, sectarian and controversial organisation but will raise money from its own statutory activities. That is a conflict of interest. Before the Government say that ACAS raises income from its activities—a point carefully placed in the Explanatory Notes—let me make it clear that any revenue-raising in ACAS is associated with assisting organisations to improve their employment relations. This is no longer a statutory duty of ACAS, which I personally regret, and has nothing to do with ACAS's statutory conciliation duties. One cannot help but wonder whether this proposal is the thin end of a very large wedge. Will the Minister assure us that levying fees will not be extended to the central work of ACAS? I hope the Government will reconsider some of these damaging proposals and draw back from the payment of fees and the powers over political fund expenditure.

Turning to the proposal to outlaw public sector deductions of union subscriptions from source, when I was active in my union I had a lot of experience of collecting union subscriptions before deductions from salaries was introduced in my workplace. This is nothing new. It was an inefficient use of my time when I could have been solving problems with my employer. My question to the Minister is whether the Government will recognise in the Bill the need for facility time for trade union representatives to collect subscriptions. Failure to do this would expose the Government to accusations that they were intent on sabotaging the ability to recruit.

Some members cannot afford to pay an annual subscription all in one go, either in cash or through their bank. Some cannot persuade their bank or building society to deduct subscriptions monthly, because their pay is either too low or too sporadic or both. This could affect school employees in particular. The physical collection of subscriptions will therefore have to take place and representatives will need time to do it. Has the Minister consulted public sector employers about this move? I ask because it will mean that they have no idea who is in a trade union if this proposal is carried.

In my former union, UNISON, the majority of the 1.3 million members have their subscriptions deducted straight from their wages, a process that is beneficial

[BARONESS DONAGHY]

for both employers and members. No employer is required to provide the service. UNISON covers the cost of the administration of check-off whenever asked. The Minister knows that this highly controversial proposal was not in her party's manifesto. Is she seriously saying that the Government would rather ban check-off than accept union payment for services? Is that because the Government do not trust public sector employers? I am certain that this will be the subject of many amendments.

My final points concern the right to strike. Further restricting the right to strike and removing the ban on the use of agency workers during strikes will worsen employment relations. The Government are well aware that the number of days lost to industrial action per year has fallen substantially. If they really cared about union democracy they would allow electronic voting and the extension of workplace ballots. All the additional legal hurdles contained in the Bill will make settlements more difficult, with or without strike action, and will certainly increase the chance of legal challenges against the union and encourage employers to sit out a dispute.

I am concerned, too, about the use of regulations to cover vitally important areas affecting the democratic rights of workers. This is a pattern with this Government—the framework Government—whereby legislation as flimsy as a pack of cards is put through and the really important bits are presented much later in the form of regulation. In this Bill, we will not know precisely who will be covered by the 40% threshold in Clause 3.

**Lord Hunt of Chesterton:** Therefore, my comments on this methodology and the proposed change of removing the House of Lords' ability to deal with secondary legislation will be even more powerful.

**Baroness Donaghy:** I thank the noble Lord for that additional piece of wisdom.

In this Bill we will not know precisely who will be covered by the 40% threshold in Clause 3 until the regulations come out. There will be no opportunity to amend or give proper scrutiny, which is our job. This is anti-democratic, as is treating abstentions as no votes for industrial action. Of course strike action should be the last resort, but poor employment relations lead to worse things—absenteeism, presenteeism, low morale and low productivity. This wretched Bill has no contribution to make in these areas.

8.23 pm

**Lord Rennard (LD):** My Lords, this Bill has been generally characterised today as an anti-trade union Bill. It is, and I think that the many criticisms of it being made are fair. There was an excellent debate in the House last November led by the noble Lord, Lord Foulkes, which highlighted the positive contribution made to our society by trade unions. I believe that they should be recognised as a force for good in this country and that they have played a major role in making our society much fairer. In the past, however, there were significant problems with how they were run and how strikes could be undertaken. I agree with the noble Lord, Lord King of Bridgwater, that it would have

been better if the “in place of strife” proposals had been implemented by Harold Wilson's Government before 1970. Perhaps then the so-called winter of discontent could have been avoided. Reform eventually came from the Conservative Government's changes to employment law in the 1980s. At the time there was much opposition to those changes from the trade unions and the Labour Party, but I believe that they were necessary and that they are now generally accepted. The Labour Governments of 1997 to 2010 did not seek to reverse the changes.

However, the case for many of the changes proposed in this Bill has not been made; quite the contrary. The scale of turbulence shown by the number of working days lost through labour disputes in the 1970s and 1980s has not been repeated in the more than a quarter of a century since then, which suggests that there is not a great problem to address. The noble Lord, Lord Dobbs, referred frequently to the three-day week and the blackouts of 1972 and 1974. I remember them as well because I had just started secondary school. But they were more than 40 years ago, so that was then. Industrial relations and employment law have moved on over that time, and so should the Conservative Party.

The concern I want to address about the Bill today is its basic anti-democratic nature. In my earliest contributions to this House, when I led for my party on the Political Parties, Elections and Referendums Act 2000, I suggested that something must be done to hold back the arms race in party spending on elections. If we look at the growth of expenditure at the national level by the Conservative Party between 1974 and 1997, we can see the problem. In each of the 1974 elections, the Conservative Party was calculated to have spent less than £100,000 on each of its national campaigns. By 1979, it was estimated to have spent £2 million nationally. By 1983 it was £4 million; by 1987 it was £9 million; by 1992 it was £11 million; and by 1997 it was a staggering £28 million. The legislation in 2000 was supposed to have halted the arms race by imposing for the first time a limit on national party spending in the year before a general election. I argued then that a limit of approximately £20 million for a party contesting every seat in Great Britain was too high, but the real problem with that legislation was that the warnings that I and others made about the consequences of allowing supposedly national spending to be incurred in individual constituencies were not heeded. This meant that a party that was able to raise almost £20 million for a general election campaign nationally could in effect spend almost as much as it liked in individually targeted marginal constituencies. I believe that the Conservative majority of last year was obtained by spending sums of up to £250,000 in seats that it gained. The legislation of 1883 that for more than a century effectively limited expenditure in individual constituencies so as to prevent the buying of a seat in Parliament was rendered useless once national spending targeted at individual voters in individual seats was allowed.

In the recent general election, there was virtually no limit on what could be spent promoting the case for Cameron's Conservatives, while tight limits still applied to what could be spent by individual candidates, including those defending their record as MPs. Such expenditure

by the Conservatives was effective. If it had not been, we would not have seen Sir Lynton Crosby's knighthood announced in the New Year Honours. So money does count, and a major aim of the Bill is clearly to prevent the biggest opposition party ever having the finances to match what the Conservatives are doing.

Many opportunities to re-establish the principles of the 1883 legislation, based on preventing the buying of individual constituencies, have been missed since the Committee on Standards in Public Life was established following the sleaze allegations that arose in the 1990s. Nothing really effective was ever done during the 13 years of the Labour Government because Labour Ministers were reluctant to act without the agreement of the Conservatives. But that agreement is not now being reciprocated. The Conservatives are mindful of their small majority of 12, and the fact that they won an overall majority for only the first time in 23 years and polled only 37% of the vote.

In this Bill, we see the Conservatives acting to halt the arms race in party spending by unilaterally disarming their biggest opponents, while leaving their own funding sources untouched and able to be spent in ways that ensure that the playing field in politics is anything but level. Looking at what is proposed, it is not the change from an opt-out system to an opt-in system for trade union members making payments to the Labour Party that is wrong in principle. What is wrong in principle is making a change to block your major opponents' funding while doing nothing to impose any limit on the size of donations that can be made by multimillionaires and which finance your own party's campaigns.

All political parties, my own included, have suffered embarrassment from their dependency on donors who can make million-pound donations. In our legislation, we need to reassert the principle that, in a democracy, thousands of votes should count for more than thousands of pounds. As my noble friend Lord Tyler said, a great opportunity again to level the playing field in politics was also missed in the last Parliament when the coalition failed to fully support the proposals in the 2011 report by the Committee on Standards in Public Life. This committee made fair and balanced proposals to limit donations and provide instead for a modest extension in state funding.

It is not out of any love for the Labour Party that I oppose the measures effectively to disarm it by removing such a substantial portion of its income. It is because the Conservative Party wants to prevent democratic opposition so much so that it seeks to reduce the power of this House to challenge unfair and anti-democratic measures that have not been subject to proper scrutiny in the Commons. It wants fewer of its opponents to be registered to vote in elections while ensuring that there will be fewer constituencies that can be won by opposing parties. It is now trying to ensure that opposing parties suffer a reduction in the funding that enables them to scrutinise legislation in Parliament and to challenge the Conservative Party in elections.

Changes to party funding arrangements are bound to cause controversy but those in this Bill weaken our democracy. On 3 December, I asked Her Majesty's Government,

"what plans they have to introduce a limit on the size of personal, or company, donations to political parties".

I received the following reply from the noble Lord, Lord Bridges of Headley. He wrote:

"We remain committed to negotiating a comprehensive cross-party reform agreement, including donations from all funding sources including trade unions".

If the Government are indeed committed to negotiating a cross-party reform agreement, they must withdraw the proposals on party funding in this Bill.

8.33 pm

**Lord Pendry (Lab):** My Lords, it is heartening that so many noble Lords have taken part in this debate. I hope that, as a result of those contributions, the Bill will be altered in a material way, especially after the three excellent speeches of the maiden speakers. I am sure that noble Lords would not doubt that they will continue to impress in the months and years ahead, and that the House cannot wait to hear another non-controversial speech by my noble friend Lord Watts.

Some of us have trodden these paths before. We would have hoped that, over the years, the Conservative Party would have heeded the voices of those who recognise that the vital elements of British democracy would be threatened if clauses as contained in this Bill were enacted. In the Government's attempt we see them, like some of their predecessors, once more attacking an important British institution. We have heard already that strike action in the UK is at its lowest level in 30 years, which points to the obvious fact that sensible industrialists and unionists are more connected than ever in creating good working relationships, leading to better industrial relations and more productivity and efficiency in the workplace. No wonder organisations such as the CIPD, the EEF, the Recruitment and Employment Confederation and other companies large and small are critical of the Bill. Even on a practical level, the suggestion of greater supervision of strikes has been questioned by the Police Federation, which continues to face greater pressures than ever before on its already stretched-out services.

The Bill is a concerted attempt to create unnecessary disruption and tension between union members and their employers for narrow party gain. It is not only unnecessary, but regressive in its attempt to reform the trade union movement. Clearly, the Bill sets out to curtail workers' rights that have been hard fought for over the years, for example in 1888 with the match girls' strike at Bryant and May's factory in Bow, which broke ground for female workers, followed closely by the dock strike of 1889, which garnered international support for workers against workplace injustices, and, of course, the Tolpuddle Martyrs' epic struggle of the 19th century. If enacted, the Bill would challenge the very democratic right of workers to withhold their labour, but would also be an attack on other basic rights of workers—those of freedom of expression and association.

Is it any wonder that, on top of the voices of the unions, enlightened employers and academics, human rights organisation such as Liberty, Amnesty International and the British Institute of Human Rights have also weighed in with their condemnation of the Bill, pointing out that it is unnecessary and in direct contradiction

[LORD PENDRY]

of some of the legal obligations by which the UK is bound—not least the European Convention on Human Rights, which the UK helped to ratify? Liberty condemns the Bill by arguing that it is an,

“unjustified intrusion by the State into the freedom of association and assembly of trade union members”,

undermines their rights,

“to private and family life”,

and jeopardises,

“the UK’s important history of supporting peaceful protest”.

At a time when the UK is seen as a beacon of democracy and freedom, one wonders what signals a Bill such as this sends to the British people—indeed, to the world at large—about the kind of society we want to be.

I conclude as I began by cautioning the Government for returning to their well-trodden path of an attack, through legislation, on the trade union movement. One would have thought that they would have got their contempt of trade union membership out of their system by now. When I was elected to the other place in 1970, we had to contend with what was then the infamous Industrial Relations Bill of the Heath Administration. I made my maiden speech on 26 November 1970 on that Bill. In preparation for that nerve-racking experience, I attended a meeting the weekend before at the London School of Economics to hear the then Solicitor-General, Geoffrey Howe MP—later Lord Howe of Aberavon—make a bold pledge to introduce Queensberry rules into our industrial relations. What a gem that was for me, for, on the following Thursday, I rose for that important speech and began, in the form of the non-contentious parliamentary convention on maiden speeches, by praising my predecessor and describing my constituency of Stalybridge and Hyde, before breaking with tradition by finishing with a condemnation of the proposed Bill. In reference to the Solicitor-General’s remarks, I said that, speaking as a former ABA boxing champion, I had to tell him and the Government that,

“even under Queensberry if one leads with one’s chin”,—[*Official Report*, Commons, 26/11/1970; col. 683.]

one is likely to get knocked out. Those remarks are as appropriate today as they were 46 years ago.

8.40 pm

**Lord Flight (Con):** My Lords, notwithstanding all that has been said, this legislation is not intended to be hostile to the trade union movement but rather to modernise and address practices that are now outdated and sometimes inappropriate, particularly in the public sector and particularly with regard to the interests of consumers and taxpayers. My perception was that the Labour Party broadly accepted this, and hence in the other place did not table any amendments addressing the key elements of the Bill, but rather initiated a debate on conducting ballots in the workplace by electronic communication, which is important and which I personally support.

I support the important elements of the Bill: the ballot reforms in Clauses 2 and 3; the requirements for an opt-in for union members paying the political levy in Clauses 10 and 11; addressing facility time in Clauses 12

and 13; check-off arrangements in the public sector in Clause 14; and beefing up the powers of the Certification Officer in Clauses 15 to 17.

As we are all aware, the Bill requires that at least 50% of union members entitled to vote on industrial action should cast their vote for the ballot to be valid, and that, in addition, in important public services affecting the public, at least 40% of those entitled to vote should vote in favour of industrial action. The present arrangements, where only a simple majority of those voting is required, have led to abuse by militants, largely in the public sector and frequently inconveniencing the public. Trade unionists should accept that many members of the public are fed up with public sector strikes. Candidly, it is a disgrace that doctors are threatening to go on strike.

Of the days lost from strikes in 2014, 91% were in the public sector, which represents less than 30% of those in work and has both higher pay and better pensions than the private sector. Indeed, reform is needed more in the public sector than in the private sector.

Clause 10 provides that union members must make an active decision to contribute to political funds. Some unions, such as Unison, I understand, already have a tick-box. Clause 11 requires unions to include in their returns to the Certification Officer greater detail on what the political fund is spent on where expenditure exceeds £2,000. My reading of the legislation, however, is that failing to opt in to the levy will not necessarily mean that a member’s union contribution will be reduced by the amount of the political contribution. This could provide for a hidden increase in members’ subscriptions. However, of more moment, statute already requires an annual shareholders’ vote for companies to make political contributions, which should reasonably be matched by union members’ political levies similarly being voted on annually. Contrary to assertions made this evening, no banks or public listed companies make party-political contributions to any of the parties.

There has been a growing lack of distinction between trade union duties and trade union activities that qualify for facility time where there is no statutory requirement to pay union representatives for time spent on union activities. In practice, some union representatives are paid for undertaking activities as well as duties. It is surely reasonable that trade unions should pay for activity representation within the public sector organisations themselves, rather than the taxpayer shouldering this burden. In 2012-13, trade unions received £108 million in subsidies from taxpayers, plus a further £85 million in paid staff time and £23 million in direct payments. In 2013, at least 2,841 full-time equivalent public sector staff worked on trade union activities and duties at taxpayers’ expense. Out of 1,074 public sector organisations, 344 did not formally record facility time. This area needs tidying up and cleaning.

As noble Lords are aware, historically employers have deducted trade union subscriptions from a member’s pay and passed them on to the union. With direct debit facilities more easily available, there is no longer any real need for this practice. Some 972 public sector organisations—91% of public bodies—still provide check-off facilities. Only 213—22%—charge for this



service. In 2012-13, these 213 bodies charged £1.77 million. If the other 759 public sector bodies were to charge, this would equate to £6.3 million—effectively another taxpayer subsidy. In today's world, it is surely not the business of public sector employers to be processing staff dues. But if they do so, they should charge appropriately for the service.

Most legal services, including litigation, are reserved activities and can be provided only by a regulated person. However, the Legal Services Act 2007 was amended, for no particularly valid reason, to provide that trade unions—not other not-for-profit organisations—would be wholly exempt from regulation in the provision of legal services to their members. Experience with compensation claims suggests that trade unions need greater, not less, regulation in related territories.

At present, the Certification Officer, although called a regulator, has little more power than Companies House: in other words, they check that accounts have been received but not what is in them. So beefing up the powers of the Certification Officer in Clauses 15 to 17 is an important aspect of the Bill. It would be interesting to have more detail on what is intended here. For example, where there are potential frauds, the Bill needs to provide the mechanism for action and the Certification Officer needs to be adequately funded to act. The relationship of the Certification Officer to the Electoral Commission as regards the monitoring of union elections and the registration of political donations also needs to be considered. The provisions in the Bill regarding the Certification Officer need further consideration.

**Baroness Drake (Lab):** Does the noble Lord accept that the Certification Officer has the power to check that the unions have adjusted the contribution rate of members who have opted out?

**Lord Flight:** I am not aware of whether that power exists at present. It is certainly intended so far as the Bill is concerned. But I suggest that there are quite a lot of other useful things that a Certification Officer can and should be doing.

8.49 pm

**Lord Judd (Lab):** My Lords, my consternation over the Bill centres on two crucial elements. The first is that a Bill that will have, de facto, so much significance for the constitutional balance and commitment to social justice and human rights in this country should be pushed through with so little proper and full consensus-building and consultation. Something of this significance for our social fabric demanded a great deal of careful preparation, building widespread understanding of and commitment to what was being proposed. That did not happen.

The second thing that dismays me—although it hardly surprises me with this Government, I am sorry to say—is that in support of this they are advancing all their dogma about what democracy means and how many people must have voted and what proportion must have voted, when they have barely a quarter of identifiable electorate support in this country themselves.

It is just extraordinary that a Government governing in that situation do not have the temperament or the sensitivity to see the need for consultation.

I have been a member of a trade union all my adult life. I refused to get into my first job between university and national service until I had joined a trade union. I joined the Transport and General Workers' Union and I worked as a garden labourer for the GLC—a very important learning experience so soon after university. Why had I come to this position? Because I had been through a politically formative experience in the Second World War and in the period immediately after the Second World War. Subsequently, of course, in my adult life I went through the politically informative experience of the Cold War, when I was at the Ministry of Defence.

What had I learnt from that? I had learnt about the tremendous contribution that the trade union and Labour movements, working together, had made to the strength of Britain. I had learnt about the strong contribution made to the success of the Second World War coalition Government by the fine, courageous Labour Ministers who served in that coalition. It has become evident from all the writing—biographies, autobiographies and the rest—that in the work of the coalition they had, personally, not unlively relationships with some of their Conservative colleagues, including the Prime Minister, but good relationships with them. I think particularly of Ernie Bevin. I did not agree with Ernie Bevin on quite a lot but, my God, what a statesman he was. How he overshadowed so many others who served in his aftermath—an extraordinary man. Then there were all the others who brought their trade union experience to that Administration.

Then I saw the strength of the post-war Attlee Government, so much of whose success depended on the partnership between the trade union movement and the Labour Party, which was open, transparent and absolutely fundamental to purpose. I came to admire all that terrifically and therefore felt certain that in whatever I did with my life I wanted to build on that kind of experience and that kind of understanding of what society could be and should be. I realised then, and it grew into my whole being, that being together and working together could produce far more strategically and in the long run than struggling and fighting aggressively, individually, one against the other, in what has become the culture of the market and unbridled consumerism.

In 1979, when we went out of office, I was asked by good friends, "But what have you really learnt in your years as Minister?". I said, "I'll tell you one thing that worries me profoundly. We are hurtling towards an age in which tactics are becoming the total enemy of strategy", because in those post-war years—and of course in the war years—politics had been about strategy. What did we want to do with our society? Where did we want to go with our society, and how were we going to do it? My God, there were fantastic arguments but they were arguments of great statesmen about vision, purpose and values. When I look back now, in 2016, I feel that even more strongly but I am also deeply worried by the force of counterproductivity, which is the inevitable consequence of an overconcentration on tactical gains and victories.

[LORD JUDD]

Locally, nationally, regionally and internationally, the first reality of life is that we are locked together in total interdependence, whether we like it or not. The success of government in our age will, I venture to suggest, be judged historically by the success that we make of meeting the challenge of this interdependence and of devising policies and institutions which meet that reality. I know that “Neddy” was not a great success in its first endeavour in the 1970s, although it has been downgraded far too much, but we should never have deserted that principle—the idea of having a council, a forum in the nation, where all aspects and corporate realities of our society come together and work together.

I fear that the Bill, as others have argued so well today, will lead to confrontation and antagonism, and that it will not assist the establishment of a happy and fully productive nation. I see and fear an accelerating trend to centralise state control in the service of the free market and its centralised power, facilitated by too many organisations of shallow character with little fundamental critical analysis, and by media which reflect this sad reality. We have a lot of work to do on the Bill but I urge—unlike some in the House, I realise—that we be very careful. I am totally convinced that morality in politics is about compromise. It is about the exacting and difficult task of judging between the constructive, dynamic and positive compromise and the bad compromise. I hope that, in consideration of the Bill, in no way will we be lulled into an attitude that will facilitate a bad compromise. There are fundamental issues by which we have to stand.

I finish with a quotation I have kept close to me for many years. I know that every Member of the House will know it. It is from that immensely courageous Protestant pastor in Germany, who died in the concentration camp. We need to think very carefully about what he said:

“First they came for the Jews, and I did not speak out—because I was not a Jew. Then they came for the communists, and I did not speak out—because I was not a communist. Then they came for the trade unionists, and I did not speak out—because I was not a trade unionist. Then they came for me—and there was no one left to speak out for me”.

9 pm

**Lord Lea of Crondall (Lab):** My Lords, I hope I will not go too far down memory lane, but I would like to make a point of contrast between what we are discussing here and what we have often discussed in the trade union movement, which is about taking a more constructive position on the new world economy. Some months ago, some of us carried out an exercise with the TUC and UK members of European works councils with trade union and employer members. Frances O’Grady, Chuka Umunna and my noble friend Lord Monks were there, along with representatives of big companies, employers and workers, discussing investment, skills et cetera. It occurred to me during the course of the afternoon, listening to the various contributions, to ask how what we have been trying to do in that sense squares with the positions of the ideological fundamentalists of Conservative Central Office at present. How do those two things square? They do not.

I will give another example. We have growing inequality, which, as you can see around the OECD, correlates with less collective bargaining. Growing inequality is the opposite of what we want, so do we need more collective bargaining? Yes or no? The answer is yes, but does the Minister think the answer is yes? If we have this correlation between growing inequality and less collective bargaining, it would not be a bad idea to think it has something to do with organising and having this constructive relationship.

I suspect that the reason these things do not add up together is that there is some type of schizophrenia inside the Conservative Party—the same schizophrenia that I think we have with the “pull up the drawbridge” position on the European question. How can we remove this sort of misunderstanding, which I think is part of our mutual problem? Some speakers opposite have tried to imply that it is we and the trade unions who have walked away from social partnership, social dialogue or whatever you like to call it, but there is no evidence for that at all. It is the Conservative Party which has recently backed itself into a silo—today’s fashionable word.

Let me just remind the House of one little bit of history. In 1998 we arranged, for the first time ever, a meeting at the TUC with the leaders of the Conservative Party. William Hague led the team, and George Osborne was there. A number of colleagues who are here this evening were on the trade union side—my noble friends Lord Morris, Lady Donaghy, Lady Drake and Lord Monks, as I recall. Although it was partly subliminal, the message was a very important one: we were saying that we accept your legitimacy, as the Conservative Party, as part of the body politic in this country and that you should acknowledge ours. I am not quite sure that we are now seen as legitimate. We are perhaps in a better state than we were 100 years ago in our relationship—it has been a long journey since the *Ragged-Trousered Philanthropists*—but where are we now? Does the Conservative Party really want to go down the track of trying to delegitimise us by setting up a caricature of trade unionism? The caricature has us as *An Enemy of the People*—I am referring there to a play by Ibsen, in case anyone thought I was quoting Mao Tse-Tung.

How does that fit with all the rhetoric about the need to work together to increase our world market share? Answer: it does not. Some Members seem to want to conjure up an idea that we are so lacking in intelligence that we do not understand that public services are part of our living standards, and that people do not realise that when there is a strike in the public sector.

**Lord Balfe:** I point out to the noble Lord that the general secretary of the TUC, Frances O’Grady, has been within the past year to a group meeting of the Conservative Peers—I do not know whether she has addressed the Labour Peers—and we are still awaiting an invitation for our Prime Minister to address the Trades Union Congress. Perhaps that could be facilitated; perhaps the general secretary of the TUC could be invited to the Labour group of Peers.

**Lord Lea of Crondall:** I do not think that the Bill has helped to facilitate it; that is all I can say.

The issue is that we are now not being seen as part of the great happy family, which was the idea, but delegitimised, which is my thesis. I am trying to get someone to point out whether that is true or not with some evidence. The Bill seems, with one provision after another—beginning with my noble friend Lord Monks, everybody has gone through the list—to be intended to reduce the number of members, the size of any political fund and so on. That is the effect. If that is not intended, someone has not done their arithmetic properly in designing the Bill. I should be interested to hear whether the Minister thinks that I have got that wrong, and why.

Organising is inherently more difficult at present than when we had lots of big workplaces and there was a higher trade union density. That is true across the OECD. Where we are at the moment was summed up in a *Financial Times* editorial: the Government are crossing the road to pick a fight with the trade unions. Why? One reason might be political advantage—perish the thought. If the idea is not to cut the legs off the trade unions or the financing of the Labour Party, the Government have a very funny way of going about it.

On the point about check-off, the Government seem to think that because some private sector companies are working to government contracts, they can somehow reach into the private sector and tell them how to organise check-off. This has certainly been mentioned to us as what is happening at Sellafield and Dounreay. Even before the Bill has passed, the Civil Service has written to companies saying that this is how they have to go, and they have to step into line as if they were in the public sector. I would like that to be looked into, if it has not, because we are told that that is what is happening.

The reason I find that rather strange is that, having been a member for some years of the central arbitration committee judging recognition claims, I know that if you get recognition, you have a collective agreement—in Sellafield or wherever it is—and it is a natural part of the agreement that you do check-off. Unless the Government have some ideological reason in mind for doing it, I do not think they should interfere with or intervene in voluntary arrangements that suit both parties.

I shall say a couple of sentence about party funding. A joint approach on this is an idea whose time has come. There are naturally the usual caveats, but we know that there is something weird about the attempt to go back to 1927, after the General Strike. Contracting in was repealed by Attlee in 1945 and was not revisited by Churchill or Thatcher. I therefore have some sympathy with what the noble Lord, Lord Tyler, is trying to do, but there are cherry-picking problems in this. I do not think it is possible to assume that an individual and a union with 1 million members are the same thing. It is clear that there are trade-offs, but the time has come to investigate because there is mutual interest at present, which there has not been until now, to do something along that line.

9.11 pm

**Lord O'Neill of Clackmannan (Lab):** My Lords, we are getting to the stage in this debate when everything that could be said has been said, but not everybody

has yet said it, and there are about 10 more of us to go, so I imagine that we will be going on a little after 10 pm. I do not want to cover all the areas in the Bill. The very helpful Library brief identified six discrete areas, and I want to touch on only one or two of them.

Trade union legislation has to be about the improvement of industrial relations, changing or rebalancing the system of industrial relations, challenging abuses by unions and management, addressing anomalies or unintended consequences of previous legislation, and offering assistance to vulnerable workers whose rights and conditions of employment are endangered by rogue employers. Such legislation normally features in general elections. In the 1980s, Conservative concerns about the winter of discontent and what happened after that laid the ground for their amendments. In the 1990s and the early part of this century, it was the electoral mandate of the Labour Party to take away some of the worst excesses of the Conservative legislation. I say “some”. I think we probably could have done more, but that is an argument for another day.

What priority in political debate at the moment should be given to industrial relations legislation changes? A very rough and ready guide to these priorities could well be the *Times Guide to the House of Commons 2015*. In it there is a presentation of the 10 issues that were deemed most important: the economy, immigration, et cetera. Missing was any reference to trade unionism, strikes, balloting or check-off. I suspect that before today's debate a number of people on the other side of the House thought that check-off was a Russian playwright and would not engage the amount of attention that we have been giving it.

My point is that if we are talking about days lost and inconvenience to the public caused by rail strikes and the like, they are as nothing compared with the disruptions that we have had of late due to the incompetence of Network Rail in organising its maintenance schedules. Think of what happened last winter, when the weather was not that bad; there was incompetence then too. The public might well have been prepared to see the suspension of the abolition of capital punishment for the management of Network Rail—not that I would advocate that, but a populist, hubristic Government like this one might well have seen that issue as a popular one with which to satisfy the readers of the *Daily Mail* or the *Daily Express*.

There is no evidence to suggest that the degree of inconvenience or damage to our economy merits the draconian attempt to limit strike action that the Bill is suggesting. Let us not forget that in the course of the past 12 months there were only 155 industrial disputes and over the past five years, on average, 647,000 days were lost to strike action. In fact, in 2014, 64% of these strikes lasted for one or two days, and between October 2014 and October 2015 the number of days lost to industrial action actually fell by 74%. There is no public outcry or demand for the kind of propositions that the Government are offering.

What was often at stake in these disputes were injustices within the public sector. There was a strike in Northern Ireland carried out by the midwives—not the most militant group of industrial workers in this country—who found that they were getting paid considerably less than their counterparts in England

[LORD O'NEILL OF CLACKMANNAN]  
and Wales, so they withdrew their labour. A little closer to home, you might say, in London, in the offices of Her Majesty's Revenue and Customs, there was an industrial dispute and a strike in which the cleaners came out because in some buildings they were getting paid £2 an hour less than their fellow workers in other parts of that public sector agency. I do not think you could lay a charge that those militant cleaners were holding the country to ransom; rather, you could say that incompetent government Ministers who had responsibility for HR considerations had not been dealing with the matter with the degree of care and attention that they should have been.

It is said that these strikes are carried out on very low turnouts. One of the disturbing things about trade unionism in the UK now is the very poor attendance at trade union meetings. Equally, there is the concern that when people are going to make a decision about going on strike, they do not always vote. Sometimes they think, "We know what's going to happen so we won't vote". It is a wee bit like voting in a council by-election if you are a Tory supporter in Surrey; you know what is going to happen so you do not need to turn out as the decision is pretty well made for you, and by and large you can go along with it. The fact is, though, that you are not compelled to go on strike. No evidence has been produced today that the workers who did not vote in the strike ballot are any less willing to withdraw their labour than the ones who did. There is no evidence of intimidation of the kind that would suggest that people were being forced into not crossing picket lines or the like.

We can see that in many instances of these public sector strikes, which I presume this legislation is endeavouring to frustrate, we are talking about people who in the main are not particularly well paid—people in junior clerical jobs or who are cleaners, and who have the biggest sanction of all against going on strike, which is the loss of pay. These people, who are hard up and have difficulties, go on strike because they are fed up with the conditions they have. Therefore, it is not legislation of the kind envisaged here that is required; rather, it is better industrial relations and better human resource management, if you want to use an expression like that. Certainly there is also the fact that the difficulties experienced by the kind of people I have just described are very often reflected in the churn of the turnover of staff, which makes recruitment quite difficult. Of course it also means that when these people go to work and are asked to join a union they say, "What does it require?" and they are told, "You're going to have to go to the bank and fill in forms", and so on. These are the sorts of people who have the kind of bank accounts in which their money is barely in, and usually they are just about overdrawn by the Thursday of any week.

I am making the point that these people in these circumstances will not be willing to be hassled and will not join the unions, as it will be inconvenient. Yet in many instances they depend upon the shop stewards, union reps, and the people who get facility time to help them, not just with the problems of their employment but with the problems of social security or industrial injury. These are the kind of issues that are dealt with

in the facility time as much as anything else, and these people need that kind of assistance. However, if people will be discouraged from joining unions and from being prepared to make the financial sacrifice because it is complicated, the resources of the trade union to help such people will be drastically reduced, and you will have a cowed and disadvantaged workforce which will be that much more difficult to manage.

Finally, the Bill will impose new and complicated arrangements on the preparation of strike ballots. It will require higher majorities and turnout figures. It will restrict the conduct of peaceful picketing once a strike has started. It will complicate arrangements for the collection of union dues with the aim of frustrating recruitment of new members and the maintenance of existing members. The Bill is not about improving industrial relations but about weakening the power of the unions and frustrating the work which improves the lives of the union members. It will be a test bed for this new approach to industrial relations, and as sure as night follows day, if it is successful—and "success" will not mean that the workers will be happier and we will have better industrial relations but that union membership will go down and industrial relations will deteriorate—it will be extended across into the private sector as well.

This is a mean, spiteful Bill, introduced by a hubristic Government, whom I believe have no idea of the resentment their proposals will create and the needless damage their thoughtless actions will inflict upon British industrial relations in the months and years ahead, if we do not make radical changes to it and stop it in its tracks.

9.23 pm

**Lord Tomlinson (Lab):** My Lords, as I think has been said by almost every speaker from this side, this is a mean, vindictive Bill that has nothing to do with improving the basic industrial problems of this country. What are those problems? We have rehearsed them during the course of the day. They are low productivity, skills shortages and lack of flexibility in working relationships. But what are we doing? We are tackling this as if the problem is strikes. I will not go through the figures from the Office for National Statistics yet again, but it is quite clear that if you look at the 30-year run of month-to-month statistics, we are going through the longest sustained period since 1931—with the exception of that one peak when we had the winter of discontent—of low strike rates in this country. So we have to consider what we are really trying to achieve here.

I perked up a little when I heard the Minister say in her introduction—I wrote her words down, so that I remembered the tense—that trade unions have a long and distinguished history. I want to tell the Minister, that, yes, they have a long and distinguished history, but they have an extremely important present, and many Members on this side of the Chamber and many people in the country will make sure that they have an important role for the future. They are not just something from the past whose activities we are seeking ways to wind up.

Great emphasis is placed in the Bill on the ballot to call a strike. I am not quite sure where people are

going to vote on this ballot paper, because the rules on what has to be included for guidance on the ballot paper are very confusing. The ballot paper is not just going to ask whether you want to go on strike or not; it will have to say whether it is going to be a strike or, “industrial action short of a strike”—

a very interesting phrase that appears in Clause 4, to which I shall return shortly. Reasons also have to be given, along with a lot of other information. In doing that, the trade union will be setting out a very combative position in order to persuade its members.

But if you have to have a ballot to call a strike, has anybody given any thought to how you end it? I have some experience of working with trade unions, and I can imagine trade union executives, when called upon to get their members back to work, saying, “Well, no—we weren’t trusted to make the decisions in the negotiations at the beginning that caused the strike. I don’t think we can accept the responsibility for making the decision to call it off”. Strikes have to have a beginning and an end, and if we insist on complex balloting arrangements for the beginning of a strike, we have to have very clear arrangements for its conclusion.

As I said, Clause 4 refers to, “industrial action short of a strike”.

We have heard precious little about that today, and nothing about it from the Government. But industrial action short of a strike is in many cases far more damaging than a clear-cut strike which, when it has had its day or two days, is finished and everything is back in position. The noble Lord, Lord Dobbs, was much concerned with problems on the railways. Let us imagine that a decision is taken by railway workers to take industrial action short of a strike. That means that the first day of the strike will be a much less inconvenient day, but at the end of the first day the rolling stock will be scattered all around the network because people have not worked overtime to take the trains back to the depot, and there will be no staff there to man the trains, so you will have a much more chaotic situation. The Bill does not address that situation at all.

Bearing in mind the time, I shall just mention the very important contribution to the debate made by the noble Baroness, Lady O’Neill. It has not been much referred to. The noble Baroness, Lady Neville-Rolfe, has made the very succinct declaration that she has, “made the following statement under section 19(1)(a) of the Human Rights Act”.

However, her view did not persuade me quite as much as some of the reservations expressed by the noble Baroness, Lady O’Neill, and the statement made by Lorna McGregor, a member of the Equality and Human Rights Commission. Lorna McGregor has argued fairly cogently that the Trade Union Bill will impose “potentially unlawful restrictions” on the right to strike. There is a very serious question there that the Minister has to address.

This is not just a question of playing publicly with your virility symbols, saying in effect, “We’re going to be tough on the workers”; there will be very real consequences from each decision that the Government are proposing to make. I suggest that it might be in the best interests of the Government to show a little humility, to follow some of the arguments made by

people on both sides of the House but particularly on this side—people who have much greater experience of industrial relations than the very small number who have participated from the other side—to learn from that experience and to change the Bill while there is still time. The alternative to changing the Bill will be a catastrophic imposition on industrial relations which will be to the detriment of the country and certainly to the detriment of its economic performance.

9.31 pm

**Lord Callanan (Con):** My Lords, I have listened with great interest to the many heartfelt contributions, and indeed history lessons, from many people on both sides of this debate. Many on the Labour Benches—I suppose predictably, as my noble friend Lord Mawhinney pointed out—have their outrage meters turned up all the way to 11. An uninformed observer might conclude that the Government are somehow abolishing trade unions entirely or making strike action illegal, but of course neither is true.

We no longer live in the 1970s, an era of industrial strife, when the leader of the Transport and General Workers’ Union was voted to be the most powerful person in the country, ahead even of the Prime Minister of the day, or indeed the 1980s, my formative time in politics. I was a young councillor in the north-east of England at the time of the miners’ strike. While in my opinion virtually all the ordinary miners had legitimate intentions, the leadership of the NUM made no secret of the fact that their aim was to bring down the elected Government of the day. We now know, of course, that they even took money from our foreign enemies to help them in that task.

Thankfully, times have now moved on. We no longer live in an “us and them” working environment, with bosses on the one side and workers on the other. Most people are not in trade unions. Most people now work in small businesses or are self-employed. It is surely time that the trade unions moved on, as the rest of society has done.

I am grateful for the briefing on this subject from the TaxPayers’ Alliance, an excellent organisation that does great work. In 2014, a total of 788,000 days were lost in strike action. Only 72,000 of those days were in the private sector but 715,000 were in the public sector—10 times as many, even though more people work in the private sector. This is overwhelmingly a public sector problem. Why is that? Is it because pay, terms and conditions and health and safety are worse in the public sector? Of course not—if anything, the reverse is true. It is, of course, because public services are by nature a monopoly provision. People have no choice in using those services, so the public sector trade unions know that they can inflict real damage on the public, who cannot go elsewhere to obtain them.

Many noble Lords have referred to the Tube strikes, where several hundred well-paid militant trade unionists with pretty good terms and conditions are making life a misery for millions of commuters, and all to try to prevent Transport for London introducing an improvement in service: a night Tube. However, there is, in my view, an even worse side to this. Transport for London, I discover, employs 35 full-time-equivalent

[LORD CALLANAN]

members of staff working purely on trade union business. So taxpaying Londoners are subsidising the very union organisers who are working their hardest to stop them going about their lawful business and, indeed, even getting to work.

These people are a small part of the so-called trade union pilgrims, made famous a few years ago by the nurse in a Tooting hospital who was paid £40,000 a year to do no nursing at all but to spend her time seemingly organising demonstrations against Conservative politicians. She was obviously kept very busy by her trade union activities, but not so busy that she did not have enough time to run a part-time health consultancy as well. The Metropolitan Police has 57 full-time-equivalent pilgrims; the Land Registry has 19; the Scottish fire brigade, incredibly, has 78. In 2012-13, there were almost 3,000 of them, although, thankfully, the Minister tells us that the numbers have reduced since then. If the Government are searching for cuts in public expenditure, there are tens of millions of pounds to be saved there.

On the subject of wasting public money, we also received a briefing from the Equality and Human Rights Commission, a body that the Government seem to be funding to lobby against themselves. According to the EHRC, ending this so-called facility time or imposing balloting thresholds is not, as most of us might believe, a simple matter of political disagreement that this Parliament is perfectly able to decide. Apparently, it could be a breach of those workers' human rights. I have no idea whether that information is accurate or not but, if it is, it provides further evidence for why our other manifesto commitment to reform human rights laws should, in my view, be speedily implemented alongside this legislation.

I fully support the Bill, but my slight concern is the issue of the opt-in system for political levies, which are supplied, ultimately, in many cases, to the Labour Party. I take the view that for political funding changes it is best not to depart from the principle that they should really be agreed on a cross-party basis. Besides, from my party's point of view, surely we should be in favour of giving Jeremy Corbyn as much access to as many resources as possible to promote his views as widely as possible.

9.37 pm

**Lord Watson of Invergowrie (Lab):** My Lords, I start by complimenting four of the speeches that we heard this afternoon and evening. The first three were from my new noble friends Lord Livermore and Lord Watts and Lady Primarolo, all of which I enjoyed. I know that we are going to hear a lot more from them in the years to come. I will just reassure them that sitting until 11 pm, as we are going to do this evening, is not the general practice in this House, as they will be pleased to know.

The other speech I want to compliment, and one I thought to be a remarkable one, was from the noble Lord, Lord Kerslake. I very much enjoyed his article in the *Guardian*, and he said very much the same thing in his speech today. It was a powerful speech in many ways, because he is an independent voice and vastly

experienced, not least at the centre of government. He made many points that I really hope the Government, and indeed the Minister, will take on board, because they carry additional weight coming from the Cross Benches. She may dismiss everything from these Benches, but I feel that she really should not dismiss the views of the noble Lord, Lord Kerslake.

Like many recent speakers, I find myself number 46 in a list of 53 speakers, with almost everything having been said. So I have taken a slightly different approach: I decided to discard the speech that I came with and, as the debate has gone on, have prepared another one. I will take a slightly wider sweep and perhaps be slightly provocative, in the same way as the noble Lord, Lord Callanan, has just been. However, I feel that neither of us will be as provocative as the Minister: to come here as a Minister and sit with a red rose very visible is, I think, likely to inflame the political feelings—I do not know about the passions—of many on these Benches.

I have been a parliamentarian since 1989 and I can honestly say that I have never encountered such a brazenly partisan Bill. It is shamelessly designed to benefit one of the main political parties at the expense of the other, or to benefit employers at the expense of employees and their representatives. This ridiculous and prejudiced Bill merits nothing less than those descriptions. It amounts to a so-called solution to a problem that does not exist. The Bill does not address any existential problems, in the workplace or wider society, that have been drawn to the Government's attention by people other than those on the Benches opposite, in this debate and when it was discussed in the other place. We have heard that employers' organisations are not railing against the way things are at the moment.

Clearly the driving force behind the Bill is government ideology. Be in no doubt that this Bill should not be viewed in isolation: it is part of an authoritarian pattern. After winning an election for the first time in 23 years, the Conservative Party is seeking to ensure that it never again suffers a prolonged period out of power. Its unambiguous aim is to avoid ever ceding power again and certainly some people at the top of the party believe that that is achievable. With that in mind, in the eight months since the general election we have witnessed a series of attacks on anyone or any institution that the Government regard as the opposition. That term is accorded a much wider meaning by the Conservatives than political parties and any and all opposition must be stifled.

As far as the Government are concerned, their margin of victory was much too narrow for comfort. Therefore, in an attempt to guard against a repeat, they are hurriedly reducing the number of constituencies, redrawing parliamentary boundaries and making it more difficult for people to vote. Individual electoral registration will impact disproportionately on urban areas, particularly inner cities, where of course Labour traditionally enjoys more support. The Government have also ignored the views of the Electoral Commission and are pressing ahead with all haste to introduce the changes in time for the London mayoral elections this year.

Local authorities have long been regarded by Conservatives as bastions of opposition and since the election we have already seen Bills introduced which further reduce the role of councils in education and housing, while their resources, which were already stretched almost to breaking point, were savagely cut in the Autumn Statement. The BBC is certainly regarded as part of the opposition and has quickly come within the Government's sights. If I worked for the Beeb, I would be fearful as to what the future holds because we have not seen nothing yet.

Noble Lords are only too aware as to what happens when we cross this Government. Having had the temerity to vote down the tax credit cuts, we all know how the Prime Minister reacted. He said, "What? They acted within the rules? Then we will have to change the rules"—which of course is what they are now doing.

Then there was another Autumn Statement announcement, without any notice, to the effect that Short money to opposition parties is to be sharply reduced. Labour introduced Short money in the 1970s and trebled it after winning the 1997 general election. Having benefited in the past and used it to assist them in returning to power, the Conservatives are now kicking the ladder away to prevent their position being meaningfully challenged. Is it just me or are the Conservatives much more ruthless in government than Labour?

Nor does the list finish there. Under the noses of the Lib Dems—we should remember their complicity—the coalition Government introduced fees which denied women the chance to pursue equal pay in tribunals, slashed legal aid and prevented much-respected charities from campaigning and challenging government policy. The Lib Dems will no doubt claim that they prevented the Tories from limiting access under the Freedom of Information Act and scrapping the Human Rights Act. However, these attacks on our liberty have only been delayed. They will be along soon enough.

This Bill fits the trend towards an authoritarian Government. In this case it represents a back-to-the-future approach to legislation because it seeks to deal with issues that may have existed in the 1970s and 1980s but do not today.

Curiously, in a slightly lighter vein, I have recently been transported back to the 1970s and 1980s courtesy of Santa Claus. The return to popularity of vinyl records prompted me to ask him for a turntable so that I could revisit some of the 200-odd albums that, thankfully, I could never quite bring myself to give away. Now I can once again play my old favourites—complete with crackles and scratches of course—which are their trademark. It has been a journey of rediscovery, not least in respect of the great David Bowie, who as my noble friend Lord Lennie mentioned, very sadly died yesterday.

But the album that struck me most in terms of bridging the 40-year gap was by the Tom Robinson Band, which some noble Lords may recall, a political band whose tracks include "Winter of '79", "Better Decide Which Side You're On" and "Up Against the Wall". They still carry a powerful message and they took me back to my days as a young trade union official dealing with many issues that belie the retrospective

view that trade unions had everything their own way at that time. In many ways they were as under fire then as they are today, and that is why, as my noble friend Lord Tomlinson has just said, they are every bit as important today and will continue to be for some considerable time into the future.

The Bill is an undisguised attack on trade unions. It is designed to restrict their ability to operate effectively, and what is more important, it will seriously undermine constructive employment relations in many workplaces. The noble Baroness the Minister referred to her own experience at a senior level with Tesco. That company has long had an excellent relationship with USDAW that benefits both the company and its employees. Like many other trade unions, USDAW operates as a problem solver, not as a problem causer, and like my noble friend Lord Young I find it difficult to believe that the Minister subscribes on a personal level to the extreme measures contained in the Bill because she must know that they will not produce a positive outcome; in fact it will be the opposite.

Every measure in the Bill is designed to damage the ability of trade unions to defend employees' interests either directly or through campaigning, ironically at a time when, as we have heard from many noble Lords, the number of working days lost due to industrial action is at an historical low. The requirements on trade unions will go well beyond the duties placed on public limited companies that make political donations. They are required to pass a shareholder resolution every four years, but there is no requirement on shareholders to opt in, and indeed they have no right to opt out. Surely it is entirely unacceptable that the Prime Minister should be restricting funding by working people to the Labour Party while turning a blind eye to donations from hedge funds to his own party. The Government clearly believe that it should be as simple as possible for the noble Lord, Lord Bamford, the chairman of JCB, to be able to donate many thousands of pounds to the Tory party but as difficult as possible for his employees to contribute through their trade union to Labour.

There are further vindictive aspects to this Bill which have been eloquently covered by other noble Lords and I will not go into them. I mention balloting, which is designed purely and simply to make it harder for employees to take industrial action, and ending check-off, which is aimed at hitting Labour Party funds, as well as restricting facility time, which makes it harder for employees to be properly represented. Then there is the extensive new red tape that will be imposed on unions relating to the Certification Officer. Many noble Lords will recall the Deregulation Bill when it was in your Lordships' House during the last Parliament. Government Ministers, enthusiastically supported by the noble Lord, Lord Flight, who is not in his place but who contributed to the debate earlier, said that red tape was a dreadful burden that was holding companies back and absolutely had to be reduced. Why are trade unions the only organisations that this Government believe should have more burdens and more red tape piled upon them? It is quite illogical unless, of course, you understand the ideology driving this shoddy and shabby attempt at legislation.

[LORD WATSON OF INVERGOWRIE]

This is a Bill that the Labour Party must commit to repealing when we return to power because I believe it is one that shames your Lordships' House.

9.48 pm

**Baroness Gould of Potternewton (Lab):** My Lords, I will concentrate my remarks on the effect of this Bill on women. Although we have touched on the subject in some speeches, no one has talked about the overall consequences that this will have on the part-time, low-paid workers referred to earlier by my noble friend Lord Sawyer. They are women who have been helped by being members of a union: improving family-friendly policies, raising standards and improving the quality of service. Women make up the majority of trade union membership and have benefited greatly from collective bargaining on pay, terms and conditions such as occupational maternity pay schemes, and from the newer forms of trade union representation such as union learning reps and equality reps. The report published by BIS in December 2014 showed that whether it was flexible working, enhanced maternity pay, training women returning to work after maternity leave, or health and safety at work, women benefit overwhelmingly from being in a unionised workforce.

Unions also play an important part in attempts to close the pay gap, which the Government talk a lot about but so far do not seem to achieve. Good employers share information with trade union representatives for the purpose of bargaining, which means that there is greater gender balance and disclosure of pay in those workforces. The ILO found that the gender pay gap is lowest in countries where collective bargaining coverage is high and companies are bound to a collective agreement. Therefore, promoting collective bargaining, rather than reducing trade union rights as this Bill seeks to do, is likely to lead to narrower gender pay differences in the workplace.

Unions have a crucial role in taking equal pay claims on behalf of women members. That is now even more crucial since the introduction of employment tribunal fees which present a barrier to many women seeking access to justice. This Bill, designed as it is to reduce the role of trade unions, could lead to a serious imbalance of power which could further lead to a decline in service delivery and have a negative impact on working conditions for women. Because the majority of women are in the important classifications under the Bill, they are also likely to be disproportionately affected by the introduction of the 40% threshold and the collection of the levy by the lack of introduction of electronic balloting. Over the years, the achievements for women have been pronounced in many ways. They have had the ability to fight for equal pay and fair treatment, and against discrimination. These are disadvantages on which women have long campaigned.

I want to do a little history too. One can go back to 1910 and the action of 800 women chain-makers at Cradley Heath. They were paid wages of five shillings for a 54-hour week of hard labour. They went on strike when their employers refused to implement a new minimum wage for chain-makers of 11 shillings and three old pence. However, those women won and they were the first in history to achieve a minimum

wage. In 1918, the first equal pay strike was successfully won by women workers on London buses and trains. Later, the sewing machinists at the Ford plant in Dagenham took strike action for regrading to have parity with men, but only to the C grade. After three weeks, they settled for 92% of the C-grade rate and were responsible for Barbara Castle's Equal Pay Act.

In 1995, women cleaners at Hillingdon Hospital went on strike for changes to their terms and conditions. They refused to sign the new employment contract and were sacked. With the help of their unions, they appealed to the employment tribunal. They were successful and were awarded the maximum compensation, which is an example of how the trade unions helped the women. My final example relates to the midwives who recently went on strike for the first time in the 133-year history of the Royal College of Midwives. They have expressed concern that this Bill will make it more difficult, and make women more fearful, to take legal action in the future. That is a disgraceful state of affairs. None of those women goes into this situation lightly. Earlier, the Minister referred to childcare. Yes, those women were prepared to make those sacrifice in order to achieve the rights that they felt they should have.

It is outrageous of the Business Secretary, Sajid Javid, to justify this Bill as a guard against militants. None of those women was a militant. They were ordinary women fighting for their legitimate rights and women should be allowed to continue to do that. This Bill could prove to be a real restraint on gender equality. As my noble friend Lady Smith of Basildon said, we await the impact assessment statement. The delay may be because of a fear of what consequences it might expose. For instance, within the NHS, it could have a serious consequence for productivity and staff morale, therefore exposing a threat to patient care. Further evidence shows that turnover in organisations where there are no union reps is three times higher than in those with union reps, which equates to an annual saving for the NHS of about £100 million. The Bill will do nothing to improve industrial relations in the NHS, and, as has been said, will only harden the position. This applies to many other public industries.

However, we heard of the equality analysis that has taken place, which says that the Bill will benefit the whole country, which will be less inconvenienced by strike action, and, as it is not adverse to anyone, it therefore will not have an adverse effect on women. What a piece of double-speak. Obviously no account was taken of the Ipsos MORI poll, which showed that eight out of 10 people believe that trade unions are essential to protect workplace rights—I am sorry that the noble Lord, Lord Flight, is not in his place, since he talked about the majority of people being in favour of the Bill and its consequences.

The Bill clearly shows that the Government have a purpose: to weaken the trade unions at any costs and to reduce the rights of the 6.5 million British people who belong to unions. It has nothing to do with modernisation. It is an assault on those hard-working women and men who the Government purport to support. It is a disgraceful and pernicious piece of legislation.



9.56 pm

**Lord Borwick (Con):** My Lords, when I was 17 and a rather inept bricklayer, I talked to the UCATT steward about joining the union, but he would not let me. He said I was a natural boss, not a worker—what a wise man he was.

When I became that boss about 12 years later, running a group of companies with more than 1,000 employees, the trade unions were represented in those businesses with thin margins and old technology. When I was looking for new ideas they came from our employees—not through the union, but directly. That is an illustration of the image problem of the trade unions. It seems that they are associated mainly with problems not solutions, and with stress in failing industries.

When one thinks of the history of unions, one of the first things that springs to mind is the vicious fight to retain deep-mined coal. We know now, and knew then, that miners get lung diseases and cancer, for which the Government pay them and their lawyers vast sums in compensation, all to produce coal, which is probably the worst-polluting energy form in the world. The product is poisonous and the people producing it die in great pain as a result of the production. How can this be virtuous? The history of the unions may be described as magnificent by those who agree with them politically and it is certainly significant, but surely one cannot look back with nostalgia to a time when people were working in such toxic conditions.

We know that unions exist to protect against unfair employment practices, but nowadays we find that companies with such practices will disappear, not least because of the power of social media to spread bad news in lightning-quick time. We have seen many companies forced into public apologies in response to a so-called Twitterstorm. A company mistreating its employees would quickly receive negative headlines, and rightly so. Perhaps we can credit trade unions for helping to shape a society where bosses are as acutely aware of the need to treat employees well as are the employees themselves. But the truth is that with more information, particularly in this digital age, self-regulation is a lot easier, which perhaps diminishes the role of unions.

Unions are not really a major force in the rapidly growing parts of the economy. In sectors such as software and systems, and consulting and financial services, not many unions are run by young overachievers. We tend to find the unions in places where the economy is stable or failing; that may be why the number of union members seems to be doing the same. What is happening to these members? They are getting older, with the proportion of trade union members aged under 50 falling since 1995. The total number of union members has been going down for years as their average age has been rising. These are the classic signs of the customer base of a company that is in trouble.

Unions are sometimes found to be resisting change, but there is a big problem with this: change is what makes the economy thrive. Surely, the successful unions of the future will be those that embrace change and are responsive to their customers—in other words, their members—because it is the customer who changes a business, whatever the managing director or the

shareholders might wish. If the customers change their preference, the company must change or die. Customers who never change their minds seem to me to be like the members of unions, who can seemingly agree once and for ever about their preferences for political donations. Let us not forget that the other customers are people using public services, and they do not get a vote at all.

It is not simply a battle between the unions and the employers; it is quite often a battle between the employers and the employees against the real customers—the patients whose operations are cancelled and the Tube travellers who cannot get to their jobs. The patients whose operations will be cancelled as a result of the intransigence of the BMA have not been offered a vote. In both cases—the doctors and the London Tube—the Government want to increase the number of times that a good public service is offered, and the union goes on strike.

The unions have described the Bill as an evil attack on their very existence, but it will make them more responsive to their customers, who are, of course, their members. Any legislation forcing the unions to get their customers—their members—regularly to sign up for their deductions will force the unions to improve their practices. Any legislation forcing the unions to have a healthy majority before taking action that could cost those members their jobs will, again, force the unions to improve their practices. Personally, I can see the advantages of e-ballots, if they are secure. I know that old-fashioned paper ballots are not as secure as they look. So nobody who is trying to destroy a union first makes it improve; quite the reverse. If unions concentrate on old industries and preserving old practices, they will die as surely as those old industries will be superseded by new ones. The unions should see this Bill as heading in the same direction as they are—becoming more technologically savvy and evolving ways of communicating with both their members and their members' employers. That way, unions can represent people in the new businesses that are our future.

10.02 pm

**Baroness Drake:** My Lords, the public can be forgiven for thinking that this Bill is only about strike action. That is what public commentary has focused on. But in reality, as today's debate has demonstrated, the proposals go much wider. The Bill does not stop at setting high thresholds for strike ballots by train drivers, teachers or hospital workers; it launches a much broader attack on the ability of trade unions to organise and politically engage, subjects them to extended scrutiny from the Certification Officer and expands Ministers' powers, with significant and unseen secondary legislation still to follow—all of which disturbingly upsets the balance of influence in our treasured pluralist democracy. Amnesty, Liberty and the Equality and Human Rights Commission—the hat-trick—have all expressed their deep concerns.

In contrast to the 1980s, industrial relations today are in a benign state. Strike days are a tiny fraction of the 27 million days in 1984. No evidence is provided for why such extensive provisions are needed today

[BARONESS DRAKE]

and no assessment of their impact is yet published, yet the Bill shifts the balance of power against workers in the labour market and the balance of political influence against trade unions and the Labour Party.

Currently, the Certification Officer has the power to act on a complaint from a trade union member. The Bill transforms it from an adjudicator on disputes between unions and their members into an enforcement agency with wide-ranging powers—even if a member has not made a complaint—to initiate investigations, require the production of documents and impose substantial fines. It gives the state extensive access to members' details and privileged correspondence. As the Minister for Skills confirmed, third parties will be able to raise concerns. The failure to act on them could well expose the Certification Officer to judicial review. As the Equality and Human Rights Commission comments, the power to instigate complaints, as well as investigate them and adjudicate on them, compromises the impartiality of the Certification Officer and therefore raises substantive concerns about compliance with Article 6.

As my noble friend Lord Hain observed, excessive state interference with independent trade unions has normally been strongly opposed by all good democrats. The Bill gives Ministers significant reserved powers to amend primary legislation relating to facility time for union representatives in public authorities. The Equality and Human Rights Commission believes that these open-ended powers could be used to introduce disproportionate interference with freedom of association. They are, indeed, open-ended. As the Delegated Powers Committee observed, the Government's power to require information, or impose a limit on facilities, extends to a person who is not a public authority but who has functions of a public nature because they receive funding in part from public funds. This could include a care home with local authority-funded residents; a charity providing services; indeed, a long list of employers who receive public funds.

The Bill introduces stricter rules for a lawful ballot and lawful industrial action, but meeting those higher standards of legitimacy will still not be enough for a legitimate strike. The Government are intent on removing the restrictions on agency workers being employed to cover striking workers. In effect, responsibility will be transferred from the principal employer to the employment agency, through service-level agreements, to resolve a lawful dispute by strike breaking. Agency workers will have to strike-break to keep their jobs with the employment agency, because the agency's service contract will require them to supply labour during a strike, and the agencies know that.

Tony Blair once said that British labour law is, "the most restrictive on trade unions in the western world".

It is about to get even more so; yet individual protections are also being weakened. The big increase in fees saw employment tribunal claims plummet by nearly 70% in the year following their introduction—way beyond deterring unmeritorious cases.

The Government claim that they are the workers' party because they increased the minimum wage. I have spoken in favour of such an increase from these Benches. However, as the Centre for Policy Studies

argued, it was driven as much by the need to address low levels of UK productivity and stop companies—including many large employers—taking advantage of in-work benefits to subsidise their pay bills as it was by a caring attitude for the low paid. The £4 billion rise in pay which the increase will generate is no substitute for the £12 billion cut in benefits.

The proposals on political funds do not represent a regulatory regime that is fair to all political parties. They are a partisan measure, intended to reduce unions' political engagement and the funding of the Labour Party. The change from "opt out" to "opt in" does not come from measured cross-party consideration. The established precedent that changes to party funding happen only by consensus has simply been torn up.

Figures show that from 2009 to 2015, excluding donations directly paid to candidates, the Conservative Party received £39,970,822 and the Labour Party £7,437,087 in company donations. They confirm what we all know: Labour receives significant funding from trade unions, the Conservatives from business. But there is no proposal, for example, for businesses to seek the specific approval of individual shareholders for the donations that they make. Employers use opt-out to put employees in salary sacrifice schemes and to change terms and working practices, and the state uses opt-out to get workers to save for retirement. But it is now unilaterally unacceptable for unions to use it, even with the bedrock protection that members cannot be auto-enrolled into union membership. The certification officer will now have new powers to require unions to report in considerable detail on how political funds have been spent.

The Government claim that the rules are even-handed because they apply to employers' associations. That is disingenuous. None of the 94 employers' associations on the certification list has a political fund. Companies make political donations individually or via other channels. Everyone with a modicum of understanding knows that these rules will impact only trade unions.

**Lord Flight:** Companies are obliged by statute to vote on whether or not to make political donations, as a result of which virtually no public companies do so any longer.

**Baroness Drake:** To the best of my knowledge—do not hold me to the exact detail—all that companies have to do is have a resolution at their annual general meeting every four years. I am sure that trade unions would be prepared to do that at their annual general conferences if we were matching like for like. My point is that the rigour and the conditions are going to be applied only to trade unions. There are no reciprocal intrusive requirements being imposed on employers or companies in the Bill.

The Government have the right to govern but should not use that privilege to unfairly weaken the basis of legitimate opposition. That is not governing; it is undermining our democracy.

10.12 pm

**Lord Stoneham of Droxford (LD):** My Lords, I begin by congratulating the noble Baroness, Lady Primarolo, and the noble Lords, Lord Livermore and

Lord Watts, on their maiden speeches. The hour is late, most of the arguments have been heard and we are largely talking to ourselves so, after a few general observations, I will confine myself to three themes in the Bill. Like my noble friend Lady Burt, I am deeply depressed by this piece of legislation. After five years of coalition, we are back to partisan politics and, as many speakers have said, it is distracting from the real issue of how we should build on the success of the economy, concentrating particularly on raising productivity, exports and public sector reform.

The Government should be taking the high road. They should be delivering what they say they believe in: one nation. They should be building on the partnerships between management and unions that have transformed our motor industry in the past 20 years. Indeed, in the public sector they should be building on the success the previous Government achieved with the public sector unions in implementing, remarkably, the Hutton public sector pension reforms. Instead, they seem to be taking the low road, as pointed out by the noble Lord, Lord Kerslake, in his excellent speech, of partisanship and reacting disproportionately to the issues we should be seeking to resolve.

My noble friend Lord Rennard reminded us that, frankly, there are lots of issues here that were fought over in the 1960s, 1970s and 1980s by respective Conservative and Labour Governments. With respect to the noble Lords, Lord King, Lord Mawhinney and Lord Dobbs, we do not have to refight the battles of *In Place of Strife*, the miners' strike or the winter of discontent. Reforms were introduced to improve democracy in the unions and ballots before strikes. Red Robbo, Fleet Street, British Leyland and the mining industry, sadly, no longer exist. A basis of consent was established nearly 20 years ago on these measures when the Labour Government did not go back to change this legislation. It is in disturbing this consensus that the Bill seems now to be taking a backward step.

Like the noble Lord, Lord Kerslake, I have had 30 years of dealing with unions, and being part of a union, in pretty difficult sectors—coal, rail and printing—and I have not lost my faith in what they seek to do. I accept that they are not perfect. At times they can be frustrating but they are important stakeholders in our society and our workplaces, and I would rather deal any day with a progressive, strong union leadership than weakened, insecure and incompetent leadership. Frankly, the same goes for management, too. As the noble Baroness, Lady Prosser, pointed out, management often gets the unions that it deserves. It does not surprise me that it has taken foreign ownership and management to transform the motor industry and get it out of its class interests.

There has been some dispute in this debate over a view that was expressed by some, and indeed by Nick Boles when we met him as the Minister responsible for this legislation in the Commons. When we saw him, he said that people will ask in years to come what all the fuss was about. I do not accept that this is as transformational as the legislation that we saw in the 1980s, as some may argue, but it will not modernise the unions. It will perpetuate the unions' decline when they are already pretty weak. It will also risk making

unions more insecure, as their leadership will be less good, and pushing them into their own silos. That will cause the country more problems.

Let us take three issues: the threshold for strike ballots, union facilities and political funding. First, on the strike ballot threshold, I understand—and we in this group understand—that public sector strikes which inconvenience the public are unpopular, and a 50% turnout might well be reasonable. But I am more sceptical about the more complicated thresholds, which could simply fan the flames of discontent rather than resolve them. From the Back Benches, the noble Lord, Lord Leigh, is already questioning the net that will cover these issues so this is just the start of what the Government are about. If independent scrutineers are involved, as indeed they are, we should certainly experiment with other avenues of voting. Electronic voting and workplace ballots could be used. Indeed, electronic voting will actually help unions to improve their communications because they will have to get the email addresses of their members, and encourage them to have email addresses.

Disputes have to be resolved through a bargaining relationship; if that is not understood, we will be led to unintended consequences. If you have thresholds, the unions will work to achieve those thresholds, so strikers could become more intransigent. Just take the case of the junior doctors: 76% have voted and 99% are in favour, so that ticks all the boxes as far as the legislation is concerned. The noble Lord, Lord Borwick, described it as intransigence by the BMA when it is trying to express a democratic view, but how do you resolve the dispute? There will have to be either a government climbdown or a prolonged dispute, because the dispute will have been made more intransigent. That is the danger.

What are we left with? We have the Secretary of State resorting to the old adage of the enemy within. He is quoted in the *Guardian* today as saying:

“Of course it's a concern if some elements within the BMA are seeing this as a political opportunity to bash a Tory government that they hate”.

I do not really believe that that is representative of the BMA. This is not the politics of reason or likely to resolve the dispute and, at the end of the day, two sides have to resolve a dispute.

We could cover a whole series of issues under trade union facilities. The check-off is clearly designed to weaken unions and is a distraction when we should be getting unions to co-operate on public sector reform. Similarly, with facilities, there is a more important issue: the Government talk on one hand about devolution to local authorities, to the regions and to the nations, but at the same time wish to retain their powers of centralisation. It is okay for employers to be able to challenge the check-off if they want to, but legislation will undermine local decision-making. People should be allowed to make those decisions locally. We should be reminded in this House that there has been a huge decline in workplace representation. Local representatives, in my view, are vital in many organisations to oil wheels, resolve grievances and channel employees' emotions. The last thing you want in industry is high turnover and inexperienced representatives. They are the bugbear of good employers.

[LORD STONEHAM OF DROXFORD]

We have had serious discussions on political funding, and my noble friends Lord Tyler and Lord Rennard have covered the issues very well. The issue of opting out of or opting in to political funding through trade union funds has been around for over 100 years. It is not a new issue. It keeps coming back, and if the Conservatives change this, then Labour will be back with it. More importantly, all political parties have their views on this—we would like the trade unions to give some money to us and I expect the Conservatives would as well—but we are not going to do this in a one-sided way. This is a completely one-sided playing field. As has been said in the debate, without covering the whole issue of public funding, it is just giving more political power to the Conservatives. It is completely unfair and this House needs to be very cautious in looking at this legislation and to consider opposing these moves.

Returning to my original thoughts, I am saddened by the destruction in this legislation. We will seek to challenge and amend it. The trade unions may not be perfect, but they are often better than the alternative. We defend their right to exist, as they are very important to our national life. We may not always favour them, but we accept they have an important political role in our society and in the workplace. All organisations and societies benefit from the grit in the oyster and from having somebody to challenge them, and the unions do that where they exist. It is not easy, but they provide an important challenge. There is a danger, if you diminish and weaken them, that you will lose their leadership.

If you want trade union reform, it should be of a type that seeks to modernise the unions and strengthen them. We need to look at what makes them more representative, assists them in making better use of their limited resources and helps them to develop their services in mutual insurance, pensions and legal advice, which can help their members. Above all, we oppose the political stunts of the political funding measures, which go against the whole tradition of cross-party agreement in this debate.

10.23 pm

**Lord Collins of Highbury (Lab):** My Lords, I start by congratulating my noble friends Lord Livermore, Lady Primarolo and Lord Watts on their excellent maiden speeches today. All of them, in those excellent speeches, reminded us of the positive role trade unions play in society, in terms of developing people's skills and of social mobility, but also the positive role that they have in managing change—I know that the Minister has played an important role in that, as we had exchanges about it when she was at Tesco—supporting training and enhancing democracy. They have been at the forefront in challenging countries in the world where democracy has not existed. I am extremely proud of the international role that my union and previous general secretaries have played not only in the fight for democracy in Spain, but in the fight to end apartheid in South Africa. Important roles were played by ordinary trade union members, which we should not forget in debate on the Bill. It is sad that the Bill does not address that positive role.

The Bill is an attack on civil liberties. It flouts international labour standards and singles out unions for draconian regulation. It is also, in my opinion, the most politically partisan piece of legislation since the end of the 1920s, impacting as it does on Labour Party funding.

As we have heard, in particular from my noble friend Lord Monks, the Bill is being proposed with little real support from employers and without proper consultation. Limited consultations were held over the summer holiday period on the ballot thresholds and restrictions on union picketing and protests and the use of agency workers during strikes, but there has been no consultation on other key measures, including restrictions on facility time and check-off arrangements. Government responses to two of those consultations are yet to be published and, as highlighted in the debate, the Government have failed miserably to demonstrate why the Bill is necessary or justified. The Regulatory Policy Committee concluded that the BIS impact assessments on proposals for ballot thresholds, picketing restrictions and the use of agency workers were “not fit for purpose”. We have had a commitment from the Minister that the Government will publish the full impact assessment before Committee. This is not good enough in such an important piece of legislation. Failure to meet that assurance will seriously impede the progress of the Bill through this House, particularly in Committee.

As we have heard, strikes are at an all-time low, with far fewer days lost to industrial action than to illness. To return to the issue of the positive agenda, what has far greater impact on productivity is the UK's underinvestment in skills, something that the unions have been wanting to work with the Government to fix for a considerable time and which they are constantly putting on the agenda.

If the Government were really concerned about improving workplace democracy, they would look at ways to increase participation, not restrict it by removing facilities. They would also look at new ways and new methods, particularly, as we have heard, online balloting, an easy and secure way to let workers have their say. As my noble friend Lord Monks said, the Conservative Party used it in its mayoral selection. If it is good for the Conservative Party, why is it not good for workers? Clearly, we will address that issue in Committee on the broader front of how we enhance democracy in our unions.

The arbitrary threshold for industrial action ballots and treating abstentions as no votes is clearly undemocratic. The International Labour Organization states that only votes cast should be taken into account. As my noble friend Lady Donaghy reminded us, who is to be covered by “important public services” is to be left to regulation. Parliament will therefore have limited opportunity to scrutinise or amend the proposals, which restrict the democratic rights of, potentially, millions of workers.

As my noble friends Lord Hain and Lady Morgan indicated, the proposals on removing facilities will significantly interfere with public sector employers' ability to decide how to engage with their staff and their unions. It will impact on collective bargaining.

It is interference in collective bargaining that we have not seen before. As my noble friend Lord Hain said, it would cut across the devolution settlement and conflict with the Government's localism agenda. It would also undermine constructive employment relations which contribute to the delivery of quality public services.

A clause in this Bill which is particularly vindictive is the prohibition of payroll deductions of union subscriptions from wages in the public sector. This Government and other Governments have promoted the principle of deductions from payroll. We accept it as an important element to help employers manage their finances for childcare and travel. We have promoted charitable giving through payroll deduction. We even have a government scheme to do it. So why single out trade union subscriptions? Trade unions are the biggest voluntary sector membership organisations in this country. We are trying to encourage voluntarism in this country, yet we want to put up barriers for trade unionists. The Government claim that the proposal will save the taxpayer £6 million, but that figure is strongly disputed by the TUC. If unions are willing to pay for payroll deduction, what is the case for introducing this? There cannot be a case for it, apart from vindictiveness. I assure the Minister that we will return to this issue in Committee with specific amendments.

As we have heard, the Bill will significantly extend the role, remit and powers of the Certification Officer with unions expected to cover the additional cost. These new powers are excessive and inconsistent with the principles of natural justice. At the beginning of the debate, we heard that this view is shared by the Equality and Human Rights Commission, which points out that Article 6.1 of the European Convention on Human Rights provides that:

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal".

In the commission's assessment, the CO's power to instigate complaints as well as to investigate and adjudicate compromises the impartiality of the CO and therefore raises substantive concerns about compliance with Article 6. I assure the Minister that this is an issue that we will address in Committee with amendments.

I want to focus on the changes to the political fund rules provisions, which present a direct and deliberate threat to Labour Party funding from affiliated trade unions while leaving Tory funding sources untouched and breaking, as we have heard throughout this debate from all sides of the Chamber, the well-established consensus on this issue. That consensus was clearly acknowledged in the 2010 Conservative manifesto. I refer to this because it was constantly raised with me in the subsequent political party talks. The manifesto stated:

"We will seek an agreement on a comprehensive package of reform that will encourage individual donations and include an across-the-board cap on donations. This will mark the end of the big donor era and the problems it has sometimes entailed".

It is not acceptable for the Prime Minister to be curbing funds from working people to the Labour Party while ignoring his commitment to address the problems entailed in the big-donor culture. Why is there no attempt to ask companies' shareholders to opt into or out of similar donations?

Like the noble Lord, Lord Tyler, I urge the Government not to go ahead with these changes unless it is on a cross-party basis that addresses the big-donor issues identified in the report from the Committee on Standards in Public Life, chaired by Sir Christopher Kelly. We will be tabling a Motion this week that will ask this House to express its opinion by establishing a committee that will do precisely what the noble Lord is asking for. We do not want to see delays through the mechanism of hindering the progress of the Bill, but we think that this matter should be properly addressed.

The Minister has argued that the proposals in the Bill are not about party funding. In a written response, she said:

"The Trade Union Bill is introducing a greater level of transparency into union activities by requiring union members to make an active decision to contribute to a union's political fund. If union members want a political fund they are perfectly free to contribute to one, so, this will not necessarily lead to a reduction in the funds available".

I find that argument to be absolutely incredible, bearing in mind the evidence presented in the reports by Hayden Phillips and Sir Christopher Kelly. Both reports acknowledged the different historical funding traditions of the political parties in this country and the impact that changes may have in respect of those different traditions. In fact the Committee on Standards in Public Life said:

"Both as a matter of principle and to support its sustainability, the regulatory regime must be fair to all political parties, and widely believed to be so".

That is not what is in the Bill. The government response to the committee's report at the time led to a series of talks between the then three main parties. I was part of those talks, so I am absolutely clear what the impacts of the various proposals were and that they were clearly identified at every step of the way.

I have been quoted today in the *Guardian*, and I want to explain why I said what I said there. As a bare minimum, comparing the level of contributions in Northern Ireland, where opt-in operates, with the rest of the UK, I estimate that the reduction in the funds available to the Labour Party over the lifetime of the Parliament would be in the region of £35 million. The issue for the Labour Party on donation caps has always been about the need to recognise the collective membership of trade unions. The Labour Party was founded by trade unions. That is not a secret and we do not hide it; in fact we are proud of it. The party was founded by trade unions, and for its first 18 years it consisted only of trade union organisations. There were no individual members within the Labour Party because its purpose was to ensure that organised labour was represented in Parliament.

Despite the lack of progress with the interparty talks, the Labour Party and those unions affiliated with it decided at the beginning of 2014 to address the issue of greater transparency on affiliation fees. This resulted in trade union levy payers being able to make a choice about their union paying affiliation fees to the Labour Party on their behalf. In the case of new members, there will be a clear choice on the membership form. In the case of existing members, they will have received separate notification, and all will have been communicated with at the end of the five-year transition

[LORD COLLINS OF HIGHBURY]  
 period. Unison, as a noble Lord opposite mentioned, has offered its levy-paying members this sort of choice for some considerable time. The transitional period of five years reflected the reports of Sir Hayden Phillips and Sir Christopher Kelly, both of whom recommended that it would take this amount of time for unions and the Labour Party to move to such a method of collective affiliation fees based on individual positive choice.

However, the Bill is not simply about what unions do with their political funds. Its objective is to limit their ability to act politically by reducing the total amount available to them. The implementation of its provisions in three months—not the five years recommended by the two committees we have discussed—is clearly designed to hit not only the Labour Party but all union political activity. It is totally unreasonable and we will certainly address it again in Committee.

However, in all of what we have heard so far, what are the issues of transparency? What are the concerns of the people? I have been through several general elections during which the Conservative Party has been unrelenting in its accusations that Labour is in the hands of the pockets of the trade union movement. I do not believe that anyone in the general public thinks that trade unions hide their donations to the Labour Party or that the Labour Party is keen to hide them either. What, then, are the issues of transparency? Currently, union members have the right to opt out from political fund contributions at any stage. It is a right that they have to advertise, and as my noble friend Lord Monks said, that was repeated on a more consistent basis. As well as that right to opt out, they have to vote every 10 years on whether a union should run a political fund at all. Of course, after the Conservatives introduced that requirement, we ended up with more trade unions having political funds than not.

I am sorry—I have just realised the time. I did not mean to go on so long at this late stage of the evening. However, I stress that the Bill is politically dangerous. It presents a threat to political activity and campaigning by trade unions, which are not necessarily or in fact not entirely related to the Labour Party. This includes other campaigns such as USDAW's Freedom From Fear campaign, HOPE Not Hate's fight against racism and fascism and the BNP, and efforts to increase electoral registration. Along with the Bill, this shows that the Government are determined to clamp down on the right of trade unions to have a legitimate political voice in our society. The Bill is wrong, and I hope that the Government will think again.

10.43 pm

**Baroness Neville-Rolfe:** My Lords, this has been a wide-ranging debate. I was confident that your Lordships would take a keen and knowledgeable interest in the Bill, and that has been amply confirmed this evening.

I congratulate the noble Lord, Lord Livermore, on his first speech in our House. He brings with him both notable experience of how government works and strong business experience. I agree with him about the power of business as a vehicle of social mobility and

of unions' role in training and development. I was pleased to hear the maiden speech of the noble Baroness, Lady Primarolo. I commend in particular her experience in the other place of helping children and families, which will be very important in this House. Finally, I congratulate the noble Lord, Lord Watts, and I look forward to his further input in the continuing debate on the Bill.

Given the impressive number of noble Lords who have spoken, I am not able to reply to them all, but fortunately there will be plenty of time for further debate in Committee, and of course, my door is always open. Indeed, we need to scrutinise the Bill together, as the noble Lord, Lord Mendelsohn, said; we may want to make measured and sensible improvements. In that regard, I would like to thank the noble Lord, Lord Monks, with whom I worked in a prior life, for reminding us all to bring our experience and expertise to the Bill. I welcome that.

We also benefited from the vast experience of my noble friends Lord King and Lord Mawhinney, and the noble Lord, Lord Stoneham, who were involved in different aspects of the history of trade unionism. On a different note of history, I am delighted that the noble Lords, Lord Watson and Lord Lennie, took the opportunity to mention David Bowie, whose death was so sadly announced today. We all enjoyed the summary by the noble Lord, Lord Lennie, of the early use of videos in political campaigning.

To pick up the point made by the noble Lord, Lord Tomlinson, I agree that the trade unions have a strong future as well as a distinguished history. I know this from my own experience in both the public and private sectors, which a number of noble Lords, including the noble Lord, Lord Collins of Highbury, were kind enough to mention. I should pay tribute to his experience in this area, as well.

The noble Lord, Lord Stoneham, also reminded us of the role that trade unions play in society. My noble friend Lord Balfe revealed the little-known fact that 30% of union members vote Conservative.

Given some of the remarks made, including the suggestion that the legislation is vindictive or even dangerous, I need to be absolutely clear that this Bill is not an attack on trade unions or workers' rights; nor is it an attempt to ban strikes, or to make it harder for people to join unions or for unions to go about their legitimate business. The noble Lord, Lord Mendelsohn, questioned whether businesses support the reforms. When we introduced the Bill, the deputy director-general of the CBI said:

"We're glad the Government has brought forward this Bill, as the CBI has long called for modernisation of our outdated industrial relations laws to better reflect today's workforce and current workplace practices".

We are seeking through this Bill to modernise the relationship between trade unions and their members. I agree with my noble friend Lord Dobbs, who gave the compelling example of the London Tube strikes. We need to address the balance between the rights of trade unions and the rights of the rest of us—the general public—in trying to get about our working lives. This is a strong point, and we must not forget it. These are moderate, necessary and welcome reforms.

Nor is there a lack of evidence. As many have said, things are better than they were in the 1960s and 1970s, but strikes today, triggered by a small minority, can cause a huge amount of disruption to everyone, as we have heard and as my noble friend Lord Callanan said. As my noble friend Lord Flight argued, the public are fed up with public sector strikes. Strikes in schools cause major disruption to the lives of many, especially working parents. As my noble friend Lord De Mauley said, the NUT strike in 2014 led to the full or partial closure of almost 1,500 schools, nurseries and colleges across England, on a ballot that was almost two years old, for which there was an alleged voting turnout of just 27%.

I was glad that the noble Baroness, Lady Gould, touched on the place of women. However, I disagree with her suggestion, and that of the noble Lord, Lord Sawyer, that women are disproportionately adversely affected by this Bill. Indeed, I would argue that they can often be more affected by strikes and will therefore potentially benefit most from this Bill. For example, working mothers may have to give up a day's work or try to find alternative care for their children. This makes their busy lives even harder. The British Chambers of Commerce has estimated that the 2008 teachers' strike alone cost businesses some £68 million in lost working hours.

Those figures are regrettable and dispiriting, especially because, as my noble friend Lord Leigh said, the vast majority of days lost to strikes are in the public sector. Any responsible Government would try to do something to lessen the incidence of such events. However, I am not convinced of the case he made for extending the 40% balloting requirement to additional sectors.

I am also grateful to the noble Lord, Lord Mendelsohn, for bringing the Oxford University research to the House's attention. People affected by Tube strikes might not just face delays in travelling or need to find new routes; they may be forced to miss out on a day of work or miss important appointments. Our proposals consider this wider context.

The noble Lords, Lord Young and Lord Collins, and other noble Lords raised the important issue of productivity. I was sorry to miss some of the speech of the noble Lord, Lord Young. The Government's productivity plan outlines an ambitious vision for where we want to be by 2020 and the pro-productivity agenda that we need to deliver that. This is not in the Bill of course but we are taking action, and I agree with the noble Lord about the vital importance of skills.

In response to my noble friend Lord Borwick, who spoke about the junior doctors, none of the changes in the Bill is about stopping strikes. The new thresholds are intended to ensure that strikes can happen only as a result of a clear, positive decision by those entitled to vote. The recent BMA ballot achieved that, although it is very disappointing that the doctors decided to strike rather than return to the negotiating table.

We have heard much today from all sides of the House about electronic balloting. We have been very clear that we have no objection in principle to electronic balloting, but it is imperative that everyone—unions, businesses and the public—has complete confidence in the ballot process. A decision on strike action has

much wider implications for the public than some other ballots; it is not just a workplace matter. That is why a postal ballot is required for industrial action, union election and political fund ballots. There are significant challenges for e-balloting, including potential hacking, mentioned by my noble friend Lord King, vote selling and voter intimidation, as recognised by the Speaker's Commission on Digital Democracy in 2015. I am sure that we will return to this issue in Committee.

I turn to the points made on human rights. I was delighted to hear from the noble Baroness, Lady O'Neill, and was grateful for the work that we did together on the Enterprise Bill. This Government recognise that the freedom of assembly guaranteed by Article 11 of the European Convention on Human Rights affords the right to join trade unions and the right to take industrial action. However, it is well established under the convention that it is perfectly legitimate to legislate in ways that may place limits on strike action and other trade union activities where those limits are justified and proportionate.

We are also comfortable with the measures on picketing, which are designed to make it clear to the police and the employer both where a picket is taking place and whom the police or an employer should contact. These are reasonable steps to ensure that pickets pass off peacefully.

I would not have signed the statement on human rights on the face of the Bill if I had not been satisfied that the provisions were justified, proportionate and compatible with our international obligations—in particular, obligations under the UN and ILO treaties, as well as obligations under the European Social Charter. However, in view of the points raised, I will write to the noble Baroness, Lady O'Neill, responding to the points that she made.

Our door is always open on the reform of party funding but this Bill is not about party funding; it is about ensuring that the relationship between trade union members and trade unions is as transparent as possible. The pledge to legislate to ensure a transparent opt-in process for union subscriptions can be found at paragraph 19 of the Conservative Party manifesto.

**Lord Tyler:** The Minister refers to the Conservative Party manifesto. Does she also recall it said that a Conservative Government would continue to seek agreement on a comprehensive package of party funding reform? They have had eight months to fulfil that promise. What have they done?

**Baroness Neville-Rolfe:** My Lords, I will just finish this point and then come back to that, if I may.

Union members already have the statutory right to decide whether or not to contribute to political funds, but currently the default position is that members contribute. In practice, the choice is not always clear. We believe that we need to make it clearer. Indeed, as I heard the leader of the Labour Party say this morning on the "Today" programme when I woke up rather late, people are entitled to have their individual say in the party; as my noble friend Lord Balfe said, whichever party that may be.

[BARONESS NEVILLE-ROLFE]

We heard from the noble Lords, Lord Tyler and Lord Bew, among others, about recommendations by the Committee on Standards in Public Life for reform of party funding and the ending of the culture of big donor funding. In my view, these issues, and matters relating to them, are separate from the provisions in Clause 10 to require union members to make an active choice to contribute to political funds. I add in my response to noble Lords, and to my noble friend Lord Leigh, that the Labour Government changed the law to require shareholder approval for a political donation of more than £5,000.

The noble Lord, Lord Brooke, asked why check-off was not mentioned in the manifesto. Our manifesto was clear about the case for modernising industrial relations, including tightening the rules around taxpayer-funded arrangements. This is part of our pledge to tackle facility time. DCLG guidance on facility time issued to local government in the last Parliament, for example, included advice on removing check-off. As my noble friend Lord Suri said, direct debits are very easy nowadays, and that should be the direction of travel.

The noble Baroness, Lady Prosser, spoke about facility time. This Bill introduces a reporting requirement for the wider public sector to report on such time because the Government are concerned about transparency. The noble Lord, Lord Monks, said that private businesses regard facility time as useful, and we do not want to take away from the good work that unions do. We recognise the constructive role that unions can play, as I have already said, which is why in 2015-16 we have provided a grant of £14 million to the TUC to fund Unionlearn and TUC Education. However, we want to shine a light on the amount of time and money that is spent on facility time in the public sector; taxpayers deserve this.

An enhanced Certification Officer with more robust regulatory and enforcement powers will contribute to our objective of making unions and employer associations more accountable to their members and the wider public. I can assure the noble Lord, Lord Mendelsohn, that the Certification Officer will not be able to use his or her powers inappropriately or vexatiously. Should the CO act unlawfully or unfairly in making enforcement decisions, the persons affected have the right of appeal to the Employment Appeal Tribunal.

In response to the noble Baroness, Lady Donaghy, I can confirm that there could be no provision in the Bill to levy fees on the central activities of ACAS.

The noble Lord, Lord Hain, and the noble Baroness, Lady Morgan, spoke about implementation in Wales. These changes in the Bill are to employment and industrial relations legislation, which continue to be

reserved matters. The Government are determined to protect the public from disruptive and undemocratic strike action across the whole of Great Britain, and that is just as important in Scotland and Wales as it is in England.

This Bill is not the massive change that some have made out today. It is a Bill in favour of the public. It seeks to balance the interests of the unions with the interests of the public. We stand ready, of course, to discuss the Bill, our various consultation papers and our impact assessment in Committee—and, indeed, to return to the comments made by the noble Lord, Lord Collins, on check-off, where we have agreed to give 12 months' grace before the ban will come into effect.

The Bill introduces greater accountability through provisions on ballot thresholds, supervision of picketing and the Certification Officer reforms. It introduces greater transparency through political funds, facility time and check-off provisions. It offers the right level of incremental change for the 21st century in Britain. I commend the Bill to the House.

*Bill read a second time.*

11 pm

#### *Motion*

*Moved by Baroness Neville-Rolfe*

That the Bill be committed to a Committee of the Whole House.

**Baroness Neville-Rolfe:** My Lords, I beg to move.

#### *Amendment to the Motion*

*Tabled by Lord Tyler*

As an amendment to the above Motion, leave out "Committee of the Whole House" and insert "Select Committee in respect of clauses 10 and 11, in the light of the failure to take steps to implement the recommendations of the Committee on Standards in Public Life in their report *Political party finance: ending the big donor culture*".

**Lord Tyler:** My Lords, in view of the lateness of the hour, not moved.

*Amendment to the Motion not moved.*

*Bill committed to a Committee of the Whole House.*

*House adjourned at 11.01 pm.*





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