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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Royal Assent....1843
Death of a Member: Lord Briggs....1843
Questions
Economy: Productivity....1843
Taxation: Income Tax Threshold....1845
Local Government Finance Settlement: Transitional Grant....1847
Refugee Crisis: European Anti-migrant Parties....1849
Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016
Motion to Approve....1852
Disabled Persons' Parking Badges (Scotland) Act 2014 (Consequential Provisions) Order 2016
Motion to Approve....1852
Trade Union Bill
Report (First Day)....1852
Renewables Obligation Closure Etc. (Amendment) Order 2016
Motion to Approve....1914

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

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House of Lords

Wednesday 16 March 2016

3 pm

Prayers—read by the Lord Bishop of Birmingham.

Royal Assent

3.05 pm

The following Acts and Measures were given Royal Assent:

Supply and Appropriation (Anticipation and Adjustments) Act,

Charities (Protection and Social Investment) Act,

Childcare Act,

Education and Adoption Act,

Welfare Reform and Work Act,

Safeguarding and Clergy Discipline Measure,

Diocesan Stipends Funds (Amendment) Measure.

Death of a Member: Lord Briggs

Announcement

3.06 pm

The Lord Speaker (Baroness D'Souza): My Lords, I regret to inform the House of the death of the noble Lord, Lord Briggs, on 15 March. On behalf of the House I extend our condolences to the noble Lord's family and friends.

Economy: Productivity

Question

3.06 pm

Asked by ***Lord Harrison***

To ask Her Majesty's Government what assessment they have made of the United Kingdom's productivity in relation to that of other European Union and G20 states.

The Commercial Secretary to the Treasury (Lord O'Neill of Gatley) (Con): My Lords, UK productivity levels hover around the middle of the park in relation to the G20 and the EU28. We face a significant, ongoing and long-standing productivity gap with the most productive nations of the world, such as the United States. The Government have of course recognised that and, within the overall fiscal framework, are working to remedy the problems and fulfil the challenge they set themselves in last summer's productivity plan, *Fixing the Foundations*.

Lord Harrison (Lab): My Lords, given that UK productivity is, by 29%, worse than French or German productivity and that in the vital area of financial services, according to the Office for National Statistics, we have deteriorated badly over the past six years, is there any prospect that this Government might redouble some of their own productivity? For instance, in the area of infrastructural services—rail, road and air—decisions might be made more quickly and effectively to provide the basis for improved productivity. Finally, in order to help smaller firms, which need help, will the Minister turn his attention to the HMRC decision to break off the valuation check service this March?

Lord O'Neill of Gatley: My Lords, the noble Lord asked a number of questions and I shall plump for the middle one. I assume that many Members of the House have not had a chance to digest the details of today's Budget, but I am very pleased to say that we are accelerating our infrastructure plans, on which there is already quite impressive independent evidence. I could highlight a number of things that have been announced today. One that is very dear to my heart is that we are accelerating—compared with before, and taking on board the full recommendations of the independent National Infrastructure Commission—so-called HS3. In particular, the target is for the train journey time from Leeds to Manchester to drop to 30 minutes.

Lord Tebbit (Con): My Lords, does my noble friend agree that we could set an example in this House of increasing productivity if we asked rather shorter questions?

Lord O'Neill of Gatley: My Lords, as a novice and relative newcomer, I sometimes quite like long questions as it gives me less time to answer them. However, as a general intention, it would be welcomed.

Lord Davies of Oldham (Lab): My Lords, the Minister is a specialist on productivity and therefore obviously agrees with the American economist who said that productivity, in the long run, is the only thing that matters. Of course, it certainly was the basis of the success of the British economy during the Industrial Revolution. How is it, therefore, that the UK is still sixth out of the G7 countries and this Government are making no progress, apart from vague announcements about infrastructure which rarely come to fruition? We are making no progress on improvements in productivity per worker at all. Until we do so, we will not be able to clear our debts and have a position in the world that others respect.

Lord O'Neill of Gatley: My Lords, there are many complex aspects to the ongoing productivity puzzle around the world, and I do not have time to speak to many of the issues that the noble Lord implied in his question. I remind the House that next week we will have a debate on the Budget, when I will have the chance to go into some of the issues in more detail. However, in a recent discussion with independent directors at the Treasury, I was particularly pleased to hear them commend the Government's efforts to boost productivity through their policies and to address some of the long-term, powerful weaknesses of the UK.

Baroness Sharp of Guildford (LD): My Lords, is the Minister aware that there is a strong link between innovation and productivity and that Britain continues to lag well behind our competitors in business R&D? Can he tell the House precisely how the Government are proposing to encourage businesses to increase their contribution to R&D?

Lord O'Neill of Gatley: My Lords, among the many complexities that I hinted at is the separate evidence about the UK's standing in the world on a number of matters. Particularly in our universities, the UK's performance in R&D is rising in the relevant tables, which contrasts with some of the measurements of productivity. That is among the many puzzling aspects of ongoing developments here and elsewhere.

Lord Forsyth of Drumlean (Con): My Lords, further to the Question from the noble Lord, Lord Harrison, is not productivity measured in terms of output per head? Therefore, if people are fleeing unemployment in Europe to come to this country in uncontrolled numbers, is it not a fact that, by definition, our productivity will fall?

Lord O'Neill of Gatley: My Lords, I suspect that there is a broader theme in that very interesting question from my noble friend. We have to be careful that in the justified and appropriate desire to boost productivity, we do not do anything untoward to reverse the remarkable success in raising employment levels. I say that on a day when we have hit yet another new high. Although people from my background and many others are aware of the importance of productivity, most individuals in our country want to have jobs, and that is what is increasingly taking place.

Lord Pearson of Rannoch (UKIP): My Lords, do the Government accept that a falling 9% of our economy trades in deficit with the single market, that a growing 11% goes in surplus to the rest of the world, that 80% stays right here in our domestic economy, but that 100% is strangled by EU overregulation? What does this situation do for our national productivity, and how much would it improve if we left the EU and traded freely with the single market and the rest of the world?

Lord O'Neill of Gatley: My Lords, again, that was quite a long question with many different aspects to it. We are heavily focused on doing things to boost our productivity in many areas, including our export performance. However, I highlight—again, I would like the chance to come back to this issue—that the best exporting sectors are not necessarily always the most productive. Some of the regional data available from around the UK show that the services sectors appear to be doing better than that question implies.

Taxation: Income Tax Threshold

Question

3.15 pm

Asked by ***Baroness Seccombe***

To ask Her Majesty's Government by how much the amount a person can earn before paying tax has changed since the 2010 Budget; and how many people have been affected by this change.

The Commercial Secretary to the Treasury (Lord O'Neill of Gatley) (Con): My Lords, since the 2010 Budget, the amount a person can earn before paying tax has increased by more than 60%, from £6,475 in 2010-11 to £10,600 in 2015-16 this tax year. Next month, it will increase again to £11,000, and in today's Budget the Chancellor of the Exchequer has announced that it will rise by a further £500 in April 2017 to £11,500. A considerable number of taxpayers will benefit from these changes.

Baroness Seccombe (Con): My Lords, that is an amazing figure, which I am sure we will all appreciate. It is especially important for young people. However, tax is only part of the issue; wages are also important. Can my noble friend tell the House how much the increased minimum wage will help the young, and how many will be affected?

Lord O'Neill of Gatley: My Lords, I welcome my noble friend's phraseology. From October 2016, the new national minimum wage rate will mean a pay rise of up to £450 a year for nearly half a million young workers. The Government will increase the main national minimum wage rate to £6.95, 25p more than the current rate. This is the largest increase since 2008 in cash terms. It is expected to reach its highest level ever in real terms, surpassing its pre-recession peak.

Lord Campbell-Savours (Lab): On the question of the tax take, why did the Chancellor not deal with personal service companies today?

Lord O'Neill of Gatley: I anticipated that a number of things might be asked at this session so shortly after the Budget had been announced, and I encourage many noble Lords, if they have the chance before next week's debate, to read the Red Book. They will then be more aware of the real details of what has been announced, including, I think, something in this area.

Lord Newby (LD): I thank the noble Baroness for reminding the House of an extremely successful Liberal Democrat policy. Given that the Chancellor has already broken two of his three fiscal targets, will the Minister now agree that they should be abandoned along with the cuts in spending and benefits, which particularly affect the poor and the disabled and which the Chancellor claimed were necessary just to meet those failed targets?

Lord O'Neill of Gatley: My Lords, of course I am not going to rise to that bait, but I would like to point out—and it is another reason why I encourage people to study the Red Book in close detail—that, in contrast to the mood among many observers and certainly in the media, the target for this year's nominal budget deficit has come in lower than forecast at the Autumn Statement. The only reason that it is at the same level as a share of GDP and that the overall current debt level to GDP is higher than desired is the evident other news that the level of nominal GDP was significantly lower than before. In terms of policy, and on the contrary to what was said in that question, the plan is very much in place and on target.

Lord Clark of Windermere (Lab): My Lords, the Minister has quite rightly taken pleasure in announcing the higher level of income that people can earn before they start to pay tax at 20%, and of course we welcome that. But there is a group of people who, it was announced in the Budget, will lose 100% of their

income. I am talking about disabled people in receipt of personal independence payment. The Chancellor evaded the details of that decision, so I wonder if the Minister can advise the House of the Treasury's estimate of the number of disabled people who will lose part or all of their benefit.

Lord O'Neill of Gatley: My Lords, I plan to make some longer comments specifically about this sensitive issue next week when I open the debate on the Budget. There are some very important complexities behind the policies which, frankly, were misunderstood in the way they were reported at the weekend.

Lord Lexden (Con): My Lords, the second part of my noble friend's original Question asked,

"how many people have been affected",

by raising these tax thresholds. Can my noble friend give us the figures to show the extent to which people have benefited from the changes?

Lord O'Neill of Gatley: My Lords, as a result of the changes announced in the Budget today and in the summer Budget 2015, 31 million individuals will see their income tax bill reduced in 2017-18. This is close to an additional 1 million whose income tax has been reduced as a result of the previously announced measures. A typical base-rate taxpayer is going to pay notably less—just over £1,000 less tax in 2017-18 than back in 2010-11—while a typical high-rate taxpayer will pay more than £1,100 less than would otherwise have been the case. Let me add that this is the first time that there has not been an even stronger benefit for the lowest-income earners over the whole of that period.

Local Government Finance Settlement: Transition Grant

Question

3.22 pm

Asked by ***Lord Beecham***

To ask Her Majesty's Government upon what formula they based the transition grant forming part of the recently announced local government finance settlement, and what consultation they held, and with whom, before taking that decision.

Lord Beecham (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so I refer to my local government interests.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, the approach to allocating resources in the local government finance settlement now looks at the main resources available to local councils. The transition grant is a response to requests from local authorities through the provisional settlement consultation and is for places that did not benefit from these changes in the formula. It will be applied in direct proportion to the difference in the revenue support grant that would have been experienced.

Lord Beecham: My Lords, was it just coincidence that 83% of the transition grant went to 135 Conservative councils, while 16 Labour councils which received moneys received less than either Surrey or Hampshire did individually? To what extent did authorities in the so-called northern powerhouse benefit from the grant, and can the Minister tell us what the impact on councils will be of the announced £6.7 billion cut in business rates on which they were expected to rely in future?

Baroness Williams of Trafford: My Lords, I can say from personal experience of where I live that Trafford did not benefit very much at all, and it is indeed a Conservative council. This money is to make up the shortfall of what would have been expected and will help councils to transition towards full local funding.

Baroness Janke (LD): My Lords, given the disproportionate distribution of the transitional grant and the benefits for the prosperous south-east as opposed to the north and the northern powerhouse, did the Minister or the Government consult the Office for Budget Responsibility? If not, can the Minister say why not?

Baroness Williams of Trafford: My Lords, I do not know whether we consulted the Office for Budget Responsibility but I will let her know. But what is clear is that the transitional funding was given to those councils which were disproportionately affected by the new core funding regime.

Baroness Farrington of Ribbleton (Lab): My Lords, I declare an interest as a council tax payer in Lancashire. Would the noble Baroness please write to me with information about all the criteria used because it appears to those of us in the north—Trafford is obviously not complaining—that it depends who makes a fuss as to whether local people get transitional relief, and Lancashire does not appear to be taken seriously in terms of need?

Baroness Williams of Trafford: I can certainly write to the noble Baroness. I understand that the formula will be published once the first payments have gone out, so that may help. I am certainly happy to write to the noble Baroness either before or after the formula has been published.

Baroness Gardner of Parkes (Con): My Lords, on the amount of extra costs that we hear constantly being referred to in the Housing and Planning Bill and that will apply to local authorities, how will that be affected by today's Budget? Is there any help in that, or in the settlement?

Baroness Williams of Trafford: I am not entirely sure how that relates to the Question in terms of the transitional formula.

Baroness Gardner of Parkes: It says that—

Noble Lords: Order!

Baroness Gardner of Parkes: My Lords, with permission I will just clarify that the Question refers to the formula of the local government finance settlement. That is why I think it is relevant.

Baroness Williams of Trafford: My Lords, I apologise to my noble friend. This is about the transitional grant.

Lord Christopher (Lab): In view of the reduction in business rates, should we assume that there will be a significant increase in council tax?

Baroness Williams of Trafford: My Lords, it is up to local areas to determine what they raise in council tax and how that relates to business rate retention. Clearly, there will be some sort of smoothing of that process because we would not want areas to be totally disbenefited by the new system. But generally, councils in the last few years have been extremely responsible in setting their council tax rates, and we expect them to go on being so.

Lord Foulkes of Cumnock (Lab): Is the Minister aware that there is a Government in the United Kingdom who have cut back grants to local government even more than the Conservative Government in the United Kingdom? The SNP Government in Scotland have cut back grants significantly more, resulting in cuts in major, vital services to elderly, disabled and young people in Scotland. Can the Minister advise the House what we can do to scotch—excuse the expression—the myth that the SNP Government are in any way radical and redistributive? They are even more right-wing than this Conservative Government.

Baroness Williams of Trafford: Well, that is news to me, my Lords—but they will answer at the ballot box.

Lord Beecham: My Lords, would the Minister care to answer my second question about the impact on councils of today's announcement of a £6.7 billion cut in business rates on which they were expecting to rely?

Baroness Williams of Trafford: My Lords, like my noble friend Lord O'Neill, I have not caught fully the Budget Statement, but I will say that residents' satisfaction with councils has remained high, and I expect it to go on being so. I will analyse what the noble Lord has said because I simply did not catch it in the Budget.

Lord Lexden (Con): Can my noble friend tell the House whether councils controlled by the Conservative Party, on average, deliver better value for money than councils controlled by other parties?

Baroness Williams of Trafford: I am pretty sure that they do.

Refugee Crisis: European Anti-migrant Parties

Question

3.29 pm

Asked by ***Lord Ashdown of Norton-sub-Hamdon***

To ask Her Majesty's Government what is their assessment of the current refugee crisis in Europe in the light of the regional election results in Germany that indicate gains for the anti-migrant Alternative für Deutschland party.

Lord Ashdown of Norton-sub-Hamdon (LD): My Lords, I beg to ask the Question standing in my name on the Order Paper and draw the House's attention to the fact of my recent position as president of UNICEF UK.

The Earl of Courtown (Con): My Lords, the migration crisis remains one of Europe's biggest challenges. It has been accompanied by a rise in support for fringe parties in elections across the continent. The British Government's consistent focus has been in securing a comprehensive solution to the migration crisis, which deals with the root causes of irregular migration, as well as addressing its consequences.

Lord Ashdown of Norton-sub-Hamdon: My Lords, Germany has provided a refuge for more than 1 million refugees. The German Chancellor has said that, despite the recent election results—which, by the way, are relatively minor in their effect—she will not change course. By contrast, Britain provides refuge to not a single refugee seeking to flee from the Syrian battlefield, many women and children among them, and our Prime Minister boasts that he will have nothing to do with the European plan that deals with a manifestly pan-European issue. What is it like to be a member of a Government—a British Government to boot—who have to take lessons in leadership, compassion and courage from the German Chancellor?

The Earl of Courtown: My Lords, as most people in the House will realise, I find it a great honour to be part of this Government. The noble Lord referred to the refugees in Syria. We should also congratulate the Turkish people on all that they have done over this period; they have nearly 3 million refugees in their country. I do not think that I need to draw the attention of the House to this, but I will all the same. At the Syria conference at the beginning of February, €11 billion was raised in a day—the largest amount ever raised in a day for refugees. The UK pledged £2.3 billion. At the Valletta summit £200 million in bilateral aid was pledged to Africa, including £65 million humanitarian assistance as part of our response, £10 million of which is allocated to refugee children in Europe.

Lord Pearson of Rannoch (UKIP): My Lords, do the elections in Germany and elsewhere in the EU not just show that democracy is at last starting to take over from the failed corporatist project of European integration? The quicker that that is abandoned, surely the better.

The Earl of Courtown: Democracy, to which the noble Lord referred, is the bedrock of this country as well but I would never dream of commenting on or advising on what has happened in Germany.

Lord Cormack (Con): My Lords, should we not take some comfort from the fact that, although the vote in Germany was disturbing, 80% of those who voted did not vote for an ultra right-wing party?

The Earl of Courtown: My noble friend is quite right. We should take heart, as the noble Lord, Lord Ashdown, said, that Chancellor Merkel is not changing her policy on immigration.

Baroness Sheehan (LD): My Lords, given that it is quite clearly in serious breach of international law, will the Government reject the EU-Turkey action plan as it stands? Will the Minister ask the Prime Minister to show some leadership at tomorrow's meeting and ensure that the EU and Turkey come up with a sustainable plan to create safe and legal routes for refugees, in compliance with international law?

The Earl of Courtown: My Lords, I think that the noble Baroness refers to the EU-Turkey summit of last week—

Baroness Sheehan: Tomorrow.

The Earl of Courtown: Yes, that of last week and the finalisation of the agreement, at the end of this week, of what was discussed on 7 March. No, the noble Baroness shakes her head. As far as I understand her concern, the European Union has agreed that, for every Syrian readmitted by Turkey from the Greek islands, another Syrian in Turkey will be resettled in the EU. Visa-free travel for Turkey will also be accelerated, as will next steps on Turkey's EU accession progress and the disbursement of the €3 billion agreed in December last year.

Lord West of Spithead (Lab): My Lords, it was quite clear last autumn that, unless we stopped the flow of refugees from Libya and Turkey into what was becoming a worse and worse Mediterranean, there would be many deaths. We still have not really got any composite plan together to stop this flow of refugees before they leave territorial seas. I know that an attempt was made with the Turkish authorities. Will the noble Earl please let us know whether we are now coming to some conclusion that will stop people going to sea? If we do not, they will die. They are dying every day.

The Earl of Courtown: The noble Lord, Lord West, as ever, draws attention to some of the saddest aspects of this immigration crisis. The whole point of the summit last week was to break the business model of the people traffickers—the smugglers—and to end the link between getting in a boat and getting settlement in Europe.

Baroness McIntosh of Pickering (Con): My Lords, will my noble friend and the Government look at the situation in Greece and the number of refugees who are using that route into the rest of the European Union? The Greek bailout is up for review in June and the refugees will have an enormous impact on the Greek economy. What assessment have the Government made of that situation and that route into the rest of Europe through Greece?

The Earl of Courtown: My Lords, we will hear more about the final agreement from last week's EU-Turkey summit during the European Council at the end of this week. I will write to the noble Baroness with any more details that I can give her.

The Lord Bishop of Durham: My Lords, does the Minister support the speeding-up of the reception of unaccompanied minors who have a family reunification right to come to this country? Will the Government explore further reunifications and accepting more unaccompanied minors into this country?

The Earl of Courtown: The right reverend Prelate draws attention to the case of unaccompanied minors, a subject which has shocked many noble Lords. The fact is, as I said earlier, that we are increasing spending, with £10 million allocated to refugee children throughout Europe. On top of the 20,000 who are being brought in over the course of this Parliament, more unaccompanied children will be added to that figure.

Baroness Hussein-Ece (LD): My Lords, will the Minister explain why he persists in using the word "migrants" when these are Syrian refugees who are dying in their thousands?

The Earl of Courtown: I did not catch the first part of the noble Baroness's question but I think that she was asking about my definition. I will look at what I have said and obviously take a lesson from the noble Baroness.

Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016

Motion to Approve

3.37 pm

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

That the draft Order laid before the House on 22 February be approved.

Considered in Grand Committee on 14 March.

Motion agreed.

Disabled Persons' Parking Badges (Scotland) Act 2014 (Consequential Provisions) Order 2016

Motion to Approve

3.37 pm

Moved by ***Lord Keen of Elie***

That the draft Order laid before the House on 22 February be approved.

Considered in Grand Committee on 14 March.

Motion agreed.

Trade Union Bill

Report

3.38 pm

Relevant document: Report from the Trade Union Political Funds and Political Party Funding Committee

Clause 3: Ballots: 40% support requirement in important public services

Amendment 1

Moved by ***Baroness Neville-Rolfe***

1: Clause 3, page 2, line 9, leave out from "are" to end of line 10 and insert "at the relevant time normally engaged in the provision of important public services, unless at that time the union reasonably believes this not to be the case."

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, it is a pleasure to be back debating this important Bill. Since our Committee stage, the Select Committee chaired by the noble Lord, Lord Burns, has reported and we have had a comprehensive debate on the issues raised. I have tabled a number of amendments to respond to concerns expressed in Committee and I will continue to be in listening mode today.

The Bill is about rebalancing the abilities of union members and the interests of the wider public. It will restore a level of fairness to our industrial relations regime, and give effect to the Government's manifesto commitments. We have seen further strike action by junior doctors, which would have been valid had the provisions of this Bill already been in force, which goes to show that the Bill is not about stopping strikes.

The threshold provisions in Clause 3 ensure that strike action happens only where there is a strong and positive mandate from union members. It cannot be fair that strikes can go ahead on the basis of low turnouts and low support, particularly in important public services where they can have serious consequences for the public.

I appreciate that noble Lords are concerned about the uncertainty for unions in complying with the new rules on balloting. As I explained in Committee, existing legislation incorporates requirements of reasonableness to ensure that balloting obligations are not unduly onerous for unions, and that unions are protected against challenge over insignificant breaches of the balloting rules.

I appreciate that there will, at times, be uncertainty for unions in making precise calculations where a ballot includes some staff who deliver an important public service and some who do not. The 40% threshold applies only to ballots where the majority of eligible union members are delivering an important public service as specified in secondary legislation. I have reflected carefully on concerns that it would be difficult for unions to make a judgment in these circumstances. I have brought forward Amendment 1, which would provide unions with an additional "reasonable belief" defence as to whether a majority of their eligible members are normally engaged in delivering an important public service. This means that unions will not be liable for breaches of the 40% threshold where they reasonably believe that the majority of members involved in a ballot do not normally provide an important public service. Under these circumstances, their decisions will be protected from legal challenge, even if the reasonable belief later proves erroneous.

Noble Lords have raised concerns that unions may feel that they have to go through a complex and bureaucratic process to conduct a ballot, or risk litigation over their judgment. The noble Baroness, Lady Burt, suggested in Committee that the concept of reasonable belief could be introduced to address these issues, and that is what this amendment does. It will ensure that unions can take a sensible and proportionate approach in making their assessment under the new threshold.

I have sought to explain that this Bill seeks to strike the right balance between the interests of unions and their members, and those of the wider public. Amendment 1 does just that, and ensures that unions have flexibility when applying the new rules, in line with the existing legislative protections. I commend Amendment 1 to the House.

The Lord Speaker (Baroness D'Souza): My Lords, if this amendment is agreed to, I cannot call Amendments 1A or 1B by reason of pre-emption.

Amendment 1 agreed.

Amendments 1A to 2 not moved.

Amendment 3

Moved by ***Lord Kerslake***

3: After Clause 3, insert the following new Clause—

"Electronic balloting

Provision for electronic balloting: review and piloting scheme

(1) The Secretary of State shall commission an independent review, the report of which shall be laid before each House of Parliament, on the delivery of secure methods of electronic balloting for the purpose of ballots held under section 226 of the 1992 Act (requirement of ballot before action by trade union).

(2) The use of pilot schemes shall be permitted to inform the design and implementation of electronic balloting before it is rolled out across union strike ballots.

(3) The Secretary of State must consider the report and publish and lay before each House of Parliament a strategy for the rollout of secure electronic balloting.

(4) For the purpose of preparing the strategy under subsection (3), the Secretary of State must consult relevant organisations including professionals from expert associations to seek their advice and recommendations.

(5) The review under subsection (1) shall be commissioned within 6 months of the passing of this Act."

Lord Kerslake (CB): My Lords, the purpose of the amendment is simple: to promote the greatest possible engagement, and widest choice, for trade union members in ballots for industrial action. As we have heard, elsewhere in this Bill there are provisions that require a turnout of at least 50% and, in the case of important public services, the support of at least 40% of those able to vote before industrial action can be taken. These thresholds set a high bar, and have been hotly debated. If a 50% turnout test had been applied to elections before local councillors and police and crime commissioners could take up their seats, we would sadly now have many vacant posts. We do not, of course, set referendum thresholds, including for one of the most important decisions that this country will ever take: whether we remain in the European Union. Equally, Governments are able to govern and bring forward legislation having secured the active support of far less than 40% of the electorate. The amendment, however, does not seek to contest these thresholds; it simply says that if we are to apply these higher tests before industrial action can be taken, it is incumbent on us to provide trade unions with the best practical means available to achieve the full participation of their members.

3.45 pm

Electronic balloting is now a tried and tested method of enabling organisations to seek the views of their members. Electoral Reform Services, the trading arm

of the Electoral Reform Society, has an excellent paper on this. In 2014, more than 400 organisations throughout the UK were provided with the opportunity, through ERS, for their members to vote electronically, whether online, by telephone or by text. This included building societies, community organisations and private companies. ERS says that, in all, more than a million votes were received using electronic means, in all types of elections on all types of issues.

The figures that I have cited are for 2014. I understand that the number of electronic ballots held by ERS in 2015 rose to 750. The use of electronic balloting is growing rapidly. It is worth giving some specific examples: the Law Society, the Institute of Chartered Accountants and Nationwide building society have all used electronic balloting for key posts in their organisations. Indeed, the Conservative Party itself used this method in deciding its candidate for the London mayoral elections. I have spoken previously about my own experience of electronic voting in Sheffield in 2007. It is clear to me that the use of electronic voting has come on in leaps and bounds since then. This simply reflects changes in society, where we all increasingly expect to do our shopping, banking and tax returns online. It has become part and parcel of how we live our lives.

The Government's response to this issue in the passage of the Bill has been to raise security concerns and say that this is a matter for another time. The specific security issues that they have raised are voter identity and the confidentiality of the vote. As a former electoral returning officer, I take the issue of security very seriously indeed, and did so during the electronic ballot that I conducted in Sheffield. There are security issues attached to every form of voting, including the method currently used: postal balloting. The test, therefore, is whether electronic balloting can be made at least as secure as, if not more so than, the alternatives. From my experience in Sheffield and my work in preparing for the Bill, I am absolutely convinced that it can.

I shall explain why. When a trade union decides to conduct a ballot it must, if more than 50 members are involved, pick an independent scrutineer from a list held by the Department for Business, Innovation and Skills. ERS is on that list along with other organisations that have met the department's requirements. The union then provides the scrutineer with an up-to-date membership list and, after that point, the process is run entirely by the scrutineer. Under current arrangements for postal ballots, a ballot paper is sent by post to the union member, almost always to their home address. They complete the ballot and post it back to the scrutineer, who counts the votes and gives the result to the trade union. If the scrutineer has any concerns about the accuracy of the membership list or any other aspect of the election, they are required to provide a report setting out their concerns. ERS has told me that out of the 800 to 900 ballots a year it conducts under these provisions, it has felt the need to qualify only around one a year.

Under an electronic ballot, instead of the ballot paper being sent out, a unique security code is sent out. The member then puts the code into their telephone or computer and casts their vote. It will be immediately clear to all Members of this House that the security as far as the identity of the voter is concerned is exactly the same in both methods. It is entirely reliant on the accuracy of the membership list.

I move now to the secrecy of the ballot. Just as postal balloting has two systems that hold the information separately, so in electronic balloting there are two systems that hold the codes and the votes separately. It is technically possible in both systems for the administrator of a ballot to establish who voted for what but they have absolutely no reason for doing so. The system relies on the integrity of the trusted third party—the independent scrutineer. Again, there is absolutely no difference in security between the two forms of voting. It is entirely the same.

A further concern that has been raised by the Government is hacking. Hacking is indeed a serious issue for any digital system. Prevention relies on well-designed systems, testing, system reliance and constant monitoring. But no one would suggest that we let the threat of hacking stop us using electronic systems for shopping or banking or indeed our defence and security systems. I suggest that the hacking risks for electronic balloting in trade union ballots are a good deal less than in any of the above. Indeed, ERS has told me that in the many hundreds of electronic ballots it has conducted, there has never once been a concerted attempt to hack the system.

I move now to the final argument deployed by the Government—that this is not the time to address this issue and it would be best handled later, outside the Bill. The Bill has been in either this House or the other place for many months now and we have seen little or no effort on the part of the Government to advance the matter. I think we can safely conclude that their heart is not in it and they need some encouragement.

Having dealt with all the ostensible reasons for the Government's resistance, I fear we are left with the unspoken one; namely, that they want to make it as hard as possible for unions to deliver the participation thresholds. None of us should want to see strike action. It should be a last resort for any union and it should command the full support of its members before it is taken. But the Government cannot advocate the use of digital technology in every aspect of our lives but then deny its use to our trade unions.

In drafting the amendment, I paid careful attention to the comments made in Committee. It does not move straight to agreeing electronic balloting but proposes that the Government conduct an independent review first. It does not propose workplace balloting. Even though there is an established process for this for trade union recognition, I acknowledge that a number of noble Lords, including the noble Lord, Lord King, have expressed concerns about it. Finally, the amendment makes it clear that electronic balloting should be available alongside postal balloting as an extra choice, not instead of it. I hope, therefore, that Members of this House will see the amendment as a reasonable way forward that they can support.

I confess that it is something of a surprise to find myself talking on this issue. I suspect it will also come as something of a surprise to some of the trade union representatives I have dealt with. As a senior manager

[LORD KERSLAKE]
having to deliver some difficult changes in difficult times, I have had more than my fair share of bruising encounters over the years. Despite that, however difficult things became, I understood that they were just doing their job of representing their members' interests as best they could. Through this amendment and the others in front of us today, we need to do our job of making this a fairer, more balanced and more proportionate Bill. I beg to move.

Lord Brown of Eaton-under-Heywood (CB): My Lords, in supporting this amendment I will repeat, very briefly, a point that I made in Committee. I might not have done this if the Minister had dealt with the matter in her reply. But, tantalisingly, just as she said:

"Perhaps this is the point at which I should respond to the noble and learned Lord, Lord Brown",—[*Official Report*, 8/2/16; col. 2026.]

the noble Lord, Lord Mendelsohn, interrupted—perhaps I mean intervened—to raise a different question and the Minister never came back to it.

At all events, the point was simply this: while I support the turnout requirements in these clauses, it should be noted that certain bizarre consequences could, at least theoretically, follow from these provisions. Assuming a bargaining unit of 1,000 union members—the illustration used in the Explanatory Notes to the Bill—if 499 members voted in favour of industrial action and none against, a strike would be unlawful. However, if 499 voted in favour and one against, because at least 50% of those eligible would have voted, a strike would be permissible—so, too, of course if 499 voted in favour and 498 against.

Doubtless, such possible anomalies as these are inevitable in any scheme which combines, as this one does, a minimum turnout requirement with the principle of a simple majority decision. But my point is that surely this underlines the imperative need to ensure that the best and most effective way is found of achieving a maximum turnout of those eligible to vote. This amendment will surely facilitate the search for that better way, and plainly nothing can be lost by it. It prejudges nothing: if electronic balloting were to prove ineffective or insecure in addition to postal voting, it simply would not be adopted. But we should at least let such an independent review be held.

Lord Pannick (CB): My Lords, I support this amendment for all the reasons given by the noble Lord, Lord Kerslake, and for one further reason, which I mentioned in Committee: promoting electronic voting will make it much less likely that any legal challenge to the new thresholds would succeed if such a challenge were brought in Strasbourg. It is very simple: the less balanced the provisions in the Bill, the greater the danger that the Government will not secure their objectives, and I support their objectives in relation to the ballot thresholds. The Minister mentioned a few moments ago that the Bill is concerned to strike a fair balance. So is this amendment.

Lord Callanan (Con): My Lords, I will raise one or two drawbacks to the course of action outlined by the noble Lord, Lord Kerslake, and others. I have no objection whatever to the cause of e-balloting in principle. But, as I understand it, if the Government are satisfied that it represents a secure, stable and hacking-free way forward, the power to make regulations on e-balloting already exists. For the same reason that we do not allow electronic balloting in general and other elections, the same concerns should exist for trade union ballots as well. It involves considerable challenges, and we all know about the problems on the internet of hacking, stealing ballots, intimidation et cetera. The noble Lord, Lord Kerslake, has attempted to answer some of those problems, but they exist and we should bear them in mind.

There have been allegations of ballot rigging in trade union elections before. There were allegations of rigging in elections to the national executive of the Transport and General Workers' Union a few years ago. For the public to have faith in the process, it is important that the integrity of the process is recognised and that people believe that, when a ballot takes place, it is fair to all concerned. For that reason, I oppose the amendment.

4 pm

Lord Balfe (Con): My Lords, there seems to be a great reluctance among your Lordships to speak. I will not repeat what the noble Lord, Lord Kerslake, has said, but obviously I agree with everything that he did say. The amendment that we have down—let me remind noble Lords—asks for an independent review. It says neither that we are putting electronic balloting in the Bill, nor that we are endorsing it. We are simply asking for an independent review. The noble Lord, Lord Kerslake, outlined a number of organisations that use electronic balloting. There are a number of venture capital trusts of which I have knowledge that use electronic balloting—as, incidentally, does the Co-operative Wholesale Society for the elections of its board of directors. There was a lot of controversy around the last election, but none of it was about the fairness of the ballot.

We seem to have somehow sanctified the idea of a postal ballot. As noble Lords will know, particularly those on the Opposition Benches, I have a very dubious background. One of the people whom I can claim as my friend—now long dead—was involved in rigging the ETU ballot in 1959. There are also people who have rigged local authority postal ballots. Indeed, there are regular allegations of people going around collecting postal ballots. I am not justifying this, but I am saying: do not sanctify the postal ballot as being beyond reproach and dismiss the electronic ballot as something that we cannot consider. We are, after all, in 2016; technology has moved enormously fast.

I was impressed with my noble friend's evidence about the Transport and General Workers' Union. I had not realised that he was a notable fan of its history. But I seem to remember that it was a postal ballot, not an electronic ballot, where things went wrong. So I go back to the words of the noble Lord, Lord Kerslake: we have no evidence that it would go wrong, but—and I underline this key point—all we are asking for is a review. The review could conclude that everything that the Government say is right, and that this is not the opportune time. But this is certainly, in my view, an opportune time to have a review.

There is a lot in the Bill, as the Minister knows, that I support. I agreed with a lot of what the noble Lord, Lord Pannick, said. If we are to make the Bill work, we must not make it appear to be making things as hard as possible. I am afraid that that is the conclusion that is coming through if we turn down this very reasonable amendment that says no more than, "have a review". So I hope that noble Lords will reflect and find themselves able to support this amendment and that when, as the amendment says, the report comes forward, we will be able to decide whether it is an opportune moment to introduce e-balloting.

Lord Forsyth of Drumlean (Con): My Lords, I am not certain that I understand why no one is getting up on the other side on this matter. I will just intervene briefly to ask the Minister, when she comes to reply to this amendment, if she could explain the Government's thinking on the use of the internet and technology. I ask because the Finance Bill is providing for the use of digital returns for people's entire financial affairs. At no stage did I hear the Government suggesting that the internet was prone to hacking and that, therefore, it would be quite impossible to move to a system where we have people presenting their tax returns electronically. It is also the Government's intention that returns should be filled in electronically by other people detailing income or savings or investment income.

Either the Government believe in embracing the future and the importance of the use of digital technology or they do not. It seems to be both. In respect of people's financial information, they believe that it is a proper and sensible way to get more efficient application of government services. Increasingly, people's personal health and other information will be transmitted and shared over the internet. I suspect that that is because the Government fully understand that, with good hygiene, it is possible to have secure digital systems in place. So I very much hope that my noble friend will explain why that does not apply to ballots organised by trade unions, which are independent organisations and which will have an interest in ensuring that the ballots are properly conducted. Perhaps she could also explain how on earth she could possibly be against the amendment, because all that it suggests is that the arguments put up by the Government should be looked at within six months by an independent body, and there is provision for this to be brought into effect.

This is important because I remember, when I was first elected to the House of Commons, making speeches in support of our trade union reforms. The argument that I used at the time was that we wanted to give trade unions back to their members; we wanted their members to be more in control. That is why we opposed the closed shop; that is why we brought in ballots. This sensible legislation is intended to ensure that people do not go out on strike without the support of our members. If that is our intention, why on earth would we want to resist something that will allow increased participation?

The big danger for the Government is that those who are perhaps not their friends may be able to argue that what they are really doing is trying to undermine the rights and responsibilities of trade unions to look after the interests of their membership, and making it more difficult for them to take industrial action, even where that enjoys the support of the membership. That would be a foolish error to make. So I very much hope that, having listened to the debate, my noble friend will feel able to accept the amendment moved by the noble Lord, Lord Kerslake—who, after all, has very considerable experience of dealing with the public sector unions and is very well aware of the issues that arise.

Lord Deben (Con): My Lords, there are moments in this House when I begin to wonder whether I have quite got the right end of the stick. On this occasion, I find myself in considerable agreement with my noble friend Lord Forsyth on an issue on which it might have been suggested that we would differ. I also have to tell the Minister that I just do not understand her reasons. Here we have a request that we consider a mechanism which all of us use every day in our business life. We do not say, "Gosh, I've got to write a letter because somebody might steal my email". We do not say, "I wonder whether I can bring back the old-fashioned secretary who can take shorthand and write it out, because I am concerned about the security of my business". I would be unable to run a business if I did that.

We recently had a hotly contested debate on whether we should be allowed to use modern technology in this House. I had a sharp disagreement with my noble friend Lord Cormack on the issue. But the House said that really we had to move into the 21st century, and that it was not sensible not to avail ourselves of the mechanism—and I must say that, since I have been able to use it, I have been able to pick up some falsehoods, quoted sometimes I fear by the Opposition, on a number of issues, because now I can look things up pretty quickly. In the debate on Brexit, I find that almost every speech made by those who wish us to leave the European Union is filled with such falsehoods—and I can look it up at once.

Lord Forsyth of Drumlean: And that is just the Government.

Lord Deben: On that, I deeply disagree with my noble friend Lord Forsyth.

To be serious, the argument goes like this: it may be that an electronic ballot may be less safe than a postal ballot, but we are not prepared to allow anyone to look into that proposal. I do not think that I would like to argue that from the Front Bench. Therefore, I ask my noble friend very carefully to lead me step by step along the argument so that I can be convinced—for I am very willing to be convinced, but I need a very careful explanation. Up to now, I have found it impossible to understand any basis whatever for arguing that it is not reasonable to look at such a matter at such a time, in such a way, with such an opportunity to say no if you do not like the result. That does not seem to me to be a challenge to the Government, and I very much hope that my noble friend will be able to help me yet again on this very difficult matter.

Lord Cormack (Con): My Lords, I cannot resist responding to my noble friend. I did, indeed, argue against having tablets in the Chamber—and if we were

[LORD CORMACK]
to have that debate tomorrow, I would probably, for the same reasons, take the same line. But I agree with him entirely on this issue. I choose not to do certain things online, or do anything online, but that is my prerogative and my choice. The noble Lord, Lord Kerslake, is merely arguing that this is something that should be looked into. I completely accept that it is the way in which most people use things these days. Therefore, I totally agree with my noble friends Lord Forsyth and Lord Deben. There is no rhyme or reason in this, and I cannot for the life of me understand why the Government are arguing against a system that the Conservative Party felt was good enough for the selection of a candidate for London Mayor, as has already been mentioned. I think that we are really just wasting our time. My noble friend the Minister should accept the amendment, which is modest in its proposals and does not give any ultimate and absolute commitment to anything but merely makes a sensible suggestion that we should accept without Division.

4.15 pm

Baroness Neville-Rolfe: This is an important debate, and I thank noble Lords who have taken time to contribute. I think that the sense of the House is clear, and I would say that electronic communications are the future—as I have said on many occasions, on other matters. Society is changing, as the noble Lord, Lord Kerslake, explained so eloquently, which is why the Government are promoting the programme of digitalisation, supporting the British-based creative economy, with apps such as Lyft share—and, indeed, as the noble Lord, Lord Forsyth, said, there is the use of the internet across government services. So there is a lot of support for the introduction of electronic balloting for decisions by trade unions. I have to say that I have a great deal of sympathy with these sentiments, and I am not going to argue with the substance of much of what has been said.

I am afraid that I cannot agree to the amendment proposed by the noble Lord, Lord Kerslake. It seeks to require that an independent review is commissioned within six months of this Bill becoming an Act and that the Secretary of State publishes a strategy for the rollout of electronic balloting after consulting relevant organisations. We do not think that that is the right approach. The fundamental problem that we have with it is that if the review found problems, the Secretary of State would nevertheless be committed to pressing ahead with e-balloting regardless.

The common ground we have is that we agree in principle with the concept of electronic balloting. As my noble friend Lord Callanan said, we already have the ability to bring it into effect for statutory trade union decisions, including industrial action ballots. The power is contained in Section 54 of the Employment Relations Act 2004. Where we differ, I think, is on the issues of timing and security, and I will outline the issues that are currently holding us back from exercising that power right now.

To respond to my noble friends Lord Forsyth, Lord Deben and Lord Cormack, there are risks. They cannot just be ignored. The consequences are serious, particularly for strike ballots, because strikes have such far-reaching consequences for union members, who may lose pay for the days they are on strike; for employers, whose businesses are adversely affected; and, of course, for the public, whose daily lives are disrupted.

Perhaps I should at this point thank the noble and learned Lord, Lord Brown, for repeating his question regarding the bizarre example. I should of course have come back to him in Committee. It is an extreme example when exactly 50% of workers turn out for a ballot for industrial action in an important public service. It is right that we ask for 40% of eligible members to support strike action before it can take place in important public services on which millions of people rely, as I have said. Recent events show that the threshold can be achieved when union members feel strongly about live issues.

To return to the issue of electronic voting, we must ensure that there is the utmost confidence in ballot processes. The Speaker's Commission on Digital Democracy quoted the Open Rights Group summing up concerns over the security of online voting:

> "Voting is a uniquely difficult question for computer science: the system must verify your eligibility to vote; know whether you have already voted; and allow for audits and recounts. Yet it must always preserve your anonymity and privacy. Currently there are no practical solutions to this highly complex problem and existing systems are unacceptably flawed".

The key challenge is how to be sufficiently confident about both the security and the confidentiality of the votes—so let me try, step by step, to explain the problem. First, there is the need to confirm identity. Computer expert Dr Kevin Curran reported to WebRoots Democracy, for its recent report on secure voting, on the difficulty with ensuring a system that is secure enough to ensure voter verification. Professor Robert Krimmer says in his contribution to the WebRoots report that ensuring that the system is sufficiently secure "is really tough". He was particularly concerned about the practicality of testing a system that incorporates individual voter verification.

Secondly, there is the need for confidentiality. This is an active field of research. Electoral Reform Services acknowledges the challenges of the secrecy of the vote, which is critical if we are to ensure a truly secret ballot. It is important that no one—neither the union nor the employer—can see how a member has voted. Noble Lords may argue that electronic voting is as secure as postal voting, but I am not convinced. It is potentially easier to gain access to huge quantities of electronic votes, which it would be physically impossible, or certainly much harder, to do with postal votes. Mi-Voice, an organisation that develops secure transactional applications, has stated that while,

> "it is possible to de-couple the identity of the voter with the vote cast … this … represents one of the biggest challenges to e-voting providers".

Thirdly, there is the issue of security. Dr Curran also exposes the significant risk that exists of cyberattack, explaining that approaches which had worked just a few years ago are now useless and that we can expect many more attacks. The Electoral Reform Services report, while recognising that it is right and proper to give consideration to the use of e-balloting, recognises a number of difficulties. For example, how can people

securely vote if their computer is infected with viruses? Although antivirus software exists, it has to be kept up to date in order to be properly effective. I know from my own unhappy domestic experience just how important this is. So the system relies on people following best practice advice, and it can only protect against known issues. The WebRoots report also indicates that the Du-Vote system, which is being developed at the University of Birmingham, could resolve the issue, but not until about 2020 or 2025.

Finally, there is integrity. The risk is of voter coercion. I will not test your Lordships' patience by suggesting that this is a problem that is unique to an electronic method of voting but obviously it is an issue that affects it, and is serious. This issue does not solely affect the UK—

Lord Forsyth of Drumlean: I am listening to this series of difficulties which the Government do not know the answer to. Is that not the most powerful argument we have heard this afternoon for having an independent commission to look at them and report?

Baroness Neville-Rolfe: My Lords, I have explained that we already have the power, and we also have the will to move in this direction. However, for the reasons I have stated, we should not agree to the review set out in the amendment. As I was saying, other countries have struggled to implement online voting successfully and sustainably. The Speaker's commission identified 14 countries that have tried internet voting for binding elections, which included five countries—the UK, Finland, the USA, the Netherlands and Spain—which either piloted or fully adopted electronic voting and then decided to discontinue its use.

There is a problem here. The only country that has succeeded with a sustainable system is Estonia, and that is because its ID card system makes it unique. I met with the President recently and we had an interesting discussion about this. Of course, it is possible there because their system is different.

On the amendment in the name of the noble Lord, Lord Kerslake, of course, the concept of a review is not new and, as I said, a lot has already been done to review the case for electronic balloting. I have spoken of the Speaker's Commission on Digital Democracy, which published a report on 26 January last year. Obviously, the Electoral Reform Services looked at the case for e-voting for trade unions in the UK and published its findings—indeed, they were published online—and WebRoots Democracy published a report on 26 January on secure voting with contributions from global experts and academics in the electronic voting field. Therefore, we are not short of reviews.

Against that background and despite the excellent points made by noble Lords, I cannot agree with the amendment because it irrevocably commits the Secretary of State to press ahead with a strategy for the rollout of electronic balloting, irrespective of any problems the review finds. I have tried to explain that another review could find problems—it is not absolutely dead easy. As I have said, we have the power to permit e-balloting, and we will use it when we are convinced that all the concerns have been addressed. This is why the current legislation is framed as it is, and for good reason.

I am conscious that this all sounds rather negative but, rightly, noble Lords want to know what problems prevent us agreeing to electronic balloting and I hope I have given a flavour of them. There has been a good deal of positive progress in the way technology can help to address these issues, and that is reflected in the reports I have cited.

I hope that I have been clear. I have listened to the case for the amendment and the case made at other stages of the Bill but, for the reasons I have given, the Government do not support the amendment and I encourage the noble Lord to withdraw it.

Lord Kerslake: My Lords, I am grateful for all the contributions to this debate. In the interests of time, I will not go through every single one but I am deeply grateful for what noble Lords have said. A number of noble Lords expressed puzzlement about the Government's position, but I fear that the Minister's response has not ended my puzzlement.

Perhaps I may briefly take up a couple of points before I conclude. The first is that security is relative. We are not talking about absolute security here; we are talking about whether electronic balloting can be as secure as postal balloting. I hope I made it clear beyond doubt that, specifically in respect of balloting for industrial action, there is no argument: it is as secure. One might have a debate about it in relation to elections but, for this purpose, it is as secure.

Secondly, we are clear that this is an independent review. My amendment says that the Secretary of State should consider that review and come back with a strategy. Of course, if the review concluded that the whole thing was impossible, we would have to think again, but from everything I know, I am absolutely convinced that it is not; indeed, electronic balloting is now used for very important elections.

I am very sorry that we have not seen more movement from the Government on this issue. I am deeply disappointed and I am afraid that I wish to test the opinion of the House.

4.26 pm

Division on Amendment 3

Contents 320; Not-Contents 181.

Amendment 3 agreed.

Division No. 1

CONTENTS

Aberdare, L.
Addington, L.
Ahmed, L.
Alli, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Ilminster, L.
Ashdown of Norton-sub-Hamdon, L.
Bach, L.
Bakewell, B.
Bakewell of Hardington Mandeville, B.
Balfe, L.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Benjamin, B.
Berkeley, L.
Berkeley of Knighton, L.
Best, L.
Bichard, L.
Billingham, B.
Blackstone, B.
Blood, B.
Blunkett, L.
Bonham-Carter of Yarnbury, B.
Boothroyd, B.
Bradley, L.
Bragg, L.
Brennan, L.

Brinton, B.
Brooke of Alverthorpe, L.
Brookman, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Burnett, L.
Burns, L.
Burt of Solihull, B.
Butler-Sloss, B.
Cameron of Dillington, L.
Campbell of Surbiton, B.
Campbell-Savours, L.
Cashman, L.
Chandos, V.
Chester, Bp.
Christopher, L.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clement-Jones, L.
Collins of Highbury, L.
Condon, L.
Corston, B.
Cotter, L.
Coussins, B.
Cox, B.
Crawley, B.
Cunningham of Felling, L.
Darling of Roulanish, L.
Davidson of Glen Clova, L.
Davies of Coity, L.
Davies of Oldham, L.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Dear, L.
Dholakia, L.
Donaghy, B.
Doocey, B.
Drake, B.
Drayson, L.
Dubs, L.
Dykes, L.
Eames, L.
Elder, L.
Elis-Thomas, L.
Erroll, E.
Evans of Watford, L.
Falconer of Thoroton, L.
Falkland, V.
Falkner of Margravine, B.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Featherstone, B.
Fellowes, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Fritchie, B.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Gordon of Strathblane, L.
Gould of Potternewton, B.
Grantchester, L.
Greaves, L.
Grender, B.
Grocott, L.
Hamwee, B.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haskins, L.
Haughey, L.
Haworth, L.
Hay of Ballyore, L.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hennessy of Nympsfield, L.
Hilton of Eggardon, B.
Hollins, B.
Hollis of Heigham, B.
Hope of Craighead, L.
Howarth of Newport, L.
Howe of Idlicote, B.
Howells of St Davids, B.
Howie of Troon, L.
Hoyle, L.
Hughes of Woodside, L.
Humphreys, B.
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hutton of Furness, L.
Irvine of Lairg, L.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones, L.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jordan, L.
Jowell, B.
Judd, L.
Judge, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Kerslake, L. [Teller]
King of Bow, B.
Kinnock, L.
Kinnock of Holyhead, B.
Kinnoull, E.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Laird, L.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Lee of Trafford, L.
Lennie, L.
Lester of Herne Hill, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Listowel, E.
Livermore, L.
Luce, L.
Ludford, B.
McAvoy, L.
McConnell of Glenscorrodale, L.
McDonagh, B.
Macdonald of Tradeston, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Mandelson, L.
Manzoor, B.
Mar, C.
Marks of Henley-on-Thames, L.
Massey of Darwen, B.
Maxton, L.
Meacher, B.
Mendelsohn, L.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Moonie, L.
Morgan of Ely, B.
Morgan of Huyton, B.
Morris of Handsworth, L.
Morris of Yardley, B.
Morrow, L.
Murphy, B.
Murphy of Torfaen, L.
Newby, L.
Nicholson of Winterbourne, B.
Nye, B.
O'Loan, B.
O'Neill of Bengarve, B.
O'Neill of Clackmannan, L.
Ouseley, L.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Patel, L.
Patel of Bradford, L.
Pendry, L.
Pitkeathley, B.
Plant of Highfield, L.
Ponsonby of Shulbrede, L.
Prashar, B.
Prescott, L.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Puttnam, L.
Quin, B.
Quirk, L.
Radice, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rees of Ludlow, L.
Reid of Cardowan, L.
Rennard, L.
Richard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rogan, L.
Rogers of Riverside, L.
Rooker, L.
Rosser, L.
Rowe-Beddoe, L.
Rowlands, L.
Sandwich, E.
Sawyer, L.
Scotland of Asthal, B.
Scott of Foscote, L.
Scott of Needham Market, B.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Singh of Wimbledon, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Soley, L.
Steel of Aikwood, L.
Stephen, L.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Symons of Vernham Dean, B.
Taverne, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Temple-Morris, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Tomlinson, L.
Tonge, B.
Tope, L.
Touhig, L.
Trees, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L. [Teller]
Turnberg, L.
Turnbull, L.
Tyler, L.
Tyler of Enfield, B.
Uddin, B.
Walker of Gestingthorpe, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walpole, L.
Warner, L.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Richmond, L.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Williams of Elvel, L.
Willis of Knaresborough, L.
Wills, L.
Wood of Anfield, L.
Woolf, L.
Woolmer of Leeds, L.
Worthington, B.
Young of Hornsey, B.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altmann, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Barker of Battle, L.
Bates, L.
Bell, L.

Berridge, B.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browning, B.
Buscombe, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chisholm of Owlpen, B.
Colwyn, L.
Cope of Berkeley, L.
Courtown, E.
Craig of Radley, L.
Crathorne, L.
Crickhowell, L.
Dannatt, L.
De Mauley, L.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dundee, E.
Dunlop, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Faulks, L.
Finn, B.
Flight, L.
Fookes, B.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glentoran, L.
Gold, L.
Goodlad, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hailsham, V.
Harding of Winscombe, B.
Henley, L.
Heyhoe Flint, B.
Higgins, L.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Keen of Elie, L.
Kilclooney, L.
Knight of Collingtree, B.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Livingston of Parkhead, L.
Lothian, M.
Lucas, L.
Lupton, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Mackay of Clashfern, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marlesford, L.
Masham of Ilton, B.
Maude of Horsham, L.
Mawhinney, L.
Mawson, L.
Mobarik, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Perry of Southwark, B.
Pidding, B.
Plumb, L.
Polak, L.
Popat, L.
Porter of Spalding, L.
Prior of Brampton, L.
Rana, L.
Rawlings, B.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Risby, L.
Robathan, L.
Rock, B.
Ryder of Wensum, L.
Sanderson of Bowden, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Skelmersdale, L.
Slim, V.
Smith of Hindhead, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Swinfen, L.
Tanlaw, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

4.45 pm

Clause 4: Information to be included on voting paper

Amendment 3A not moved.

Amendment 4

Moved by ***Baroness Neville-Rolfe***

4: Clause 4, page 2, line 34, leave out "reasonably detailed indication" and insert "summary"

Baroness Neville-Rolfe: My Lords, we had an interesting debate on this clause in Committee and the noble Lords, Lord Collins, Lord Oates and Lord Pannick, all expressed concern at what is meant by the term "reasonably detailed indication". There is a feeling that it is contradictory. The noble Lord, Lord Oates, and the noble Baroness, Lady Burt, were worried that it could leave unions open to legal challenge and that the dispute would be drawn as widely as possible in order to protect the unions. This could have the effect of confusing union members and is clearly not in anyone's interests. I have listened carefully to those concerns, most especially about the possible consequences that might flow from the use of the phrase. We want unions to be absolutely clear with their members about what they are being asked to vote for. In order to ensure full transparency in any industrial action ballot, members must be able to make a properly informed decision.

Currently, information about the trade dispute can be as unclear as "pay", "terms and conditions" or "redundancies", and there is no requirement even to state this on the ballot paper. It does not provide enough clarity for union members to determine whether they choose to support industrial action. That cannot be right and it is not democratic. However, if the clarity we are seeking to achieve on the ballot paper is undermined, we would not achieve our objective. That is a serious concern, too. We are mindful of the need not to make compliance with the information on the voting paper too burdensome or unnecessarily costly for unions. This is always a thing that I am concerned about. That is why we are proposing that the words "reasonably detailed indication" are replaced by "summary".

The word "summary" should ensure that the voting paper contains a brief statement or account of the main points at issue in the trade dispute. For example, under our reforms, a trade dispute that might have been expressed simply as "pay" could be summarised as "pay for level 3 engineers in 2016". I beg to move.

Amendment 4 agreed.

Clause 7: Two weeks' notice to be given to employers of industrial action

Amendment 5

Moved by ***Baroness Neville-Rolfe***

5: Clause 7, page 4, leave out line 9 and insert "subsection (4), for paragraph (b) substitute—

"(b) ending with the 14th day before the starting date, or the seventh day before that date if the union and the employer so agree.

In paragraph (b) "starting date" means the day, or the first of the days, specified in the relevant notice.""

Baroness Neville-Rolfe: My Lords, the noble Baroness, Lady Donaghy, made a powerful case that increasing the period of notice from seven to 14 days could damage the flexibility of unions and employers to negotiate the settlement of a dispute. I listened very carefully. As a result, we are proposing an amendment that would allow the period of notice to be reduced from 14 days to seven days, if the union and employer agree. This may prove very valuable in circumstances where negotiations are proceeding well between the parties. It should reduce pressure in that a union might otherwise feel that it would have to serve notice of industrial action to preserve its position.

We fully appreciate that a negotiated settlement is best for all concerned: the employer, the public, and the union and its members. This amendment demonstrates that the Government have listened and that we are keen to promote every opportunity for such discussion to take place. Our intention is to encourage negotiations between a trade union and employer as a way of reaching a resolution of a trade dispute, without recourse to industrial action. This is, of course, the very approach that ACAS encourages, which the noble Baroness, Lady Donaghy, was instrumental in leading. I beg to move.

Amendment 5 agreed.

Clause 8: Expiry of mandate for industrial action four months after date of ballot

Amendment 6

Moved by ***Baroness Neville-Rolfe***

6: Clause 8, page 4, line 19, leave out from "period" to end of line 20 and insert ", beginning with the date of the ballot—

(a) of six months, or

(b) of such longer duration not exceeding nine months as is agreed between the union and the members' employer."

Baroness Neville-Rolfe: My Lords, it may be that I should have grouped today's amendments, but they are all obviously different and reflect an important debate that we had in Committee. They show that we are moving forward.

We have been very clear throughout the passage of the Bill that we want to ensure that any industrial action is based on a current mandate on which union members have recently voted. That is our manifesto commitment. We have been equally clear that we want disputes to be resolved by negotiation, before the matter results in industrial action. We proposed a period of four months for the ballot mandate to balance our objective of, on the one hand, ensuring that strikes cannot be called on the basis of ballots conducted years before and, on the other, allowing sufficient time for constructive dialogue to continue.

I listened very carefully during the Committee's scrutiny of this clause. Two points came across clearly, which I indicated at the time that I should reflect on. The first was about the effect which a period of just four months would have on the parties' ability to continue negotiating. The second was about extending the ballot mandate, if that is what the employer and trade union agreed. I listened closely during that earlier scrutiny and have given careful consideration to the points raised. In order to underline just how committed the Government are to providing proper opportunity for negotiations to continue, we are making a substantial concession by extending the time period for the ballot mandate from four to six months. A mandate that lasts six months provides plenty of time for a trade dispute to be resolved while ensuring that the mandate does not become stale. We are also allowing the union and the employer to agree between them an extension of this for a further period, up to a maximum of three months. We accept that this may be particularly useful where negotiations are progressing well and a resolution of a dispute is in sight. It may avert a situation where a union might otherwise feel that it has no choice but to take industrial action before the mandate expires.

We have thought carefully about how long the overall mandate, including the extension, should be. We believe that the employer and union should not be able to agree an indefinite extension. We need to ensure that, after an appropriate period, a union is required to seek the views of its members about whether to continue with industrial action. We believe that, overall, nine months is more than sufficient. This takes account of the need to balance the interests of not just employers and unions but the wider public, who may be affected by impending industrial action. I beg to move.

Lord Mackay of Clashfern (Con): My Lords, I am very glad that the Government have thought it right to do this. I felt strongly that to constrain too strongly the time for which the ballot has authority was dangerous from the point of view of prejudicing resulting negotiations, which might take some time. In particular, I thought that to make the end independent of the view of the employer was unnecessary and really rather dangerous. I am very happy that the Government have moved this period up, from four to six months, and allowed the ballot's authority to continue if the employer agrees to a further three months. This seems a very practical solution to a quite important problem.

Lord Scott of Foscote (CB): My Lords, I rise simply to suggest that, where an important agreement, as this may be, is concerned, it ought to be an agreement in writing.

Baroness Neville-Rolfe: I thank my noble and learned friend Lord Mackay for his comments. It shows the value of scrutiny in this House. If I may, I will reflect on the point about it being in writing, but this is an area where we are finding a way through on the Bill.

Amendment 6 agreed.

Amendment 7 not moved.

Clause 9: Union supervision of picketing

Amendment 8

Moved by ***Baroness Neville-Rolfe***

8: Clause 9, page 5, line 25, leave out "a badge, armband or other item" and insert "something"

Amendment 8 agreed.

Amendment 8A not moved.

Clause 10: Opting in by union members to contribute to political funds

Amendment 9

Moved by ***Lord Burns***

9: Clause 10, page 6, leave out lines 5 to 42 and insert—

"(1) A person who, after the transition period, joins a trade union that has a political fund at the time the person joins shall, on the trade union membership form (whether paper or electronic), be asked whether or not the person wishes to contribute to the political fund, and informed that the decision shall not affect any other aspects of the person's membership.

(2) It shall be unlawful to require a person who joins a trade union after the transition period to make a contribution to any political fund of that trade union if the person has not given to the trade union notice—

(a) on the membership form (whether paper or electronic), or

(b) in accordance with subsection (6),

of the person's willingness to contribute to that fund.

(3) It shall be unlawful for any trade union which does not have in force a political resolution under section 73 (political resolution) at the end of the transition period, but which subsequently passes a political resolution under that section, to require a member of the trade union to make a contribution to the political fund if the member has not given notice to the trade union in accordance with subsection (6) of the member's willingness to contribute to that fund.

(4) A member of a trade union who contributes to a political fund but wishes to cease contributing to that political fund shall give notice to that effect to the trade union in accordance with subsection (6).

(5) A member of a trade union who gives notice under subsection (4) shall, after the end of the period of one month beginning with the day on which it is given, no longer be required to contribute to the political fund.

(6) Notice under subsection (2), (3) or (4) may be given to a trade union by being delivered—

(a) to the head office of the trade union, or

(b) to a branch office of the trade union,

in person, by any authorised agent, by post, or by electronic means.

(7) The Certification Officer shall, within six months of section 10 of the Trade Union Act 2016 coming into force, issue a code of practice which must set out the minimum level of communications which trade unions with political funds must have every year with political fund contributors about their right to cease contributing to the political fund.

(8) The Certification Officer must monitor the compliance of trade unions with political funds with the code of practice issued under subsection (7), and shall in their annual report under section 258 (annual report and accounts) set out their findings.

(9) In this Act "contributor", in relation to the political fund of a trade union, means a member who makes a contribution to the political fund and has not given notice to the trade union under subsection (4).

(10) In this section "the transition period" means the period to be specified by the Secretary of State in regulations made by statutory instrument following consultation with the Certification Officer and all trade unions which have a political fund.

(11) The period to be specified by the Secretary of State under subsection (10) shall be no less than 12 months, and shall start on the day on which section 10 of the Trade Union Act 2016 comes into force.

(12) A statutory instrument containing regulations under subsection (10) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

Lord Burns (CB): My Lords, the purpose of Amendment 9 and of Amendment 10, which is consequential, is to put into legislation the majority recommendations of the Select Committee on Trade Union Political Funds and Political Party Funding. I remind noble Lords that the only difference between members of the committee was the extent to which these amendments should apply to existing trade union members. Otherwise, they reflect the unanimous view of the committee.

Bearing in mind that we had a useful debate on the committee's report last Wednesday, I will try to avoid going into this in too much detail today. This part of the Bill deals, as noble Lords know, with the political funds which unions must set up if they wish to spend money on political causes. In summary, Clause 10 as drafted will require unions to move away from the current opt-out system for union members' contributions to political funds and introduce an opt-in system. In other words, members would only pay the political levy if they actually chose to do so. Once the transition period is over, a guillotine comes down after which any union member who has failed to opt in will automatically be opted out.

On the basis of the evidence we heard, the committee unanimously concluded that the introduction of this opt-in process could have a sizeable negative effect on the numbers of union members participating in political funds, contrary to the conclusion of the impact assessment for the Bill. The committee also agreed that the negative effect would be exacerbated by the detail of Clause 10, which gives a short transition period of three months, does not allow opt-in by electronic means and requires opt-ins to be renewed every five years.

It seems to me that, by any measure, this is a harsh regime which will, in turn, have an impact upon Labour Party funds. During 2014, Labour Party-affiliated unions raised £22 million in political funds. Of this, £10 million—just under half—was given to the Labour Party in a combination of affiliation fees and donations. If the Government's proposals were to go ahead, the committee concluded that there would be a significant reduction in those payments to the Labour Party overall.

I explained during the debate last Wednesday that the committee faced a dilemma. On the one hand, as I have just explained, the effect of Clause 10 in its current form would likely be a significant reduction in the funding of the Labour Party. On the other hand, the Conservative Party made a manifesto commitment to ensure that trade unions use a transparent opt-in process for union subscriptions. So to some extent the Government can claim a democratic mandate for introducing an opt-in process for subscriptions to political funds. I say "to some extent", because the

[Lord Burns]
manifesto commitment is very loosely worded. It refers to union subscriptions rather than to political funds and it does not promise the precise system set out in Clause 10. I am satisfied that my amendments, which introduce the principle of opt-in and will, over time, lead to all members being subject to the opt-in system, are consistent with and fulfil the Conservative Party's manifesto commitment in this respect.

The committee's report and these amendments attempt to ease the tension between the desirability of proceeding in an even-handed way on political funding and allowing the Government to honour their manifesto commitment. Amendment 9 sets out in subsections (1) and (2) that opt-in should be applied to new members after a transition period of at least 12 months, which will allow trade unions to make the required changes to their rule books. Subsections (10) and (12) specify that the exact length of the transition period shall be set by affirmative instrument after the Secretary of State has consulted the unions and the Certification Officer.

5 pm

I have little hesitation in recommending an opt-in process for new members. There has been a significant move towards banning opt-out selling in consumer contract regulations, and financial services regulation has been moving in this direction, requiring consumers to make active and informed decisions. It is now generally accepted that opt-out selling does not enable consumers to make active and informed decisions; it is not transparent but instead exploits behavioural biases. It is therefore clear to me that, when new members sign up to join a union, they should be asked whether or not they wish to contribute to the political fund.

For completeness, subsection (3) in Amendment 9 specifies that a union which at present does not have a political fund, but which votes to introduce such a fund after a transition period, will have to seek an active opt-in by all its members. Subsections (4) and (5) allow any member who contributes to a political fund to cease contributing to it by giving appropriate notice. Subsection (6) sets out how members may opt in and opt out, and allows them to do so by electronic means. Subsection (7) provides for all contributors to political funds, both new members who have opted in and existing members who have not opted out, to be told each year by the union that they have the right to cease contributing to the political fund. Subsection (8) requires the Certification Officer to monitor the unions' compliance with this duty. The committee agreed that requiring unions to send annual reminders about the right to opt out was more proportionate than requiring contributors to renew their opt-in decision at five-year intervals, as is suggested in the existing clause.

As a matter of interest, the Financial Conduct Authority has indicated that it will not require renewals for add-on products where the customer has made an active decision to purchase a product and it contains substantially the same terms. The reason it gives is that to require active reselection each year when the product has been sold on an opt-in basis would be disproportionately burdensome. To my mind, the same argument applies to renewal every five years for political fund subscriptions, given the likely costs involved. Moreover, at each renewal it is likely that a proportion of opted-in members would not get round to renewing. I will speak a little more about this inertia effect in just a moment.

I hope it is clear from my description that the biggest difference between my amendments and the current Clause 10 is that my amendments do not require existing contributors actively to opt in to political funds at this stage. It is much harder to obtain an active choice from existing members, many of whom have been paying into political funds for years. Whereas new members can be asked to make a choice at the point they join a union, with existing members there is no equivalent trigger point to persuade them to make a choice. Large numbers of existing members are likely to ignore mailshots asking them to make this choice and repeated prompting is likely to be necessary.

Viscount Hailsham (Con): The noble Lord advances pragmatic arguments in respect of existing contributors, but what is the argument of principle? Given that the Government may be persuaded to introduce a generous transition period, why should existing contributors be denied the opportunity to opt in, which gives them some benefits?

Lord Burns: I do not propose at all that they should be denied the opportunity to opt in. The issue that is being challenged here is whether, having being asked to opt in and having failed to reply, they are automatically deemed to have opted out. That is the big difference. The question is: where is the inertia pressure? Under the current proposals in Clause 10, if someone fails to return the form that asks them to opt in or opt out, they are automatically deemed to have opted out. It is not a matter of principle because I have sought to argue that, over time, everyone will be subject to this proposal; it is just a question of how long it takes.

It is true that, at the moment, the power of inertia works in favour of the unions. That is reflected in the fact that only 11% of members make the effort to opt out of the political fund. But seeking to apply opt-in to existing members over anything other than a very long transition period will work against the unions because people have busy lives and the political levy is very small.

In the debate last week, a number of noble Lords implied that one benefit of an opt-in system was that existing members who did not opt in would be, by definition, demonstrating that they did not wish to contribute to the political fund. My argument, however, is that it is not as simple as that. As I have already said, although some people may well be exercising an active choice not to contribute, I suspect that the majority would not be exercising any choice at all. It would be extremely harsh to impose a strict guillotine date after which existing union members who had failed to opt in would automatically be opted out. It would also be out of line with policy in other sectors.

As an example, I return again to the Financial Conduct Authority's proposed policies on general insurance add-ons and its suggestion that organisations that have sold products on an opt-out basis in the past need only,

"take reasonable steps to obtain active and express consent for the renewal of add-on products".

Reasonable steps are said to include writing to customers at their next renewal date to remind them of their right to opt out of products, something that my amendments would achieve in respect of political funds. Unlike the existing Clause 10, the Financial Conduct Authority does not suggest a cut-off or guillotine date and, if this is the case for financial service companies, I really cannot see any reason why it should not also be the case for union subscriptions.

I have already mentioned the requirement to remind existing contributors to political funds annually of their right to cease contributing. I would hope that, in practice, unions would also take advantage of this communication to seek to persuade as many of their existing members as possible to take a positive choice to opt in, even though it would not be a requirement at this stage.

To summarise, if the opt-in were extended to existing members as proposed in Clause 10, even with an extended transition period, the result would be a significant negative effect on union and Labour Party funding. This would give us a wider political problem. The committee came to the view that, while there is no formal convention that all reform of party funding must take place by consensus, history shows that Governments of both main parties have acted with a degree of restraint and that, generally, this is desirable.

These amendments seek to ease the problem; in my view, they enable the Government to meet their manifesto commitment through gradually increasing the number of union members subject to the opt-in system and, at the same time, enable them to act with the restraint that is desirable in the field of party funding. I beg to move.

Lord Cormack: My Lords, I was very glad to add my name to the amendment of the noble Lord, Lord Burns, because it seeks to translate into the Bill the substance of that admirable report that we debated in some detail a week ago. I said then that I had had my misgivings about whether it was right to establish a Select Committee with a very strict timetable; I also said that my initial reaction had been wrong, because the committee did an exceptionally diligent and thorough job and produced a very coherent and convincing report.

I have made plain all along my misgivings about these two clauses because of what I believed was their inherent—though, I am glad to accept, unintended—unfairness. I was gently chided last week by a colleague for wearing a red tie; I deliberately wear a blue one today because I believe that in what I say I am being entirely true to one-nation Conservatism and not in any way reneging on party commitments. I say to my noble friends on this side of the House, as I have before, that if our party and its philosophy stand for anything it is for fairness and choice. I believe that one should do to others as one would wish to be done by and I do not wish to be party to a move that would seriously disadvantage one of the great parties of this country, particularly at a time when it is going through its own special problems, which I hope will soon be over. But what the noble Lord, Lord Burns, is suggesting is fair and consistent with the recommendations of his report. There were two alternatives in paragraph 142 and, effectively, we are advancing paragraph 142(a), which was the majority choice of the committee. Clearly, paragraph 142(b), which advocates a long transitional period, is also worthy of consideration.

This is a sensible, modest proposal that the noble Lord, Lord Burns, is advancing and it deserves support in all parts of the House. It in no way invalidates the manifesto commitments of my party, which were somewhat loosely worded, as the noble Lord, Lord Burns, has made plain, and I do not think it damages in any way what the Government are seeking to do. The noble Lord, Lord Burns, has made it plain that he believes, as I do, that opt-in is the better solution. But we do not have to advance on that at such a pace that we seriously disadvantage one of the great parties of the realm and unbalance our democracy in the process. I very much hope that this modest amendment can be accepted by my noble friend the Minister without a Division but if a Division is called, my name is on the amendment and my vote will be with my name.

Lord Tyler (LD): My Lords, I am one of the signatories to this amendment and I am delighted to follow the noble Lord, Lord Cormack. The amendment incorporates important improvements, unanimously agreed by the Select Committee, to ensure that Clause 10 will make certain not only that the political funds of the unions are dealt with more realistically and less expensively bureaucratically but that they are fairer, as the noble Lord, Lord Cormack, said. I hope very much that the Minister has been listening to what has been said because she could be in quite a small minority, judging from our debate on this last week, if she seeks to resist these improvements.

The Select Committee said in paragraph 134:

"It is clear to us that clause 10 will have an impact on party funding and that it is very far from commanding the consensus which we have said is desirable in such situations".

This was unanimously agreed by the Select Committee. Of the 20 or so Peers who took part in that debate last Wednesday, almost every one endorsed in terms that recommendation. Indeed, the Minister herself departed from the original ministerial pretence that there was nothing to do with party funding in this clause.

There is widespread acceptance that the Government should be assisted in their determination to deliver their whole 2015 manifesto in this respect. Perhaps I should remind colleagues that there were two parts to this commitment. The first was that,

"we will legislate to ensure trade unions use a transparent opt-in process for subscriptions to political parties",

and the second was:

"We will continue to seek agreement on a comprehensive package of party funding reform"—

two parts, but they stick firmly together. The recommendation of the Select Committee on Clause 10 has to be taken in that wider context. Indeed, it was agreed unanimously by the Select Committee, because we were broadly supportive on all sides, as we were last week, and this was incorporated into paragraph 138 of our report:

"Whether or not clause 10 is enacted, in whatever form, the political parties should live up to their manifesto commitments and make a renewed and urgent effort to seek a comprehensive agreement on party funding reform. We urge the Government to take a decisive lead and convene talks itself, rather than waiting for them to emerge".

[Lord Tyler]

That was clearly the view right across the House in our debate last Wednesday and I hope that any colleagues who were not there have now read *Hansard* because it is critical to this discussion as well.

I cannot emphasise enough that whether or not Clause 10 is improved by this amendment, or indeed at further stages of the Bill, that is not the end of the matter. Unless and until the Government stop sitting on the fence and blaming the party leaders for taking no initiative on this issue, clearly these modest changes are still in contention. The logic of the whole report leads to the inescapable conclusion that the legislative proposals in Clause 10 should not proceed, even if improved, if that latter manifesto promise is not being actively pursued at the same time. In other words, as so many Members of your Lordships' House have repeatedly urged, at several stages of the Bill, unilateral legislation in this area is simply not acceptable—a point just made so eloquently by the noble Lord, Lord Cormack.

5.15 pm

In last week's debate, the noble Lord, Lord Burns, reminded the House:

"The whole committee strongly believes that the Conservative, Labour and Liberal Democrat parties must give effect to their respective manifesto commitments on party funding reform".—[*Official Report*, 9/3/16; col. 1356.]

Those words were supportively echoed by the noble Lords, Lord Desai, Lord Bew, Lord Balfe, Lord Cormack and Lord Judd, as well as all members, I think, of the Select Committee who spoke in that debate.

I thought that the conclusion reached by the noble Lord, Lord Sherbourne of Didsbury, who served on the Select Committee, summed up the general view across the House last Wednesday. He quoted the Conservative manifesto once more:

"'We will continue to seek agreement on a comprehensive package of party funding reform'".

He then added:

"That is a commitment to be proactive, not reactive, and it also needs to be honoured … The Government have the right to implement their manifesto commitments on which they were elected and for which they have a mandate. They also have the duty to do so".—[*Official Report*, 9/3/16; col. 1385.]

All we need now is for Ministers to agree.

Baroness Drake (Lab): My Lords, I support Amendments 9 and 10. Clause 10 has raised much concern and strength of feeling, and the debate has been binary: on the one hand, the view confirmed by the Select Committee that the Bill would have a significant and negative impact on Labour Party funding; on the other side, the Government's adherence to their manifesto commitment to introduce opt-in to union political funds. The Select Committee attempted,

"to reconcile these two issues by setting out a proposed compromise".

It identified a way forward, which, put at its simplest, means introducing the principle of opt-in for new members while seeking to mitigate the worst of the impact on union political funds and the Labour Party through changes to the provisions in Clause 10.

The principle of opt-in is in the manifesto, but the detailed process for implementing it is not. Amendment 9 captures the unanimous view on the desirable changes to Clause 10 and the majority view on the position of existing members. As the Select Committee observed, Clause 10 is very far from commanding a consensus, not only because of the impact on the Labour Party but because of the obstacles the Bill presents to the successful implementation of opt-in—what I would call the double-jeopardy effect.

The amendment would require new members to contribute to the political fund only if they have opted in, in writing or electronically. To restrict the opt-in system to an in-writing, on-paper process is an obstacle to successful implementation and is much less likely to achieve a good response rate. Doing something through the post can be harder than doing it online. People can mislay their form. It provides what in behavioural terms are points of friction, which encourage inertia and will discourage opt-in. Members do not make a decision on whether to opt in or not; rather, they make no decision.

The Government, in arguing for opt-in, refer to the shift in the market where consumers purchasing products or services are increasingly being asked to give active consent when entering a new commitment. But increasingly those opt-in decisions can be made electronically—indeed, that is at the very heart of our e-commerce world. Allowing opt-in to political funds electronically goes with the market shift. The amendment contains no requirement for members to renew their opt-in decision every five years, but would provide greater transparency in that all members, existing and new, must be reminded every year of their right to opt out and cease paying into the political fund. The Certification Officer must, in a code of practice, set out the annual reminder communications that unions must issue, monitor unions' compliance and report.

The arguments against a five-year renewal are several. Regulated annual reminders to members of their right to cease paying is a more proportionate approach and is consistent with market practice. In the market, where an initial opt-in decision is required for membership, services or financial products, there are many instances where consumers are not required to renew their decision, although it is not unusual to send an annual reminder. The default is that the policy agreement or service continues. This can be compatible with Financial Conduct Authority requirements. It is reasonable for the provisions of Clause 10 to take a similar approach, given that other products in the market are normally of much greater value than a 9p political levy.

The Bill is disproportionate as, every five years, a member's opt-in decision expires unless they have renewed it—so every five years, the union would have to contact all members to ask them to renew. The Select Committee reported that the administrative and financial burdens on unions arising from this requirement would be considerable and disproportionate against the size of the 9p contribution. The exercise would cost a union one year of political fund contributions every five years.

Depending on when a union last held its last political fund ballot, which it is required to do every 10 years, it could face the tasks of initially contacting or persuading all existing contributing members to opt in; contacting and persuading all contributing members to renew

their decision to opt in five years later; then conducting a full postal ballot of all members to secure a renewed authority to have a political fund—all in the space of about six years, and all expensive.

The amendment increases the transition period to at least 12 months, to be set following consultation with the Certification Officer and the trade unions. Most witnesses agreed that a three-month transition period is far too short. Retailers were granted two years to prepare for charges on plastic bags. Following the Health Act 2009, which banned cigarette displays, the coalition brought the provisions into force in 2012 for larger shops and 2013 for smaller shops. The right-to-rent landlord checks in the Immigration Act 2014 came into force in 2016. Three months appears to be very mean-spirited when compared with the two or three or four-year transition periods allowed under other legislation on issues of considerable moment.

The Certification Officer advised that Clause 10 would require unions to revise their rulebooks and secure his approval. Many unions need to get member approval at an annual or special conference. This will take time and expenditure. Rules revisions, developing guidance on training for union staff and reps and other changes are too great a task to be completed in three months. It is setting unions up to fail. Moving to opt-in is not the only demand on union resources coming out of this Bill. Dealing with the abolition of check-off will be a major priority, too.

Finally, the amendment does not extend the opt-in requirement to existing members as part of the Bill. But it does require them to be covered by the transparency requirements to annually notify members of their right to opt out. This gives effect to the majority view in the report. Not extending the opt-in to existing members as part of the Bill is fairer and more even-handed. Human behaviour is such that persuading existing members to make an active choice is much more difficult. They are more likely to make no choice. As the noble Lord, Lord Burns, said, there is no trigger point such as joining the union. Response rates will be lower and greater expenditure will be incurred in prompting, chasing and following up. Not extending to existing members, but providing them with regulated annual notification of their right to opt out, increases transparency.

The noble Lord asked what the principle was here. The principle is that when you introduce a new regime for future members, you should have a protection regime for existing people. There are precedents. The principal protection for the existing members under this amendment is a compulsorily regulated regime of notifying members of their right to opt out, which will be monitored and reported on by the Certification Officer.

As the Select Committee observed, even without some of the onerous provisions in Clause 10, there will still be "a sizeable negative effect" on members contributing to political funds. The Select Committee's overarching proposal was that the Government should implement their other manifesto commitment: to convene cross-party talks and make an urgent effort to reach agreement on party funding. The majority view was that the question of extending the opt-in to existing union members should not be part of the Bill but should be considered as part of those talks. As the Select Committee observed:

> "The further danger of proceeding down a non-consensual route is that any cut in the Labour Party's funding will simultaneously reduce the incentives for the other parties to make concessions with a view to achieving comprehensive reform".

The amendment strengthens transparency considerably. It introduces opt-in going forward, but it also introduces fairness, proportionality and, even more important, what has been missing—a level of even-handedness.

Viscount Hailsham: Notwithstanding my considerable respect for the noble Lord, Lord Burns, and my noble friend Lord Cormack, now my near neighbour, and indeed the noble Lord, Lord Tyler, I am not with them on the amendment.

The amendment is in paragraph 142 of the Select Committee report. I am an advocate of the alternative view: a generous transitional period for existing members. I should like to think that the Minister will offer a more generous transitional period than she is presently contemplating. I cannot help feeling that, if she did, she would attract considerable support.

My reasons are very simple and can be briefly expressed. First, as a matter of principle, existing members should be covered by the opt-in provisions. The noble Baroness, Lady Drake, referred to the amendment as fair and even-handed. It is nothing of the kind. It actually deprives existing members of the greater ability to opt out, if they want to. There is nothing fair or even-handed about the amendment; it has a contrary effect.

However, I agree with another point made by the noble Lord, Lord Burns, and, incidentally, my noble friend Lord Cormack: that it would unbalance party funding. That is not in the general interests of the country or, therefore, within the general consent of this House. I therefore think that the alternative approach formulated in paragraph 142(b) of the Select Committee report is the way forward. A more generous transitional period for existing members seems to me to catch the sense of the House.

Lord Forsyth of Drumlean: What does my noble friend mean by a generous period, because, clearly, if it were 10 years or five years, that would be a completely different argument?

Viscount Hailsham: That, truth to tell, is a matter of negotiation. My noble friend Lord Forsyth and I have often negotiated in the past. When one seeks a compromise, one negotiates: one sees what will meet the general will. I cannot go further than that. One problem with the amendment moved by the noble Lord, Lord Burns, is that it does not contemplate an active moment when existing members will be covered by the new provisions. That matter also needs to be addressed and is wholly uncovered by the terms of his amendment.

Lord Forsyth of Drumlean: I am very grateful to my noble friend, but he cannot stand up and say, "We ought to have a more generous period", and then not say what he thinks will be workable.

Viscount Hailsham: Of course I can—I am not the Minister, nor am I in the business of negotiating. When we were on the Front Bench together, we often

[Viscount Hailsham]
had to negotiate about policy, one with the other. If I was in the business of negotiating, I would have a proposition to put forward. All I am saying to the Minister is that, if she were to be generous in her approach, I suspect that would get a lot of support in this House.

5.30 pm

Lord Maude of Horsham (Con): My Lords, I am tempted to my feet for my first venture from the Back Benches in the few days after liberating myself from the Dispatch Box.

Lord Berkeley of Knighton (CB): I think that it is the turn of the Cross Benches. The noble Lord, Lord Cormack, will be pleased to hear that I am wearing a tie that is both blue and red, and it is in that spirit that I offer these thoughts. Nothing enrages the public more than the way in which some parts of this Chamber are constituted through party-political funding. It seems to me that, until we can revamp the way in which that funding works, it would be very dangerous and unfair to change the status quo to tilt the playing field as it currently exists. For that reason, I wholeheartedly support my noble friend Lord Burns in his amendment.

Lord Maude of Horsham: My Lords, I first apologise to the noble Lord for inadvertently interposing myself before him. As I said, this is my first venture from the Back Benches. I am tempted into this debate because I am a veteran of discussions on party funding. I took part in the discussions under the chairmanship of Sir Hayden Phillips, then gave evidence to the Kelly committee, then had the pleasure of long hours with the noble Lord, Lord Collins. The one thing that strikes most ice into my heart is the prospect in this amendment of further talks on public funding. If they happen, please may I be excused?

There is a hugely important distinction to be made between what goes on in trade union law and what goes on in party funding law, which is at the heart of today's debate. These are very separate issues, although there is clearly a relationship between the two. In those first talks that we had under Sir Hayden Phillips' guidance, the key essence that we aimed for was a cap on donations. Different numbers were bandied around, but we broadly agreed on something like £50,000. The quid pro quo would have been a significant increase in state funding for parties. One reason why we made no further progress was that the Labour Party argued at that time that trade union donations would not be caught by that cap because they are individual donations, akin to membership subscriptions to a party paid by individuals to other parties. But, of course, that is not the case. First, they are not voluntary, proactive decisions, made in the way that people subscribe to other parties—or, indeed, as ordinary members of Labour subscribe to the Labour Party. They are made by inertia, as has been discussed, and there seems to be a broad consensus that this way of proceeding is not sustainable in the longer term. Equally, they are not donations to a party. The decision to give the money to the Labour Party—or, indeed, any other party—is a decision made not by a member of a trade union but by the leadership of the trade union, so of course they would have to be caught by the cap.

Even if we had moved immediately to a system of opt-in for the political levy, with subscriptions to the political fund, that would not have done nearly enough to avoid donations by trade unions being caught by any cap. The decision to give the money to the Labour Party would still rest not with the individual member but with the leadership of the trade union. That is the important distinction between the law of party funding and the laws as they apply to trade unions, which is what we are debating here today.

It is important that we reflect a little on this system of opting in and its effects, because it is outdated. I remember that in a debate in the other place, a Liberal Democrat Member of Parliament—now a former Member of Parliament, as, sadly, so many of them are—startled the House when he told it during the Labour Party's deputy leadership campaign in, I guess, 2007, that he had suddenly received a ballot paper for the Labour Party's deputy leadership election because he had completely inadvertently, as a Liberal Democrat MP, become a member of the Labour Party because as a union member he had not opted out. We had the absurdity at the time of many trade unions declaring that 100% of their members were paying the political levy. Even more absurdly, some trade unions were declaring that more than 100% of their members were paying the political levy. Those of your Lordships who may argue that the role of the Certification Officer needs reform should reflect on the fact that the Certification Officer at the time was content to allow that manifest absurdity to persist.

To those who, like my noble friend Lord Cormack, argue that this is in some way proceeding at breakneck speed towards reform, I say that progress has not even been glacial. There has been discussion in your Lordships' House about the failure of the agreement made by Len Murray way back in 1984—more than 30 years ago—that the unions would reform their systems to make the ability of members to opt out much more real and visible. We know that that has not happened. Far too many unions do not make it visible in the papers and even if members opt out, in too many unions, there is no reduction in the subscription. I give way to the noble Lord.

Lord Monks (Lab): This is not the first time we have heard that unions are not honouring the Murray-King agreement of 1984. As the report from the noble Lord, Lord Burns, indicates, the evidence is much more mixed than that. A lot of unions have done so, although it varied to some extent, but the Government had forgotten all about the agreement. The noble Lord, Lord King, had forgotten all about it until I gave him a copy, which he then passed on to the Government. The idea that this agreement was at the front of the Government's mind—that they were scanning it to see whether there were any abuses and so on—and that that is the justification for a change in the system is absolute and utter rubbish. It is a misrepresentation of the history. Unions put the agreement into their systems in different ways. It could have been updated if the Government were concerned about it, but they

had forgotten about it. They did nothing about it and have gone back to 1927 and the old reflex action of opting in.

Lord Maude of Horsham: It is an interesting idea that a voluntary agreement to move in a particular direction is then the responsibility of others to enforce. In order to avoid legislation on this in 1984, the leadership of the trade union movement at that stage said, "We will reform ourselves". The reality is that they did not reform themselves because the opting-out possibility is not visible to most union members when they join or, indeed, afterwards. Even if you manage to find out how to do it and exercise that option, in most cases you get no reduction in your union subscription. The sense that this is in any sense a voluntary contribution is pretty absurd.

My view is that this is a long-overdue reform. The idea that this is breakneck progress is not to be taken seriously. This has been a steady, measured process, tested at a general election through a manifesto, and I hope that the Government will stick to their guns.

Baroness Symons of Vernham Dean (Lab): My Lords, before the noble Lord sits down, I put to him the point that the noble Lord, Lord Burns, made in putting this amendment before the House. The argument is not about the principle of the opt-in process—it was clearly put in the governing party's manifesto. The argument is about whether it is being done fairly. The noble Lord simply argued about the principle but the amendment is about the fairness of applying the principle. I am afraid that he did not listen to the clear argument put by the noble Lord, Lord Burns, and I am sorry that he did not.

The Earl of Kinnoull (CB): My Lords, I, too, had the great privilege of serving on the Select Committee of the noble Lord, Lord Burns. We were much heartened on the morning of 11 February, when Nick Boles, the Minister of State at BIS, came to give evidence. Amid that evidence he said:

"I know that Baroness Neville-Rolfe indicated yesterday in the debate that on questions of timing for transition and methods by which an opt-in could be declared she was very much open to arguments and would be reflecting on them before Report".

Your Lordships can imagine that that was very heartening when we were struggling with precisely some of those issues in contemplating Clauses 10 and 11. I will take some transition period points first—I refer of course to the transition periods contained within the amendments and not to what would be included if paragraph 142(b) of our report had been taken up.

Three things made us feel that three months after the commencement date was not nearly enough. First, there were the union rules themselves. Here I am grateful to the noble Baronesses, Lady Dean and Lady Drake, and to the noble Lord, Lord Whitty, for educating us with great tact and patience on exactly how trade unions work and therefore how difficult it would be for unions to make changes to their rule books in a hurry without exceptional and unreasonable cost. Secondly, it was raised with the committee that each of the unions concerned would need to make changes to its IT systems. I can see a number of Members groaning at the thought of that. It was felt that each one would have to make changes to two IT systems, the membership system and the accounting system, and all of that would have to be done, no doubt, with considerable expense. Of course, such expense did not appear in the impact assessment.

Finally, the actual process of mail-out was assumed to be just a simple letter out and in. In fact, I know from experience that mail-out processes are considerably more complex than that. You have to answer questions from people who get letters, send out replacement letters and chase people up. That is why we came to feel that the absolute minimum period was 12 months and that the Government should certainly settle down with the unions and the Certification Officer to get that period right.

On the second bit, the methodology of the opt-in, the amendments include the Certification Officer so we could get the proportionality right where one is talking about an average political contribution of £4.84 a year. We felt that the Certification Officer, who was most impressive in evidence, would be able to find a way through so that opting in could be done on a basis that was not cripplingly expensive for the unions concerned.

Finally, on the point which the noble Lord, Lord Tyler, raised on the manifesto, I will not repeat what he said. However, one of the interesting things which we considered as a committee in trying to strike that balance between fairness and the manifestos was what would happen to the percentage of trade union members who, at the next election, were still on an opt-out basis. Basically, we took evidence from USDAW, which said that its turnover was about 20% of its membership per year. Therefore, even if the average was 10% for the whole of the union movement, at least 40% of that membership would have turned over by the next election. So in many ways the Government would already have achieved substantial progress toward their target, even if they go on the basis which we have recommended. As I said, I feel we have achieved a balance of fairness and manifesto commitments in the committee report.

5.45 pm

Lord Sherbourne of Didsbury (Con): My Lords, I served on the committee of the noble Lord, Lord Burns, which he chaired in a consensual, conciliatory and characteristically subtle way. I use those words in a complimentary sense, but I also think that his amendment is deceptively subtle. Ultimately, it is a wrecking amendment and I shall explain why I say that.

The background to the amendment is the report produced by the Select Committee. One of its conclusions—this was referred to by the noble Baroness, Lady Symons—was that the principle of opt-in should, in effect, be accepted for all members, the only difference being over when and how it should be introduced. A second conclusion was that we were very clear that the transition period for change was far too short and should be extended. The amendment extends the transition period, and I support that.

The amendment is 50 or so lines long and I agree with about 49 of them, but I disagree with the very first line because it takes out the new section that

[Lord Sherbourne of Didsbury]
would extend opt-in to existing members. The amendment deals, quite properly, with the transition period for new members. But by taking out the new section that deals with existing members—a proposal which was a manifesto commitment by the Conservatives and was not dependent on party-funding reform—their position does not change and they continue to be able only to opt out. Therefore, although it is deceptively persuasive, it is a wrecking amendment because it strikes at the heart of the Government's manifesto commitment and I am afraid that I cannot support it.

Baroness Smith of Basildon (Lab): My Lords, first, I apologise for having a somewhat croaky voice. My noble friend Lord Collins tells me that I sound like a House of Lords version of Fenella Fielding but, as the only film I can remember her being in was "Carry on Screaming!", I hope that the voice is as far as any similarities go.

We return to the issue of the trade union political levy and whether members should opt in to or opt out of contributing to trade union political funds. I am grateful to the noble Lord, Lord Burns, for his explanation of the amendment. To try to cut through the political rhetoric, your Lordships' House agreed to our Motion to set up a Select Committee, its primary remit being to examine both the detail and the likely impact of the Government's proposals. I pay tribute to the noble Lord, Lord Burns, who chaired the committee, and to the members and support staff for the way in which they have dealt with these issues. Both the report and the evidence transcripts show detailed and forensic analysis, which was possible only because of the commitment of the committee members and their support team.

As other noble Lords have said, a week ago we had an excellent debate in this House on the report. It featured contributions from many noble Lords, including those who served on the committee. When the Minister replied to the debate, she was unable—not unreasonably, given the timeframe—to respond fully to the Select Committee's recommendations. However, as the noble Earl, Lord Kinnoull, pointed out, both she and the Minister in the other place, Nick Boles, have indicated that they are in listening mode and that the Government may be willing to make some changes. There was some hope that we might hear more about that before Report, but—we never know—perhaps the Minister will surprise us tonight and soothe us by saying, as I hope she will, that the Government are able to accept the amendment of the noble Lord, Lord Burns, or at least the spirit of it.

In establishing the Select Committee, we set it a tough task. Because broader party-funding issues had been raised, we asked that the Government's proposals be examined in the light of the report of the Committee on Standards in Public Life and that the committee look also at whether new legislation was needed in the interests of balance. However, the committee did better than that. It used the remit to go beyond political views and opinion and to dig deeper than any political differences in order to interrogate and analyse the facts. It also sought to find a way through that would recognise the intention of the Government's manifesto commitment that we have heard about tonight. It is made quite clear on page 49 of the manifesto that the Government will seek a "transparent opt-in process" for union subscriptions to political parties and, in the very next sentence, will seek,

"agreement on a comprehensive package of party funding reform".

That is all without placing unreasonable and unrealistic demands on the trade unions in meeting that commitment to ensure that opt-in would happen rather than be made too difficult.

I think we all accept now that, although clumsily and inaccurately worded, what the manifesto meant was not trade union subscriptions per se but the process by which union members pay into their political fund. I think it was helpful of the Select Committee to affirm that of the 163 unions, only 25 have political funds and, of those, just 15 are affiliated to the Labour Party, with an average political levy for each person of less than £5 a year, or around 9p a week. That fund may be used for a variety of political campaigns; for example, against violence or discrimination or to promote safety in the workplace. That fund may also be used to make contributions to or affiliate to a political party. The main political party that currently has affiliated membership of this kind is the Labour Party.

In our debate last week I provided evidence that the Government's impact assessment was inadequate, including the bizarre claim on page 74 that:

"Our main estimate is that there will be no change in the number of members contributing to the political fund. We do not have reliable data to estimate any changes in the proportions contributing".

So although the Government admit that there is no evidence, they still draw unsubstantiated conclusions from that lack of evidence on the impact. The noble Lord, Lord Burns, referred to that point again today.

Fortunately, the Select Committee was more thorough and took evidence from a number of sources. It concluded that the proposed change from an opt-out of the political levy to an opt-in could have,

"a sizeable negative effect on the number of union members participating in political funds".

When the Select Committee said that, it is was without the obstacles in Clause 10 that make that opt-in more difficult; namely, that it had to be done in three months, in writing on paper, and then renewed every five years. The Select Committee was optimistic that the Government would negotiate on these terms—and as my noble friend Lady Drake referred to, the Government should negotiate on these terms. My noble friend also said that not only did the Government give businesses two years to deal with bringing in the plastic bag levy, but in today's Budget the Chancellor announced a sugar tax on the drinks industry and gave it two years to prepare for that to be brought in. The trade unions, however, are being given just three months. It is almost as if the Government's plans are designed to make opt-in as difficult as possible.

The Government claim that they want the process to be "transparent", but these measures are likely to make it invisible and, therefore, virtually impossible to put into practice, let alone work. Just to make it even harder, the Government want to make it retrospective—that is, as well as applying to new joiners of a trade

union, all existing members have to go through the same process, in writing and within three months. That is some bureaucratic exercise: to contact more than 5 million people and get them to respond, and all for just 9p a week.

In terms of the costs involved in switching to the new system, the Government's impact assessment is again terribly deficient. It assumes, unbelievably, that trade unions will have a 100% success rate in contacting members by letter and getting responses. Then, when 100% of members have replied in writing, it will apparently take just 30 seconds to process each new application—it takes me longer than 30 seconds to open an envelope. Ask any charity or organisation in this country, however worthy and important its communication, what the mailing success rate is. Is it 10%? Is it 5%? Some will tell you that it is even less. Many companies, including insurance companies, where renewal is crucial and often a legal requirement, write more than once and make follow-up phone calls. We have all had those calls, multiple times, reminding and reminding and reminding us to respond to a letter. So that £4 million-plus that the Government estimate it will cost takes us into a world of fantasy and fiction. To do it properly will take much more than a couple of letters, and the overall cost in time, resources and money is likely to be far higher.

I was interested to hear the noble Earl, Lord Kinnoull, quote the evidence from USDAW. That struck me also when I was reading through the evidence, and it was particularly compelling on this point. USDAW said:

> "In that three-month transitional period we would have to communicate with 440,000 members. It would be a huge task to get them to fill in forms to respond … We have a turnover of between 70,000 and 75,000 members each year; about 20% of the union leave and join".

After that, as one by one all those hurdles have been negotiated and members have opted in or out, unions will have to go through it all again just five years later. Can anything have been so deliberately designed to make it as complicated as possible?

We have had some welcome indications that Ministers are in listening mode. The Minister and Minister Nick Boles have both assured Parliament and the Select Committee of this. That indicates that the Government now accept that the plans are disproportionate and that Ministers are willing to consider changes. I certainly hope that that is the case.

As I admitted during last week's debate on the committee report, and if I am honest with your Lordships House, this amendment does not provide for all the changes that the Labour Benches would want to see. Even the amendment from the noble Lord, Lord Burns, as I am sure the committee will recognise, will cause difficulties for both the trade unions and the Labour Party in the medium and longer term. It is certainly not pain free.

I remain strongly of the belief that this part of the Bill is fundamentally flawed and that without broader measures on party-political funding, as recognised by the Select Committee, it will have a disproportionate and unnecessary negative impact on trade union political funds. The measures proposed by the Government to bring in the opt-in go far beyond any transparency requirements and are highly unreasonable. In turn, that will, as now evidenced by the committee report, have a major impact on Labour Party funding. Therefore, we believe that this matter should be addressed in the context of party-political funding as previous reports, including that by the Committee on Standards in Public Life, have recommended.

However, we on these Benches also consider that the Select Committee approach brings great credit to your Lordships House. The noble Lord, Lord Burns, and his colleagues have brought a logical, almost scientific approach to this issue. I am sure that we can all find parts of the report or recommendations with which we agree or disagree, but that in no way detracts from what is a thoughtful, intelligent and very practical approach. More than just being analytical and critical, the Select Committee has proposed a route map that removes much of the unreasonableness and unfairness, while still fulfilling the Government's manifesto commitment of transparency and providing that trade union members should have to opt in rather than opt out. The noble Lord, Lord Tyler, made the point that that also includes progressing talks on party funding as the other part of the manifesto commitment. The amendment in the name of the noble Lord, Lord Burns, and others offers all sides in this debate a compromise and a sensible way forward.

I have already quoted from the Government's election manifesto, but there is another quote on the same page about the role of the House of Lords, which is highlighted. It says:

> "We will ensure that the House of Lords fulfils its valuable role as a chamber of legislative scrutiny and revision".

And—dare I agree with the Government?—that is our role today. It says much about your Lordships' House that through our Select Committee and the related debates we have examined this issue in such detail and have this amendment from the noble Lord, Lord Burns, and colleagues before us today. We all know that in the other place there were not such detailed debates, at this or any other stage of the Bill, on this specific issue. I have reflected with other noble Lords on why this would be the case. I wonder whether it is because we in this House—a point made, I think, by the noble Lord—are not constituted as a wholly political Chamber. Therefore, we are not so party political or, indeed, partisan. We have examined this issue in a completely different way: we have put facts first and then judgment. It is because of our respect for that process, and the exemplary and thoughtful work of the committee, that we are prepared, in that spirit of compromise, to support the noble Lord, Lord Burns, in the whole of his amendment. I hope that the Minister will be able to match that commitment today.

6 pm

Baroness Neville-Rolfe: My Lords, Clauses 10 and 11 implement our manifesto commitment for a transparent opt-in process for union subscriptions. We had substantial discussion last week in this House about these clauses following, and informed by, the excellent work undertaken by the noble Lord, Lord Burns, and his Select Committee. I share the tributes paid by the noble Baroness, Lady Smith of Basildon, to the committee, its staff and the speed of its proceedings.

[Baroness Neville-Rolfe]

These clauses are about the relationship between trade union members and their unions. They are not about the relationship between union members and political parties. The relationship between trade union members and their unions should be based on transparency and choice—an active choice, not a theoretical choice buried in fine print.

There are a number of areas where I believe progress has been made and where there is consensus. Principally, the Select Committee accepted that members should be asked to make an active choice when contributing to a union's political fund. In looking to achieve wider consensus, the Select Committee has looked for a middle ground. I appreciate these efforts, but I believe that when it comes to the treatment of existing union members the proposals have not gone far enough. The amendment in the name of the noble Lord, Lord Burns, for which I thank him warmly, would not extend opt-in to existing members, only to new members. My noble friend Lord Sherbourne of Didsbury, one of the hard-working members of the committee, put it well when he talked about this being a wrecking amendment in that respect.

The Select Committee concurred with the Government's view that the current approach has not operated with enough transparency. All members are not consistently informed about their rights. If it is deemed right that new members are required to make an active opt-in choice, I do not understand why the same principle does not apply to existing members.

It is not acceptable in many areas of daily life automatically to deduct payment for a cause or purpose that has not been actively consented to. We see that in consumer law, financial services, marketing communications and the way charities approach potential donors. I have not heard a compelling reason why we should treat all union members differently.

We debated at length last week the wider and distinct agenda of political party funding. Some have argued that pursuing only a partial opt-in system can be justified, given the lack of consensus on party funding reform—the noble Lord, Lord Tyler, mentioned this. It is a difficult problem to crack and I shall not seek to repeat what was said in the discussion last week. Our trade union reforms are about the transparency arrangements between a union and its members. I quote again from page 19 of the Conservative manifesto:

"We will … legislate to ensure trade unions use a transparent opt-in process for union subscriptions".

The Select Committee agreed that we had not cherry-picked from the 2011 report of the Committee on Standards in Public Life and recognised our democratic mandate to introduce an opt-in process, irrespective of agreement or not on party funding.

Lord Dykes (Non-Afl): I am grateful to the Minister for giving way and apologise for intervening early in her remarks. Her reference to a manifesto commitment is of course a valid point, except that we all know that manifesto commitments are abandoned quite frequently by parties in the course of events and do not proceed, that the manifesto is based on a Government elected by 24% of the electorate and that only some 0.4% of the population read any of its paragraphs.

Baroness Neville-Rolfe: Well, I believe that manifesto commitments are important. This is an important and clear manifesto commitment. If I may continue, I will seek to respond to points that noble Lords have made.

The noble Earl, Lord Kinnoull, spoke about union membership turnover. I cannot accept his argument that we should not allow existing members to be covered because, over time, all individuals would be covered. Obviously, turnover is faster in some industries than others. I know and am very fond of USDAW, which represents shop workers, where turnover is high, but the noble Earl's approach would deliver a two-tier position, while moving to opt-in is what we have a democratic mandate to implement.

I turn to three key elements of the noble Lord's amendment: that new union members would be required to make an active opt-in choice; giving a new role for the Certification Officer; and—perhaps most important of all, because several people have mentioned them—the transition and communication arrangements.

On the treatment of new members, I can of course support the introduction of an opt-in requirement. The amendment would achieve this by giving new members a clear choice on the application form. It is appropriate to make this choice clear at the point of joining. It is the point at which a member is making their first financial commitment to the union, and they should be told what the commitment covers in sufficient detail to make an informed choice. The amendment also provides that new members should be informed that their decision will not impact unfavourably on any other aspect of their membership. I believe that is also an important measure to support making an informed decision.

Turning to the proposed new role for the Certification Officer, I appreciate that the amendment tries to enhance information for union members about their right to opt out of a political fund. We are in favour of better communication, but I believe that we are past the point of trying to make the current opt-out work better. We tried that in 1984, and I agree with the points made by my noble friend Lord Maude of Horsham. We presented evidence, which the Select Committee appeared to concur with, that the current approach has not operated with enough transparency. Even for new members, the amendment would not require that they should ever again have to opt in while they remained with the union.

I also believe the proposal to expand the remit of the Certification Officer to set out a code governing union communications is inappropriate. We heard concerns during Committee about the new burdens we are placing on the Certification Officer, and I do not believe that expanding his role is necessary or sensible.

I want to move on to the proposals for transition and electronic communications, on which I believe there is more consensus in the House, and about which I have indicated on previous occasions that I am open-minded. I have listened carefully to the issues raised regarding transition and the fact that members should be able to make their choice electronically.

There are two different transition periods: first, the period between Royal Assent and when Clause 10 applies to trade unions, which is important to allow

unions time to prepare by, for example, changing their rulebooks; secondly, the period, mentioned in the Bill, for existing members to opt in under the new arrangements. The noble Lord, Lord Burns, expressed concern about what he called a "guillotine"—members automatically being opted out after three months. I have said that I am in listening mode on the implementation of this clause. As I have explained, I need to consider how each period of transition is delivered, but I think, together, they provide a good opportunity.

The amendment in the name of the noble Lord, Lord Burns, would also make electronic communications an accepted mode of communication between unions and their members on political fund provisions. I recognise the force of the argument made by the noble Baroness, Lady Drake, and others in favour of the use of email and electronic communications, and I have said that I would reflect further on this.

We note that the amendment tabled by the noble Lord, Lord Burns, gives the Certification Officer a role in relation to transition arrangements as well as annual communications. We will continue to engage with the Certification Officer, whom I intend to meet before Third Reading. We all agree that the transition must be done in a way that is successful for unions and for their members.

If noble Lords are prepared to accept my wider arguments on the case for opt-in applying to existing members, I would like to bring back for consideration before the Bill leaves this House provisions on a more generous transition period, as proposed by my noble friend Lord Hailsham and others, and on electronic communications. The Bill will, we believe, secure consistency and equity across all members of unions with political funds. The default position will be that all members will be able to exercise a positive choice. This will improve transparency, choice and debate within a union of how political funds are spent. I therefore ask the noble Lord to withdraw his amendment.

Lord Burns: My Lords, I am grateful for all the contributions to this debate. I am not surprised that so much of it has concentrated on the issue of the opting in of existing members versus the opting in of new members. I understand the concern about that, but there is an enormously important practical issue at stake here: how do you get existing members to exercise an informed choice? It is clear that that choice can be forced in respect of new members because people have to fill in a membership form on which you ask them the question. When it comes to persuading existing members to respond to mailshots, it is actually very difficult, as anyone who has ever been involved in trying to run an exercise of this type will know. The response rates are typically very low. As the noble Earl, Lord Kinnoull, said, the average payment we are talking about here is £4.80 a year, which is not exactly the sort of thing that gets people leaping out of their chairs, having reminded themselves they should be filling in a form.

Those of us who have been involved with financial services, as I tried to make clear in my earlier remarks, know full well that this is a problem for the industry. The emphasis is put on new buyers and what happens at the sales point. It is much more relaxed about what happens to those people who have previously bought a product, as long as they are reminded of what their rights are.

I deny that this is a wrecking amendment. Over time, I have argued, increasing numbers of people will come into these arrangements. In some areas it may be slow, but in the end it will happen. I am grateful to the Minister for her response about the transition issue and electronic communications, which is very welcome, but I am sorry that there has not been more movement on this point. I believe that my amendment meets the manifesto commitment. Nowhere in that commitment is any distinction made between new members and existing members. I believe that what I have proposed is proportionate and avoids the trap of being drawn into a war on political funding, which I also believe is very important.

I shall only say this once: there is no one who is more surprised than me to find myself in this position today on this particular subject. Having said that, I wish to test the opinion of the House.

6.13 pm

Division on Amendment 9

Contents 320; Not-Contents 172.

Amendment 9 agreed.

Division No. 2

CONTENTS

Aberdare, L.
Adams of Craigielea, B.
Addington, L.
Adonis, L.
Ahmed, L.
Allan of Hallam, L.
Allen of Kensington, L.
Alli, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Armstrong of Ilminster, L.
Ashdown of Norton-sub-Hamdon, L.
Bach, L.
Bakewell, B.
Bakewell of Hardington Mandeville, B.
Balfe, L.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Berkeley, L.
Berkeley of Knighton, L.
Best, L.
Bhattacharyya, L.
Bichard, L.
Billingham, B.
Blackstone, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Boothroyd, B.
Bradley, L.
Bragg, L.
Brennan, L.
Brinton, B.
Brooke of Alverthorpe, L.
Brookman, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Burnett, L.
Burns, L. [Teller]
Burt of Solihull, B.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Cashman, L.
Chandos, V.
Christopher, L.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clement-Jones, L.
Collins of Highbury, L.
Cormack, L.
Corston, B.
Cotter, L.
Craigavon, V.
Crawley, B.
Cunningham of Felling, L.
Darling of Roulanish, L.
Davidson of Glen Clova, L.
Davies of Oldham, L.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Drayson, L.
Dubs, L.
Dykes, L.
Elder, L.
Elis-Thomas, L.
Erroll, E.
Evans of Temple Guiting, L.
Falconer of Thoroton, L.

Falkland, V.
Falkner of Margravine, B.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Featherstone, B.
Fellowes, L.
Foster of Bath, L.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Freyberg, L.
Fritchie, B.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Gordon of Strathblane, L.
Gould of Potternewton, B.
Grantchester, L.
Greaves, L.
Greenway, L.
Grender, B.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hameed, L.
Hamwee, B.
Hannay of Chiswick, L.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haskins, L.
Haughey, L.
Haworth, L.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hilton of Eggardon, B.
Hollis of Heigham, B.
Hope of Craighead, L.
Howarth of Newport, L.
Howe of Idlicote, B.
Howells of St Davids, B.
Howie of Troon, L.
Hoyle, L.
Hughes of Woodside, L.
Humphreys, B.
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Hutton of Furness, L.
Irvine of Lairg, L.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones, L.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jordan, L.
Jowell, B.
Judd, L.
Judge, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Kerslake, L.
Kestenbaum, L.
Kilclooney, L.
King of Bow, B.
Kinnock, L.
Kinnock of Holyhead, B.
Kinnoull, E.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Lee of Trafford, L.
Lennie, L.
Lester of Herne Hill, L.
Levy, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Listowel, E.
Livermore, L.
Low of Dalston, L.
Ludford, B.
McAvoy, L.
McConnell of Glenscorrodale, L.
McDonagh, B.
Macdonald of Tradeston, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
McNally, L.
Maddock, B.
Mandelson, L.
Manzoor, B.
Mar, C.
Marks of Henley-on-Thames, L.
Massey of Darwen, B.
Mawson, L.
Maxton, L.
Mendelsohn, L.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Moonie, L.
Morgan, L.
Morgan of Drefelin, B.
Morgan of Ely, B.
Morgan of Huyton, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Morris of Yardley, B.
Morrow, L.
Murphy of Torfaen, L.
Newby, L.
Nicholson of Winterbourne, B.
Nye, B.
O'Loan, B.
O'Neill of Bengarve, B.
O'Neill of Clackmannan, L.
Ouseley, L.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Patel, L.
Patel of Bradford, L.
Pendry, L.
Pitkeathley, B.
Plant of Highfield, L.
Ponsonby of Shulbrede, L.
Prescott, L.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Puttnam, L.
Quin, B.
Radice, L.
Ramsay of Cartvale, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rees of Ludlow, L.
Reid of Cardowan, L.
Rennard, L.
Richard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rogan, L.
Rogers of Riverside, L.
Rooker, L.
Rosser, L.
Rowlands, L.
St John of Bletso, L.
Sandwich, E.
Sawyer, L.
Scott of Foscote, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Gilmorehill, B.
Smith of Leigh, L.
Smith of Newnham, B.
Snape, L.
Soley, L.
Steel of Aikwood, L.
Stephen, L.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Suttie, B.
Symons of Vernham Dean, B.
Taverne, L.
Taylor of Blackburn, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Temple-Morris, L.
Teverson, L.
Thomas of Winchester, B.
Thornton, B.
Tomlinson, L.
Tonge, B.
Tope, L.
Touhig, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L. [Teller]
Turnberg, L.
Turnbull, L.
Tyler, L.
Tyler of Enfield, B.
Walker of Gestingthorpe, L.
Wall of New Barnet, B.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Warner, L.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watts, L.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Williams of Elvel, L.
Willis of Knaresborough, L.
Wills, L.
Wood of Anfield, L.
Woolf, L.
Woolmer of Leeds, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altmann, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Barker of Battle, L.
Bates, L.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Brabazon of Tara, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browning, B.
Buscombe, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chisholm of Owlpen, B.
Colwyn, L.
Cooper of Windrush, L.
Cope of Berkeley, L.
Courtown, E.
Crickhowell, L.
De Mauley, L.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dundee, E.
Dunlop, L.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Faulks, L.
Finn, B.
Flight, L.
Fookes, B.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glentoran, L.

Gold, L.
Goodlad, L.
Goschen, V.
Hailsham, V.
Harding of Winscombe, B.
Hayward, L.
Henley, L.
Heyhoe Flint, B.
Higgins, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Keen of Elie, L.
Kirkham, L.
Lamont of Lerwick, L.
Lansley, L.
Leach of Fairford, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Livingston of Parkhead, L.
Lothian, M.
Lupton, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McGregor-Smith, B.
McIntosh of Pickering, B.
Mackay of Clashfern, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marlesford, L.
Masham of Ilton, B.
Maude of Horsham, L.
Mawhinney, L.
Mobarik, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Norton of Louth, L.
O'Neill of Gatley, L.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Palumbo, L.
Patten, L.
Perry of Southwark, B.
Pidding, B.
Plumb, L.
Polak, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Ryder of Wensum, L.
Sanderson of Bowden, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Skelmersdale, L.
Smith of Hindhead, L.
Spicer, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stirrup, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Tanlaw, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

6.31 pm

Amendment 10

Moved by ***Lord Burns***

10: Clause 10, page 7, line 16, leave out subsections (3) to (5)

Amendment 10 agreed.

Amendment 11

Tabled by ***Lord Stoneham of Droxford***

11: Clause 10, leave out Clause 10

Lord Stoneham of Droxford: I am glad that the amendment has been passed but obviously we will wait to see the Government's reaction. We therefore reserve the right to come back on this but, in the mean time, I shall not move Amendment 11.

Amendment 11 not moved.

Clause 11: Union's annual return to include details of political expenditure

Amendment 12

Moved by ***Lord Leigh of Hurley***

12: Clause 11, page 7, line 32, leave out from "union" to "exceeds" in line 34 and insert "paid out of its political fund in any calendar year"

Lord Leigh of Hurley (Con): My Lords, my amendment seeks to clarify the nature of the transparency sought within political funds. I believe that my amendment simply ensures the transparency that was intended but is not covered in the current wording of Clause 11. Noble Lords will recall that I asked the Minister to consider this matter during the debate on the Burns Select Committee report. I believe that the intention of Clause 11 is to ensure that expenditure from the political fund is fully disclosed so that members of the union who choose to opt in can see how their money is being spent.

We heard from evidence given to the Select Committee on 4 February by Mr Iain McNicol, general secretary of the Labour Party, that less than 50% of the trade union political levy is actually sent to the Labour Party. I believe that is correct and supported by the facts. The amendment deals with the rest of the money in the political fund that is not spent on political parties.

Following encouragement from noble Lords opposite, I have examined the accounts of the political fund of two of the largest unions: UNISON and Unite. They are somewhat vague. UNISON notes that its membership's contribution is some £6.6 million in the political fund in its most recent set of filed accounts, but does not really break down how this is spent. It lists as national expenditure—it just uses the words "national expenditure", with no further detail—the sum of £2.9 million, and that is the largest single item. Quite intriguingly, it discloses at the end of the year that it holds on its balance sheets some £8.2 million of reserves within the political fund. Whether we do opt-in or opt-out, that £8.2 million still sits in the political funds to be allocated at the union's discretion.

Unite has £7.7 million of income in its political fund and simply states that, of this, £1.17 million is classified as political fund expenditure. Again, there is no further clarification. Intriguingly, that union had £14.9 million of reserves on its balance sheet for the political fund exclusively.

Given the substantial sums involved it would seem only fair that those who choose to opt in, hereon in, have some idea how this is being spent. The problem is that Clause 11 restricts the disclosure requirements to expenditure falling within Section 72(1) of the 1992 Act.

[Lord Leigh of Hurley]
This section essentially focuses on money spent to or by a political party, and only to or by a political party. It does not cover any other payments by the political fund.

No one is suggesting that there should or would be any control or influence whatever over how the money is spent, but simply that there should be transparency over these payments for the members. Indeed, I am sure that there are many instances of payments from the political fund that would not be in any way controversial and would be welcomed by all of us in this House. For example, money spent on HOPE not hate, sponsored by the GMB and the National Union of Teachers, which seeks to campaign against the British National Party, could not be seen as controversial. However, other expenditure might be considered more controversial, such as support for the Campaign for Nuclear Disarmament. Many people might be surprised to see that some unions support this, given the many manufacturing jobs that depend on the nuclear industry.

While we do not know the amounts, we know that there has in the past been specific funding for particular think tanks, and, controversially, campaigns to lobby local councils to divest their government pension schemes from companies linked with Israel. Unions that, for example, are affiliated to the Palestine Solidarity Campaign would have had to make a payment to achieve that affiliation. It seems only right that members should be aware of this and the amount. Some might wonder why their money is being used in this way. For completeness, I disclose that I am a supporter and member of the Conservative Friends of Israel, but this is a very small part of the issue.

In every area of our society, there is greater consumer choice and transparency in how other people's money is spent. Amendment 16, which follows, discusses whether the sum of £2,000 is appropriate. I said in Committee and at Second Reading that I personally did not think that £2,000 was high enough. Leaving that aside, I hope the Minister will accept the amendment, which does no more than achieve the greater transparency that we all believe is sought by the clause. I beg to move.

Lord Robathan (Con): My Lords, I shall be very brief in supporting my noble friend Lord Leigh. I wish to bring up one point. In the last debate, the noble Baroness, Lady Smith of Basildon, reflected that the amounts we are talking about are trivial—less than 5p per member contributing to a pension fund a week. That is trivial, but the point is that the amount we are talking about is nearly £24 million a year, or nearly £125 million over the life of a Parliament. We should realise that these are not small amounts. They have an impact on the causes that my noble friend mentioned, and on donations to political parties or whatever. It is important that we bear in mind that this is a large amount of money and we should not dismiss it just because most people do not know that they are even paying into it.

Baroness Neville-Rolfe: My Lords, the Government are committed to greater transparency for all contributing union members in the use of union political funds. Not only should members have a choice whether to contribute, but it is only fair and reasonable that union members know how their political funds are used. As my noble friend Lord Robathan said, this is important because the totals can be large. We want members to make informed decisions about whether they want to contribute to such a fund. Increased transparency will also increase debate within unions about what the political fund is used for.

My noble friend Lord Leigh raises an interesting point about the level of transparency provided for by Clause 11. In particular, I understand that his amendment seeks to ensure that all expenditure from the political fund is subject to enhanced reporting requirements. I accept the principle of the point that my noble friend makes and I am sympathetic to his proposal. Our intention is that members should understand how the political fund is spent. It is important because, as I have already said, members need to know this if they are to make informed decisions about whether to opt in or opt out.

We will reflect and come back on that point of principle at Third Reading, giving careful consideration to how we deliver our transparency reforms in the most proportionate way. In the mean time, I ask my noble friend to withdraw his amendment.

Lord Leigh of Hurley: I thank my noble friend the Minister for agreeing to review and to come back at Third Reading and, accordingly, beg leave to withdraw my amendment.

Amendment 12 withdrawn.

Amendment 13

Moved by ***Lord Burns***

13: Clause 11, page 7, leave out lines 35 to 42 and insert—

"(2) The union's return for that year under section 32 shall include such information as may be specified by the Secretary of State in regulations made by statutory instrument, following consultation with the Certification Officer.

(2A) A statutory instrument containing regulations under subsection (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

Lord Burns: My Lords, this amendment also relates to the Select Committee. Clause 11 will require unions with political funds to provide much more detail of their political expenditure in their annual returns to the Certification Officer who oversees trade union administration. There was some confusion in Committee about exactly what the clause requires and about the significance of the £2,000 threshold, so it may be worth examining the detail of the clause.

The clause will require any union which spends more than a total of £2,000 per year from its political fund to declare the recipient, amount and nature of every payment, no matter how small. I repeat, there is no de minimis; the £2,000 is not a declaration threshold for each individual payment. It is also worth saying that the £2,000 figure is so low as to be almost meaningless: the 2014-15 annual report of the Certification Officer shows that all but two unions with political funds will be caught by the clause, and the two that will not be are tiny—the National Association of Colliery Overmen, Deputies and Shotfirers and the

Association of Revenue and Customs. If the limit were £50,000 a year, a further five small unions would be excluded.

While the Select Committee received much less evidence on this clause than on Clause 10, we were concerned by the Certification Officer's predictions of the amount of extra work that it would cause for both unions and the Certification Officer himself. In the debate last week I used an example to illustrate the potential bureaucracy which the clause will involve, and I repeat it: in principle, this clause, coupled with Section 72(1) and (2) of the 1992 Act, will mean that a union will have to declare the reimbursement of a bus fare to one of its members who attends a Labour Party conference, including the name of the member and the amount of the bus fare.

So while the committee agreed that union members were entitled to more detail about the political expenditure of their unions, and transparency is important here, we also believed that the details of the clause needed to be looked at again. Accordingly, we proposed that the Government should, before the Bill completes its passage, consult the Certification Officer and come back with revised proposals which better balance accountability and proportionality. Amendment 13 seeks to implement this recommendation: it retains the general requirement in the Bill for unions to provide more information in their annual returns, but it also requires the Secretary of State to consult the Certification Officer before specifying the detail of the scheme in an affirmative instrument. This will enable both Houses to satisfy themselves that the final scheme is proportionate. I reiterate that this amendment simply enables the Government to think again about the detail. I beg to move.

6.45 pm

Baroness Dean of Thornton-le-Fylde (Lab): My Lords, I support Amendment 13. Paragraphs 101 to 107 of the Select Committee report dealt with our unanimous concerns—this is one of the unanimous parts of the Select Committee report—that Clause 11 would be disproportionately burdensome, especially when considered in relation to the size of the political fund contribution from members, which is an average of 9p a week. This is particularly burdensome.

Paragraph 141(e) declares our unanimous view:

"The reporting duties in clause 11 should be revised after consultation with the Certification Officer, to ensure that they are not disproportionately burdensome".

This amendment will give effect to that unanimous recommendation of the Select Committee—I look forward to noble Lords on the Government Benches supporting the views that they agreed to.

Looking at the evidence given to the Select Committee, the Certification Officer on 9 February said, in oral evidence:

"The impact of Clause 11 will cause me a great deal of work … I can see that it will cause unions quite a lot of difficulty, for very practical reasons".

He goes on:

"Trade unions give money from their political funds at not only national but regional and branch level, and there is a job of collating to do. If there is sometimes use of a trade union room for general political purposes, who is the recipient? There is an issue of doubt there. Each payment has to be categorised under one of the six headings in Section 72 of the 1992 Act. A lot of those overlap, so which category is it put into? … In my experience, uncertainty gives way to litigation".

Is that the intention of the Bill?

The impact assessment, which has come in for quite a bit of criticism, says at paragraph 266:

"We therefore assume it will take a day of a trade union official's time each year to provide the details of the specific expenditure from the political fund".

It is on that basis that this clause is in the Bill. It is completely disproportionate and not based on any kind of proper impact assessment. Yet the next government amendment ploughs on irrespective of that.

I wonder whether anyone associated with writing the Bill has any idea how trade unions work. Trade unions have external, independent auditors who ask questions. Noble Lords on the Benches opposite who have dealings with a company will know the kinds of questions; they do not ask any different questions when they are looking at the accounts of unions. Those accounts have to go to the union conferences. The members at the union conferences analyse and debate those accounts and when it comes to the political fund, they have to list the affiliations that the union has. They have to discuss the policies of support that the union has. So transparency is already there. I wonder on what the Government are basing their argument about transparency.

The government amendment, which I hope the House will not accept, has no relevance to dealing with the disproportionality and does not assist transparency. There has been no consultation at any point with the Certification Officer—he told us that in his evidence, in direct answer to a question. There has been none with the trade unions, to which this clause will particularly apply and for which it will cause problems. Yet the Government are trying to say, "We know all about how these funds work and we are trying to get transparency". This is a very small amendment; it does not prevent the clause going through but simply asks for consultation with the Certification Officer. I hope that the House accepts the amendment.

The Earl of Kinnoull: My Lords, I will not detain the House for very long. When the committee met we noted that this clause was not a manifesto commitment. Accordingly, there is not that complication as one seeks to apply common sense. The committee was lucky to receive a written submission from BIS as to what Clause 11 was intended to do. It stated:

"Clause 11 provides for additional transparency over the expenditure of the union's political fund. It places a requirement on unions to provide more detail about political expenditure … This information will allow union members to make an informed choice about whether they wish to contribute to the fund".

We were lucky also that Nick Boles in his evidence said several times—I have picked just one instance—that we must make sure that this is,

"not designed to trip people up".

The difficulty—I think the Select Committee was unanimous on this—was that the current clause did not "scratch the itch" that was outlined by BIS but certainly amounted to "tripping up", for the reasons that the noble Lord, Lord Burns, and the noble Baroness,

[The Earl of Kinnoull]
Lady Dean, have just given. I feel that the amendment we have put forward does scratch those itches. I therefore urge the Minister to accept it as it is proportionate, effective and balanced.

Baroness Neville-Rolfe: My Lords, the Government are committed to greater transparency for union members in the use of political funds. Members can then make an informed decision as to whether they want to contribute.

I am pleased that the Select Committee has also endorsed the principle that the current level of reporting is insufficient and that union members are entitled to a reasonable amount of detail about political expenditure.

On the amendment tabled by the noble Lords, Lord Burns and Lord Tyler, the noble Earl, Lord Kinnoull, and the noble Baroness, Lady Dean, the aim of Clause 11 is to make sure that all unions meet a minimum standard of transparency. The current provisions in Clause 11 ensure that where unions spend more than £2,000 per annum from their political fund, they provide a breakdown of expenditure.

I do not believe that we should start from the position proposed in this amendment, which is to place all the detail on the level of reporting in secondary legislation. Placing these requirements on the face of the Bill helps to reduce uncertainty about what is intended—a consideration which often appeals to noble Lords.

As I said in the Select Committee debate last week, we will reflect on the technical recommendations of the committee in relation to Clause 11. The noble Lord, Lord Burns, pointed out that the provision could mean that a union would have to declare the reimbursement of a bus fare to one of its members who attended a Labour Party conference. That was never our intention. We are not trying to trip people up, as the noble Earl, Lord Kinnoull, suggested.

On the amendment of the noble Lord, Lord Stoneham, and the noble Baroness, Lady Burt, the Government have always been clear that the transparency requirements in Clause 11 are important so that members can exercise an informed choice. The proposal for a review would delay this transparency and I cannot see its rationale. However, I have said that I am open to continuing the conversation on how best to achieve improved reporting of political expenditure in the most proportionate way, and on making the requirements of the provision less onerous, with a view to coming back to this issue at Third Reading. As I said earlier, I am already planning to see the Certification Officer, which I am sure will be helpful.

Finally, I turn to the government amendment. I am grateful to the Delegated Powers and Regulatory Reform Committee for its careful scrutiny of this clause. It has noted that the power to substitute the £2,000 threshold in Clause 11 can be used not only to raise the amount but also to lower it again to an amount not less than £2,000. Raising the threshold would reduce the reporting requirements on unions. However, if, in the future, a Government wished to reduce the threshold back again, the reverse would happen and the reporting requirements on unions could increase considerably. I have listened carefully to concerns voiced by the committee. Our amendment ensures that any decision in future to lower the threshold would be subject to the affirmative procedure, and therefore subject to full parliamentary scrutiny. I do not agree with the noble Baroness, Lady Dean—if I have understood her correctly—that this would increase burdens. I hope that she agrees with me now that I have explained what is intended by this amendment.

Lord Tyler: As a member of the Delegated Powers and Regulatory Reform Committee, I acknowledge the point the Minister has just made. But would it not be rather extraordinary if she is effectively asking the proposers of the other two amendments that are relevant to this clause to wait to hear what she will do at a later stage of the Bill, while she pursues her own amendment? Would it not be better to take a comprehensive view on all these amendments and the whole of this clause at Third Reading? Otherwise, there is a real danger that they may not all be compatible. We may accept her amendment—if the House decides to do so—but may not be able to deal with the other points which she acknowledges still need further consideration. Would it not be appropriate for the Minister to withdraw her amendment?

Baroness Neville-Rolfe: I am just checking whether, if I withdraw my amendment, I can then retable it if, after consideration, that seems appropriate. I understand that if I make my intentions clear—which sounds like a good principle—I can bring it back. I will certainly withdraw it today and look at the provision in the way that I have suggested. But I give notice that I will return to it because it is an important provision that tries to respond to the concerns of the Delegated Powers and Regulatory Reform Committee, on which I know the noble Lord serves.

I have said that I will reflect further on the technical reporting requirements to ensure that they do what we intend. I have set out why I do not believe that a further review of reporting requirements on top of the excellent work done by the Select Committee is necessary and I have agreed to hold the government amendment over to Third Reading. In the circumstances, I hope that noble Lords will not press their amendments.

Lord Burns: I fear that I am even more confused than I was when I started. I fully understand why the Minister says that it was never the intention to do what I described might happen with this bus ticket. But I am not clear what she is suggesting that the Government will do about this, given my interpretation of this clause. I have checked this many times. We have been through all sorts of procedures to try to find out whether it really says what we think it says, and no one has yet come forward and said to me, "No, that's not what it says. Our legal advice is that it says something different". So I assume from the noble Baroness's remarks that she will come back to this and suggest amendments that will make sure that the lack of intention, as it were, is corrected.

Baroness Neville-Rolfe: My Lords, I can confirm that.

Lord Burns: I thank her very much. On that basis, I beg leave to withdraw the amendment.

Amendment 13 withdrawn.

Amendments 14 to 17 not moved.

Clause 12: Publication requirements

Amendment 18

Moved by ***Baroness Hayter of Kentish Town***

18: Clause 12, page 9, leave out lines 16 to 19

Baroness Hayter of Kentish Town (Lab): My Lords, we turn now to Clause 12, which would require public sector employers to log and publish how much time is spent on facility time, which allows union and safety and learning reps to do their jobs. We still maintain that Clause 12 is based on no evidence of need and no demand by public sector employers. However, we are not today contesting that clause but only new Section 172A(9) on page 9 of the Bill, which extends this reporting requirement to bodies well beyond the public sector, to include a body,

"that is not a public authority but has functions of a public nature and is funded wholly or partly from public funds".

In Committee, we challenged what this meant, and why Ministers would want to interfere with the managerial decision-making of an independent body, especially ones funded only partially by public money. The Delegated Powers and Regulatory Reform Committee concluded that the measure could encompass charities, and others have mentioned arts and cultural bodies. There was general concern about ministerial diktat to private organisations, especially given that Clause 13 enables Ministers to override management's right to manage, by capping facility time. One letter from the Minister stated that the Bill—contrary to its wording—would cover ONS-defined public bodies, which would catch housing associations and various other organisations.

Another letter said that it had,

"never been the government's intention to capture private or voluntary sector providers of contracted out public services or charitable organisations",

despite what the Bill says. The noble Baroness, Lady Neville-Rolfe, then said that they would look at the issue again. Indeed, yesterday the Minister wrote saying that the Government had revisited this and they now thought that lines 16 to 19 would mean any FOI-able body with at least 50 employees. Most noble Lords will not have a list of those bodies; mine, however, arrived this morning.

7 pm

The Government still have some way to go, I think, to settle on a robust, clear definition of which employers this really quite major requirement should fall on. Our desire is for absolute clarity on this, so that nothing in the Bill will suddenly land on some unsuspecting organisation's lap. We would, therefore, like to work with the Minister and his colleagues to reach a settled, clear definition of which bodies are to be covered as well as some clarity—whether in regulations or the Bill—on what "partly funded by public money" means. I am sure that it is not any body that gets 5% of its funding from local authority or government money but we probably need to know.

To get this part of the Bill into a proper, workable state—while the FOI list might well be a start, it has some way to go—we would be happy to withdraw the amendment if the Minister either undertakes to bring back something that is more workable at Third Reading or accepts that, if we cannot reach that in dialogue, we would be able to do that after discussions. I beg to move.

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords, I begin by saying that I have read the previous debates and have met a number of your Lordships; I thank those I met for their time. I acknowledge the misgivings that have been expressed about this policy and I thank the noble Baroness, Lady Hayter, for extending the hand of friendship and co-operation on this. Before I address the point on scope, I repeat a key point to your Lordships that I wish no one to forget: it is not the intention that facility time is to be banned. As has been said—I repeat again—trade union representatives provide a valuable role in many organisations and facility time will always have a role to play throughout the public sector.

On scope, we are clear in our aim to cover core public bodies—employers that the taxpayer would expect to be covered by public sector transparency regulations. To meet this aim, our approach is to include public sector bodies in the regulations only if they meet the following policy aims. First, bodies that we wish to capture are already listed in Schedule 1 to the Freedom of Information Act 2000 or the Freedom of Information (Scotland) Act 2002—I refer to both of them as FOIA. We believe that whether a body is in scope of Schedule 1 to FOIA is a good indicator of whether they are a public authority for the purpose of Clause 12. However, to include all the employers on Schedule 1 to FOIA would be too wide for our aims. I totally take the point that the noble Baroness makes about small organisations. We will filter organisations out of this list where their inclusion would not be appropriate. The regulations will place obligations only on employers with more than 49 employees and at least one trade union representative. FOIA Schedule 1 includes several bodies that do not currently meet this criterion and will thus not be obliged to follow the publication. They will, however, appear in the regulations and it will be for any such body to appropriately exclude itself if it does not meet the criteria. This is in recognition of the fact that the size of organisations and their trade union membership is likely to fluctuate over time.

Next, in the event that at some point in the future the Government were to identify a body that is not in Schedule 1 to FOIA and not capable of being added, we would seek to capture such a body, relying on the powers in Clause 12(9), only where the body has not been set up to function in a predominantly commercial, competitive, or market-facing way; has more than 49 employers and one or more trade union representative; and has functions of a public nature and is funded wholly or partly from public funds. Furthermore, if the Government wish to add new bodies that pass these tests, they propose to amend the Bill so that the powers in subsection (9) are exercisable by affirmative resolution. This House would then have the chance to scrutinise and debate any regulations that the Government

[Lord Bridges of Headley]
bring forward to include these bodies that are not public authorities but carry out functions of a public nature.

In the light of the noble Baroness's wish to consider the content of my letter and potentially revisit this issue at Third Reading to discuss it further, I hope that the approach set out my letter, which the Government intend to stand by, will enable us to avoid revisiting this issue in depth at Third Reading. I have already also referred to the Government's commitment to make the extension of the list an affirmative resolution procedure before the Bill leaves this House. On this basis, I hope that the noble Baroness will feel free to withdraw her amendment this evening.

Baroness Hayter of Kentish Town: I thank the Minister for that. I think we have made progress. The Bill will probably need to be amended to take account of the approach that the Government are now taking. On the basis of our looking forward to future discussions and returning to this, we hope very quickly, at Third Reading, I beg leave to withdraw the amendment.

Amendment 18 withdrawn.

Amendment 19 not moved.

Clause 13: Reserve powers

Amendment 20

Moved by ***Lord Kerslake***

20: Clause 13, leave out Clause 13

Lord Kerslake: My Lords, this amendment would remove from the Bill the reserve powers proposed to be given to the Secretary of State to intervene in individual public bodies in respect of their facility time arrangements. In moving this amendment, which is also supported by the noble Baronesses, Lady Watkins and Lady Hayter, and the noble Lord, Lord Stoneham, I declare my interests as president of the Local Government Association and chair of King's College Hospital.

I will not spend a long time making the case for the value of trade union facility time, because the Government are not contesting this. Suffice it to say that it is part and parcel of ensuring effective industrial relations and enabling trade unions to play their proper role in collective agreements with employers. The benefit comes as much to the employer as it does to the trade unions. I am clear that I could not have delivered the scale of change that I did in Sheffield without having trade union representatives funded through the facility time arrangements. Having them available to engage in the negotiations on behalf of their members was crucial. The Government are saying that the costs should be transparently known and proportionate to the benefits—I agree. However, this is fully secured—this is a critical point—through Clause 12. There is no need for the reserve powers contained in Clause 13.

It is worth spending a minute looking at the reserve powers given to the Secretary of State in this clause. They will enable the Secretary of State to specify not only the percentage of an employer's pay bill that such arrangements will cost—to specify a cap— but also the percentage of an individual employee's working time that can be taken as paid facility time. This will apply to all public bodies including those in the devolved nations. As we have heard, that ends up with a wide definition. Let us be clear about this: the Secretary of State will be able to specify the percentage of time that a trade union official in the City of Edinburgh Council and Essex County Council can spend on their paid duties. This will entirely cut across whatever collective agreements happen to be in place already in those authorities at the time. This does not make sense at any level. If the public body is controlled by central government then it is already within the Government's gift to take action. They already have the ability to influence this. If, however, the public body is a local authority, it has its own democratic mandate and is answerable to its own electorate for the cost. Given the immense financial pressures now on local authorities, do we really think that they are incapable of making this judgment?

We rightly invest enormous responsibilities in local government. There is widespread recognition that local authorities have managed the substantial reductions in their budgets over the past six years as well as, if not better than, any other part of the public sector. Indeed, through the devolution deals, the Government plan to give them more powers and responsibilities. Yet we do not think that they can be trusted to manage a cost that comes to less than 0.2% of their pay bill.

The Government have pointed to the power of transparency to deliver savings on their own facility time costs. It must surely be right to let the same process take its course in other parts of the public sector. Their only defence of this clause in Committee was that it might come in handy at some time in the future. That is not an adequate defence for such a centralising provision. I beg to move.

Baroness Watkins of Tavistock (CB): My Lords, as a co-signatory to the amendment moved by the noble Lord, Lord Kerslake, I declare my interests as an emeritus professor of Plymouth University and a non-executive director of the South Western Ambulance Service NHS Foundation Trust.

As the noble Lord, Lord Kerslake, said, we agree with the Government about the value of appropriate amounts of facility time, which we all acknowledge are essential to effective industrial relations and health and safety at work. The benefits of facility time come not only to the trade unions and employers but to the public, including patients and students, when good, sometimes even novel solutions are found to changes in working practice through collective discussion between managers and employee representatives.

For example, a management team that I led could not have delivered the effective changes in nursing and healthcare education in the West Country without having had trade union representatives funded through facility time. In that instance, we moved from 17 small sites to a four-centre hub-and-spoke model. This saved in excess of £3 million per annum, recurring, for the NHS budget—without a single working day lost. During the year in question union representatives' facility time and managers' time were a worthwhile investment in securing a cost-effective solution for the future.

The reserved powers for the Secretary of State outlined in Clause 13 should not necessarily be needed. Good managers should be facilitated to make decisions about the amount of trade union facility time that is appropriate for the business in hand at that time, whether in the NHS or other publicly funded services. Just as trust is necessary between managers and unions, it is necessary between government and leaders and managers in the public sector.

The Government are saying that costs should be transparent and relevant to the benefits. I have given a personal example of this approach and fully support the concept that this should be achieved. However, I do not believe that the reserved powers contained in Clause 13 are proportionate or necessary. Good managers will oversee and provide transparent data on facility time and should be held accountable for doing so without the need for Clause 13. The noble Lord, Lord Kerslake, has made a sound argument for the deletion of Clause 13, with which I concur.

7.15 pm

Lord Dykes: My Lords, I add my thanks to the noble Lord, Lord Kerslake, for moving this amendment, and to the noble Baroness, Lady Watkins, for what she has just said. Once again this indicates that on the unaffiliated or Cross Benches there has been a considerable collective contribution of good suggestions to restore a sense of balance and proportion into what was far too ideological a matter in the original drafts of the documents that eventually became the Trade Union Bill launched by the Conservative Party in government.

I am advised by the research I sought to do that these matters are very important from the point of view of ordinary, routine, daily trade union activity with employers in the context of the public sector and private company entities in which they work. The main activities in the practical usage of facility time include: negotiating improved pay and conditions for members and the wider workforce and accessing specialist union training on employment rights; accompanying individuals in their disciplinary or grievance hearings; carrying out health and safety duties; training people who are not yet trained on health and safety matters; and promoting learning opportunities and opportunities for further intellectual activity in the entities in which they work.

Those are routine matters, not matters that, I am sure, in the original draft text in Conservative Central Office, before it became the Bill launched by this Government—on the basis of only 24% of the population—were ideological clauses based on the belief that there was some kind of union racket in this facility time element. That simply is not the case on all the evidence we have. Once again I hope that the Government will be tempted to see reason on this and accept the amendment.

Lord McKenzie of Luton (Lab): My Lords, I support Amendment 20 and the arguments advanced by the noble Lord, Lord Kerslake. I will concentrate my brief remarks on the provisions in the Bill that relate to safety reps, and in doing so I declare my interests as president of RoSPA and a vice-president of the LGA. Concentrating on health and safety reps is not in any way meant to undermine the broader thrust of the amendment as it applies more generally.

As a preamble, I reiterate points raised in Committee about the importance of TU safety reps and the positive impact that they have on the safety culture of their employers. There is an abundance of evidence about the importance of effective health and safety systems and that these systems work best when trade unions and employers work together. That is why the Health and Safety at Work etc. Act gave legal backing to union safety reps and why, rather than seeking to undermine or weaken the system, the Government should be concerned with its promotion and enhancement.

I would argue that the Government are in error in including health and safety reps' time as facility time. Facility time is time off from an individual's job granted by the employer to enable a representative to carry out their trade union role. We have heard why this should not be constrained in the manner proposed in the Bill. A safety rep, however, although appointed by a trade union, does not fulfil a trade union role as such. It is a specific legal position with defined functions, and the regulations state that in this capacity it must represent all workers in a workplace, not just union members.

This comes about not only from the Health and Safety at Work etc. Act but by Article 11 of the 1989 EU framework directive which deals with consultation and participation of workers. The directive specifically states:

> "Employers must allow workers' representatives with specific responsibility for the safety and health of workers adequate time off work, without loss of pay, and provide them with the necessary means to enable such representatives to exercise their rights and functions deriving from this Directive".

There is no limit on this, but it would have to be reasonable. The UK regulations use the phrase "as shall be necessary", which will obviously vary from workplace to workplace and from time to time. The exercise of reserve powers under Clause 13, which are triggered by consideration of the information requirements of Clause 12, would be entirely inconsistent with the directive, which focuses on the need for adequate time off to exercise rights and functions. The latter must have regard to the circumstances of individual workplaces, which, as I say, can vary from location to location and from time to time.

Moreover, the legal requirement under the directive is for the employer to comply in allowing time off. This is as it should be, because it is generally the employer who creates the risks which have to be managed. It is not for the Government to second-guess in respect of either public sector workplaces in aggregate or individual workplaces in particular. Can the Government spell out for us the circumstances in which they envisage using these reserve powers to limit the time of safety representatives otherwise agreed between an employer and a trade union? What evidence do they have that there is an abuse of the system as the law stands? The Minister in the other place, Nick Boles, is on record as acknowledging that:

> "An employer must allow them"—

safety reps—

[Lord McKenzie of Luton]

"as much paid time off work as is necessary or reasonable to perform their statutory functions, and we absolutely do not propose to change that rule".—[*Official Report*, Commons, Trade Union Bill Committee, 22/10/ 15; col. 352.]

In that case, why they are potentially subject to reserve powers in Clause 13 and why will the Government not remove those powers?

There is one other point. The Bill applies only to trade union representatives. The Minister will be aware that there are two sets of regulations covering workplace representatives: the 1977 regulations, which apply only to trade union reps, and the 1996 regulations, which apply to representatives for workplace safety in non-unionised workplaces. If the Bill is passed in its current form, the Government will be able to restrict time off given to trade union representatives in the public sector but not to non-trade union ones. Is this the intention and why do the Government seek to discriminate against trade union reps in this manner? Can the Minister tell us how this measure is consistent with the fairness obligation that was set out at the start of our proceedings?

Lord Bridges of Headley: My Lords, I am grateful for the contributions this evening. I will try to keep my remarks relatively brief but hope to explain why I believe this measure is both proportionate and reasonable. First, as has been said, the reserve power may never need to be used. Our intention is that the transparency measures that I have outlined before, as noble Lords know full well, should encourage employers to moderate their spending where necessary. To pick up on the point that the noble Baroness, Lady Watkins, made, managers will, for the first time, be able to easily compare their spending with others in their sector. However, if for some reason inefficient spending is not addressed, it is only right that there is a reserve power to ensure that wasteful use of taxpayer funding does not continue.

Noble Lords should remember that even if this power were to be used, as I have said before, facility time will not be banned, as the Government note the considerable contribution that it makes. That brings me to the process that would have to be followed if these powers were to be exercised. First, as the reserve powers are subject to the affirmative resolution process, this House would have the opportunity to debate and scrutinise any cap that may be proposed. Secondly, crucially, implementation of the reserve powers must be rational and evidence based. Ministers must have regard to the relevant information to make their decision. If Ministers do not do so, they invite upon themselves the prospect of judicial review proceedings. The cap is a power of the last resort, and cannot be applied without due and proper consideration of all relevant factors.

I now turn to what might trigger the cap. The reserve powers are most likely to be triggered in one of two circumstances. First, if unjustifiably high patterns of spend were found to persist in certain parts of a sector, that would signal a need to investigate further why they were happening. If the answer were to be that particular parts of a sector needed to do more to control spending, a decision may be taken to apply a cap to that sector or part of that sector. Secondly, if a significant proportion of the cost of facility time is spent on trade union activities as opposed to duties—a key difference—across a sector, we may question why expenditure for which there is no statutory entitlement is being given such priority. We may conclude that such spending does not reflect reasonable prioritising of public funds and suggest applying a cap at a level we believe is reasonable.

If either of these situations were to arise, the Minister must present the case for using the reserve powers to Parliament to secure affirmative resolution. Before the Minister can do that, as I have said, they will have gathered trend data showing patterns of spend to support a rational, evidence-based case for why a cap should be made at a particular level. If Ministers do not feel they have sufficient data to arrive at a decision, they may also choose to consult the relevant sector. This House would of course have the opportunity to debate that cap.

I note the concerns that this is anti-localism but if a cap were to be imposed, it would still be up to local managers to decide how to manage facility time within the cap: for example, by deciding how they should prioritise trade union duties as opposed to activities. Working within budgets, while still meeting statutory duties, is not a novel concept in the public sector.

Turning specifically to devolution, I would argue again that this matter of industrial relations is entirely within the legislative competence of the United Kingdom Government. If an organisation is publicly funded, it should be held to account for how taxpayers' money is spent. Taxpayers in Scotland and Wales have the same right to transparency about how much money and resource is dedicated to industrial relations—a reserved matter—as taxpayers in England.

A valid concern was raised about the effect of a very restrictive cap, were one to be placed on facility time spending, and what that might do as regards health and safety obligations. I cannot envisage any circumstances under which this Government would introduce such a restrictive cap that important statutory obligations could not be met. We would certainly take account of what was necessary to ensure such union duties could be properly performed. After all, to do otherwise would leave the Government exposed to challenge by judicial review. For that reason, we do not expect there to be any conflict with employers being able to meet their statutory duties, but we are not going to dictate to them the minutiae of how they may do that. As a final reassurance, if required, the Bill contains the power to make exceptions to the cap to meet statutory obligations.

At the end of the day, by removing the cap entirely, the Government would be able to point to where taxpayers' money could be saved or better spent, but be unable to do anything about it. Government needs the power to act in a reasonable and accountable way. Under our proposals, this House will have the opportunity to scrutinise any cap, were one to be introduced. Ministers must have regard to relevant information to make their decision; failure to do so risks judicial review. Union duties such as health and safety will remain a statutory obligation. With that in mind, I ask that the noble Lord withdraws his amendment.

Lord McKenzie of Luton: Before the noble Lord sits down, could he just deal with the point about the difference between non-trade union reps being covered under one set of regulations and trade union reps under another? Why is that discrimination being allowed in the Bill?

Lord Bridges of Headley: My Lords, we need to make sure that taxpayers' money is properly accounted for, wherever it is spent. My understanding is that that is the rationale behind this.

Lord Kerslake: My Lords, I am grateful to the Minister for giving his response and for the contributions to this debate, which have been most valuable. This provision can be described only as overweening central power, with no justification whatever. The Minister said that public bodies—in the main, local authorities—should be accountable for what they spend. Yes, they should be, but to their local electorate. That electorate will be able to see exactly how much the authority spends and what they get for it, and to form their own opinion. Do we seriously think that the process of democratic control cannot deal with less than 0.2% of the pay bill? It is, I am afraid, absurd and it has not been defended.

I will make one last point before we go forward on this. The Minister said that there would be flexibility within the cap to decide what arrangements there would be. Within this clause, there is provision for the Secretary of State to say: "I don't like the fact that you are doing 100% time, trade union representative: I would like to change it to 50%, or maybe 25%". There is not even the ability to make the decision on the deployment of whatever cap is created. This is overweening centralism, so I beg to test the opinion of the House.

7.30 pm

Division on Amendment 20

Contents 248; Not-Contents 160.

Amendment 20 agreed.

Division No. 3

CONTENTS

Aberdare, L.
Adams of Craigielea, B.
Addington, L.
Adonis, L.
Ahmed, L.
Allan of Hallam, L.
Alli, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Armstrong of Ilminster, L.
Bach, L.
Bakewell, B.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Berkeley, L.
Best, L.
Billingham, B.
Blackstone, B.
Blunkett, L.
Boateng, L.
Boothroyd, B.
Bowles of Berkhamsted, B.
Bradley, L.
Bragg, L.
Brennan, L.
Brooke of Alverthorpe, L.
Brookman, L.
Browne of Belmont, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Cashman, L.
Chandos, V.
Clark of Windermere, L.
Clarke of Hampstead, L.
Clement-Jones, L.
Collins of Highbury, L.
Corston, B.
Cotter, L.
Crawley, B.
Cunningham of Felling, L.
Davidson of Glen Clova, L.
Davies of Oldham, L.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Dubs, L.
Dykes, L.
Elder, L.
Falkner of Margravine, B.
Farrington of Ribbleton, B.
Featherstone, B.
Foster of Bath, L.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasman, L.
Golding, B.
Gould of Potternewton, B.
Grantchester, L.
Greaves, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hannay of Chiswick, L.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Hart of Chilton, L.
Haskel, L.
Haughey, L.
Haworth, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hilton of Eggardon, B.
Hollins, B.
Hollis of Heigham, B.
Howarth of Newport, L.
Howells of St Davids, B.
Howie of Troon, L.
Hoyle, L.
Hughes of Woodside, L.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones, L.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jordan, L.
Jowell, B.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Kerslake, L. [Teller]
King of Bow, B.
Kinnock, L.
Kinnock of Holyhead, B.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Lee of Trafford, L.
Lennie, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Livermore, L.
Ludford, B.
McAvoy, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
McNally, L.
Maddock, B.
Manzoor, B.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Massey of Darwen, B.
Maxton, L.
Mendelsohn, L.
Miller of Chilthorne Domer, B.
Monks, L.
Moonie, L.
Morgan, L.
Morgan of Drefelin, B.
Morgan of Ely, B.
Morgan of Huyton, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Morris of Yardley, B.
Morrow, L.
Murphy of Torfaen, L.
Newby, L.
Nicholson of Winterbourne, B.
Nye, B.
O'Neill of Bengarve, B.
O'Neill of Clackmannan, L.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel, L.
Pendry, L.
Pitkeathley, B.
Plant of Highfield, L.
Ponsonby of Shulbrede, L.
Prescott, L.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Puttnam, L.
Quin, B.
Radice, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rees of Ludlow, L.
Rennard, L.
Richard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rogan, L.
Rogers of Riverside, L.
Rosser, L.
Rowlands, L.
St John of Bletso, L.
Sandwich, E.

Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Snape, L.
Soley, L.
Stephen, L.
Stevenson of Balmacara, L.
Stoddart of Swindon, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Strasburger, L.
Suttie, B.
Taverne, L.
Taylor of Blackburn, L.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Teverson, L.
Thornton, B.
Tomlinson, L.
Tonge, B.
Tope, L.
Touhig, L.
Triesman, L.
Tunnicliffe, L. [Teller]
Turnberg, L.
Tyler, L.
Tyler of Enfield, B.
Verjee, L.
Wall of New Barnet, B.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watts, L.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Williams of Elvel, L.
Wills, L.
Winston, L.
Wood of Anfield, L.
Woolmer of Leeds, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altmann, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Bates, L.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Brabazon of Tara, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browning, B.
Buscombe, B.
Byford, B.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chisholm of Owlpen, B.
Colwyn, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Crickhowell, L.
De Mauley, L.
Deben, L.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dundee, E.
Dunlop, L.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Faulks, L.
Finn, B.
Flight, L.
Fookes, B.
Fowler, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Gold, L.
Goodlad, L.
Goschen, V.
Greenway, L.
Harding of Winscombe, B.
Hayward, L.
Helic, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Keen of Elie, L.
Kirkham, L.
Lamont of Lerwick, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Lothian, M.
Lupton, L.
Lyell, L.
MacGregor of Pulham Market, L.
McGregor-Smith, B.
McIntosh of Pickering, B.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marlesford, L.
Maude of Horsham, L.
Mobarik, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Norton of Louth, L.
O'Neill of Gatley, L.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Patten, L.
Perry of Southwark, B.
Pidding, B.
Plumb, L.
Polak, L.
Porter of Spalding, L.
Prior of Brampton, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Risby, L.
Robathan, L.
Ryder of Wensum, L.
Sanderson of Bowden, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Skelmersdale, L.
Smith of Hindhead, L.
Spicer, L.
Stedman-Scott, B.
Stirrup, L.
Stowell of Beeston, B.
Stroud, B.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trevethin and Oaksey, L.
Trimble, L.
True, L.
Tugendhat, L.
Wakeham, L.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

7.43 pm

Consideration on Report adjourned.

Renewables Obligation Closure Etc. (Amendment) Order 2016

Motion to Approve

7.44 pm

Moved by ***Lord Bourne of Aberystwyth***

That the draft Order laid before the House on 25 January be approved.

Relevant document: 24th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, the draft instrument closes the renewables obligation 12 months early to solar PV generating stations at 5 megawatts and below from 1 April 2016. It would apply both to new generating stations and to existing stations that wish to add additional capacity up to the 5 megawatts threshold.

Solar PV is an important part of the low-carbon energy portfolio. It has seen very strong growth in recent years, due in no small part to support from the renewables obligation and the feed-in tariff schemes. Almost 40% of the UK's solar PV capacity over 3 gigawatts was installed during 2015 alone. Hand in hand, the costs of installing solar PV have reduced dramatically. According to data from Bloomberg, the capital cost of a ground-mounted PV system fell by about 60% between 2010 and 2015.

In many ways, this progress is good news, making a valuable contribution to our renewable electricity generation, but the amount of deployment has also raised concerns about its impact on the levy control framework—the budget which caps the amount of support paid for through consumers' energy bills. I am sure that noble Lords will agree that there is a need for government to act responsibly when there is a risk of exceeding such a budget. That is why we have introduced a number of measures to deal with the projected over-allocation of renewable energy subsidies. In these measures, we have aimed to strike the right balance between the interests of consumers and those of developers.

This time last year, under the coalition Government, we were considering a similar order relating to the early closure of the renewables obligation scheme to large solar farms—those over 5 megawatts. Solar farms at this large scale were deploying much faster than previously expected, and we were rightly concerned about the impact this speed of deployment could have on the levy control framework. At the time, it was decided not to extend the closure to projects at 5 megawatts or below because the evidence suggested that these smaller schemes posed less of a risk to the costs of the levy control framework.

Noble Lords will recall, however, that in the debate last year—under the coalition Government—it was made clear that the deployment of smaller-scale projects would be closely monitored. If deployment was shown to be growing more rapidly than could be afforded, measures would be considered to protect the integrity of the levy control framework. That monitoring revealed that, if we did not act, up to four times more new solar capacity would be eligible for support this year and next under the renewables obligation than we previously estimated—within a range of 2.4 to 3.8 gigawatts, compared to the 600 megawatts to 1 gigawatt that had been estimated. I am sure that noble Lords will agree that in such circumstances, the need for further action is essential.

In taking this action to complete the early closure of the renewables obligation to solar, we have aimed to strike the right balance between protecting bill payers and protecting developers who have made significant investments, while being conscious of the need to decarbonise our energy infrastructure. That is why the order makes provision for a number of grace periods, which mirror those offered last year as part of the large-scale closure. Stakeholders have welcomed this consistency. One respondent to our consultation said:

"Technologies must be treated equally as far as possible and the requirements outlined are in line with those proposed for early closure of the RO to solar above 5 megawatts".

One of the grace periods was designed to protect developers who could show that a significant financial commitment had been made on or before the date on which the proposals were announced. This required evidence that a planning application had been made, among other things, as a proxy for the financial commitment.

Following the consultation, we are changing the criteria to clarify that we intended to protect projects that had made a valid planning application, in line with planning legislation across Great Britain. This is because we received evidence during the consultation from many planning authorities that some developers were submitting incomplete planning applications just to meet the cut-off for eligibility for the grace period.

Lord Wallace of Tankerness (LD): I am interested in what the noble Lord is saying. He seems to be saying that if there is clear evidence of a significant financial investment being made before a planning decision was made, developers will qualify for the grace period. Why is he not currently doing the same for onshore wind, where the cut-off seems to be far more arbitrary?

Lord Bourne of Aberystwyth: The parallel here is with the schemes above 5 megawatts and the undertakings then given to look at this in the same way in the light of increased deployment, which has certainly happened. I appreciate the point—it is different, there is no doubting that—but this is a continuation of what happened with schemes above 5 megawatts. That is the reason for the treatment we are going for.

When we closed the renewables obligation early to large-scale solar farms last year, we saw a rush of projects accrediting to beat the closure date. More than 1.5 gigawatts of solar were accredited in March 2015 alone. That is equivalent to around 5,000 football pitches. This time round, we had evidence to suggest that costs of solar PV had fallen further and faster than previously anticipated. I have already mentioned the steep fall that there has been. We have therefore proposed excluding new solar projects at 5 megawatts and below from our grandfathering policy if they do not meet the significant financial commitment criteria. This has been necessary to avoid locking in possible overcompensation in the event of a similar rush of projects accrediting before 31 March 2016. This change in policy would mean that projects which are not grandfathered would not maintain their support level if a banding review determined a lower level of support. This proposal was necessary as a cost control measure. We confirmed this change in policy last December, and at the same time started to consult on the results of the banding review. We are currently considering the consultation responses; the consultation finished at the end of January. Subject to the outcome of that process, changes would be implemented through a separate amendment to the renewables obligation order 2015 later this year.

On the impact of the order, our analysis indicates that the early closure proposed in it will save between £60 million and £100 million per year from consumer bills: over the 20-year period of the obligation, that is £1.2 billion to £2 billion in real terms over the lifetime of the projects. Over 8 gigawatts of solar is already deployed and we estimate total solar deployment under the levy control framework subsidy regimes will reach 12.8 gigawatts by 2020, following this closure, taking account of what we are doing today and the action taken in the recent feed-in tariff review. Without this intervention, we estimate that it would be very close to 20 gigawatts, or some 8 gigawatts above what we projected. The electricity market reform delivery plan is our best estimate of what we need to hit the renewables 2020 target, which set out an intention to deploy between 10 and 12 gigawatts at the upper end. In fact,

[Lord Bourne of Aberystwyth]
even with these changes, we are on track to exceed that range. This further underlines the need to take action now to prevent further solar deployment under this scheme.

Before I close, I should mention that we have taken the opportunity in this order to remove an inconsistency between the renewables obligation closure order 2014 and Article 91 of the renewables obligation order 2015. This had been drawn to our attention by stakeholders. This technical amendment makes it clear that an operator of an offshore wind station benefiting from a closure grace period can apply to Ofgem for registration of offshore wind turbines until 31 March 2018. I do not think that that is controversial.

This Government are committed to combating climate change, but in the most cost-effective way for bill payers. In tackling climate change at home, British families and businesses are better off inside the European Union. It provides a more stable and long-term framework to attract investment in UK clean energy projects, helping to keep bills down, create new jobs and boosting our energy security. Accordingly, the costs of solar are continuing to fall, and we expect solar to be delivered without subsidy over the coming years. However, since solar PV has been such a success in the United Kingdom, by summer 2015 the costs imposed on bill payers associated with support for renewable and low carbon electricity generation were forecast to reach £9.1 billion in 2020-21, significantly above the target of £7.6 billion. These costs, if they reached that level, would lead to increases in consumer bills. It is therefore only right that we have looked at ways to protect value for money and affordability under the levy control framework.

I hope that noble Lords will agree with me that on balance, the approach we have taken is the right one, closing a demand-led scheme and taking action on overcompensation while still allowing solar to deploy under the revised feed-in tariff scheme. This will ensure that solar PV is supported in a way that offers better value for money for consumers. I commend this draft instrument to the House.

Amendment to the Motion

Moved by ***Baroness Featherstone***

As an amendment to the above motion, at the end to insert "but this House regrets that the draft Order will close the Renewables Obligation to solar photovoltaic installations smaller than 5MW on 1 April; notes that this will have a detrimental effect on rooftop solar and community energy schemes, which will be left with no support, and that the date for closure is much earlier than expected by the industry, causing a significant reduction in investor confidence across the industry; and calls on Her Majesty's Government to reinstate the Renewables Obligation for solar under 5MW and guarantee that existing solar projects will not be affected by future changes to policy".

Baroness Featherstone (LD): My Lords, I fear that the Minister and I are not going to agree on this. However, it is not very long since we debated the ending of the feed-in tariff order, and I am sad to be here again so soon to enable a debate in which we on these Benches can express our dismay and alarm at the destruction being visited on what was a thriving world-leading industry in renewables—in this particular case, the ending of the renewables obligation for solar PV under 5 megawatts.

I shall not rehearse all the arguments that I made in that debate. I failed to get the Government to publish the calculations on the levy control framework, in which they prayed in aid a projected overspend as the rationale for their harsh and unforgiving bonfire of the renewables. Nevertheless, I appeal to the Government once again for transparency in relationship to the LCF, and ask that the figures are made public, so that the credibility of the Government's case can be properly assessed.

We lost the battle against the extraordinarily steep and abrupt removal of the feed-in tariffs for solar, wind and hydro. We have tried to get this Government to understand not only the seriousness of this in terms of moving towards a low-carbon future that allows us to meet our legally binding targets, but also the depth to which investor confidence has been undermined in the renewables sector and the long-term, negative impact on the economy that this has caused. It is very disheartening to see so much of the good work achieved by the coalition Government unravelled by this one.

What is clear is that this work, which saw the tripling of electricity from renewable sources and made Britain the fastest-growing green economy in Europe, was clearly led by only one side of the coalition, the Liberal Democrats, and not embraced at all by the other. It was galling to listen to the Prime Minister at Prime Minister's Question Time today claim that 99% of solar on roofs came under a Tory-led Government. That sticks a little bit in the craw. Since the end of the coalition, this Government are ending support for onshore wind power; sharply reducing support for other renewable technologies, including solar PV and anaerobic digestion; ending renewable energy's exemption from the climate change levy; reducing the incentives to purchase low-emission cars; privatising and selling off the Green Investment Bank; scrapping the Green Deal with no replacement; weakening the zero-carbon homes standard; adding community energy to the list of sectors excluded from receiving tax relief; ditching the £1 billion budget for pioneering carbon capture and storage; ending the renewables obligation early—the subject of today's debate—and on and on and on. It is a litany of destruction.

When the Secretary of State announced, following the 2015 election, that she would "unleash a solar revolution", we on these Benches naively thought that she meant a revolution that supported solar—but each action that has been taken has proven the opposite. That takes us to the statutory instrument before us today, which closes the renewables obligation to solar PV installations smaller than 5 megawatts on 1 April 2016. It will have a detrimental effect on rooftop solar and community energy schemes, which will be left without support, and will cause a significant reduction in investor confidence across the industry—solar and beyond.

Rooftop solar, the cornerstone of the solar strategy produced in April 2014, is now in dire straits. The tariff that has been set for the 1 to 5 megawatts solar band is much too low to incentivise rooftop deployment in that size range, leaving larger rooftops with essentially no route to market. The large-scale rooftop market is

potentially the most significant and cost-effective solar market. This market is dominant across Europe and is expected to reach grid parity first, yet the UK is not taking it seriously. The rooftop renewables obligation for solar at less than 5 megawatts must be reinstated to allow these commercial projects to go ahead until March 2017 with the forward visibility they require.

Also marched up the hill by the last Government and then abandoned by this one were community energy groups. Many opportunities were created for local communities to share in the economic benefits of local renewable projects, and yet the rug on larger solar power projects is being pulled from underneath them. It is vital that ground-mounted renewable obligations should remain open to community groups and to developers doing shared ownership or community investment schemes.

Another crucial aspect is the need for strengthening of the grace periods, to which the Minister referred. They are indeed a bone of great contention. Let me give the Minister one example from a leading UK solar company setting out the practical effect of the 22 July 2015 grace period qualification deadline. It was unknowable to the industry even 24 hours in advance: 22 July was the first anyone knew about it. This company had a project that was 95% ready to submit as a full planning application but was not intending to submit it until about a week after the consultation was published. When the 22 July consultation was published, it scrambled like mad to submit it, but the application now straddled 22 and 23 July because some key documents could not be sent in until the morning of 23 July.

8 pm

As the Minister said, it was not until 7 December 2015 that DECC firmed up the July 2015 grace period qualification cut-off date, and Sections 2F and 2G in the order will apply retrospectively to 22 July 2015. So this company now has £1 million tied up in a project which many not qualify for anything, solely on a technicality that it could not control, despite the fact that the planning application was 100% valid and less than one day late—albeit that the lateness was not its fault. What on earth are the Government thinking by penalising British SMEs in this way when they have invested in and developed projects in good faith and on the assumption that government commitments to maintain investor confidence in the UK renewables sector through a stable renewable obligation regime meant something?

As the Minister said, in the consultation in July last year the intention was clear that the qualifying grace period after disclosure would match that offered in the closure of the larger-scale renewable obligations the previous year. In fact, it was specifically stated. Sadly, in the final decision published in December, the position was changed to require a valid planning application as of 22 July, not a submitted planning application. This leads to a change to the original proposal. If, as the Minister said in his opening statement, it was to prevent a rush of companies that were not really ready trying to reach the finishing line, that is not an answer to the serious businesses that have committed real money to doing what the Government were asking of them.

Finally, as part of the July consultation, the Government proposed removing grandfathering for future solar renewables obligation projects with immediate effect. This is the guarantee that once a project is invested in and built, the level of support will not be changed. Companies do their sums on this basis, and it is a vital aspect of subsidy support. This principle underpins confidence to invest in new projects. Any company that makes an investment on one basis and suddenly finds that the set of financial assumptions it has used have changed is going to be very wary of any similar investment. This crucial aspect is being removed in all those projects which had been pre-accredited before that decision was taken and where there was a delay getting connected to the grid. Grandfathering is also being removed from any projects that applied for planning since July 2015 but before closure.

Investor confidence has been significantly damaged simply by the proposal to remove this guarantee—not just with solar, or even with energy, but potentially with all infrastructure. Increased risk increases the cost of capital. This vastly overshadows the relatively small amount of money that the Government seek to save through this proposal. It is less than £50 million per annum. It is estimated as between 50p and £1.20 per household. Energy UK estimates that £200 billion of private-sector investment in the energy sector is needed by 2020, of which £43 billion has been met. A 2% political risk premium on the remaining £157 billion of investment will equate to £3.14 billion per annum, dwarfing the saving of £50 million that the policy intends to make.

We ask that grandfathering be reinstated for all projects. Grandfathering is not covered in the SI, and its reinstatement would require an explicit statement from the Government. It is this that we seek. The Scottish Government have announced that they will retain a grandfathering guarantee for key policies supporting investment in solar farms, despite the proposals from the Department of Energy and Climate Change to end the protection in England and Wales—so England and Wales will be sorely disadvantaged as the industry puts its money where it feels it will be secure. That is a clever move by Scotland, but it is a very stupid move by our Government, if noble Lords will forgive me for saying so.

We on this side are asking Her Majesty's Government to reinstate the renewables obligation for solar PV under 5 megawatts and to guarantee that existing solar projects will not be affected by future changes to policy. We regret the unfathomable and unprecedented attack on the green economy by this Government, and we will bring it to the nation's attention at every point of attack. In the context of the recent signing of the wonderful Paris agreement, and in the light of our obligations and legally binding targets, this latest assault on our renewables industry is just that: the latest in a very long line of attacks. It is utterly unacceptable. I beg to move.

Baroness Byford (Con): My Lords, I shall comment on some of the points made by the previous speaker. This Government are certainly behind renewables of all sorts for the future. I hope the noble Baroness accepts that we are working towards the benefits of a low-carbon economy and—she did not refer to this in

[Baroness Byford]
her contribution—that the costs of producing solar energy have come down. Therefore, one of my questions to her is: if those costs have gone down, is it really right that we should maintain the subsidies envisaged when the costs were higher and, if so, what implications does that have for the people who have to pay for them—that is, the consumers? Does she also accept that, as the Minister said in his opening comments, we ran the risk of exceeding the budgets that were originally planned because of the wonderful response we had and that up to four times more could well be envisaged by the end of that time?

For me, it is a matter of looking at projects as they come up, be they in green energy or any other energy. As far as I am concerned, subsidies have always been there to pump-prime—to help new industries take off and become established. In this industry, that has clearly worked very well, and solar is a huge success. I have one or two very small solar panels on my garage, which do not bring in a big income, but we try to do our bit because we believe in renewable green energy, so we have them.

By considering the grace period, the Government have responded. When we debated this before, a question was raised about it. However, I find this quite hard and I say to the noble Baroness in all sincerity: when the industry has become successful and those costs have come down so much, the question must be whether those subsidies should be continuously maintained when the response we have had suggests that they might not be. Therefore, is it right to expect the consumer still to be paying for that project? The Government recorded that £52 billion has been spent on the renewables sector since 2010. That is a huge amount, as the noble Baroness knows from when she was in coalition. However, unless things are tackled, a balance has to be struck. I suspect she and I will not agree on how that should be done. It is a realistic challenge that any Government must face. At the moment, we are in government, and the costs and the response from the industry have done really well. The question is whether the order before us tonight is fair and appropriate. On that, I think the noble Baroness and I will agree to disagree.

Lord Teverson (LD): My Lords, I will be extremely brief. Perhaps I may reply to the noble Baroness, Lady Byford—whose expertise in all these areas I admire greatly—as well as comment on one of the Minister's remarks.

First, these Benches absolutely want to reduce renewable tariffs and subsidies as the costs come down. That is a fundamental point. We have a track record of doing that, and that is what we do. However, we are not into executing a particular technology. The way that this has worked is that the Government—interestingly, a Conservative Government—have been moving down the road of choosing technologies. The whole strategy of the energy market reform was to move gradually to a more market-based, less technology-specific situation as time went on—but we are doing the opposite.

We absolutely agree on the levy control framework and lowering costs to the consumer, but what have the Government decided to do? They have decided to invest in the two most expensive low-carbon technologies, offshore wind and nuclear, both of which are hugely more expensive than onshore wind and solar, the technologies that cost the least. So I say to both the Minister and the noble Baroness that if that is what the Government want, they need to change the strategy. They can achieve another strategy at the same time as meeting the carbon emissions target and lowering costs to consumers. That is the way it works—it is arithmetic. So, please, let us go for that.

I return very briefly to the issue of investor confidence. As noble Lords will know, the Select Committee on Energy and Climate Change in the other place recently looked at investor confidence in the energy sector. I hate round numbers, because one often does not believe them, but DECC itself estimates that we need some £100 billion of investment up to 2020, not just in generation but in the distribution system as well. As my noble friend said, to achieve that we need real investor confidence. What was the Select Committee's conclusion? It said:

> "It is clear that the confidence of many investors has been dented by the Government's actions since the election. The sudden, unexpected nature of many of the announcements has unsettled investors who had been used to receiving more forewarning of policy changes. There is a high risk that a hiatus in new developments has been created, pending further clarity on short- and longer-term policy. The Government removed support for renewables due to concerns about costs for consumers. But they have not set out the evidence base for this conclusion or for other decisions, and engagement with the investment community has been poor".

That is an all-party conclusion in a report on the Government's action in this area, and the conclusion is to condemn it. The need for investment is huge. We need to make sure that investment is right and that subsidies are low—and we are absolutely for reducing subsidies—but it has led to a hiatus. We no longer have carbon capture and storage or appear to have nuclear, and as far as I can see we do not have a workable strategy to bring in gas—so we have a huge energy problem. We need those investors but we have thrown away their confidence, and through the decisions we have made on renewable energy, by picking expensive winners, we have ensured higher energy costs for the future.

Lord Grantchester (Lab): My Lords, it is becoming an all too familiar situation on energy policy that once more there is another order before your Lordships' House that severely limits the UK's renewables industry, the mishandling of which, once more, has left confidence among investors in the sector further damaged.

The draft instrument today contains severe restrictions on the deployment of solar schemes of 5 megawatts or less under the RO regime. For solar it is another blow on top of the 65% cut to the rate of feed-in tariffs that your Lordships debated barely a month ago. As was said then, in the wake of the Paris agreement on climate change, the Government are sending out a terrible mixed message with another sudden and severe policy change, risking cutting off the sector at its knees rather than supporting its gradual glide path to being subsidy-free.

Today we will join the noble Baroness, Lady Featherstone, in her amendment to the Motion on the order. She is of course correct in her appraisals. Today

the Government are not being technology-neutral as regards solar power. Having closed the RO to schemes above 5 megawatts on 31 March 2015, the extension to close the RO to 5 megawatt schemes and below, yet without access to the contracts for difference auction system, means that solar projects above 1 megawatt are now in effect without support, with no route to market.

8.15 pm

The Government will spend just 1% of new expenditure on low-carbon projects under the levy control framework on solar power in each of the next three years. As solar is next to onshore wind as the cheapest major renewable power source and by far the most popular, this demonstrates a failure to understand the long-term cost benefits and the value for money it provides. According to the Government's impact assessment, the extra-budgetary impact is likely to be less than £1 on household bills. In the context of the challenges of decarbonisation, while we all wish to keep consumer bills down and to be at least cost, this is being short-term penny wise and long-term pound foolish.

Your Lordships' Secondary Legislation Scrutiny Committee has highlighted the Government's mishandling and exposed the extent of the industry's lack of belief in the department, which was not brought out in the Government's own Explanatory Memorandum. In the two workshops the department undertook, not only were overwhelming numbers opposed to the proposed package of measures but respondents questioned the rationale for the proposal because no evidence was provided to detail the breakdown of the LCF overspend, that it was due to solar overdeployment. Furthermore, there was a lack of trust in the department's deployment forecasting. Not only is the industry challenged with sudden changes but it has no faith in the department's competence and rationale for the action it is taking.

One of the damaging features of the order is not that the RO is closing from 1 April 2016 but rather that it effectively closed from 22 July 2015, with grace period allowances for projects with preliminary accreditation to be completed. This was the date of the opening of the consultation, so there was no warning before decisions were taken. Many schemes coming forward in good faith, with expenditure having been undertaken, were suddenly ruled out, however credible and beneficial they were.

If all this is not regrettable enough, a few items in this order need to be highlighted as even more regrettable. Once again, I highlight how this order, being an SI, is unamendable, in contrast to the early closure of onshore wind, which is amendable because it is in the Energy Bill. They are eminently similar provisions, yet the most pernicious aspects of this order cannot be changed.

One aspect of the post-consultation decision is to remove grandfathering from solar PV projects at 5 megawatts and below that were not accredited as of 22 July 2015. Rather curiously, this has not been commenced and is not included in this order. This is most confusing. As it was question 4 in the consultation, can the Government please now outline their intention in regard to grandfathering? The Explanatory Memorandum was unclear. Many respondents to the removal of grandfathering considered that without it, projects were uninvestable. Can the Minister clarify the position and state why this was left hanging from the order and whether removal of grandfathering will apply more widely than to solar technology?

Also regrettable is the inclusion of community energy schemes in the order. The noble Baroness, Lady Featherstone, is correct to include this aspect in her amendment. Community schemes widen the benefits of renewable deployment, encouraging individual households which want to do the right thing and do their bit towards combating climate change.

A wider consequence of the order is to underline the unsatisfactory nature of the levy control framework. The Minister will know that there is a call for full transparency on the LCF, given that the Government are using this budget estimate as a defining characteristic in their policy, while its opaqueness undermines the Government's case in arguing that customers' bills are being kept down to a minimum. Furthermore, the lack of detail on the LCF from 2020—which at the moment is left unclarified—is another cause for concern to those attempting to plan their inevitably longer-term projects for the future.

This measure damages the progress made towards low-carbon renewables. It is short-sighted, bad for business and bad for the environment. It is also bad for Britain. It is yet another in a series of policy announcements and changes that signal a significant change of direction in low-carbon energy policy. It again raises serious questions for investors—so much so that the Energy and Climate Change Committee conducted an inquiry, which has recently reported and raises severe issues for the Government to address. In relation to this order I will quote one sentence:

> "We call on the Government to set out clearly the purpose of the LCF and to explain why the Capacity Market is not currently included, when it is clearly an electricity policy that results in levies on consumers' bills".

Damaged investor confidence drives out investment, raises the cost of capital and increases customers' bills. If the Government are focusing on the levy control framework as the determining factor in low-carbon energy technologies, it is vital that the framework becomes coherent with the utmost urgency. That they have not done so is of the greatest regret.

The Lord Bishop of Salisbury: My Lords, it is curious to rehearse the same arguments so soon after the recent debate on feed-in tariffs. It is very disappointing in the wake of the success in Paris of COP 21, and the enthusiasm engendered from that about a new level of ambition in response to human-caused climate change. I feel as though the Minister is in a position of defending the indefensible. The noble Baroness, Lady Byford, made a very good point about the place of subsidies and pump-priming. Therefore, it is disappointing that the Government are not working more effectively with the renewable energy sector to build on the considerable success of that industry.

In its analysis of the impact of the changes to feed-in tariffs, DECC estimated that there could be a loss of 18,700 jobs. There is no equivalent analysis in relation to the impact of the withdrawal of renewable obligations, but going towards no subsidy will undermine a sector that is moving rapidly to a position of needing

[The Lord Bishop of Salisbury]
less subsidy. The House's Secondary Legislation Scrutiny Committee has been critical of the analysis of this in the EM by not highlighting the level of opposition to, or the paucity of support for, the proposed changes, or acknowledging the concerns expressed by a large number of respondents about the methodology used by DECC to justify its proposals. The desire for increasingly competitive pricing would be a good deal more compelling if this were a feature of the whole electricity market, but last week the Government's Competition and Markets Authority drew attention to the highly uncompetitive features of the market, dominated as it is by the big six companies.

The desire to cap the levy control framework has introduced two thought errors into the Government's proposals. The first is that, if the costs of decarbonisation are not to fall on already hard-pressed consumers, further support will be needed in addition to the LCF. However, as has already been pointed out in this debate, the additional cost to the consumer is estimated to be less than £1 per annum. This does not feel like the right way to address this issue. The second point is something that I have referred to before. The desire not to exceed the LCF cap means that we are content with hitting mid-range targets, whereas we ought to be seeking to exceed them on renewable energy in order to escalate the process towards decarbonisation. Many Members of the House want the Government to go back and think about this again. The issue is one of creating a strategy for energy that addresses the need, which was identified in Paris, to move rapidly towards a low-carbon economy.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords for their participation in this debate. I will of course address some of the points that have been raised but, before doing so, perhaps I may just clarify one or two issues.

First, the Government are of course committed to combating climate change, as the right reverend Prelate kindly acknowledged, through our participation in Paris and the marvellous result achieved there. However, we want to do so in the most cost-effective way for bill payers.

The solar industry in the United Kingdom has been a success story and has seen significant cost reductions. The noble Baroness, in opening, did not talk about the Liberal Democrat position on subsidies. The noble Lord, Lord Teverson, sought to clarify that, but I think the opponents of what we are seeking to do need to set out what level of subsidy they regard as acceptable at this stage, because, crucially, the costs have come down: so much so that the largest solar developer in the United Kingdom, Lightsource Renewable Energy, has said publicly—it is on its website—that it will be building subsidy-free sites this year. This order does not end solar and, if we can get solar deployment without the subsidy, that raises the question of why we are subsidising it. This Government believe that when the costs of deploying come down—as they have—so should support. This statutory instrument is a necessary step to protect bill payers and to end subsidies where they are not needed.

Before looking at some of the specifics raised in the debate, I want to set out what the costs of the renewables obligation and indeed other renewable policies, such as feed-in tariffs and CFDs, will be over the lifetime of this Government. There seems to be a feeling that we are cutting off all renewable subsidies. That is not the case. The cost on the levy control framework goes up every single year in this Government, and that is after the action we are hoping will be taken today. The total cost in 2015-16 is £5.23 billion. Next year it will be more than £6 billion. In the succeeding year it will be more than £7 billion. In 2018-19 it will be over £8 billion. In 2019-20 it will be £10 billion, and in 2020-21 it will be nearly £11 billion. So to those who suggest that somehow we are turning our face against renewables and ending subsidies, I can say that that is not remotely the case.

I shall address some of the specific points that were raised. As I said, the noble Baroness, Lady Featherstone, did not talk about the position of the Liberal Democrats in relation to subsidy, but I remind the Liberal Democrats that the coalition Government—after all, it was a department led by a Liberal Democrat Minister—recognised the need to revisit the 5 megawatt and below solar subsidies if we had overdeployment, or if overdeployment were projected. Overdeployment is projected by a ratio of 1:4, so it really needs to be addressed, and this is quite consistent with what the Liberal Democrats said when they were in government. We are taking this action for two reasons. It is not just about the levy control framework; it is also about the subsidy. We do not believe that we should be paying subsidies where they are not needed. The evidence is—I quoted the largest developer—that they are not needed.

The noble Baroness raised the issue of roof-top solar. We do not accept that the feed-in tariffs have been set too low to support commercial roof-top solar. Almost 8 megawatts of installations over 50 kilowatts have secured a feed-in tariff since the scheme reopened in February. That is significant and demonstrates that there is ample opportunity under the existing FIT scheme to do just that.

8.30 pm

I turn to the points made by my noble friend Lady Byford about the subsidy regime. I very much agree with what she said; she put it very crisply and very correctly, if I may say so, that subsidies are not for ever. They are there for as long as they are needed, for pump-priming and for getting things moving, but as the costs come down it is absolutely right that we re-address this. To be fair, the noble Lord, Lord Teverson, made that point; he may disagree with what we are doing but at least he accepts the need to revisit this and look at when a subsidy is needed and when it is not. That is a relevant debate to be had, but that did not seem to be the debate that the noble Baroness set out initially.

The noble Lord, Lord Grantchester, talked about moving towards a market approach. I am not sure whether that is something he approves of—he is indicating that he does—but that is what we are doing. If the largest solar developer is saying that it is installing solar without the subsidy this year, that is rather relevant to this debate.

It is not as if we are not doing other things in energy and climate change that are needed. We have a considerable innovation budget, and I think most noble Lords will approve of the fact that we are looking at small modular reactors with a significant part of that £250 million innovation budget in this Parliament. That is something we want to get moving, and plans were set out in the Budget Statement today on just that.

I know that the right reverend Prelate the Bishop of Salisbury is very interested in this area and has been very supportive of some of the action the Government have been taking, including the designated closure of coal and so on. He asked why we are aiming for the mid-range of solar. We are not. After the action we have taken today, and based on the best estimates we get, deployment is still above the top level of the estimate set out under the last Government: it will be 12.8 gigawatts, and the top level of what was considered necessary by the last Government was 12 gigawatts. Therefore, even after the corrective action we have taken, we are still ahead of that.

I understand some of the concerns that have been expressed, but in relation to this measure I can say only that we do not need this subsidy. There is deployment without it, and we would be wrong to subsidise where it is not needed. We would be wrong, as a Government, not to take action on a subsidy where the evidence is that it is not needed.

Lord Wallace of Tankerness: My noble friend Lady Featherstone mentioned investor confidence. My noble friend Lord Teverson and the noble Lord, Lord Grantchester, referred to the Energy and Climate Change Committee in the other place and its deep concerns about the cumulative effect of government policy on investor confidence, not just in solar or onshore wind but generally. Will the Minister please address the points that were very effectively made about investor confidence?

Lord Bourne of Aberystwyth: My Lords, of course investor confidence is an issue. In the department we meet the industry on a frequent basis—I met representatives of the solar industry just this week. Some of the concerns that are being expressed tonight were not expressed to me on that occasion. Of course there is a healthy dialogue, but I do not recognise some of the wilder statements being made about the lack of investor confidence. Industry will always take a particular view, and there will be some in industry who will not want to see an end to subsidies—I understand that; why would they? However, as a Government, we have to see how money can be well spent.

It has been a good debate, but I urge noble Lords to reject the amendment and support the order, which is a necessary part of ensuring that we get value for money, do not overdeploy in this area and end subsidies that are not needed.

Baroness Featherstone: I thank all noble Lords for their contributions; I thought that serious and considered points were made on all sides. The Minister said that I did not address the issue of subsidy. I took it as read that we all want to see the end of subsidies, but the issue is the methodology for delivering that. As I explained that at great length during the debate on the fatal Motion that I tabled to annul the feed-in tariff, I did not want to rehearse all those arguments. However, again, as the levy control framework calculations are still not before us, we cannot examine the evidence of the case.

Arguments were made about the costs to consumers. We are all concerned about the cost to consumers, but I laid out the price range involved in the cost of risk. The £1 per annum that would be saved feels a very poor argument in terms of reducing costs when, at the same time, the Government are so willing to invest in those energy sources that are so much more expensive, such as nuclear and diesel.

Lastly, on the overdeployment of solar, until the Government come forward with a plan illustrating how they are going to reach their renewable targets, we may be reliant on extra electricity because renewable heat and renewable transport are in so much trouble. Therefore, although I appreciate the arguments and agree with the noble Baroness and the noble Lord, we are not going to see eye to eye on this issue. I am very grateful for the support of the Labour Benches on this, and for the arguments of the noble Lord, Lord Grantchester, which were well made. I seek to test the will of the House.

8.36 pm

Division on Baroness Featherstone's amendment.

Contents 153; Not-Contents 144.

Amendment agreed.

Division No. 4

CONTENTS

Adams of Craigielea, B.
Addington, L.
Adonis, L.
Allan of Hallam, L.
Alli, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Ashdown of Norton-sub-Hamdon, L.
Bach, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Berkeley, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bragg, L.
Brooke of Alverthorpe, L.
Brookman, L.
Burt of Solihull, B.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Clark of Windermere, L.
Clement-Jones, L.
Collins of Highbury, L.
Corston, B.
Cotter, L.
Crawley, B.
Davies of Oldham, L.
Davies of Stamford, L.
Dean of Thornton-le-Fylde, B.
Dholakia, L.
Donaghy, B.
Doocey, B.
Drake, B.
Dubs, L.
Evans of Temple Guiting, L.
Falkner of Margravine, B.
Featherstone, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Gale, B.
Garden of Frognal, B.
German, L.
Grantchester, L.
Greaves, L.
Grender, B.
Hamwee, B.
Harris of Haringey, L.
Harris of Richmond, B.
Harrison, L.
Haskel, L.
Haskins, L.
Haughey, L.
Hollis of Heigham, B.
Howarth of Newport, L.
Humphreys, B. [Teller]
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jordan, L.
Judd, L.

Kennedy of Southwark, L.
Kennedy of The Shaws, B.
King of Bow, B.
Kirkwood of Kirkhope, L.
Kramer, B.
Lea of Crondall, L.
Lee of Trafford, L.
Liddell of Coatdyke, B.
Liddle, L.
Livermore, L.
Ludford, B.
McAvoy, L.
McFall of Alcluith, L.
McIntosh of Hudnall, B.
Mackenzie of Framwellgate, L.
McKenzie of Luton, L.
Maddock, B.
Manzoor, B.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Massey of Darwen, B.
Maxton, L.
Mendelsohn, L.
Miller of Chilthorne Domer, B.
Moonie, L.
Morgan, L.
Morgan of Ely, B.
Newby, L. [Teller]
Nye, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rennard, L.
Roberts of Llandudno, L.
Rodgers of Quarry Bank, L.
Rosser, L.
Salisbury, Bp.
Sawyer, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Shipley, L.
Shutt of Greetland, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Snape, L.
Soley, L.
Steel of Aikwood, L.
Stephen, L.
Stevenson of Balmacara, L.
Stoneham of Droxford, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Teverson, L.
Thornton, B.
Tonge, B.
Tope, L.
Triesman, L.
Tunnicliffe, L.
Tyler, L.
Tyler of Enfield, B.
Verjee, L.
Wallace of Tankerness, L.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Watts, L.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Winston, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Aberdare, L.
Ahmad of Wimbledon, L.
Altmann, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Bates, L.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Brabazon of Tara, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browne of Belmont, L.
Buscombe, B.
Byford, B.
Caithness, E.
Cathcart, E.
Cavendish of Furness, L.
Chisholm of Owlpen, B.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Craigavon, V.
Crathorne, L.
Crickhowell, L.
De Mauley, L.
Dixon-Smith, L.
Dobbs, L.
Donoughue, L.
Dundee, E.
Dunlop, L.
Dykes, L.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Faulks, L.
Finn, B.
Flight, L.
Fookes, B.
Fowler, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Gold, L.
Goodlad, L.
Goschen, V.
Harding of Winscombe, B.
Hayward, L.
Helic, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Horam, L.
Howard of Rising, L.
Howe, E.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Keen of Elie, L.
Kirkham, L.
Lamont of Lerwick, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Lothian, M.
Lyell, L.
MacGregor of Pulham Market, L.
McGregor-Smith, B.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Marlesford, L.
Maude of Horsham, L.
Mobarik, B.
Montrose, D.
Moore of Lower Marsh, L.
Morris of Bolton, B.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Norton of Louth, L.
O'Neill of Bengarve, B.
O'Neill of Gatley, L.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Patel, L.
Perry of Southwark, B.
Pidding, B.
Porter of Spalding, L.
Prior of Brampton, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ridley, V.
Robathan, L.
Rogan, L.
Sanderson of Bowden, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Spicer, L.
Stedman-Scott, B.
Stirrup, L.
Stowell of Beeston, B.
Stroud, B.
Suri, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trees, L.
Trefgarne, L.
True, L.
Wasserman, L.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

Motion, as amended, agreed.

House adjourned at 8.48 pm.

Volume 769
No. 127

Wednesday
16 March 2016

CONTENTS

Wednesday 16 March 2016

Royal Assent **1843**

Death of a Member: Lord Briggs **1843**

Questions
Economy: Productivity **1843**
Taxation: Income Tax Threshold **1845**
Local Government Finance Settlement: Transition Grant **1847**
Refugee Crisis: European Anti-migrant Parties **1849**

Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016
Motion to Approve **1852**

Disabled Persons' Parking Badges (Scotland) Act 2014 (Consequential Provisions) Order 2016
Motion to Approve **1852**

Trade Union Bill
Report (First Day) **1852**

Renewables Obligation Closure Etc. (Amendment) Order 2016
Motion to Approve **1914**