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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 23 March 2016

11 am

The House observed a one-minute silence for the victims of the Brussels attacks.

Prayers—read by the Lord Bishop of Chelmsford.

Companies: Remuneration

Question

11.08 am

Asked by ***Lord Brooke of Alverthorpe***

To ask Her Majesty's Government whether they have plans to legislate to introduce secret ballots for all employees to ratify decisions made at a company's annual general meeting on the remuneration of that company's directors and its five most highly paid employees.

The Earl of Courtown (Con): My Lords, the Government have no such plans. The remuneration of company directors is primarily a matter for the company and its shareholders. Comprehensive reforms to the reporting and governance of directors' pay in 2013 have boosted transparency for shareholders and given them a binding vote on companies' remuneration policies. All company directors must have regard to the interests of employees in discharging their legal duty to promote the success of the company.

Lord Brooke of Alverthorpe (Lab): My Lords, my question starts, "Does the noble Baroness know?". However, does the noble Earl know that the UK now has very high income inequality compared with most other developed countries? Further, does he know that, even with the coming living wage increases planned over the next few years, it is possible that the wage gap will still be the same by 2020 as it is now and as it was in 2010? Is it not time, after a decade of stagnation, that we had some thoughts about how we can try to bring about a narrowing of that gap? Will the Minister please go back—or at least give an indication that he will go back—and come forward with some ideas about how we will narrow it?

The Earl of Courtown: I thank the noble Lord for his question. He raised a number of points, including the national living wage, which is about to come into force. We must also remember that the national minimum wage has had one of the biggest increases in its history. We take into account all the matters that he raised. He referred also to employee engagement and how important that is in the workplace.

Lord Lea of Crondall (Lab): My Lords, is the Minister aware that, at a time of fast economic growth for several decades, the ratio of remuneration from the top to the bottom in companies—as a member of the Royal Commission on the Distribution of Income and Wealth I remember the numbers going back to the start of the 20th century—came down from 100:1, to 90:1, to 80:1, to 70:1, winding up at 15:1 or something like that? Would he not agree with the Labour Party's manifesto that there should at least be workers' representatives on boards' remuneration committees?

The Earl of Courtown: At least the noble Lord, Lord Lea of Crondall, has asked me a question that I can answer. The answer is, of course, no. My right honourable friend the Chancellor of Exchequer has been working throughout his period as Chancellor to reduce inequality.

Noble Lords: Oh!

The Earl of Courtown: My Lords, there is always more that can be done and we hope that, with the policies we have introduced, inequality will reduce.

Lord Robathan (Con): My Lords, does my noble friend think that many people in the country agreed with that proposal in the Labour Party manifesto last May?

The Earl of Courtown: We all remember what happened at the general election in May. I, by the way, was in Kuala Lumpur at the time. I will not bore noble Lords with what I was doing there, but I do, of course, agree with my noble friend.

Lord Stevenson of Balmacara (Lab): Let us get back to the Question. This raises important issues about transparency and equity. In 1980, to back up what my noble friend was saying, the median pay of directors of FTSE companies was £63,000 and the ratio to the average wage was 11:1. In 2013 that ratio had risen to 130:1 and median board pay is now £513,000. You have tried transparency, it does not work. What plans have the Government really got to regulate those who abuse their position by taking excessive pay and whose warped judgments prioritise short-term gains instead of long-term growth?

The Earl of Courtown: My Lords, regulation of pay throughout the banking sector, the high pay and the differences between all these subjects—I am sorry, I have lost track. Basically, it is important that there is equality in pay, and regulation of various sectors is so important in this area. I will write to the noble Lord. I apologise for that answer.

Lord Tyler (LD): My Lords, in the interest of the transparency and effective democracy to which the Government constantly refer, will the noble Earl ensure that, in all private organisations, when it comes to the forthcoming discussions about party funding, no individuals will find themselves contributing to the funds of a political party they do not support?

The Earl of Courtown: The noble Lord is quite right. I agree.

Baroness McIntosh of Hudnall (Lab): My Lords, in an earlier answer the Minister made a somewhat surprising statement to the effect that his right honourable friend the Chancellor had been working throughout his tenure to reduce inequality. Can he tell the House how things would have been different if he had not?

The Earl of Courtown: Inequality is reducing, my Lords. As I said earlier, we are working hard on the national minimum wage increases, which are the highest ever, and we have the national living wage coming in in April.

Lord Roberts of Llandudno (LD): What conversations do the Government have with the Welsh Assembly? GDP in Wales is only 67% of that throughout the rest of the United Kingdom.

The Earl of Courtown: My Lords, I am glad that the noble Lord, Lord Roberts, mentioned the situation relating to Wales. There are always continuing relationships between the Assembly in Wales and the department here in London.

Lord Wallace of Saltaire (LD): My Lords, given that fewer than one in four eligible voters voted for the Conservatives in the election, does the noble Earl have much confidence that the majority of voters also approved of the Conservative manifesto's proposals?

The Earl of Courtown: My Lords, I did not quite catch the last bit but I caught the first bit. An awful lot more voted for the Conservatives than they did for the Liberal Democrats.

Property: Shared Ownership

Question

11.16 am

Asked by ***Baroness Watkins of Tavistock***

To ask Her Majesty's Government whether, under their shared ownership scheme, a property owner can let out a room to another person, and if not, why not.

Viscount Younger of Leckie (Con): My Lords, shared ownership has an important role to play in helping those who aspire to home ownership but may be otherwise unable to afford it. Grant-funded shared-ownership leases do not allow subletting, other than in exceptional circumstances, to prevent any use for commercial gain and to ensure that affordable homes are there for those who genuinely need them. However, individual shared owners are still able to take in a paying guest or lodger.

Baroness Watkins of Tavistock (CB): My Lords, I thank the Minister for his Answer but would like some further clarification on why the subletting cannot be done up to a maximum of £7,000 a year. We have young people in London working in the public sector who are totally unable to afford the overheads of facility costs and council tax but who are keen to get into shared ownership.

Viscount Younger of Leckie: Shared-ownership leases prohibit subletting by the leaseholder, as mentioned earlier, to protect public funds and to ensure that applicants are not entering shared ownership for commercial gain. Landlords can make an exception in exceptional circumstances and they have to consider such requests on a case-by-case basis.

Baroness Maddock (LD): My Lords, can the Minister tell us what proportion of homes in Great Britain today are under shared ownership? I wonder if the Government are doing any research to find out how successful this sector is. I know, for example, that when you want to move it is no simple matter. The legal attitudes to this are really quite difficult. Can the Minister inform us what research the Government are doing into this?

Viscount Younger of Leckie: Yes, indeed. I will have to write to the noble Baroness with the actual statistics but we are looking at this as one of several serious options for ensuring that young people get a hand on the housing ladder. The noble Baroness may know that a shared owner can come in and purchase a share of between 25% and 75%. We are following up on the current statistics but this is a future policy that we are working on.

Baroness Farrington of Ribbleton (Lab): My Lords, if the Minister cannot tell me now, will he write to me with information about the current rate of shared ownership in London and the south-east and the Government's prediction of what it will be in the light of their housing policy? Is the Minister aware that many people, such as nurses and police officers—lots of people working in the public sector—despair of being able to take jobs that are available in London, and that staff recruitment is very weak?

Viscount Younger of Leckie: Indeed, this is the very thinking behind our policy, which is to enable those who do not earn too much to get a hand on the housing ladder by buying a share. This would include the very people who the noble Baroness has mentioned, such as teachers and particularly those who work in the very important healthcare and NHS sector. It is exactly what the policy is about. It is obviously more expensive in London—we have had many discussions on that in the housing Bill—but we believe that it is possible. If someone bought a 25% share of a two-bedroom house in London the deposit they would put down would be £3,800, which I understand could still be quite high, but is possible.

Baroness Gardner of Parkes (Con): Will the Minister clarify the position with regard to the actual term "lodger"? Even the Revenue now has a special provision and has increased the amount you can have if you have a lodger. I would have thought it logical that everyone would want people to be able to afford these

properties. Can he therefore explain the position, and whether the point to which he has just referred will be amendable in the housing Bill?

Viscount Younger of Leckie: I mentioned that people who take a share in a house in a shared ownership scheme can take in a lodger, but I will answer the noble Baroness's question by saying that there is no statutory definition of a lodger. The term is known in case law, where the test as to whether someone is a lodger or a subtenant is determined by the degree of control retained by the householder over let rooms.

Lord Davies of Oldham (Lab): My Lords, does the Minister appreciate the House's understanding of the care with which he has approached this issue of home ownership and the question of shared space, and how it contrasts with the way in which the Government introduced the bedroom tax?

Viscount Younger of Leckie: I think the noble Lord will know that the Government's main aim is to increase the supply of houses across all tenures. We are focusing today on one of many aspects of our policy, which is to ensure that more people, particularly young people, are able to get on to the housing ladder. It is an urgent and important part of what we are doing.

Lord Campbell-Savours (Lab): My Lords, in the rent-a-room scheme, to which the Minister referred earlier, there is a cap. Is that cap costing the Revenue very much; and if so, how much is it actually costing?

Viscount Younger of Leckie: I do not have a figure for the cost, but the noble Lord might like to be reminded that the income cap for this shared ownership policy has gone up from £60,000 to £80,000 in England, and I am pleased to say that it has gone up to £90,000 in London. That means that we are allowing 175,000 more households to have access to shared ownership.

Lord Bird (CB): My Lords, is the fact that London houses are going up in price by £500 a day, according to the January figures, likely to have an effect on how many people can afford even a shared home?

Viscount Younger of Leckie: Obviously when prices go up it has an effect. However, we have put a lot of thought and research into this particular policy, in conjunction with other policies, and we believe that it is affordable. In London, for example, we look at a two-bed house costing £275,000, and we believe that the figures show this to be affordable.

Palestinian Authority Television

Question

11.23 am

Asked by ***Lord Polak***

To ask Her Majesty's Government what representations they have made to the Palestinian Authority following the broadcast of programmes on official Palestinian Authority television encouraging violence against Israeli citizens.

Lord Polak (Con): I beg leave to ask the Question standing in my name on the Order Paper and give notice to the House of my non-financial registered interest as president of CFI.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, we regularly raise incitement with the Palestinian Authority. The Minister for the Middle East, Tobias Ellwood, did so during his visit to the region in February. The UK's consul-general to Jerusalem last discussed incitement with President Abbas on 17 March, including our concerns about television broadcasts. We also raise incitement with Israel. We encourage the revival of a tripartite committee on incitement to address precisely these issues.

Lord Polak: I thank the Minister for her Answer. Since September 2015, ironically, 34 Israelis have been killed in terror attacks and there have been 206 stabbings, 83 shootings and 42 car rammings. Is the Minister aware that only three weeks ago—on 1 March—on a programme on the official PATV called "Children's Talk", a young girl recited a poem which included the line: "To war, that will smash the oppressor and destroy the Zionist soul"? Can the Minister be certain that this sort of appalling incitement is not supported directly or indirectly by the British taxpayer? On the day after the atrocities and shocking acts in Brussels, where another 34 innocent lives were snuffed out, will the Minister join me in condemning incitement and terror, wherever they occur?

Baroness Anelay of St Johns: My Lords, I do indeed join my noble friend in condemning incitement and terrorism wherever they occur. It was a mark of respect from this House that at 11 am today we had one minute's silence in memory of the appalling events with the murder of those in Brussels. I know the Prime Minister has said that we will do all we can to help there. I also note that both President Abbas and Prime Minister Netanyahu expressed their opposition to the terrorism that had taken place in Brussels.

Lord Winston (Lab): My Lords—

Baroness Anelay of St Johns: My Lords, if I may just answer the mainstay of my noble friend's question, he asked about expenditure by the British taxpayer. No expenditure by the British taxpayer supports any form of incitement or terrorism, either in Israel or in the Occupied Palestinian Territories. We support projects that support peace, such as the project by the NGO Kids Creating Peace, which brings together young Israelis and Palestinians to learn why peace works.

Lord Winston: My Lords—

Lord Wright of Richmond (CB): My Lords—

Lord Palmer of Childs Hill (LD): My Lords—

Lord Davies of Stamford (Lab): My Lords—

Lord Anderson of Swansea (Lab): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, we have plenty of time to go around the House. The House was not indicating who it wanted to hear from next but I suggest that we go to the Labour Benches, if among them they could decide who they would like to go first.

Lord Winston: My Lords, is the Minister aware that I have a film clip on my computer—I am happy to show it to her—which shows a little girl aged three and a half saying on Saudi television that she hates Jews because they are apes and monkeys, and this is what is repeated in the Koran? Then, straight to camera, the announcer says, "Is Allah to be praised that, Bismillah, this little girl, has such supporters after her?". This was broadcast across a whole range of Arab countries. Will the Minister perhaps join me in condemning this kind of broadcast quite publicly? I am happy to send her the film.

Baroness Anelay of St Johns: My Lords, noble Lords around the House have made me aware of matters of incitement that have been broadcast, not only on television and media outside the Occupied Territories and Israel but within both. We give no equivalence to incitement, whether it is against those who are Israelis or those who are in the Occupied Palestinian Territories. What we say is that incitement is wrong.

Lord Wright of Richmond: My Lords, I am reluctant to enter into a tit-for-tat argument but is the Minister aware of a devastating report by two Israeli organisations into the recent abuse and torture of Palestinian prisoners at the Shikma interrogation facility in Ashkelon? If so, will the Government consider joining our European partners in making appropriate representations to the Israeli Government?

Baroness Anelay of St Johns: My Lords, our diplomats in Israel make regular representations of concern about events there. As I have already said, we draw no equivalence with regard to incitement and activity. We say that it is important for those who want to achieve peace to ensure that they work together. It is only by negotiating a peace that we can achieve it; incitement is an enemy of peace.

Lord Palmer of Childs Hill: My Lords, the Minister has mentioned the consul-general in east Jerusalem and our diplomats there. Can she tell the House what representations have been or will be made to the consul-general following the International Women's Day message on the official Palestinian Authority TV channel on 7 March this year, which urged Palestinian women to remember the terrorist Dalal Mughrabi who led the lethal coastal massacre which killed 38 Israelis, including 13 children?

Baroness Anelay of St Johns: My Lords, I am able to give a little detail about the most recent contacts, which might help the noble Lord. In January, Her Majesty's consul-general in Jerusalem met Fatah Central Committee member Jibril Rajoub, who had called the recent attacks there "heroic". Our consul-general also met the Minister of Health, Jawad Awwad. The ministry had issued a statement praising the Tel Aviv New Year's Day shooter, Nashat Melhem.

As for television, the director of pro-Israeli NGO Palestinian Media Watch describes decades-long propaganda campaigns on PA-sponsored children's programmes which depict Jews and Israelis as enemies of God. Her Majesty's consul-general in Jerusalem has raised this with the Palestinian Authority as part of broader lobbying on incitement since this Question was tabled. I thought it would be helpful to update the noble Lord on that.

Lord Davies of Stamford (Lab): My Lords, raising the matter of incitement, to use the noble Baroness's word, does not seem to have had much effect. Will she remind the House of the amount of aid that we give the Palestinian Authority, both directly and via EU projects? Will she consider saying clearly to the Palestinian Authority that it is quite unacceptable for it to be taking British public money on the one hand and, on the other, using its own resources to subsidise networks that produce the propaganda in favour of terrorism that we have heard quoted in the House today?

Baroness Anelay of St Johns: My Lords, the noble Lord is correct to point out that, through DfID, we provide significant humanitarian aid to the people who are suffering in Gaza. It is conditional on the basis that it goes only to people in need. The Palestinian Authority should make best efforts to resume control of Gaza and re-engage in discussions with Israel about how peace may be achieved.

Lord Collins of Highbury (Lab): My Lords, there is no justification for terrorism or for the actions that we saw yesterday. We unequivocally condemn them. The Minister is absolutely right. Our focus is on keeping the two-state solution and hopes for peace alive. We need to invest in interfaith, intercommunity activity. Will she commit to doing more of this because, at the moment, it is extremely limited?

Baroness Anelay of St Johns: My Lords, I wholeheartedly agree with the noble Lord. During the early part of this year, we reopened bids for the Magna Carta Fund for Human Rights and Democracy, which is FCO-based. It has been doubled this year to its highest ever level. We will welcome bids if they qualify for support. The noble Lord is right; we need to do more to help.

Army: Helicopter Pilots

Question

11.32 am

Asked by ***Lord Trefgarne***

To ask Her Majesty's Government how many army helicopter pilots are being required to repay wages apparently paid in error; and how many have resigned as a result.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, in 2012, the MoD discovered that a number of Army pilots were being overpaid as the result of an inconsistent interpretation of policy over a prolonged period. That resulted in 146 personnel receiving incorrect pay. In accordance with standard government practice, arrangements have been made to ensure personnel now receive the correct pay and recovery action for overpayments has been initiated. Since notification of the recovery action, we are unaware of any linked resignations.

Lord Trefgarne (Con): My Lords, I am grateful to my noble friend for that reply. In view of the fact that, in public at least, some 200 personnel have apparently been involved in this matter, what steps are being taken to maintain the operational effectiveness of the Army Air Corps, both for the present and in the future?

Earl Howe: My Lords, the Army has done several things. Most importantly, it has implemented a comprehensive manning strategy for building and sustaining the Army Air Corps. There is also now a financial retention incentive for Army Air Corps pilots which has resulted in an 81% take-up rate, including from personnel affected by the recovery of previous overpayments. In addition, a more flexible—and therefore more attractive—career as an aviation specialist will be available, including recruiting some direct entry, senior other ranks aircrew and improving the return on initial training investment.

Lord West of Spithead (Lab): First, and less importantly, is the noble Earl aware that admirals have been overpaid? That is an interesting point. More importantly, will this impact at all on the increased number of naval pilots that we need to recruit and train for the new Sea Lightning aircraft that are coming in? We have been promised that they will be ordered, and we will need those pilots, so this must not impact on recruiting and training.

Earl Howe: Let me first make it clear that the overpayment referred to in the Question has not affected Royal Navy air crew, nor indeed RAF pilots. I can give the noble Lord the reassurance that he seeks, because the action now being taken is in the wake of mistakes made in the past. The system is now working correctly.

Lord Dannatt (CB): My Lords, I served as Colonel Commandant of the Army Air Corps from 2004 to 2009, and many of the pilots involved came under my control and command. Will the Minister accept that, although remedial measures are being taken, stories such as the one that has given rise to the Question asked by the noble Lord, Lord Trefgarne, are enormously damaging to morale? Will the Minister commit to publicly refuting these stories and getting a much better message out there? In the context of the regular Army having been reduced from 102,000 to 82,000 in the lifetime of the coalition and Conservative Governments, and now having fallen to a strength of around 79,000, such damaging stories are extraordinarily destructive of morale and do not help the safety and security of our country.

Earl Howe: I can only agree with my noble friend—these stories are damaging. At the same time, the Army is very aware of the need to retain and, indeed, recruit skilled personnel of this level. It has been careful to adopt a case-by-case approach when overpayments have occurred, taking account of people's individual circumstances when they are brought to its attention; certainly, that includes hardship where necessary. What we are now hearing in general from Army pilots is that they like what they see in the package available to them, in terms not only of pay but how their skills are being used. Many are signing up now for five years.

Lord Touhig (Lab): My Lords, when I served as a Wales Office Minister, officials came in to tell me that a Harrier jet had crashed into the sea off west Wales—a very expensive piece of kit was lost but a more expensive pilot was saved. The point is that we invested more in the pilot than in the plane. I cannot for the life of me understand why the Government would be prepared to lose some of our most experienced and expensively trained Army helicopter pilots over this overpayment issue. I hear what the Minister has said and hope that the Government will use some common sense and, if necessary, write off this debt rather than lose these very skilled servicemen—or perhaps the Government will prove that my late mother's advice to me when I was young was correct. She told me that in life, I would find that sense was not that common.

Earl Howe: My Lords, I take the noble Lord's point about common sense. At the same time, he will realise that this is public money; it cannot simply be written off in bulk. Having said that, each debt will be dealt with individually and recovered over a long period. Recovery from serving personnel commenced in January, less those that have submitted an objection to recovery, and we have not seen anyone cite this issue as the reason for leaving the Army Air Corps since that recovery process started.

Baroness Jolly (LD): My Lords, we are where we are as a result of human error. In just over a week, the new employment model commences for the Armed Forces. Why should we be confident that the transfer will be error free?

Earl Howe: My Lords, the pay system that is now in place is mature, and people have got used to using it. There is far less scope for error, although I cannot obviously give a guarantee that no errors will ever occur. More generally, running in parallel to this is a five-year tri-service review of flying retention pay, which is currently being staffed and should put in place a sustainable and more retention-positive remunerative package for the air crew of all three armed services.

Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016

Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2016

Motions to Approve

11.40 am

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

That the draft regulations laid before the House on 22 and 25 February be approved. Considered in Grand Committee on 22 March.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, I take this opportunity to apologise profoundly to the House for missing the Question asked by the noble Lord, Lord Brooke of Alverthorpe, and to thank my noble friend Lord Courtown for answering in my stead. I would be very happy to meet the noble Lord, Lord Brooke, to discuss the issues, if that would be helpful. I beg to move.

Motions agreed.

Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016

Motion to Approve

11.40 am

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

That the draft regulations laid before the House on 2 February be approved. Considered in Grand Committee on 22 March.

Motion agreed.

Third Parties (Rights against Insurers) Regulations 2016

Motion to Approve

11.40 am

Moved by ***Baroness Evans of Bowes Park***

That the draft regulations laid before the House on 25 February be approved. Considered in Grand Committee on 22 March.

Motion agreed.

NHS (Charitable Trusts Etc) Bill

Third Reading

11.40 am

Bill passed.

Housing and Planning Bill

Committee (9th Day)

11.41 am

Relevant document: 20th and 21st Reports from the Delegated Powers Committee

Amendment 101BB

Moved by ***Lord Dubs***

101BB: After Clause 141, insert the following new Clause —

"Code of practice for subterranean development works

(1) A local planning authority may promulgate a code of practice on the excavation and construction of a subterranean development with a view to lessening the adverse impact of the excavation and construction on adjacent properties and their owners and occupiers and on the wider neighbourhood.

(2) The code may include, but need not be limited to, the provisions listed in Schedule (provisions in local authority code of practice for subterranean development).

(3) Local planning authorities shall take account of any guidance issued by the Secretary of State in drawing up such a code of practice.

(4) If a local planning authority has promulgated such a code, it may make the granting of planning consent for a subterranean development conditional on the developer undertaking to abide by the code or specified elements of it."

Lord Dubs (Lab): My Lords, I shall speak also to the other amendments in this group. If I can make a slightly irrelevant comment, if the EU working time directive were to apply to Ministers in this House, the two Ministers who are dealing with this Bill might be better treated than they are now. That is a dig at the Chief Whip.

There cannot be many occasions when an amendment commands the support of all parties in this House and of most Members of Parliament, would command widespread support from many parts of London and possibly other parts of the country where people are affected and which, were the Minister to agree to the amendment or something like it, would mean that she would be serenaded in the headlines of the *Evening Standard*. That is a pretty good win-win, and there cannot be many of those around, so later on I will give the Minister a chance to say that she accepts this amendment.

If I were a Minister, I would not understand why officials were advising me not to accept the amendment because there is nothing wrong with it. It is absolutely right in terms of local democracy for local people to have a say and right in terms of good governance in the benefits to London and other parts of the country. It is a total win-win for the Government. I should have kept this amendment until there was a Labour Government, and they could have benefited from it, but I have generously given it to the Minister today.

Given the widespread support, outside people have got on to me. I pay particular tribute to the Ladbroke Association and its chair Sophia Lambert who has been extremely helpful and has given me and other people a lot of advice. The amendments in this group

are actually a complete Bill. If the Minister were to adopt them, or much of them, her officials would have been saved a great of work in drafting something. Not only has there been widespread support, but there have been many previous instances in this House when Members have put forward legislation with similar proposals. I am thinking of the noble Baroness, Lady Gardner of Parkes, Lord Jenkin of Roding, the noble Lord, Lord Selsdon and the noble Lord, Lord Berkeley, who have all tabled amendments to Bills. The noble Lord, Lord Selsdon, has also tabled an excellent Bill himself with the help of surveyors from the Pyramus and Thisbe Club. In the Commons, several MPs have put this forward as well, including Karen Buck, MP for Westminster North. Essentially, this proposal goes across parties; I hope that the Government will feel able to support it.

11.45 am

The public are very much concerned. One has only to indicate that one is interested in this issue to be given an avalanche of comments of experiences, certainly in many parts of London. People have told me that they have suffered years of noise and distress; people working at night cannot sleep in the day if a basement is being excavated; there is dust and vibration, and people who work from home say that they cannot carry on and have to find somewhere else to work. We are talking not just about Kensington, Chelsea and Westminster but about Wandsworth, Southwark, Camden and Richmond. If these basements have not come to the local area where any of your Lordships live, they are coming. I guarantee it, so noble Lords should not just say, "This is not for me; this is for those people in Kensington"—not at all.

I have learned a great deal about planning law in recent weeks, because I have a Private Member's Bill on a similar topic, which is sitting somewhere waiting to be debated. I am conscious that I have a lot to learn, and there are in this House many real experts. I will make some brief introductory comments. There are two sorts of developments in basements. Where they extend beyond the footprint of the house, planning permission is required; if the basement is within the footprint of the house, it is classed as permitted development and planning permission is not necessary. By complete coincidence as I was coming in, I bumped into the leader of Camden Council and asked her what her council thought. She said that it would welcome a change in the law because it cannot do what it wants to do, as it is not permitted by the present legislative framework.

Under the Town and Country Planning Act 1990, all development needs planning permission. However, Section 59 of the Act allows the Secretary of State to make an order exempting certain categories of development from the requirement of planning permission. The Secretary of State at the time duly made an order called the general permitted development order. One of the categories of development covered by the order at present is certain types of extensions to residential properties. Although we think that it was never intended, the definition of "extension" in the order has been interpreted as including basement developments under the footprint of the house. There are legal doubts about this interpretation and I have talked to one resident of an inner London borough—a QC, so not a person to be trifled with—who is contemplating testing this point through judicial review, something that has not been done before. On previous occasions, inspectors have been asked to comment, but he has said to me that he was thinking of taking this to judicial review because there were serious doubts as to whether the interpretation was correct.

The right course, and the easiest one, would be for the Minister to amend the GPDO to exclude all basements. It could be done at the stroke of a ministerial pen. It would save the cost of the alternative that the Minister keeps suggesting, which is to use something called the Article 4 procedure. That procedure is cumbersome, slow and costly and would have to be done local authority by local authority. It requires 12 months' notice, meaning that people can then appeal and claim damages if they are caught with a development in train before the Article 4 procedure had its 12 months to come into effect. Amending the GPDO, however, would be simple. It would save bureaucracy, time and money and achieve part of the end. If the Minister were to take the GPDO route, there would still be a need for this Bill, because, as things stand, local authorities are reluctant to refuse planning permission because of the cost to them of appeals. Time and time again, we hear of local authorities saying, "Well, we're not challenging this because we can't afford the cost of the appeal", and I understand that. This is one reason why local authorities are still granting planning permission, where logic would suggest otherwise. One has only to read the *Evening Standard* or *Metro* to see, week after week, examples of horrific large developments. They are fine for the owner but horrific for anyone who lives not too far away. I believe that my amendments would give local authorities the powers that they need.

If the Minister were to hint to me now that she is prepared to accept the principle of my amendments, I will not bore or take up the time of the Committee by going through them in detail. If she were to say that she agrees in principle and that something will be brought forward on Report, I shall sit down. I know that I have bounced her into this but it seems the sensible thing to do. There is no reason on earth why the Minister should not accept a change in the planning laws, and she would be very popular if she did. However, this is not about popularity; it is about good local government. Residents in many parts of London are entitled to peace and quiet and to not suffer disturbance. I shall go on but if at some point the Minister gets a note saying "Accept this", I shall of course sit down.

The first amendment sets out a code of practice for subterranean development works. It would introduce some enforceable rules so that local authorities could ensure that developers digging basements did so in a way least likely to cause damage and annoyance to neighbours—that annoyance can be pretty awful. In the past, the Minister has claimed that local authorities already have adequate powers. She said that in an earlier debate and she said it to me in a letter. She said that they could, for instance, impose planning conditions to control construction noise. I differ from that view following advice that I have had. Planning conditions are normally used only to deal with matters that

[LORD DUBS]
cannot be dealt with under other legislation. Because noise is normally dealt with under control of pollution legislation, many authorities fear that such a condition would be struck down. So it is not easy to enforce noise standards through existing legislation that requires local authorities to prosecute alleged offenders. A code of practice would be much simpler, and what is required is something that developers would automatically be bound by.

My next amendment says that there should be a presumption against subterranean development. Very few basements built in London bring any benefits to the local community. They may be fine for the owners, who will have pool rooms, swimming pools, banqueting halls and all that sort of stuff, but they do not provide any housing benefit. They provide recreational facilities for the occupants—we have heard of gyms, temperature-controlled wine cellars and so on—and they bring enormous disbenefits to the local community, especially during the construction period, which can be up to three years, but often for much longer.

We need to argue that the disadvantages are noise, disturbance, disposing of spoil, and damage to neighbouring houses when a basement is built under a terraced property—something that can take years to manifest, long after the party wall Act has ceased to provide any remedy. Sometimes there is a need for pumps to pump water from basements; there is increased energy consumption from having air-conditioned basements; and there is the possibility that 10 or 20 years down the line the underground structures will be degraded to such an extent that they will need to be rebuilt, which I understand is extremely difficult to do. Those are the arguments.

Then there is a need to give notice to adjoining owners. The party wall Act is not really designed to deal with this phenomenon; it deals only with neighbouring properties that are a short distance away, whereas there can be damage to properties that are further away. The Act deals only with properties within six metres of the excavation and I think that the distance should be greater.

I am covering these points very briefly. I do not want to go through all the details or the Committee will be fed up with me.

There is also a need to deal with expenses and losses. Developers can go bankrupt, which can leave neighbouring owners out of pocket. They can sometimes be difficult to pursue through the courts, and sometimes in the case of subterranean developments the developer is a shadowy company based in the Cayman Islands or wherever. It is essential to ensure that funds for paying for loss and damage, which in the worst case can amount to many hundreds of thousands of pounds, are secured in advance. The party wall Act provides some security but only for the expense of completing work on a building, not for repaying damage to neighbours' premises or compensating them for the loss.

Then there are the problems that affect people who are living in a property close to a basement that is being excavated. These days many people work from home. People have written to me to say that they have had to leave their homes because they could not go on working while the work was happening; we are talking about a period of two years. People involved in music have found that the noise that affects their ability. Some people have had to rent offices elsewhere simply because they could not go on working at home.

At the moment surveyors are unwilling to award such costs because basement developments are sometimes or frequently combined with other works on the site, outside the scope of the party wall Act. People may be building extensions, and these are not the subject of my amendments. It is then very difficult to determine how much disturbance is caused by other works and how much by basement works. The result is that neighbours end up with no compensation at all, although they have been deprived of a working environment. There are also medical issues for vulnerable people.

Finally, Amendment 101BH contains a new schedule that has provisions for a local authority code of practice for subterranean development. In the interests of time I have left out a lot of the points that I was ready to make, but I repeat that the Minister's suggestion on Article 4 is just not good enough. It does not deal with the need, and there are other and better ways of doing this. If the Minister is happy to say that she accepts the principle here, I will withdraw the amendment. We have time on Report to do something positive, so I urge the Minister to accept the principle of the amendment. I beg to move.

Baroness Gardner of Parkes (Con): My Lords, as the noble Lord, Lord Dubs, said, I discussed this at Second Reading and his amendments here are a great improvement on what I have commented on before, but there are still one or two things that certainly need to be ironed out before Report.

In his first amendment, Amendment 101BB, there is no mention anywhere—unless he is planning to put in a code of practice—that there should be no weekend work in these places. Without doubt people require a weekend to recover from a heavy week's work. Many areas allow work only from 7 am to 1 pm on a Saturday, but even that should not be permitted, as it will really cut into your one quiet time of the week.

On another important point—and having looked at every detail of these words I am not sure whether I have missed the point—there should be no work permitted before the granting of permission. Often, neighbours where I lived told me that they woke up to find someone breaking through their wall. That is not something that you would want or expect.

I have one real objection to the noble Lord's second amendment, Amendment 101BC. That is to the word "presumption" against subterranean development. I do not like a presumption about anything. Earlier the noble Lord, Lord Dubs, commented on whether a family felt that it needed something more, which was a very subjective assessment. Fortunately he has now removed this and made it much more objective. That is good. But I do not like "presumption" and do not want to see it. It is far better for things to be either in law or not in law, but just to be presuming that something is there worries me.

"Notice to adjoining owners" in Amendment 101BD is interesting, but I move on to Amendment 101BE. That is about the surveyors holding a sum. I thoroughly approve of that. When work went on behind me before

I moved house that is exactly what happened. In fact, there was no need whatever to draw on the amount, because the work all went quite well, but it is important that it does go well; the security of having a deposit held is important.

I recall cases, one in Montpelier Square and another in St John's Wood, where people went bankrupt, leaving a giant hole in the ground, which filled with water and turned into a disastrous pool under the house. Because the people had gone bankrupt, no one ended up with any liability for it at all. It is very important to determine a sum to be held. I was surprised at the amount required to be held, for what was only a single basement going in near me, but it was right that it was a large amount, because it should relate to the area and the cost of the works that would have to be done to make the place liveable again.

I do not know whether more could be done to deal with bankruptcy cases, to help people to get out of that hole, but that could be looked at.

Noon

Lord Horam (Con): My Lords, the noble Lord, Lord Dubs, is definitely on to something here. What one reads about in the *Evening Standard* and elsewhere being done to basements is amazing. I do not know whether anyone else here watches the "Grand Designs" programme, but being an addict of property porn I watch it from time to time. Recently, there was an example of a small, typical mews house in a mews area of London, where the owner decided that he wanted to have a ballroom in the basement and, underneath that, it could be collapsed into a swimming pool. This was constructed, after immense difficulty affecting the local inhabitants. Unfortunately, a subterranean stream was discovered when they dug down into the basement, which flooded the whole area. That is the sort of thing can happen as a result of the megalomania, frankly, of some people. One billionaire in London wanted to show all his 24 Jaguars in an exhibition space in his basement. This is absurd and should not be allowed; it will have consequences.

Secondly, the noble Lord is absolutely right: party wall agreements do not protect people at present. I live in Hammersmith and Fulham, and I know from personal example that the noise is horrendous. My noble friend Lady Gardner is quite right: you want some relief at weekends from the noise. A friend of mine has had to vacate her property in Piccadilly, where someone is constructing a huge bar and God knows what in the basement, to live somewhere else at her own expense, because she cannot live with the noise at night: it is horrendous. That is all-night work, never mind at weekends.

So London is experiencing a real problem at the moment, and not just in rich areas. As a former MP for Orpington, I could give examples of what is happening there. Although I understand that the amendments may not be perfect, as my noble friend Lady Gardner said, I hope that the Government will be sympathetic. It is a widespread problem in London, and the Government should look at it with great care.

Lord True (Con): My Lords, I apologise to the House, and in particular to the noble Lord, Lord Dubs, with whom I have had the pleasure of discussing the issue, for arriving slightly late. I was actually delayed on the District line; I hope that it was not by some underground development in South Kensington, where we were held.

I was at one point tempted to sign the noble Lord's amendment because, like my noble friend, I think that he is very much on to something. Before my noble friend on the Front Bench was a Minister, and over several years, there have been talks between local authorities, particularly in London, and the department. There have been various efforts—my noble friend Lord Selsdon was trying to get something moving for a time—to propel a response from the Government. Time and again, we are told that Article 4 directions are the answer. We spoke a little about Article 4 directions last night. I marvel to see my noble friend here on the Front Bench after her efforts after midnight last night. Article 4 directions are not the whole answer here. It is the strong view of local authority leaders in London, across party, that there needs to be a statutory response here. The fact is that in many cases one is dealing with extremely wealthy people who will stop at nothing to push through. It is nothing to them to spend thousands of hours and tens and hundreds and millions of pounds in pushing these things. Frankly, communities need defence here and I think some statutory response is needed at the end of the day. I look forward to hearing what my noble friend has to say and I congratulate the noble Lord, Lord Dubs, on and thank him for bringing this issue before Parliament.

Lord Beecham (Lab): My Lords, I endorse what the noble Lord said about my noble friend, who managed to survive yesterday's long sitting. He hoped to get on before midnight, but unfortunately that was not possible, or perhaps fortunately because otherwise we might have been there until 2 am instead of something like a quarter to one. My noble friend has devoted a lot of time and energy to what is clearly a pressing issue.

There seems to have been an outbreak of megalomania in certain circles in London, in particular. From a distance, one is not as involved with the process, but every so often, just reading the *Standard,* one hears of case after case of absurd would-be developments. I have friends living in north London where similar idiotic adaptations are made to buildings. We warmly support the amendments and I hope the Government will acknowledge the real problem here and agree to deal with it. While they are doing that, could they protect the block of flats in Balham where I have a flat from the underground workings for Crossrail, which is likely to cause certain problems to me and to lots of other people?

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I join the noble Lord opposite in congratulating the noble Lord, Lord Dubs, on his tenacity last night; not leaving until, I think, gone midnight. My heart sank when I realised that he would not get on to have his say.

The noble Lord was one of the first people I met when I came into this House and we share a common interest. I have great sympathy for anyone who suffers

[Baroness Williams of Trafford]
some of the things he talks about. We have discussed the Death Star basement in this House, and the collapsing mansion, so I am not in any way denying that these issues exist and I thank the noble Lord for bringing them to the House's attention. But of course I am going to disappoint him because I am going to tell him that the powers that he has described already exist. In fact, in some cases they are being implemented.

Local authorities are already able to prepare codes of practice for subterranean works in their area, and many prepare area-specific guidance to help owners ensure that they carry out the works legally and safely with a minimum impact on neighbours. As this amendment replicates powers that already exist, it is unnecessary to include it in the Bill.

I turn to Amendment 101BC. Local planning authorities are able to bring forward specific local plan policies limiting the scope of basement development if they consider that such developments are a particular issue in their area. In such cases, any planning application should then be determined in accordance with that policy. Basement development is not an issue in most local authorities, although I accept what the noble Lord said—that it is coming to an authority near him. But we know that local authorities in areas which are particularly affected by basement developments, such as Kensington and Chelsea and Westminster, are already in the process of introducing appropriate local plan policies to mitigate the impacts of such developments.

We have looked at a graph of how the trend appears to be going. What we are seeing now—to put it in context—is the hangover from previous permissions that are nevertheless causing distress in the area. I would be very interested to see how things look in, say, six months to a year from now. The amendment is therefore not necessary for the same reasons that I have explained for Amendment 101BB.

With regard to Amendment 101BD, the Party Wall etc. Act provides legal protections to owners of adjoining properties, but it is not in place to protect owners beyond next door, as there is unlikely to be damage to properties beyond the current distances set out in the Act. Similarly, introducing a new offence, as this amendment proposes, would not provide any greater protection to adjoining owners. In any case, there is no evidence of significant numbers of cases where notices required under the Act are not being given in respect of subterranean developments.

In addition, the amendment before us would introduce a new liability that goes beyond those currently imposed under the Limitation Act 1980. It would be difficult to justify singling out subterranean development over other forms of development for this enhanced liability. The Party Wall etc. Act applies to most subterranean development work and already provides for security for expenses to be covered by the award between the parties. Therefore, Amendment 101BE is also not necessary.

The noble Lord made the point that noise is not usually dealt with in planning permission. However, local authorities can consider local impacts, including noise pollution, when granting planning permission. The NPPF deals with noise, stating that, where relevant, it should be considered by the local authority in its planning decision. The noble Lord made the point that the GPDO allows basement development, but it is for individual local planning authorities to determine if development is within the scope of national permitted development rights.

The noble Lord also made the point that the Article 4 process is too burdensome and bureaucratic, and so local authorities are unlikely to follow that approach. It can take six to 12 months, but it is not particularly burdensome or bureaucratic—if I had eyes in the back of my head, I would probably see my noble friend behind me shaking his head—although I accept that this is a particular problem in particular parts of the country.

I turn now to Amendments 101BF, 101BG and 101BH. As I have already set out in response to the noble Lord's previous, related amendments, and as I have just said, basement developments are not an issue in all local authority areas. Existing powers are in place which enable local authorities to adopt an appropriate local approach to mitigate the impacts of such developments where necessary. Similarly, existing legislation protects adjoining property owners from the potential impact of such developments. I therefore ask the noble Lord to withdraw his amendment.

Lord Dubs: My Lords, I am grateful to all noble Lords who took part in this debate. I know that there are others who, because of the timing this morning, were probably not aware we were doing this now and would otherwise have been here. I am grateful to the noble Baroness, Lady Gardner, for what she said and I very much agree with her. Amendment 101BH suggests a schedule of provisions for a local authority code of practice, in which one of the issues is,

"the hours of construction and excavation, and ... particularly noisy types of construction and excavation".

That could deal with both the time of starting and weekend working, although it may need strengthening. I agree entirely with the principles that she put forward about weekends and the starting time. I think she had a third point, but I am not quite sure what it was. I am sorry.

Baroness Gardner of Parkes: Presumption.

Lord Dubs: Yes, presumption. Frankly, if the Minister were to accept the principle, I would be happy to drop the word "presumption". I put it in because of the sheer frustration felt by people who approached me saying, "For heaven's sake, just stop all these things". Most people would like that presumption, but if it made for better law, the word would not have to be there. I think local authorities would understand what they could do.

I am grateful to the noble Lord, Lord Horam, for the examples that he has given me, and to the noble Lord, Lord True, with whom I have had a discussion on this. He speaks with the authority of being leader of an important London borough. If he feels that his powers are insufficient to deal with the problem, I have to say, with due respect to what the Minister said, that we have to listen to local authority leaders. They are the ones in the firing line and who want to do best

for the people in their community. That is what they are elected for. I mentioned earlier that I bumped into the leader of Camden Council, who said the same thing. She said that, despite the powers that the Minister said local authorities have, there are not enough: they need more powers to deal with these things. I asked whether I could quote her and she said yes. That conversation took place at about 10 am this morning, so it is hot off the press.

To deal with the comments that the Minister made, clearly her view is that powers already exist. Frankly, they do not. She said that local authorities could prepare codes. Yes, they can, but they are not enforceable. The point of the codes in my amendment is that they are enforceable. Local authorities can have these codes, but they cannot make them happen. I do not want to get into a long debate on the Party Wall etc. Act. All the advice that I have had is that it is insufficient for this purpose. It does some good things, but it does not deal with all the problems I described. I have to act on the advice that I have been given from people who know more about it.

12.15 pm

Lord True: The noble Lord is quite right about the code. We have a code, but the question is enforcing it. I should have made clear on Article 4, which he has not mentioned, that using Article 4 directions, in any case, is chasing the game, in football parlance, and takes time. You then cannot charge a fee, so in many cases you immediately lose the ability even to charge a fee for processing the planning application, which is then necessary under an Article 4 direction.

Lord Dubs: I am most grateful. That deals with most of the other arguments.

I hate to put it this way but I think that the Minister has been trapped by her civil servants. I have been a Minister; I know what happens. Sometimes you just have to say, "No, I'm not happy, you're pushing me into a position that I don't want to be in, because in my heart of hearts I believe in a modification of policy". That is what I said. I cannot help thinking that, if the Minister were to reflect, she would say that the weight of opinion is entirely against her and against the advice that she has been given. These are not things that I have invented. Local authority leaders are individuals of substance. They are elected to represent their areas and they want to do what is best for them, so this is not some political fantasy. It goes across the party divide. It is not something that the Labour Party has invented. In fact, far more Conservatives have approached me than Labour people. So I am not being at all partisan on this.

I would just like the Minister to think again, otherwise we will have to have this debate again on Report. I would much rather we debated a proposal from the Government. Then I would be happy to say, "Fine, that's good". I am happy to give way.

Baroness Williams of Trafford: No, I was just moving in my seat.

Lord Dubs: I am so sorry. We are all a bit tired after yesterday evening. I misunderstood that.

I am not happy about this. The weight of opinion is against the Minister. I deeply regret the line that she is taking. I hope that she will pause to reflect over Easter, otherwise I will have to bring this back. In the mean time, I beg leave to withdraw the amendment.

Amendment 101BB withdrawn.

Amendments 101BC to 101BGA not moved.

Clause 142: Resolution of disputes about planning obligations

Amendment 101BGB

Moved by ***Lord Greaves***

101BGB: Clause 142, page 72, line 14, after "effect" insert "in relation to the provision of affordable housing"

Lord Greaves (LD): My Lords, I rise to move Amendment 101BGB. We are moving on to Clause 142, which is about planning obligations—Section 106 and so on.

This clause sets up a new procedure for resolution of disputes and there is a new schedule in the Bill which forms new Schedule 9A of the Town and Country Planning Act 1990. It sets up a new and quite complicated procedure for resolving disputes on Section 106 obligations when the local planning authority and the applicants are having difficulty coming to a conclusion. My amendment simply applies this to Section 106 agreements in relation to housing, rather than Section 106 agreements as a whole.

It is generally true that there are two types of Section 106 agreements. The first relate to housing and affordable housing. They are often very controversial and difficult to reach conclusions on; indeed, consideration has recently been given to ways in which they can be lifted, or their alleged burden reduced. These are in a wholly different category from normal Section 106 agreements, which simply provide necessary local infrastructure, nowadays closely related to the actual site of the application. This procedure seems long, convoluted and complex compared with ordinary, simple Section 106 agreements, and may result in applicants dragging out discussions longer than is necessary in the hope that they can get away with paying a bit less.

There are perhaps more important amendments in this group; however, it seems to me that the Government want to use a sledgehammer to crack what are in fact quite small nuts. I beg to move.

Lord Shipley (LD): My Lords, my name is attached to Amendments 101C and 101D. I can be brief because we discussed the issues from which these two amendments derive during our consideration of the housing elements of the Bill earlier in Committee. Amendment 101C makes it clear that the Bill should be about all tenures of housing, not just owner-occupation. Amendment 101D would leave out lines 6 and 7, which give the Secretary of State the power to define affordable housing however

[LORD SHIPLEY]
he wants to define it. That power is a problem and those words should be removed from the Bill. I hope the Minister will concur.

We discussed in some detail the definitions of affordable housing and affordability. I am concerned that the Government muddle the two terms. We have a statement right at the beginning of the Bill that starter homes are to be defined as affordable homes, but for many people they are not affordable at all. Given all the evidence we have had from organisations such as Shelter, it seems to me wrong to use terms that cannot be justified. It seems even more wrong to give the Secretary of State the power to redefine terms which are already wrong. "Affordable" and "affordability" have clear dictionary definitions, and whichever dictionary the Minister cares to consult in the Library, the definitions are always the same: they relate to people having the resources to pay the bills. Given that many people cannot pay the cost of a starter home, it is wrong to define a starter home as affordable.

I hope the Minister will be able to respond, but these amendments will probably be brought back on Report in a form that joins them to other concerns about the nature of affordability.

Lord Beecham: I take the noble Lord's point, and I think many of us would agree that the Government's notion of affordability is far removed from that of most other people, but the thrust of the amendment is surely right. What alternative is in the noble Lord's mind to ensure that there is a definition that he, I and many others would regard as being related more to the circumstances and means of those who wish to occupy these properties?

Lord Shipley: My Lords, I agree with the noble Lord. We discussed this at a much earlier stage in Committee, in the context of the fact that affordability ought to be defined in relation to people's incomes and median incomes, and that is the point with which I entirely concur.

Lord Young of Cookham (Con): My Lords, I intervene briefly to raise an issue that I touched on at Second Reading and again in the debates we had on the right to buy for housing associations and the impact of Section 106 agreements on the voluntary agreement with the National Housing Federation, which says:

"Every housing association tenant would have the right to purchase a home at Right to Buy level discounts, subject to the overall availability of funding".

A large number of housing association properties have been built under Section 106 agreements. In the pilot scheme currently under way, properties built under Section 106 are excluded from the right to buy. The question I pose to the Minister—she may not be able to answer it today—is whether the powers given to the Secretary of State by Clause 143(2) to make regulations concerning Section 106 could be used to lift any restrictions that may exist on Section 106 developments, which would then enable the right to buy to be exercised by tenants, which at the moment may be precluded by the agreement between the housing association or the developer and the local authority.

Unless something is done about the current restrictions on Section 106, a very large number of housing association tenants, who may be looking forward to exercising the right to buy, may find that it is denied by Section 106. So the question is whether Clause 143(2) can be used to lift those restrictions and enable the expectations of the housing association tenants to be realised.

Baroness Royall of Blaisdon (Lab): My Lords, the noble Lord, Lord Young, has given me yet another argument for why we should reject Clause 143. Amendment 102B is in my name and those of the noble Baroness, Lady Parminter, the noble Lord, Lord Best, and the right reverend Prelate the Bishop of St Albans. It also has the support of my noble friend Lady Warwick, chair of the National Housing Federation, who cannot be in her place today. I also declare my intention to oppose the Question that Clause 143 stand part of the Bill.

In rural areas, housing associations build good-quality small-scale developments in partnership with local communities, providing much-needed affordable homes. Of the 281 homes built in four years by Two Rivers Housing in Herefordshire and the Forest of Dean, 109 were delivered through Section 106 agreements, many on small sites of fewer than 10 units. For Two Rivers, as for so many housing associations, Section 106 is critical to the delivery of affordable homes.

Yet in 2014, the Government attempted to exempt developments of 10 homes or fewer from having affordable housing contributions levied on them. The Rural Housing Policy Review recommended that the Government's policy on small sites should be reversed and:

"Local Planning Authorities should require all sites, whatever their size, to make an affordable housing contribution".

It was, of course, absolutely right. There is clear evidence —for example, from the Gloucestershire Rural Housing Partnership—that when the Government removed the threshold, opportunities to deliver much-needed affordable homes in small communities were lost.

Several councils took the Government to court and won, overturning the policy change. There was a huge sigh of relief, but the Government now appear to be giving themselves the power to make this change through Clause 143 of this Bill. Clause 143 gives the Secretary of State the power to impose restrictions,

"on the enforceability of planning obligations entered into with regard to … affordable housing".

It gives the Secretary of State the legal power to make the change in relation to small sites and affordable housing contributions. The clause should be deleted.

Indeed, Clause 143 is simply not needed because the NPPF already requires that LPAs meet their objectively assessed needs for a range of housing and set contributions which mean that schemes are viable and deliverable. The policies already respond to local circumstances, such as the land supply and the local housing market, which the Secretary of State is simply not in a position to second-guess. Overruling these local policies would have a devastating impact on the delivery of affordable homes in rural areas, where sites of fewer than 10 units are the main source of development land. Last year, these small sites provided well over 50% of new affordable homes in communities with a population of less than 3,000.

12.30 pm

The Government sometimes say that their action is necessary to support SME builders. We all support these small builders, which provide jobs and homes in rural communities, but the main challenges they face are access to land and finance, not the need to provide affordable housing.

Clause 143 would also have an impact on the provision of homes on rural exception sites. On very small sites, LPAs will often take a commuted sum in place of affordable homes. This is a critical source of capital funding for affordable homes on rural exception sites where income does not meet building costs. Commuted sums fill this funding gap and without them many of the schemes would not be built.

Amendment 102B would enable local authorities to require developments of sites of 10 homes or fewer in rural areas to make a contribution to affordable housing. The resulting protection is necessary for the sustainability of rural communities. It would also put localism back at the heart of housing policy in these communities. I firmly believe that local authorities should be able to set and negotiate the level of affordable housing contribution on individual sites to reflect local need. Without the amendment there is a real danger that action by the Secretary of State would result in the loss of all the routes by which rural homes are built.

Lord Best (CB): My Lords, I support Amendment 102B, in the names of the noble Baronesses, Lady Royall of Blaisdon and Lady Parminter, and the right reverend Prelate the Bishop of St Albans. This amendment aims to ensure a continuing, even if very modest, supply of affordable homes in rural areas.

I chaired the Rural Housing Policy Review, which reported a year ago. We engaged with the full range of rural housing practitioners and our report set out a number of recommendations for easing the severe housing shortages that face the younger generation in rural areas. Top of our list of 12 recommendations was the reversal of the policy announced by the Government at that time aimed at the removal from local authorities of the power to require affordable housing on sites of 10 homes or fewer.

Why did so many of those making representations to our review make this issue their number one priority? The reason is that removing the Section 106 affordable housing requirements on small sites would be likely to reduce annual rural affordable housebuilding by some 50%. It is through this medium of placing a requirement on housebuilders to include affordable homes in their developments that councils have been able to make sure that developments in villages include homes for local families and do not just comprise "executive homes" or housing for commuters, second-home owners, retirees to the country and so on.

Our review heard the arguments for lifting the requirement on housebuilders to provide a percentage of new homes for those on lower incomes. It was said that although affordable homes for rent or shared ownership would be lost, more homes would be built overall. This would happen, it was argued, because it would be easier for developers to get planning consent, the development would be more profitable, and smaller builders—such as those that the noble Baroness, Lady Royall, has mentioned—would be encouraged to return to development, after leaving the field in the wake of the banking crisis.

We did not buy those arguments. Removal of a planning obligation to provide some affordable housing would raise the price of the land and the extra value would go not to the small builder but to the owner of the land. SME builders would still miss out to larger housebuilders, which might well phase their developments with a series of several developments of 10 homes in place of one of, say, 30 homes. We were doubtful whether small and medium-sized builders would be enabled to do any more than they could before and, very significantly, we thought that without the inclusion of homes for local families, housebuilders of whatever size would face much more intense opposition to any development in the village.

The reason why new housing is acceptable to the community around it, as demonstrated in the neighbourhood plans that are gaining public support in different parts of the country, is that there is a growing understanding of and sympathy for the housing problems facing younger households who were brought up and/or who work in the village. Take away any obligation to include housing for those less affluent local people and intense opposition—which is likely to mean fewer homes built—seems inevitable.

Our review highlighted the likely loss of new homes overall, as well as the obvious loss of affordable rented accommodation in rural areas which would follow from the Secretary of State deciding to overrule local authorities and remove their power to require affordable homes on smaller sites. After the courts rejected the Government's previous attempt to make it impossible for councils to require some affordable homes, as explained by the noble Baroness, Lady Royall, the fear is that Clause 143 would present the opportunity for this unfortunate policy to be reinstated. Amendment 102B would insert the necessary protection against this eventuality.

Statistics from Jo Lavis, who advised the Rural Housing Policy Review, make it clear that 55% of new affordable homes in communities with a population of fewer than 3,000 were on sites of fewer than 10 homes last year. In Shropshire, the figure was 80%; for Hambleton in Yorkshire, it was 89%; and for rural district councils in Derbyshire it was 85%. In some of these cases, the local authority accepts a cash payment—a commuted sum from the builder—in lieu of payment in kind, and this funds rural housing on another site. This technique has raised £2 million in Derbyshire Dales, £1 million in the New Forest National Park and so on. The money cross-subsidises rural housing which would not otherwise be viable, making up for the reductions in social housing grants, which have seen grant rates fall from about £40,000 per house in 2011 to just £22,000 four years later. In a survey of 39 rural local authorities, Jo Lavis discovered that two-thirds of those councils used commuted sums from builders to fund affordable rural housing at no cost to the taxpayer, so current arrangements are working.

A number of us have expressed concern about the Government's plans for rural exception sites, where planning consent would not normally be available but

[LORD BEST]
development is permitted because it comprises affordable homes for local people. Now the plan is for the new starter homes to be built on these special sites, replacing affordable rented or shared ownership homes. We have been concerned that the starter homes will not be within the reach of those with relatively low earnings in rural areas—attention was drawn to this by the noble Lord, Lord Shipley. In any case, starter homes can be sold after five years on the open market to quite different people. At the same time, we have expressed our considerable anxiety that sales of high-value council houses, which would be required to raise the money for discounts to housing association right-to-buy purchasers, will be disproportionately damaging in rural areas because council homes there are particularly valuable.

Amendment 102B is an urgent attempt to prevent yet further deterioration in the position for those who genuinely need affordable housing in rural communities. It would allow the local authority to continue to obtain a quota of affordable homes on smaller sites, where the council believes that this is needed. It represents a vital protection for rural communities that could otherwise lose over half the supply of affordable housing that they currently insist upon. It is important for government, too, because only with an element of affordable homes for local families will parish councils, neighbourhood forums and local communities at large accept new development in their villages. I strongly support the amendment.

The Lord Bishop of St Albans: My Lords, I support Amendment 102B which has been tabled by the noble Baroness, Lady Royall. I also wish to speak on the removal of Clause 143 from the Bill.

As has often been noted during the passage of the Bill, the House is being asked to vote on clauses that are essentially empty, their content to be defined in regulations by the Secretary of State at some future date. I appreciate the effort that the Minister has made in the last week to put more information before the Committee, but I think we can all agree that there are still some gaping holes.

Clause 143 is a prime example of an empty clause, handing as it does sweeping new powers to the Secretary of State with regard to the control of Section 106 requirements but providing no detail of what these regulations would look like. Without the content of these draft regulations being made available, the Committee can only speculate as to what the Government intend to do with the new powers handed to the Secretary of State in Clause 143. Luckily, as other noble Lords have already made clear, we have good grounds from which to speculate, given the Government's attempt last year to remove Section 106 planning obligations on developments providing fewer than 10 new houses. It was overturned, of course, on judicial review.

With this in mind, I want to make two brief points about the proposed legislative changes. First, there is the long-established principle that local authorities are best placed to decide planning obligations to ensure the provision of affordable housing in their areas. Such a principle is directly in accordance with the Government's stated localism agenda. We have been told repeatedly by this Government that devolution of power, not centralisation, is the way forward. Indeed, only yesterday, in response to a supplementary question I asked on the Floor of this House, the noble Viscount, Lord Younger, batted back a reply, saying:

> "The entire point of our devolution revolution is that all authorities will have the power to set their own policy agendas and target their spending priorities to match. Local leaders know best what is right for them".—[*Official Report,* 22/3/16; col. 2227.]

But here we are presented with a clause that would allow the Secretary of State to ride roughshod over the needs and concerns of local planning authorities. I recognise that there is a legitimate concern that the burden of Section 106 requirements can make small developments unviable for some developers. Where this is the case, central government needs to work with the local planning authority to facilitate an equitable compromise. Blanket exemptions cannot be the way forward.

Provisions for independent dispute resolution in Clause 142 will, I hope, be a good example of how government can better facilitate local authority needs with regard to affordable housing. Clause 143, however, removes the discretion of local authorities to judge how best to serve local needs and places the power in central government hands.

More important than a point of principle is the fact that any future removal of Section 106 requirements from smaller developments is likely further to imperil the provision of affordable housing in many parts of the country. This was made clear by the Government's previous attempt at policy change. The needs of local authorities regarding Section 106 requirements on small developments can vary immensely from one local authority to another. The noble Lord, Lord Best, has already helpfully quoted the examples in Shropshire, where 80% of new housing developments are built on sites of fewer than five units, and Hambleton, where 89% are on developments of fewer than 10. There can be no doubt that the removal of these developments from Section 106 requirements would drastically undermine the provision of new, affordable housing, particularly in rural areas where there is already a critical undersupply.

I hope the Government will think very carefully about this before they decide to proceed. More important is for the Minister to provide us with further details about the proposed content of these regulations before Report. It would seem a gross dereliction of duty for this House to approve sweeping new powers for the Secretary of State without some sort of idea about how the Government are hoping to use these new statutory powers.

12.45 pm

Lord Taylor of Goss Moor (LD): My Lords, I, too, wish to speak briefly in support of Amendment 102B. As always, I draw attention to my interests, in particular that I am president of the National Association of Local Councils. There is no question but that parish councils are deeply concerned about the removal of the ability to require some affordable homes, when viable, to meet local needs—and we should remember

that Section 106 can be contested on viability grounds. The reasons for that have been well expressed, but I shall add a couple of points at least.

First, I strongly believe that it is in the Government's interest to recognise the particular issues that there will be in smaller rural communities if there is a blanket policy removing affordable home requirements on sites of under 10 units, for the reasons that the noble Lord, Lord Best, spelled out. In many communities that would be a typical site—in fact, in some it would be quite a large site. But even where there are sites of maybe 20 or 30 units that could be brought forward, this policy will encourage them to be brought forward only in small fractions of less than 10, to achieve the higher number of market-value homes and the profitability that will go with that, which alone will slow down the delivery of homes that are much needed in these communities.

Secondly, there is no question but that small villages were the first to come alive to the severity of the housing problems that we have in this country around affordability for people on working wages in those communities. Rural incomes for those who live and work in rural communities average 20% below the national average right across the country. Commuters may bring up the wage levels in some villages, but rural wages are typically low. People are needed to live in those communities, who will work in the shops and do the work of the land and in schools, on those relatively low wages, and they desperately need a home. In the nature of villages, those communities came alive very quickly to the unaffordability issue, because it is much more obvious there.

The response has been for those communities to be very often surprisingly positive about bringing forward appropriate small-scale development, provided that it provides at least some homes with a clear tie to local need and affordability in perpetuity. To remove that would be immediately to remove a lot of that neighbourhood support for the delivery of homes. As somebody who currently chairs a neighbourhood plan, I have to say that the community is very much alive to its own particular needs. I happen to be in a very poor community, where some of those affordability issues are not as great as some of the needing to improve the community in other ways. We happen to be a community in which the affordability pressures are not there, but we know exactly what the community needs. There is a desire for self-build, for example, which we are building into the neighbourhood plan. To remove the ability of communities at local authority and neighbourhood plan level to respond to that on sites that may be brought forward makes no sense to me.

Finally, I think the Government are seeking to help smaller building companies to access land for development. I do not know what the situation is in some parts of the urban environment—I know it less well than the rural one—but I know that in the kind of rural communities and housing schemes right across the country that I visit regularly, through work and in my former role as chairman of the National Housing Federation, the simple fact is that these sites are relatively valuable. A small site for eight or nine units in a well-off village with high house values should be immensely profitable to bring forward, and landowners will get very substantial money if they can bring those forward, compared to the agricultural values that those sites might otherwise be worth. So there is no lack of incentive for the landowner.

The problem is that they are highly desirable for quite large housebuilders as well. There are good profits to be made, there is easy delivery, there is certainty on sales and the numbers are not so large that they could in any sense depress prices, so the sites are highly appetising. If the affordable home requirement is removed, it will be easy for national and regional players to look for the 20% to 25% profit margins that they would come in on with high house prices. The requirement for affordable housing helps depress those prices but, perhaps more importantly, it depresses the ability to get those very high margins. Local small builders will work to builders' margins, which may be as little as 10%. In my part of mid-Cornwall, Restormel Borough Council pioneered releasing sites for affordable housing in the form of housing where the sale price was related to local earnings levels in perpetuity. Those houses were not built by the big regional and national players, but by local builders who were more than happy because they could make their margin within that price cap and get sites at low cost because the landowner knew that the price would be low, the community knew it would be affordable for the community in perpetuity and the builders were still able to make the margin they needed and knew that the community would support the development going forward.

I do not think the Government will achieve their objectives in rural areas this way. They will lose, not gain, numbers. They will lose, rather than gain, opportunities for smaller builders. They will lose community support for the housing that is desperately needed in those communities precisely by the people who allow them to be living and working communities but who cannot otherwise afford a home on local wages.

Lord True: I shall not follow on Clause 143 in particular, although it is an extraordinarily important debate. In a sense it reflects the tension that runs through the Bill. The Government have a clear commitment to provide 1 million homes—starter homes—and to get the country building. On the other hand, in doing that, they want to remove what they perceive, sometimes rightly, sometimes wrongly, as obstacles. That tension runs right through the Bill and underlies this clause because one is naturally suspicious that some of the things that have been said here might have the effect of letting this clause go forward without understanding what precisely it means. The Explanatory Notes say that an example of what the Secretary of State might do would be to place conditions relating to sites of certain size, which is the point just discussed.

I hope the Government will be sensitive about affordable housing. It is extraordinarily difficult to do, not just in rural areas. I do not want to repeat something I said in an earlier debate, but in high land-value areas, it is very difficult to deliver affordable housing. It is really on the margins. Often in those areas, sadly one is dealing with communities that do not really want what they call social housing. The council has to take those people on and look them in the eye. It also has to take on developers and say, "We need to do this". We need

[LORD TRUE]
a few tools in our hands to be able to do that. In going forward and, I hope, giving us a lot more information about the regulations, I hope the Government will be sensitive to that side of the argument. I understand all the suspicions that have been expressed, although the Committee has to understand the imperative for the Government to deliver building.

Clause 142, which was raised by the noble Lord, Lord Greaves, who unerringly draws our attention to every clause, is a massive clause with a massive schedule underlying it. It looks well intentioned. The right reverend Prelate said that if it helps resolve disputes, that would be good. I am all for arbitration. If the sense is that two sensible people come together and resolve the matter, of course, we would all want that to happen. But we do not have here soft arbitration, we have hard statute. This hard statute is backed up in Schedule 13 by a very lengthy set of things that will happen when this person, whoever it is, could be called in by the Secretary of State without even waiting for either the applicant or the local authority to call them in. He or she might be called in under new Schedule 9A(1)(4) in Schedule 13 to the Bill, when

"a person of a prescribed description, requests the Secretary of State to make an appointment",

of a person, and,

"any prescribed requirements as to the consent of the … authority are satisfied".

Then there is a whole set of Russian dolls—clause after clause providing what this process might do. So this is not soft arbitration; it is almost like creating a new inspectorate—it seems to be separate from the inspectorate at Bristol—to arbitrate in cases of Section 106. It may be the same as the inspectorate at Bristol—I know not. Then a whole lot of things have to happen. It looks a bit like quasi-justice. Quasi-justice is not necessarily always quick and it is certainly not cheap.

The interesting thing about planning—as anyone who deals with it knows—is that planning creates its own precedent. Planners have to take note of what inspectors have said in the past. They have to take note of past decisions as well as the law. These unknown persons are going to be dealing with cases, perhaps at the request of the Secretary of State, according to the Explanatory Notes taking into account,

"any template or model terms published by the Secretary of State".

We do not know whether they will be in regulations or what they might be. They will then give judgments on the Section 106 negotiations. It even says in the Explanatory Notes that they can,

"consider two or more planning applications at the same time if the same or similar issues arise".

So we have what is effectively a hard, quasi-statutory system of making assessments. These judgments will lie on the record. It may well become, in my judgment, a bit like the decisions of the inspector, something which the next arbitrator will then take notice of in a similar case—not the same case, as they can consider similar cases. The freedom of negotiation between local authorities and applicants is potentially trenched into by this process.

The clause looks well intentioned, but a little too elaborate. It is a classic way in which Governments go about making law. They say, "Wouldn't it be a good idea to bring discussions quickly to an end", because they want to get things done quickly. They think local authorities are always holding them up so they want to force them to go this unknown person to impose a decision. Once that report is issued, the local authority must comply—that is what is written in the regulations.

I would like to think a lot more about this going forward as a statute. It is good practice to consider arbitration, but it is very tough. We have just had a debate about basement development in which we were told it was not necessary to put stuff on the statute book as we have codes of practice and everything can be done in a soft way. Here this arbitration has to be legalistic and hard—it has to be on the statute book. I worry about that.

Section 106 negotiations are tough—they are meant to be. I went to a topping-out ceremony in my borough a few weeks ago with some people from one of the hardest-negotiating developers in the country. We had a good old time and they said, "My goodness your authority was tough in negotiations". I said, "Yes, and so was your business, but look what we've got: 300 new houses, affordable housing, community theatre and a community place in this town, which we got as a result of that negotiation". If that had gone to the person in Bristol, Peterborough or wherever who might be appointed under this system, I wonder whether any of that would have happened.

I asked my noble friend to reflect on this very elaborate, albeit well-intentioned, system. The Government are absolutely right to call on local authorities to try to cut negotiations short and do them as fast as possible, but we have far too much rigmarole of regulation, law and diddle-daddle in this country already, and this looks like more of that on the way.

1 pm

Lord Beecham: My Lords, I have a good deal of sympathy with the remarks of the noble Lord, Lord True, about that provision. I entirely endorse what my noble friend Lady Royall and others have said about Amendment 102B.

Frankly, I am puzzled by Amendment 101D. I had an exchange before with the noble Lord, Lord Shipley, about this, but it still does not seem to make much sense. If one is concerned about the definition of affordability—and I think many of us are concerned about what is currently described as affordable—then to take out from the Bill a provision that as it currently stands would allow the Secretary of State to modify the definition would be puzzling. If the amendment had suggested that, for example, the Secretary of State should by regulation determine what is affordable in relation to household income, for example, that would have been a more positive way of dealing with the issue. At the moment, there is no apparent connection between affordability as it is currently treated by the Government and what ordinary people would understand as being affordable—that is to say, within their means.

Lord Shipley: Perhaps I can explain what the issue is, although I thought I had done so previously. The amendment relates to the planning part of the Bill. At the very beginning there was a debate, and amendments that I think the noble Lord himself moved, about the definition of affordability. We had a long discussion about that. The context of the amendment that the noble Lord is criticising simply relates to whether the Secretary of State should have the power to define a word that is clearly expressed in any dictionary that the Secretary of State may wish to consult. On "affordable" and "affordability", the Government are muddling their terms, and I believe that that is happening deliberately to make it appear as though housing is affordable when it is not. The Government define the words "affordable" and affordability" differently, but in the dictionary they are the same thing. They relate to the ability of people to pay. All I said when I spoke to the amendment was that I thought we had to go back to amend the Bill at the beginning of its housing element so that the definition of "affordability" was better stated, but then not to allow a Secretary of State to make a change by regulation to the meaning of a word that had a clear meaning in the *Oxford English Dictionary*.

Lord Beecham: My Lords, I do not want to prolong this dialogue, but surely it would be better to tie the Secretary of State down to making regulations related to, for example, an indexed figure in connection with household income. That would be a more sensible way to do it than simply taking out the clause.

Lord Shipley: To avoid any doubt, I am very happy to do that, as I said 15 or 20 minutes ago. The question is whether the Secretary of State, having defined what "affordable" and "affordability" are, should then be allowed by regulation to alter them, which I think he or she should not be.

Lord Beecham: The point would be to circumscribe the Secretary of State's ability to regulate it by linking it to an index. However, we are not voting on that amendment and I will not take matters any further.

Baroness Williams of Trafford: My Lords, the Government are committed to increasing housing supply. More homes are now started every year than at any time since 2007. The total stock of housing in England is now almost 800,000 higher than it was in 2009. In the spending review we announced investment of £8 billion to deliver 400,000 affordable housing starts by 2020-21. This includes £4.1 billion for 135,000 shared ownership homes, £1.6 billion to deliver 100,000 affordable homes for rent and £2.3 billion towards delivering our starter homes manifesto commitment.

In order to further support housing delivery, we need measures to avoid Section 106 planning obligations preventing or delaying new homes being built. Clause 142 inserts new Schedule 9A into the Town and County Planning Act 1990. The new schedule sets out a dispute resolution process to speed up Section 106 negotiations in order to help housing starts to proceed more quickly. Dispute resolution will be available on a broad range of cases, including where affordable housing is in dispute or particular infrastructure is needed to make development acceptable in planning terms. However, as with any effective dispute resolution process, we anticipate that it would be used only as a last resort. The speeding up of Section 106 negotiations is part of a wider package of measures that the Government are introducing to make the planning system simpler and more streamlined. We anticipate that its existence will encourage all parties to work constructively together and agree planning obligations earlier in the planning process.

We are also working with stakeholders to understand the particular issues caused by negotiating affordable housing provision. So far, we know that problems include the time and expense of viability negotiations, the lack of clarity over affordable housing requirements and the difficulty of getting housing associations to take only one or two units on a site. These effects can be felt more acutely by smaller developers, which are more likely to focus on building on small sites. We are consulting on some of the detail of the process and we will bring forward regulations in due course. Clause 143 allows us to address some of these issues by providing a power for the Secretary of State to make regulations relating to the enforcement of planning obligations for affordable housing. The clause provides flexibility depending on the size, scale or nature of the site or of the proposed development so that we can target regulations appropriately.

The right reverend Prelate the Bishop of St Albans asked when we were going to consult on the powers. We are already engaging with key partners to identify those measures that would best support the delivery of new housing, and we will consult on our proposals in due course. Restrictions or conditions will be introduced through affirmative regulation, so Members of both Houses will have a chance to scrutinise any measures that we introduce. That means we can bring about a more consistent approach to how Section 106 agreements can be used in relation to affordable housing provision. It will reduce a key element of uncertainty for developers and, in doing so, support housebuilding.

The noble Lords, Lord Young and Lord Best, and the noble Baroness, Lady Royall, asked how we anticipate using the power in Clause 143(2)—would it be used to restrict right to buy, and what about the rural aspect? The broad power proposed allows for a distinction to be made depending on the size and nature of the proposed development, such as rural sites, where restrictions may not be appropriate, and the distinction in relation to the types of affordable housing that may be restricted. This is intended to focus any restrictions where they would have the most likely benefits in encouraging housing development more broadly, rather than, as the noble Lord says, restricting it. For example, we could use this power to address the particular problems faced on small sites, as I have said, and we are working with stakeholders to identify how we can best use the power to address the issues and support the delivery of new houses. I should also say that the restriction provision would not apply to existing Section 106 agreements.

The noble Lord, Lord Taylor of Goss Moor, is concerned about the Government not supporting rural areas. As I say, this provision gives us the flexibility to target our regulations in a way that would best benefit

[Baroness Williams of Trafford]
overall housing delivery. For example, as I said, restrictions or conditions could apply differently depending on the type of sites, such as rural areas.

Amendment 101BGB limits the use of Section 106 dispute resolution, to be introduced through this clause, to affordable housing disputes only. It is not necessary for Amendment 101BGB to be introduced to implement this change. Schedule 13 of the Bill allows the scope of dispute resolution to be restricted through regulations, which could include limiting dispute resolution to cases involving affordable housing. We are presently seeking views on the scope of dispute resolution through our planning technical consultation, but dispute resolution would be a very useful tool for resolving disputes on applications without affordable housing as well as on those with.

Moving on to Amendments 101C and 101D, I do not think that they are necessary to address the concerns of the noble Lord, Lord Shipley, because they would hinder our ability to address the issues that local planning authorities and developers tell us are caused by negotiating affordable housing obligations. This clause allows the Secretary of State to restrict the use of Section 106 planning obligations for affordable housing. The clause, therefore, goes on to define what is meant by affordable housing in this context.

The definition of affordable housing included in this clause focuses on housing that meets a particular need: for example, people whose needs are not adequately served by the commercial housing market. It also specifically includes starter homes, which are defined in Chapter 1 of the Bill. It does not restrict provision to meet the needs of any specific tenures. Indeed, we consider that the definition is broad enough to encompass all forms of tenure. Restricting the use of planning obligations for affordable housing across all tenures would not support the objective of addressing the specific issues caused by negotiations on particular types of site.

The clause also provides the Secretary of State with the power to amend the definition of affordable housing through regulations. Removing the power would affect the Government's ability to take account of new forms of affordable housing provision that are being developed. This would limit the effectiveness of how Government can use this clause to support housing development. The power to amend the definition of affordable housing under this clause is subject to the affirmative resolution procedure and noble Lords will have the opportunity to scrutinise any amendment of the definition.

Amendment 102B, in the names of the noble Baronesses, Lady Royall and Lady Parminter, inserts a new clause that would enable the Secretary of State to empower local planning authorities to require affordable housing contributions, in cash or kind, from small-scale developments and in rural areas. However, I do not think that it is necessary. Local authorities can set affordable housing policies in their local plans, which will take account of local housing need. Section 106 agreements can then be used to secure affordable housing delivery. They can also be used to agree financial contributions in lieu of on-site affordable housing contributions. Indeed, there is evidence of local planning authorities making very good use of this, including seeking contributions from small-scale developments and in rural areas.

The use of this power will allow us to bring about a more consistent approach to how Section 106 agreements can be used in relation to affordable housing provision. This could include conditions on how planning obligations are sought for affordable housing on particular types of sites. Such conditions could help address the problems that affordable housing negotiations can cause for particular types of sites, such as those identified in this amendment.

I will finish by saying that the Government will consult on the approach to any restrictions or conditions brought forward. Measures implementing this power will be set out in regulations. These, including any amendments to the definition of affordable housing, will be subject to the affirmative resolution procedure and noble Lords will have ample opportunity to scrutinise any amendment to the definition. I hope that, with those words, the noble Lord will feel happy to withdraw his amendment.

Lord Greaves: My Lords, this has been a very interesting debate and I thank everybody who has taken part in it. Most of the debate was about issues that I was not personally raising, but I want to thank the noble Lord, Lord True, who made a speech similar to one I thought of making. It is clear that the noble Lord is less intimidated by the Government Chief Whip on these matters than I am and feels able to make such a speech at length, putting forward the localist view which he has done so well so many times in this Committee.

1.15 pm

The noble Lord, Lord True, said that what was being proposed was not soft arbitration but hard statute. This is yet another example of this Government, like previous Governments, not trusting local authorities or local people. I particularly noted the noble Lord's description of this measure as possibly a new inspectorate. The Government are very good at setting up policing mechanisms to police everybody else in the world. I do not know when they are going to stop: we thought it was coming to a halt with the Localism Act, but it seems that that Act did not do that at all, or only in small measure.

The Minister said that she wanted to agree planning obligations "earlier in the process". I am not quite sure which process she is talking about or what stage of it. Affordable housing obligations are often the central part of the application from the very beginning, when the application is put in; certainly for larger sites, the question of how much and what kind of affordable housing is there from the very beginning and is part of the pre-application negotiations and discussions that take place between the applicants and local planners, and that is as it should be. A lot of the smaller Section 106 obligations that end up with an application, however, actually emerge during the process that people think is necessary and reasonable for the development to go ahead. They might even emerge at the decision-making time: if the application goes to a committee, there will

be discussions and small Section 106 additions might take place at that late stage. If the Minister is saying that the problem then is that it takes time for the negotiations to take place between the applicants and the planning authority after a decision has been made that an obligation is required, that is true; but if there are bureaucratic, legalistic or just administrative reasons why that process is slowing down, it is not always necessarily the fault of the local planning authority. It can often be the fault of the applicants who delegate to somebody working on their behalf; it can take months and months for them to deal with it.

The whole tenor and ethos of this Bill seems to be about making things easier for developers. I am in favour of the whole planning system being made easier, more efficient and simpler, as the Minister knows. At the moment, it is too complicated; there is no doubt about that. It is too bureaucratic and too difficult for people to understand. However, there has to be a balance, and the danger of making things easier for developers, which lies behind a lot of the discussion that has taken place in this Committee, is that, if we are not careful, development could become more harmful and less good than it otherwise would be. Often, it is the things that are beneficial to the local community and that make for a much better development—better designed and laid out, with better provisions—that the developers complain about. They will go to the Government and say, "These planning authorities are making us do all these things". But if you build a housing estate it is there for 100 or 200 years, or however long, and taking a bit longer is not necessarily always a bad thing.

Most of the debate on this group was about rural housing, small developments and affordable housing. Again, I was bowled over by the level of expertise on these issues around the Chamber. The noble Lord, Lord True, was right again: this is the tension that runs right through the Bill and it is a fundamental issue throughout it. My observation is that the Government have to come up with some fairly important improvements to the Bill in these areas—perhaps one would call them concessions—if they are not to get into serious trouble on Report. Having said that, I beg leave to withdraw the amendment.

Amendment 101BGB withdrawn.

Clause 142 agreed.

Amendment 101BH not moved.

Schedule 13 agreed.

Clause 143: Planning obligations and affordable housing

Amendments 101C and 101D not moved.

Clause 143 agreed.

Amendment 102 not moved.

Amendment 102A

Moved by ***Lord Beecham***

102A: After Clause 143, insert the following new Clause—

"Planning obligations for student housing

Upon commencement of this Part, the Secretary of State must incorporate planning for student accommodation into the National Planning Policy Framework so that it is planned for and included in local and neighbourhood plans and taken into consideration in planning decisions where appropriate."

Lord Beecham: My Lords, this amendment in my name and that of my noble friend Lord Kennedy deals with an issue which is close to home for the Minister, whose daughter—she told me the other day—lives in a student house just opposite friends of mine in a residential part of Newcastle. It is a fact that in Newcastle and many other cities there are very large numbers of students. In Newcastle, I believe that the two universities have between them some 45,000 students. Some of them of course will be local and others will not necessarily be living in the city. Nevertheless, substantial areas of the city are now given over to rented-out student accommodation, which not infrequently is jammed full of students living in not particularly attractive conditions and also somewhat changes the character of the area. Increasingly, we find areas virtually totally dominated by students. Recently I had the misfortune to canvass not far from where the Minister's daughter lives, and I encountered house after house occupied by students, many of whom, I am sorry to say, expressed the intention of voting Conservative, because on the whole Newcastle attracts large numbers of better-off students. They are not quite mature enough to realise that they are taking the wrong course politically, although they may come to realise that in due course.

However, what we are now seeing in the city—and, I suspect, elsewhere—is rather different and in some ways rather better: large purpose-built places for students to live in, not in residential streets but in purpose-built complexes. That is a good thing in a way because, one hopes, it will free up family-sized accommodation and perhaps bring back more permanent occupation of residential areas, which is desirable. On the other hand, sometimes these buildings are thrown up in close proximity to residential areas and the behaviour of those in the residential blocks is not always appealing to the local community. However, perhaps that is another issue that needs to be looked at.

Amendment 102A simply raises the issue and seeks to get the Secretary of State involved in ensuring that the National Planning Forum takes an interest in what is a growing concern in many areas. The amendment would ensure that it offered some guidance and, in collaboration with local authorities and indeed with universities and student bodies, sought a way of balancing the needs of universities and their population with the local population. On the whole, this works tolerably well. In the area where the noble Baroness's daughter lives—not necessarily in the same street, although there have been some difficulties there—things are not always satisfactory. There is a good deal of late-night

[LORD BEECHAM]
carousing and the like, which some noble Lords may be young enough to recall from their earlier days but is not at all appealing to local communities.

This is a matter that has not really played much of a part so far in national policy formulation, and I hope the amendment will begin a process through which it can be properly developed. I beg to move.

Lord Palmer of Childs Hill (LD): My Lords, I shall speak to Amendment 102C. With the emphasis on affordable housing, there is a danger that the infrastructure and support to make developments into communities will be sidelined. Many people have talked about what constitutes affordable housing. A £450,000 home after discount in London may be a good buy but you have to be able to afford the deposit and the mortgage payments. Putting aside my concerns about what constitutes affordable housing, this amendment makes the assumption that we can have a building bonanza but we need to ensure—this is my reason for tabling the amendment—that the funds are not diverted from libraries, schools, community culture, public transport and indeed the multiplicity of activities that make a community. This has historically been effected by Section 106 planning gain money, to which many noble Lords have referred, but the position has been further complicated by the new community infrastructure levy, which no one seems to have mentioned. This levy, which has not been welcomed by some local authorities, can be imposed by local authorities on new developments in their area.

The levy is said to be designed to be fairer, faster and more transparent than the well-tried Section 106 system of agreeing planning obligations between local councils and developers—that is what it says. I therefore ask the Minister, when responding to this amendment, to report on how she sees the community infrastructure levy and/or the Section 106 planning gain funds being protected and enhanced. Can she reassure the Committee that the other provisions in this complicated and convoluted Bill will not militate against the local services that maintain housing developments as communities and not purely, as my old favourite Pete Seeger said in 1963, little boxes of different colours which are all made out of ticky-tacky and all look just the same?

Lord Greaves: Does my noble friend agree that Pete Seeger did not say that at all? He sang it.

Lord Palmer of Childs Hill: I would be happy to do that, but I have tried to let the Committee off that treat.

Lord Harris of Haringey (Lab): My Lords, I think the main concern that many of us had was that the noble Lord was going to sing it.

I want to intervene briefly on this group because quite an important set of principles is involved here. Making communities work in the context of new developments is quite a skill, which local authorities develop over time. For example, there is a difference in nature between student accommodation and other types of what would no doubt be considered to be affordable accommodation. You are usually talking about one-bedroomed units designed for young people. It is a very different sort of accommodation. However, planning for that and for all the other facilities and so on in the local area can be determined only at a local level by people who know the areas concerned and know how it is going to work.

It is right that there is recognition of the importance of student accommodation and that it is taken into account, but it has to be acknowledged that often those in the local area will be best able to determine how to make it work so that the different communities in a particular area will be able to co-exist and complement each other. I am conscious of a number of developments where the arrival of student accommodation has been very important for the regeneration of that area and has benefited other communities. As opposed to hostility to the noisy nocturnal dwellers that students often are, these developments have been a catalyst for enabling other things to be placed in that area, to be viable, and to work extremely well.

Having listened to the exchange between my noble friend and the Minister about her daughter, I recall a discussion I once had with somebody about my son. He was strip-searched in the airport, which was news to me—as a parent you do not hear about that—and I was worried that, in terms of what goes on in the back streets of a no doubt very comfortable part of Newcastle, my noble friend was going to stray into that territory.

It is important to understand the value of student accommodation in many local communities and the fact that what will work is best planned locally. At the same time the different nature of student accommodation should be recognised in the planning process.

1.30 pm

Baroness Williams of Trafford: My Lords, I am pleased to be discussing these amendments today, particularly in the light of the conversation that the noble Lord, Lord Beecham, and I had yesterday. For a horrible moment I thought that my daughter actually lived next door to his friends. Thank God that she lives across the road. Nevertheless, it was a very weird conversation. The noble Lord's wife and I went to the same school, and we found out yesterday that in so many things, in terms of our background, we were far closer than we thought. My daughter is indeed one of those pesky individuals who votes Conservative.

I also get the broader point about the changing face of communities. Jesmond has over the years changed remarkably as the community has become fuller of student properties. The local authority and the university are making huge moves to create more purpose-built accommodation for students and to ensure that Jesmond starts to restore to itself the very nice community feel that it once had. The Government recognise this need as well, encouraging local authorities to provide much more purpose-built student accommodation.

While I fully support the intention of the amendment I do not think it is necessary, because we already have in place the mechanisms to deliver it. Our NPPF is clear that local planning authorities should have a clear understanding of housing needs in their area.

It encourages local authorities to identify the accommodation needs of different groups within the community and to plan proactively to support them. This includes recognising the needs of students. This is supported by planning guidance. In March 2015 we strengthened our guidance to re-emphasise to local planning authorities their duty to plan for sufficient student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether it is on campus.

The amendment would also require local planning authorities to give higher priority for student housing than other groups in society. There is no need to adopt quite such an approach. It is important that local planning authorities plan for a mix of accommodation, including for the student population as well as for the needs of all residents and different groups in the community. That is what the NPPF expects. If they do not make adequate provision, they risk having an unsound local plan.

Amendment 102C on planning and community development seeks to ensure that local authority funding is available for community developments and is taken into account when carrying out its duty to promote starter homes. The noble Lords, Lord Palmer and Lord Shipley, and the noble Baroness, Lady Bakewell, drew attention to the need for funding to be made available for community developments and I thank them for doing so. I do not disagree that local authority funding should be used for new community developments.

As a key objective of national planning policy, local planning authorities need to plan positively for the infrastructure needs of their area, which would include community development projects. I reiterate what I said earlier in Committee that nothing that we are doing to promote starter homes will fundamentally change the importance of having good infrastructure in place to support new development. Planning decisions for all developments, including those that contain starter homes, will still need to be made in accordance with local planning policy, subject to the starter homes requirement and other material considerations. Infrastructure considerations that can be taken into account as part of the decision-making process will clearly need to be issued.

The noble Lord, Lord Palmer, mentioned the community infrastructure levy. The Section 106 agreements and the community infrastructure levy provide mechanisms for local authorities to secure funding for infrastructure, including community developments. As I have mentioned, we intend to exempt all starter homes from the community infrastructure levy. However, for the starter home element of any new development, local planning authorities will still be able to secure Section 106 for site-specific infrastructure improvements that might be required. Where there is a proposed development involving market housing and starter homes, the local planning authority is still able to use the sale on the market homes element to help fund the infrastructure required to support the development, assuming of course that it has a charging schedule in place.

With those comments, I hope that the noble Lord will withdraw his amendment.

Lord True: Briefly, I welcome what my noble friend and others have said about student accommodation. It is not easy. We have expanding universities and noble Lords are right to say that there is usually strong opposition from local people when they hear "student housing". However, a friend of my daughter's is still at university and is rather more concerned that her local launderette might be turned into a house.

Lord Beecham: I thank the noble Baroness for her remarks. I hope that the matter can be taken forward. I beg leave to withdraw the amendment.

Amendment 102A withdrawn.

Amendments 102B and 102C not moved.

Baroness Evans of Bowes Park: I beg to move that the House be now resumed. In so doing, I encourage noble Lords interested in the Housing and Planning Bill to keep an eye on the annunciators to see when the Committee will resume.

House resumed.

Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016

Motion to Approve

1.37 pm

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

That the draft order laid before the House on 1 February be approved.

Relevant document: 25th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I shall speak also to the draft Tees Valley Combined Authority Order 2016, which was laid before this House on 11 February. We will also be considering today the amendments to the Motions in the name of the noble Lord, Lord Beecham. I would simply say for now that the various wider local-government funding matters that these amendments touch on are wholly separate from what these orders and the devolution deals are all about. These deals are about promoting economic growth and prosperity for the area, providing investment and giving local places the powers to decide what to invest in and where. That is quite different from how local services are funded.

If these orders are approved and made, they will deliver significant milestones in fulfilling our manifesto commitments to implement the historic devolution deal between the Government and Greater Manchester and to devolve far-reaching powers over economic development, transport and social care to places that choose to have elected mayors. We want a shift in power from central government to local government, with decentralisation bringing power closer to local

[Baroness Williams of Trafford]
communities. We are committed to devolving powers and budgets to Tees Valley, to Greater Manchester and to other areas. We are committed to this so that places can achieve their potential and take control of their own growth, and so they can play their part in rebalancing our economy, including building the northern powerhouse: a powerhouse which has massive potential to add an extra £37 billion to our national economy by the next decade.

If approved and made, the Tees Valley order will establish a combined authority with functions in relation to economic development, regeneration and transport across the Tees Valley. It provides for there to be rigorous scrutiny arrangements, with the chairman of any scrutiny committee required not to be a member of the majority political party. This puts on a statutory basis the close working which already exists between the five constituent authorities and their partners, including the Tees Valley Unlimited local enterprise partnership. This close working will enable the Tees Valley to work together even more efficiently and effectively to promote economic growth, to secure investment and to create jobs.

The order is laid under the Local Democracy, Economic Development and Construction Act 2009, as amended by the Cities and Local Government Devolution Act 2016. As the statute requires, before laying the order, the Secretary of State has considered whether the proposal for a combined authority satisfies the statutory tests. I can confirm that they have been unambiguously met. The Secretary of State considers that establishing this combined authority is likely to improve the exercise of the statutory functions, and in reaching the decision to lay the draft order, he has had regard to the impact on local government and communities.

This order is the first step towards devolution in Tees Valley. Further orders will be laid later this year to create the position of mayor—to be elected in May 2017—and to confer on the combined authority and the mayor the additional responsibilities set out in the devolution deal, including powers for a mayoral development corporation.

I turn now to the order for Greater Manchester, where there has been a combined authority since 2011. This order takes further steps in the devolution journey by creating the position of a directly elected mayor for Greater Manchester, with the first election to be held in May 2017, and specifying that the first mayoral term will be for three years, with the next election in May 2020, with four-year terms subsequently.

The order also specifies that the Greater Manchester mayor will exercise the functions of a police and crime commissioner, cancels the May 2016 elections for a Greater Manchester police and crime commissioner and extends the current police and crime commissioner's term of office until May 2017, when the mayor will be elected. To hold an election for a police and crime commissioner who would hold office for just one year would make no sense, either democratically or in terms of value for money.

Both orders are laid before Parliament following the statutory process specified in the 2009 Act, as amended. As required, all of the constituent councils have consented to these orders being made, and the Government have laid the draft order having considered the statutory requirements. As required, we are now seeking Parliament's approval before making the orders.

The other place has approved each of these orders, and the noble Lord, Lord Beecham, has indicated publicly his support for devolution, for devolution agreements with Greater Manchester and the Tees Valley and, indeed, for the orders, which the regret Motions before the House in his name welcome.

I turn to the amendments. In essence, they focus on—regret—two matters. First, they assert that the devolution agreements were conditional on there being an elected mayor and that that is to be regretted, and that resources for these deals are inadequate. Secondly, they regret the Government's policies on the broader issue of local government funding—that is, regret the measures that this Government have had to take to put right the economic chaos that the coalition faced, with a deficit of more than 10% of GDP.

As to mayors and the devolution agreements, there are simply two points which have been made on many occasions in this House. First, nobody has been required to have a mayor. Secondly, it would be irresponsible of any Government to put in place devolution of the scale and ambition as in Tees Valley and Greater Manchester without the clear, single point of accountability that an elected mayor can bring. As for resources for these deals, the devolution agreements provide funds for investment which the Government are absolutely committed to deliver. Devolution is an ongoing and iterative process, and we are committed to continue to discuss with places such as Tees Valley and Greater Manchester what else would help meet the needs of the place.

As for the funding of local government, when local authorities account for a quarter of public spending, they must carry their share of reducing the remaining deficit. To date, I must say that they have played their part in deficit reduction with great responsibility, so that public satisfaction with their services has been maintained or even improved.

The Government are clear that we have delivered a fair settlement to every part of the country, while giving councils greater financial independence so that they can deliver sensible savings while protecting front-line services.

The settlement, including the transitional grant, means that no council receives less than we announced in the provisional settlement. The settlement is broadly flat in cash terms between now and 2020. Resources are distributed fairly, taking into account the main resources available to councils. The gap in spending power between urban and rural authorities continues to reduce. We have given councils the multi-year budgets they have asked for and helped to transition from the old, centrally funded world to the new one of localised income. We have responded to their request for support for the elderly by providing £3.5 billion through the social care precept and the better care fund.

However, as I said, this is all a separate matter from what the orders are about. They are about delivering devolution, about giving local authorities the power to set their own policy agendas, the power to target their

spending priorities to match, the power to drive growth, and power supported by investment funds, to which we are committed in the deals. I commend the orders to the House. They are a milestone on the devolution journey leading to greater prosperity, a more balanced economy, and economic success across the country. I beg to move.

1.45 pm

Amendment to the Motion

Moved by ***Lord Beecham***

As an amendment to the above motion, at end insert "and that this House welcomes the principle of devolution, the Greater Manchester Combined Authority Devolution agreement, and the draft Order; but regrets the lack of adequate resources allocated to the Greater Manchester Combined Authority; is concerned that funding is being cut whilst essential services are being devolved; notes that a transitional grant is available to local authorities to ease the pace of funding reductions but that out of the ten constituent member local authorities of the Greater Manchester Combined Authority only three member local authorities will receive this funding; and regrets that the Agreement was conditional on having an elected Mayor".

Lord Beecham (Lab): My Lords, the concept of devolving power to cities and regions is admirable. The councils in Greater Manchester and Teesside are to be congratulated on the way that they have worked together to negotiate a deal with the Government with the object of assuming greater control over the services, policies and destinies of their respective areas. My amendments welcome the principle of devolution, but draw attention to two aspects of the situation which are far from satisfactory: both deals were conditional on having an elected mayor, and large questions remain over funding.

Astonishingly, the Minister claims that there has been no requirement, no compulsion, to have an elected mayor. That is perfectly true, but of course, if you do not have an elected mayor, you do not have a deal. That is a strange position. We continue to oppose that requirement. There have, of course, been referendums in several authorities on the mayoral issue under the present system, several of them ordained by the Government. My city rejected the concept, despite the best efforts of the noble Lord, Lord Shipley, to persuade the electors of Newcastle to support it, while I am happy to say that his successor as leader joined me in the campaign against it, as did Manchester. As to the latter, I remind the House of the claim by Nick Boles that the only route back for the Conservatives in Manchester was to have an elected mayor. Naturally, no such motives could possibly have influenced the Government in imposing this requirement on the deals for greater Manchester, Teesside, and, indeed, anywhere else that opts to take them up.

Of course, there have also been referendums to dispense with elected mayors, as in Stoke and, interestingly and more relevantly for the purpose of this debate, in Hartlepool, which is part of the Teesside authority. They had an elected mayor, but disposed of him—well, not of him, but of the post. A referendum to do likewise is in progress in North Tyneside, which is a member of the proposed north-east combined authority currently in the throes of deciding whether to sign up to a deal.

However, I suspect that for most people, the key factor will be what benefits devolution might bring. These will depend on two factors: the nature and extent of the power to take local decisions on key areas of public policy, and the extent to which adequate funding is available. The two geographical areas that we are considering today have, as is proper, taken different approaches to the first of those questions. Greater Manchester has opted for an ambitious range of responsibility extending from the local economy to transport and police to health and social care. Recently, a further significant area has been added to the original deal: involvement with the criminal justice system including, as I understand it, probation. Teesside has taken a different approach, concentrating, as well it might in the aftermath of the disastrous closure of the Redcar steelworks, on the local economy, with transport and skills at the heart of its programme. In some ways, of course, this represents a return to the former Teesside county borough.

However, there are big questions about the extent to which enthusiasm for devolution extends beyond the Treasury and perhaps the DCLG, not least in the light of recent events. There is nothing new in this. Under the Labour Government, regarding the Local Government Association's concept of total place—under which local councils and a range of government departments were to work together on a range of policies and programmes affecting individual localities, not least in regard to their financing—there proved in effect to be no real buy-in other than from the Treasury and the DCLG itself. What is different this time? During the passage of the cities Bill, the Minister convened a meeting with the noble Lord, Lord Prior, the Department of Health and interested Peers. It was attended by the Minister for the Northern Powerhouse —or poorhouse—who left after 25 minutes without uttering a word. More importantly, it was apparent that the Department of Health, certainly at that time, had had little if any engagement with the process.

Can the Minister tell us how much involvement other departments from the Treasury down have had in the agreements which today's orders enshrine? More especially, can she say what structures are in place, or will be in place, to secure their continuing engagement so that a cross-departmental perspective is included in the work of the new authorities? There are precedents of a kind, including the inner-city partnerships of the 1980s, in which I recall serving alongside a number of Ministers at what was then the Department of the Environment, several of whom are or have been Members of this House. This is all the more necessary given, for example, the parlous financial state in which all the member councils involved in today's orders find themselves. Their cumulative loss since 2010 occasioned by funding cuts and unfunded cost pressures amount, on an annual basis, to no less than £180 million in Teesside and over £700 million in Greater Manchester,

[LORD BEECHAM]
with Manchester's loss alone amounting to just under £197 million to date. That is the annual loss that it will have to carry from now on, and it is, of course, rising. The current round of budgets will push those figures to an even higher level, with more to come over the next few years.

Strikingly, only one of the councils in the two areas—Stockport—received any transition grant under the recent government announcement. I suppose it should have considered itself lucky to have received anything, as it is not a Conservative council but one with no overall control. Even so, the £2 million it received is only 5% of its annual loss so far.

Here is the key issue. How much certainty will there be about the level of funding for the key areas where responsibility is being devolved, let alone the services which remain with the individual councils, and whence will it come? The Government are committed to pouring vast amounts of money into Crossrail and HS2, about which many of us north of Birmingham have considerable doubts, and a modicum into what they misleadingly call HS3, which will improve the appalling rail link between Manchester and Leeds—though not, incidentally, extend to Teesside—but this is capital expenditure. What guarantees are there about the revenue budgets of the combined authorities and separately of their several numbers and of the capital funding for other programmes which will be necessary to make a reality of the claims to be promoting a northern powerhouse or any other substantial economic improvement elsewhere?

What will be the impact of the Chancellor's £6.7 billion cut in business rates recently announced? Can the Minister inform us how and to what extent councils will be protected from this loss of revenue on which, given the demise of revenue support grant, they were supposed to rely? I assume that the Treasury has now briefed her following her understandable inability to answer questions about this matter last week—I do not blame her at all for that. I understand that whereas hitherto the DCLG has used its share of business rates to ensure a modicum of redistribution to authorities with a low business tax base, it is now scrabbling round to find a method of securing some equalisation when they will not be receiving any business rates. Can the Minister tell us what they are looking into, how far they have got and when we might expect an announcement? Is it true that, in future, increases in the business rate will be based on CPI rather than on RPI as hitherto? That would represent a further erosion of the value to local government of the business rate.

Moreover, how does the Government's effective removal of democratically elected councils from the provision of education—which the councils have supported though not controlled, as the Government and media constantly assert, for many years—fit with the concept of devolution? If one is looking—as certainly Teesside and I suspect Manchester and other authorities are—to enhancing skills, extending links with further education and opening up employment opportunities to the next generation of young people, because the current generation has not had those opportunities, how can that possibly be reconciled with what is in effect a nationalisation of the education service and the exclusion of local government from it?

What other incursions on local council responsibilities are being considered in the Treasury or other government departments which might extend to the new authorities and their members? Can the Government give any assurance that the new authorities will not go the way of metropolitan counties, which in many ways foreshadowed these new structures? Those were invented by a Conservative Government in 1973 and abolished, along with the GLA, by a Conservative Government 12 years later.

Finally, may I mount again a hobbyhorse that I confess to having ridden in a number of debates? Will the Government abandon remote control and engage effectively with the new combined authorities and other councils through the well-tried and successful mechanism of regional offices, engaging relevant departments and agencies at the local level? In fairness, this was a product of a previous Conservative Government. It worked very well, providing an invaluable two-way conduit between Whitehall and the locality. If that was good enough for Margaret Thatcher, it should surely be good enough for her successor.

Perhaps I may raise one other question, not directly in relation to Greater Manchester or Teesside but possibly to other areas which are considering a deal. There seems to be the opportunity, or temptation, for a backdoor reorganisation of local government to take place in areas where counties with shire district components may find themselves in a difficult position in relation to adjoining former metropolitan county areas. I cite for example the position in South Yorkshire, Nottinghamshire and Derbyshire, where for some purposes those district councils may become part of the combined authority, but not for others. However, once they start getting into the health and social care combination that is going to pose extreme difficulties, because social care is provided by the current shire counties. There is a suggestion in the air that the Government may be looking in this way to promulgate a further reorganisation of local government, creating more unitary authorities and changing the map completely. I do not know whether the Minister is in a position to comment about that today. If not, perhaps she can write to me. I beg to move the amendment.

Lord Shipley (LD): My Lords, first, I welcome the two orders, each at a different stage of the devolution process. I understand there will be a further order in respect of the Tees Valley later this year about a mayoral election next year.

I listened carefully to the comments of the noble Lord, Lord Beecham, and to his amendment to the Motion. It is true that the financial context is important. I also subscribe to his view that having some system of government offices linked particularly to combined authorities would be a hugely helpful conduit or communication channel.

However, I noticed three things that the noble Lord, Lord Beecham, missed out of his amendment. The first was the opportunities for councils through a combined authority structure to share services and thereby cut costs. Secondly, there are the opportunities for public service reform across all public services, which can be delivered only by closer co-operation across council boundaries. Thirdly, there are the

opportunities to create strategic policy in areas such as transport and regeneration which transcend council boundaries and would give the combined authorities a role in devising what policy should be rather than waiting for Whitehall to start a process and attempt to define that policy.

I also accept the noble Lord's comments on business rates, which need to be examined very closely. However, the implications of business rate devolution suggest that councils must come together geographically to make the best use of the powers that they will have, particularly to encourage business rate growth.

Greater Manchester has the benefit of having all three major parties involved in the Greater Manchester Combined Authority, and I pay tribute to its leadership, cross-party working and clear sense of what devolution could mean in terms of benefits for Greater Manchester as a whole. However, first, I have doubts about the following assertion, at the very end of the order:

"A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector".

In fact it will have an impact because this order is about transferring police and crime commissioner functions to the elected mayor model, and there would be powers of precept and so on. If business rates are then to be set locally, there is a clear implication that there will be an impact.

2 pm

Secondly, I have serious doubts about the elected mayor model. It was the only offer the Government made to Greater Manchester, I understand, so the offer was accepted on that basis. We have doubts on these Benches about the elected mayor model, which I will come back to in a moment.

I pay tribute to Tees Valley's clear ambition in the face of major challenges to its local economy, and to the willingness of those councils to pool expertise to drive strategic policy forward and to the excellent record of Tees Valley Unlimited, the local enterprise partnership. It is good to see the LEP working closely with the combined authority, and we wish the combined authority in Tees Valley every success when it comes into being in a few days' time. The new structure will help to drive growth, and that sense of common purpose will be central to achieving it.

The Minister was right to say, in introducing this debate, that there is a common misunderstanding that devolution is an event rather than a process. It does not happen overnight, and as the Minister said, this is a milestone. It is a slow process, building trust geographically and between parties in the wider public interest. Greater Manchester serves as a model of how that can be achieved which should be copied by others.

The Minister will remember that during the passage of the Cities and Local Government Devolution Bill, we made a number of comments on these Benches about government thinking on how to proceed with individual devolution deals. We expressed concerns about the elected mayor model—the extensive powers, the large geographical area they might cover and the impossibly large number of functions they might be asked to undertake—and concluded that, in the guise of devolution, we actually had a centralist model that would find it difficult to engage with the general public and with local councils. We accepted that to be legitimate, combined authorities had to have some form of direct election which would give a mandate to the chair of the combined authority from the ballot box. At present, the public and councils are too remote from the workings of combined authorities, and to have the leader or chair of the combined authority structure simply nominated behind closed doors from among a group of council leaders seemed to us not to satisfy the public interest test.

We expressed concerns about the creation, too, of a one-party state and about the need for better scrutiny and audit. I am pleased to see that there are now plans to improve the level of scrutiny and audit that is taking place in combined authorities, although we still prefer a form of direct election to combined authorities using proportional representation. My noble friend Lord Tyler and I tabled an amendment in Committee that would have provided a means of doing that so that more than one person would be directly elected to the combined authority. However, at that stage, there was not support across the House so the matter did not proceed.

I remain of the view that the structures being put in place will be tested. For this elected mayor model to succeed, there has to be trust and shared objectives in the wider public interest. As the Minister says, it is not compulsory to have devolution, but as we devolve, we must be really careful that we are not centralising, whether through the elected mayor model or through the model of the regional schools commissioner, whereby all schools, if they become academies, will be taken completely out of local authority control. The Minister might wish to respond to the idea that the regional schools commissioners could be made democratically accountable to the combined authorities. If that is to be the case, or if there is thinking in that respect, it would be helpful to know more.

This is all about a process and leadership. In the end, as we said in passing the Cities and Local Government Devolution Act, this process needs all-party consent to work but is ultimately in the interests of England, our level of growth and the general well-being of our economy.

Viscount Eccles (Con): My Lords, I make a short intervention to welcome the Tees Valley order. I first went to work in Stockton-on-Tees over 60 years ago and have lived in the north-east of England ever since. I noted that the noble Lord, Lord Beecham, constantly referred to Teesside. He is absolutely right to do so, and I hope none of your Lordships who go to the north-east and visit the area from Darlington down to Middlesbrough expects to be in a valley. It is not a valley: the Tees falls under 200 feet from Darlington, which is about 20 miles inland, to the mouth at Middlesbrough and Hartlepool. I very much hope that one day the mayor, whose creation I fully support, will promote a change back to the name of Teesside instead of the mistaken appellation of "Valley".

I have one other regret, which is that County Durham has gone north instead of staying where it should be. My 60-something years there tells me that the three places named in the order—Darlington, Hartlepool

[Viscount Eccles]
and Stockton-on-Tees—always look towards the city of Durham. Indeed, Durham University is now split because there is a college in Stockton which is part of the university. This is a matter of regret because there is a big problem with identities in what I call Teesside. The history and the identities of Darlington, Hartlepool, Middlesbrough and Stockton particularly are very different. Middlesbrough was, in 1820, a hermit's chapel on the banks of the Tees: there was nothing else there at all at that time other than a ring of villages down to the south. Beyond Stockton-on-Tees, the tidal river goes up to Yarm, the heart of the wool trade, and so on. I will not go on about this, but the historic identities of these five places are very different from each other. That will present a huge challenge to the mayor in terms of how to provide the leadership to bring this combined authority together.

Ab initio, I worked in Hartlepool, Middlesbrough and Stockton, to name but three places. I remember somebody called Darlington Jack, who was a very good worker and worked in Stockton-on-Tees at the same place as me. The Stockton-on-Tees lads came to me one day and said, "I think it's time you got rid of Darlington Jack, he doesn't come from here". I hope that this authority is a great success, but it will be a tremendous challenge to the mayor and his staff to create the identity that means it will really pull together.

Baroness Armstrong of Hill Top (Lab): My Lords, I, too, intervene mainly on the Tees Valley order. I have great sympathy with what the noble Viscount, Lord Eccles, said. I note that he talked about coming from the north-east. A real problem in all of this is that the previous Secretary of State did not want to hear the words "regions" and banned it for a while. Nobody was allowed to mention a region. In doing so, he broke up the north-east.

That leaves us with significant problems. One problem in the Tees Valley area is that there is one police authority and one fire authority for some of the Tees Valley, but Darlington comes within the Durham and Darlington fire authority and the Durham and Darlington police authority. This will present Tees Valley—and, I suggest, the Government—with a little bit of trouble, because there will be one mayor and one police commissioner not covering the whole of the area. There is a split there that I do not think the Government have worked through. They have brought it upon themselves by the daft things that were done in getting rid of the regional development agency in the north-east. But there you go—history often comes back to bite us.

The Tees Valley order is essentially about how to get a greater economic drive in that area. Of course, we and the local authorities in that area fully support that. There is huge ambition, but there are huge challenges. On its own the closure of the steelworks means that there will be at least £10 million less per year coming into the local authority from business rates, let alone all the other economic challenges from the closure of the steelworks. The financial settlement that goes with the combined authority deal simply does not address the enormous challenges.

Another challenge that is not mentioned in the order, but certainly if Tees Valley goes the way of Greater Manchester it will become an issue, is that there is a large workforce in the Tees Valley area involved in social care. I confess that I have not yet been around all the authorities, but in either the north-east or the Tees Valley area I have not yet come across a local authority for which the amount it will be allowed to raise through the 2% additional levy on council tax will even cover the increase in the minimum/living wage. The amount that those authorities will be able to take in will be much less than in other authorities, such as Surrey, because they have more houses in the lowest council tax bands. They will be able to raise less, but the north-east and the Tees Valley also have the highest proportion of people needing social care who are entitled to public funding. When you put those two things together, there is a catastrophe waiting to happen. I have been asking the Department of Health what the way forward is on this, because the authorities will not be able to raise the money to meet the costs. As a very quick example, Surrey, which will be able to raise a lot through the 2%, has 1% of its elderly care population dependent on public funding. In Newcastle, more than 80% is dependent on public funding; as I said, it is unable to raise even what the rise in the minimum wage will cost this year.

These are incredible challenges. The Government have not addressed them and just keep saying, "It's up to local authorities". Local authorities are not miracle workers. The people in the north-east deserve better. The Government need to put their attention to this—I think their collective attention, because when I have talked to different people in government they do not know that this is going on and that this is likely to be an effect. They have not thought about it. I plead with the Minister: we are all in favour of more devolution and of the combined authority concept, but that has to be done in a way that does not disadvantage the people of these areas even more. At the moment, government policy—I am quite prepared to accept by mistake—will make their task virtually impossible. That is not fair. When the Minister talks about fair funding, she needs to think of these other things, which will really have an impact on Tees Valley's ability to get the economic drive that it is working so hard to see.

2.15 pm

Lord Beith (LD): My Lords, I join my noble friend Lord Shipley in welcoming the Tees Valley order. I sympathise with those who prefer to call it Teesside as well. I note in particular that Liberal Democrat councillors and party chairmen in the Tees area have firmly and publicly stated how much they want to work together with others to make a success of the combined authority and associated arrangements.

I also say in passing that I share the view expressed in several quarters that making an elected mayor a condition of deals of this kind is a very unreasonable position for the Government to adopt. I say that when I look at what would happen if we had to have an elected mayor covering an area from Berwick to Sunderland—an area of very diverse differences. It would be a very inappropriate governance arrangement.

I turn to the Greater Manchester order because of a little-mentioned positive aspect of it, but I am not clear how far it goes. It is what was referred to at paragraph 1.279 of the Budget statement, on criminal justice:

"The government has also agreed a further devolution deal with Greater Manchester, including a commitment to work towards the devolution of criminal justice powers".

That is rather weak wording: "to work towards" is what Governments sometimes say when they are making concessions and are in difficulty. I do not think that that is the origin in this case. As far as I am aware, there is a genuine government commitment to achieve some devolution of criminal justice powers. Will the Minister, in responding to the debate, say just a little more? It was barely mentioned at the opening. It is a new development and unique to the Greater Manchester deal.

There is tremendous scope to be had from developments of this kind because at the moment we have a distortion in our system that means that, whereas the prison system is funded nationally, all other disposals arising from sentences tend to depend on local funding and extremely variable local provision of services for alcohol addiction, drug addiction and so forth. Greater Manchester is one of the areas that has tried to grapple with some of this. When, in my former capacity as chairman of the Justice Committee, we visited Stockport, we found there determined co-operation between magistrates, the local authority and the probation service, the development of something more like the problem-solving court, and the bringing together of various public bodies to deal with the problems that a case identifies that could lead to the ending of a pattern of offending behaviour. That requires a lot of co-operation between different bodies. Similarly, making logical use of alternatives to custody in sentencing depends on having a financial structure in which the commissioning is not done by completely different bodies.

There is a lot of scope here, and there will be even more scope if national spending on criminal justice is increasingly devolved to local areas. If that is done, we have a much better chance of ending up spending money on preventing crime, rather than on keeping people in prison for crimes that should never have happened. I see this as potentially important, and not something that we should allow to be forgotten in the Greater Manchester deal.

Lord Grocott (Lab): My Lords, I agree with pretty well everyone who has spoken, particularly my noble friend Lady Armstrong. Everyone was in favour of devolution and of decisions being made as locally as possible. I wish there was a bit more of that thinking in the Government as far as education is concerned, but I suppose there are inconsistencies in all government policies. I still feel a sense of foreboding about these orders and they are not entirely removed by my noble friend's amendments, although I think it is infinitely desirable for the amendments to be carried.

The foreboding comes, at least in part, from the sense that we are developing in an almost ad-hoc way. I do not want to use the word "hotchpotch", but it is the nearest thing to the truth. We will have different forms of local government in different parts of what is still, certainly geographically, quite a small and homogeneous country. We will soon reach the stage when a member of the public will need a doctorate in public administration to know what kind of system they live in, who does what, where and how, when to vote and all the rest. That will particularly be the case when people move around the country, as they do, of course, from one part to another. I do not think that it is the only principle governing constitutional change, but I think that intelligibility should be one of the principles.

We are in increasing danger, as these orders come through, of forgetting that principle and making a very complicated system of local and regional government public administration. I say that despite the fact—I am very conscious of the fact—that some people I admire enormously in local government, friends of mine, have been involved in the various negotiations and the conclusions that have been reached. It is something that should cause us concern. We should at least keep a watchful eye on how these things are developing.

I confess to a prejudice in all this, in that I think one should always be a little wary of Chancellors who say they are here to help. Chancellors of the Exchequer have a fair bit of power and a fair bit of money at their disposal. It is never quite an equal discussion when they come and negotiate with local leaders, who have tremendous knowledge of their area but nothing like the same capacity to implement decisions for their area that people in national government quite rightly have.

However, my main concern with these changes remains, as it was when we were taking the Bill through, about this business of directly elected mayors being compulsory. Let us not throw weasel words around any more. I do not like using language like that, but it is using weasel words to say that this is an optional addition to devolution agreements—that it is optional as to whether you have a mayor or not. It is not. It is quite clearly an absolute requirement for the Chancellor. It is something that should not just pass in an order without us at least registering our concerns, as others have.

I will not repeat things I said during the passage of the parent legislation, but I did not expect that on the leader page of the *Daily Telegraph* I would find an article by a Conservative writer with whom I found myself agreeing wholeheartedly. The headline in last Friday's *Daily Telegraph* was: "Voters don't want them, but the march of the mayors is now unstoppable". It is not me saying this, though I find a great affinity with it. The article says that four years ago:

"George Osborne … asked 10 cities, in a referendum, if they'd like a directly-elected mayor. Nine said "no". It was the wrong answer … It's hard not to admire his audacity. Soon, all nine of the cities which rejected the offer of a mayor in a referendum will have one anyway".

We know the history of this. It was introduced by a Labour Government, I acknowledge that, but then the impetus for an elected mayor had to come from below. Then the Conservative Government said, "Well, this isn't moving fast enough, so we are going to force these 10 local authorities to consult the people". They did consult the people and the people said, "No, thank you very much, we do not want one". So what do the

[LORD GROCOTT]
Government do? In the finest traditions of the European Union, I have to say, if you do not like the first result you have another go until the electorate come to their senses. That is essentially what has happened. Fraser Nelson goes on to say:

"Since 2001, there have been 50 mayoral referendums, of which just 15 agreed to mayors. Many have come to regret it".

We know two, of course, where there has been a vote to get rid of it.

I know that it is whistling in the wind now to say this, but we are setting up a quasi-presidential system as a model across the country. This is not yet at a national level, thankfully—because I think that a parliamentary system is infinitely preferable—but that is what is going to happen. It will inevitably mean different systems in different parts of the country. We are still in the very unfortunate situation, as far as I can see, unless the Minister can correct me on this, where unlike in any quasi-presidential system anywhere in the world there is no limit on the number of terms a mayor can serve. That is a great fault in the system. Parliamentary systems get rid of leaders when they are not keen on them, but mayoral systems do not have that mechanism. I should have thought that eight years—two terms—should be a maximum, but that safeguard does not exist.

I have no sense of joy and exhilaration at a wonderful new experiment. I do not think that that was detected in any of the three Front-Bench speeches; I may be misinterpreting them. I hope that as this process continues—it now seems inexorable—care will be exercised to ensure that we do not develop a system of devolution across our relatively small country which no one without a double doctorate can understand.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have taken part in this debate. I shall open my remarks by reflecting the words of the noble Lord, Lord Shipley, about the process of devolution being iterative and evolutionary over time. Those were very sensible words. I shall address some of the issues that were brought up that I did not address in my opening remarks.

Several points were made about referendums for different types of mayors being held under different processes. It is probably quite important to distinguish between the different provisions at different times. It is quite misleading to link referendums about whether there should be an elected mayor for a local authority area and the proposed combined authority mayors. The latter mayors are very different from local authority mayors—that is probably one reason Greater Manchester saw fit to have one. They have wholly different and novel roles and are closely interconnected with the devolution of new, wide-ranging powers for areas.

The noble Lord, Lord Beecham, asked how much agreement there was from other departments in doing these deals and implementing them. The departments concerned have all signed off the deals, which have been collectively agreed by Ministers. The implementation process is both local and across Whitehall, led by a director-general and a cross-Whitehall group involving all departments involved in the specific deals.

The noble Lord, Lord Shipley, asked about impact assessments. I hope it comforts him that when we confer functions on the combined authority to be exercised by the mayor, there will be, where appropriate, a regulatory impact assessment. This will be done in future orders that will be considered by this House.

The noble Viscount, Lord Eccles, talked about Durham moving north, which was interesting, and the identity in Teesside. The naming of the combined authority was a matter for the local area. The Government have recognised the historic boundaries but this combined authority is about strengthened, joined-up working and building on strong relationships across boundaries, recognising local identities.

The noble Lord, Lord Beecham, talked about the certainty of funding, particularly in relation to HS3. The Government have committed to HS3 and the Chancellor announced in last week's Budget that £60 million will be available to bring forward HS3 between Leeds and Manchester, reducing journey times towards 30 minutes, which will increase the jobs market for people in both Leeds and Manchester and improve links between the north's other major cities. The Government are absolutely committed to this.

2.30 pm

The noble Lord, Lord Grocott, brought up term limits. We do not have term limits for mayors, just as we do not have them for local authority leaders. It is for the electorate to decide whether or not a person should be re-elected.

The noble Baroness, Lady Armstrong, talked about police and fire authority boundaries. It is not planned at this stage that the mayor in Tees Valley will be a police and crime commissioner.

The noble Lord, Lord Beecham, talked about the financial cuts to local authorities. The Government have responded to councils and provided longer-term certainty about funding availability in the four-year settlements. He also talked about business rate relief—again—and I am now in a position to be able to answer the question, which slightly caught me on the hop last time. Councils will be protected from the impact. Specifically, local government will be compensated for the loss of income as a result of the business rate measures announced in the Budget, and it will be full compensation, as it has been for the past few years.

The noble Baroness, Lady Armstrong, talked about social care pressures. Following consultation, the Government are making up to £3.5 billion available by 2019-20 to recognise the priority and growing cost of caring for the elderly. I know the point that the noble Baroness is mouthing at me but I am just making the point that we have made that funding available.

The noble Lord, Lord Beith, talked about more criminal justice devolution in the GM deal. It is at a very early stage and, as agreed last week, for the first time Greater Manchester will have a greater role in the commissioning of offender management services and the Government will engage with Greater Manchester Combined Authority on its agenda to create a modern prison estate—more details to follow.

In conclusion, these are important orders to progress the devolution to all areas that all sides of the House support.

Lord Beecham: My Lords, I do not propose to test the opinion of the House. We have had an interesting debate, which will continue for some time. I will look very carefully at what the Minister said about the business rate element, and other matters as well. No doubt we shall return to these issues because presumably there will be a string of orders over the next few months. I beg leave to withdraw the amendment to the Motion.

Amendment to the Motion withdrawn.

Motion agreed.

Tees Valley Combined Authority Order 2016

Motion to Approve

2.34 pm

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

That the draft order laid before the House on 11 February be approved.

Relevant document: 27th Report from the Secondary Legislation Scrutiny Committee

Amendment to the Motion

Tabled by ***Lord Beecham***

As an amendment to the above motion, at end insert "and that this House welcomes the principle of devolution, the Tees Valley Combined Authority agreement, and the draft Order; but regrets the lack of adequate resources allocated to the Tees Valley Combined Authority; is concerned that funding is being cut whilst essential services are being devolved; notes that a transitional grant is available to local authorities to ease the pace of funding reductions but that out of the five constituent member local authorities of the Tees Valley Combined Authority no local authorities will receive this funding; and regrets that the Agreement was conditional on having an elected Mayor".

Amendment to the Motion not moved.

Motion agreed.

Brussels Terrorist Attacks

Statement

2.34 pm

The Minister of State, Home Office (Lord Bates) (Con): My Lords, with permission, I will repeat a Statement made earlier today by my right honourable friend the Home Secretary in the House of Commons. The Statement is as follows:

"Mr Speaker, I would like to make a Statement about the terrorist attacks in Brussels, our response, and the threat we face from terrorism in the United Kingdom.

The cold-blooded attacks in Brussels yesterday morning have shocked and sickened people around the world; 14 people were murdered and 106 wounded when two bombs exploded at Brussels Airport. A further attack at Maalbeek metro station an hour later killed 20 people and wounded more than 100 others. Four British nationals are among the injured and we are concerned about one missing British national. Their families have been informed and they are receiving regular consular assistance. We are working urgently to confirm if any other British nationals have been caught up in these attacks. The investigation into the attacks is still ongoing. These figures may change and it will take some time for a fuller picture to emerge. But we know that Daesh has claimed responsibility.

These were ordinary people simply going about their daily lives: families going on holiday, tourists visiting the city and workers making their way to their offices. They have been attacked in the most brutal and cowardly way. I am sure the whole House will want to join me in sending our thoughts and prayers to the victims, their families and those who have been affected by these events.

In Belgium the authorities have increased the country's terrorist threat level to four, the highest level available, meaning that the threat is serious and imminent. Yesterday I spoke to my Belgian counterpart, Jan Jambon, to offer my condolences and to make it clear that the UK stands ready to provide any support that is needed. Belgium is a friend and an ally, and we work closely together on security matters. Following the attacks in Paris last November, we deployed police and intelligence services resources to Belgium to support the ensuing investigation, which last week resulted in the arrest of Salah Abdeslam.

This is the 14th attack in Europe since the start of 2015. In January last year, gunmen killed 17 people at the office of *Charlie Hebdo* and a Jewish supermarket in Paris. In February, two people were shot dead at a synagogue and café in Copenhagen. In August, an attack was prevented on a Thalys train en route to Paris. In November, 130 people were killed and many more injured in a series of co-ordinated attacks in Paris. There have been further attacks in other parts of the world, including Bangladesh, Saudi Arabia, Lebanon, Kuwait, Egypt and Tunisia—where 30 British holidaymakers were murdered. More recently, a suicide bomber killed at least five people and injured more than 30 in an attack in the heart of Istanbul.

There continues to be a threat from Northern Ireland-related terrorism. The murder of prison officer Adrian Ismay on 15 March was a stark reminder of the many forms of terrorism we face.

In the UK the threat from international terrorism, which is determined by the independent Joint Terrorism Analysis Centre, remains at severe, meaning that an attack is highly likely. In the past 18 months, the police and the security services have disrupted seven terrorist plots to attack the UK. All were either linked to or inspired by Daesh and its propaganda. We know also

[LORD BATES]
that Daesh has a dedicated external operations structure in Syria which is planning mass-casualty attacks around the world.

Following yesterday's attacks in Belgium, the Government took precautionary steps to maintain the security of people in this country. This morning the Prime Minister chaired a second meeting of COBRA, where we reviewed those measures and the support we are offering to our partners in Europe.

Border Force has intensified checks at our border controls in Belgium and France, increased the number of officers present at ports and introduced enhanced searching of inbound tourist vehicles. Further measures include security checks on some flights and specialist search dogs at certain ports. The police also took the decision to increase their presence at specific locations, including transport hubs, to protect the public and provide reassurance. In London, the Metropolitan Police has deployed additional officers on the transport network. I can, however, tell the House that neither deployment is in response to specific intelligence.

As I have informed the House on previous occasions, since 2010 the Government have undertaken significant work to bolster our response to the threats we face from terrorism. Last year the Counter-Terrorism and Security Act provided new powers to deal specifically with the problem of foreign fighters and prevent radicalisation. We extended our ability to refuse airlines the authority to carry people to the UK who pose a risk. We also introduced a new power temporarily to seize the passports of those suspected of travelling to engage in terrorism. This power has now been used more than 20 times, and in some cases has led to longer-term disruptive action, such as use of the royal prerogative to permanently cancel a British passport. A week ago this House debated the Second Reading of the Investigatory Powers Bill, which will ensure that the police and the security and intelligence agencies have the powers they need to keep people safe in a digital age.

Through our Prevent and intervention programmes we are working to safeguard people at risk and challenge the twisted narratives that support terrorism. This includes working with community groups to provide support to vulnerable groups and deliver counternarrative campaigns. Our Channel programme works with vulnerable people and provides them with support, to lead them away from radicalisation. Furthermore, as we announced as part of the strategic defence and security review in November last year, this year we will be updating our counterterrorism strategy, Contest.

In addition, we have protected the counterterrorism policing budget. Over the next five years we will invest £2.5 billion in a bigger, more capable global security and intelligence network. This will include employing over 1,900 additional staff at MI5, MI6 and GCHQ, and strengthening our network of counterterrorism experts in the Middle East, north Africa, south Asia and sub-Saharan Africa.

Together, these measures amount to a significant strengthening of our domestic response. But as the threat continues to adapt and morph, we must build on our joint work with our international partners. As this House is aware, the UK enjoys the longest-lasting security relationship in the world, through the "Five Eyes" partnership with our allies the United States, Australia, Canada and New Zealand. That relationship allows us to share information, best practice and vital intelligence to disrupt terrorist activity, prevent the movement of foreign fighters and stop messages of hate spreading.

Following the attacks in Paris last November, our security and intelligence agencies have strengthened co-operation with their counterparts across Europe, including through the Counter-Terrorism Group, which brings together the heads of all domestic intelligence agencies of EU member states, Norway and Switzerland. Through this forum, the UK has been working to improve co-operation and co-ordination in response to the terrorist threat, and to exchange operational intelligence.

We are also working bilaterally to increase aviation security in third countries, because, as I told the five-country ministerial meeting in February, defeating terrorism requires a global response and we will not succeed by acting in isolation. The United Kingdom has intelligence and security services that are the envy of the world, and some of the most enduring international security relationships. Together with our allies around the world, we must act with greater urgency and resolve than ever before. We must continue, as we already do, to share intelligence with our partners, to be proactive in offering our expertise to help others, and to encourage them to do likewise. We must organise our own efforts more effectively to support vulnerable states and improve their ability to respond to the threat from terrorism. We must also do more to counter the poisonous and repugnant narrative peddled by Daesh and expose it for what it is—a perversion of Islam built on fear and lies.

This is the third Statement to the House that I have given following a terrorist attack in just over a year. Each horrendous attack brings pain and suffering to the victims and their loved ones. Each time the terrorists attack, they mean to divide us. But each time they fail".

2.43 pm

Lord Rosser (Lab): I thank the Minister for repeating the Statement made in the House of Commons earlier today. We share fully the abhorrence and condemnation expressed in the Statement about the attacks in Brussels yesterday, which were in reality yet another attack on all Europe. We support the Government in confronting this threat. Our thoughts are very much with the families of those killed and of the missing British person, with those injured and their families, and with the people of Brussels and Belgium—and indeed the people of Ankara and Istanbul, who have also been the subject of attacks in recent days.

I have a few questions and points to raise. Can the Minister say what guidance is being offered to our citizens who were intending to travel to or through Brussels over the holiday period in particular? Can he say more about the collaboration that is taking place with Belgium and other European partners, including the support or expertise that had already been given or

offered to Belgium prior to this attack? If ever the case still needed to be made for closer working and collaboration and sharing of intelligence to combat these acts of terrorism, this is it.

On the issue of border security, we welcome the steps that have been taken to step up checks at our air, sea and rail borders with Belgium and France, and security on our own transport network. Are all passports now being checked on exit from the UK, as the Government said they would be by the end of last year, and were 100% passport checks in place between the UK and Belgium in advance of yesterday's attacks?

Border Force operates juxtaposed controls at, I believe, six locations in France, covering ferry services, the Channel Tunnel and Eurostar. As I understand it, however, in respect of Belgium juxtaposed controls cover only Eurostar foot passengers and not ferry terminals. Is that the case and if so, will there be a review of our borders with Belgium with a view to strengthening them?

Further cuts are coming following the spending review. The Border Force has faced years of cuts and is already stretched. Are further cuts to the force going to be made in 2016-17? Surely now is the time to strengthen our borders, not to go in the reverse direction.

We know that a number of terror plots have been foiled in the past year and we take this opportunity to express our gratitude to all those in the police and security services who work so determinedly to keep us safe. The public, however, will want reassurance about our ability to thwart a Paris or Brussels-style attack. We know about plans to improve firearms capability in London but there is concern about the ability of cities outside London to cope. Last year a Home Office report on police firearms capability found that the number of armed officers had fallen by 15% since 2008, including a fall of 27% in Greater Manchester and 25% in Merseyside. Have the Government reviewed the ability of all major cities to respond, and can they provide reassurance that, if there were a Paris or Brussels-style attack outside London, our police and fire services would have the necessary capability to respond?

In his statement on the strategic defence and security review, the Prime Minister promised a new contingency plan to deal with major terrorist attacks, with up to 10,000 military personnel available to support the police. Can the Minister update the House on those plans and say when the full 10,000 military personnel will be trained and in place?

We know that at moments like this, great anxiety will be felt in the British Muslim community over fears of reprisal attacks and hate crime as a result of the acts of terrorism in Brussels—which are simply that, and a perversion of Islam. Do the Government recognise that concern, and will they send an unequivocal message that anyone who seeks to promote division or hate on the back of these attacks will be dealt with severely?

Will the Government also condemn the ill-informed comments from Donald Trump on UK television today and take this opportunity to distance the Government from them? Mr Trump appears to have suggested that Muslims do not come forward to report concerns in order to assist our security authorities in combating potential acts of terrorism. Generalised slurs, from whatever source, on all Muslim people, who have the same revulsion over what happened yesterday as everyone else, serve only to drive a wedge between the Muslim community and the rest of our diverse country. This is a time for maximum unity among people of all faiths—and none—in rejecting those who preach extremism. We stand together as a united country, and we stand with our neighbour Belgium in its time of need, determined that whatever it takes, and however long it takes, we will face and defeat this threat to our way of life together.

Lord Wallace of Saltaire (LD): My Lords, if I may start on a personal note, while watching the television report on the Istanbul attack I noticed that it took place only a few days after I had walked down that street between meetings in Istanbul. To see the pictures of Brussels, where my wife was walking through the site the day before this happened, is to make one feel that we are not cut off from all this. This is part of our world. I find it despicable that the Brexit campaign should have tried to suggest that we could cut ourselves off from the world and that what happens 100 miles away from London, in Brussels, is no concern of ours. This was, after all, an attack by Belgian citizens in Belgium. We should recall from the IRA campaign in Britain that what was in many ways a domestic terrorist campaign also included cells and co-operation in Spain, Gibraltar, France, Belgium and Libya and that, in dealing with a series of global terrorist threats, we are forced to co-operate with others as closely as we can.

Perhaps the Minister would care to confirm this: if we were to try to secure our borders completely, we would have to return to the sort of controls that we had in the 1960s. I first began to travel between Britain and France then; all bags were opened and it often took 10 to 15 minutes for each person to go through passport control. Given the enormous increase in cross-border travel between Britain and the continent, it would be a severe disincentive to all our citizens—and, incidentally, an intense inconvenience to the noble Lord, Lord Lawson, in travelling each week between his home in France and the House of Lords. It would also be very difficult given the large Middle Eastern presence we now have, particularly in London. There are not just people from the Middle East working here and living as refugees but rich Arabs from countries from which money flows, unfortunately, to mosques and madrassahs in Britain to support a radical version of Islam. We all have to be deeply concerned about that.

I second everything that the noble Lord, Lord Rosser, said about visible co-operation and contact with our Muslim community. I was extremely proud to take part in a service in Westminster Abbey some months ago in which an Imam read from the Koran, as a representative of one of Britain's faiths in one of our national Christian institutions. I suggest to the Government that they need to do more in demonstrating how far we accept British Muslims as part of the British community, and the moderate version of Islam as the appropriate representation of their faith.

[Lord Wallace of Saltaire]

Can the Minister say a little about the importance of the Prüm convention and British participation in it, in terms of the rapid exchange of information among different services across Europe on suspected terrorists and others? I noted the reference to the counterterrorism group in the Statement which, as the Statement recognises, brings Britain together with other EU members and with Norway and Switzerland, as all are concerned with this. Can he say a little about further moves that we think may be necessary towards the closer exchange of intelligence, information and co-operation among national police and security agencies with our neighbours, all of whom are also members of the European Union?

Lord Bates: I thank both noble Lords for their remarks and I agree very much with their points and observations. Let me start with that point about the Muslim community. Following the experience of previous attacks, we have sadly seen an increase in Islamophobic-style attacks around our country. One of the things which we put in place to retain confidence, as part of the counterextremism strategy, was to ensure that the police are visible in those areas and offering some protection and reassurance, particularly at sensitive spots within those communities.

I also make it clear to those overseas in the United States who wish to intervene in our affairs that in this area, as in many others, a little knowledge would be helpful because the police have gone straight on the record to point out that in so many of the cases which we have had success in disrupting, the intelligence and information has very much come from within that community. It is an absolute partnership—an essential partnership—that we have with that community and anything which drives a wedge between it and the wider community in the UK will serve only to weaken our security. We do not want that to happen. I know that my noble friend and ministerial colleague Lord Ahmad, who leads on the counterextremism area and sits in the Home Office and in the Department for Transport, is working on a daily basis in that respect.

Let me go through some of the points which were raised, in order if I can. The noble Lord, Lord Rosser, asked about the travel advice. It has already been updated for Belgium and while it does not advise against travel, it is stressing the importance of maintaining vigilance in that area. We will continue to keep that under review and change it if necessary.

On broadening the number of locations, these special juxtaposed controls which we have are of course a tremendous part of our defence. The Channel is an important part of our defence but the juxtaposed controls are a crucial part of our security at our borders. The Immigration Minister, James Brokenshire, has had meetings with his Belgian and Dutch counterparts about the possibility of strengthening relationships, particularly at some of the ferry terminals, in the light of intelligence. We hope to have more to say on that in future.

In relation to the Border Force, I know that the story is in a sense running because we have not yet announced the final budget for that. We will need to come forward with that very quickly indeed. But I hope that all noble Lords will be reassured that when we have talked about putting an extra £2.5 billion into the intelligence and security apparatus and recruiting another 1,900 people to the security services, and when we have protected in real terms the police and security budgets and announced uplifts for firearms, we are not going to do anything which would do other than strengthen these crucial front-line capabilities in the face of the threats that we receive.

The noble Lord, Lord Wallace, asked about Prüm. We did opt in to Prüm, which again is an important part of our co-operation with our European colleagues in this area. We have so many areas in which we co-operate with them, such as on criminal information networks and in Schengen information sharing. Prüm was very important because it has those elements of sharing data on DNA, on vehicle licensing and on fingerprints. We have signed up to those elements and they will be ready in 2017-18. Without tempting members of the Home Affairs Sub-Committee of the European Union Select Committee, if it is represented here, to leap to their feet the committee wrote a strong report saying that we need to go further and faster on that. In fact we organised a meeting with the very people who are introducing this at the Home Office, from a technological point of view. They have promised to come back with regular updates for the House on how we are doing.

I was asked what more could be done through counterterrorism. There are some items on the agenda. The Home Secretary has said that it is very important that we have passenger name records, not just for flights from outside the EU area but within it. It is vital that that happens; it was supposed to be on the agenda of the Justice and Home Affairs Council, which was to meet this week. Understandably, it has either been pushed back or, potentially, postponed. I thank noble Lords for the concerns in their questions.

2.59 pm

Lord Lawson of Blaby (Con): My Lords, I welcome the Statement, particularly its emphasis on the fact that this is a global threat that we are all facing, which requires a global response—not least in the form of intelligence sharing. In that context, I was glad that the Statement explicitly referred to the vitally important and long-standing Five Eyes agreement with the United States and three other non-European countries, and to the European counterterrorism group, which again includes countries which are members of the European Union and countries which are not. Bearing all this in mind, does my noble friend not agree that for anybody to suggest that our security and co-operation would be at risk were the British people to choose to leave the European Union is baseless scaremongering and to be deplored?

Lord Bates: My noble friend is absolutely right to point out that the United Kingdom has a unique set of international relationships, whether through its position on the Security Council, in the Commonwealth or in the "Five Eyes" that I have talked about. A crucial part of these relationships is of course with Europe. The sharing of information within Europe must go on. It is absolutely integral to our ongoing security.

We are not, for example, part of the Schengen area, but that does not stop our signing up for the Schengen information system and these are crucial data for us. It is important that we maintain the strongest possible links because this is a global problem and it requires us all to work together internationally and within this country.

Lord Reid of Cardowan (Lab): My Lords, first, I express my condolences to the families of those who have lost their lives and to those who have been injured. Would the Minister reconfirm that the threat to this country remains at the severe level and it is highly likely that there will be a terrorist attack at some stage? In that context, is it not the case that our support and assistance to Belgium—or others who find themselves the victims of these tragedies—is not just a moral and political obligation but self-interest, since we may wish to see it reciprocated at some stage?

Secondly, on information sharing, can the Minister comment on Europol? Only two months ago, the head of Europol suggested that, although there were 5,000 returnees from Syria to Europe, they had received details on only 2,000 from individual EU members. This leaves a very large percentage. What are we doing to encourage people to supply information there?

Finally, can the Minister give an estimate of the number of Syrian would-be jihadists who have returned to this country? How many of them are under surveillance and how many are on deradicalisation programmes? I understand that he may be constrained on the last point, but it would be helpful if he could give some indication.

Lord Bates: I think the noble Lord was Home Secretary at the time of the 7/7 attacks and therefore knows absolutely what must be going on and the vital part played by our international networks in tracking people down and keeping others safe. He is right to ask about what specific help has been given. The noble Lord, Lord Rosser, also asked about that. The type of help we have given the Belgians includes CCTV analysis, forensic device investigation, bomb scene management, exploiting social media and body recovery.

On the Europol counterterrorism point, I do not know specific numbers. I know there are some 800 foreign fighters who have returned to the UK. We have made it clear that anyone returning can expect to be the subject of interest to the authorities and to be contacted by them. Where it can be shown that they have been engaging in criminal acts abroad, they will be—and have been—prosecuted and that will continue to be the case.

Baroness Ludford (LD): My Lords, does the Minister agree with me that those who blame the EU and Schengen for terrorism are completely and outrageously wrong? Indeed, since the apparent perpetrators lived in Brussels, where the attacks were committed, Schengen is irrelevant. Does he also agree—as I think he does—that it was evidently right to opt back into the 30-odd EU police co-operation measures, including the Schengen information system and now the Prüm regulations? That would not have happened without contributions from a lot of people, including the Liberal Democrats. If the Eurosceptics—including those in the Conservative Party—had had their way, we would not now be taking part in these essential European co-operation measures. Although Norway is in Prüm, it has no right to contribute to its further evolution. It is essentially an observer.

Lord Bates: First and foremost, and particularly at times such as this, the prime responsibility of any Government is the safety and security of their citizens and their borders. This has to be our top priority. It transcends and takes over from any other factor of domestic debate. It just does not counter it. As I have outlined, there are some major international relationships that are very important to us in sharing information. Among these are those we enjoy with our European partners. We believe these ought to be strengthened and deepened at every opportunity.

Lord Harries of Pentregarth (CB): My Lords, I welcome the Statement. As it says, there is a twisted narrative here. We have to remember that this twisted narrative is a many-headed monster. If it does not spring from Daesh, it will spring up wherever law and order have broken down. That must be combated.

I was particularly encouraged, therefore, to hear what the Minister said about keeping increasingly close relationships with the Muslim community in this country, from where so many sources of our information come. In response to the recent report from the Commission on Religion and Belief in British Public Life, chaired by the noble and learned Baroness, Lady Butler-Sloss, the Government have called a meeting of major officials across all departments to discuss its implications. There is a whole range of issues—in particular, the sensitivity of language. The Government have become increasingly sensitive to the proper use of language on these security issues and I commend them for it. The Minister sets a wonderful example. I encourage the Government to continue to have these meetings with leading organisations from the Muslim community, to receive advice on a whole range of security issues.

Lord Bates: The noble and right reverend Lord is absolutely right. Of course, these meetings will be ongoing. I know, from having an office next door to the noble Lord, Lord Ahmad, that he has a constant flow of visitors and meetings and a very full diary of engagements. This needs to continue and be developed. It is not something that just comes down from government; it also needs to come up from within the faith communities themselves. Some of the most effective means of countering these ideologies are ones that do not have a government fingerprint anywhere on them but come from within communities. We must all encourage more of this going forward.

Lord Cormack (Con): My Lords, my noble friend said that the Prime Minister attended a meeting of COBRA this morning. Bearing in mind the tremendous importance of sharing information, is there not a case for a European equivalent? Nobody should attempt to bring these desperately serious issues into the European referendum debate. However, should we not recognise

[LORD CORMACK]
that, if there is a change on 23 June, although it is crucial that co-operation should continue, its context would be altered?

Lord Bates: That may be so. What I said in repeating the Statement was that we have the counterterrorism group, which is a very important part of sharing intelligence across EU member states. The headquarters of NATO are also in Belgium. NATO plays an important part in our security because it includes Turkey, which is crucial in the fight against Daesh.

Baroness Uddin (Non-Afl): My Lords, I thank the Minister for repeating the Statement and the noble Lords, Lord Rosser and Lord Wallace, for their comments. My heart goes out to all those who lost their lives in Brussels and Ankara; the list given by the Minister is endless. I welcome his comments, particularly on building and developing a greater relationship with the Muslim community in particular, but also on having wider interfaith networks. I declare my interest as an adviser for the Tell Mama organisation, which will concur with the Minister about the increasing rise of attacks against women in particular. I am keen to ensure that the Minister takes on board the discussion with a wider network of men and women within the Muslim community, not just those to whom government approvals are available. Please can the Minister respond and tell us what plans the Government have to ensure that the numbers of organisations and individuals to which they are talking are widened to accept even the most marginalised voices in the community?

Lord Bates: We have the Prevent and the Channel programmes, but we also have them in the very helpful context of the counterextremism strategy, which was published at the end of last year. That will probably lead fairly shortly to some legislation coming through this House, which will flesh out some of the points that the noble Baroness raised. But I return to the point that some of the most effective means of combating this distortion and perversion of a great faith in this country come from within the communities themselves.

Lord Carlile of Berriew (LD): Does the Minister agree that it is a disappointment that the same group which killed over 100 people in Paris on 13 November was able to kill more than 30 people in Brussels yesterday? If that is right, does he agree that the welcome co-operation that has taken place between the intelligence agencies of the Five Eyes and the European countries other than the United Kingdom should be re-examined so that we have the technical abilities, including surveillance capacity, required to ensure that this is not repeated in yet another European capital, which might be our own?

Lord Bates: That is absolutely correct. Of course, that is one of the prime drivers behind the investigatory powers legislation—but the noble Lord will notice that, when we talk about the global fight against terror, the sophistication of the Daesh communications, with the use of social media as a way of communicating, is a completely new challenge for the security services. That is why we are putting the resources into GCHQ. Because Daesh is based in Syria, we need to make sure that we take the fight to it and destroy its capabilities there before it has the opportunity to destroy our way of life here.

Viscount Slim (CB): My Lords, we have to admit that our island—land, sea and air—is rather sieve-like, and those who really want to get into this country do so. In the front line that the Minister so ably talks about, the noble Lord, Lord Rosser, put his finger on an empty space at the moment. I refer to the Border Force, which I support very strongly. It is a matter of better tasking; better direction, command and control; better selection and recruiting of its members; training; and a rapid reaction force available day and night. We have 200-plus airfields unattended at night. We have coves north, south and east where it is quite easy to arrive at night undetected. People are a bit forgetful of the west coast; people are entering more from Ireland at the moment. I would class our Border Force as just average at the moment. I do not believe that the Government are giving it proper support, and the sooner it is got up to a high operational level to take part in the front line the better. The Government are missing a trick here.

There is one little suggestion that I might make. The Government have kicked out 25,000 military—good recruiting ground. They know how to work at night in the darkness, and that sort of thing. With immigration, so many people say that we are not taking enough and that we ought to be swamped a bit. The sleeper, the activist and the bomb-maker can all come in that way, and are coming, and we have to be very careful. We need a Border Force worthy of the front line, and the Government must do something about it.

Lord Bates: The noble Viscount is right to refer to the Border Force. I can speak only for the people whom I meet, who have the highest professionalism and resolve. It has changed over the past few years. The National Security Strategy and Strategic Defence and Security Review 2015 referred to that, saying that there was a case for better intelligence-led security. That is where we need to strengthen up—on the connections between the National Crime Agency and between the police and Special Branch and the security agencies. Receiving that signal and human intelligence is also very important. We cannot hope to have border posts in every cove and field across the country, as the noble Viscount suggested. Therefore, we have to rely on intelligence and on partnership with the communities as well.

Lord Marlesford (Con): My Lords, I am glad that the Government are tightening up passport control and are seizing and cancelling British passports under royal prerogative when appropriate. But does the Minister remember that last week in a Written Answer he said to me:

"Records are not held centrally of persons holding both a UK passport and foreign passport".?

Surely it is now urgent that Border Force officials should be able to scan a British passport and know what other passports that person may hold. Otherwise, they may be able to skip out of the country. Recently, somebody actually on bail for a terrorist offence did exactly that.

Lord Bates: Of course, that is also one of the reasons why we have in the Counter-Terrorism and Security Act the ability to seize passports, which are the property not of the individual but of the state that issues them. So we can seize those passports. We need more information on identity. On the point that the noble Lord makes about having two passports, we have changed the passport form to make sure that people can declare when that is the case. We have in place exit checks. All that is working in the general direction in which the noble Lord wants us to go.

Lord Campbell-Savours (Lab): My Lords, for how much longer are the British Government going to resist the introduction of national identity cards with full biometric data, on the same basis that other—indeed, nearly all—European countries have introduced such a system? I understand that in recent weeks even the Japanese are doing the same. They all justify it on the basis that it improves their national security arrangements. Why do we not just do it and stop dithering over it?

Lord Bates: Brussels has a compulsory ID system, and that is not something that guarantees security. From our point of view, we say that intelligence and working with communities is what has disrupted the seven attacks planned in this country in the past 18 months. Of course, we need to tighten security at every level, but we do not believe that compulsory ID cards are the way forward.

Housing and Planning Bill

Committee (9th Day) (Continued)

3.20 pm

Amendment 102CZA

Moved by ***Lord Greaves***

102CZA: After Clause 143, insert the following new Clause—

"Limitations on planning obligations

Regulation 123 of the Community Infrastructure Levy Regulations 2010 (further limitations on use of planning regulations) is repealed."

Lord Greaves (LD): My Lords, this is a small issue, in a sense. It is a kite-flying amendment not directly related to what is in the Bill, like many other amendments we have been discussing. However, it is an important issue for local authorities that are affected by it. Regulation 123 of the Community Infrastructure Levy Regulations refers to Section 106 agreements. When the CIL regulations were brought in, it was tagged on to them, almost without anybody noticing—although I complained about the regulation when it came to be approved by this House.

I am challenging not the regulation as such but the bit of Regulation 123(3)(b) that restricts the number of Section 106 agreements within the area of one local planning authority to five,

"which provide for the funding or provision of that … type of infrastructure".

That means that a local planning authority can have only five Section 106 agreements in place anywhere within its area for one particular type of infrastructure. I hope that the Minister will understand the very specific point I am making. I will come to it in a minute.

I want to be clear that I am not objecting to the requirements of Section 106, which nowadays have to be site specific. It used to be that you could have a planning application at one end of an authority and get some money for a playground miles away at the other end of the authority. That was quite rightly stopped. Agreements have to be site specific—in other words, related to the particular planning application or piece of land, as the Minister said earlier. I am not objecting to the restrictions on pooling Section 106 contributions to build up a pot for large schemes, and there is a limit to how far that can be done. It is just ordinary, small Section 106 contributions that are typically connected to retail developments, housing developments and so on. Again, I am not talking about the affordable housing things that we were talking about this morning.

The limit to five schemes is not logical for four reasons. First, there may well be more than five separate schemes that are relevant or appropriate to particular developments, even though they are of the same type. For example, it may be that Section 106 contributions are being used to support a local bus service—the kind of bus service which is subsidised or supported by the local highways authority under the Transport Act—and a contribution may be made in order to extend the route to serve a particular housing estate or so that it serves the supermarket or whatever. I have had a lot of experience in past decades of helping to support local bus services through this means, at the same time providing public transport to new housing developments or new supermarkets.

It may well be that a Section 106 agreement is required for a public open space, and it is silly to say that you can have only five open spaces if you have seven developments that would benefit from this provision. So there is no logic to it. It came in as part of the restrictions on making Section 106 agreements site specific and stopping people building up big pots, but it is not now necessary.

The second reason is that, because Section 106 agreements are now site specific, there is no reason to limit the number. Logic says that the number should be determined by the number of appropriate developments and appropriate schemes. Thirdly—and here I am talking to some extent against a small authority such as my own—the limit applies per local planning authority, however big or small. So it is five for a huge area such as Northumberland or Cornwall, five for a little authority such as Rutland, five for small district councils and five for big cities. It is an arbitrary number and there is no sense to it.

[LORD GREAVES]

Finally, it causes particular problems where a local authority has no CIL contributions. Where the level of CIL has been assessed as zero, it cannot be levied. The kinds of councils I keep talking about during this Bill, including my own in Lancashire and lots of other councils in Lancashire and the north of England, cannot levy a CIL because if you levy a CIL, it takes developments completely over the border into being unviable. In areas where developments are only marginally viable on the best greenfield sites, you cannot levy a CIL.

Therefore, the contributions for local infrastructure that come from a CIL are not available in areas of that kind, and those areas are by their very nature probably poorer in different ways than the more prosperous parts of the country that can levy a CIL. So poorer areas do not get the infrastructure levy. Therefore we have to rely on what we can get from Section 106, and this restriction on Section 106 is arbitrary and illogical. I hope that the Government will take it away and have a look at it. They do not have to bring it back in this Bill; they can simply make a minor change to the CIL regulations. I beg to move.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I thank the noble Lord, Lord Greaves, for his amendment. The Government introduced the pooling restriction in Regulation 123 of the Community Infrastructure Levy Regulations 2010 in order to ensure that planning obligations are used appropriately. The regulations have encouraged 107 charging authorities to bring forward the levy, which provides greater certainty for developers about the cost of developments and helps those authorities provide certainty to their communities about how their infrastructure needs can be met.

Pooling restrictions limit the use of Section 106 to no more than five for a specific infrastructure levy type or project, as the noble Lord said, but this has helped to incentive the adoption of the levy. Adoption nearly trebled in the year prior to the pooling restriction taking effect in April 2015, and it has continued to grow since. While acknowledging that Section 106 still has a role to play in site-specific infrastructure, the Government launched a review of the levy last year to ensure that it provides an effective mechanism for funding infrastructure. The review is considering, among other matters, the relationship between the levy and Section 106 planning obligations. I shall be happy to ensure that the panel is aware of the noble Lord's thoughts on the repeal of the regulation. With that in mind, I hope that he will withdraw his amendment.

Lord Greaves: I am grateful for the last sentence of that reply. I am talking not about pooling Section 106 contributions for bigger projects but about the limit on the number of small projects that can be funded directly linked in a site-specific way to particular developments. The perfectly justifiable intentions of the Government to stop Section106 being an alternative to CIL has caught the small schemes and small contributions in a way that was not intended. That specific point ought to be looked at.

Having said that, the other point is that it is okay having lots of incentives to levy CIL—but not if the consequence of levying CIL is that no development at all takes place. Remember, I come from an authority where getting into three figures of new starts or completions a year is proving very difficult indeed. In one recent year it was in single figures and that is not for the lack of trying to build as far as the authority is concerned. Indeed, in one recent year when 50 or 60 completions took place, they were almost all built by the authority. The private market hardly exists—or has hardly existed in the last few years.

3.30 pm

Therefore, you cannot levy CIL. Well, you can levy it, but the effect will be to stop all development. The decision on the CIL will go to inspection. If we tried to levy a CIL, it would almost certainly be kicked out at inspection because all the developers would complain. We cannot levy CIL, so we have to rely on Section 106. Here is something that has happened as a result of the legislation and which is stopping perfectly sensible local contributions to something near to or next to something site specific, such as a local bus service. It is a fairly straightforward thing. I am sure it is not beyond the competence of draftsmen to draft something which stops the pooling—which is the intention—but allows small things like this that are separate and discrete to go ahead. Having said that, I welcome what the Minister said and if I can find the time I will write to her about it as well. On that, I beg leave to withdraw.

Amendment 102CZA withdrawn.

Clause 144: Development consent for projects that involve housing

Amendment 102CA

Moved by ***Lord Greaves***

102CA: Clause 144, page 73, line 17, leave out "related" and insert "subsidiary"

Lord Greaves: My Lords, we now move on to the part of the Bill that is about housing development linked to applications for development control under the 2008 Act for nationally significant infrastructure projects. This series of amendments probes the provisions which will take the housing element of such projects—where they are linked to infrastructure projects—out of the hands of local authorities and allow people to make the application for development consent under the infrastructure system and to include the housing provision within that application.

The purpose of tabling these amendments is to ask some related questions. A very useful briefing note from the Department for Communities and Local Government, called the *Housing and Planning Bill*: *Nationally Significant Infrastructure Projects and Housing,* does answer some of the questions I had in my mind when I tabled these amendments. Nevertheless, some questions remain, and one fundamental issue has a big question mark against it.

Amendment 102CA would name the housing projects which are linked with the infrastructure projects "subsidiary", which seems to me an appropriate word. It is important that they be seen to be subsidiary or ancillary and not a major part—even if they are 30% or 40% of the reason for the development. Housing ought not to be the reason for the development. Infrastructure projects are the reason for the development.

Amendment 102CC, to new subsection (4B) of Section 115 of the Planning Act 2008, states:

"'Related housing development' means development which … (a) consists of or includes the construction or extension of one or more",

new dwellings. I take it that "consists of" is okay—it "consists of" housing or "includes" housing. What else is there? That is the question. I take it that the "what else" is not the infrastructure, but something else. Therefore, why do things other than housing need to be included?

Amendments 102CF and 102CG challenge the geographical reason for allowing people to include housing in an application for development consent. The briefing note on page five sets out clearly that the Government intend that there will be two reasons for allowing housing development. The functional need ought to be allowed. Paragraph 17 states that:

"Where housing is being provided on the basis of a functional need",

the limit for the number of houses can be up to 500, which seems rather a lot, even for a functional need. Perhaps the Government can tell us under what circumstances an infrastructure development might also require 500 houses. But paragraph 16 states:

"Where housing is being provided on the basis of geographic proximity to an infrastructure project, the maximum amount of permanent housing that could be granted consent",

is also 500 houses. I do not understand why the Government are going to allow a national infrastructure project to be put forward with up to 500 houses when the only connection between those houses and the project is geographical proximity: either adjacent or, as my Amendment 102CD puts it, "close to"—the briefing note says up to a mile away.

It seems that the planning permission for new housing estates of up to 500 houses—perhaps most are smaller—is being taken out of the hands of local planning authorities just because the estate in question is next to, or within a mile or so of, a new infrastructure project. I cannot understand the logic of this. I can understand why landowners might want to link them together and perhaps fund one out of the other. Five hundred houses, by any standards, is a big new housing development. It ought to be in the hands of the local planning authority. The guidance sets out that the Secretary of State, in making his decision on the application for development consent, will have to take account of the local plan and the national planning policy framework, and whether it is in a national park or ecologically significant, for example. All these things will need to be taken account of. Local planning authorities do that all the time. However, issues such as design, the relationship between the new development and the existing communities, local highways issues, access, or even Section 106 agreements for new bus services ought to be in the hands of the democratically elected local planning authorities, not put into the hands of the Secretary of State.

There are very good reasons why the national infrastructure planning system exists for national infrastructure projects. There are reasons that I can understand for housing being part of the project—when it is directly related to those projects because it is for people who are going to work there—and it is sensible to put in a planning application for development consent. However, I see no reason at all why local authorities should have this decision seized from them by the Secretary of State simply because a project is next to a new national infrastructure project, even if none of the people living in those houses is going to be associated with, connected with or working at the new development. It seems to be a step too far in the centralisation of the local planning functions of local authorities, and yet another move away from localism to centralism. I beg to move.

Lord Shipley (LD): My Lords, my name is associated with Clause 144 stand part, and I agree entirely with what my noble friend Lord Greaves has said. I regard this as a very important issue because it effectively cuts out local authorities from the planning process on a nationally important infrastructure decision. Simply permitting an applicant to go straight to the Secretary of State to secure approval seems to me to be the wrong approach. What my noble friend said helps us to solve the problem.

Baroness Evans of Bowes Park (Con): I am very grateful to the noble Lord for setting out the basis of his amendment. This clause will allow the Secretary of State to grant development consent for housing that is related to a nationally significant infrastructure project. I hope I can reassure noble Lords about the Government's intentions and the protections that are in place to ensure that this provision is appropriately restricted.

Clause 144 allows consent to be granted for housing where the housing is functionally linked to an infrastructure project—for example, housing needed for employees at the project. It also allows housing to be consented if it is close to the infrastructure. Any housing that is granted consent within the nationally significant infrastructure regime must be secondary to the infrastructure by satisfying the requirements of being appropriately linked by function or location. The clause will not allow projects that are housing-led.

The noble Lord, Lord Greaves, indicated that he felt that responsibility for granting consent for such housing should lie with local authorities, not the Secretary of State. We believe that this would inhibit developers from realising some significant benefits. For example, a key aim of the Planning Act 2008 was to provide for a single consenting regime. This clause will mean that developers do not have to make a further separate application to the local authority for housing as well as their application to the Secretary of State for consent for the infrastructure. We believe that this strikes the right balance between the two.

It is very important that we recognise that the development of infrastructure projects may well bring

[Baroness Evans of Bowes Park]
important new opportunities to develop housing that were not previously available. A new road or a rail project, or improvements to existing projects, can make land available for housing development that might not previously have been suitable. Although there are only a limited number of nationally significant infrastructure projects that seek consent each year—49 projects have been consented since 2010—the clause offers an opportunity to provide a small but important contribution to the provision of new housing.

The Government have ensured that safeguards will be in place so that existing local and national planning policies will not be undermined. For example, as the noble Lord said, we have made clear in draft guidance that the amount of housing that is likely to be consented will be limited to 500 dwellings. As I have said, we believe that that may be appropriate if some infrastructure projects create new opportunities for housing. Existing planning policies set out in the National Planning Policy Framework—for example, those that may limit development in designated areas, and policies set out in local plans—are likely to be important and relevant considerations that will be taken into account by the Secretary of State when decisions are taken.

I hope I can reassure noble Lords that local authorities and interested parties can play a full role in the process leading up to any decision by the Secretary of State under the Planning Act regime for deciding nationally significant infrastructure. In particular, local authorities can produce what are known as local impact reports, which set out the impacts of the development in their area. Such reports are specifically identified as something the Secretary of State must have regard to when taking a decision.

The noble Lord asked why we say "includes housing". "Includes" means that related development can include local infrastructure. The nationally significant infrastructure planning regime already requires significant local engagement in consultation, as I said. Applicants are required to engage with and consult local communities and local authorities from the outset, and developers will be expected to engage with local authorities on the housing element of their scheme in the same rigorous manner.

I hope that my responses have provided reassurances to the noble Lord, and I ask him to withdraw his amendment.

3.45 pm

Lord Greaves: I am grateful to the Minister for explaining the Government's position in great detail. Having heard it again, I am even more sure that it is wrong. Sorry about that, but when you find out what things actually mean, sometimes you think they are okay but sometimes it confirms your view that they are wrong. The idea that 500 houses are a minor part of a development, in any area, is nonsense. In terms of their impact on a community and how it operates, 500 houses anywhere are a lot of houses. I accept that if such a development is directly associated with the infrastructure scheme and required for it in a functional way, it is reasonable for one application to take place. However, the only real argument that has been put forward is that it is a good idea to build next to a new infrastructure because new roads and access will be put in. In planning terms, it might be a good idea, or it might not be. In planning terms, it might be a very bad idea because of the disadvantages of living next to whatever the new infrastructure is. Or it might be a very good idea. That is a decision that ought to be taken by the local planning authority. It just seems unnecessary to say that 500 houses that are not related to the infrastructure scheme at all, but are simply next to it, ought to be taken away from the decision-making of the local authority. The only argument that I can think of is that it is again just more convenient and easy for the developers. That is the second time today that I have said that too much of this Bill seems to be about making life easier for developers and blow the consequences for everybody else. I am unhappy as I think it is the wrong decision. We might bring it back on Report; but for now, I beg leave to withdraw the amendment.

Amendment 102CA withdrawn.

Amendments 102CB to 102CJ not moved.

Amendment 102CK

Moved by ***The Duke of Somerset***

102CK: Clause 144, page 73, line 40, at end insert—

"(7A) Guidance referred to in subsection (7) must include a requirement for the developer to pay development value for land that is compulsorily purchased for housing as part of any nationally significant infrastructure project."

The Duke of Somerset (CB): My Lords, I will also speak to the other amendments in this group. I do so on behalf of my noble friends Lord Cameron of Dillington and Lord Lytton, who are unable to be here today. We have had suggestions for some of these amendments from the CLA, of which I declare my membership.

For a long time, compulsory purchase in this country has been a messy compilation of many pieces of legislation and is well overdue for reform. As time has gone on, it has become ever more unbalanced in favour of the acquiring authorities and the agents of the state. Indeed, many privatised utility operators have gained compulsory purchase powers—and apparently, at the last count, there are 172 of them.

I turn to the amendment. I mentioned in our Second Reading debate my concern that it was unfair for an acquiring authority to be able to purchase land for housing as part of an NSIP at current use values. Last week, the Minister made a strong case in resisting an amendment from the noble Lord, Lord Campbell-Savours, who wanted an agricultural use valuation for local authority compulsory purchases. He spoke of land being valued by the "no-scheme world" and said that market value took into account the effect of planning permission already granted and thus "hope value". I therefore feel that it must follow that once an NSIP has been granted planning permission, then the value of adjoining land for housing is substantially enhanced by the very existence of the scheme. Thus, development

value is established and should be applied where the proposed land for housing within one mile of such a scheme is valued. It is the same as if the land had been purchased on the open market. Will the Minister explain to the House why an NSIP should make the principle of fairness so different? It is still confiscatory. Is it the Government's intention that the retail purchasers of the new houses should benefit from this largesse, or is it for the benefit of the acquiring authority? I find Clause 144 rather offensive.

I turn now to Amendments 103BC and 103BD. There are normally two imperative concerns for farmers and landowners faced with compulsory purchase. The first is the effect on the smooth continuation of their businesses: perhaps the splitting of the land, for example. Their second concern is how much and when they will be paid. In the past, payment has routinely been late and after entry. This is unfair and needs to be changed. Farmers already have to cope with supermarkets' delayed payment exploitation. Moves are afoot to improve this, so why should we not legislate properly now—and in the same spirit—to establish the principle of payment in advance of entry for compulsory purchase? In these circumstances, owners face extra costs and need promptly to replace assets lost in order to continue in business. Why should they have to delay or borrow—through no fault of their own—to continue their businesses?

The Government have proposed to improve the interest rates applicable, but I do not believe that they are realistic or raised to the commercial rates of lending. The CLA has suggested rates in line with late commercial payments, and those are similar to those set out in Amendment 103BD, which I support. I believe that the Government are consulting on this, and I await the outcome. Nevertheless, the principle must be payment in advance or no possession, with proper interest rates applicable for failure to follow that. At any rate, it should be cheaper to do this, as landowners will be disinclined to fight the order knowing that they will get a fairer price for their assets. Of course, if the primary principle is adhered to, there should be no need to invoke the 8% penalty rate that is mentioned in the amendment, as the standard 4% rate should encourage the authority to pay promptly.

Acquiring authorities are in a strong position while negotiating, so Amendment 103BF in this group is consequential. It would help to prevent bullying by introducing a new duty of care to ensure fairness between the parties by setting out guidelines on behaviour. This is in effect a good-practice clause, which is needed as acquiring authorities usually have the upper hand in negotiations against the landowner, who is thus in a weaker position.

Other amendments in this group in the name of my noble Earl, Lord Lytton, are intended to tidy up a series of procedural anomalies and have been suggested by the Compulsory Purchase Association, of which I am not a member. Amendment 103BAA is necessary to safeguard the acquiring authority's position where—even though it exercised due diligence in seeking to identify those interested in the land and entitled to a notice to treat—after serving notice of entry it becomes aware of a previously unknown person with a relevant interest in the land to be acquired.

Under the current provisions of the 1965 Act, if new interests come to light between serving a notice to treat or notice of entry and taking entry, a new notice needs to be served, resulting in 14 days' delay. This does not give rise to serious problems at present with only 14 days' notice of entry but it would become a significant problem with the longer notice period of three months proposed in the Bill.

Acquiring authorities rely on information provided by claimants as to who has a relevant interest in land. I am told that it is quite common to be provided with incorrect information, such as trading names rather than company names or the names of individuals. If an acquiring authority has acted in good faith in serving the notices, such as relying on information provided under Section 5A of the Acquisition of Land Act 1981—the questionnaire requiring information on legal interests—it should still be entitled to proceed, which is what this amendment would facilitate.

Another material adverse side-effect of the Bill's provisions as drafted is that those served with notices could effectively ransom a promoter by creating a new interest every time a new notice was served. Controversial projects could simply be prevented from ever acquiring land by opponents to the scheme using such a device. This amendment would therefore also prevent acquiring authorities potentially being ransomed by the creation of a new interest in land after service of a notice of entry.

Amendment 103BG relates to circumstances where a claimant considers that the land proposed to be compulsorily acquired cannot be taken without material detriment to the remainder. This is sometimes referred to as the "all or nothing" provision and it is already contained in the compulsory purchase rules under Section 8 of the Compulsory Purchase Act. The amendment is necessary to ensure that, subject to adequate notice, the acquiring authority is able to take possession of the land originally proposed to be acquired, even where the owner has served a counter-notice requiring additional land to be taken. This is the same as the current position and it works quite effectively without any prejudice to landowners who contend that the acquiring authority should also be obliged to acquire more land than that initially proposed to be acquired. However, paragraph 5(a) of new Schedule 2A in Schedule 17 to the Bill provides that on service of a counter-notice, all notices of entry relating to any interests in the land proposed to be acquired would cease to have any effect. As such, this would have a seriously deleterious effect on the timing and costs involved in compulsory purchase and on implementing a project. This would not arise if the Bill were amended as proposed.

Finally, Amendment 103BH is necessary to give effect to paragraph 5 as amended in the way that I have just proposed. I beg to move.

Lord Campbell-Savours (Lab): My Lords, I do not want to exhaust the patience of the Committee but once again I draw attention to the fact that the problem of high housing prices in this country stems from the cost of land. These amendments, clearly promoted by the Country Land and Business Association, which represents the interests of landowners—the people

[LORD CAMPBELL-SAVOURS]
who will benefit from the exorbitant and inflated prices being paid for land in the United Kingdom—should be opposed by the Committee. I oppose them, and anyone with any sense will oppose them, as will the great majority of the British people.

One day we are going to have to deal with the problem of inflated land prices in the United Kingdom, which are almost unique in the world outside of the great capital cities, and we are simply ignoring it. This situation cannot carry on as it is. We are removing the right of millions of people—whole generations—to own their own home, unless they are prepared to take on huge mortgages, simply to fill the pockets of people who own land. I object, as no doubt do the great majority of the British people.

4 pm

Lord Beecham (Lab): My Lords, Amendment 103BB deals with a minor but to some people significant point, which is the compensation to be payable when land is acquired by a development corporation. The amendment simply provides that the Secretary of State may by order set out a formula for determining fair compensation to the landowner in those circumstances. That seems a reasonable proposition.

Viscount Younger of Leckie (Con): My Lords, I turn to the detail of the compensation amendments, Amendments 102CK and 103BB, tabled by the noble Lord, Lord Cameron, and the noble Earl, Lord Lytton, but spoken to today by the noble Duke, the Duke of Somerset.

I will outline briefly the principles of compensation for land taken by compulsion. These points have arisen in an earlier amendment in Committee. The compensation code is underpinned by the principle of equivalence. This means that the owner should be paid neither less nor more than his loss. The code provides that land shall be purchased at its open-market value, disregarding the effect of the scheme underlying the compulsory purchase.

The land is valued in a construct called the no-scheme world, whereby any increase or decrease in value that is due to the scheme is disregarded. Land will always have its existing-use value but market value also takes into account the effect of any planning permissions that have already been granted and of the prospect of future planning permissions. This is generally known as hope value, as the noble Duke eloquently pointed out. In the context of compensation for compulsory purchase, this is assessed according to the planning assumptions in the Land Compensation Act 1961, which require the valuer to assume that the scheme underlying the acquisition is cancelled. I remind the House that these were extensively revised and debated in the Localism Act 2011.

In some situations, there will be no hope value, because the individual claimant could not have obtained planning permission for some more valuable use. For instance, the land might be in an isolated rural location where permission for development would have been unlikely to be granted in the absence of a comprehensive scheme requiring compulsory purchase powers. In other situations, perhaps where land is acquired near an existing settlement, there will be pre-existing prospects for development on the land. In lay man's language, that is development potential that existed prior to the scheme. The strength of those prospects will be reflected in the market value of the land.

On Amendment 102CK, it has been said that land acquired for housing by means of a development consent order should always attract development value. If the land had development potential in the absence of the scheme underlying the development consent order, that hope value would be reflected in the market value and the compensation to be paid. But an increase in the value of the land that is solely attributable to the scheme would be disregarded under the compensation code.

I turn to Amendment 103BB. The noble Lord, Lord Beecham, and the noble Baroness, Lady Andrews, have suggested that there is something unique about the land taken for new towns that requires the Secretary of State to provide a formula for compensation. New towns may well fall into the class of case 1 mentioned earlier, where there is no pre-existing hope value, as there is no reasonable prospect of development in the absence of a comprehensive scheme requiring compulsory purchase powers. In this situation, compensation in the no-scheme world is likely to be at or close to agricultural values. Schedule 1 to the Land Compensation Act 1961 makes it very clear that for new towns any increase in value that is attributable to the development of other land in the new town must be disregarded, where that development would not have been likely to be carried out had the area not been designated as a new town.

I thank the noble Earl, Lord Lytton, for the amendments spoken to by the noble Duke, the Duke of Somerset. I suspect that your Lordships will not be very keen to be further enlightened this afternoon by a technical debate on these particular matters. However, we shall look carefully at what the noble Duke said, and I shall write further to him and the noble Earl before Report about these matters.

Lord Campbell-Savours: The Minister said that he will write to the noble Duke. Can we all see a copy of that letter, and can we have an assurance that there will be no movement, no concession made to the CLA, in this area?

Viscount Younger of Leckie: I am not in a position to make any guarantees this afternoon, but I will certainly include all noble Lords who have taken part in this debate, and copies will be placed in the Library of the House.

I turn to the compulsory purchase policy elements and Amendments 103BC to 103BF. I am very grateful to the noble Lord, Lord Cameron, and the noble Earl for raising these important matters, again spoken to by the noble Duke, the Duke of Somerset. They concern the matter of ensuring that advance payments of compensation are not only paid, but paid on time. This links to the equally important question of the way that acquiring authorities should treat claimants when land is being purchased by compulsion.

Starting with Amendment 103BC, having considered the responses to the spring 2015 consultation, the Government think that penal rates of interest on outstanding advance payments are the most appropriate sanction, and we are providing for this in Clause 174. Taken together with the new arrangements for making claims and obtaining further information in Clauses 172 and 173, we think that the prospect of a penal rate of interest will sufficiently concentrate the minds of acquiring authorities, so that advance payments will be made on time.

I now turn to Amendments 103BD and 103BE. The Government think that setting interest rates in a Bill is too restrictive. Provision to set both rates is available in secondary legislation. Coming to the detail of the amendments, the Government think that it is premature to decide on the punitive rate of interest for late payments of advance payments of compensation—as proposed in new subsection (1A) of new Section 52B in Amendment 103BD. The noble Lord, Lord Cameron, and the noble Earl, Lord Lytton, will know that the Government published our consultation paper on phase 2 of our compulsory purchase reform programme on 21 March. The good news is that the paper proposes that 8% above the base rate should be the punitive rate for late payments of advance payments.

The second part of Amendment 103BD—proposed new subsection (1B)—would overtake the existing provisions in Section 32 of the Land Compensation Act 1961 to set the rate of interest for compensation unpaid at the date of entry. This rate is not punitive, as there are often legitimate reasons for some compensation to be unpaid at that date. The final claim for many businesses, for example, cannot be finalised until their relocation has been completed.

Noble Lords will recall from the spring 2015 consultation that the Government consulted on increasing this rate of interest from 0.5% below the base rate. The Government confirmed in their response to consultation that the rate would be increased to 2% above the base rate. The Committee will be interested to hear that new regulations are in preparation by the Treasury and will be published in due course.

The new rate of 2% above base is intended to achieve an equitable and fair settlement between the claimant and the acquiring authority. The interest on unpaid compensation from the date of entry is not the same as the interest on commercial lending. It may be helpful if I say that it is more likely that it will be based on a formula which will compensate the claimant for interest which he or she would otherwise reasonably be receiving, had the money been otherwise invested. We can have a separate debate on that, I am sure.

I now turn to Amendment 103BF, which focuses on introducing a statutory duty of care to be owed by acquiring authorities to claimants. There is no doubt that claimants should be treated with fairness and courtesy and kept up to date with developments. This is best practice, and all competent professionals should be advising their clients to act in this way. The Government believe that a new statutory duty of care for compulsory purchase is not necessary and would not help relations between acquiring authorities and claimants. The kind of assistance which should be provided by an acquiring authority may differ depending on the circumstances. A broad duty of care may be imprecise in nature and difficult to enforce. The professionals working in compulsory purchase suggest that clear guidance on good practice would be a better way forward.

The recently updated compulsory purchase guidance, published on 29 October 2015, makes it clear that acquiring authorities should make reasonable offers of compensation in the context of overall project costs. Acquiring authorities should also be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant. The guidance also urges acquiring authorities to offer those with concerns about a compulsory purchase order full access to alternative dispute resolution techniques, from the planning and preparation stage to agreeing the compensation payable for the acquired properties. With these explanations, I ask the noble Duke to withdraw the amendment.

Lord Williams of Elvel (Lab): My Lords, I cannot see what attitude the Minister is taking towards the CLA amendments, as was raised by my noble friend Lord Campbell-Savours. Will he please set it out very simply ?

Viscount Younger of Leckie: Of course, I believe it will be best for me to include the technical details in the letter that I am already writing and will place in the Library of the House.

The Duke of Somerset: My Lords, I thank the Minister for his very full reply and the two noble Lords who have contributed to this short debate. Some of what we heard was good news; some of the rest not so good. I am sure that the noble Lords who tabled the amendments will, like myself, take great care in reading the reply.

The noble Lord, Lord Campbell-Savours, knows that the Committee has debated on a number of occasions his feelings about acquisition values. May I repeat what has been said on other occasions? Expropriation simply means that less land will come forward. It has been tried twice before and each time the development land tax has been a failure and has been withdrawn. Basically, any gains made through the sale of development land are taxed through the normal tax system. Finally, a lot of community benefit is funded out of the market value of these developments. I therefore do not go along with his hypothesis.

I look forward to hearing more about the consultation and thank the Minister for his reply. I beg leave to withdraw the amendment.

Amendment 102CK withdrawn.

Clause 144 agreed.

Clause 145: Processing of planning applications by alternative providers

Amendment 102CL

Moved by ***Lord Greaves***

102CL: Clause 145, page 74, line 6, at end insert—

"( ) A local planning authority may only be specified under subsection (1) if it so consents."

Lord Greaves: My Lords, at last we arrive at perhaps the remaining flashpoint in the Bill. I rise to move Amendment 102CL and speak to my other amendments in the group. There are two other very useful amendments from noble Lords in the group.

Clause 145 is a major, very controversial innovation. It may be the first step towards the privatisation of development management and yet it was dumped on the Commons on Report. There was a very short explanation by the Minister, one speech by Clive Betts MP at 1 am and the Minister refused to answer his questions—there was no reply from the Minister.

Here we are in the Lords at the very end of the Bill, at the end of the afternoon on day nine of nine, and we must try at least to give it some intelligent consideration. I have no doubt that the issue will come back on Report anyhow. The Government are saying that this is intended to be a pilot, but the Bill appears to give the Secretary of State untrammelled powers to introduce this provision to any extent he or she wishes at any time in the future, so the question of how it can be limited is an issue that the Committee ought to look at.

4.15 pm

I have referred previously in Committee to the *Technical Consultation on Implementation of Planning Changes*, which is an extremely useful document for helping to understand what is in Part 6 of the Bill. I say again that it is a pity that it was not sent to us as well. The technical consultation is very interesting on this matter and raises more questions than answers in my view. The first paragraph of the chapter headed, "Testing competition in the processing of planning applications", reads:

"One form of innovation that we are keen to explore is competition in the processing of planning applications".

The second paragraph says, referring to local authorities generally:

"The majority of research studies suggest cost savings of up to 20 per cent for competitively tendered or shared services",

Cost savings are right at the beginning of the reasons for doing this, and the first reference to it is about local authorities collecting refuse 30 years ago. Other references suggest that the savings might be less than 20%, but all of them are old, including a reference to a study from 2008. What collecting refuse 30 years ago has to do with processing planning applications is a mystery to me, particularly after the huge reductions in spending that have been forced on local authorities, which have already produced what are either a lot of efficiency savings or a lot of inefficiency savings due to not having enough staff to do the work.

The Royal Town Planning Institute funded some useful research in the north-west of England which found that staffing in planning departments in the north-west had reduced by one-third since 2010: there are 37% fewer staff in planning policy departments and 27% fewer in development management. If local authorities are doing the same amount they did six years ago, they have already achieved that amount of efficiency savings. One would have imagined that was enough, but perhaps not.

The technical consultation goes on to say:

"These benefits could include giving the applicant choice, enabling innovation in service provision"—

which is usually management-speak rubbish, but never mind—

"bringing new resources into the planning system, driving down costs"—

on the basis of refuse collection 30 years ago—"and improving performance". I am being a bit cynical reading this out but as somebody who was involved in reducing costs in one local authority in particular, and peripherally in the county council as well, I know how much of this is going on now and how much innovation is taking place to achieve it.

I turn to choice. Development management is a local authority function and part of democratic local government—or local governance, if your Lordships prefer. It is part of the local planning system, closely integrated with plan-making and other functions, such as enforcement—often a poor relation—tree preservation orders, environmental management issues generally and the council's involvement in promoting economic development in their areas, which, over the 45 years that I have been a councillor, has become more and more important. It hardly existed 45 years ago and is now a fundamental function, closely integrated with the planning system. But as well as all those things, it is a regulatory function. It is quasi-judicial at the point of determination and requires exercise of judgment. It is not a matter of ticking boxes, as building regulation control tends to be and some of the local authority functions may be. It requires the exercise of judgment at almost every stage of the operation—judgment in the light of policies at all levels, but it is required. It is not an appropriate service to be privatised, whether on pilot schemes or more widely, at any time.

One can think of other similar services provided by the public sector. Will we be able to choose which firm of tax inspectors we have to determine how much tax we pay, or will we have competing firms of parking wardens, some of whom might charge more, or be friendlier and let you off? Will we be able to choose the bailiffs who come to our door if we do not pay our council tax? I should say that I have paid mine for next year already. If we run cafés or fish shops, will we be able to have competing food standards officers from different firms, and to choose the ones we think might be more lenient to us? Will schools have an alternative private provider to Ofsted—that might be a good idea, actually—whereby they can choose which inspectors they want? The whole concept of privatising public regulatory services is flawed.

Will the new system undermine the viability of planning departments, which are already struggling under the cost-cutting being enforced by their finance departments and the local authority budget? Could it increase the costs to the local planning authority if it has to employ underemployed staff, since they will not know what the workload will be from one month or year to the next? Will we have competition by outcomes? Competition on the basis of efficiency may be fine, but will we have competition by fees, as some people charge lower fees than others? The consultation says that,

"benefits could include giving the applicant choice".

Will people game the system and discover that planning applications for extensions are more easily passed if they choose one lot and not the other? On the basis of experience, that is the kind of view that will be taken locally before very long.

What will the relationship with elected councillors be? At the moment, elected councillors tend to be involved at an informal level right through the process, if it is in their ward or they are chairman of the planning committee, or whatever it is. In my part of the world, who knows where the designated person—that is, the firm that will do it—will be? Will they be in Manchester or London? Will they be local? Who knows? Will we have two different sets of people doing the same things in the same area? What about contacts for residents and other people who will not know what is going on because there will be a different system according to who is carrying out the process?

What about cost recovery? Full cost recovery of processing and determining planning applications does not happen now. It is subsidised by local authorities. So how will it work with private providers? Will the provision in the Bill that the Secretary of State can make payments to private providers result in their being subsidised when in competition with the local planning authority? How will it work?

It is all very well arguing for efficiency from the private sector, but before it starts being more efficient—and I am not sure what it will be doing if all providers are based in Manchester or London—it has to make a profit on top of its costs before it can gain in efficiency, assuming that that is possible. Will there be a level playing field? Will the charges be the same? Will the private sector be able to undercut? Will it charge more and provide a better service—in other words, provide more recommendations for approval?

What about the work by the local planning authority that will have to take place even if a different provider is doing it? What about pre-application work? It may be that somebody has all the pre-application discussions with the local planning authority and then, at the point of putting it in, goes to the alternative provider. The local planning authority would be doing a lot of the work and getting none of the fee. How will that work?

What about information? Will it all be on the local authority's website and will the local authority have to maintain that? How will that work? Or will people have to go to different places according to who is dealing with the planning application? How will people cope with that? How will the pre-decision review of reports, information and recommendations work? Who is going to advise a planning or department control committee when it is making a decision? Will the private provider come to sit at the committee and act as an officer?

Will a council planning officer be there to provide help and advice to the committee? Try going to the planning committee of a local authority and not having a planning officer there because they are all down with flu. I ended up suggesting all the reasons why we should turn something down. I cannot remember whether we won that appeal. You need officers there to provide technical legal advice. What happens if the planning officer's recommendation is different from that of the alternative provider? Which prevails? Does the committee get two reports? How does that work?

I do not think that this has been thought out properly. There are lots of amendments in this group and I shall not go through them now. The Minister will have answers to them all; I will listen to the answers carefully and I may bring up later any with which I am not satisfied when I reply to the debate on this group. This seems to us to be a scheme which has been dreamed up on the back of the traditional fag packet, or whatever people use nowadays, and dumped on the Commons at the last minute. The best thing this House could do is send it back to the Government and say, "You might have a case, you might not have a case, but go away and bring it back when you have thought it out properly". I beg to move.

Lord Beecham: My Lords, I respectfully adopt most of the arguments advanced by the noble Lord in his critique of this very unsatisfactory set of clauses. After the triumphant successes achieved with the privatisation of services such as prisons, probation, aspects of the NHS, electronic tagging, work capability assessment, residential care and so much more, we are now asked to endorse the involvement of the usual suspects—G4S, Serco, Capita, Sodexo et al—all in the name of efficiency in the planning process.

Many councils have found outsourcing to be expensive in terms of both cost and quality, but government dogma dictates that the process must continue, beginning in the planning field with what the technical consultation, to which the noble Lord has just referred, published last month, describes as:

"Testing competition in the processing of planning applications".

But this is more than just a matter of councils being at first able—and, no doubt, eventually required—to outsource the work. It allows the applicant to choose who will do the work. The notion of a potential conflict of interest does not seem to have entered ministerial heads—or, if it did, it has been ignored.

As the Town and Country Planning Association has pointed out, this is not necessarily to be confined to a limited number of pilot projects or developments. Once again, secondary legislation may be employed, this time to extend the process to any form of development. The TCPA found no evidence of any prior consultation on these proposals. Can the Minister say whence this policy was derived, who was consulted before it was enshrined in the Bill and, in particular, whether any potential external providers were consulted or offered views before these clauses were drafted?

4.30 pm

What is the problem the proposal is intended to address and from whose perspective does it exist? Councils can, if they choose, outsource the work anyway—but with the cardinal difference that in that case the work is done not for the applicant but for the public, as represented by the local authority. Under the Bill, it would be the applicant's adviser, not the adviser to the planning authority, who would have to make judgments about the process, as the noble Lord has just reminded us: for example, even in relation to

[LORD BEECHAM]

consultation. Critically, Clause 146(2)(g) provides—the Committee will be surprised to learn—that,

"the circumstances in which, and the extent to which, any advice provided by a designated person to a person making a planning application is binding … on the responsible planning authority"—

which effectively privatises decision-making, not merely the application process. As the TCPA points out, this constitutes,

"a fundamental change in how the planning … process operates".

The DCLG avers that binding advice would apply only in very limited circumstances. What circumstances? How limited? Who will decide the question in the course of any individual application? Why has this significant change been inserted into the Bill without prior consultation? Is this another product of one of the Government's favourite think tanks, where the thinking is all too often limited but the process is tank-like and destructive in its lumbering progress? How very reassuring it is that, as the Minister, Brandon Lewis, told the House of Commons, the Secretary of State will be able to decide who is able to offer their services to process planning applications. The terminology is wonderful. The notion almost implies organisations motivated by the purest altruism coming to the aid of applicants and planning authorities, and magically overcoming any conflict of interest between the applicant and the community represented by its elected council.

As of 6 January, the Department for Communities and Local Government was unable to identify what types of bodies are likely to be classified as designated persons who would carry out the work. We are now approaching the end of March. Can the Minister tell us who will be classified as designated persons to carry out the work?

The TCPA raised the question of how the right to legal challenge by judicial review would be affected by the proposal. JR applies to public bodies. If a council outsources its services, JR is still available, where it is relevant, because the work is deemed still to be carried out by a public body. But under the Bill, the alternative provider is engaged by the applicant, not by the local authority, and therefore the process will be immune from such a challenge. How can the Government justify this or do they not care whether the lawfulness of the process may be subject to question in these circumstances?

No one would defend delays and inefficiency in the planning process. But, as the noble Lord, Lord Greaves, has already reminded us, the huge pressure on council budgets is leading to significant staffing problems. That is a consequence of government policy that we appear doomed to suffer for at least four more years. But what are the Government going to do about the hundreds of thousands of extant and unused planning permissions—a much more important issue than that with which this clause purports to deal? Ideally, the Government should drop the provision. At the very least, they should accept Amendment 102DAA in my name, which would restrict the definition of a designated person to councils and public bodies and not to whoever may set themselves up, under the provisions of the Bill, as a performer of an external planning service.

Lord Foster of Bath (LD): My Lords, so often during our deliberations on the Bill we have been hampered by a lack of information. We have not seen the draft regulations—we have discussed that many times. We have not even seen the result of the consultation that is currently taking place. Of course, we should remember that that consultation is not due to finish until 15 April and the responses are going to be analysed over the summer, so we will have finished all our deliberations on the Bill long before those responses have even been analysed.

Furthermore, we have not seen the Government's response to the excellent report by the DPRRC. I remind noble Lords that last night the Minister, the noble Baroness, Lady Williams of Trafford, said:

"I also confirm to noble Lords that I will be responding to the DPRRC report tomorrow, as well as giving my intentions for Report".—[*Official Report*, 22/3/16; col. 2276.]

I have been checking on an hourly basis, with all relevant bodies, including the Committee Office, whether they have received that response. I say to the Minister that I am certain that even though that has not yet been made public she will have a copy of it, and I hope that when she replies to this debate she will furnish the House with details of the Government's intentions in relation to this part of the Bill and their responses to the committee's recommendations and concerns, of which there are a large number.

Those concerns are in addition to those raised by my noble friend Lord Greaves and the noble Lord, Lord Beecham—concerns that I share. They add to what the committee says. It talks about the Bill being drafted very widely, in terms of the powers conferred on the Secretary of State, and goes on, in paragraph 38, to say:

"These are important provisions which, in effect, empower the Secretary of State to require local authorities chosen by him to privatise the processing of planning applications for a trial period. The impact on local authorities and their staff, and on those submitting planning applications, could be considerable".

Yet we have no details to enable us to work out in detail what that impact would be.

The committee goes on to say:

"It is striking that the clauses contain no requirement on the Secretary of State either to consult before making pilot regulations, or to publish a report on the outcome of pilot schemes".

This is a point raised, quite rightly, by the noble Lord, Lord Beecham, and is covered by an amendment from my noble friend, which comes later.

Most damningly of all, the committee then goes on to describe the powers given to the Secretary of State as "almost unfettered discretion", on an issue about which we have no details with which we can work out what should be done. Not surprisingly, therefore, the committee goes through a long series of recommendations —changes to the legislation that it would like. There is a requirement to set out the intended purpose of the pilot regulations on the face of the Bill; to specify that the affirmative procedure should apply to every exercise of the powers conferred by the clauses; to require the Secretary of State to consult local authorities and other interested parties before making regulations; and to provide on the face of the Bill for the maximum duration of pilot regulations. The committee's report goes on to say:

"We also consider it inappropriate for the Bill to confer these highly significant powers on the Secretary of State without also requiring him to prepare and lay before Parliament a report on the outcome and effectiveness of each pilot scheme".

My point, in going into some detail about that, is that we know that the Minister will have with her now a response to each of those points. It is incumbent on her to share those responses with the House before we finish our deliberations on these clauses in Committee. However, we also need from the Minister some clarity on other issues—for example, the pilots themselves—because we have at last been furnished with a timetable for the various bits of secondary legislation that will come before us. I am grateful to the ministerial team and their staff for providing us with that, but it is not a great deal of help when every single page that we have been given has a heading that helpfully says:

"Timings are indicative and may change as policy develops".

I remind the House what it says in the limited information with which we have been provided in relation to the section headed "Processing of planning applications by alternative providers":

"How many SIs are currently planned? One. What procedure? Negative",

which I hope will change to affirmative. It then asks:

"What will they deal with?",

and says that:

"The regulations will cover … the scope of the pilots".

Later on, it talks about "pilot areas" and so it goes on, with reference to pilots in the plural. Indeed, we know that in the memo to the DPRRC the memorandum said:

"It is likely that different procedures may be trialled in different pilots, to see what works best".

It is quite clear that the intention is to have a number of pilots, yet when I look at the question:

"What are the key timings?",

it tells me that is not going to be a long time. It says that the consultation,

"closes on 15 April and the responses will be analysed over the summer, and the pilot scheme designed as a result".

Here the word is singular: there will be one type of pilot rather than multiple pilots, so confusion begins to set in as well.

There are then confusions in relation to other aspects of the legislation. We had a discussion at a late hour last night, instituted by the noble Baroness, Lady Gardner of Parkes, with her excellent amendment at midnight on the issue of planning fees. What we learned during that deliberation was that the vast majority of councils lose a great deal of money from the planning process. The average recovery is about 50%. We know that London boroughs, for instance, are losing somewhere in the region of £40 million each year on the operation of their planning departments. We also discovered that the increase which the Government are considering is to be no more than inflation since 2012 and that some councils deemed to be underperforming will get less than that. From the current plans, we therefore know that local authority planning bodies will continue to lose a great deal of money from this process.

The question then has to be asked: if in some places we are going to privatise the process and bring other bodies in, how are those bodies going to come in knowing that if they have the government-prescribed fee scheme they will lose a great deal of money? It is simply not going to happen, so what is in the Government's mind in relation to the setting of fees? I have done a detailed analysis of all the documents to try to help me work out what the fees should be. I looked, for example, at the technical consultation document with this very intriguing headline, which suggests that we will get a good detailed answer:

"Question 8.2: How should fee setting in competition test areas operate?".

But it reads:

"In competition test areas, applicants would select who they want to process their planning application and pass it direct to the provider with the appropriate fee".

That is all it says about the fee structure within the technical consultation document. The Explanatory Notes are equally helpful, telling us that:

"Clause 147 provides that regulations may set out how fees will be set, published and charged".

But since we do not have any of the details because we do not even have draft regulations, we are in a great deal of difficulty.

The Government are going to find themselves in real difficulty if they allow full cost recovery and a profit for some people who come in, compared to local councils, which will charge only 50% of that price. That is hardly a good way of testing the so-called competitive market. It fails to take account of the many difficulties that different local authorities will face. We will have an opportunity to discuss this in a bit more detail in deliberations on some of the other elements of this legislation.

I want to end with one other area of confusion. It is pretty clear from all the documentation I read that the Secretary of State is going to decide which local authorities' planning departments will have competition forced on them. I have looked very closely at the Government's consultation document and I wish to read to the Minister what it says in chapter 8, paragraph 8.1:

"Nor is this about preventing local authorities from processing planning applications or"—

and these are the words from the Government's own document—

"forcing them to outsource their processing function".

Can the Minister tell us whether this is about forcing some councils to do this, or not? You cannot have a situation where the Government go out to consult on something and tell the people whom they are consulting one thing, when the reality of what they are planning is totally different.

4.45 pm

Lord Deben (Con): My Lords, I do not wish to repeat the concerns I have had for some time over the amount of information that is available about this Bill, the regulations and the like. We are debating the Bill in these circumstances and therefore I remind the House what the planning system is for. It is a disagreeable necessity. We have to have it because you cannot have a circumstance in which the unlimited, private ownership

[LORD DEBEN]
of land has an effect on neighbours and communities. It is not about land owned by the local authority. The owner owns the land. Whenever I hear planning discussed by the parties opposite, I am fascinated because you might think it was owned by the local authority and that it should come back to the fact that this is a local authority matter.

The House has to recognise that there is an international agreement on human rights in which property is a basic human right—not only under the United Nations, but under the European Union of which I am sure we shall remain a full and active member, even though there is such nonsense spoken about it by the Brexit people. I am not getting on to that, of course. Even if they do not like the European Union, they are stuck with the United Nations human rights declaration, which we signed.

I happen to care about the right to property. It is basic in a community. It is basic for democracy. If you want to destroy democracy, the first thing you destroy is the right to property because it gives people independence. It enables them to stand up against government; it enables them to put two fingers up to a local authority if that is what it thinks. Yet, when I hear a debate like this, I understand precisely why I am on these Benches. Very often I find myself arguing not entirely on the side of the Government. However, I have been very much reassured, by the speeches of the noble Lord, Lord Greaves, and particularly of the noble Lord, Lord Foster, and I understand why I am not a Liberal Democrat. It is because they are neither liberal nor democratic. That is the reality.

All the Government are suggesting is that it would do local authorities a lot of good to recognise that this is not a little bit of business which they do themselves in the way they want to do it. It is something which should be open to public concern and public alternatives. Of course, we can produce all sorts of scare tactics about what might happen and what people could do and all the things that might arise. What we are really arguing in the amendment is that we should not try anything else—there should be no opportunity for alternatives and no one ought to deal with this. Why? Because local authorities do not like it and because that well-known organ of democracy, in which I declare an interest as an honorary vice-president, the TCPA, does not hold with it.

The TCPA does not hold with a lot of things, mainly because it is still burdened by the memory of that dreadful old man, Ebenezer Howard—still thinking in the past, not understanding that we are in a world in which people do not expect there to be one provider or just one lot of people to go to. Today people expect that we test it all the time. The noble Lord, Lord Beecham, went through a whole list of things, but in every one of those cases the nationalised provider is a lot better because there is an alternative. There are better prisons because they do not all have to be done in one way. Even when you have failures, the fact that there is an alternative is crucial in a democracy and crucial for the efficiency of the national system.

I come to the nature of planning. I cannot believe that there is anyone in this House who thinks that the planning system works well. That does not mean to say that an alternative would be better; sometimes planning may be thought of as Churchill thought of democracy—that it is a thoroughly bad system, but there is not a better one. Sometimes I think that that is the best definition of planning that we have. I have declared my interest and my pastimes; although I shall certainly not be involved in anything that may come out of this, I try to help people to produce sustainable buildings. One business with which I have an association tries to make buildings better, more sustainable and energy efficient. But in the course of that, I have to deal with planners, and we have very great difficulties sometimes. There was the lady who said to one of my constituents who wanted to have the next-door very small, knobbly and unimportant field as part of his garden, "You don't need a bigger garden—therefore you won't get the right to use it as a garden". That is ludicrous, to have to ask planning permission to turn a field into a garden. I can think of nothing more ridiculous than telling people that they have to get planning permission to do with their own land what most of us would like them to do, which is to turn it into a garden. But no—that is one of the things, because at some stage some local authority thought that it would be better telling people what to do with their land than people can do themselves.

Lord Greaves: The noble Lord is very entertaining although I am not sure what his speech has to do with this Bill. But if a local authority requires planning permission for the conversion of a piece of a field into a garden, that is precisely because government regulations in the general development order, or whatever it is now called, require that to happen. If the planning system is not working well—and every time I get a chance to debate planning anywhere, including in your Lordships' House, I announce it to be bust, because I believe that it is bust—it is almost entirely the fault of the national Government and detailed national rules and regulations, which tie the whole thing down.

Lord Deben: I am so pleased that I tempted the noble Lord to intervene at that stage, because I can now tell him that I tried to change the law on that when I was the Minister, and who opposed me? Every blooming local authority—they were the ones who demanded to keep this power and said that it was so important. So I want us to come back to what the Government are asking. This is entirely relevant. I am glad that it is amusing to the noble Lord, but I believe it to be central to the amendment. The Government propose that we give the Secretary of State the power to see whether there are alternative ways in which to handle something that, in the noble Lord's words, is in many ways bust. That is what he says, but if it is bust, would not it be a good idea to see whether there are ways of unbusting it? This is one of the suggestions.

What do we get? Not a series of suggestions about how we might refine it, improve it, make the tests rather better or come forward with various suggestions about how the various pilots might be carried through. Instead, we get an onslaught on the basis that the only people who can do this are local authorities or public bodies. The Government have produced something which is worth trying. If it does not work, we have not done anything bad. If it does work, we have learned something.

The worst thing in politics is to say that we cannot do something because we have not done it before, that we cannot do something because it will not work or that we cannot do something because we do not want to try. This is the moment when we ought to say that we may be a very old House and many of us in it may be very old, but at least we are young enough to recognise that it would be a good thing to have a go at something different.

Lord Campbell-Savours: My Lords, I listened very carefully to the noble Lord, Lord Deben. He seems to think that the problems that might arise—I think he used the words "might arise"—should not really concern us at this stage. That is what Parliament is about. It is about identifying issues, legislating and, in the event that we foresee problems arising, amending our position to ensure that those problems are avoided.

I want to target a very narrow area. It is the issue raised by the noble Lord, Lord Greaves, about the relationship between the planners in the planning authority and the planning contractor in the meeting with councillors. We are told that the proposal is that the contractor will be making the recommendation, but it is unlikely that the planner from the planning authority, who has a relationship with the councillors that probably goes back many years, may not wish to influence events. Whether it is done formally or informally, the planner in the residual planning department might come up with a very different conclusion or recommendation and indicate to the councillors exactly what he or she thinks. That is why I am a little worried about this reference cited by my noble friend on the Front Bench, who said:

"The regulations may make provision about … the investigation of complaints or concerns about designated persons",

and

"the circumstances in which, and the extent to which, any advice provided by a designated person to a person making a planning application is binding … on the responsible planning authority".

In other words, can the Secretary of State say, "I require you"—the local authority—"to dismiss any comments, recommendations or views of your own planning department and to accept the views being expressed by the independent contractor".? I would worry about that because it would completely overturn the principle on which I understand planning operates within local authorities. As I understand it—but it is 40 years since I was on a council—it is normal for the Secretary of State to interfere only on appeal. That provision suggests to me that the Secretary of State can intervene in circumstances which would not be particularly helpful.

I go back to what I said at the beginning of my comments. I am concerned about what happens in the meeting and in the documents that flow between the contractor, the planning officials and the councillors, and about the conflict that might arise. I suggest that that is where the problem will arise and what will sink the whole project.

5 pm

Lord Borwick (Con): My Lords, I rise to speak to Amendment 102D. I declare many different property interests, both directly and through companies in which I have registered an interest. They comprise land directly held by me and by companies, and also land held under options in Sussex, London, Oxfordshire and Scotland. Many of these companies are in the process of developing land and some have planning applications outstanding. I am also a trustee of many charities with property interests.

I support Clause 145. It will do an enormous amount of good, even as drafted, but I am aware that some objectors have concerns with it. It seems they are worried that a "designated person'" will not only be able to process the application, but will have the delegated authority to actually make the planning decision. That would be concerning. So it may be worthwhile to explicitly state that it is not the Government's intention to allow a designated person to decide the outcome of an application. The actual decision should be reserved for the democratically elected councillors, all as part of greater localism.

The Minister may say that this is clear enough from the existing drafting of Clause 145, but if so I would ask why so many different people have misunderstood it. My amendment, which is supported by noble Lords from three different parties, would save time in the long term. If there is confusion among objectors and developers now, they will simply waste time by misunderstanding the existing clause.

I respect the opinions of many noble Lords who would prefer that this whole Bill does not pass, but if it is to pass, they want it to be as clear as possible. I want it to pass, but I also want it to be as clear as possible. I therefore want to amend Clause 145 to make it explicitly clear that a designated person shall not have any power to determine a planning application.

Lord True: This is a useful amendment. Perhaps I am tempted to intervene by the rodomontade of my noble friend Lord Deben, who certainly seemed to me an admirable candidate to be a designated person advising on green applications. He would do it better than most, and I look forward to the opportunity that he was extolling.

I also speak as a leader of a blooming local authority which has tried to be creative. I remind my noble friend that my education department is now a social enterprise. I have no problem with privatisation. I do not follow that route at all—my problem with this is that I do not like law made in a hurry. The process here is bad; there is not enough opportunity for consideration.

Lord Borwick: Nine days?

Lord True: No—if the noble Lord had been here earlier, he would have heard that this came in at a very late stage in the Commons and was dealt with quickly, and this was the first opportunity your Lordships have had to discuss it. All I am saying is that that is inappropriate at this time and place.

The noble Lord, Lord Campbell-Savours, is on to a very pertinent point. I am not going to go into all the issues; we have not had long enough to discuss planning fees. Local authorities should be properly funded for performing this important function. Funding other bits of sticking plaster—effectively, in some

[LORD TRUE]
ways, that is what it is—to do that is not going to answer that core problem of under-resourced statutory function.

My problem with this comes down to the point of decision. At the end of the day, that decision must be independent. We have a court system in this country which is full of privatisation. People are advised by private solicitors. Their cases are pleaded by self-employed barristers. There is nothing wrong with private operators. When we get to the point of decision and recommendation, the planning committee, as noble Lords who have attended or been members of planning committees will know, is like a jury in effect, although it has a quasi-judicial effect. Under this provision, one of the parties—the applicant—will very often be a powerful figure who will, in effect, be summing up for the jury. That is what is in the documents here: it is solely for the designated person to make a recommendation to the local planning authority how, in their professional opinion, the application might be termed. So a piece of paper goes to the planning committee with the word "recommended" on it in bold. Under this provision, the private operator, who has a link with one party, is the person who does that summing up to the jury. To my mind, that is the difficulty. I have no problem with private operators being involved, as long as the poor bloomin' local authority is allowed to properly function in doing what it seeks to do.

I am sorry if I am now in the third minute of my speech. I know that brevity is the soul of wit although sometimes, as shown in parts of the speeches by the noble Lord, Lord Greaves, within longiloquence there can also be pearls of wisdom.

I am concerned about this provision. It allows another local authority to be designated to do the job for local authority No. 2. We are told that that is because one of those authorities may be inefficient. Now, any Government can do this, not only my noble friend's Government but perhaps Mr Jeremy Corbyn's Government or that of—I cannot remember; was it Mr Farron? The point is that any Government with a policy preference could say to a local authority that was compliant or friendly, or perhaps did not worry too much about the green side or the affordable side, "We will have an experiment. We will give the work of the authority that is being too green or too difficult with developers to another authority that does not worry too much about green issues, and let them do it". So there is a risk of moral hazard there—political moral hazard, if you like—from the involvement of any Government. If this measure goes forward, that part needs to be thought about.

My next point comes from long experience of trying sometimes to get things done on a bloomin' local authority in the public interest. Getting development done is difficult, and one of the reasons why is the suspicion among the public of the planning system. We are an incredibly uncorrupt country, with many high-quality public servants in many local authorities and central government. Still, how many times do people come up to me and say, "Oh, there's something going on in your planning department. The thing is rigged"? They feel that the system is unfair and rigged against them. If we had a system where the powerful, as conceived, were trying to get something done and were advantaged by having someone working for them who could get to the point of giving the summing-up to the jury, that would increase suspicion of the planning system and would not improve it.

I say to my noble friend: I wish this had been thought out a little more. Perhaps this is too swift a timescale to do it on. However, if we are to go forward with involving much more private activity and competition—I am not against the principle of that, unlike those opposite—can we please think about those very vulnerable points in the process? I would not be quite as dramatic as the noble Lord, Lord Campbell-Savours; I think, rather, that it might sink or swim. Still, the points that I have tried in my rather halting way to put forward are extremely important.

We also have to be careful about the scope of the secondary legislation. When I look at Clause 145(4), I am surprised that the Delegated Powers Committee did not take issue with the wording:

"The regulations may … apply or disapply … any enactment about planning".

That seems to be the ultimate Henry VIII power, even in respect of an experiment.

I say to my Front Bench: please be cautious. Do not be put off entirely from looking for experiment, as noble Lords opposite were saying. But please think about that process at the point of decision, the nature of engagement of the Government and of powerful parties and how that might be perceived, and the moral hazard and indeed the actual hazard that might arise.

Lord Young of Norwood Green (Lab): My Lords, I rise primarily to speak to Amendment 102D, to which my name is attached, but I cannot resist commenting on the paean of praise from the noble Lord, Lord Deben, for landowners. I could not help thinking that he might have a desire to involve the local planning authority if a large basement were being dug underneath his property or someone was proposing a building that did away with most of the light that fell on his property. I think then he might develop a bit of enthusiasm for planning, as opposed to the rights of landowners.

I accept the right to experiment, but to say that, because we, on this side of the Committee, suggest that there could be some problems with the idea and that we would like to subject it to scrutiny, it somehow means that we are totally Luddite or that we are opposed to any experimentation whatever, is a trifle over the top. I do not know whether my name says that I am young enough to meet that compliance, but I hope that my attitude is, anyway; so on the assumption that this might go through, the purpose of the amendment is to raise a perfectly legitimate and necessary concern. Whoever it is contracted to, the final decision—and legislation should be very explicit on this—must come back to the local authority. It must come back to the elected people to make that decision. That might be infuriating—on many occasions it is. There is a development going on in my area that has taken three years up till now. I would not blame the planners; a group of nimbys are doing their best to ensure that this development does not take place, but that is what you get with local democracy.

It is right to be sure. I looked at the phrase in the Bill that I assume the Government put in as a safeguard. It says:

> "The regulations must provide that the option to have a planning application processed by a designated person … does not affect a local planning authority's responsibility for determining planning applications".

I can see that that is what this is about. The phrase, "does not affect" ought to be stronger than that; that is why I am supporting this amendment.

Finally, I hope that the Government will ensure—after all the consultation and the pilots—that there is clear government guidance for whoever is to carry out this work. There should be declarations of interest and an ethical responsibility in the way the work is carried out. Those are legitimate concerns, some of which were expressed by the noble Lord, Lord Greaves, and my noble friend Lord Beecham.

Lord Carrington of Fulham (Con): My Lords, I do not intend to detain your Lordships' House for very long on this; everything that needs to be said probably has been said. However, I want to add my voice in support of my noble friend Lord Borwick on Amendment 102D. This is not because I think that this amendment is probably necessary; I am sure the Government have no intention of ensuring that developers can prejudice the decision that is taken by the local authority by choosing a contractor to undertake the work who will produce a report—which the developer has paid for—that is in the developer's favour. Although I am sure that that is not the intention, it is a clear misconception that is accepted by a great many people outside this House. We need to make it perfectly clear that the designated people who are producing the planning report are doing it on a highly professional basis and that all they are doing is undertaking the mechanical work of processing a planning application. What they are not doing is prejudicing the decision that will be taken by the local authority. If they are prejudicing or influencing that decision, we are going slightly too far in the Bill. The decision on planning has to be a democratic decision that is taken by the councillors in the local authority. It could be argued that too often in local authorities those decisions are delegated to officers, and ought to be retained by the planning committee and the councillors themselves.

I am looking forward to receiving the reassurance that I think many people in this Committee are looking for. All we are proposing is to provide additional resources to the council, however they are paid for, for the mechanical process of taking a planning application from its initial lodging with the council through to the point at which it is capable of being assessed by the planning committee. I agree totally with my noble friend Lord True that privatisation in that regard is fine, but privatisation which privatises the democratic decision is, in my view, unacceptable.

5.15 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I support everything that has been said on this side so far and, in particular, Amendment 102D in the name of the noble Lord, Lord Borwick. I suspect that I will be supporting every amendment that comes forward on Report but this particular amendment adds value. Personally, I would like to scrap the whole Bill—it can be consigned to my wood burner any time. However, if that is not an option, at least we should clarify things as much as possible. As a former councillor, I understand that this tiny amendment is crucial in order to save an awful lot of stress, argument and anxiety down the line. Therefore, I urge the Government to accept it.

Lord Porter of Spalding (Con): My Lords, I refer the Committee to my pre-declared bunch of interests. I do not know whether I have to declare them again—someone will have to explain the rules to me.

I am sure that noble Lords will be surprised to hear that I am not that bothered whether local government has to face competition in dealing with planning decisions. On the basis that they already cost local government a fortune, I would be very surprised if, under the current fee structure, anybody from the private sector came anywhere near them. So I see this part of the Bill as a chance to get value for money for councils and, if the private sector does get anywhere near it, we will be able to get an increase in planning fees. Therefore, from a councillor's point of view, I welcome the competition because it can only drive prices up, not down, and in this case I am happy with that.

I should point out that the comments of my noble friend Lord Carrington about those producing the planning report being involved only in the mechanics of the process does not give the whole picture. There is a presumption in favour of development, so somebody will have to recommend to the committee either that the application complies with a presumption in favour and therefore it must be granted, leaving the matter to be democratically argued, or that it should be rejected because it is not sustainable development. Whoever prepares the report, whether they are independent or council-based, must come forward with a recommendation to either grant or refuse, but the final decision must be made by politicians who are accountable to the affected community, and something needs to be put in the Bill to make sure that that is explicit. I am not sure whether these amendments do that but the Government will need to ensure that it is done somewhere.

I am making a brave step out, as I am going to try to take on one of the big beasts for a bit of sport. My noble friend Lord Deben talked about attaching farm fields to gardens not being a problem and being fairly straightforward. It would be fairly straightforward if gardens did not then become previously developed land and thus brownfield, leaving them more susceptible to development in areas where that might not necessarily be sustainable. Before anyone on the other side laughs, they need to remember that under the brownfield policy vaunted by the previous Labour Government, 60% of the brownfield land that they managed to develop during their time in office was reclaimed garden land. So there is a good reason why councils are very cautious about changing use from farm fields to garden land.

Baroness Young of Old Scone (Lab): My Lords, I recognise that it is late in the day to be contributing to this amendment but I have put my name to an amendment

[Baroness Young of Old Scone]
in the very last group, so I am simply delaying myself getting home. I want to remind the Committee about the findings of the Select Committee on the Built Environment, on which I have the privilege to sit, and the very worrying evidence that we heard from planning departments across the country about their ability to recruit experienced professional planning staff and about their viability for the future.

I absolutely support the concerns about this proposal, and I think that Amendment 102D is well worth supporting as a safeguard in terms of the moral hazard issue, but I think that we also need to take account of the fact that at the moment there is a real shortage of suitably skilled and experienced planning staff. If we set up alternative economies in a commercial planning capability, we will find that local authorities are rapidly hollowed out in terms of their planning capacity. It is very close to that at the moment. They have next to no specialist planning skills in heritage, environment and other areas. They are finding it difficult to afford planning staff of their own. So in this proposition we need to take account of the viability of planning departments for the future if skilled and experienced staff are likely to be attracted towards a commercial planning capacity in a competitive sense.

We also need to think about whether we are trying to solve the right problem. There is a real issue about the quality and capacity of planning departments across the country. We saw in our work with the Select Committee impressive alternative models. Local authorities gathered together to create more critical mass and to allow themselves to maintain a range of specialist planning officers. These authorities had voluntarily contracted out their planning support to commercial organisations.

Importantly—and here I disagree violently with the noble Lord, Lord Deben, a rare event in my experience—the planning authority was very much in the driving seat. The worry I have about these proposals is that if you are paying a fee to a commercial provider of planning-support services you will expect them to be on your side. They will be professional and I hope that a quality-assurance process will be put in place to ensure that professional standards are maintained.

As the noble Lord, Lord True, said, the reality is that when you are in front of the jury you will have your man arguing your case, not the local authority's man helping the local authority's elected officers take a dispassionate look at what the decision in the public interest should be. As I say, I disagree with the noble Lord, Lord Deben. I am a great fan of the planning system, which is one of the last genuinely democratic processes in this country. It is the responsibility of the local authority and the officers who support it to take a decision in the interests of the local community, balancing all the economic, social, environmental and other issues. I fear that if we do not handle this set of changes carefully we will find that we have tipped the balance too far in the direction of the developer.

Lord Shipley: My Lords, I agree with the noble Baroness, Lady Young of Old Scone. I have two amendments in about half an hour from now and I am conscious that we have reached a point where virtually all the issues around Clause 145 are being discussed. The noble Baroness has rightly identified that the balance is about to be tipped. I hope that the Minister, in replying to this debate, will answer the question posed by the noble Lord, Lord Beecham: what exactly is the problem that the Government are seeking to solve? Unless the problem is properly defined, the solution can ultimately give rise to a whole set of new problems that have not been forecast.

There is a real issue about being able to dissociate the democratic decision from the designated person who is writing the recommendation. This was put so well by the noble Lord, Lord True, who rightly defined that the process of making a decision is dependent on what the person who writes the recommendation actually says. It is a whole and a continuum. It is not a function separate from making the decision.

A further issue of major concern to me relates to what the noble Lord, Lord Deben, was talking about earlier. It is wrong in principle to privatise public regulatory services. That is now happening. There are issues around cost, as to whether it would be more expensive to go down that route, but the principle of a planning decision in practice being privatised is a major issue about which we must be very careful. A designated person who is writing a recommendation has to be independent and to be seen to be independent.

I have concluded that Clause 145 is now not fit for purpose and should be withdrawn in its entirety. If the Government can explain how they can bring it back at Report better than it now is, meeting the public interest test of independence, we might be willing to look at it—but at the moment I see no evidence base that convinces me that Clause 145 should remain part of the Bill.

Baroness Evans of Bowes Park: I thank all noble Lords for their contributions to an extremely interesting debate. Before I respond to the specific amendments, perhaps I can make some broad comments, although I will try to keep them brief.

We all want a planning system that is fit for the 21st century: one that can effectively support the delivery of homes that people need, and one that is efficient, responsive and resilient. To ensure this, there have been calls for greater flexibility in the way that fees are set, provided that any changes are linked directly to the quality of service.

We want to address resourcing concerns, but the answer is not simply to ask developers to pay for all local authority costs that go unchecked. The level of planning fees is one side of the resourcing equation. How planning applications are processed is just as important: continually transforming processes to drive down costs and deliver the most effective service possible.

Currently, local planning authorities have a monopoly on processing applications for planning permission which denies the user choice and does not incentivise service improvement and cost reduction. My noble friend Lord Deben made a strong case for why we need to look at this area. Local authorities can do more to transform their planning departments. Many have, as the noble Baroness, Lady Young, identified. Some have introduced new ways of operating through

outsourced and shared service approaches and shown that performance can be improved and costs reduced—but more should be following their lead. We believe that it is incumbent on us to test new ways to improve the planning system. Therefore, we want to use the pilots to test the benefits of introducing competition to processing planning applications.

Clause 145 will give the Secretary of State the power, by regulations, to introduce pilot schemes for competition in the processing of applications for planning permission. Regulations will set out the legal framework and the detailed rules for how the pilot schemes will operate. Clauses 145 to 148 set out the scope of what can and cannot be included in the regulations.

Let me now try to be clear on a number of points. This is about competition for the processing of applications, not the determination of applications. I can assure noble Lords that the democratic determination of planning applications will remain with local planning authorities during the pilots, and that they will not be able to delegate this function to private sector providers. We do not intend to make a report or recommendation from a designated provider to a local planning authority about whether or not the authority should approve the planning application in any way binding, and the authority will be able to reject the recommendation and set out its reasons for doing so. Local authorities will continue to determine planning applications, as they currently do.

Reports from the authority's officers to a planning committee are not currently binding on the committee. Similarly, reports from a designated provider making a recommendation about how an application should be determined will not be binding. Planning committees or officers taking decisions under delegated authority will be able to reject the recommendation—although, of course, they will need to set out the reason for doing so. The public will be able to comment on planning applications in pilot areas, just as they do now, irrespective of who is processing the application.

We are not forcing local authorities to privatise or outsource their processing service. In pilot areas, the authority will keep its service, but with other providers able to compete with it to process applications in the area. If the authority's service is the best, why would applicants not still choose it? We are not about to let just anyone become a designated provider. We expect that regulations will require those selected to meet high professional standards and not process applications in which they have an interest.

Lord Campbell-Savours: What is to stop an applicant going to the contractor and saying, "Look, I won't give the local authority the business, I'll give you the business, but you've got to recommend yes on my application"? What is to stop that happening?

5.30 pm

Baroness Evans of Bowes Park: The final decision on the application will be up to the committee. The noble Lord, Lord Beecham, mentioned conflicts of interest and the noble Baroness mentioned quality assurance. We will be returning to those matters in the next group, so I will not dwell on them now.

Lord Shipley: Can the Minister confirm whether an independent council planning officer who is employed by that council will be able to write a critique of the recommendation that has been written by the designated person? This takes up the point raised by the noble Lord, Lord Campbell-Savours. If it is simply a report written by the designated person, how will it be known that it is accurate—and will an independent council planning officer be able to challenge it?

Baroness Evans of Bowes Park: The answer to that is yes.

Lord True: The problem that my noble friend might reflect on is that paragraph 463 of the Explanatory Notes states that,

"it will be solely for them"—

that is, the designated person—

"to process the application and make a recommendation to the local planning authority on how, in their professional opinion, the application might be determined".

In my world of reading planning reports every week, that is what is in the planning recommendation: there is a point of recommendation. That is the difficulty which I would like us to look at between now and Report: whether building on the excellent amendment moved by my noble friend Lord Borwick one could put in further defences. The other difficulty is in Clause 146(2)(g), where, as has been pointed out, circumstances are envisaged in which the designated person's advice might be binding.

Finally and briefly, once the thing goes before a committee with a recommendation, the planning committee, if it does not agree, has to overturn that advice, which needs to be dispassionate. The suspicion is that it might not be dispassionate in certain circumstances. When the inspector looks at that, he is looking at a planning committee which has overturned professional advice. The dice are therefore rather loaded when this goes to the inspector. I am not opposed to this in principle, but the point about the element of decision needs to be considered further between now and Report.

Lord Campbell-Savours: The Minister did not exactly reply to my question before. The applicant could go to the contractor and say, "You get the business if you recommend yes". What is to stop that happening?

Baroness Evans of Bowes Park: I will respond to my noble friend first. It would be inappropriate to tell the planning inspector what weight they must place on the paperwork provided by the appellant and by the local planning authority making the decision. It is right that the inspector judges each piece of paperwork on its merits. But we will reflect further on the issues that he has raised.

In answer to the noble Lord, Lord Campbell-Savours, we will use regulations to prevent conflicts of interests and maintain ethical and professional standards. Local planning authorities will retain responsibility for deciding the planning application, having received a report with a recommendation from the provider to whom the planning applicant chose to submit their application

[Baroness Evans of Bowes Park]
for processing. We will set out regulations, actions and procedures that approved providers will have to follow to ensure unbiased reports.

Lord Campbell-Savours: I am sorry, the Minister has not answered my question. I would like to see it answered before Report in writing.

Baroness Evans of Bowes Park: I will take that back and write to the noble Lord. I will respond on one other general point before moving on to the amendments. My noble friend Lord True asked about the moral hazard involved in selecting who processes planning applications. We are not selecting who processes a particular application: it is the applicant who chooses. There will be an approved list of providers that the applicant can go to, but they will choose their provider.

We welcome the scrutiny that the Delegated Powers and Regulatory Reform Committee has brought to these clauses, which was mentioned by the noble Lord, Lord Foster. A response will be published by the end of today, but as noble Lords know, we are not quite sure when that will be.

Lord Foster of Bath: I am sorry but the Minister specifically said yesterday that it would be before the House rises. That is for the Minister to sort out, but can she give us an assurance on this? The assurance that her colleague gave us was that, before we leave this Chamber, we would have a copy of it in our hands so that, should we wish to, we can refer to it in any subsequent amendment.

Baroness Evans of Bowes Park: I will come back to that in a second but, as I say, we will be publishing the response by the end of today. We therefore believe that Amendment 102CLA, tabled by the noble Lord, Lord Greaves, is premature.

I thank the noble Lord for Amendments 102CL and 102DB about consent. An effective test of competition is likely to be achieved with a set of pilots which reflect the different types, sizes and geographic locations of local authorities. To answer the question of the noble Lord, Lord Foster, there will be a number of pilots, not just one. Local authorities have consistently told us that a fair test of competition must include weaker authorities at the lower end of the performance spectrum—pilots cannot just include top-performing, progressive authorities. However, they are concerned that weaker authorities are unlikely to volunteer to be in pilot areas. Therefore, we need powers which give us the necessary flexibility to select an appropriate mix of pilot areas and to be able to respond to the sector's concern if necessary.

I do not see how compelling a local authority to be a designated provider would work in practice. How would we actually force a local authority, against its will, to compete for work in another patch and to do that work to a high standard? We do not therefore intend to compel any local planning authority to be a designated provider.

I turn now to Amendment 102D. We have been very clear that during any competition pilots we bring forward under Clause 145, the responsibility to determine planning applications will remain with the local planning authority in the pilot area. I will put this as clearly as I can: only the local authority can decide on an application. Clause 145 will give the Secretary of State the power, by regulations, to introduce pilot schemes for competition in the processing of applications for planning permission. Subsection (1) allows the regulations to make provision for a planning application to be "processed" by a "designated person", and subsection (6) says that "processing" the application means any action "other than determining it".

Amendments 102CM, 102DA, 102FA and 102FB, tabled by the noble Lord, Lord Greaves, would remove intended safeguards. For example, Clause 145(3), which would be removed by Amendment 102CM, leaves room for the Government to exclude from the pilots certain types of application where local government and others can make a compelling case that they are so significant or sensitive that they should continue to be handled by the relevant local planning authority. Clause 146(1)(a), which would be removed by Amendment 102FA, enables us to specify circumstances where it is inappropriate for a designated person to process an application, for instance because of a conflict of interest. The removal of text that would result from Amendment 102FB would leave us unable to specify the circumstances in which a planning authority should take over an application from a designated person. They could either potentially take them all over without limit, or none, and we believe removing the safeguard is impractical and unworkable.

Amendment 102DAA was tabled by the noble Lords, Lord Kennedy and Lord Beecham. Enabling the private sector to compete with local planning authorities is likely to drive greater reform than if we leave things solely to authorities, as the noble Lords would wish. We are proposing pilots to test the benefits of introducing competition in planning application processing.

Lord Beecham: I think the Minister has overlooked the fact that the amendment also refers to "public bodies" being able to take over the role, not just local authorities.

Baroness Evans of Bowes Park: My apologies. However, my argument stands. We want to encourage the private sector to be involved as well, but I apologise for that misreading of the noble Lord's amendment.

Amendment 102EA would extend the definition of "planning application" to include permission in principle and technical details consent. I thank the noble Lord, Lord Greaves, for his amendment. We intend to give it some further thought.

We intend to design the pilot schemes collaboratively with local government, professional bodies and the private sector. We are already consulting on how they might operate. Furthermore, an extensive dialogue with key partners is under way and in the last six weeks we have met with more than 80 local authorities through a range of events. The noble Lord, Lord Greaves, raised a number of technical points. Obviously, these are issues that will be addressed through the pilot schemes.

The noble Lord, Lord Foster, asked about the draft regulations. As I hope I made clear, we are engaging extensively with the sector and consultations are currently out for consideration. As I said, we have already spoken to more than 80 local authorities. I would be happy to write to him to provide an initial summary of the issues raised so far during our engagement with the sector.

Lord Foster of Bath: I apologise, but will the Minister answer my other question about the technical consultation? It may have been a drafting error by the Government, but paragraph 8.1 specifically says:

"Nor is this about preventing local authorities from processing planning applications or forcing them to outsource their processing function".

If that is correct, the first amendment in the group, which would mean that local authorities would have choice in the matter, is presumably accepted by the Government. Alternatively, this is an error and the Government have gone out to consult on a document that contains a fundamental error about the purpose of this section of the Bill.

Baroness Evans of Bowes Park: I said earlier that we do not intend to force local authorities to outsource their functions. I will have to read further what the noble Lord said and respond in writing.

Lord Foster of Bath: My Lords—

Baroness Evans of Bowes Park: I have given the noble Lord the answer that I can. I am sorry that he is unhappy with it. I will go back and have a look to see whether I can provide him with any other information.

The noble Lord will also not be happy with my response to his question on the DPRRC report. I am afraid that it depends on what time the House rises as to whether noble Lords get it before we rise, but they will get it today. On that basis, I ask noble Lords not to press their amendments.

Lord Greaves: My Lords, there is a lot there to look at, read and think about. In the last argument there was some confusion between compulsory outsourcing and being forced to be subject to competition. Those are different things. I think the Government are saying that some authorities may have a designated person or persons forced on them in their area, but some clarification would be very helpful. The Bill certainly says that that is possible.

I thank everybody who took part in the discussion. Some were more entertaining than others. The noble Lord, Lord True, took us into the details of planning committees, which some of us have spent far too much time in our lives chairing, being members of or whatever. On the point about the relationship between the committee and its planning officer regarding applications where the committee may overturn the recommendation of the officer, there are applications where it is obvious which way they will go: that they will be rejected, or passed. While people may argue one way or the other, there are no sensible reasons and it is a fairly cut-and-dried case. But in most cases where recommendations are overturned, they are arguable both ways. If the planning committee overturns cases where it is not arguable both ways, it is not a very good committee. It is behaving pretty irresponsibly, really.

Under those circumstances, the reports written by planning officers are balanced. They will put forward the reasons an application has been made and the arguments for it; they will put forward the objections to it and the reasons it might be turned down; then they will come down on one side or the other. If the committee takes a different view and it then goes to appeal, a sensible inspector will look at all the original reports and everything else and he will come to the view that it was a perfectly reasonable decision by the committee.

5.45 pm

The danger is that if we get private providers who are not plugged in to that particular local authority, who do not have relationships with the councillors, they will simply make a recommendation without the balanced nuances and that will render an authority much more liable to costs than it would be on a sensible report. There is a real danger there. If there is going to be a designated person, that designated organisation, in effect—a commercial company—needs the time and the experience to build the relationships with that local authority to get sensible reports and sensible decisions. I doubt that that will happen in the pilots.

I do not want to go through all the amendments. I am grateful to the Minister for her detailed responses. I think she misunderstood some of the amendments, particularly those where I wanted to find out how things were working, and she was telling me I was just throwing it all away. I understand that.

The noble Lord, Lord Deben, introduced an ideological component to the Committee which has not always been present. I understand why he is not a Liberal Democrat now more than I did before, which is helpful. I would love to spend the rest of this evening discussing these matters with him but I think we would be on our own. All I will say is that I agree that private property owning is fundamental to personal autonomy and to democracy. The problem is that if too few people own too much of the property, it leaves most people owning none, and that is not a liberal society and it is not a good society.

When it comes to the balance between the community—society as a whole—and individuals, it is easy to think of planning departments as being a group of bureaucrats who increasingly just look at the rules and try to apply them, because there are so many of them being poured down from on high, in a fairly arid system. I think the planning system is bust, I must say. Nevertheless, the noble Lord, Lord Deben, is famous, justifiably, as an environmentalist and an environmental campaigner, and environmentalism is all about the community and the environment in which the community lives.

That is why the planning system is not just an arid bureaucracy or a necessary evil, but a very good thing. It is fundamental to maintaining the balance between the interests of the wider community and the environment in which that community lives, and the selfish wishes

[LORD GREAVES]
of individuals. I use the word "selfish" without denouncing it, particularly. We are all selfish in what we do and we all have our personal autonomy. That is fundamental and it is why I am a Liberal. As for the land, I remind the noble Lord of the old, famous Liberal hymn, which we still sing: "God made the land for the people". People who own the land look after it on behalf of everybody. That may be where we have an ideological difference.

If I go on any more like this, I shall be shot down by everybody else in here.

Noble Lords: Yes!

Lord Greaves: I had to reply to the noble Lord, Lord Deben. I have one further point.

Noble Lords: No!

Lord Greaves: It is a very constructive point. There is time to discuss this part of the Bill further before Report. We are coming back straight to Report, but I do not imagine we will get to Part 6 for quite a while; for several days, anyway. I ask the Government to convene meetings of people around the House to look at the practicalities. If the Government can persuade us that in a practical sense, this will work, or that it might work—that it is worth trying—we can think about practical, working amendments to it. If they cannot persuade us, some of us will want to remove it all. I beg leave to withdraw the amendment.

Amendment 102CL withdrawn.

Amendments 102CLA to 102DB not moved.

Amendment 102DC

Moved by ***Lord Greaves***

102DC: Clause 145, page 74, line 36, at end insert—

"( ) The Secretary of State may not designate a person who—

(a) provides services in a professional capacity to persons in connection with development proposals or applications for planning permission or is employed by or associated with a company which provides such services,

(b) is employed or remunerated, whether on a full-time or part-time basis, by persons or companies which undertake development, or

(c) has within the past five years been employed by a local planning authority in any capacity that involved dealing with planning applications."

Lord Greaves: My Lords, I put this in a separate amendment because I wanted it set out and because it is the fundamental thing that people outside the system are going to complain about with regard to private provision of the processing of planning applications. The potential for conflicts of interest is high. The Government say they will produce regulations to stop that and make sure it does not happen. We will see how they do that.

There is a perception of conflicts of interest in a system that, as was said earlier, is already believed by many people to be utterly biased towards large developers and against ordinary people—rightly or wrongly, there is a widespread belief that that is the case. If, instead of being processed by local government officials, planning applications are processed by private companies, people will look for the links between those private companies and developers putting in applications and, whatever safeguards the Government put in, they will find them. They will find family relationships, school relationships, board memberships and so on—all manner of relationships. It is a huge can of worms.

If the Government are going ahead with these pilots, this is a fundamental issue that they have to tackle and do their very best to get right. I doubt they can get it right but it is at the heart of this proposal. I beg to move.

Lord Harris of Haringey (Lab): My Lords, I am grateful to the noble Lord, Lord Greaves, for putting this unexpected discussion before the Committee. I am conscious that there are 11 more groups, which, in the course of a normal Thursday, would need to be discussed in the next hour and seven minutes. Perhaps I can abuse the fact that I am now standing up to say that it would be very helpful if we could have a statement from the Government Chief Whip in, say, 15 minutes, explaining his intentions for the remainder of Committee. It is clearly unreasonable—to the Minister and the shadow Ministers—to be continuing in this way, making such slow albeit quite proper progress, because these are important issues. It would be extremely helpful if we had a statement from the Government Chief Whip about the Government's intentions for dealing with the Bill because, frankly, this is not a sensible way for legislation to be properly scrutinised by your Lordships' House.

Lord Campbell-Savours: My Lords, why can we not simply convert the first day of Report into a Committee day and have a proper debate on the day we come back?

Baroness Williams of Trafford: My Lords, I hate to intervene because the hour is getting late. These matters are generally decided through the usual channels. I guess that they are having discussions at the moment and, if the Chief Whip comes in, I am sure he will make a statement to the Committee. For now, can we get on with the Bill?

Baroness Evans of Bowes Park: The noble Lord's Amendment 102DC is excessive, not least because local authorities tell us that it cannot be beyond us to work together to design a robust system of checks and balances to maintain professional standards. As I have said, we believe that the private sector could bring valuable innovation and efficient techniques to processing and managing planning applications. That said, it is entirely reasonable and understandable to ask how we will maintain accountability, integrity and professional standards with private sector involvement. Key to this is who makes the decision—who can be a designated person, what applications designated persons are allowed to process, and legal safeguards in the planning system.

I have been crystal clear that responsibility for deciding planning applications will remain with local planning authorities, and they cannot delegate that to a designated person. A designated person will not be able to decide on a planning application. Notwithstanding a separate amendment from the noble Lord, Lord Greaves, Clause 146(1)(b) already allows us to specify circumstances where a local authority could take over a planning application from a designated person, including where it has demonstrable concerns about the designated person's work. Persons designated by the Secretary of State will be expected to meet high professional standards and have expert planning knowledge that would enable them to operate in pilot areas with unique characteristics. We will expect them to demonstrate the ability to engage with local communities and councillors so that they can operate successfully in these pilot areas. We expect to put in place mechanisms to address any failure in standards and integrity, such as removing a provider's designation, or, as I said a moment ago, enabling poor work to be redone.

Our engagement work with local authorities and the private sector has also highlighted the obligations of Royal Town Planning Institute membership, which was mentioned by noble Lords during discussion of the previous group of amendments. All members of the RTPI are bound by a code of professional conduct, underpinned by a complaints process, setting out required standards of practice and ethics for chartered and non-chartered members. RTPI members are required to adhere to five core principles: competence; honesty and integrity; independent professional judgment; due care and diligence; and professional behaviour. We will look to build these and similar standards into the selection and performance monitoring of designated persons. Crucially, I agree with the noble Lord, Lord Greaves, that a designated person must not be allowed to process a planning application in which they have an interest. Furthermore, after extensive dialogue with local authorities, professional bodies and the private sector, we will set out in regulations the actions and procedures that a designated person must follow in processing a planning application.

I also draw the noble Lord's attention to Section 327A of the Town and Country Planning Act 1990, concerning requirements for processing planning applications. A local planning authority must not entertain a planning application where the formal manner in which the application is made, or, crucially, the formal content of any document or other matter which accompanies the application is not compliant with the requirements for processing a planning application. Therefore, an application which has not been appropriately processed by a designated person, or has involved a conflict of interest, could be considered null and void.

I can assure noble Lords that, given the importance of this issue, we will continue this dialogue to ensure that we get the design of the pilots right. I hope that, with this brief overview, the noble Lord, Lord Greaves, will withdraw his amendment.

Lord Greaves: My Lords, I will. That was extremely helpful and I will read it carefully. On that basis, I beg leave to withdraw the amendment. I too want to get home tonight, and if helps the noble Lord, Lord Harris of Haringey, I shall not move the next group of amendments, because I think that we have more or less finished the debate on this for tonight.

Amendment 102DC withdrawn.

Motion

Moved by ***Lord Harris of Haringey***

That the House do now resume.

Lord Harris of Haringey: My Lords, given that the Government Chief Whip has not yet arrived in the Chamber to explain what the intention is—although we may be about to get a message from him—to expedite matters, in order to see exactly what the Government's intentions are, I beg to move that the House do now resume.

Viscount Younger of Leckie: My Lords, I argue that the House should not resume. Discussions are ongoing with the Chief Whip as we speak. I suggest to the House that we continue. The Chief Whip will come into the Chamber as soon as he is able to update us on progress on the Bill.

Lord Harris of Haringey: On the basis of that assurance that the Government Chief Whip will be joining us in about 10 minutes, I will not press my Motion to a vote at this stage.

Motion withdrawn.

6 pm

Amendments 102DD to 102EA not moved.

Clause 145 agreed.

Amendment 102F

Moved by ***Lord Greaves***

102F: After Clause 145, insert the following new Clause—

"Review of the plan-making process

(1) Not less than six months after the coming into force of this section the Secretary of State must establish a comprehensive review of the procedures, costs, time-scales and efficiency of the plan-making processes under planning legislation ("the plan-making review").

(2) The plan-making review must invite evidence from planning authorities, users of the planning system, and any other persons.

(3) The report of the plan-making review must be sent to the Secretary of State and the Secretary of State must arrange for it to be laid before each House of Parliament."

Lord Greaves: Briefly, my Lords, there were suggestions earlier from the noble Lord, Lord Deben, who is no longer in his place, that the planning system needed an improvement. I apologise for tabling this amendment in a rather strange location in the Bill; that was by accident. I tabled it to suggest that it was time for the

[Lord Greaves]
Government to pursue an inquiry and reforms to the plan-making system, as opposed to the development control system.

Since then, I have discovered that such an investigation has been taking place. I have a copy of a report which came out a few days ago—I think it was on 16 March—called *Local Plans: Report to the Communities Secretary and to the Minister of Housing and Planning* from the Local Plans Expert Group. I confess that I have not yet had time to read it, owing to the requirements of research on the Bill, but it is an excellent step forward. I hope that its contents are as good as I am billing them and that we will be able to have a slightly more relaxed debate in your Lordships' House on this matter, by some mechanism or other, before the end of the Session.

There are defects in the development control system. While nobody is perfect, everybody who gets involved in that system is frustrated by some of the things that have to happen. Nevertheless, it has been my view for a number of years—I have expressed this in your Lordships' House on a number of occasions—that the main inefficiencies and problems in the planning system are with plan making rather than development control. Plan making is cumbersome, bureaucratic, top-down, top-heavy and not very democratic. Reform is needed, particularly if local plans are to be the basis for planning in principle, so I am delighted by the document that I have received. In order to give the Minister a chance to reply, I beg to move this amendment.

Baroness Evans of Bowes Park: I thank the noble Lord and I will respond very briefly. We recognise that the process of getting local plans in place can sometimes seem lengthy and complicated, which is why we gave a commitment in the productivity plan to bring forward proposals to streamline them. In September last year, Ministers invited an eight-strong group of experts to examine what measures or reforms might be helpful in ensuring the efficient and effective production of local plans. As the noble Lord rightly said, that group published its report on 16 March. On that basis, I hope that the noble Lord will withdraw his amendment.

Lord Greaves: My Lords, I am happy to beg leave to do so.

Amendment 102F withdrawn.

Clause 146: Regulations under section 145: general

Amendments 102FA to 102H not moved.

Clause 146 agreed.

Clause 147: Regulations under section 145: fees and payments

Amendments 102J and 102K not moved.

Clause 147 agreed.

Clause 148: Regulations under section 145: information

Amendment 102L not moved.

Clause 148 agreed.

Clauses 149 to 151 agreed.

Motion

Moved by ***Lord Harris of Haringey***

That the House do now resume.

Lord Harris of Haringey: My Lords, the Government Chief Whip briefly appeared in the Chamber. I now see that the Leader and Deputy Leader of the House are here. I am minded to move that the House do now resume, unless we are about to get a Statement.

Viscount Younger of Leckie: My Lords, before the noble Lord, Lord Harris, continues, for the benefit of the House I should like to inform your Lordships that the Chief Whip will be making a brief Statement at 7 pm on the subject of the progress of the Bill.

Lord Harris of Haringey: I am sure that this will be helpful. It is clearly progress and we all want to get on with this. But it would be useful for the House to know what the intention of the Government is as far as the progress of this Bill is concerned. So, unless we are going to be given more information, I will again put a Motion that the House do now resume.

Viscount Younger of Leckie: It may be helpful for the noble Lord to know that is has been agreed with the usual channels to have the Statement at 7 pm.

Lord Harris of Haringey: My Lords, I am sure that that is the case, but I am not a member of the usual channels. There are Members sitting in this Committee who are interested in this Bill or in particular clauses or aspects of it. We have a right to know the intention in terms of the remaining groups on this Bill. That is why I therefore move that the House do now resume.

Baroness Williams of Trafford: My Lords, perhaps I might speak as the Minister who is on the Bill. We have spent many weeks on it. The one thing that we do not do is the job of the usual channels. With respect to the noble Lord, I ask him to respect this convention and allow the Chief Whip to make a Statement at 7 pm. In the mean time, could we please get on with this Bill because we all want to go home?

Lord Campbell-Savours: My Lords, we now have nine groups which has normally been a day's work. Are the Government expecting us to finish nine groups within the next hour or so? We need to know where we are going. Within the matter of the last few minutes we have already dropped one string of amendments to suit the House. The noble Lord, Lord Greaves, was prepared to concede one group to help expedite proceedings but we still have all these other groups left. We need a Statement before 7 pm.

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, my noble friend has been very clear. Following discussions with the usual channels, my noble friend the Chief Whip will provide an update at 7 pm. Meanwhile, we have time before us where we can make progress and continue the very good work of this House. As to the noble Lord's assessment of what progress can be made on groups in time, I remember being advised that, when his party were in government, it was quite regular for them to be making much speedier progress on groups than we have been doing lately. I would urge noble Lords to continue their very important work and see how far we can get, rather than spend any more time now talking about what may or may not happen once we get to 7 pm.

Lord Campbell-Savours: I am sorry to persist, but these are very important matters. Why does not the Leader of the House try again to get an earlier statement than one at 7 pm, because we want to know what is going to happen over the next hour?

Baroness Stowell of Beeston: I say to the noble Lord that the best thing for us to do now is just to continue with the work of the House. My noble friend the Chief Whip has been in the Chamber very recently; he is talking to his counterparts in the usual channels. What we can most usefully do in the Chamber is to do our very important work of scrutinising this legislation, debating it and making the great progress that has been made this week, to which the noble Lord has contributed, alongside many other noble Lords in this Chamber, all of whom want to continue with that work. I suggest to the noble Lord that that is what we do right now.

Lord Campbell-Savours: That might be the view of the Leader of the House, but it is not my view. The House is being unfairly treated. For those watching our proceedings from outside, we should explain that this Bill is being opposed by a large number of Members of this House on the basis that it is a skeleton Bill, which is being driven through Parliament without all the controversial areas being debated. That is why it is important that we have enough time to debate the nine or 10 remaining groups of amendments. What is happening now in this Chamber is that the Government are trying to find a way in which to secure the passage of the Bill this evening. That is what is going on. The public outside should know that it is a scandal.

Lord True: I absolve the noble Lord, Lord Campbell-Savours, because he has been present for most of the Bill, which is not true of all noble Lords who are seeking to intervene on this question. We normally do not finish until 7 pm on a Thursday. As a courtesy to all of us who have spent a long time here, can we proceed to do the business of this House, which is dealing with legislation, instead of faffing about procedure, delaying and trying to force the Bill timetable on? People who were here after midnight last night and people who have worked hard deserve the courtesy of being allowed to complete the job that we started. Let us hear the Chief Whip at 7 pm and get on with it. That is my view.

Lord Tunnicliffe (Lab): My Lords, for the convenience of the House I shall now seek, representing the opposition Chief Whip, discussions with the government Chief Whip and the noble Lord, Lord Newby, as soon as I have left the Chamber. I hope that my noble friends will allow us to continue business until that is concluded.

Lord Harris of Haringey: My Lords, if it helps the House, given the assurance from my noble friend that these discussions will take place and that we will get a report, I beg leave to withdraw my Motion that the House will be now resumed—but I may come back to it if there is no sign of progress.

Motion withdrawn.

Amendment 103

Moved by ***Lord McKenzie of Luton***

103: After Clause 151, insert the following new Clause—

"Development corporations: objects and general powers

(1) Section 136 of the Local Government, Planning and Land Act 1980 (objects and general powers) is amended as follows.

(2) After subsection (2) insert—

"(2A) Corporations under this Act must contribute to the long-term sustainable development and place making of the new community.

(2B) Under this Act sustainable development and place making means managing the use, development and protection of land and natural resources in a way which enables people and communities to provide for their legitimate social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs.

(2C) In achieving sustainable development and place making, development corporations should—

(a) positively identify suitable land for development in line with the economic, social and environmental objectives so as to improve the quality of life, wellbeing and health of people and the community;

(b) contribute to the sustainable economic development of the community;

(c) contribute to the vibrant cultural and artistic development of the community;

(d) protect and enhance the natural and historic environment;

(e) contribute to mitigation and adaptation to climate change in line with the objectives of the Climate Change Act 2008;

(f) positively promote high quality and inclusive design;

(g) ensure that decision-making is open, transparent, participative and accountable; and

(h) ensure that assets are managed for long-term interest of the community."

(3) Section 4 of the New Towns Act 1981 (the objects and general powers of development corporations) is amended as follows.

(4) For subsection (1) substitute—

"(1) The objects of a development corporation established for the purpose of a new town or garden city shall be to secure the physical laying out of infrastructure and the long-term sustainable development and place making of the new community.

(1A) Under this Act sustainable development and place making means managing the use, development and protection of land and natural resources in a way which enables people and communities to provide for their legitimate social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs.

(1B) In achieving sustainable development, development corporations should—

(a) positively identify suitable land for development in line with the economic, social and environmental objectives so as to improve the quality of life, wellbeing and health of people and the community;

(b) contribute to the sustainable economic development of the community;

(c) contribute to the vibrant cultural and artistic development of the community;

(d) protect and enhance the natural and historic environment;

(e) contribute to mitigation and adaptation to climate change in line with the objectives of the Climate Change Act 2008;

(f) positively promote high quality and inclusive design;

(g) ensure that decision-making is open, transparent, participative and accountable; and

(h) ensure that assets are managed for long-term interest of the community.""

Lord McKenzie of Luton: My Lords, I rise to speak briefly—that was the plan—to Amendment 103, tabled by my noble friends Lord Kennedy and Lord Beecham. In many ways, it picks up on a debate that we had yesterday. The amendment inserts place-making objectives for both urban development corporations in the Local Government, Planning and Land Act 1980 and for new town development corporations in the New Towns Act. It was prompted by the situation in which we find ourselves—a country with a major housing crisis—looking back to those times when it was recognised that we needed to build on a large scale if we were going to make inroads into the housing crisis. That took us back to the era of new towns. The realisation that this needs to be done is encouraging many to look back at that programme, through which Britain built 32 new towns and today provides homes for more than 2.5 million people. The creation of those new towns was made possible because of legislation that is still on the statute book today, but that does not mean it does not need to be updated. The purpose of our amendment is to ensure that the objectives of this are firmly linked to the long-term sustainability, development and place-making of the new communities. Under these amendments,

"sustainable development and place making means managing the use, development and protection of land and natural resources in a way which enables people and communities to provide for their legitimate social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs".

The amendment addresses both the Local Government, Planning and Land Act 1980 and the New Towns Act 1981. I shall not spend time going further into the detail of that as it is set down clearly in the amendment.

I note that there are two further amendments in this group, which have not yet been spoken to, about the need for proper consultation. That is also a reflection of the more modern era, and we support them. I beg to move.

6.15 pm

Lord Taylor of Goss Moor (LD): My Lords, I shall speak to Amendments 103A and 103B and in support of Amendment 103. Given the hour and the timing, I will say much less than I would have liked to on this issue, about which I feel quite passionate. I will restrain myself despite the fact that, as a Cornishman, I have already missed my last train home. A little bit of me feels that I could speak for a few hours and bring noble Lords the same pain that I already feel. I am quite grateful that the Motion to adjourn was withdrawn; at least I get the chance to speak to these amendments, having missed my train.

For some years, I have been arguing that it is extraordinarily important that we find ways to deliver the amount of housing needed and that we give local authorities new options for doing that. The principles of the new towns were abandoned in the early 1980s because housing need was basically being met by housing supply at that point and there were projections of big falls in population so there was an assumption that we did not need large new settlements to come forward. We are now in period where the number of over-65s will go from 10 million today to 19 million by 2050, while more babies were born last year than in any year since 1971. We are seeing big increases in population but we are no longer delivering the houses to meet them.

We should offer local authorities and local communities the option of creating new garden villages—settlements to meet local need—that can capture the value of land, rather than making multimillionaires of lucky landowners or lucky speculative developers, and can create fantastic places that have doctors' surgeries, schools, parks, shops and all the facilities to create a genuine community and restore our faith in ourselves that, just as our predecessors built wonderful villages and towns, we can do the same. At the moment, that is near impossible because so much value is captured in the process, so what we get are bland estates without facilities. If anyone is going to pay for those facilities, it is the taxpayer, while a few people make themselves very rich indeed.

That is why I have argued that the powers in the New Towns Act should be extended to communities, and I was delighted last week to see the Government making commitments to do that. However, if we are to do that, we need to be clear about the role of the development bodies that will do that place-making, create those fantastic places and ensure that the houses and communities are built in a timely way and at prices people can afford. If the land value has been captured, they can be affordable homes. The remit of that place-making body is critical. Amendment 103 goes to the heart of that because the existing duties are long outdated and will need bringing up to speed. We will need to be clear about that remit. Amendment 103 is a very good first amendment on that. There are other elements that can be brought to it. I hope the Minister will be able to come back with some proposals on that, given the commitments that the Government made last week.

My own amendments are about modernising the process. Let me be absolutely clear what I believe that process must be for these local scale communities.

That process must be one that is locally led. This is not something forced on communities. It is a new opportunity for communities to deal with their needs in a different way, and then protect themselves much more effectively from unwelcome development that otherwise might take place on appeal—or perforce around existing historic market towns and villages, many of which, frankly, are at bursting point and congestion point and cannot go on developing in that way.

The starting point will be the local plan process—or amendment to the local plan—and it would then go through all the normal community consultation and examination. The question is then: what is the next stage? At the moment, to bring forward a new town involves a public inquiry process, as if that local plan-making had not taken place at all, but no proper parliamentary scrutiny process, let alone any up-to-date parliamentary scrutiny. The old system quite simply is not fit for purpose.

I was going to run the Committee through what happens under the old New Towns Act and what can happen under a modern urban development corporation-type approach. I will not do that because people can do without the lecture. I was recently appointed a professor of planning and I guess the temptation is now always to lecture. I definitely will not do that. I understand that I have missed my train, but other noble Lords have not missed theirs. All I would say is that it is incredibly important to have a system that is modern and fit for purpose. The Government have made a commitment to go down this route. The Bill provides an opportunity to provide a modern, accountable, fit-for-purpose way of delivering these development bodies.

Lord Best (CB): My Lords, I intend to make myself extremely popular by not speaking to this amendment, other than to say that I am extremely supportive of the amendments in my name and that of the noble Lord, Lord Taylor of Goss Moor—and to say that my speech is available by email if anyone would like to read it later.

Lord Harris of Haringey: My Lords, I want to speak to this group of amendments because I think they are very important. Earlier on in the Committee today, I specifically raised the importance, in terms of planning, of looking at the concept of what is the community that you are trying to create—and making sure that the community is sustainable and has all the benefits you would hope for.

Over the past 20 or 30 years there has been enormous progress in understanding what makes a community work. It is not simply the number of homes. It is not simply the mix of homes. It is also what else is there. That is the place-making function. This is the content of Amendment 103, moved by my noble friend: it has focused on the series of expectations about the role that the new town development corporation—or whatever else—might use in trying to create a community.

The issue is not simply identifying the possibilities for development and putting up more new homes. That would be the route to some of the urban disasters that we have seen over the past 30 or 40 years. It is about creating a place. It is about creating an environment in which people can live and have a sense of community. The content contained in the amendment refers specifically to the vibrant cultural and artistic development of the community. It talks about protecting the natural and historic environment and the importance of high quality and inclusive design. This is about creating places in which people actually want to live. That should be fundamental to the whole planning process, and writing those into the legislation—the Local Government, Planning and Land Act, and the New Towns Act 1981—is exactly the right way forward for the Bill. However, my concern is that they have not been included in the Bill up to now. I hope that the Minister—she is now nodding, so perhaps that is a good sign—will be able to tell us that the Government accept the principles behind my noble friend's amendment.

On the point that has just been made by the noble Lord, Lord Taylor, about the importance of consulting and involving communities, communities live and thrive only if they have the support of the people who are going to live there. That is why consultation and involvement in that process are such a critical part of making sure that those communities and places are indeed viable. That is my understanding of the intention of these amendments, and I hope that the Minister is going to tell us that the Government wholeheartedly embrace that and are going to accept them.

Baroness Evans of Bowes Park: My Lords, the amendments are indeed very timely. On Amendment 103, I say at the outset that I wholeheartedly endorse the importance of creating sustainable, well-designed places and I agree that, as the Budget announcement makes clear, statutory delivery vehicles can have an important role to play in achieving that. However, I echo what my honourable friend from the other place said: I am wary of creating new definitions and prescribing a long list of objectives for new town development corporations and urban development corporations, however worthy those objectives are in principle.

The NPPF already provides a clear view of what sustainable development means in practice, and to a very large extent it incorporates the objectives set out in the amendment. However, I accept that there is a case for change, and I am happy to look further at the objectives of the new town development corporations and how they could be extended, with a view to introducing an amendment that reflects this debate on Report. I hope that in light of this undertaking the noble Lord, Lord McKenzie, on behalf of his colleagues, will withdraw his amendment.

I am grateful to the noble Lords, Lord Best and Lord Taylor, for Amendments 103A and 103B. The Government are committed to updating the New Towns Act 1981 so that we can better support local areas that want to bring forward new garden towns and villages. I emphasise that our focus is on locally led new garden towns and villages, and we will back proposals that have been developed locally with local support. We will absolutely not impose new towns and villages on communities.

The amendments set out one of the key changes that need to be made to the New Towns Act 1981, which is sound in its fundamentals but is showing its age. I am supportive of a modernised process that is consistent across both types of delivery vehicle, and

[Baroness Evans of Bowes Park]
therefore ask noble Lords not to move these amendments with a view to the Government producing similar amendments, which we will table on Report. I hope that I have reassured noble Lords.

Lord McKenzie of Luton: My Lords, I am grateful to the noble Lords, Lord Taylor and Lord Best, and my noble friend Lord Harris for their support for these amendments. I am particularly grateful to the Minister for the commitment that even though she is not able to accept the amendments in the terms in which they appear on the Marshalled List, there will be consideration and some government amendments moved on Report. Between now and the time when those amendments are to be tabled, we would welcome an opportunity for discussion about the content, and I am sure that the noble Lord, Lord Taylor, would like to be involved in that as well.

Lord Taylor of Goss Moor: Obviously I will not seek to press these amendments but I very much welcome what the Minister said. I would have liked to have spoken at great length about how much I welcome what is clearly a cross-party consensus on moving forward on this basis. It has the potential to provide a huge and new opportunity for local communities to deliver fantastic places, not just fantastic homes that people can afford.

Lord McKenzie of Luton: I beg leave to withdraw the amendment.

Amendment 103 withdrawn.

Amendments 103A to 103BA not moved.

Clauses 152 to 159 agreed.

Schedule 14 agreed.

Clauses 160 to 163 agreed.

Schedule 15 agreed.

Clause 164 agreed.

Clause 165: Extended notice period for taking possession following notice to treat

Amendment 103BAA not moved.

Clause 165 agreed.

Clauses 166 to 169 agreed.

Schedule 16 agreed.

Clause 170 agreed.

6.30 pm

Amendment 103BB not moved.

Clauses 171 and 172 agreed.

Clause 173: Power to make and timing of advance payment

Amendment 103BC not moved.

Clause 173 agreed.

Clause 174: Interest on advance payments of compensation

Amendments 103BD and 103BE not moved.

Clause 174 agreed.

Clause 175 agreed.

Amendment 103BF not moved.

Clause 176 agreed.

Schedule 17: Objection to division of land following notice to treat

Amendments 103BG and 103BH not moved.

Schedule 17 agreed.

Schedule 18 agreed,

Clauses 177 and 178 agreed.

Clause 179: Power to override easements and other rights

Amendment 103C

Moved by ***Baroness Parminter***

103C: Clause 179, page 93, line 21, at end insert—

"( ) a right, easement, restrictive covenant, covenant, liberty or privilege in respect of land belonging to the National Trust for Places of Historic Interest or Natural Beauty ("the Trust") which is held inalienably, within the meaning of section 18(3) of the Acquisition of Land Act 1981 (National Trust land held inalienably), or

( ) a restrictive covenant held by the Trust, within the meaning of section 8 of the National Trust Act 1937 (power to enter into agreements restricting use of land)."

Baroness Parminter (LD): My Lords, in the absence of the noble Baroness, Lady Andrews, who has a long-standing engagement in Cardiff, I rise briefly to move this amendment. The Government have said that the clauses are intended to aid regeneration projects on brownfield sites through allowing covenants, easements and other rights to be overridden more easily by public bodies. However, the clause would also affect covenants and rights held by the National Trust to conserve some of our most special and valued places for everyone to enjoy. I declare an interest as a member of that august organisation, as I am sure are many Members around this House.

Typically, these covenants and rights apply to land surrounding National Trust-owned land, to buildings or land not owned by the trust but which have historical significance, or to beautiful or wildlife-rich landscape worthy of protection. Crucially, the rights held by statutory undertakers such as utility companies and Network Rail are already sensibly protected from the scope of the clause, because of the important public benefit that these rights give. I contend that National Trust covenants and other rights give comparable public benefits, and this should be recognised in a similar way. I hope this is an unintentional oversight by the Government and that they will see it as a helpful amendment and will accept it. I beg to move.

Baroness Williams of Trafford: My Lords, I thank the noble Baroness, Lady Parminter, for raising this very important issue in the context of Clause 179. As the noble Baroness set out, Amendment 103C would reflect the special protection accorded to land held inalienably by the National Trust in compulsory purchase legislation. The Government are sympathetic to the thrust of the argument that the power in Clause 179 to override easements and restrictive covenants when carrying out works on, or using land acquired by, a body with compulsory purchase powers could have an adverse effect on rights benefiting the trust's inalienable land. The Government have also noted the concern that it may impact on other land over which the trust has covenants under Section 8 of the National Trust Act 1937. As the noble Baroness has pointed out, to avoid such a possibility, consideration should be given to the trust being accorded a similar exemption to that in Clause 179(8) for the rights of statutory undertakers. Doing so would safeguard the trust's covenants, easements and other ancillary rights so that the trust's management and our enjoyment of the trust's land and properties were not compromised. The Government will therefore consider this matter very carefully. With that in mind, perhaps the noble Baroness will be content to withdraw the amendment.

Baroness Parminter: I thank the Minister most warmly for those very encouraging words. I shall obviously discuss the matter with the noble Baroness, Lady Andrews, over the recess, but, being mindful of the time, I beg leave to withdraw the amendment.

Amendment 103C withdrawn.

Clause 179 agreed.

Amendment 104

Moved by ***Lord Skelmersdale***

104: After Clause 179, insert the following new Clause—

"Presumed diversion or extinguishment of footpaths or bridleways which pass through the curtilage of residential dwellings

(1) Where a footpath, bridleway or byway passes through the curtilage of a residential dwelling, including the gardens and driveways of the premises, the council shall make, and the Secretary of State shall confirm, either—

(a) a public path diversion order, or

(b) a public path extinguishment order,

unless—

(a) the Secretary of State or the Council are satisfied that the privacy, safety and security of the premises are not adversely affected by the existence or use of the footpath, bridleway or byway,

(b) the premises have been unlawfully extended to encompass the footpath, bridleway or byway,

(c) where a public path extinguishment order is considered, it would be possible instead to divert the footpath or bridleway or restricted byway such that the privacy, safety and security of the premises are not adversely affected by its use, or

(d) where a public path extinguishment order is considered, the footpath or bridleway or restricted byway provides access to a vital local service or amenity not otherwise reasonably accessible.

(2) In this section—

"public path diversion order",

"public path extinguishment order",

"footpath",

"bridleway", and

"restricted byway"

have the same meaning as in the Highways Act 1980."

Lord Skelmersdale (Con): My Lords, after the last half hour, it goes without saying that we have had a long and exhaustive debate on the Bill, so I shall keep my remarks to an absolute minimum, especially as we now turn from the purely built environment, with which the Bill is chiefly concerned, to a few of the people who live in that environment and the problems that footpaths can cause them.

A tiny fraction of a percentage of the 140,000 miles of public rights of way go through the gardens of private family homes. Unfortunately, once they are recorded on the designated footpath map, it is as though they are set in concrete, and they will of course be at the cut-off point in 2026. Even where councils make a mistake, it seems impossible to change their mind. I know of one case where the council confirmed a footpath going straight through a home owner's sitting room, subsequently saying that it could not correct its admitted error. That is a clear nonsense.

When a footpath goes through a garden, however—which is my reason for putting down this amendment—it does not take much imagination to appreciate that this can cause immense hardship for the owners of the property, effectively causing the loss of the normal use of the garden. I know of at least 25 such cases. Would any of your Lordships be comfortable if your children or grandchildren, or indeed pets, were to be left alone in such a garden? Nor is it beyond the wit of a nefarious character to peer into windows to see whether a house is worth burgling. So there are obvious security, safety and privacy issues. Homes whose owners have spent a lifetime paying off the mortgage can become unsaleable and the owner trapped.

Many of these paths are little used and most of the general public have no wish to go through a family garden. However, local government is required by statute to keep these paths open, in some cases even requiring home owners to remove the gates to their gardens. There are examples of bankruptcy, breakdowns and even suicide, and these will become more frequent as the population grows. This cannot be in the public interest and, to my mind anyway, is against the spirit of Article 8 of the Human Rights Act.

[LORD SKELMERSDALE]

The last Government, in last year's Deregulation Act, pledged to create a presumption in favour of diverting or extinguishing such paths. That is a principle established in, for example, the Land Reform (Scotland) Act 2003, but this goes way over the top. In agreement with the stakeholder working group, Defra is to produce guidance to local authorities on the subject. A small group of affected people belonging to the Intrusive Footpaths campaign has had meetings with Defra and much time has been invested by all parties in trying to improve this guidance. It strikes me as odd, to say the least, that the stakeholder group the Government consulted apparently also has to approve the guidance, and rumour has it that this guidance is to be less forceful than the original working group agreement. I ask the Minister whether that is true. Whether it is or not, it is the opinion of at least three independent specialist rights of way lawyers that it is a matter of legal fact that, no matter what is in the guidance, it will in most cases be rendered ineffective by existing statutory tests, which are to be found in the Highways Act 1980. Guidance cannot override statute and as such cannot on its own deliver the Government's declared policy objective. To make matters worse, this guidance is not even statutory, which it certainly should be, overriding such existing law that gets in the way of reducing this undoubted problem.

My amendment, however, goes much further than this. It calls for local councils, backed up by the Secretary of State, automatically to extinguish footpaths or divert them to the curtilage of domestic properties, unless they are satisfied that privacy, safety and security, which are the important points, are not affected by the existence of a footpath, bridleway or byway. Whether this amendment is acceptable or not—and I strongly suspect that it is not—a statutory footing for the Government's policy is essential. I beg to move.

Lord Greaves: My Lords, I declare my interest as the vice-president of the Open Spaces Society, as well as my other outdoor activity interests, which are in the register.

This amendment is a sledgehammer to crack a nut. The noble Lord makes it sound as though the countryside of England is a nightmare. This is absolutely not true. There are perfectly workable procedures for dealing with the kinds of circumstance described by the noble Lord, Lord Skelmersdale. In particular, Defra has found a mechanism through the stakeholder working group, which represents people from all parts of the countryside, from recreation to landowners and other users. This is a mechanism by which changes in the law take place by agreement and consensus. It has been extremely successful, has worked very well and continues to do so. To drive a coach and horses through that at this or at any stage would be very unwise. I hope that the Minister will explain that, apart from anything else, the amendment really does not belong in this Bill.

Baroness Byford (Con): My Lords, this amendment has my name attached to it. My noble friend has gone into the detail of it, so I will not repeat that. The noble Lord, Lord Greaves, knows that we had quite a long discussion on this issue in considering the Deregulation Act. While he said that on the whole people do not abuse it, trouble is still being caused. He may say that this is not applicable in this Bill, but I think that it is. I shall be referring later to towns and cities as well, so I hope that he will stay with me and forbear my support of this.

It was said at that time by the Open Spaces Society:

"We consider that the discretionary power of moving paths should have low priority and we advocate that councils refuse to consider a path change unless there is a clear public benefit. Otherwise they are using their slim resources on a mere power, to the advantage of owners and occupiers rather than the public, instead of on the duty which benefits everyone".

This is a very difficult situation. I do not think that the amendment is a sledgehammer to crack a nut. Clearly there are families who are finding this extremely difficult. It was suggested that the working group would get together and that that difficulty would be resolved, and clearly that has not happened. I support my noble friend in raising the issue today.

I move on to a concern—I have given the Minister notice of it—that has been raised with me on existing public paths, as they are, in cities and towns. Public paths that were incorporated into building developments in the 20th century were often acknowledged and placed on a definitive map as part of the planning process. In towns and cities, however, the Edwardian and Victorian developments often included paths to enable easy foot passages from one place to another. The land over which they pass may still belong to the estate upon which the development was constructed, or may have been sold to individual householders, or acquired by the local authority.

The reason that I raise this today is to make sure that, in the enormously important work that we are doing with the Bill, there will not be reflection later on something that we should have spotted at the time. As I said, I have given the Minister notice and it was obvious to me that the issue raised by my noble friend Lord Skelmersdale has not been resolved. I want to ensure that we do not walk into another difficult situation.

6.45 pm

Lord McKenzie of Luton (Lab): My Lords, like the noble Lord, Lord Greaves, we have concerns with the amendment. The Countryside and Rights of Way Act 2000 was one of the most successful and supported pieces of legislation in this area of policy—although not always in your Lordships' House. It strengthened and consolidated the aims of Labour's original National Parks and Access to the Countryside Act 1949. Since then, the most recent Labour Government introduced the Marine and Coastal Access Act 2009, extending the right further.

We on these Benches are concerned that the amendment would unpick the agreement of the Natural England stakeholder working group which, as we have heard, brings together users, landowners, local authorities, ramblers and the Country Land and Business Association. I urge the noble Lord, if he wants further proposals to be brought forward, to work with the stakeholder working group to deliver a consensus on them.

I might also ask why the noble Lord feels the measure necessary when, as I understand it, there are already powers that permit landowners to apply to a local authority to make changes to such footpaths. A presumption in favour of a diversion would take

power away from local authorities and reduce the ability of communities to have a say. I am not sure that that is in accordance with the Government's localism agenda, although that is a bit thin these days. Local communities, through their local councils, should be able to shape their local area. We should support the rights of all to access the countryside and maintain existing rights of way, especially as the local countryside offers our citizens benefits in terms of health, exercise and mental well-being.

Baroness Williams of Trafford: I applaud my noble friend Lord Skelmersdale's efforts to help those who face problems with a public right of way that passes through their farm or garden. He will know through his contact with Ministers in Defra that the Government have considerable sympathy for those people who face these issues and who may feel that the system has let them down. Where these cases occur, people may experience acute problems: my noble friend has cited some examples, and I can think of others. Although the numbers are comparatively few, and we should ensure that any changes we make to legislation are proportionate to the extent of the problem, nevertheless, the Government are determined to help by putting in place a remedy.

Noble Lords may recall the passage of a suite of measures in the Deregulation Act 2015 which aimed to reform the system of recording and diverting public rights of way, to which my noble friend referred. The Government are now in the process of implementing these measures, which will come into effect later this year. We believe that the combined effect of these measures, which received cross-party support in both Houses, will make a significant difference, and that we should not legislate further before seeing how they work out in practice. A package of measures such as that, which is being implemented through agreement among stakeholders, is far more likely to prove successful in practice.

There is clear agreement among the stakeholders on the working group that developed the package of reform that the major difficulty for landowners is in getting local authorities to make a diversion or extinguishment order in the first place. Our plans to implement the right to apply for such orders will overcome this. The right to apply will enable a landowner to make a formal application for the diversion or extinguishment of a public right of way. With that will come the right to appeal to the Secretary of State if the authority rejects the application or fails to act on it. Therefore, local authorities will no longer be able to ignore requests or dismiss them out of hand. They will be obliged either to make an order or to be prepared to justify their reasons for not doing so on appeal to the Secretary of State.

The provisions in the Deregulation Act allow the right to apply to be extended to land-use types other than agriculture, forestry and the keeping of horses—for example, private residential gardens. The right to apply will be supplemented by guidance that will effectively act as a presumption to divert or extinguish public rights of way that pass through the gardens of family homes, working farmyards or commercial premises where privacy, safety or security are a problem.

The noble Lord references guidance and I will come back to that in a moment. A further hurdle is to get an order confirmed. However, according to the Ramblers, which keeps accurate records of these matters, of the 1,257 diversion orders which have reached a conclusion in the past three years, 94% did not attract any objections. Of the 6% that did, less than 1% were not confirmed following submission to the Secretary of State. The guidance will give authorities more scope to confirm orders made in the interests of the landowner in circumstances where a right of way may cause hardship because it goes through the garden of a family home, a working farmyard or other commercial premises.

There is no intention to water down the guidance, which was deposited in the House Library during the passage of the Deregulation Act. Defra officials continue to work with the stakeholder working group and the Intrusive Footpaths Campaign to finalise the drafting. We believe that the combined effect of the right to apply and the guidance will have the desired effect and we should not rush to legislate further before seeing how these measures work in practice. Moreover, under the right-to-apply provisions, the Defra Secretary of State will be the confirming authority for all disputed orders.

I am happy to reaffirm the commitment made by the previous Government that we will review, within two years of implementation of the reforms package, how effective the right-to-apply provisions and the accompanying guidance have proved to be. The review will send a message to authorities that the Government are determined that the new policy should work and that if guidance does not bring about sufficient changes, we will consider the introduction of further measures.

The amendment, which was also spoken to by my noble friend Lady Byford, is also concerned with public rights of way. However, she refers to urban routes in current use which are not recorded on the legal record of public rights of way, the definitive map and statement. The amendment would reduce the work of local authorities by removing a whole class of routes from the work to update the record.

I referred earlier to the package of measures in the Deregulation Act 2015 concerned with improving the processes for diverting, extinguishing and recording public rights of way. I also mentioned that the Government are working closely with the stakeholder working group which developed the original package of measures.

The secondary legislation will include regulations made under Section 54(1) of the Countryside and Rights of Way Act 2000—mentioned by the noble Lord, Lord McKenzie—which allows the Secretary of State to specify descriptions of unrecorded routes which will not be extinguished in 2026. The working group and the Government are mindful of the need to consider urban as well as rural. We think that no further primary provisions are required to achieve the outcome sought by my noble friend. With these assurances, I hope that my noble friend will be persuaded to withdraw the amendment.

Lord Skelmersdale: My Lords, I am very grateful to my noble friend Lady Byford for staying so late, I believe at the expense of her dog. Be that as it may,

[LORD SKELMERSDALE]

I was surprised to be maligned by the noble Lord, Lord Greaves, who called my amendment a sledgehammer to crack a nut. I was surprised because I admitted that I know of very few people who are affected by this problem. However, I remind the noble Lord of a dictum of my late noble friend Margaret Thatcher, who said:

"We are not in politics to ignore people's worries. We are in politics to deal with them".

I fully accept that the Minister believes that the problem has been dealt with and the solution in the Deregulation Act will solve it. I am absolutely convinced it will not, so I was delighted to hear that the Government are prepared to give it a chance of two years and then decide whether I am right or the Minister is right. On that basis, I beg leave to withdraw the amendment.

Amendment 104 withdrawn.

Clauses 180 to 182 agreed.

Schedule 19 agreed.

Lord Harris of Haringey: My Lords, I see the Chief Whip hovering and unless he is coming to the Dispatch Box now, I will beg to move that the House do now resume.

Lord Taylor of Holbeach (Con): My Lords, I have had discussions in the usual channels, and we are going to be able to make quite a considerable amount of headway very quickly indeed. If noble Lords will bear with me, I said I would make a statement at 7 pm or thereabouts. I am willing to do so, but I know that the next group of amendments to be debated will be brief. I am also assured that the subsequent group will not be moved. There are then two groups of government amendments. I have agreed with those who have tabled the last group of amendments—which we will not reach—that they can be brought back on Report and debated under Committee rules. That is a practical solution, and I hope that noble Lords will agree it is a sensible way forward.

Lord Campbell-Savours: Does bringing the amendments back on Report and debating them under Committee rules mean we will have the opportunity to debate those particular amendments on two separate occasions prior to Third Reading? Is that what it means or are we simply absorbing the amendments that are due to be moved into Report? That is not what I understand has been agreed.

Lord Taylor of Holbeach: I am sorry, but I do not think that the noble Lord understands exactly what I am saying. I would be grateful if we would allow business to continue. We do not normally close until 7 pm, and it is not 7 pm.

Baroness Young of Old Scone: My Lords, I have my name on one of the last two amendments and seek clarification from the Government Chief Whip. If it is being proposed that our amendment will take place on a Committee basis on the first day the Bill is dealt with when we return, and that we will then move to Report stage and have a chance at the end of it to re-debate that amendment if we choose to bring it forward at that point, having had the benefit of the Minister's response, fair enough. But if we are simply saying that when we get to the relevant point in the Bill on Report, Committee rules will apply, I am afraid I cannot personally undertake not to put forward the amendment.

Lord Taylor of Holbeach: I will be very happy if we resolve all these amendments this evening, but it has been suggested that we will not do so because of the pressure on time. It is up to the House to decide how it deals with this matter, but I hope that noble Lords will take my advice. There is very little left to do on this Bill in Committee—please let us continue.

Lord Campbell-Savours: I am sorry, but it has now been explained that we will have only one opportunity prior to Third Reading to discuss these particular amendments under the proposal made by the Chief Whip.

Lord Taylor of Holbeach: No, that was my first option because I understood that noble Lords were very keen to go away and not debate the issue. I would be very happy if noble Lords wanted to debate this. The noble Lord, Lord Krebs, and the noble Baronesses, Lady Parminter and Lady Young, are here, and I am very happy that we should do that. The House has to sit until Royal Assent is given to two Bills that have arrived from the Commons, so there is no question about time—we will be here. It is a question of whether noble Lords wish to deal with the business that is before us.

Lord Campbell-Savours: We sat here until after midnight on Monday. The public outside should know that we sat here until after midnight on Monday and after midnight last night. The Chief Whip now proposes that we should sit here longer than we should sit here. It is all right dealing with this other business, but the fact is that there is not enough time to complete the Bill under normal Committee arrangements. The Government are ramming the Bill through. It is wrong and we object.

7 pm

Lord Newby (LD): My Lords, I have been a cause of trouble on the Bill, in that I was very keen that we finished exactly at 7 pm. That seems to me now to be ridiculous. Everybody wants to finish at 7 pm. In the last hour we have wasted a quarter of an hour arguing about whether we finish at 7 pm or 7.15 pm. My very strong view is that we should now continue to the end of the Bill, which we will do very shortly.

Lord Harris of Haringey: My Lords, I think I have moved that the House do now resume. Can I just clarify before I decide whether to press that to a vote whether we have now heard the Chief Whip's Statement or whether he intends to make his Statement at the conclusion of the next group? Have we now got a procedure for going forward or has he now amended it?

Lord Taylor of Holbeach: I urge the noble Lord not to press his proposal that the House do now resume so that the Committee can continue with the business on which it has embarked and on which it is determined. I am very pleased to have the support of my noble friend Lord Newby. I believe that I have the support of the majority of the Members of the Committee. Therefore, my view is that we should do our business.

Clause 183: Engagement with public authorities in relation to proposals to dispose of land

Amendment 105

Moved by ***Lord Tope***

105: Clause 183, page 95, line 15, after "authority" insert "outside Greater London"

Lord Tope (LD): My Lords, in moving Amendment 105 I will speak very briefly to Amendments 106 to 118. I am very grateful that so many Conservative Peers have come in to hear what I have to say. I am afraid that I will disappoint them because I will be extremely brief. I have had what I hope was a very helpful meeting with the noble Lord, Lord Bridges, from the Cabinet Office, who is making his first attendance at this Committee. Why he has waited for nine Committee days to come to experience it, he must now be wondering.

I was going to explain all these amendments rather more fully. Clearly, that is neither necessary nor desired at this moment. Very briefly, the amendments would, in summary, give the Mayor of London and the mayors of combined authorities—that is very important—the right of first refusal on surplus public sector land that comes up for sale in their area. They would give the Mayor of London and the combined authorities further power to direct public bodies in their area on the disposal of surplus public sector land. They would include the Greater London Authority as a public authority in Clause 183, ensuring that Ministers must engage with the Mayor of London on the disposal of their interest in any land in the capital. They would allow for regulations to be issued to ensure that other public bodies looking to dispose of their interest in land in London must engage with the mayor and allow the mayor to issue guidance around the engagement. Finally, they would allow for regulations to ensure that reports on surplus land holdings by public bodies can be provided to the Mayor of London and mayors of combined authorities with land commissions.

As I said just now, I had a very helpful meeting with the noble Lord, Lord Bridges. I am delighted to see that he is here and has sat patiently through the last hour of our proceedings. I now wait to hear, briefly, that he accepts my amendments. I beg to move.

Baroness Valentine (CB): My Lords, I support the noble Lord, Lord Tope. Making better use of surplus public land represents one of the best and quickest ways of getting homes built and thus meeting the Government's targets.

Lord True: My Lords, I will not give the House a heart attack, but would the noble Lord consider before Report that surplus land in London might also go to boroughs, as well as to the mayor?

Lord Harris of Haringey: My Lords, I know that the noble Lord, Lord Tope, will be surprised at this, but I support his amendment. If you believe in the concept of a strong mayor—whether a strong Mayor of London or a strong mayor in combined authorities—what is proposed in these amendments is absolutely right. If you believe in a localist agenda, which I understand that the Government purport to do, this is the right approach. This should be how decisions about surplus land should be made.

On the basis of the comments I have made during the course of today's Committee, it is important that there is the opportunity for people to make places. The people best placed to do that in this instance will be the mayors; the Mayor of London and the mayors of combined authorities. This is an opportunity. If it is the case—and I believe that my interventions in the last hour perhaps helped facilitate the discussions that may have led to an agreement—that the Government are going to accept the principles behind this, then I, for one, will be delighted.

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords, I, too, will try to be relatively brief. It is very good to be here at last; good things come to those who wait. The noble Lord has just raised some important points about these amendments. Let me turn directly to Clause 183, which requires Ministers of the Crown, in developing proposals for the disposal of their interests in land, to engage on an ongoing basis with each local authority in whose area the land is situated and other public authorities specified in regulations.

Clause 183 was inspired by local authorities which have experienced varying levels of engagement from central government, ranging from excellent to none at all. The aim is to ensure consistency in the way the Government engage with them. Amendments 105 to 109 would undo that common approach by making separate provision for the way authorities in London engage with each other. Amendment 108 could create particular confusion by requiring authorities in London to have regard to two sets of guidance, one published by the Secretary of State and the other by the mayor.

Turning briefly to Amendment 106, Clause 183 provides for the Minister for the Cabinet Office to issue statutory guidance on how the duty to engage is to be complied with. The clause is framed in this way to allow for flexibility. The duty to engage is new and we want to be able to monitor how it works in practice so that the detailed requirements can be fine-tuned if necessary. However, I agree that the regulations and guidance will need to take account of the role of the mayor in London. The mayor has a fundamental role in housing, planning and regeneration in London and has wide powers to acquire land, including by compulsion, and to develop or dispose of land as appropriate to a given scheme. Noble Lords will know much about that.

[Lord Bridges of Headley]

In view of that important role, I can reassure the noble Lord and the noble Baroness that we will specify the Mayor of London in regulations made under this clause, so that Ministers and public bodies, when developing proposals for the disposal of land in London, will need to engage with the Mayor of London.

Clause 184 is a transparency measure. It aims to incentivise bodies to release land in a timely manner, and where they have good reasons for not doing so, ensures that these are made transparent. Reports are not intended to be provided to a particular body, but made available publicly so that bodies can be held to account in respect of their use of surplus land. Reports will be readily accessible by the Mayor of London and there is no need for the express provision sought by Amendment 110. However, it will be important to ensure that the mayor is made aware of any reports under Clause 184 which include land in London. We will therefore undertake to consult the mayor when drawing up regulations under subsection (9) to ensure that the mayor's views on how they should be published are taken into account.

Turning to mayoral combined authorities, I am unconvinced that the amendment would be helpful, as it would add to bureaucracy and reduce efficiency by requiring authorities to provide information to the mayoral combined authority or requiring the mayoral combined authority to request information from local authorities in its area. Individual local authorities will take decisions as to which land is surplus and will have this information readily to hand. Requiring individual authorities to report is the simplest and most straightforward approach.

Amendments 112 and 113 would insert two new, almost identical clauses which would prevent a relevant public body from disposing of any surplus land without first giving a mayoral combined authority, or the Mayor of London respectively, the right of first refusal to acquire that property, either at best consideration or at a sum that is less than best consideration by consent of the Secretary of State. Here, I point out that the mayor already has significant powers in relation to land. The mayor can acquire land, including compulsorily with the consent of the Secretary of State, and can develop and dispose of land and property. Where large, strategic opportunities arise, the mayor is empowered to designate a mayoral development area, which then triggers the establishment of a mayoral development corporation. For smaller opportunities, the London Land Commission has been established to play a strategic role in brokering agreements between land-owning bodies and government departments to facilitate development.

I am concerned that the amendments would add time and complexity to the disposal process without guaranteeing the best disposal routes. While there will be instances in which the mayoral combined authority or Mayor of London will be an appropriate disposal route for sites, they will not always be so. Schemes such as large urban extensions or garden cities require authorities to work with a number of developers and other partners, often over a number of years. In such instances it would not be appropriate for authorities to offer land to a mayoral combined authority or the Mayor of London, or for the mayoral combined authority or Mayor of London to dictate what the disposal route should be. Moreover, the proposed process would add considerable time and complexity to the disposal process.

Amendments 114 and 115 would amend Clause 185 to devolve the power to order disposal to the Mayor of London for relevant public authorities in Greater London. The bodies to which the power applies are not limited to local authorities but include a range of authorities with public functions, which span the whole country. How authorities with a national focus use their land must be judged in the wider context, taking account of their strategic need for land now and in the future. It would be inappropriate for the Mayor of London, with functions concentrated within the boundaries of Greater London, to make a judgment on whether a given piece of land within London is surplus to requirements. Devolving the power could risk undermining the ability of such bodies to carry out their functions properly. Government Ministers have the strategic overview necessary to identify where local directions to dispose of land may have a broader impact nationally.

Finally, Clause 183 already provides for regulations to be made setting out how relevant public authorities should engage with other relevant public authorities when taking forward plans to dispose of land. Clause 184 would require authorities to publish details of land that has been declared surplus for two years or more, or six months in the case of residential land. The Government are also consulting on updating the transparency code to require local authorities to record details of their land and property assets on the Government's electronic property information management system. Given these new measures, which will improve engagement and increase transparency, it is unclear what Amendments 117 and 118 would add.

I hope I have dealt in some detail with some of the points raised by the noble Lord and noble Baroness, that I have been able to give some reassurance in the area in which it was sought, and that the noble Lord, Lord Tope, will feel able to withdraw his amendment.

Lord Harris of Haringey: My Lords, before the noble Lord, Lord Tope, decides whether or not to withdraw his amendment, can we have a little more clarity as to why the Government believe that Amendments 112 and 113 would add significantly to the time taken to dispose of assets? This is simply giving the Mayor of London or the mayor of a combined authority an opportunity to consider whether to acquire or to refuse to acquire, whereas the route that the Minister described required the creation of a mayoral development corporation. That seems to be a much longer, more drawn-out process than the one in the amendment of the noble Lord, Lord Tope.

Lord Bridges of Headley: I would be happy to discuss this with the noble Lord privately to explain our views. We believe it would add unnecessary bureaucracy, time and complexity, but I am happy to discuss this further with him.

Lord Tope: My Lords, I am very grateful to the noble Baroness, Lady Valentine, for coming in to demonstrate her support and having to do that so very

briefly under these circumstances. I am also grateful to the noble Lord, Lord Harris of Haringey, for his support. It is not quite as unusual as he seemed to think. There have been many occasions over the years when that has happened. I also thank him for raising the point he did just now. Finally, my colleague, the noble Lord, Lord True, sent me the message very clearly although very briefly, and I take his point.

This is clearly not the time to pursue this further. It is clearly not the time to test the opinion of the House. Therefore, I beg leave to withdraw the amendment. In doing so, I ask the Minister, if he is to have a further meeting, to include those who spoke to this amendment.

Amendment 105 withdrawn.

Amendments 106 to 109 not moved.

Debate on whether Clause 183 should stand part of the Bill.

Lord Carrington of Fulham: My Lords, before we proceed, I have a question on Amendment 183. I do not intend to delay the House very long. The Corporation of London has a specific problem with Clauses 183 and 184. The Corporation is very much a hybrid body, in that it is both a local authority and a corporation under the corporation Acts. It is unclear, in these clauses, whether it is covered in its private capacity as well as in its public capacity. I would like reassurance that that will be covered in the regulations.

Lord Bridges of Headley: My Lords, I sense that an answer is winging its way to me. I am aware of these concerns, and we will specify its functions as a local authority. I will meet the noble Lord to discuss this issue, but we are very alert to it and will address it.

Clause 183 agreed.

7.15 pm

Clause 184: Duty of public authorities to prepare report of surplus land holdings

Amendment 109A

Moved by ***Lord Bridges of Headley***

109A: Clause 184, page 96, line 33, after "means" insert "—

( ) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975), or"

Lord Bridges of Headley: My Lords, I beg to move this amendment in the name of my noble friend Lady Williams. This is a minor technical government amendment. It corrects the drafting of Clause 184 to give proper effect to the intention that the duty on a Minister of the Crown to report on his or her surplus land holdings should apply to all their surplus land, regardless of whether it lies in England, Wales or Scotland.

The current drafting of Clause 184 does not achieve this in respect of Scotland, as a result of the interaction of this clause and paragraph 3 of Part III of Schedule 5 to the Scotland Act. An example of the sort of land that should be covered by the duty to engage is the former Army headquarters site at Craigiehall near Edinburgh, which the Ministry of Defence announced in January was being released for new homes. The intention was, and is, to cover all reserved matters that are the responsibility of Ministers of the Crown. This amendment achieves that aim. I beg to move.

Amendment 109A agreed.

Amendments 110 and 111 not moved.

Clause 184, as amended, agreed.

Amendments 112 and 113 not moved.

Clause 185: Power to direct bodies to dispose of land

Amendments 114 to 116 not moved.

Clause 185 agreed.

Amendments 117 and 118 not moved.

Clause 186 agreed.

Schedule 20 agreed.

Clauses 187 to 191 agreed.

Clause 192: Commencement

Amendment 118A

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

118A: Clause 192, page 100, line 27, after "135," insert "137,"

Baroness Williams of Trafford: My Lords, I propose to make a minor change to Clause 192, through Amendments 118A and 118B, to enable the power to make regulations in Clause 137 on registers of land to come into force on Royal Assent, rather than two months after Royal Assent. This is a technical amendment that does not alter Clause 137 itself. It means that the power to make implementing regulations could be used sooner after Royal Assent, but the regulations themselves will not come into force until at least two months after Royal Assent. There is no question of local authorities being taken by surprise or being rushed as a consequence of these amendments.

The requirement to hold a register of brownfield sites suitable for housing is linked to our commitment to require local authorities to have registers of what is available, and to ensure that 90% of brownfield sites suitable for housing have planning permission in place by 2020. It makes sense for local authorities to have the tools in place to help them meet this deadline as soon as practicable, and to help them get their registers in place. I beg to move.

Lord Greaves: I think that 70 local authorities are taking part in the pilot scheme. I should declare that one of them is my local authority. Will these regulations apply to that pilot scheme, once they come in, or is that separate?

Baroness Williams of Trafford: My Lords, the regulations will apply to the pilot schemes.

Amendment 118A agreed.

Amendment 118B

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

118B: Clause 192, page 100, line 32, leave out ", 137"

Amendment 118B agreed.

Amendment 119

Moved by ***Baroness Parminter***

119: Clause 192, page 100, line 34, at end insert ", subject to subsection (3A).

(3A) The Secretary of State may not make regulations appointing the days on which any provision of Part 1 or Part 6 of this Act comes into force unless he or she has first made provision bringing into force section 32 of the Flood and Water Management Act 2010 (sustainable drainage)."

Baroness Parminter (LD): My Lords, I am grateful that we have the opportunity to discuss these amendments this evening. While my name is to both of them, I shall speak only to Amendment 119.

The Government have rightly launched a national flood resilience review, which is due to report in the summer, but that review will come too late if the Bill paves the way for 1 million new homes without due regard for their flood resilience. New homes increase flood risks for developments and for surrounding communities. Concreting over a catchment speeds up run-off, increasing the likelihood of flooding. After the 2007 floods, the flooding review by Sir Michael Pitt recommended sustainable drainage as a way forward, which moved the Government to bring forward the Flood and Water Management Act. It was suggested in the Act that there should be further use of SuDS, with soakaways such as swales, ponds and other natural means to ensure that sewer networks were not overwhelmed during periods of heavy rainfall. We all know that well-designed SuDS can contribute to water quality, to coping with overheating and to biodiversity. But this Government delayed implementation and then abandoned that approach altogether, in favour of an "expectation" that major planning applications would include SuDS.

This was not because of the costs. Defra recognised, in its own consultation document, that,

"sustainable drainage systems are generally cheaper to build; and maintaining them will be cheaper (or need be no more expensive), than the … cost … required",

in conventional drainage. The result of this expectation that the SuDS approach would work is that last year Barratt Homes, the UK's leading housebuilder, included no provision whatever for sustainable drainage in a third of its developments. The Committee on Climate Change has analysed 100 planning applications in areas of flood risks and found that fewer than 15% proposed SuDS. If the Government wish to challenge that evidence, what monitoring are they doing at a national level of the uptake of SuDS?

The National Policy for the Built Environment Committee of the House of Lords, on which I and other noble Lords sat, has looked at this issue. In its report last month, it argued that the Government should take a more proactive approach to the provision of SuDS. In legislating to provide for new homes, we must seek to contain the time to plan for them—absolutely. But we need a process ensuring that new homes are built to a standard that will protect them from flood risks and not exacerbate risks for established communities. I shall not list the many organisations which have written to the Minister in support of this amendment, because we do not have time. I will merely beg to move and hope that other Members might pick up some of the points that I know need to be raised.

Lord Krebs (CB): My Lords, I shall speak briefly to this because the noble Baroness, Lady Parminter, has made most of the points that I would want to make. My name is also on Amendment 119 and I would like to go on to refer to Amendment 120, on which my name comes first. But to add briefly to what the noble Baroness has said, the real problem is that developers still have the automatic right to connect to the existing sewerage system. We know from estimates that more than half the existing sewers are already overloaded. While developers have the automatic right to connect, they are not incentivised to look at other ways of managing surface water flooding. Furthermore, when SuDS are installed, there is no clarity in the current regime about who should pay for the maintenance once they have been built. In any case, the current guidance applies only to developments of 10 homes or more, so small urban infill developments which could be creating some of the biggest long-term problems are not covered. Around 100,000 minor planning applications are approved each year which are not subject to the new safeguards.

So the aim of this amendment is to ensure that SuDS are the default option in new developments and to help achieve this by removing the automatic right to connect to existing sewerage systems. Connecting new developments to existing sewers should be the absolute exception, once other options have been exhausted.

I turn to Amendment 120 on developer liability. This amendment focuses on the long-term costs for society arising from continuing development in the flood plain and presents a simple, workable proposal to address the current lack of incentive for developers to make new properties safe and resilient to flooding. We know that, at the moment, more than 100,000 homes have been built in the flood plain since 2008—28,000 of these in areas at a greater than one-in-100 annual chance of flooding, taking into account the protection provided by any flood defences. The consequences are that, in the long run, owners of new homes are being exposed to unnecessary flooding risk.

A one-in-100-year chance sounds very small. We have to remember that this is the chance of flooding in a particular place. If there are 100 such places, then there is the likelihood that someone will get flooded every single year. In fact, in this century, we have already had 12 significant flood events in 15 years. If we carry on as at present, we can more or less guarantee that someone, somewhere, is going to suffer the trauma of flood damage each year.

Data are not collected on whether or not new homes that are built in flood plains are made resilient. I declare an interest as the chairman of the adaptation

sub-committee of the Committee on Climate Change As has already been mentioned by the noble Baroness, Lady Parminter, our data suggest that fewer than 15% of new homes have been built with sustainable urban drainage systems.

Are we putting too much faith in flood defences to protect new developments, when they are typically built to a one-in-100-year standard? There is evidence that developers and planners are taking what might be called a compliance approach to flood risk—following the process but putting too much faith in limited protection from flood defences and not taking into account the uncertainty in even the best flood models.

A recent example, of which I am sure noble Lords are well aware, is Bridge End Court, a residential care home and sheltered development in Cockermouth. It was built in the meander of the River Derwent, on land that had flooded badly in 2009, on the very edge of a flood zone 3, where it would not have been deemed appropriate development. After the 2009 flood, the local authority had the chance to require the development to go elsewhere but it allowed it to go ahead in the same place. In spite of the ground floor supposedly being set above the height of even a one-in-1,000-year flood, the care home was flooded in December and the residents had to be rescued.

What constitutes a one-in-1,000 standard is highly uncertain. This is where developers come in. Developers are required to produce a flood risk assessment for a site, but they bear no liability if they take risks or simply get it wrong. The assumptions in the flood models that underpin a flood risk assessment can be selected either to increase the assessment of flood risk or to make it appear lower than reality. I should emphasise that I have seen no evidence that developers are manipulating flood risk assessments but, in principle, they could.

It is worth noting some Environment Agency figures. The Environment Agency has to be consulted on developments and it objects to about 3,000 applications per year on grounds of flood risk. In a sample of nearly 1,700 objections between 2009 and 2013, 20% of those objections were because the developer had produced no flood risk assessment whatever and 54% of them were objected to because the flood risk assessment was unsatisfactory. Among the reasons they were unsatisfactory were that they did not take into account future sea level rise, future increases in river flows or future increases in surface water flooding.

7.30 pm

So what happens if a home owner in a new development is flooded out? Their only option is to claim on their insurance, which is likely to produce an increase in the cost of insurance in future. Furthermore, the value of their property is likely to fall. There is a simple way in which to address this problem without putting the burden on the home owner, at the same time as increasing the level of confidence in the planning system. That is to make developers liable for any flood damage to new homes—not, of course, in perpetuity, as that would be difficult to impose, but for a fixed period, perhaps the first 10 years after the property is first sold, as the amendment suggests. This would bring things into line with the 10-year NHBC buildmark warranty available for new homes. The policy currently explicitly excludes flood damage.

If developers were made liable, it would create a direct financial incentive for housebuilders to assess flood risk properly and introduce measures needed to prevent flood damage. If developers are already managing flood risk appropriately, this will be a zero-cost measure yet will still provide added confidence in the system. My amendment will help to protect those who buy new homes built on a flood plain, and I hope that the Government will give it serious consideration.

Baroness Young of Old Scone: My Lords, I am conscious of the fact that noble Lords are dying for me to shut up, because I am probably all that is between them and going home. But I think that this is an important issue—and it is important for two reasons. I rise to promote Amendment 119 in my name and support Amendment 120, proposed by the noble Lord, Lord Krebs. There are 4 million people at risk of surface water flooding and climate change, and increasing urbanisation will make that worse, so it is a really important issue. More important is the fact that this Parliament agreed the Flood and Water Management Act 2010, which included provisions for sustainable drainage—but the relevant sections have not been commenced. I am very ambiguous about the Government's habit of not bringing into being the will of Parliament. Instead, they have decided to rely on planning measures through the NPPF and have provided two pages of non-technical standards to guide developers.

The presumption in planning that sustainable urban drainage should be included in new developments is not working. It has created uncertainty for developers and created a diversity of interpretation of what is acceptable. Planning authorities—poor souls—are leaned on to ignore it if developers suggest that the costs of providing sustainable urban drainage affect the viability of the development. Local planners at the moment have neither the expertise nor the time, and cave in under these viability challenges.

As the noble Lord, Lord Krebs, said, the planning rules include no structure for formal adoption or long-term maintenance of sustainable urban drainage schemes, which has been a problem for years, with schemes being created and then left orphaned with nobody to look after them and make sure that they continue to be safe and effective. Of course, it is not just about sustainable drainage and flood protection. There are also potential additional benefits of amenity, water quality and biodiversity that have not been garnered.

I had the privilege of talking briefly to the Minister about this and she indicated that the Government's intention was at least to run the scheme on the planning presumption basis for two years while it was monitored. My further inquiries since meeting her have revealed that no body has been charged with keeping these records—so I am not clear that the Government will be able to say at the end of the two-year period that the scheme is or is not working.

[Baroness Young of Old Scone]

So far, the evidence we have been able to glean from people such as members of the Chartered Institution of Water and Environmental Management—of which I should declare that I am an honorary fellow—is that the situation is now worse since local flood authorities took over responsibility for surface water drainage. Noble Lords have heard the figures from the adaptation sub-committee and the quotation from Barratt Developments that about one-third of its developments do not include sustainable drainage.

We appear to be fiddling while Rome burns in anticipation that at the end of two years, we will be better informed, when in fact the figures will not be available to demonstrate whether it is working. We should press for the implementation of Schedule 3 to the Flood and Water Management Act. That would fulfil Parliament's will, cost no more than conventionally engineered drainage systems, help reduce flood risks and the costs of flooding, provide improvements in water quality, biodiversity and amenity and give developers a degree of certainty.

In the interest of brevity the noble Baroness, Lady Parminter, said she would not list the diverse range of expert bodies. I will list but a few of them: the Institution of Civil Engineers, the Royal Institute of British Architects, the Chartered Institution of Water and Environmental Management, the Construction Industry Council and a few others—I have forgotten what the acronyms stand for, so I shall not bore noble Lords with them. We should re-enact your Lordships' previous support for this provision, which is enshrined in legislation.

I support the interesting Amendment 120, which was tabled by the noble Lord, Lord Krebs. When I first read it and was asked to support it, I was slightly wary because it seemed to be a bit bonkers. But, having thought about it and having read it in detail, I think it is one of the more cunning pieces of win-win, incentive-based legislation I have seen for many a long year, in that it would mean that developers would have to think harder about developing more flood-resistant properties and about developing on less flood-prone sites in a way that would not require any cost from them provided they did it well. That is what a good amendment looks like, and I commend it to the Government.

Lord Deben: My Lords, I declare an interest as chairman of the Committee on Climate Change, and I rise to support these two amendments. They are both based upon advice given to the Government by the Committee on Climate Change. We are talking about a very serious issue. Tens of thousands of houses have been built on flood plains and in circumstances which are more vulnerable than Cockermouth. This is serious. If we go on like this, we will be creating problems which we will have to meet. We cannot avoid it. This is going to happen. Not to do in this Bill what we can do is to avoid an opportunity, to the detriment of very large numbers of people.

The Adaptation Sub-Committee of the Committee on Climate Change told the Government that there are a number of simple things that should be done that could help protect us in future. For example, water companies are not at the moment compulsory consultees to planning decisions, which means that they are in the very peculiar position of neither being able to comment under the statute on a planning decision, nor being able to refuse to connect the houses then built to an inadequate sewer. We have to put this right. When the committee suggested this to the Government, their official reply was that it would be inappropriate to do this. The word "inappropriate" may have been the right word before the floods in Cumbria, but to suggest that it is inappropriate to do this is stretching the English language beyond any possible appropriate use.

My noble friend may be unable to accept these two amendments at the moment, but it seems to me that it would be pretty impossible to explain to the public that we are prepared to continue with a position in which houses are being built without proper and adequate means of getting rid of the surplus water that they create, and without proper protection of the surplus water that is created outside. These amendments make sure that we have modern, sustainable drainage in a form which this House and the other House have already agreed, and which the Government support. Secondly, they ensure that developers have a duty to develop in a way that makes houses resilient to the normal circumstances of life.

I can think of no more moderate or reasonable amendments to put down, and I remind the Minister that they are based upon the advice of the body that spent a great deal of time researching independently what should be done. Therefore, if she is not able to accept them now, I hope she can give us some hope that between now and Report, the Government will take this opportunity to do two very simple things which will save maybe the lives—and certainly the property and the future—of a large number of people.

Lord Campbell-Savours: I support strongly Amendments 119 and 120, which are important. Before turning to them, I point out that today, we have truncated the last nine groups of amendments to suit the Government's timetable agenda. Some of us had to concede that because we wanted to ensure that we had two opportunities to debate these amendments, in Committee and on Report; under the proposal made by the Patronage Secretary, that was not precisely the case.

For those Members of the House who have not been following our proceedings and have wondered what was happening this evening—and there will be those who have not—the central issue in this whole Bill has been the fact that it is a skeleton Bill. We have not been able to discuss all the controversial provisions because they are to be introduced later, after Royal Assent, in the form of statutory instruments which we cannot amend. That is the fundamental objection here. That is why all these arguments have taken place.

Amendment 120 would offer at least some security for prospective purchasers of housing. In the event of flooding, at least on the first occasion, the cost of dealing with a property that had been flooded would fall on the developer, not the insurer. Of course, the amendment does not deal with what subsequently happens, when the insurer would carry the liability;

but under it, a developer would have to have in mind the potential cost to themselves of failing to design the property they were constructing to deal with the potential for flooding.

I hope this amendment will be enshrined in law, because it seems to me eminently sensible. It contains the phrase:

"the housing developer to be liable for the full cost of flood damage to a new dwelling if such damage occurs within ten years of the property being first sold".

Of course, the developer can go bankrupt—and then where is the liability? Who then is responsible for paying the bill? In the event that this were enshrined in law, provision would surely have to be made for the developer to buy insurance to cover the possibility of flooding happening at some stage. I presume that the credit rating of the developer would influence the amount of premium payable on the insurance policy.

7.45 pm

Amendment 119 would ensure that a requirement to construct adequate systems of culverts and watercourses was firmly enshrined in the law before Parts 1 and 6, which deal with new starter homes, were introduced. We would be protecting the public who buy these properties from potential damage from faulty culverts and watercourses.

I have personal experience of this. I live in Keswick, very near Cockermouth, the town that the noble Lord, Lord Deben, was referring to. What happened with the flooding in Keswick over a number of years was that the culverts broke—it was not the river that did the damage but the culverts breaking. I actually watched a property being built in Keswick on the flood plain at a time when we knew that the culverts were at fault, but we could do nothing about it because the local planning authority had given permission. If this amendment were accepted, that would be highly unlikely to take place.

I say to Ministers that I hope these very sensible amendments will be treated seriously. The incentive my noble friend referred to for developers to see in advance the potential problem and address it before it arises is one the Government might wish to take into account in deciding to accept these amendments.

The Earl of Liverpool (Con): My Lords, I will speak—with the greatest brevity—in support of these amendments. My only reason for doing so is that I raised this matter at Second Reading. For those who are prepared to read my views—although I do not expect that many of your Lordships will—they are at cols. 1222-23. I very much hope that the Government will look with sympathy on this amendment because it is of great importance to ongoing developments that we address this very serious problem, which causes a lot of suffering to millions of people. Sorting out the flooding that took place last year cost between £1.2 billion and £2.2 billion. I look forward to hearing what the Minister has to say.

Baroness Jones of Whitchurch (Lab): My Lords, I am pleased to endorse the comments made by noble Lords from around the Committee on these amendments. The recent floods brought into sharp focus that the damaging effects of climate change are not being matched by our skills in managing increased water flows. Both the Government, through their establishment of the national flood resilience review, and the Environment Agency are being forced to reconsider their flood management strategies.

In the mean time, there are steps that we can take that will make a difference, and we have heard examples this evening. It is now commonly accepted that the removal of trees and hedges has reduced the absorbency of our land. In urban areas, the paving over of gardens and green spaces has left nowhere for excess water to drain. The building of new dwellings connected to the existing sewerage system takes no account of the need for increased capacity. At the same time, it remains literally incredible that housing developers apply to build new homes in areas designated as a flood risk by the Environment Agency, and even more incredible that some local authorities continue to grant planning permission in these circumstances.

So we very much support the concept of sustainable housing development, and these amendments are important in bringing some sanity back into the planning process in this regard. Sustainable drainage systems need to be a core feature of future planning, using green space and natural water features that can mimic the known advantages of natural land drainage and help return water flows to a natural equilibrium.

Whether these principles should be applied cannot be left to local interpretation. Sadly, what we have learned over the past few winters is that inaction in one place can often have a catastrophic effect further downstream, so localised decision-making is not the answer. The rules have to be applied consistently, and this, of course, is what Schedule 3 to the Flood and Water Management Act attempted to achieve. It remains inexplicable that the schedule was not enforced in the first place; I hope that the Minister will be able to explain the reasoning behind that. Now is the time to put that matter right.

Amendment 120 is an excellent attempt, once again, to try to rein in the perverse activity of developers building homes on designated flood areas. When this happens and properties subsequently flood, we are all drawn into the net of supporting those communities and helping them turn their lives around, whereas the developers can simply walk away, having pocketed their profit. They do not even have a responsibility to warn potential purchasers of the risk inherent in the purchase of those properties.

This amendment, therefore, puts the responsibility and the financial risk firmly back in the hands of the developers, which is where it belongs. It will hopefully be a tool to encourage more responsible and appropriate housing development in the future. A number of comments have been made this evening on the technicalities of that amendment, and I know that some more work will need to be done on it, but we very much support the thinking behind it.

Lord Porter of Spalding: My Lords, I do not know how to add this new interest into the debate, but at some point, I will have another company set up that will put me back into doing small-scale development

[Lord Porter of Spalding]
with my son-in-law. The accountants are working on it now, and I am going to put this in the register as soon as it is done, but noble Lords need to know it now, because I am going to speak specifically from a developer's point of view—even though, technically, I am not yet a developer. I am also going to speak as the leader of South Holland District Council, which covers an area that, if we were not allowed to build on flood plains, would become a ghost town, because we are on a flood plain. We would build nothing anywhere in my patch if we followed the idea that, notionally, the designation of a flood plain by the Environment Agency was true and accurate.

We have not flooded since 1947; adequate flood management schemes can deal with it. Amendment 120 would create companies set up to build one development that would then go bankrupt—and, as the noble Lord, Lord Campbell-Savours, said, on that basis we would have to insure against that, so that would add more expense in some areas disproportionately to others.

If I remember rightly, where we are sitting now is also on a flood plain, so all of the people around this area would also be moved out of town if we applied that. We cannot be frightened by water; we have to manage it properly. We cannot retreat from it. We are people and we can deal with it, and we cannot deal with it just by saying, "You can't build anything anywhere", which Amendment 120 would have us do; or create perverse incentives to get people to set up businesses that are going to go out of business every time they earn some money.

Lord Krebs: My Lords, perhaps I may respond briefly to that last comment. I do not think that Amendment 120 in any sense precludes building on a flood plain. It simply asks—and provides a possible answer—to the question of who should bear the liability if somebody buys a house that has just been built in a flood-risk area and that house floods. While it might be true that, in the noble Lord's particular area, there has not been a flood since 1947, that does not mean to say that there will not be a flood next year. The people who bought homes that were built recently in those areas should have some form of protection. That is what the amendment is trying to provide.

Baroness Williams of Trafford: My Lords, I shall deal first with some of the latter remarks. Following December's floods, it was clear that the rules that we thought applied did not apply, and that what we thought were blip events were becoming trend events. Therefore, there were lessons to be learned from both last year's floods and the previous one-off-event floods. Following the December events, we established the National Flood Resilience Review, led by Oliver Letwin, to assess how the country could be better protected from future flooding and increasingly extreme weather events. This review will identify any gaps in our approach and pinpoint where our defences and modelling need strengthening, allowing us to take prompt action.

I understand the intention behind Amendments 119 and 120, but Amendment 119 seeks to place unnecessary provisions into the Bill, as national planning policy has already been strengthened to deliver sustainable drainage systems, and there would be problems with implementing the second proposal.

On Amendment 119, following enactment of the Flood and Water Management Act 2010, proposals to implement the provisions under Section 32 and Schedule 3 were put out to public consultation. The response to that consultation gave rise to a number of issues. These included the potential impact on the delivery of new development under a system that required the approval of sustainable drainage systems under a consenting regime separate from that for approving planning applications. There were concerns that this could add undue delay to the consenting process and impact on the speed of planning decisions.

The coalition Government listened to that response and in the autumn of 2014 put forward for consultation a new proposal to make better use of the existing planning system to deliver sustainable drainage systems, otherwise known as SuDS. In the light of the response to that consultation and a subsequent government announcement in December 2014, national planning policy was strengthened with effect from April 2015. The strengthened policy makes clear the expectation that SuDS will be provided in all major new developments, such as developments of 10 dwellings or more, unless demonstrated to be inappropriate, and it ensures that clear arrangements are in place for ongoing maintenance over the lifetime of the development.

This strengthened policy applies alongside the existing policy expectation that SuDS will be given priority in new developments in flood-risk areas, as well as the drainage requirements of building regulations. Despite the strengthened planning policy, the amendment would require provisions for a new consenting regime for sustainable drainage systems to be brought into effect before important provisions in the Bill could come into force.

We need to give these new arrangements time to show that they can work effectively. We are meeting key stakeholders to gauge their views on how the changes are bedding in, and we will undertake similar reviews at intervals in the future. The noble Baroness, Lady Young, asked where the reviewing process had got to. As I said, we have taken the views of key stakeholders and we intend to have a more in-depth review in a year's time, which will be two years post change.

Baroness Young of Old Scone: Can I prevail upon the noble Baroness to write to us indicating which stakeholders she has taken views from? The evidence that we appear to be getting from stakeholders is that it is not working.

Baroness Williams of Trafford: I will certainly do that. We would also welcome suggestions from the Adaptation Sub-Committee based on its ongoing evidence gathering, as that would obviously help to build up a fuller picture.

Lord Campbell-Savours: I am not being unreasonable in asking this but have Ministers fully considered the effect that the cuts in local authorities' budgets are

having on their ability to clear culverts? As they cut back on that clearing programme, they aggravate the problem. Particularly in terms of starter homes, we are now dealing with the more vulnerable buyers—the people who are buying discounted properties and cannot afford to take that risk. I wonder whether Ministers have thought through the consequences of local authorities being starved of cash.

Baroness Williams of Trafford: My Lords, it depends where the culverts are. Clearly some are on private land and some are on public land. Local authorities will expect private developers to clear areas, particularly when assessing flood risk. So, depending on the circumstances, there are various obligations on various stakeholders to undertake some of these matters. However, the noble Lord raises an important point.

Amendment 120 covers any development located anywhere—even in areas where, for example, flood risk had not been identified. The housebuilder would be liable even where floods could not be foreseen. The amendment does not differentiate between causes of floods, so if flood defences were overwhelmed, the housebuilder would be liable. It requires the full costs to be covered, even for those for which the householder's domestic insurance would provide cover, which I am afraid is a fertile area for dispute between developer, insurer and the housebuilder. It would also cause potential confusion with existing warranty schemes for new homes. However, I take the noble Baroness's point that development should not add to flood risk and I would like to describe the Government's approach to that important matter.

Flood risk is an important consideration in the planning system and there are already strong policy safeguards in place. The national planning policy is designed to ensure that if there are better sites in terms of avoiding flood risk or if a proposed development cannot be made safe from flooding, it should not be permitted. Local planning authorities are expected to steer new development to areas at least risk of flooding wherever possible. They should apply this approach through their local plan and in planning decisions take advice from people such as the Environment Agency and other flood risk management authorities, which might include the water authorities.

8 pm

Baroness Young of Old Scone: I am sorry to prolong the sitting but I should declare an interest as a former chief executive of the Environment Agency. The point of sustainable drainage systems is not necessarily about the location of development, which the sequential test that the Minister has just described attempts to deal with, but about the fact that increasingly with climate change we are seeing much heavier downpours of rain in rather random places that fill the drains up and flood no matter where you are. I have a house on top of a hill. Two Wednesdays ago a lake that had not been there for 50 years appeared as a result of torrential downpours of rain in Northamptonshire. It is that sort of situation we are looking for protection against in sustainable drainage systems. That can happen virtually anywhere. Were the noble Lord, Lord Kerslake, in his place, he would testify to the fact that in the big flood of 2007, Sheffield did not flood as a result of the river but as a result of the drainage system. Protection against that is what we are looking for in the sustainable urban drainage package.

Baroness Williams of Trafford: I completely take the noble Baroness's point, but I reiterate our point that local planning authorities are expected to steer new development to areas at least risk of flooding. That is not to say that we will not have one-off events. Nowhere is safe from that sort of one-off event.

Lord Campbell-Savours: The noble Lord, Lord Porter, sitting immediately behind the Minister, brought us into the world of reality. He told us that they will carry on building. That is what he said. So how does the Minister deal with that?

Baroness Williams of Trafford: If I have interpreted my noble friend's words correctly, he tells us that he lives in an area that is quite low lying. We are sitting in an area that is in a flood plain, so it is not at all unusual for areas of high flood risk to be built upon, albeit that London has been built upon for the past 200 or 300 years. Going back to my original statement, the review by Oliver Letwin going forward and the total way in which we approach water management must take on a new meaning. That is not to take away from the noble Lord's point. I think that my noble friend was making an entirely different point, which is that in some places we build on flood plains.

Where development is necessary in a flood risk area, it must be made safe, without increasing flood risk elsewhere, and be appropriately flood resilient and resistant. We have recently seen examples of where building in one place has increased flood risk elsewhere. Where appropriate, developers need to identify through a site-specific flood risk assessment all the flood risks to and from the development. This should accompany the planning application to the satisfaction of the local planning authority. Our planning guidance, which supports the NPPF, is very clear that all local planning authorities are expected to follow the strict tests set in the framework to protect people and property from flooding.

Lord Deben: Can my noble friend explain why the Government are not willing at this stage at least to say they will look into the unanimous advice that the Minister has had to insist that it is no longer compulsory that the water authority should link up to the local sewerage system just because a development has been put up? The developer should be responsible for making a connection that is not damaging. Why can we not make such a simple and necessary change to the law?

Baroness Williams of Trafford: My Lords, my noble friend brings up a really important point, but some of these things will be discussed in the round as we consider how we manage flooding in future. I am sorry—I have lost my train of thought. I wonder whether it is the lateness of the hour. The work of my noble friend's committee will be invaluable to that thinking.

[Baroness Williams of Trafford]

I come back to the issue of flood resilient construction. Currently, building regulations do not require building work to incorporate any flood-resilience or flood-resistance measures. This is because local authorities can already ensure through plans that measures to address flood risk are incorporated into new development where appropriate. Nevertheless, approved document C of the statutory guidance which supports the buildings regulations promotes the use of flood-resilient and resistant construction.

We recognise the importance of the issue and have asked the Building Regulations Advisory Committee, the statutory committee which advises Ministers on building regulations matters, for its advice on this. I know that the committee has been considering the issues, and we expect to receive its advice shortly.

Lord Campbell-Savours: The noble Baroness said "shortly". Is there any chance of it before Report?

Baroness Williams of Trafford: I do not think I can give that assurance, but I shall certainly try to put a timescale on it before Report, if that suits the noble Lord.

I hope that the noble Baroness will feel able to withdraw her amendment, but I also hope that the Committee will indulge me; I know everyone is anxious to get away. We have spoken about how planning applications for housing can often take an extraordinary time to complete. After some very long nights in this Chamber, I believe people are beginning to say the same thing about planning Bills. I pay tribute to everyone who has spoken in debates today and through the whole course of the Bill so far. The expertise which noble Lords have displayed has greatly enhanced consideration of the Bill, as well as my thinking about how we can improve its implementation.

I know that many noble Lords will not believe me when I say this, but I look forward to continuing the debate on Report. Although we will continue to disagree on some issues, we will, I hope, move closer to agreement on others. Over the Recess, therefore, I shall be tabling a number of government amendments which will take into account some of the points that noble Lords have raised. Given the hour, I will write to noble Lords with further details shortly—and I mean shortly.

I am sorry that the noble Lord, Lord Foster, is not here—oh no, there he is in the corner. I have also written to the DPRRC, responding to its 20th and 21st reports and have placed a copy of that letter in the Printed Paper Office, as noble Lords requested. I am happy to be making a number of positive changes. I will not detail every point here now, because I fear that noble Lords have heard enough from me, but I hope that my response will be helpful.

One final Easter present to you, my Lords, before we rise: within the past couple of hours, we have launched our consultation on starter homes. During Committee, noble Lords from across the House raised a number of questions about the implementation of the starter homes programme. I heard their concerns, and in response we have decided to consult on a number of proposals. We will spend the next eight weeks actively engaging with the housing industry and local government, and I am happy to ask my officials to brief any noble Lord who wants to know more. I have written to noble Lords with further detail and, again, asked my officials to place the consultation in the Printed Paper Office and the House of Lords Library.

That is it for now. I thank your Lordships again for the depth in which we have scrutinised the Bill and wish you a very happy Easter.

Baroness Parminter: Briefly, I thank the Minister for her recognition that the issue of sustainable homes is serious. I have two quick points. The Government's defence for not accepting the amendments seems to be that they want to ensure that the new arrangements have time to bed in. I am grateful that they are offering us more information about the stakeholder meetings. I am sure the Committee will agree that stakeholder meetings bear no comparison to national monitoring of the situation, both of the number and quality of SuDS. The evidence we have seen from major housebuilders and the adaptation sub-committee shows that this is not working.

Secondly, I am grateful to the Government for confirming that costs are not stopping them moving on this issue, it is the issue, as they put it, of undue delay. My argument would be that one extra stage in the process of planning is worth the price that will be accruing to the benefit of home owners, the wider community and the environment from the introduction of SuDS. On that basis, I will go away with colleagues and consider the response. I thank colleagues around the Committee who have joined in promoting this cause. We may well wish to return to it on Report.

Amendment 119 withdrawn.

Amendment 120 not moved.

Clause 192, as amended, agreed.

Clause 193 agreed.

House resumed.

Bill reported with amendments.

High Speed Rail (London—West Midlands) Bill

First Reading

8.11 pm

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

Scotland Bill

Returned from the Commons

8.11 pm

The Bill was returned from the Commons with the amendments agreed to.

UK Convergence Programme

Motion to Approve

8.12 pm

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

That this House approves, for the purposes of section 5 of the European Communities (Amendment) Act 1993, the Government's assessment as set out in the Budget Report and Autumn Statement, combined with the Office for Budget Responsibility's Economic and Fiscal Outlook and Fiscal Sustainability Report, which forms the basis of the United Kingdom's Convergence Programme.

Motion agreed.

Royal Assent

8.12 pm

The following Acts were given Royal Assent:

Riot Compensation Act,

Access to Medical Treatments (Innovation) Act,

NHS (Charitable Trusts Etc) Act,

Scotland Act.

House adjourned at 8.13 pm.

Grand Committee

Wednesday 23 March 2016

Arrangement of Business

Announcement

Noon

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, midday has struck and I do not think that anyone is going to be turned into a pumpkin. However, I must remind the Committee that, in the event of a Division in the Chamber, the Committee will adjourn for 10 minutes from the sound of the Division Bell.

Budget Statement

Motion to Take Note

Noon

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

That the Grand Committee takes note of the economy of the United Kingdom in the light of the Budget Statement.

The Commercial Secretary to the Treasury (Lord O'Neill of Gatley) (Con): My Lords, last week in the other place the Chancellor set out a Budget to continue the UK's economic recovery. It was a Budget which responded to the global economic uncertainties that have grown in recent months, and made appropriate choices to insulate ourselves from those risks as much as possible.

There are many positive stories to tell about the UK's economy. For example, last Wednesday the employment statistics showed yet another boost to employment, with 150,000 more jobs than the Office for Budget Responsibility expected just four months ago. This means that employment is at the highest level ever, and the proportion of people on the claimant count is the lowest it has been for over four decades. Last year also saw the highest annual growth in nominal and real earnings since 2008. Meanwhile, the fiscal deficit as a share of GDP is forecast to be cut this year by almost two-thirds from its 2009-10 post-war peak—from 10.3% to 3.8%. The OECD has forecast that the UK will be the fastest-growing major advanced economy in 2016.

However, there are still significant economic issues that need to be addressed. The Office for Budget Responsibility has forecast a deterioration in the fiscal position between 2016-17 and 2020-21, largely driven by lower tax receipts—particularly as a result of a weaker productivity outlook and a weaker outturn for nominal GDP. This reflects a common recent phenomenon of low productivity growth across the western economies, but it also comes at a time when economic turbulence worldwide has led to weaker growth forecasts for the global economy and, importantly, for global trade.

I observe that there have been three specific developments in global markets since the Autumn Statement that are material. First, until this month, there had been evidence of the US economy slowing. Secondly, as is well discussed, commodity prices and inflation expectations have continued, or did continue, to drop, resulting in nominal GDP in many places, including the UK, being weaker than previously thought. Thirdly, while in my judgment Chinese activity data has not deteriorated much further—remember that this is since November—additional policy uncertainty has raised risk premia in markets exposed to China. Against that, I would note that, in the context of the revised OBR forecasts for public sector finances, it is interesting to observe that there have been signs of reversal in all three of these trends in recent weeks. None the less, there remain many global risks—these and others—and, as an open trading economy with extremely strong links worldwide, we are by no means immune from them.

At the same time, domestically our productivity remains too low, as we have discussed many times in this House. I have spoken at length about tackling the UK's productivity challenge. These issues have existed and been debated for decades and the solutions and better outcomes will not necessarily materialise in a matter of months. Nevertheless, the measures set out in this Budget take further important steps which, as well as helping us stick to our path for running a budget surplus, will secure growth and promote productivity increases over the long term.

With noble Lords' permission, I will first discuss the revised fiscal figures for the next five years and then move to specific measures introduced in this Budget. In the face of the new assessment of productivity and the slowing global economy, the OBR now forecasts that UK GDP will grow by 2% this year, 2.2% again in 2017 and then 2.1% in each of the three years after that. The Government have responded to the deterioration in the OBR's fiscal forecast and are taking new measures to ensure we keep living within our means. To help us achieve this, the Government will make further savings of £3.5 billion from departmental spending, following an efficiency review.

Although debt as a percentage of GDP is above target this year, compared to the forecast, importantly, the actual level of our national debt in cash is around £9 billion lower. In the future, debt is forecast to continue to fall as a share of GDP each year to the end of the forecast period. In 2009-10, the deficit was forecast to reach 10.3% of national income. Thanks to sustained action, the deficit is forecast to fall by almost two-thirds by this year, reaching 3.8% of GDP. The deficit is now forecast to continue to fall across this Parliament and, because we have taken decisive action to control spending and make savings, in 2019-20 Britain is set to run a surplus.

When the forecasts change, of course our plans also have to change. However, the decisions made in this Budget ensure that our fiscal mandate will be met, meaning greater resilience for our economy in uncertain times. Importantly, we have set out how to achieve this in a fair way. HM Treasury analysis published alongside the Budget shows that, as a result of actions taken, the proportion of taxes paid by those on highest incomes will increase, while the poorest and most vulnerable will continue to be supported.

[Lord O'Neill of Gatley]

In parallel, I also welcome this opportunity to listen to Members' views on the information that will be provided to the Commission this year under Section 5 of the European Communities (Amendment) Act 1993. As in previous years, the Government will inform the Commission of the UK's economic and budgetary position as part of our participation in the EU's stability and growth pact. The Government plan to submit their convergence programme, with the approval of both Houses. The convergence programme explains the Government's medium-term fiscal policies as set out in the 2015 Autumn Statement and Budget 2016, and also includes the OBR forecasts. As such, it is based entirely on previously published documents that have been presented to Parliament.

The UK economy is deeply intertwined with the economies of other EU member states. In 2014, 44% of total UK exports were destined for the EU 28, so it is in our interests that the European economy is successful and stable. It is therefore important that we participate in the EU's macroeconomic co-ordination processes to continue to drive important messages about sound economic policy and further development of the single market. With the Budget on 16 March this year, I appreciate that the time to prepare for this debate has been particularly tight. Against that background, the Treasury has made every effort to provide early copies of the convergence programme document in advance of the debate today.

Before I turn to the measures contained in the Budget, I would like to make a few comments on one now key and topical aspect of the fairness agenda: namely, disability payments. The focus of the Government has always been on strengthening the economy in order to create a fairer society. As a result of the Government's policies, unemployment is at a four-decade low, wages are higher, inequality, child poverty and pensioner poverty have fallen, and the gender pay gap is at an all-time low. These have not happened by chance but because of deliberate strategies to fix the economy, back business, control spending and reform welfare by incentivising the reasons to work. So although there have been controversies, the results have helped to build a stronger society.

We have also significantly increased our support to disabled people. Indeed, the sums are considerably greater than those under the previous Labour Government. However, it was clear that the reforms proposed to personal independence payments, although they drew on the work of an independent review, did not command support. That is why they have been withdrawn. Over the coming months, the Government will be working to build a system of disability support that is stronger, fairer and better integrated with our health and social services. And, to be clear, there are no plans to make further welfare savings. But there remain strong reasons to keep the welfare budget under control. Strong leadership demands taking difficult decisions—decisions that may not always be popular, but which will make the country stronger.

The measures set out in this Budget will make the country fundamentally stronger. They will encourage growth, savings and investment, boost productivity, invest in our skill base, ensure that the tax system is fair as well as being competitive, rebalance the economy, and help people's well-being. We know that, in order to strengthen our economy, our businesses have to be as competitive as possible because that increased competitiveness will be a driver of long-term growth.

It is for this reason that the Budget cuts the rate of corporation tax even further, to 17% in 2020, giving us the most competitive rate in the G20 and benefiting more than 1 million businesses. The Budget also cuts the burden of business rates by £6.7 billion over the next five years, taking 600,000 of our smallest firms out of business rates altogether. Through a £1 billion North Sea oil and gas package, this is a Budget that helps Britain's largest industry succeed in difficult economic times. Through cuts to both the higher and basic rates of capital gains tax, it encourages investment, which is the lifeblood of Britain's businesses. And through the abolition of Class 2 national insurance contributions, it creates a simpler tax system and a tax cut of more than £130 for the 3 million-plus self-employed people in Britain.

Tax should not merely be competitive; it also has to be fair. The Budget sets out a series of measures designed to ensure that multinational companies pay their fair share of tax by introducing restrictions on the use of internet expenses, strengthening the rules on hybrid mismatch agreements, preventing property developers shifting payments offshore and taxing royalties payments where these are used to avoid tax. Important measures are also taken to simplify the tax system, including modernising the climate change tax system, updating corporation tax rules on losses and reforming stamp duty land tax on residential properties.

This is also a Budget that helps incomes and savings. It raises the tax-free personal allowance to £11,500 from next year, and the higher rate threshold to £45,000. It freezes fuel duty, helping families and businesses keep costs low every time they fill up. For the first time, it creates a lifetime ISA, helping people to buy their first home or save for their retirement—potentially one of the most exciting savings tools for a generation.

In this Budget, we have taken further important steps to boost our productivity, adding to those announced in the summer of 2015. On education, it commits a further £1.6 billion to education spending, gives more schools the opportunity to extend the school day, drives forward the academies programme, creates the first national funding formula for schools, boosts sport in schools, helped not least by the soft drinks industry levy, and, crucially—I am particularly pleased about this—fires a starting pistol for transforming education in the so-called northern powerhouse.

On our transport infrastructure, this Budget tackles some major existing barriers to growth: the green light to so-called HS3 and, in particular, a commitment to a Manchester to Leeds train time reduction to 30 minutes; a national plan for developing the Thames Gateway; major motorway improvements in the north, including working up a plan for a trans-Pennine tunnel; the start of the Crossrail 2 development; and two new subjects for the independent National Infrastructure Commission to study—5G and developing the Cambridge to Milton Keynes to Oxford corridor.

This Budget also continues the Government's devolution agenda through: new devolution deals with Greater Lincolnshire, East Anglia, the West of England and the Cardiff Capital Region; the start of negotiations with Edinburgh and South East Scotland; further devolution to Liverpool city region and to Greater Manchester; and an accelerated launch of the 100% retention business rates pilot.

Over the past six years, this country has grown and strengthened its economy in precisely the way that we need if we are to continue succeeding in an uncertain world. Global circumstances have the power to blow any country's economy off course. It is for this reason that it is so important to redouble our efforts to build economic security through sustainable growth and sensible public spending decisions. But living in a changing, uncertain world creates opportunities as well as threats. I want the UK to be in a position where we can focus on making the most of those opportunities, both here and around the world. That is what this Budget helps us do. It prioritises stability, security and sustainable long-term prosperity, and I commend it to your Lordships.

Lord Eatwell (Non-Afl): My Lords, before the Minister at least notionally sits down and before I begin my speech, I listened very carefully to what he had to say about disability payments. He failed to explain how the budgetary position set out in the Red Book is to be restored, given that the payment cut has been rescinded. It will be very difficult for this Grand Committee to evaluate the Budget unless he provides this essential piece of information. I am happy to give way for him to do so.

Lord O'Neill of Gatley: My Lords, I am planning to talk about that more. I anticipate that that will not be the only comment on this topic, and I plan to respond when I hear other noble Lords make their comments. It needs to be said in exactly the right context rather than for me to respond right now.

12.19 pm

Lord Eatwell: Very well, we will wait with interest.

My Lords, in opening his Budget speech in another place just six days ago, the Chancellor of the Exchequer declared:

"The British economy is resilient because, whatever the challenge … we have held to the course we set out".—[*Official Report*, Commons, 16/3/16; col. 951.]

This is a remarkable statement, because neither part of it is true: the British economy is not resilient and he has certainly not held to the course. The story of a vacillating Chancellor is told in wonderfully subversive terms in table B.2 of the OBR's *Economic and Fiscal Outlook*. The author of the OBR report explains the Chancellor's reaction to revised OBR forecasts of changing economic fortunes:

"On some occasions, the Government has chosen to offset the effects of our underlying revisions – e.g. in November 2011, when they would otherwise have led to a target being missed. On others it has chosen to accommodate those changes – e.g. in December 2012, when despite our forecast revisions implying that the debt target was set to be missed, it decided not to offset their effect".

So much for "holding the course". These vacillations have not been trivial. They go a long way to explaining what has happened to the economy in the past six years, and why it is not resilient. They also help us to anticipate the consequences of the Chancellor's last remaining target: a budget surplus by 2020.

Let us recall the economy that the Chancellor inherited from the noble Lord, Lord Darling, whom I am delighted to see here in his place. There was a fiscal deficit of a little under 8% of GDP—down from more than 10% the previous year—and the real economy was growing at 3% a year. In May 2010, Mr Osborne's new austerity killed that growth performance stone dead. The squeeze reduced growth to zero by early 2012 and the deficit had started to tick upwards again. Something had to be done. The response, as we have heard from the OBR, was what the Chancellor calls in his speech a short-term fix. He stopped squeezing. Austerity was quietly shelved for a while. In technical terms, the cyclically adjusted budget deficit was left unchanged instead of being cut further as the growing deficit would have demanded if the Chancellor had held to the course. What was the result? The removal of the deadweight of Osborne's austerity led to a return to growth and a falling deficit once more.

Now the vacillating Chancellor plans to return to austerity, even though, interestingly enough, that word failed to appear in the budget speech. He plans to cut the cyclically adjusted budget deficit every year for the next five years, with a huge fiscal tightening in 2019—the content of which is unspecified—all in the search of that dogmatic objective of a budget surplus by 2020. We can only expect the same outcome as that of Mr Osborne's previous bouts of extreme austerity.

While the Chancellor has vacillated in practice, the underlying theoretical belief that drives his policy has remained constant: first, that a balanced budget is the foundation of economic growth; and, secondly, that a tight fiscal policy is necessary to provide the opportunity for an expansionary monetary policy that will stimulate the requisite growth. It is this policy mix—Mr Osborne's policy mix—that is the source of much of the "turbulence" that he blames on others, and it is this policy mix that has seriously weakened the foundations of the British economy.

What are the markers of this weakness? The first is low productivity growth—the spectre that dominates this budget. Since 2010, the UK has suffered the largest fall in growth of output per worker hour in the G7, and now we have the lowest rate of productivity growth among the advanced countries. It is attributable, perhaps, to many factors, but predominantly to an investment rate still 20% below the pre-crisis level, with low wages and ever more easily disposable workers creating an incentive to hire cheap labour rather than invest in labour-saving capital. Low productivity growth not only undermines the possibility of raising the standard of living but undermines the competiveness of the economy.

The second indication of weakness is the UK's sharp fall in our share of world markets since 2010. The impact of slow-growing world markets is, for the UK, doubly severe. Our markets may be growing slowly, but our share of those markets is becoming smaller, delivering what I believe in the Conservative Party is called a double whammy. The result is a record

[LORD EATWELL]

for Mr Osborne in 2015—the largest current account deficit, relative to GDP, since the early 19th century. That means that our standard of living is now funded by the accumulation of foreign debt.

In his Budget speech, Mr Osborne boasted that,

"we have doubled our foreign exchange reserves".—[*Official Report*, Commons, 16/3/16; col. 952.]

He failed to point out that Britain's foreign debts have risen much faster, so that our net international investment position has deteriorated from around minus 2% of GDP at the end of 2010 to in excess of minus 25% today. This growing international indebtedness exposes the UK to the vagaries of the international money markets. That unhappy situation is not resilience.

What then of the expansionary monetary policy that was supposed to be one of the goals of fiscal austerity? There has certainly been monetary expansion—not just the historically low interest rates but quantitative easing, too. But apart from funding the growth in consumer demand and hence in household debt that has been the main driver of growth over the past three years, monetary easing has not produced the expected increase in investment. Instead, it has fostered the financial turbulence of which the Chancellor complains in the Budget speech. The old adage that, in the absence of the prospect of growing demand, cheap money amounts to pushing on a string has once again been confirmed. Instead of funding real investment, monetary expansion has resulted in a boom in asset prices—not just in houses and equity markets, but in the flow of funds into emerging market corporate bonds in the search for higher yield.

All these asset markets have the potential for extreme instability, as is all too evident today, and, as has been amply demonstrated in the last seven years, financial instability leads to substantial real economic loss—loss that overwhelms any positive impact that cheap money may have had. This financial fragility is the third marker of economic weakness. Very low productivity growth, deteriorating international competitiveness and severe asset market distortions that can only lead to further financial instability—that is what the Chancellor calls resilience. Yet in the face of evident policy failure, the response of the Chancellor and of the monetary authorities is more of the same: more austerity, more QE.

It will be up to future generations of economic historians to examine exactly how George Osborne managed to get things quite so wrong, but it is possible to say today why fiscal austerity and cheap money have not produced the results that were expected. In both cases, the Chancellor was expecting behavioural responses, particularly the responses of business investors, that simply did not come to pass. The proposition that a balanced budget is the foundation of economic strength and that cheap money will stimulate recovery both rely on the belief that the economy is essentially a self-adjusting system. There may be unexpected shocks, there may be what the Chancellor refers to as "a dangerous cocktail" of risks, there may be time lags and mistakes, but in the long run, markets will revert to an equilibrium of steady growth. Nothing else needs to be done. That belief was tested to destruction in the 1930s. Mr Osborne has tested it again and it has failed again. The economy is not, in any significant sense, self-adjusting. Businessmen do not respond to the stimulus of cheap money by increasing investment if they see no prospect of a future of growing demand.

So what is to be done? How is the trend to low productivity, decreasing competitiveness and financial fragility to be reversed? Here I agree, in part, with the Chancellor. We do not want "short-term fixes", as he put it. We certainly do not need what we are offered in the Budget, described by the OBR as,

"near-term giveaways followed by long-term takeaways".

What we need are,

"long-term solutions to long-term problems". [*Official Report*, Commons, 16/3/16; col, 951.]

I believe the Chancellor is right that a simple stimulus, whether fiscal or monetary, will not work; it will just lead to further deterioration in the balance of payments and yet more foreign debt. Therein lies the dilemma. To lift the UK economy out of the hole that the Chancellor has dug requires long-term sustained investment in the productive base of the economy—in the supply-side, if you like. That sustained investment would raise the prospect of growing future demand and provide the pull on the string to validate the monetary push. Yet in the immediate future, before it delivers higher productivity and enhanced competitiveness, sustained investment will also result in a further—perhaps short-term—deterioration in the balance of payments, with the potential for yet further financial instability that will blow any business-led investment programme off course.

That is why the Government must take the lead. There are positive noises in the Budget about infrastructure, technology and skills and even a pothole initiative—though only a small one—but there is nothing on the scale required. Given that the cost of funds to the Government is today just about zero in real terms, it is difficult to understand the failure to initiate a major expansion of investment in infrastructure and the other major components of supply-side strength—skills, higher education, R&D, new technologies and creative industries. This failure is resulting in not just loss of output today but a long-term loss of competitive productive capacity.

To fund such a programme while mitigating—though not eliminating—the likelihood of financial instability, there should be a hypothecated, ring-fenced, British reconstruction fund, financed by the sale of long-term bonds either to the private market, or, if necessary, to the Bank of England—quantitative easing with a purpose, if you like. To avoid the fiscal sleight of hand to which Chancellors are unfortunately prone, the objectives of the fund should be clearly delineated and audited.

Of course, the deficit hawks will claim that this is just another government spending proposal presented in attractive wrapping paper. But what the austerity junkies fail to appreciate is that fiscal balance is the consequence of economic growth, not the cause, as the experience of the last six years has clearly demonstrated. Unless we solve the problem of lack of investment, low productivity and declining competitiveness first, the Chancellor's financial targets will never be met.

Previous Governments have been criticised for failing to fix the roof while the sun is shining. But far from fixing the roof, Mr Osborne has been hacking at the foundations. That is why a new approach is needed, and needed now.

12.32 pm

Lord Borwick (Con): My Lords, there has been much focus on specific elements of the Budget Statement in the week gone by, and rightly so. Each policy should be analysed to discover whether it will be good or bad for businesses, be helpful or harmful to those on the lowest incomes and simplify or complicate the tax system. But amidst the rush to take a scalpel to the Red Book and unearth a hidden nasty, we have to remember an important big-picture fact: the Government have done a very good job of steering the economy through some choppy waters.

The deficit we inherited from Labour has been trimmed back, taxes have been cut and the direction of travel has been very favourable for business, but the job is not yet done. There is no room to be complacent, like at the last Autumn Statement, when the Government found an extra £27 billion to spend over the course of the Parliament. Times are tough, but they are necessarily so because of the mess we inherited from Labour. We have to ensure that we maintain a robust stewardship of the economy to help businesses, taxpayers and those who rely on public services.

That is why I was pleased to see so many good measures in the Chancellor's Statement. There were welcome moves to encourage enterprise, with a package of tax cuts to boot. Reducing the headline rate of corporation tax shows that we are serious about attracting and retaining businesses. The cuts to capital gains tax will increase economic activity, too, and evidence shows that lower rates of CGT bring in higher revenues because of the additional economic activity. There is a lesson in there for the Government in other areas of taxation, most notably with the additional rate of income tax. Speeding up the increase in the 40p income tax threshold will also encourage those who want to work hard and earn more for their own families.

However, while tax cuts on entrepreneurs and businesses signalled a shift in the right direction, some fiddly changes to the structure of corporation tax and CGT will add more pages to the gargantuan tax code. On the sugar tax, for example, I appreciate that obesity is a problem—I certainly claim that for myself—and I would also say that there is some dreadful obesity in the national debt and some absolutely appalling obesity in the tax code. However, I cannot imagine anything more addictive than offering the Inland Revenue a completely new tax, which is far worse than giving a doughnut to an obese teenager.

It is said that the UK has more accountants than the rest of the EU combined, and their numbers are sure to be bolstered with more tax complexity. I have an affection for the accountancy profession, having once been awarded the "Saying of the Year" in *AccountancyAge*. However, I am not sure that the number of accountants we have in the UK improves our competitiveness. Changes to business rates seem positive on the surface, but it remains to be seen whether entirely exempting certain businesses simply means that their rent will increase.

There is also a legitimate debate to be had about the Government's spending priorities. The row over welfare spending has dominated the post-Budget analysis and we should now start to seriously contemplate why we continue to implement spending reductions on in-work benefits but continue to protect all spending on pensioners. We know that it is not right for the richest pensioners in the country to be sent a cheque for their household energy bill, paid from the taxes of a warehouse worker who pulls night shifts to pay the rent. The richest over-75s should not get to watch the BBC for free thanks to the taxes of the cleaner who gets up at 4 am to do her first shift.

A poll for YouGov at the end of last week found that 44% see spending reductions as necessary, against 33% that do not. Despite all the hyperbole about savage cuts and the gloomy warnings of so-called austerity, the truth is that the public gets it. Now is a good time to think about the entire profile of spending reductions. It is not just welfare. The Chancellor's welcome big-picture strategy is somewhat hamstrung by the decision to ring-fence certain areas of spending. Overseas aid is a perfect example, but we have also protected defence, health and education, quite often putting a wall up around waste and inefficient practices. A move towards pulling down ring-fences should be discussed in the run-up to the Autumn Statement and next year's Budget.

Having covered the good and the bad, I should continue my homage to the spaghetti western and discuss the ugly—our complicated tax system. Indeed, the Chancellor himself once called the tax rules a "spaghetti bowl", to stretch the metaphor. Is it a coincidence that the most dense and most incomprehensible legislation is our tax legislation—the stuff that is not improved by the attention of your Lordships' House? The tax code now reportedly runs at over 21,000 pages, and it is for this reason that nobody trusts it. There is simply no way that HMRC can keep up with such a system, and real tax simplification should now be a strategic priority. I have a small, modest proposal. What would happen if, in another place, we required that the Chancellor of the Exchequer should read out in full the Finance Bill, and only those honourable Members who had been whipped to listen to it would be allowed to vote on it? This would require the Finance Bill each year to at the very least be readable.

The great British public voted for a Conservative Government because we are more reliable stewards of the economy. That much is clear. The last Government—and this one—have seen us through some tough times and the economy has created millions of jobs at the same time as returning to growth. However, there is still an awful lot more to be done.

12.39 pm

Baroness Kramer (LD): My Lords, in his Budget speech the Chancellor said that he would eliminate the Liberal Democrats—by midnight. Instead, he managed a direct hit on the Conservative Party. I think he has confirmed his reputation as a man who always misses his targets. The story of this Budget is of missed targets and the utterly unacceptable cuts in public spending on the working poor and disabled people that the Chancellor chose to cover up his failures.

[Baroness Kramer]

Can we now have an absolute assurance that the Chancellor's agreement to throw out the £4.3 billion of cuts to PIP will not lead to cuts in other parts of welfare? I notice the phrase "no further welfare cuts". That needs some confirmation and definition. Will the blow fall on the pensions part of DWP? The new Secretary of State did not address that. Will it mean that public services as a whole have to find the £4.3 billion in cuts? Are we all meant just to forget the £4.3 billion in cuts? In which case the Budget is shot. I wonder if the Minister could offer some clarity.

In the coalition years, the Government worked successfully with the support of a broad majority of the British people to gradually eliminate the structural deficit, better known as the cyclically adjusted current budget—intentionally excluding both cyclical support and capital spending. This is the target that the financial markets require to assure fiscal discipline and fiscal stability. Even with the OBR's March downgrades in the economic forecast, this measure goes into surplus in 2018. I have no idea how the changes—the mystery £4.3 billion—have impacted that outcome, but I hope the Minister will be able to tell us. Cuts or tax increases beyond balancing the CACB are an ideological choice; they are not required for fiscal discipline or fiscal stability.

Will the Minister finally accept that the Government's decision to change the whole character of the fiscal target and to require a fiscal surplus in 2020 based on the new, far more austere definition including capital spending was a mistake and should be rapidly abandoned? The contortions in the Budget to hit the self-inflicted target—shifting taxes and capital expenditure quite blatantly between years to manipulate the numbers for 2019-20—are extraordinary. Did the Government think we would not see them? Does the Minister agree that it was utter arrogance for the Chancellor to bind his own hands in a time of global uncertainty by putting his fiscal rule into law?

It was also fundamental in the coalition years that we should be "all in it together". That is why cuts for the wealthiest, such as cuts to capital gains tax and further cuts in corporation tax, were off the table during the coalition and, while there were cuts to benefits to the working poor, my Liberal Democrat colleagues in government constantly restrained the Chancellor, as is now evident. The Chancellor carries on using the language of "all in it together" but he does not seem to understand the meaning.

Numerous noble Lords will have read the letter of the right honourable Member for Chingford and Woodford Green. I share his outrage about the cuts to disability benefits but, more importantly, the British people share it, too. Those who voted Conservative in the last election thought they were getting a continuation of coalition policies; they did not understand they were getting a hard swing to the right.

We cannot keep slashing the budget for public services and still deliver a civilised society. The UK's demographic profile now includes so many older people, living longer and in need of healthcare and social care, despite working more years. Ordinary people are still feeling the pressure. The Institute for Fiscal Studies confirms that,

"we should expect much of the recent fall in inequality to be undone over the next five years",

and this is especially true for those of working age, whose incomes are still below pre-crisis levels, and the young, who have suffered the most.

Some of the worst sufferers have been our public servants—teachers, nurses, doctors, police. Surely as we reach a CACB surplus, we should increase pay for them. They will leave their professions if they know that, every day, they can be paid more and treated better in the private sector. The junior doctors are not alone; it is a straw in the wind and a warning that should be recognised.

Yet as this Budget stands now, we have a £4.3 billion hole which must be filled from somewhere. The Budget includes £3.5 billion in mystery cuts to un-ring-fenced government departments. There is a further £2 billion cut to departmental budgets to fund pension contributions —that, by the way, is a huge blow to the NHS. It is in effect a cut of £650 million from what is supposed to have been protected funding to a department which needs every penny of its promised additional £8 billion if it is to survive. The schools budget does not even rise with inflation, and none of that litany that I have just given includes the plight of local government.

I fully support the cut in business rates for small businesses. My Liberal Democrat colleagues in government fought for the review of business rates and I welcome its conclusions and implementation. But the Budget seems to anticipate that the whole cut, which we estimate will be £2 billion—perhaps the Government will tell us that it is higher—will fall on local government services: the street cleaning, rubbish collection, transport and especially the social care that people rely on for a decent community. Is that true? Is this yet another £2 billion cut to local authority budgets, already slashed in previous years?

I have so many questions. Does the sugar tax come with a proper anti-obesity strategy? Otherwise, it will deliver little. Why are the Government not taking advantage of minimal interest rates to raise their ambition and speed the timing of investment in broadband, housing, renewable energy and lifelong learning—all those foundations of economic growth? Why are the Government being so timid in taxing multinationals, closing loopholes rather than restructuring corporation tax? And who is the lifetime ISA meant to help? It works properly for people who can save £4,000 a year, but there are precious few younger people who have that kind of money.

But, frankly, all that is overshadowed. We need to see a revised Budget. The coalition worked so hard to restore confidence in the British Government's ability to manage the economy and that is being thrown out of the window. The Government may be mollified by winning the vote in the Commons yesterday, largely—by the way—thanks to so many missing Labour votes, but the public and the markets are tougher and wiser. Especially at a time when we face questions around Brexit, it is crucial that the competence of the British Government in managing the economy is unquestioned.

Pushing through a Budget with a £4 billion black hole, £3.5 billion in mystery cuts, and £2 billion in unexpected pension provisions, including a £650 million blow to the NHS and goodness knows what damage to local authorities, is not the behaviour of a responsible and capable Government. I repeat: we need a new Budget. When will we see it?

12.48 pm

Lord Price (Con) (Maiden Speech): My Lords, having read a number of previous maiden speeches in preparation for today, I see that there are consistencies in what an honour and a privilege it is to become a Member of this esteemed House. I share all those feelings and am humbled and, frankly, amazed to be in such a historic place and in the company of so many towering figures, such as my noble friend Lady Knight, whom I look forward to listening to later.

I have been made to feel so very welcome. The doorkeepers have greeted my requests for guidance with patience, smiles and even singing. The Clerk of the Parliaments, Black Rod and their teams could not have been more helpful in preparing my introduction, and noble Lords from across the House have been so very generous with their congratulations, time and support. I single out in particular my noble friend Lord Gardiner, my thoughtful and ever-generous mentor, who, with the noble Lord, Lord Curry, supported my introduction on Monday, my noble friends Lady Stowell and Lord Taylor of Holbeach for the warmth of their welcome, and the noble Baroness, Lady Hogg, for a splendid introductory tea.

Which brings me neatly on to the subject of food. My last nine years have been spent running Waitrose and building an impressive waistline. The founder of the John Lewis Partnership, of which Waitrose is part, said that the quality of the staff dining rooms should be so good that anyone leaving should regret it each meal time. I rather hoped that I would shed a few pounds, but I must compliment Mr Hever and his catering team on providing food of such quality that my hopes are dashed.

From my earliest memory, I have been working in business. My father twice owned his own small businesses, in food retail and wholesale. I worked with him before school and in the holidays and was always aware that there was a direct link between his endeavours and our financial position. He preached on a Sunday, and I learned that in the eyes of God we are all equal, that doing the right thing would bring rewards and that you should stop to help those in need. Therefore, although I dabbled with the idea of a career in archaeology or as a pro golfer, it is not entirely a surprise that I have spent my entire business career—33 years—working for the John Lewis Partnership, with some charitable work and public service liberally sprinkled on top.

As your Lordships will know, the John Lewis Partnership is a unique organisation. Its founder, Spedan Lewis, said that the business was wholly and solely created to make the world a little bit happier and a little bit more decent. In fact, the supreme purpose of the partnership is the happiness of its employees, who own the business. If you own something, you care a little more, and from that flows commercial success. But the partners also have a constitutional obligation to uphold the interests of all their stakeholders, their suppliers, customers and communities where they trade—a balanced and harmonious approach built on collective endeavour. Academic evidence has shown that higher levels of employee engagement lead to high productivity, sales, profit and workplace satisfaction. I believe that driving higher levels of engagement in the workforce is a key way to address the UK's productivity gap.

After years at the John Lewis Partnership, why then move into government? There are common themes: an appreciation for the good that business can do, a sense of social responsibility and a deep understanding of how much can be achieved by collective endeavour. I believe that business is a force for good. Business makes a key contribution to the Exchequer by paying and collecting the majority of total tax receipts. If we are to have the education, welfare and security that we want for our country, business must be encouraged to thrive, as the Chancellor has tried to do. The success of our country and our businesses are inextricably linked. That is why I am so delighted to take on the role of Minister for Trade and Investment.

During my nine years running Waitrose, we built our export business to 58 countries. We sold noodles to the Chinese, rice to India and croque monsieur to the French. I now look forward to playing my part in helping British companies to export more and bring more foreign direct investment into the country to grow jobs and prosperity.

12.53 pm

Lord Darling of Roulanish (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Price. We last met a few weeks ago sitting together at a dinner and I do not suppose for one moment that either of us expected to see each other again in this place, but that is life for you. I know, as do other noble Lords, that he was a very successful leader of an extremely successful British business. Perhaps I should declare an interest: there is a Waitrose just round the corner from us in Edinburgh and we have a loyalty card that we keep next to our Labour Party cards. I leave it to others to imagine which one has more use at the present time. I am not planning on giving up any of them.

I wish the noble Lord success in his job. I know, having met several trade Ministers, that the task is difficult, but I am sure that he will throw his wholehearted enthusiasm into the task and I wish him well on that. I particularly look forward to hearing what he might have to say over the next few weeks in relation to what is the biggest political event in this country, which is not the Budget but the referendum on our future membership of the European Union. I am sure that, as a Trade Minister, he will have plenty to say.

Perhaps I should draw attention to my entry in the *Register of Lords' Interests* before proceeding further.

I want to talk today about two aspects of the Budget: the Chancellor's deficit reduction target and infrastructure, which the Minister said so much about. In relation to the forecasts, we are in the interesting position that we are here discussing the Budget a week after its presentation to the House of Commons, but it is not quite the same Budget that the Chancellor presented—it changed quite dramatically over the weekend. I have to say that

[Lord Darling of Roulanish]
it has never been clear to me why the Chancellor has impaled himself on a target to break even in 2019-20 when there is no economic need to do so. I understand the politics behind it, but there is no economic need to do so—all the more given that the target that he set himself in 2010, when the coalition Government was formed, of eliminating the deficit by 2015 was missed by a mile.

As it so happened, what the Chancellor managed to achieve then was exactly what I set out in my last Budget—namely, to halve the budget deficit in a five-year period. I did that because I thought that was realistic, so I was not surprised that that was where the Chancellor ended up. You might have thought that, having got that one wrong, he would have given careful consideration as to whether he wanted to impale himself on a target that the OBR said he has a 50:50 chance of hitting—and that was before the political difficulties that have emerged within the Conservative Party over the past week.

Everybody knows that the figures presented in a Budget in the last three years of a forecast are never going to be the figures that are actually presented when those years come to pass, because so much changes even in stable times. We have seen—as the OBR said apropos the Chancellor's spending predictions just before the general election last year—a rollercoaster as far as these figures are concerned. When you look at how the Chancellor hits his target in 2019-20, he does so by simply shifting about £10 billion of corporation tax receipts forward a couple of years in order to have a surplus. There is about £8 billion of unspecified public spending cuts in an election year. Is it really credible to believe that any Government will go into a general election saying that they will cut public spending by £8 billion? Governments of whichever political colour do not do that.

All this is being done simply to make the sums add up on this particular presentation. One has to contrast what the Chancellor had to say last week with what he was saying in the autumn, when the sun seemed to be shining with a vengeance, he had money to give away and he was able to buy off the tax credits revolt—which, by the way, has not gone away; it has simply been postponed and we will have to deal with it when it comes back in the future.

It is now becoming clear that we are in a position where we have numbers that we cannot rely on. I know something about fiscal targets, having had to deal with a situation where they could not be met, and I would say that what matters is whether Governments and outsiders believe that the targets are credible and will be met. Over the past couple of years or so, we have seen that these targets are a moveable feast. They are moving around so much that people will begin to doubt whether they can be relied upon in any meaningful way—and that is before we deal with the personal independence payment issue of £4 billion, which will have to be accounted for somewhere else.

My second point, lest anyone misunderstand me, is that I am very clear that it was necessary to bring down the deficit, but I am also clear why it happened in the first place. I understand the rhetoric of the Tory party; the noble Lord, Lord Borwick, who spoke previously and is no longer in his place appeared to be reading a Treasury hand-out on the subject. It has to be remembered, however, that the banking crash that our country and every other developed country in the world had to deal with was more profound and more lasting than anybody thought it would be. I remember saying that at the time—not that I got much gratitude for it. We are now living with the consequences.

I know that, if we had not taken the action that we did in 2008, there was every chance that we could have slipped into a catastrophic depression. It was not just us; the same action was taken by the Americans, by the Chinese and right across the world. Incidentally, it was supported by all parties in the House at the time, though they sometimes forget about that now. It was necessary to get the deficit down, but we had to do it in a way that was consistent with maintaining economic growth and was fair across the whole population. Others have said, and no doubt further contributors will make the point, that that is not happening in the way that it should.

On the question of welfare cuts, as the Committee may recall, I was Secretary of State for what was the Department of Social Security and then the Department for Work and Pensions for some four years, so I know something about how that department operates. There is a long history of Governments coming up with a new plan that is going to be much better and much fairer and save us money, but there is an equally long history of none of that happening. These plans are difficult to implement, and often they end up costing far more than was ever intended. Personal independence payments are an example of that. Clearly, the Treasury had an undertaking from the Secretary of State that he could deliver on these things, but he simply has not done so. It was not surprising that the Treasury was going to come back and ask for more.

Similarly, with the work on universal credit, I looked at this in 1998 when I first became Secretary of State for that department because, like everybody else, I thought, "Surely there must be a better, simpler way of dealing with all these things". The answer is, "Yes, there is", provided that two things happen. First, the Treasury must give you enough money to buy out all the losers. If the Treasury does not do that, there will be losers, and we all know that you will hear an awful lot more from the losers, who in many cases will be losing quite substantial sums of money, than those who actually gain. The only time that you can do that is on a rising economic tide, and that is why I was able to consider that in 1998.

Secondly—this is, actually, in some ways equally difficult—you need an IT system that can deliver the universal credit. As everyone who has looked at the IT systems in the DWP will know, there are at least four different systems, which were designed at different times for different reasons and are not very good at talking to each other. You cannot run a single benefit that needs to draw information from sources that are not compatible. Again, that needs not just money but know-how, and no British Government have a good record on that. I fear that universal credit will be years behind schedule, will not be delivered in anything like the way that the Government intended and will be

another thing that will come back and bite this Government. I suspect that, unfortunately, there will be others who will suffer as well, if this is not looked at. You need a grasp of detail in that department, and I just wonder who was attempting to grasp the detail at the time—it is very curious.

I also wonder how it was possible to score the savings from PIP, because you can only do that if it is government policy, whereas over the weekend it was not clear at all whether it was the policy—you cannot have it both ways. That is very odd indeed, but perhaps we will hear what happened, if not immediately, in someone's memoirs in years to come.

On the question of infrastructure, let me say right at the start that I very much welcome all the announcements that the Chancellor has made on the expansion of roads and railways over the last six years—not least because I announced many of them myself when I was Secretary of State for Transport. That perhaps illustrates the problem, because announcing these things is very easy. Indeed, if we could add to GDP for every announcement made, our economy would be motoring at the moment. We are overflowing with announcements, but we are not overflowing with actual spades in the ground and progress.

However—I point this out, because I was a member of the Government at the time—we can actually do it: Crossrail is nearing completion. We signed that off, and it is now being delivered. It took 20 years and was put forward in the teeth of Treasury opposition, until one day the ex-Secretary of State for Transport arrived in the Treasury and said that, no, he would not overturn the decision previously made by the Secretary of State. That is being delivered. The west coast main line has also been delivered, and has made huge differences.

However, if you look at what has been announced over the past few years, road after road has been announced and has not been built; the Midland main line out of St Pancras has been announced, but it is now on hold. So I look at all these northern powerhouse announcements with a degree of scepticism, especially when a lot of the announcements are about money for a feasibility study. Feasibility studies are very easy to announce, but they do not always—actually, in some cases, seldom—result in a tunnel or road being built.

I publicly said a number of years ago that I think HS2 is misguided, and I wholeheartedly endorse the conclusions of the Economic Affairs Committee of this House that the case has simply not been made. What we desperately need instead is to be spending money on what is wrongly described as HS3—the roads and rail links from the north of England to the east of England. That was identified in 2005, but it has not been acted upon. If the Government are going to do it, we need to do it now. The noble Lord, Lord Adonis, is doing a very good job bringing forward these proposals, but we need a delivery mechanism to make sure that they actually happen. Otherwise, when we are debating a Budget in 10 years' time, we will simply be saying the same things.

Two big infrastructure projects perhaps illustrate the difficulties we have. The first is Heathrow. In 2003, the then Government published a White Paper which said that we should build a third runway at Heathrow. That was 13 years ago, the project is on hold, nothing will be said before the referendum, and by that time we will no doubt be into a leadership contest and we know what the stakes are there—I am not optimistic. However, in the mean time, this country's future depends upon us having good air links to other parts of the world, and I still believe that Heathrow is the right solution. I know that it is controversial, but we need to act on it.

The other example is nuclear power. Again, in 2006 the Government published a White Paper that advocated a mix of energy sources, and that has been endorsed by successive Governments. The nearest we have got to building a new nuclear power station is Hinkley B. This may run counter to my whole argument so far in relation to delivery, but we seem to have entered into a deal with the French and Chinese Governments, because EDF is the French Government and the Chinese company we are dealing with is the Chinese Government. We will be paying two to three times more for the electricity this thing will produce than what we currently pay, and we are using a design which, once again in the great annals of nuclear history, appears to be breaking new ground rather than using existing technology. Perhaps as a country we need to ask ourselves, "Aren't there cases where the Government, which is underwriting this risk anyway, might as well do these things itself and take on that risk rather than trying to price a risk which is pretty difficult to price and passing it on to consumers in the future?". I say that having been a member of a Government who endorsed PFI and who were very happy to do deals with the private sector. However, no one can possibly say that a nuclear power station is an economic proposition—it is not. If we want it, we will have to ask ourselves whether it might be better, cheaper and quicker to do it ourselves.

I will leave it to others to deal with a broader critique of this Budget. I will say only that growth in our economy is welcome; I still think it is fragile but as I said at the very start, the biggest threat to our recovery is the prospect of us leaving the European Union. However, that is for another day.

1.06 pm

Lord Bilimoria (CB): My Lords, it is wonderful to follow the noble Lord, Lord Darling; this is the first time I have taken part in a debate with the noble Lord since he joined us. I remember very clearly leading a delegation to India as the chairman of the UK India Business Council, accompanying Gordon Brown, who was then Chancellor, and the noble Lord, Lord Darling, who was then Secretary of State for what is now BIS. I remember saying at one of the speeches I made there, "We have with us possibly—probably—the next Prime Minister and the next Chancellor". Of course, on 27 June 2007 that came true. It is wonderful to have the noble Lord with us as well as the noble Lord, Lord Price, whom we welcome. I say this not just because Waitrose is a very good customer of Cobra beer. The noble Lord is a hugely respected established figure in the food and drink and retail industry—that feeling is unanimous; I have never heard a bad word said about him—and we are very lucky to have him with us.

Looking ahead, there is huge uncertainty. We have the election for the Mayor of London, the EU referendum, the Iraq inquiry report, the decision on Heathrow and

[Lord Bilimoria]

Gatwick, which the noble Lord, Lord Darling, mentioned, which has been delayed until after the mayoral election, the American elections, and the Middle East situation and Daesh-IS. There is wretched, awful terrorism in places such as Paris and Brussels. What a backdrop for a Chancellor to produce a Budget against. Just look back to November, when the Chancellor was riding high—there was £27 billion extra and a rosy outlook—then within weeks he was backtracking because the outlook for the global economy was weaker, and the UK is not immune to slow-downs elsewhere.

This Budget has some excellent measures in it. Capital gains tax, which I have talked about time and again—which used to be 18% under the old Labour Government, increased to 28% and should go back to 18%—is down to 20%. That is wonderful news, and with the basic rate going down from 18% to 10%, that will help wealth creation, which I will come back to later. Entrepreneurs' relief has also been extended, which is also fantastic. On business rate relief, 630,000 small businesses will pay no business rates at all next year, and reforms to national insurance will abolish class 2 contributions. That is all good news.

Cutting corporation tax down to 17% is absolutely tremendous and I will come to that later. Improved loans for doctoral students and loan systems for postgraduate students are also great. They are not quite where they should be but it is great progress. I declare my interest when I say that beer duty being frozen is very good. On a serious note, it is good for the pub industry, jobs and the consumer. There is investment in infrastructure—whether you agree with it or not—such as Crossrail 2 and HS3. I think that is terrific. There is also investment in roads.

However, the Government have made serious mistakes in the Budget, for example with the PIP. The IFS calculated that 370,000 people were affected by the change to the PIP criteria, and that it worked out to an average loss of £3,500 per person per year. The comments of my noble friend Lord Low on this issue have been vindicated as the public have agreed with them and the Chancellor has had to backtrack. As regards our complicated tax system, as a member of the Economic Affairs Finance Bill Sub-Committee, I know that a huge overhaul is needed vis-à-vis tax simplification, and I will come to that later.

The most important point concerns the uninspiring efforts to improve productivity, which was referred to by the noble Lord, Lord Eatwell. The OBR pointed out that productivity will be a serious issue. Chris Giles of the *Financial Times* said that the OBR had "flip-flopped" by giving the Chancellor,

"a £27bn windfall to play with over five years in the Autumn Statement",

but that the OBR,

"has now removed £56bn in these Budget forecasts".

Does the Minister agree with that?

The director-general of the Institute of Economic Affairs, Mark Littlewood, described the Budget as "slow, steady" and "rather unimaginative". I think that is rather unfair. However, he went on to say that,

"at least the Chancellor hasn't thrown out his target of a Budget surplus for 2020, even if he has almost no margin for error in hitting that target".

What he said about the increase in the 40% threshold is very good. However, on the capital gains tax, he says:

"The old top rate of 28% was actually losing the government income—high CGT rates damage economic growth by encouraging individuals to hold on to assets that would be better off under different ownership".

Therefore, I congratulate the Government on that once again.

KPMG's chairman referred to,

"a variety of measures aimed at the more traditional butcher, baker and candlestick-maker across the country but also the digital age 'kitchen table' entrepreneurs".

Robert Chote, head of the OBR, says that the OBR has revised down productivity growth, meaning that,

"the cash size of the economy is about 3 per cent smaller … than we predicted in November".

I ask noble Lords to keep that figure in mind—3% smaller than a few months ago. Robert Chote also said that the public sector net borrowing situation was £11 billion worse than previously forecast, and that weaker GDP growth means that debt to GDP ratio would rise, rather than fall, this year. Does the Minister accept that?

The Institute of Directors—not surprisingly—welcomed the measures that will help SMEs but also questioned how the Chancellor aimed to achieve the budget surplus he has promised by 2019-20 given the downgrade in the economic forecast. Simon Walker, the director-general, said:

"The UK faces risks on many fronts, and much heavy lifting will still be required to get rid of the deficit by the end of the Parliament".

Does the Minister think that there is a realistic chance of doing this?

The Government have had the guts to do a lot but they have not had the guts to reduce the top rate of income tax down from 45% to 40%. That is what it was under a Labour Government for many years. They have reduced CGT; they should reduce the top rate of income tax down to 40%. That would make us more competitive. Does the Minister agree?

Government spending as a share of GDP touched nearly 50% under the Labour Government. It was at 45% of GDP by 2010. The Government want this to go down to 36.9% of GDP by 2020. Is that realistic? Given that the NHS and so many other areas are ring-fenced, does the Minister really think that we can get government spending down to 36.9% of GDP? The OBR forecasts are changing all the time. The Government are relying on them when it suits them. Now it does not suit them. It is like the Governor of the Bank of England bringing in forward guidance. What a ridiculously ludicrous idea. Of course, he has had to backtrack on that completely.

The Office of Tax Simplification is an oxymoron. The Government should be simplifying tax, not complicating it, but the Office of Tax Simplification does not have the powers it needs. I would ask the Government to look into giving it more powers and consulting it more, which they are not doing at the moment.

I congratulate the Government on security, about which the Minister spoke in his remarks. We have now finally agreed to the 2% defence spending, which is the

NATO commitment and is wonderful, particularly given the environment we are in. Also, the SDSR 2015 is a huge improvement on the SDSR 2010.

We should keep things in perspective. This little country comprises less than 1% of the world's population yet we have 4% of the world's economy and 7% of the world's welfare spending. That cannot really go on. We have seen welfare reform that was desperately needed, but on the other hand the reforms need to be fair or we will see headlines like that in the *Sun*, "Beware the IDS of March". The disability benefit proposals were a huge mistake on the part of the Government and I think that the Chancellor now regrets that. Reducing corporation tax is great, but capital allowances are not as attractive as they should be. Does the Minister agree that they also need to be more attractive?

I turn to productivity. We are caught up in a short-term, five-year election cycle when what we really need more than anything else to improve our productivity is to invest in our universities. As a percentage of GDP our spend on universities is way below that of the United States, way below the EU average, way below the OECD average, and yet along with the United States we still have the best universities in the world. Cambridge University with its 92 Nobel Prize winners has won more than any other university in the world. Just imagine how much better we could do if we were to spend the equivalent in proportion to our competitors.

Linked to that is investment in R&D and innovation. We have great research papers and amazing fundamental research, and yet as a percentage of GDP we underinvest on R&D and innovation compared with the EU and the OECD average and are way below the United States; even South Korea invests more as a percentage of GDP on R&D and innovation than we do.

I think that the noble Lord, Lord O'Neill, said that when the forecasts change, our plans have to change with them. Perhaps we should rename the noble Lord as John Maynard Keynes:

"When the facts change, I change my mind".

The facts have changed and they are going to continue to change, but will the Government be able to adapt quickly enough to be able to cope with that? The Minister also mentioned the Oxford-Cambridge corridor. That is brilliant news. The corridor will create a golden triangle between London, Oxford and Cambridge that will help with R&D and innovation and the university excellence that we have.

I conclude by saying that last week I was in Delhi in my new role as a food champion for Britain, having been appointed by Defra. We went to launch a food festival in Delhi. It was a curry festival—taking coals to Newcastle. British curry chefs were flown out to the ITC Maurya, one of the finest hotels in India, to serve British curry—chicken tikka masala and Balti, dishes that do not exist in India—to Indians. In my speech at the opening of the festival I said that we should just look back to the 1980s. Britain was the laughing stock of the world when it came to food. British food was sneered at. Today, this country has some of the finest cuisine in the world, and indeed London is the restaurant capital of the world. In the 1980s, this country was looked upon as the sick man of Europe, but today we are the envy of Europe. In the 1980s, this country looked down on entrepreneurship—Del Boys and second-hand car salesmen—but today we celebrate it because we are one of the centres of the world. We have the best of the best capabilities in every field that can be imagined, whether it be architecture, entrepreneurship, universities, the City of London, the creative industries, or culture and sport, we are the best of the best.

The Budget is there to help us, but Governments make mistakes. I think that the Chancellor has lived up to one of my favourite sayings: good judgment comes from experience and experience comes from bad judgment. So, a fair and competitive Budget.

1.20 pm

Baroness Knight of Collingtree (Con) (Valedictory Speech): My Lords, I know that some kind friends have made their way into this Room for this debate and I thank them. I apologise to noble Lords that I did not know that this Committee did not start at 12.30 pm—that was the information I received when I telephoned yesterday. I came here as quickly as I could.

This is my farewell speech. I am conscious of the time as I know that some noble Lords are keen to get away and start the Easter holidays—I do not blame them—and do not want the speeches to go on too long. I also know that some noble Lords want to make their points in a very important debate. I am well aware that time is important and noble Lords have only a few minutes to talk about the facts of the Budget and their opinion of them.

If I may, I want to recall a day that will never go out of my mind, and I think there are some here who feel as I do. That day was 15 March 1979. It followed what we came to call the Winter of Discontent. Some people may remember that. It was pretty much a winter when we were all discontented, but that day will be in my mind for ever. Many will remember the details of the awful Winter of Discontent. Everyone was on strike. Buses and trains ran very slowly indeed, or not at all. There was no rubbish collection—the streets were piled with rubbish, as people remember. Schools were on strike and so were gravediggers. If someone died you had to realise that you had better go out and dig the grave yourself, which was not a pleasant thing

I also remember a man called Red Robbo, who managed to just about finish the car industry in Birmingham. I represented part of Birmingham myself. I knew all about what was going on in Birmingham and some pretty tremendous stories were told. Others will remember them. Car making was really the major industry in Birmingham—although jewellery was a good one—and whether a factory was working or not the council imposed a high charge. We had a terrible time at that time because of trouble in the car industry. Birmingham Council decided that whether you were working or not a tax would be levied and you had better jolly well pay it. Well, they decided that the best idea to keep going was to take the roofs off, so they took the roofs off. I well remember, too, the business of driving around Birmingham, which as a Member I was always doing, even though the sky shone right through those awful missing roofs. They were all gone, and when it rained, it poured in. It was a ghastly sight and it upset a lot of us.

[Baroness Knight of Collingtree]

I remember how those roofless ruins upset all of us, but there was not much we could do about that, except Margaret Thatcher, who was on the scene at that time and decided that maybe there was something that could be done. She planned a change of Government. If we could get a general election, and it came out right, we thought that we could change all of this. But the only way for the change to come about was to win a vote in Parliament.

Of course, there was no confidence at that time in the Government. All day there were rumours about what would happen. They were not pleasant rumours. So and so was definitely going to vote against the Government if there were to be a general election. Somebody else who was hardly ever in anyway—he came from Ireland—stood up on the very day of the vote and said, "I'm not voting", but he turned up on the day and said, "I'm here to show my obvious objection to what's happened". He was on the other side, so we were a bit surprised. Although we knew that the Labour Government had a majority of four, there was a good chance of winning any election that happened then because the people were so fed up. He told everybody that he had decided to vote for the other side. Time went on and rumours were all over the place—"I've just heard so and so is not coming in", and "I don't believe so and so is voting for us, you know". This went on. Rumours and suggestions came hot and fast.

Anyway, finally the day came when the vote was to be taken. We all rushed to our seats—both sides. It was, as usual at that time, at 10 pm—that was when we voted in those days, more often than at any other time. The vote was soon over. I am glad to say that I managed to get my name down and spoke in that very important debate. When 10 pm came, we rushed to vote and then rushed back to our seats. Our hearts were beating far faster than they normally did as the vote ended. Both sides were so impatient to know what had happened. The minutes crawled by. As we were all watching keenly, Labour's Chief Whip came into the Chamber with a very happy smile on his face. Margaret, who was on the Front Bench, turned as pale as a piece of paper. We were all thinking, "Now what?".

About a minute later one of our senior Whips, Anthony Berry, came in. Some noble Lords will remember him very well. Anthony was later killed by the IRA in that terrible trouble at the conference—I know that no one will have forgotten that. As he walked in, we could see that he was holding up the fourth finger of his right hand. We had won by one vote. That was a day that no one who was there will ever forget. The Speaker announced the result: 311 votes to 310. You can imagine what feelings that brought about in the Chamber.

I want to talk about just one more thing. We shall soon have another vote about the European question. What is going to happen we do not yet know, but there is something that I would like to say to my colleagues. Every politician knows perfectly well that when a party quarrels internally, the electorate hates it. It does not put electors in a very good mind. I would ask my colleagues to remember that, because there is no doubt that experience has taught us this. Whatever we think about Brexit, we ought to be together. I hope that everyone will.

If I was not quite together with everyone at the beginning of my speech, it was because I was quite nervous, having called the House on Sunday. I was informed that we would be meeting not at half past 12 as I thought, but at noon. I am sorry that I was a little late. I am sorry to leave all my noble friends because I love you all. Many of my friends are not from the same party as me, but we are good friends. That, too, we should remember. Goodbye to you all.

Noble Lords: Hear, hear!

1.33 pm

Lord Higgins (Con): My Lords, my noble friend Lady Knight of Collingtree and I have been working in this building for 50 years and therefore I regard it as a great privilege to be able to congratulate her on her valedictory speech. But of course, much more than that, I congratulate her on a lifetime of public service both in the House of Commons and in the House of Lords. My noble friend mentioned that people are anxious to get away for the recess. I think that she should look behind her because it is standing room only. Noble Lords have come here to express how very much they honour the way in which my noble friend has behaved as a parliamentarian over many years during a career that has extended across both Houses. My noble friend has played an important role. She referred to a number of events when we were together in the House of Commons. We both served for many years on the executive of the 1922 Committee and I can remember a number of occasions when her point about the importance of being together rather than divided was very relevant—certainly at that time in relation to Europe and now perhaps again.

Having said that, my noble friend has, in some ways, a unique achievement. I did not realise until the other day that she had succeeded in getting through no fewer than four private Bills. All of us know how very difficult it is even to get one through. To get through four, on a range of issues from nationality to copyright and child welfare, is something of which my noble friend can be justifiably proud.

A few days ago, I had the good fortune to meet a number of my noble friend's former constituents. There is no doubt that they hold her in great affection. It is also the case—as we see by everyone assembled here today—that she is held in very great affection in this House as well. All her friends will miss her very much, but we also wish her a very happy retirement. It could not be better deserved and we therefore join together, I think, in saying that my noble friend should be congratulated and we wish her every success and happiness in the future.

I come now to the Budget. My noble friend and I have survived more than 50 Budgets and a great many of them turned out to be rather controversial. However, it is quite difficult to remember a Budget quite like this one. The late Iain Macleod used to say that a Budget looked good on Budget day but it very rarely looked good by the end of the week. That has certainly proved to be case as far as this Budget is concerned.

I am rather puzzled by the resignation of the former Secretary of State for Work and Pensions. When I first heard about it, I came to the view that he must have

resigned because the proposals which he was in favour of were being watered down. I remain unclear as to whether he is in favour of those proposals or not. In all events, it raises a number of difficult issues—referred to by the spokesman from the Labour Party and others—as clearly in the light of these changes we are left with a rather large black hole. Something needs to be done to fill that hole but my understanding is that the Chancellor will contemplate on what has happened and then make decisions in the Autumn Statement.

I want to take up a point made by the noble Lord, Lord Darling. It is important to have targets for deficit reduction because, as he well knows from trying to cut public expenditure in the Treasury, if one does not have a fairly clear view of what one needs to do and achieve, then one will run into real problems in getting anywhere near the target. On a 50:50 basis of being likely to achieve the present target, I think the Chancellor should stick to his guns, but it is going to require a number of very difficult decisions.

In that context, I make just one point. There has been some question lately of whether one should look at the ring-fencing of pensions. It is very important that that framework should be maintained. For many years I represented the constituency of Worthing, where it is said people come to die and forget what they came for. There is a very large number of pensioners there. They have suffered very badly in recent years because of what has happened to interest rates. They have all saved carefully throughout their lives and hoped to have a happy retirement, and then they find that the return they are now getting on their savings is absolutely minimal. Therefore that needs to be taken into account in any question of whether anything should be done on pensions to offset the hole which has been left by the change in policy on welfare payments generally.

I very much agree with what the noble Lord, Lord Darling, said about the general approach to taxation and public expenditure. It is certainly the case that those who lose shout a great deal louder than those who benefit from any change cheer, and that needs to be taken into account. However, we also need to consider not just the fiscal framework but the monetary framework. I am glad to see the noble Lord, Lord Skidelsky, in his place, with all his knowledge of Keynes; for some years we have gone along with the combination of Keynesian views and those of Milton Friedman, or what Paul Samuelson used to call the neoclassical synthesis. We do not have any theory now to deal with a situation where there are negative interest rates. We need some theory for that because the effect of the negative interest rates will be very important. I therefore hope that we will succeed in thinking that through collectively.

The overall situation is very difficult. We will have to contend with a situation where we have to maintain our determination to cut the deficit, otherwise we can never get back to a situation of normal demand management where we run a deficit if the economy is depressed and a surplus if it is overheating. Therefore we have to take a general view on that. Overall, however, as a number of noble Lords have pointed out, the Budget includes a number of very good proposals with regard to reducing taxation. We will need to look at this matter again to see where we go from here. However, the overall approach is right, and the Government should stick to their policy. We should continue to aim at the present target, otherwise we will find ourselves in a situation where the overall balance of the economy has still not been put right. We have a long way to go.

I conclude by quoting from one of my successors as chairman of the Treasury Committee, Andrew Tyrie, who on the question of whether the Chancellor should resign said very clearly that we should be grateful to him for leading us out of the worst economic crisis we have had in modern history. He has done that; he is the right person to continue to manage our economic affairs. While the situation is clearly very difficult, none the less we have achieved a great deal since he became Chancellor and we must continue to pursue the policy he has maintained throughout that time.

1.44 pm

Lord McFall of Alcluith (Lab): My Lords, it is a great pleasure to follow the noble Lord, Lord Higgins, and others. First, I congratulate the noble Lord, Lord Price, on his excellent maiden speech—I do not think he is in his place at the moment—and on his wise stewardship of John Lewis and Waitrose over many years. It is an example of an outstanding business. Like others, I have a vested interest because a Waitrose has opened in Helensburgh in my former constituency. I hope that this message reaches the noble Lord because the supermarket has a two-hour parking waiting limit. My family say that that was totally unsuitable for my wife, who loves to go and meet her friends there. If the noble Lord, Lord Price, could intervene to ensure that her car is not clamped after two hours, it would do me very well.

I congratulate the noble Baroness, Lady Knight, not only on her speech but on her sterling service in Parliament from 1966 to 1997. I shared more than a decade with her in the House of Commons. She was always pithy and relevant in her comments, sometimes rather controversial—but we will leave out the controversial aspects today because it is a lovely day. She served her constituents and Parliament exceedingly well. I think that she is in the record books as being the first Member of Parliament to be succeeded by another woman Member of Parliament for her constituency, so I offer her many congratulations on that, too.

I made a speech on the Autumn Statement in December, just over four months ago, and said then that,

"we have had four Budgets and Autumn Statements but all they have done is to serve to confuse, not clarify. My first plea is: let us stop the nonsense of this plethora of set pieces for the Chancellor and go back to the time when there was one Budget per annum. Then we might have some sense in our debate".—[*Official Report*, 3/12/15; col. 1209.]

If the Chancellor had listened to that, we would not have got into the jam that we are in today. My prescience on the matter might best be described as the unimportance of being correct.

One of my favourite authors is Joan Didion, the American author. She wrote a stunning and very moving book, *The Year of Magical Thinking*—I do not know whether any of your Lordships have read it, but it is a

[Lord McFall of Alcluith]
fantastic book. It is focused on the story of a year spent wishing. I thought of the title of that book when we had this Budget because the Chancellor did not get even one week of thinking or wishing as a result of it before the Budget dissolved. Some of his own colleagues have called it nothing other than a fiddler's charter.

I have been thinking about the Budget in terms of being a customer of a bank, where I would put the moneys into thousands rather than the billions that the Government mentioned. I would walk into my bank and ask the bank manager for £55,000, which is the black hole in the Government's figures at the moment. But I would tell him, "By the way, I'm giving away £4,000 of that £55,000. And, by the way, my income over the next five years is reducing because the economy is getting smaller. And, by the way, I'll not be working as hard because my productivity will be down". That is what the OBR has told us. I feel that a wise bank manager would show me the door pretty readily.

My noble friend Lord Darling has asked already in an excellent speech who would believe that a £21.4 billion deficit in 2018-19 could become a £10.4 billion surplus in 2019-20. Contrary to all recent history, the Chancellor would be inflicting an incredibly painful fiscal tightening one year before an election. It does not make sense. By the way, the national debt at that point is estimated to be £2 trillion. It is okay if the national debt increases when the economy is increasing, but the economy is decreasing. Here we have a debt of £870 billion which the Government inherited from the Labour Government in 2010 which has now increased by 130% to £2 trillion. The IFS is very clear that the economy was £18 billion smaller than expected in 2015. It went on to say that if the forecasts for economic growth and productivity from a few months ago in the Budget are correct,

"we should all be very worried".

So there is lower wage growth and a smaller economy, and productivity is bombing. In terms of productivity, the ONS is clear that the current estimates suggest that the absence of productivity growth in the seven years since 2007 is unprecedented in the post-war period. That would be okay if it was predicated on sound economic forecasts, but the £3.5 billion tax breaks for small business and higher personal allowances for income tax are based on what the OBR calls "highly uncertain" projected revenues from tax-avoidance measures.

These are measures to collect tax from those funnelling cash into tax havens. The Government estimate for that was £1.05 billion, but the OBR has said that there is a £780 million shortfall because just over £200 million has been collected with 80% of the estimate being uncollected. I suggest that noble Lords would not organise a day at the seaside for their local community club on that basis because if you got to the seaside, you would certainly be hitchhiking on the way back as a result. In the space of four months from November, a £27 billion windfall has become a £56 billion black hole. As Robert Chote of the OBR said,

"for every pound the chancellor found down the back of the sofa in November, he has lost two pounds this time".

Mention has been made of the fiscal rules. Two out of three have been broken. The welfare cap was broken last year. The rule for debt to be falling every year as a share of national income has been broken. It is only obeyed by the Chancellor bending the rules on corporation tax with a one-off batch of payments in 2019-20. Policy decisions, not changes in economic forecasts, will increase borrowing by £7.5 billion in 2017-18 and by £4.8 billion in 2018-19. Then, magically, policy decisions in 2019-20 will reduce borrowing by £13.9 billion. That wipes out the £13.4 billion deterioration in the underlying public finances created by the OBR's less optimistic economic forecasts.

The Chancellor should have known better because he unwisely criticised the previous Chancellor, my noble friend Lord Darling, in 2010 when the Labour Government introduced their fiscal rule. What the Chancellor said then is worthy of repeating. First of all, he declared that it was the "biggest load of nonsense". Secondly, he declared that it was vacuous and irrelevant. He had the temerity to quote Willem Buiter of the MPC. I know the Minister knows him very well. Willem Buiter said

"Fiscal responsibility acts are instruments of the fiscally irresponsible to con the public".

The Chancellor has well and truly conned the public today as a result of that.

The Chancellor's forecasts rely not on strong growth in the economy but on strong growth in household debt and a buoyant housing market given a further boost by government subsidies. Having warned about the consequences of debt-fuelled growth, the Chancellor is now relying on it. The OBR expects household debt to continue to rise over this Parliament, and in 2020 the household debt to income ratio will exceed its previous peak of around 164%, close to the peak at the 2007 financial crisis. My question for the Minister is this: is this level of debt sustainable in an environment of possible rising interest rates?

This is against the background of a 4.4% savings ratio in the third quarter of 2015. The last time it was so low was when we heard "Blowing in the Wind"—yes, in 1963, when Bob Dylan released his famous song. That sums up precisely what the Chancellor is doing. He is blowing in the wind and his own party is generating a hurricane for him coming from within his Cabinet.

The noble Lord, Lord Higgins, mentioned my successor, Andrew Tyrie. He was scathing in his speech on the Budget last week about the balanced budget rule. In fact, he said quite clearly that this Government's record is worse than that of any other previous Government. He pointed—this is my last point—to the profound weakness of the banking system.

In the past couple of months I have had the privilege to chair sessions with Martin Wolf, John Kay, Philip Augar and Mervyn King, when he launched his book *The End of Alchemy* in Glasgow just last week. I have also had discussions with the noble Lord, Lord Skidelsky. To sum up the situation, there is a weak banking infrastructure and these learned individuals are telling us that the Government have sold the pass on reforming the banking system. At best, Martin Wolf has said, it is the old system with a few bells on it. The question now, they say, is that if and when the next financial crisis comes—and no doubt it will come at some time—we have to hope that we have individuals who

can tackle the problems correctly and quickly. At the moment, the Government have stood back and the political impetus to change the system has gone. We need to change the system because it is not serving the best interests of the country. I could refer to my successor's remarks on the Budget last week when he said that the issue of small businesses and banking is still a huge one. Long-term strategic interests are being ignored but, more importantly, the contemporary issues regarding business and growth still have to be addressed. With that in mind, I hope that the Minister will respond to those comments.

1.56 pm

The Lord Bishop of Portsmouth: My Lords, in contributing to this debate and responding to the Chancellor of the Exchequer's Budget Statement last week, to the subsequent events and to the debate in the other place, I welcome some proposals, express some surprise, and register disappointment—indeed, shock—at some of the measures announced. First, it is good to congratulate the Chancellor and Government on the intention to raise the tax free personal allowance to £11,500 this time next year. Lifting about 1.3 million people out of income tax is, of itself, welcome, although there are some potential drawbacks to which I will return a little later.

The decision to extend the period in which the 3% stamp duty second-home premium can be reclaimed is a real encouragement to those to whom I have previously referred, particularly elderly people, who want and need to downsize for their own well-being and comfort—and who, in doing this, also release a family home—but for whom the challenge of moving out and in coincidentally, or close to it, is too demanding and stressful. The pay first with reclaim up to three years later approach is not ideal and is hardly an encouragement to downsize, but it deserves some welcome.

The commitment to HS3 between Manchester and Leeds, the road tunnel between Sheffield and Manchester, the widening of the M62 to four lanes, and the backing for Crossrail 2 in London are all to be applauded as significant investments in infrastructure for the country. The announcement of a further £20 million over two years for the First World War centenary cathedrals repair fund has been enthusiastically received. Both my See city's cathedrals have benefited from this fund already; indeed, 54 of the 59 eligible English cathedrals have done so. A grant of more than £680,000 went to my own Cathedral of St Thomas of Canterbury for essential work on the tower and south transept, in particular.

I was surprised, though, to read in the Red Book's announcement of an examination of cathedrals' financial sustainability, that these 59 glorious places of worship are described as a "sector". Cathedrals are not a sector of the economy like SMEs, banks or the leisure industry, but the vibrant and active heart of dioceses, cities and communities, with growing congregations, witness and service, as the statistics show. They do not form a sector either of the economy or indeed of anything, and while I recognise that a collective noun for cathedrals is not easy to find—suggestions are welcome—it demeans their present and our faith heritage to call them a sector.

My second surprise was the announcement of a consultation on the provision of and facilities at crematoria made in the Budget, of all places. While issues about the number, location and size of crematoria are important, they cannot be addressed in isolation from others involved in ministry and provision at and around death, such as churches, ministers and funeral directors, if the stated aim is to be fulfilled, responding sensitively to relatives and to people of all faiths.

Our surprise at the announcement that all schools must become academies was again that it was made in the Budget, but there is now clarity on the timescale, albeit that it is challenging for everyone. The Church of England, as the provider of 4,700 schools and the largest provider of academies, will use its expertise and its collaborative partnerships to ensure that no one is left behind, especially small rural and coastal schools where the challenge is greatest. Our foundation for educational leadership will help to deliver what is most needed: leaders with vision and skills.

I turn to the disappointments. Sooner or later, a Chancellor must address the issue of pensions. It cannot be skirted, avoided or ignored. In particular, I draw the attention of the Minister to a consequence of the raising of the income tax threshold which, by removing people from paying income tax, also removes the tax incentive to provide for their pensions. These are issues that will not disappear and must be addressed. Ten times in his Budget Statement the Chancellor used the word "generation". It is clear that he is not unaware of generational issues, but every reference was to the next generation. Intergenerational considerations are ones of morality and equity. Each person in each generation of every age is of value and is a full member of society with privileges and responsibilities. It is not right to ignore the generational issues that confront us not only with regard to our children and their children, but which are the responsibility of those of us who are near or beyond retirement age. We are specifically protected, insulated and exempt from the austerity that has characterised recent Budgets. Protection, insulation and exemption all have their place in national economic policy, but burdens must be borne fairly.

Members of the Government have frequently echoed the words of the present Chancellor in his first Budget—that those with the broadest shoulders would bear the greatest burden of austerity. Not for the first time after recent financial statements I have examined the tables, both official and those in the newspapers, which detail how much various individuals, couples and families would gain or lose from the Chancellor's decisions. This time, the tables are more striking and chilling than ever. In the *Times* table, for instance, of 72 different sets of circumstances only eight households face a decline in income, and that of just 37 pence per week. Every other individual, couple or family gains up to more than £400 per year. However, we know that there were, and are, losers.

The outgoing Work and Pensions Secretary, responding to Andrew Marr on his Sunday morning show—I need with haste to clarify that I viewed it on iPlayer, as I was otherwise engaged on Sunday morning—said that he was not in the business of morality; he left that

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to churchmen. Although I disagree because ethics and morality are for us all, I respond to his challenge and invitation.

It surely behoves us to examine not only the gain and loss tables but our consciences. Given our circumstances and ages, I doubt that many Members of this House will be worse off through the Government's proposals. The tortuous saga of the last week finally led yesterday to a clarification—that is the politest term I can use—from the Chancellor that the Government had intended that the losers would not be those with the broadest shoulders, but the vulnerable or disabled. That decision was morally indefensible. Having accepted the error, I trust that all of us will be willing to set our course—and the Government their economic course—with a stronger moral compass.

2.07 pm

Lord Suri (Con): My Lords, I was very impressed with the speech from the noble Baroness, Lady Knight, about her successful career in both Houses. I wish her good luck and a long life. All noble Lords can learn a great lesson from her.

I thank the noble Lord for securing time for this debate. As any businessman will tell you, cutting taxes is one of the best ways of generating growth in small and medium-sized enterprises. I still remember the 1987 Budget from the noble Lord, Lord Lawson, and the positive effect of its tax cuts.

A tax on profits is, in my view, an extremely distorting tax. From the employer paying wages to the profits of a private firm, money is taxed by VAT, income tax, various levies, national insurance, business rates and many other minor taxes. Corporation tax is another unnecessary layer of complexity. Profit is not a dirty word. It allows employers, like me, to invest in more productive capital. It lets me pay wages and take on new staff and cut unemployment. The Chancellor's consistent cutting of corporation tax is the correct course of action and I can only hope this will continue until the tax shrivels away altogether.

Productivity is another area of concern. Across the rich world, there appears to be a post-crash trend rate of growth well below what would be expected at this point in the business cycle. The easy gains have been made already and the Government will need to do more to generate rises in productivity. Without this, the rapid acceleration of living standards that we have all enjoyed is in danger of shuddering to a halt. I welcome some of the new measures introduced this time last week.

Academisation has a proven track record in improving the standards of schools. I have been a supporter of the devolution agenda for this very reason; namely, that service users and employees often know better than service providers. Allowing headmasters to hire staff and set pay scales is far better than using local authorities. Combined with an extra hour at school, I hope that this will provide employers with a better educated workforce, which is what we need if we are to own the industries of the future, like biotechnology.

I will finish on this point. We have a referendum on the European Union coming up. For all its faults—and there are many that the renegotiation did not address—we must vote to remain. The EU is the biggest single market in the world, with 500 million people to buy our goods and services. Almost half our exports go to the continent. We now have opt-outs from the euro and Schengen. Our European partners have accommodated us to the extreme, and we must appreciate what they have done. It may be the case that we are now the fastest-growing major European economy, but when we joined, we were the sick man of Europe. Times change, and working with allies is the only proven path to achieving success in an ever more globalised world.

2.11 pm

Lord Desai (Lab): My Lords, normally the Budget is a curiosity for around 24 hours, and by the next day everyone has forgotten about it and we carry on as normal. This is a unique Budget because it refuses to go away and it keeps changing its shape. I follow on from what my noble friend Lord Eatwell said. We would really like to know what the Budget is now. Which calculations are now prevalent since the Government blew a big hole in their own Budget?

The Order Paper suggests that the last business today is something that the noble Lord, Lord Ashton of Hyde, is going to do with the Budget under the European Communities Act. He said that the Government's assessment is set out in the Budget report and Autumn Statement, but I do not know which Budget Statements he will be talking about, because what we have is now not true. I think that we are owed some kind of explanation.

What I next want to say is this. Given how many times the OBR has had to revise its forecasts, what that reflects is a great deal of uncertainty about the economy, especially when it comes to the numbers. Economics is one of those rare subjects where we do not even know quite what has happened in the past, let alone what will happen in the future, especially when considering the numbers around our real income. We were sure that we had a double-dip recession, but the diagrams suggest that there was no double-dip recession.

My proposal, although it might not be that constructive, is that in future the Government ought to produce fan diagrams of all their Budget calculations. They should show what they intend to spend, but they should also show what they do not quite know and produce their confidence interval both on revenue and on the spending side—in which case you cannot actually make point forecasts of the targets. Point forecasts of targets are just a nonsense. Any statistician will tell you that no such number is completely accurate; it has to have large errors around it. Something that the Government ought to examine, either with the OBR or without the OBR, is a more sophisticated approach, if I can call it that, to Budget making. Ultimately, accountants want numbers to balance, but I think one can say that the deficit would be either this or that or anywhere in between, because that is the best we can say—we cannot separate the numbers.

In the same direction of argument, I lost a lot of friends during the last Government by supporting the Chancellor because I thought he was doing quite well. After all, he was implementing my noble friend Lord Darling's policies, and he was succeeding in that.

Who can blame him? However, I think it was wrong of the Chancellor—I have said this before—to have a budget surplus as a target for the last year of his Government. Apart from anything else, when Roy Jenkins achieved a budget surplus we lost the next election, so having a budget surplus is not a popular policy. Apart from Roy Jenkins, the only other two Chancellors who have achieved a budget surplus are Nigel Lawson and Gordon Brown, but the surpluses were so tiny you could hardly see them without a microscope. This idea of achieving a surplus should be laid aside. The Chancellor's job is to ensure that the economy prospers and people do not suffer very much. He should not worry about these narrowly defined targets of deficits and surpluses.

One question is worth discussing and perhaps the noble Lord can answer it—how will the Government fill the gap? My own view is that, since they have blown a hole in the Budget, they may have to come out with a slightly new set of calculations. I see that the Minister has a troubled face. If the Government had known that they could not cut off this £4 billion, would they not have raised the fuel duty? Not raising fuel duty is an immoral act, apart from anything else. When the price of oil fell, the Government of India gave only half the gain to the consumer and pocketed the other half. That is a perfectly sensible thing to do. There is no reason why the entire gain from the price cut should be passed on, given that there are other urgent tasks that the Chancellor has to perform. It would be perfectly normal to say, "We had to do something, and this was the least painful". I declare an interest in that I do not have a car and have not had one for 50 years since I have lived in London. I have absolutely no sympathy with car drivers—I have slightly less with bicycles but I will not go into that. The action I have described would be doable.

The raising of the threshold for the 40% income tax payment was too generous. There was a time when we had inflation and fiscal drift, as it were, and people thought it was unfair that they should pay extra tax given that nominal incomes were rising but real incomes were not. We do not have high inflation, so I think that going from a £42,000 threshold to a £45,000 threshold—or whatever the Government have done—is far too generous. If they had decided to introduce this over two years or defer it, as with the corporation tax for big businesses, they could have clawed back some money that way.

I very much welcome the sugar tax. I am a friend of high taxes, and the sugar tax is a good thing. I definitely argued for it. Some soft drink producers have asked, "Why us? Why not introduce a chocolate tax?". I thought that was a good idea and that we should levy the sugar tax on solids as well as liquids and have a progressive sugar tax which would claw back some money. I have argued before in your Lordships' House that I prefer taxing consumption rather than taxing income because, if you tax people while they are having fun, they do not notice it. Therefore, it would be perfectly normal to introduce a more comprehensive sugar tax. I also welcome the fact that, after all these years of the Treasury not agreeing to a hypothecated tax, we now have hypothecated taxes. Hurrah! Long may we have a practice of saying that this particular tax is for this particular expenditure.

Finally, quite a lot of noble Lords have said that there is a need for infrastructure spending. Fiscal orthodoxy says that we cannot do that because the Budget numbers will go down. I have read Tom Bower's book on Tony Blair. I think Gordon Brown invented PPP and built 80 hospitals and not a single number showed up in government debt. I think you have to find a similar trick: set up some nice corporations that will build affordable houses and do it in such a way that not a single number appears in the Budget. It cannot be difficult for the Treasury—it has done it before; it can do it again.

2.20 pm

Lord Skidelsky (CB): My Lords, I want to address three topics that have arisen from the Budget—the productivity collapse, the overreliance on OBR forecasts and the failure to distinguish between capital and current spending. I know that noble Lords have spoken on the first two but the third one is also important and was briefly alluded to by the noble Lord, Lord Desai.

Productivity is really a disaster. Before the crash, productivity growth was about 2% a year. In the last eight years it has been 0.2%. These figures should alarm the Chancellor. It means that he can expect no help to growth from productivity and that a lot of our present growth is bubble growth, which will subside when the balloon is pricked, together with the bubble revenues it brings him. The belated recognition of this fact has led the OBR to revise downwards its growth forecasts, leaving the hole in the Budget to which many noble Lords have already alluded. Near-zero productivity growth also means we can expect very little improvement in living standards over the next few years. The Iron Chancellor will have presided over Britain's longest period of stagnation in a century.

No one has a completely convincing explanation of why productivity has been so poor, certainly not the Bank of England, which has written a couple of reports on the matter. In the most general sense it must be because of the way our labour markets and financial system have worked during the recovery from the recession. What new jobs have we created? In his Budget speech the Chancellor claimed that the economy created 2 million "good" jobs in the last Parliament,

"90% … in skilled occupations ... three quarters … full-time".—[*Official Report*, Commons, 16/3/16; col. 953.]

The view from chez Corbyn was, understandably, very different. He referred to,

"nearly 1 million people on a zero-hours contract ... the highest levels of in-work poverty on record".—[*Official Report*, Commons, 16/3/16; col. 971.]

This means that this has been a jobs-rich, skills-poor, recovery—in marked contrast to both the great depression of the 1930s and the recovery from the 1980s. The labour-intensive nature of the recovery has shown that Margaret Thatcher achieved her goal of creating the flexible workforce dreamt of by the Chicago economists, but only by drying up the springs of productivity and thus real wage growth. From 2008-14, the median real wage, which had been growing by about 2% a year in the 1980s and 1990s, fell by an average of 1% a year. Real weekly wages still have not reached their pre-crisis peak; this is not what a recovery should look like in a "high-wage" economy.

[Lord Skidelsky]

We can discern two trends from this: a further shift from manufacture to services; and within the service sector, a shift from higher paid to lower paid jobs—from local government to hospitality, personal services and retail. Our new service economy is starting to look like the Victorian servant economy, with the difference that the services are now outsourced rather than in-house. However, to explain the increase in the labour intensity of employment we also have to look at the financial sector. Capital investment has fallen off, with investment as a fraction of output having been consistently 1% or 2% lower than its pre-crash level. The effects of this continued underperformance of investment, accumulating over time, has left us with an anaemic capital-labour ratio that continues to drag on our productivity.

Why has investment been so sluggish? This, we must remember, has been despite all the efforts by the Bank of England to stimulate fresh investment by keeping interest rates at zero, and, of course, pouring a lot of money into the economy. Is it because we have a damaged banking system or because we have a banking system which is less interested in helping small and medium-sized enterprises than in churning money around itself? Is it because the demand for loans has fallen off? It is probably some combination of the three. Much of the new money has been hoarded. Some of it has gone into asset speculation. Two-thirds of bank lending goes into mortgages to buy existing houses—which is speculation in a fixed asset. All of which is a far cry from the textbook idea of banks as intermediaries which channel public savings into real investment. Therefore, on the one hand an increase in labour intensity and on the other hand an increase in what the noble Lord, Lord Turner of Ecchinswell, calls "financial intensity"—an increasing share of financial actions taking place within the financial sector itself. I argue that the interaction between the two explains our productivity collapse. The conclusion I draw is therefore pretty clear. If the private sector will not invest in the economy, the state has to do it.

My second topic, which has been referred to by the noble Lord, Lord Darling, is about the over-reliance of the Chancellor on OBR forecasts. We know the picture. In November the OBR gave the Chancellor a £27 billion bonus and more recently it discovered a £4.4 billion hole. Targeting deficit reduction over a medium-term period became fashionable in 2010 to give fiscal consolidation credibility. In 2010, the noble Lord, Lord Darling, announced that he would halve the budget deficit over four years. A few months later, the Chancellor said that he would eliminate the "cyclically-adjusted" current spending deficit by the end of the 2010 Parliament. Labour now follows the same path. John McDonnell says that a Labour Government will balance the books every five years. All these targets depend, as noble Lords know, on growth forecasts which are bound to be wrong at the time, bound to be wrong—as the noble Lord, Lord Desai, said—even about the past, and are bound to be even more wrong in the future. Today no one knows how much the economy will grow over the next five years, yet the Chancellor still has a target of an overall surplus in 2019-20. The combination of point targets and variable forecasts is a mad way to do budgeting. No wonder the Chancellor has revived his talk of headwinds. I can see that having these medium-term targets gives some assurance of fiscal discipline. However, it also means that policy is just shuffled around between the front and back of the sofa according to the latest OBR forecast. The one thing this vacillating method fails to provide is a credible policy of fiscal consolidation.

The larger problem underlying all this is that the Chancellor's Administration has been trying to achieve a balanced budget for a given state of the economy rather than trying to use the budget to balance the economy. Unfortunately, this restricted view is shared by Labour. It means that the current debate largely revolves round the fairness of the cuts—the distribution of the sacrifice—rather than challenging the logic of the cuts in the first place. We therefore need a lot more thought about that.

My final point is about George Osborne's failure to distinguish between capital and current spending. This goes back some way, and he is not the first to fail to do that. One of Gordon Brown's achievements was to revive the distinction between debt incurred to finance capital formation and debt incurred to fund consumption. The basic idea is that the Government should cover all current spending by taxes, but can borrow for investment. Had that distinction taken root, the spending that needed to be balanced by taxes would have been much smaller and the budget deficit consequently less alarming than has been shown to be the case in public debate. The problem, of course, is the difficulty of defining investment. Building a new school or hospital is surely an investment, but because it does not produce a calculable prospective revenue to service and pay off the debt, it creates a lot of wiggle room to borrow for current spending.

In reaction, the Treasury now treats all public investment as current expenditure. When the Chancellor says that he aims for a surplus in 2019-20, he means a surplus on public sector net borrowing. Since any investment financed by borrowing increases the deficit, that is in effect a veto on government borrowing for investment in the foreseeable future. We need to do a lot more work on this.

I am reminded of something that Keynes wrote in 1942. He said:

> "We need to extend, rather than curtail, the theory and practice of extra-budgetary funds for state operated or state-supported services … [It is important] to associate as closely as possible the cost of particular services with the sources out of which they are provided … This is the only way to preserve sound accounting, to measure efficiency, to maintain economy and to keep the public aware of what things cost".

I do not deny for a moment that there are some thorny problems here, but unless we make a determined effort to relate the cost of particular services with the sources from which they are financed—I have been a long-standing advocate of a national investment bank—we will never escape from the deficit trap, at least except by destroying what is left of social cohesion. That is the course, I am afraid, on which the Chancellor has embarked. But as the resignation of his Work and Pensions Secretary shows, it will bring him little joy.

2.32 pm

Lord Haskel (Lab): My Lords, this Budget promises more austerity. I join my noble friend Lord Eatwell and many others in feeling that we are becoming victims of austerity as practised by this Government. Much of the Budget is designed to put right the low investment in infrastructure, training, the disappointing exports, disappointing tax receipts and poor productivity —caused by austerity. Alan Milburn pointed out in his recent report on child poverty and social mobility that much of this falls unfairly on generation Y. With welfare now added to the many areas of expenditure that are closed to the Chancellor for cuts, he may be forced to find the new approaches suggested by many noble Lords. The noble Lord, Lord Higgins, referred to a rather large black hole.

The Minister spoke of the need for resilience. Economic security is not just a matter of accountancy and government bookkeeping. The Government and other noble Lords continue to tell us that the economic crisis was caused by excessive public expenditure and public debt during the Labour Administration, but endless books, articles, learned papers and research tell us that the crash was all to do with global banks extending huge amounts of credit to inappropriate borrowers—banks with insufficient capital of their own to cover these and their own speculative losses. Internal bookkeeping will not protect us from these pressures. We have to raise our game in the financial industry and a robust and properly regulated financial system is required to protect us from outside financial pressures. My noble friend Lord McFall told us how weak the system is. What are the Government planning to do about it?

In his Budget speech, the Chancellor said that the most significant observation from the OBR was the slow-down in the growth of productivity. The Minister reminded us of this and so have many other noble Lords. The Minister has said that the Government are going to deal with this through investment in education and infrastructure. In support of this the Government speaks of the roads, railways and flood defences that are on the way. My noble friend Lord Darling told us that what the Government do not tell us is that much of this expenditure is on feasibility studies and design, on organisation and preparation—all essential, but not for now. It is for the next generation but one. For the next generation are the many small and local projects that are essential to cut bottlenecks and to help local businesses. But as the noble Baroness, Lady Kramer, pointed out, starved local authorities are struggling to support this. Instead we hear about the promised prestige projects that are a long way off in the future. What efforts will the Government make to help local authorities to carry out these small but urgent projects?

Government investment in science and engineering is key to raising productivity and, yes, there are several welcome signs of this investment all across the country. At last, there is even investment for studying the feasibility of building mini nuclear reactors. Also welcome is the decision to make loans available to many more adults training in further education, particularly for science and engineering. However, as the noble Lord, Lord Bilimoria, pointed out, compared with other areas, this is not nearly enough. Nor is it adequately managed. A few days before the Budget, the National Audit Office was strongly critical of the quality of the information used for the Government's investments in science capital projects. I hope the Government will pay proper attention to that. These projects must be properly planned and funded from start to finish and not from Budget to Budget.

One of my major concerns is that the Government do not seem to understand the way that the world of work is changing and the impact that this has on productivity. We have long argued that the Government are giving insufficient attention to those less tangible investments. We now have an important ally in Sir Charles Bean. In his recent report he, too, points out that intangible investment is not properly reflected in our figures. He gives some interesting examples: go to a travel agent and book a ticket and that becomes part of our GDP because of the investment in the travel agent, but be more efficient and book it over the internet and it does not appear. If you travel by taxi, this is in our GDP because a taxicab is an investment, but if you travel by Uber it is not, because you are probably riding in somebody's privately owned car. Many small businesses and self-employed people now use websites, platforms and apps to sell their services and products. Where do they appear? We have to get this right. The Bank of England's chief economist, Andy Haldane, warns us that up to 12 million jobs in Britain are at risk because of these powerful tools to raise productivity.

I welcome the increased minimum wage. My noble friend Lord Eatwell pointed out that many firms have said that they will pay for the increased minimum wage with less hours, less overtime and fewer benefits. So we are not going to see much growth in earnings. This increase in pay should be financed by increased productivity. If the means of achieving this are not recognised, all we will get is a race to the bottom—as the noble Lord, Lord Skidelsky, indicated—which is an outcome that none of us wants. When will the Government bring us into the 21st century? I put it to the Minister that in failing to understand properly what is going on we are in danger of solving yesterday's problems, not today's. The Minister laughs, but I think it is a very serious matter.

Many noble Lords have spoken of our complicated tax system. What this means for business taxation is a lack of a sense of constant strategic direction, and it makes us nervous. The Minister welcomed the cuts in capital gains tax. Like many other noble Lords in this Committee, I spent much of my working life building a business—a business that I am pleased to say supplied John Lewis, so I welcome the noble Lord, Lord Price. During that time—some 30 years—the tax we would have to pay on selling out our businesses varied between 45% and 18%. Indexation was introduced and then withdrawn. From time to time, the definition of business assets was changed. Our strategic concern was to achieve success. The Minister may say that the Government's intention was to encourage investment, but it has not happened. Others could interpret this as tempting us to enjoy the fruits of success rather than continuing to invest in the business. And yes, in this Budget the rules are changed again, so I put it to the Committee that

[LORD HASKEL]
this is a wrong strategic aim in a country such as ours which depends on people like us building long-term, successful businesses. I agree with others that this is where continuity and reform are needed.

We need Budgets that understand the economy, build a robust and secure economy and which invest in long-term business, industry, the environment and skills and services—not Budgets designed to deal with the self-inflicted damage of the Government's version of austerity.

2.42 pm

Lord Lupton (Con): My Lords, I want to talk about two matters in the Budget, one of which has had little publicity to date but to my mind signals a significant and welcome policy development. Before doing so, I want to make one general observation and remind the Committee of my declared interest as chairman in Europe of a global corporate advisory firm, some of whose clients may well be affected by the Budget.

In my first few months sitting in your Lordships' distinguished company in the House, I have come to the conclusion that the opposition parties have learned little from the depressing tale of recent economic history. Reckless mismanagement of the economy in 13 short years, most of those years in the boom period before the crash, brought this country almost to its knees in 2010, requiring the Conservative-led coalition in that year, now a Conservative majority Government, to take decisive action to reduce a double-digit deficit.

It is apparently perfectly acceptable, when we have a deficit still running at more than 3%, to table amendments costing the country literally billions while criticising in a knee-jerk way any tax cut, even when there is good evidence that such a cut may produce more revenue. I am sorry to say that there is something sickening about listening to the sheer hypocrisy of Labour Peers criticising a so-called "black hole" of £4 billion opening up over the next five years on PIP when they dug a 10% deficit cavern in 2010—a Wookey Hole compared to a PIP pothole.

Lord Skidelsky: My Lords, can we just get some accuracy on the figures? The deficit when George Osborne took office was 8.3%. Let us not talk about double digits.

Lord Lupton: As the noble Lord well knows, the economy is a supertanker that does not turn around in six months, as indeed the evidence over many economic cycles shows. None the less, just to recall, all of that generated in 2010 the famous billet doux from the Treasury: "Good luck. There's no more money".

I want to talk about the proposal to cut capital gains tax from 28% to 20% from next month. In 2010, the Adam Smith Institute produced a compelling report on the effect of capital gains tax rises on revenues using data from the USA dating from 1955 to 2006. I apologise in advance for bombarding noble Lords with numbers, but when the tax rate was raised four times between 1968 and 1976 from 20% to 35%, total capital gains tax revenues fell by 21%. When the 35% CGT rate in 1978 was then progressively cut to 20% by 1984, the CGT take rose by 46% to $41 billion. When the rate was increased again in 1986 to 28% from 20%, revenues fell by 13%, and when the rate was cut from 20% to 15% in 2003, CGT revenues almost exactly doubled to $110 billion. Noble Lords will get the drift: there is a clear pattern of inverse correlation between the two. Professor Paul Evans of Ohio State University found in an important piece of research carried out in 2009 that a 1% reduction in the marginal tax rates on CGT in the US might trigger a 10% increase in revenues.

There have been fewer changes to CGT rates in the United Kingdom so it is more difficult to draw evidence-based conclusions, but I note that the rate cut in this Budget is possibly the only cause for my being in agreement with the former Chancellor of the Exchequer, Gordon Brown. He reformed CGT in his first Budget in July 1997, cutting CGT on long-term investments from 40% to 24%, and again in 2003 he cut CGT on business assets to a rate of 10% for assets held for more than two years. Thereafter—guess what?—CGT revenues in the UK increased by 35% to £3.2 billion. Since much of capital gains tax is a voluntary tax in that you can often choose when to realise a profit, this feels intuitively right.

I applaud the cut in the rate of CGT, not least for basic rate taxpayers who will now pay only 10%. With entrepreneurs' relief at 10% now extended to all long-term investors in unlisted shares—quite often start-ups—there is already anecdotal evidence of a further surge in entrepreneurialism which will, based on strong historical evidence, particularly in the United States, increase revenues from this tax to the Exchequer—and hence my reason for applauding it.

I would also like to say a few words about the introduction of the interest deductability cap which, perhaps unsurprisingly given its name, has had little coverage in the press. The Budget imposes what to my mind is a sensible cap on the amount of interest which can be deducted from taxable profits at 30% of those earnings in the UK with a de minimis threshold of £2 million of net interest expense to avoid harming smaller companies. This represents a very important policy shift. While a key driver of this measure seems to be restraint of tax shifting by international companies away from the UK, sections of the investment community, some of whom I represent in the UK, will no longer have such a powerful personal motive to leverage the companies their firms buy.

This provision will force a change on the private equity business model in the UK, requiring, I believe, greater prudence and greater concentration on genuine business improvement rather than overreliance on pure financial engineering. That is a good thing and I am sure that the private equity industry will rise to the challenge.

The great financial crisis was littered with carcases of companies where the so-called "tax shield" of carefully constructed legal structures with double dipping and excessive debt went wrong when the profits of the company stumbled. From talking this week to some of the major players in the private equity world, my feeling is that this OECD-wide initiative, which our Government are now pioneering, is regarded by them as an inevitability, with the result that lesser personal

rewards will be available from what, in aggregate—that is the point: in aggregate—became the taking of major systemic risk through excessive leverage. Excessive, and even abusive, use of interest rate deductions incentivises the use of debt over equity, overleverages corporations, thereby increasing their risk, and increases systemic risk in the UK banking sector as a direct result. Change is long overdue—a fact the Chancellor recognised with prescience when he called for such change in opposition. I applaud this move, with the cautionary note to the Minister that when interest rates eventually rise, the Government may need to be flexible on whether 30% is then the right threshold for the cap.

This is not only a pro-business Budget but one which is pro-market, pro-new entrant, pro-small business and pro-entrepreneur too. Under the bonnet of this Budget, small businesses and entrepreneurs are being helped the most and large companies are being held better to account to behave responsibly and pay their fair share. Growing, successful businesses create jobs. Higher employment improves the economy, reduces the deficit and enables us to take care of the most needy in our country. We should trumpet the success of UK business in recent years. I am confident that this Budget will build an even more vibrant business economy.

2.52 pm

Viscount Chandos (Lab): My Lords, it feels quite like old times, not just to be sitting alongside my noble friends Lord Eatwell and Lord Desai but to be sitting opposite the noble Lord, Lord Lupton, although previously we did so on other sides of the negotiating table in our roles as corporate finance advisers. I wear as a badge of honour his suggestion that I am a member of the hypocritical group of Labour Peers on these Benches and I will come back to some of the points that he made on capital gains tax changes.

I welcome the chance to debate the Budget measures and the implications they have for the economy, but I regret that this debate is not taking place on the Floor of the House but here in the Moses Room, whatever the charms of this room may be. I regret that particularly in terms of the exceptional maiden and valedictory speeches of the noble Lord, Lord Price, and the noble Baroness, Lady Knight, respectively, and in the context of the separation of this debate from the Motion which will take place as last business in the Chamber today, to which my noble friend Lord Desai referred. Perhaps it is an unworthy thought that this room is being used not just because of the pressure of legislative business in the Chamber but, rather, because the Government remember their good friend and supporter the late Lord Hanson, who made a practice of always holding the annual general meeting of Hanson Trust on one of the days between Christmas and the new year, while denying that that was done in any way to discourage the attendance of troublesome shareholders.

As the last Back-Bench speaker and having heard so many powerful comments about the macroeconomic scene—I support entirely the contributions of my noble friends Lord Eatwell, Lord Darling and Lord Desai—I propose, even before hearing the speech of the noble Lord, Lord Lupton, to focus on one or two areas of specific tax policy, particularly capital gains tax, relating to entrepreneurial activity.

The Minister referred to the problem of low productivity, as did my noble friend Lord Eatwell and many other speakers this afternoon. Of course, the linkage between productivity and technology, innovation and entrepreneurial activity is complex and what we see in the US reflects many of the issues that we struggle with here. But notwithstanding the suggestions of the noble Lord, Lord Lupton, like all my colleagues on these Benches in both Houses, I strongly recognise the contribution of small and innovative businesses to the increase in productivity.

The Minister referred to the CGT changes as a measure to encourage investment. He also said that tax should be not just competitive but fair. That last statement reminded me of something written by the excellent *Financial Times* political commentator Janan Ganesh—indeed, the biographer of the Chancellor—when he wrote last year:

> "A country's tax code is not just a mesh of rules and rates—it is a secular bible of moral signals".

Although Ganesh was writing principally about inheritance tax in that particular article, which I will refrain from addressing at least today, his argument is compelling on a broad view. I will quickly examine the CGT changes and indeed the related pre-existing tax treatment of investment in smaller companies, and ask whether this achieves the aim of stimulating productive investment and at the same time sends the right signal of fairness.

The noble Lord, Lord Lupton, took us through a long history of the changes in CGT rates. He rather glossed over that it was the noble Lord, Lord Lawson, who as a Conservative Chancellor raised the CGT rate to the same level as the marginal rate of income tax, which I think we can see now as a triumph of intellectual purity over practical efficacy. We then went through the period that he described of taper relief. It was then my noble friend Lord Darling who simplified the system, removed in large part the separate taxation of business assets, private company shares and so forth from other assets, and introduced a single rate of 18%. At the same time he introduced entrepreneurs' relief at a 10% rate capped at £1 million in any entrepreneur's lifetime. The current Chancellor, both during the coalition Government and subsequently, significantly raised the CGT rate to 28% but at the same time substantially increased entrepreneurs' relief in two stages to £10 million.

The changes in this year's Budget Statement bring us back to a basic rate that is very similar to that introduced by my noble friend Lord Darling, but with a further broadening, in effect, of entrepreneurs' relief and the reintroduction of a two-tier system. There may be a reasonable argument, as is made by Hamish McRae in today's *Independent,* that 20% as a general CGT rate may be optimal from the point of view of raising tax revenue. That may have influenced my noble friend Lord Darling when he pitched the rate at 18%. But do we need ever-growing concessions to small and private company investment? In 20 years of advising and investing in early-stage companies, I have never seen any evidence that a capital gains tax as low as 10% makes any difference to the quality or quantity of investment in these companies, let alone the effect of the income tax breaks that apply through EIS and VCT investment. What are the Minister and his colleagues

[Viscount Chandos]
doing to try to assess the total cost of concessions to private company investment, both the pre-existing ones through income tax and other CGT breaks and the newly introduced ones? Will he give an assessment of whether the taxpayer gets value for money from that? If we do not, surely we are falling into the trap that Mr Ganesh referred to in the *FT* of sending the wrong moral signal.

I should emphasise that these Benches strongly support the activities of small companies. As I have said, I have devoted most of my working life to working with them. But we need to be rigorous in the way that we examine what allowances are really needed as opposed to currying favour with the small business lobby.

3.01 pm

Lord Newby (LD): My Lords, it is a great pleasure to participate in this debate, not least because it has enabled me to hear the maiden speech of the noble Lord, Lord Price. I was very struck when he quoted the John Lewis motto that its aim was,

"to make the world a bit happier".

I hope he takes that motto with him into his ministerial role and attempts to fulfil it as successfully there as he has done at Waitrose. It was also a privilege to hear the valedictory speech of the noble Baroness, Lady Knight. It is sobering to think that when she was first elected, I was only 13 years-old. When I think of the changes that I remember in my lifetime, and that she has been an active participant throughout that extremely turbulent and rapidly developing period of our history, she has had a remarkable career. I have one final comment on speeches that do not flow in the main body of my speech. I have a suggestion for the right reverend prelate the Bishop of Portsmouth. I would have thought that a see of cathedrals might be a good collective noun.

The Budget has been a drama in two acts. Act I was the Budget itself and it lasted until about 24 hours after the Chancellor had sat down. The Budget exemplified the aphorism that to govern is to choose because the Government certainly chose a number of very stark priorities. First, they chose to have a budget surplus by 2019-20. Nobody believes that that is necessary for any economic purpose; it is a piece of economic posturing by the Chancellor, which is important to him and his credibility but almost certainly not necessary in terms of the long-term future of the British economy.

Secondly, the Chancellor decided to achieve this by increasing the pace of deficit reduction in the last year of this Parliament. For the next three years, the deficit reduction will go on at a rate of about £17 billion a year, and then suddenly in 2019-20 it increases to £32 billion a year. Can the Minister explain the economic rationale for that acceleration? The Chancellor decided to achieve this Budget surplus largely by regressive measures, from the now disgraced PIP changes to cutting public expenditure by £3.5 billion in 2019-20, in as yet unallocated measures. Whatever they are, given the budgets that are likely to be cut, it is highly likely they will be regressive.

Capital gains tax has been reduced. We can argue about whether the optimal rate in terms of overall revenue is 28%, 20% or something else, but for many affluent individuals that cut is a great benefit.

There are two changes to the ISA limits—the overall annual ISA limit goes up to £20,000, which is greatly above any increase justified by the rate of inflation, and can benefit only extremely affluent individuals. Having £20,000 of free cash to put away a year is beyond the dreams of the vast majority of the population. The lifetime ISA allows young people to put away up to £4,000. I accept that there is a big problem in getting young people to save for their pensions, given the short-term pressures they have with housing costs, repaying loans and many other cash calls. However, we are just in the process of introducing automatic enrolment for pensions across vast swathes of the economy. We are saying to people, "We want you to join your company scheme because if you do the company will then make a contribution and this is a wise way of saving for your pension". Now, young people are being told, "Hang on a second, you have a new ISA". What advice would the Minister give young people, such as my sons in their late 20s and early 30s, as to whether they should join an auto-enrolment scheme if they have not already done so or should put any spare cash they might save into a lifetime ISA?

Overall, the effect of these changes is that the poorest do worst and every other group does increasingly better. This was graphically demonstrated by the IFS but not by the Government, whose own distribution tables for the first time did not cover the effects of this Budget. They covered a decade's worth of effects, which meant that you could not tell what the effects of this Budget were. That was why the Education Secretary was tripped up on television because she had read only the Red Book, which would not tell her that, and the distribution tables produced by the Government. She had not seen the IFS report.

Another feature has been the stunts and smoke and mirrors tricks so beloved of Gordon Brown. Three stand out. The first is deferring bringing forward the payment of corporation tax for large groups for two years, which is revenue neutral over the Parliament but backloads a large amount of cash coming in in the last years of this Parliament. The second is bringing forward capital spending in 2017-18 and 2018-19 and then reducing it by an equivalent amount in subsequent years. Given the problems that the noble Lord, Lord Darling, graphically illustrated of getting this money spent on time, can the Minister first tell us on which projects an extra £760 million is to be spent in 2017-18 and an extra £970 million in 2018-19 and then which projects will have £1,585 million less spent on them in 2019-20? The final bit of smoke and mirrors, which is damaging to the economy and the public sector, is raiding the public sector pension funds at a cost, as my noble friend Lady Kramer said, of £650 million to the NHS and more than £400 million to schools, but which miraculously pops up in the Budget figures as a gain of £2 billion to the Government.

Overall, the Budget as presented is regressive and gimmicky. It is devoid of economic rationale but dripping with political calculation. In the absence of the restraining hand of the Liberal Democrats, the Chancellor has driven a stake into the heart of one-nation conservatism and heralded the return of the nasty party.

But not so quick—that is just the end of Act I. Suddenly, 24 hours after the Budget, the curtain rises on Act II. A Back-Bench Tory rebellion reverses the

PIP policy, at a cost of £4 billion, a number of VAT changes are made, IDS resigns, chaos reigns. However, yesterday the Chancellor says that we should not worry, he has seen the error of his ways, he will not make any further benefit cuts, and that IDS was a nice chap really. Can the Minister give any example in the last century when a major plank of a budget has been withdrawn within 48 hours because of a rebellion in the governing party or for any other reason? Where do the Government's plans now stand, and in particular, to take up the point made by the noble Lord, Lord Desai, given that the Government are now about to send a Red Book to Brussels, will it be amended? We know that the Red Book no longer reflects the Budget judgment of this Government, and there is a legal requirement to send an estimate to the EU jolly quick, so it cannot wait until the Autumn Statement.

On plans unravelling, the Minister will be familiar with the mayoral devolution deal, which the Red Book claims has been agreed for East Anglia. The Minister is no doubt also aware that last night Cambridgeshire County Council rejected the deal by 64 votes to one. It did so because the proposal would have simply dropped a mayor for East Anglia on top of the existing structure of parish, district and county councils and because it believed that this would blur transparency of who was responsible for decision-making. Given this near-unanimous view of Cambridgeshire, on what basis did the Government claim in the Red Book to have got their agreement—the word "agreement" being used? Do other counties in other areas which are to get similar deals share Cambridgeshire's view, and in the specific case of Cambridgeshire, what plans do the Government have to resurrect the deal?

One lesson from the Budget is, as we have discussed today, that hard and fast fiscal rules are a folly. We remember the painful contortions over Gordon Brown's golden rule, and the noble Lord, Lord Darling, as he pointed out, legislated to halve the deficit over four years. Given the way the Labour Party excoriated the coalition Government for achieving that, I suspect that had the noble Lord or one of his Labour successors still been in government, that target would probably not have been met and another one would have been required.

The current Chancellor has already broken two of the three fiscal rules he had set. To cap it all, Labour has set a fiscal credibility rule. Leaving aside the fact that you use a word like "credibility" only in a context when you have none, this rule is completely undermined by the views of the Shadow Chancellor, who in the Commons said:

> "As someone who still sees the relevance of Trotsky's transitional programme, I am attempting not to salvage capitalism but to expose its weaknesses ".—[*Official Report*, Commons, 4/7/11; col. 1317.]

I am not sure that Trotsky's transitional programme was very hot on fiscal credibility. The only lesson I learn from all these broken or ridiculous rules is that there should be only one fiscal rule, which says: "You shall have no fiscal rules".

The final point, which I will briefly touch on, is on the discussion we have had on targets. A number of noble Lords have pointed out that at one level targets which go far into the future are ridiculous because the only thing you know about them is that they will not and cannot be met. The challenge here is that without some kind of quite detailed projections you lose credibility. However, the challenge on the other side is that Chancellors put far too much emphasis on the detail of them and will trumpet the fact that they expect a £10 billion or £20 billion this or that in five or six years as a major triumph of policy-making when clearly, whatever happens, those exact targets will not be met. It may be, as the noble Lord, Lord Skidelsky, said, a mad way to do budgeting, but I think that we need a more nuanced view of the target culture.

When historians look back at 2016, I think that we can be pretty certain that the decision that we take on 23 June will be seen as vastly more important than this Budget. That does not mean that this Budget is not regressive, unrealistic and, now, shot through with holes, but it does put it into perspective.

3.15 pm

Lord Davies of Oldham (Lab): My Lords, my first duty is to congratulate the noble Lord, Lord Price, on his maiden speech. Had the Opposition had their way, it would have been made in the proper place, in the Chamber, but I hope that he will at least be encouraged by the reception that he has had today to engage in our next economic debate, which will be in the Chamber and which—I understand from the assurances of the Government—will not be too far off. I also could not miss this opportunity to thank him, on behalf of my wife, for opening a small store fairly close to our home. It is close enough for me to be trusted to go on my bike and get the light shopping; I would never be trusted with the more serious shopping that is done on other occasions—so I am grateful to him for that.

Turning to the Budget, what has been laid bare is the Chancellor's failures over these years: even before the fiasco of the personal independence payment started to unravel, and even before Iain Duncan Smith wrote the first line of his resignation letter, this Budget revealed itself to be a shining example of what happens to an economy when it is deprived of investment. My noble friend Lord Eatwell opened the debate from these Benches by identifying with great accuracy and very fully just why we had suffered such low investment—of course, the cuts are the other feature of this economy which we deplore and which I will come on to in a moment—and just why these have been wasted years and we are doomed. They have been unsuccessful years; we have to remember, after all, that the Chancellor was going to clear his deficit this last year. It will take him twice as long as he said. He is going to go for a surplus almost as fictitious, I have no doubt, as the rate at which he was able to clear the deficit over the previous five years.

There is no doubt that there is only one crucial figure that has come out of the Budget: the Institute for Fiscal Studies emphasised very clearly and several key contributions in today's debate have subscribed to the point—the noble Lord, Lord Skidelsky, devoted nearly the whole of his speech to it—that we have depressingly low productivity, which lies at the heart of our economic failure. If we are going to progress, it will not be by hitting the targets of a Chancellor who is continually having to row back from very short-term

[Lord Davies of Oldham]
decisions; it will be by how we set about successfully improving productivity in this country. We know the Minister is well equipped to address this issue. We all recognise how difficult the issue is, but it is not helped when the whole direction of policy identified by the Chancellor seems to put such low store by this crucial issue.

The Institute for Fiscal Studies has said that if the OBR predictions on productivity and this low growth come to fruition, we should all be worried. It will lead to lower wages and living standards, not just lower tax revenue to the Treasury. This is lower wages and lower standards of living following on from six years in which the country has suffered from this position. It is also a reflection of the fact that growth is much lower than it ought to be. As my noble friend Lord Darling reminded us, it is lower than the position he achieved two years after the great recession.

As for the contributions which have emphasised how the Labour Government led us directly into these disasters, I cannot remember that it was a socialist Government in the United States under George Bush which produced the first stages of this catastrophe. I cannot recall the fact that the first bank to go down was British—it was American. Indeed, it was also the case that the economies of the whole of Europe fell into the same real decline at the time. So let us not have too much on those lines.

Of course, the Chancellor has just begun to recognise that there are external forces. He actually commented on the fact that there has been a slow-down in the world economy. He is not too confident about the rate of American expansion and he is very pessimistic about the Chinese position. That is just a reflection of a fact that we all know: our economy operates within a wider framework of the world economy, and that is why it is so important that the Budget should be accurate in its predictions and on its strategy. But, of course, this Budget has already unravelled in considerable detail.

The Office for Budget Responsibility has described the UK's downgraded productivity as the most significant part of its report, and yet the Chancellor seems to be unable to pay attention to that fact. What does it mean in practice? How are people around the country experiencing low productivity? It means that they are going to earn less, they will see their living standards failing to improve, and they will be less likely to be in a job and to pursue a career which utilises their talents. Of course, the strain that is put upon families by these failures is quite enormous, as well as the strain on the economy as a whole.

Let us consider the factors which are crucial to driving productivity—the problem is plain to see. I will take one obvious example. The Government continually boast about their apprenticeship programme and the numbers involved. In many cases the programme is paying little regard to the concept of apprenticeships, which were always used in the British economy in the past. Someone is employed and trained by a company so that they can develop the capacities and skills to do the job for that company. Many of our current apprenticeships are just another word for internships—an introduction into a company and the possibility that one might sustain a role there. As for apprenticeships in more general terms, it is the case that an awful lot of youngsters are going into apprenticeships which are clearly below their educational level. People with degrees are taking up apprenticeships that provide work that is only to A-level standard. Others who have completed their sixth-form education are going into apprenticeships that we used to regard as very low-skilled opportunities indeed.

The economy needs to work better for young people, for households, and of course for our regions. For young people, of course, the Budget merely continues a most depressing scenario. The Chancellor said last week and reiterated yesterday that the Budget was designed to put the next generation first. That is a somewhat late conversion given that the Government have spent the last six years undermining, overlooking and at times even demonising young people. Look at their programme not only in terms of apprenticeships but also in terms of educational opportunities. Further education colleges, which are meant to be crucial to the development of skills in our young people, are closing down. Many of them are facing bankruptcy. Yet the Government dare to suggest that they are offering to young people greater opportunities. This is an appalling track record.

Young people have been hardest hit by the Government's dismal record on home ownership. Many know that they will not have the earning power to come anywhere near the deposit level required to make their first step on to the housing ladder. As has been well demonstrated, the Government's new lifetime ISA will have limited appeal for many people for whom saving at the rate envisaged is not something they can aspire to. What is the Minister's response to the OBR analysis which states that the new ISA is likely to push up the price of housing and, in so far as it works at all, increase demand against provision which is already part of a most depressing bubble? It is a reflection of the fact that asset bubbles are one of the characteristics of this economy and it is why we remain so very vulnerable. I would be interested to hear from the Minister whether the Treasury has done any analysis about the number of people who think the new ISA will assist them. I put to him that, once one takes into account the amount that many young people have to spend on essential living costs, on rent and on paying off debt, there is not much for them to put aside for saving.

This is also a Budget which is detrimental to households. The Resolution Foundation has found that, by 2020, the poorest 30% of households are set to lose around £565 a year, while the richest 30% of households are set to gain around £280 a year. How can the Chancellor justify this distribution of resource? Has he not come to terms with the gross disparity in incomes and growing inequality that are the feature of the western world? Of course, it shows in our companies; we have all seen the statistics. We know the enormous difference between what is earned by the person on the shop floor and what is earned by those in the boardroom —and particularly the chief executive of a company. And yet the Chancellor has found ways to ensure that

those who have resources should be blessed by him and that those who are poorly off get little out of this Budget.

In the last Parliament, cuts to tax credits and benefits meant that low-income households with children were the biggest losers—and the Chancellor had to learn his lesson about that in terms of fairness. This time, we have had it with regard to the disabled. How on earth can the country have confidence in a Chancellor with a record like this?

The Institute for Fiscal Studies has stated that the Government's tax and benefits changes have resulted in significant losses for those of working age, especially those with children in the bottom half of the income distribution. The Budget does little to break the country's reliance on household debt as a source of growth, and we know how insecure that base is in terms of the economy as a whole. Let us consider rising levels of household debt alongside the increase in the number of people in insecure employment—and zero-hours is insecure employment all right; it means that the employer tells you the number of hours that you are going to work during a set period, with no guarantee attached beyond it. How can people make intelligent decisions about their very limited resources against a background of such crucial uncertainty?

Finally, on the regional economy and infrastructure, my noble friends have already identified in this debate how many infrastructure projects there are—my noble friend Lord Darling stated that we are still thinking about starting up on projects which he signed off in their origins a decade ago.

Many worthy projects have been identified but so little has been achieved. After all, the biggest single achievement is Crossrail, which was started more than a decade ago by a Labour Government. When it comes to London Heathrow, we cannot make up our mind year after year. We cannot get a decision from the Government. I know the difficulties arising from the politics surrounding Heathrow, but we all know that the south-east must have some increase in airport capacity. However, all we get is dither. Meanwhile, in the north of England—the so-called northern powerhouse—the Government reel off a whole string of wonderfully attractive—even essential—infrastructure projects, but there is no date attached to any of them. Indeed, High Speed 2 will take a decade to get as far as Birmingham. That does not have much to do with a northern powerhouse.

It is also clear that when it comes to the actual distribution of real resources, the northern powerhouse has not made much of an impact on the Government. What we see in local government allocations of resources is that the wealthier counties of the south-east get the lion's share while the authorities in the north, with their colossal problems in terms of the communities they serve, receive much less. Therefore, it will not do to say that this Chancellor has a grip on the nation's finances and he knows where he is going. He has missed every target he set in 2010, and some of them by a country mile. The only target we can guarantee that this Chancellor—if he stays in office—is likely to achieve is to reduce government expenditure as a percentage of GNP to below 40%, because if there is one target which an ideologically committed right-wing Government have, it is to reduce the role of the state, essential though it is to some of these big infrastructure projects. That is how they mark out a good society. However, as the right reverend Prelate the Bishop of Portsmouth argued, we should have a concept of morality in what we do. It cannot be right that this Budget increases inequality in our society. It rewards the wealthy and condemns the less well-off to an uncertain position and limited resources. That is why we are critical of it.

3.33 pm

Lord O'Neill of Gatley: My Lords, I do not know whether it is the intimacy of this Moses Room—it is my first time here—but, as with each debate on economic and financial matters in which I have been involved, including the third Budget-type debate within a year, it has been a genuine pleasure to listen to the remarkably insightful and broad comments of noble Lords with their vast experience and wisdom. Again, I do not know whether it is the intimacy of this room, but the debate seems to have come with a lot more humour than I remember from some others I have taken part in. That is also very pleasurable.

I, too, congratulate the noble Baroness, Lady Knight, on her marvellous valedictory speech. I had been thinking until I saw the number of people exiting the Room when she finished that they were all here for the Budget debate, but clearly not. Whatever we think about the complexity of our democracy it is quite extraordinary to be able to celebrate somebody who has been in Parliament for 50 years. It is more than the lives of some of us—I think of the young people sitting behind me in that regard.

The noble Baroness mentioned 15 March 1979, and I have heard a deeply pessimistic tone from many noble Lords. I was coming towards the end of my master's degree year at Sheffield University around that time. I do not know why I find myself thinking this, but during those days of horrific strikes Orgreave Colliery—as I am sure many people know—was at the centre of many of the disputes. One of the most enjoyable things I have done in my relatively short time as a Minister was, along with the Chancellor, to sign the devolution deal for the Sheffield city region. The deal was signed at its advanced manufacturing centre, which I had to point out to a number of people is on the very same site as that event 50 years ago. It is a sign of the way the world can change.

I also congratulate my new noble friend—but my previous normal friend—Lord Price for his speech. It sounds like there is an enormous amount of support for his preceding life in business. Along with some of the amusing comments, it sounds as if food might need to be an important part of his drive to pursue the simple challenge of boosting our exports. If we can sell curries to India, as the noble Lord, Lord Bilimoria, said, maybe his challenges are not as tough as some people typically presume.

Let me turn to the remarkable substance. Again, I apologise that it is going to be impossible in the remaining 17 minutes I have to respond to everything noble Lords have said. I had planned—as I try to do—to respond to each of the 19 important contributions

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but I have decided to try to do it on a thematic basis. Having said that, I will start by responding to the interesting comments from the noble Lord, Lord Davies. Briefly, before I do that, I want to respond to the right reverend Prelate the Bishop of Portsmouth. He made a very important comment about simplification and the speed with which words can be used. I will certainly take that note back to my colleagues and I hope that is something we can address in the future. Among many points, the noble Lord, Lord Newby, mentioned devolution and the Cambridge deal. It is not the role of the Government and completely against the spirit of devolution for us to tell any region whether it should be part of it. It is up to them. If Cambridgeshire for whatever reason decides, rather oddly in my opinion, that it does not want to be part of it, then so be it. It would not be first place in the country where that issue is valid.

Let me turn to the broad summary. I do so in response to the comments from the noble Lord, Lord Davies, on the presumption that he reflects a lot of the comments from the opposition. Lack of investment and productivity, of course, is one of my themes and I will come back to that.

As I have said before, if you go to the 40,000-feet level, the big and welcome surprise of the last Parliament and the worst days of the recession was how few jobs were lost, in contrast to the expectations. The noble Lord, Lord Darling, talked eloquently about the interesting days when he was in the middle of before the coalition came in. As I have reminded people previously, nobody would have dreamt of the scale of employment created over the subsequent five years of that coalition. Whatever the ins and outs of the other issues I am going to go on to, we should be careful not to confuse attempts to boost productivity with anything that reduces jobs and opportunities, particularly the number of jobs being created for young people. I say that because, while I do not believe it was in the Government's manifesto, the decision by the Chancellor to acknowledge the productivity challenge right at the start of this Government, and hence why I was invited to become part of the Administration, is a recognition of its importance.

I want to make two further points in response to the noble Lord, Lord Davies, before I come to the thematic areas. On the topic of inequality, on which I am a little surprised more was not said—in some ways I am pleased about that—and as I tried to address very specifically in an Oral Question recently, based on the existing objective measures of these issues, it is the case that inequality today is less prevalent than it has been for the past decade. What I probably did not say within the considerable amount of evidence that I cited during that brief Question—that is why debates such as this one are much more useful because one can say more that is of real substance—is that while there may have been aspects of rising inequality within different income groups, on all the internationally accepted measures of income both before and after tax, inequality is lower today than at any time in the past 10 years. When it is adjusted for wealth, which is the result of house prices, that is not the case. That is why it is appropriate to put so much effort into trying to do something about the tremendous housing challenge we are facing.

In the spirit of how I began, which is that the world is not quite as gloomy as it seems, something that so many people believe innately in their veins, it is important for everybody to realise that global inequality has declined and continues to decline at a pretty considerable rate. The United Nations achieved its goal of halving world poverty, without even realising it, five years sooner than it originally stated. One has to be careful of making such overwhelming summaries.

Let me turn to the thematic issues. It is most important that we start with the personal independence payment. The noble Lord, Lord Eatwell, challenged me to be clear about it, so it is appropriate that I should start with PIP. The most important thing to say, in my opinion—here no doubt I risk upsetting some of my colleagues as well as many others—this is what I would personally describe as a Q times A equals E problem. Many years ago I learned that if you are trying to pursue an idea or a policy, the quality of the idea times its acceptability equals its effectiveness. I shall come on to this in terms of the frankly quite ridiculous, albeit amusing, things we have heard about black holes. The prime purpose of that policy initiative was to try to stop the degree of gaming and abuse of beneficiaries, which sadly in the way it has been portrayed has not been able to be done successfully. That in my limited understanding is why the issue came to our attention and generated the policy behind it. It comes down to making sure that the people who are in need of government support are those who get it, and rightly so, and those who are not in need do not get it. I am sure that this issue will be addressed again.

On the £4.4 billion, let me first point out that total government expenditure in this year's Budget will be close to £700 billion, so the idea that £4.4 billion spread over five years is going to put a black hole into the Government's finances is really not worthy of me pursuing in any great depth. While I am going to come back to this as a separate theme, a number of noble Lords have quite rightly talked about the volatility of the forecasting environment we are in. On the OBR's forecast change, one noble Lord—perhaps the noble Lord, Lord Bilimoria—referred to the four-month gap since the Autumn Statement but it is actually not much more than three months. The forecast is £55 billion different from what it was. That is the context in which one should think about this so-called black hole. By the time we get round to the Autumn Statement, one of the few things I can guarantee for Members of this House is that the OBR's forecast will change again, and I suspect that it will be considerably more than £4.4 billion.

Theme number two is on the environment, what I just said about the OBR and on forecasting in general. As noble Lords will know, I spent many years of my life—far too many—in the dubious world of economic forecasting. There is a slight dilemma in that the Government have, very importantly, introduced the power of an independent entity, the OBR, to constrain the actions of the day by providing these forecasts. Partly due to the incredible uncertainties of the world

economy in general but also to the circumstances over the past three months, this is a very large change in forecast. In my old life, where I managed a large number of economic forecasters, I would not encourage people to change their forecast that frequently. However, if that is the process which has been brought about by the existence of the OBR, it needs to be respected by the Government. It is an independent entity and we need to set our policies in that framework.

I will finish on that topic, although I could talk about it all afternoon. Robert Chote said to the Select Committee yesterday that he thinks there is a 55% chance that the Government will achieve a fiscal surplus by the end of this Parliament. Again, as someone who has been steeped in economic forecasting for a large part of my life, while many noble Lords might not think it, that is not a bad probability of a good outcome. I used to joke to people that 60% right would allow most people who presided over it to be lucky enough to be well off enough to own their own Caribbean island. I encourage those noble Lords who question the value of such statements—I will come on to that in a second—to think again.

That takes me to theme number three on the issue of fiscal policy and the right framework. A large number of noble Lords have somehow again raised the idea that there is no economic purpose to having a fiscal surplus. Unless international economic theory and best policy has changed dramatically in the three years since I was so immersed in it, on the contrary, it is widely accepted that when countries are at or close to full employment they should run a fiscal surplus or very close to it. One can argue about the dates but the goal of trying to achieve a fiscal surplus in normal times is an extremely sensible economic policy to pursue, not least because if you luckily achieve that in not normal times, it gives you the fiscal leeway to do something about the immediate needs of the weak cycle that one would focus on.

I will go from that theme directly into the very important issue of productivity. I do not at all have enough time to respond to the many powerful things noble Lords have said. To those noble Lords who seem to enjoy a more pessimistic way of thinking, I say that one should not dismiss another reason why it is important to focus on fiscal policy. If the productivity data were genuine—I have considerable doubts which I have expressed before and will do so again in the future—it may well be because of a large level of public debt as a share of GDP that has been accumulated both here and in many other parts of the developed world. To take it back to the purpose of fiscal policy, there is a reasonable amount of evidence that public debt as a share of GDP somewhere below 60% of GDP, and especially if it is below 40%, generally creates a much better environment for private sector productivity. One could argue about the scale of some of these numbers but the notion of not trying to pursue a fiscal surplus in a time of full employment—and we have the highest employment for 40 years—is, in my judgment, mistaken.

There were some very useful comments on productivity more generally, and I apologise that I do not have time to go through them all in detail; I want to focus on one or two areas. I am surprised more was not said about education. I spent a considerable amount of time today, as I have done in the past, looking at globally comparable indicators for factors relevant to productivity. If you try to identify those that the UK seems weaker in as compared with the rest of the world, it is education that sadly comes out as one of the most identifiable. That is why it is a feature of this Budget. The noble Lord, Lord Bilimoria, made comments about higher education and I think other noble Lords made similar comments. My surprise came because in my judgment, doing more about education and skills, particularly for younger people, which is what we have tried to focus on in this Budget, is probably the single most important thing in terms of improving—adjusted for measurement error— our long-term productivity.

On taxes, a considerable number of interesting things were said as time went on, and I want to touch on two or three. First, I personally think that the sugar tax is a very courageous move. As many noble Lords may be aware, in addition to my responsibilities as Treasury Minister, I am chairing a review into antimicrobial resistance where I have to think a lot about the role of taxes, subsidies and incentives. What has been introduced is an important step for policy-makers to think about for further development, as the noble Baroness, Lady Kramer, implied with her question.

More broadly on taxes, some interesting comments were made about taxation with respect to private businesses. This links again to the review that I am leading. A major peculiar aspect of our time is that private sector investment spending both here and elsewhere in the world is very low despite enormous levels of cash. There is quite a bit of growing evidence that private sector entities that are not subject to some of the challenges of public accounting are better at investing. One purpose of the policies taken was to encourage—particularly for start-ups—more risk-taking in an equity sense for private investment. The comments by my noble friend Lord Lupton and others about capital gains tax should be seen in that context. We suffer from weak productivity and investment, and the measures that have been seriously thought about from a micro-economic perspective to try to stimulate them further are very important.

I have run out of time; I knew that I would and I apologise. There are many other things I would like to have said. Let me summarise by saying that I believe the UK still has a brighter economic future than I have heard in the tone of what many have said today, notwithstanding the challenges we face. As we have discussed, this Budget has come at a time of significant downward revisions both here and elsewhere in the world. At some point in the future, who knows when, it is quite possible that those revisions will go in the opposite direction. Against that background, it is important to note that this Budget prioritises long-term growth potential and investment, tries to support business, builds up young people's skills, gives another tax cut to workers as well as business, and tries to help more people to get on the housing ladder.

The submission of the convergence programmes, which was touched on briefly, should not be affected by the fuss about PIP for the reasons that I have outlined. The submission by euro-outs and stability programmes by euro area member states provides an

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important framework for co-ordinating fiscal policies. A degree of co-ordination across countries can be beneficial to ensure a stable global economy, which is in the UK's national interest. The UK has always taken part in international mechanisms for policy co-ordination, such as the G7, G20 and OECD, and it should continue to do so.

The Government's fiscal strategy remains that the UK should live within its means by running a surplus in normal times, which is a reliable way of ensuring debt reduction that will continue over the longer term, leaving the country better placed to withstand future economic shocks as and when they appear. This Budget sets out the policies that will help our economy to succeed in the long term, and I am delighted to commend it to noble Lords.

Motion agreed.

Committee adjourned at 3.55 pm.

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