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PARLIAMENTARY DEBATES
(HANSARD)

# HOUSE OF LORDS

## OFFICIAL REPORT

*ORDER OF BUSINESS*

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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 20 July 2016*

*3 pm*

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

## Royal Assent

*3.06 pm*

*The following Act was given Royal Assent:*

Supply and Appropriation (Main Estimates) Act.

## Southern Rail: Disabled Passengers

*Question*

*3.06 pm*

*Asked by* ***Baroness Smith of Basildon***

To ask Her Majesty's Government what discussions they have had with Southern Rail regarding disabled passengers, in the light of the company's plans to change the role of conductors.

**The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con):** My Lords, each train operator is required to participate in the passenger assist system, run by the Association of Train Operating Companies, which allows disabled passengers to book staff assistance when required, and in a disabled persons' protection policy, enforced by the Office of Rail and Road, setting out the level of services and facilities that disabled passengers can expect, how to get staff assistance and how to get help. This will not change.

**Baroness Smith of Basildon (Lab):** My Lords, the Minister will be aware of the shocking daily chaos that is Southern Rail. Passengers are at breaking point, and there is no support from the company or the Government, but all those cuts, cancellations and overcrowding problems are compounded for those with disabilities, for whom railway travel is becoming more difficult and, for some, inaccessible. Could the Minister confirm reports of a wheelchair user being told recently that their wheelchair was too heavy for the bus replacement service and that on the new driver-operated trains disabled passengers would have to phone the station at least 24 hours in advance? Is it really the Government's view that a driver viewing 12 carriage doors on a screen the size of an iPad can guarantee the safety of all passengers?

**Lord Ahmad of Wimbledon:** First, if the noble Baroness provides me with the details of the wheelchair issue in the case that she raised specifically, I shall follow that up and come back with a direct answer. On some of the other issues that she raised, she is of course quite right—and I agree, as I have previously from the Dispatch Box—that the situation with Southern is unacceptable. I assure noble Lords that the new Secretary of State has made this issue and its resolution a priority. Indeed, the new Rail Minister is in front of the Transport Select Committee today, so there is a real baptism by fire for my colleague. It is a priority for the Secretary of State and the Rail Minister; the issue needs resolution.

On the issue of driver-only operated trains, as the noble Baroness is aware, it is not about making conductors redundant. It is about making them into train supervisors; they will continue to have a role in working with the driver of these trains, ensuring primarily the safety of all passengers.

**Lord Snape (Lab):** Will the Minister bear in mind that the removal of safety responsibilities from the conductor makes it ever more likely that trains will be dispatched in the absence of the conductor on a driver-only basis? After the point that my noble friend Lady Smith made, could the Minister imagine the situation in which a train driven in such circumstances, perfectly legally as it so happens, stops at a de-manned station where somebody with a disability wishes to board or alight? There is no provision for any assistance in such circumstances.

There is one other point that the Minister should bear in mind about driver-only operations and trains stopping at de-manned stations without a supervisor on board. It is extremely uncomfortable for passengers travelling alone at night in such circumstances, particularly for women. There is surely enough evidence for the Government to intervene to ensure that our trains and our stations are properly staffed.

**Lord Ahmad of Wimbledon:** As I have already said, on the particular issue with Southern, driver-only operated trains will have supervisors. On disabled passengers, I fully recognise the issues and genuine concerns that have been raised. As noble Lords will be aware, for longer journeys or long-term planned journeys, disabled passengers can ring 24 hours in advance of their journey, but I fully accept that disabled passengers, like any of us, wish to turn up at a particular station at a particular time, board the train and then disembark from the train. The concerns the noble Lord has raised are part of the discussions we will continue to have. Let me assure noble Lords that I have put in place a proposal which I will be discussing with all noble Lords who have represented their concern, and the concerns of people they speak to or represent, that this issue cannot go on too long and that it is important for the Government to communicate regularly with your Lordships' House on this important issue.

**Baroness Gardner of Parkes (Con):** My Lords, is the Minister aware that London buses used to have their ramps broken by electric buggies that were far too heavy for them? At that time, there was a great campaign to ensure that buggy manufacturers would make them at a weight that could be tolerated by the buses. Does he know whether anything similar is issued by the railways to make clear the tolerance limits?

**Lord Ahmad of Wimbledon:** My noble friend makes an important point. London is a very good example of how industry providers, suppliers and operators have worked together. On the rail industry, there are good examples, which need to be replicated across the whole network.

**Baroness Brinton (LD):** My Lords, there is a real problem for disabled Southern passengers at the moment with the overcrowding, not least for those in wheelchairs who are unable to get on to trains and for ambulant passengers who may need access to the priority seats but cannot get there. What are the Government doing to ensure that Southern is making sure that all passengers are aware that passengers with disabilities may need particular help on overcrowded trains?

**Lord Ahmad of Wimbledon:** I agree with the noble Baroness. Southern needs to improve its communications and consultations and is not doing enough in that regard. If there are specific issues and cases, I am happy to take them up directly in the discussions my honourable friend is having. There is a wider issue. The company running the franchise needs to look at the services it is providing not just for disabled passengers. The noble Baroness, Lady Smith, brought to my attention the appalling situation which arose in Brighton yesterday. Frankly, no Government or no train operator wishes to see it. We have to get on and try to fix it, and that is the intention. I hope that the franchise company and the unions can come together and resolve the issue which is impacting the service.

**Baroness Corston (Lab):** My Lords, would the Minister be surprised to know that, with regard to Southern, the Department for Transport director Pete Wilkinson at a recent public meeting, talking about trade union members on Southern, said:

"We have got to break them. They have all borrowed money to buy cars and got credit cards. They can't afford to spend too long on strike and I will push them into that place"?

He went on to say that he wanted to drive trade unions "out of my industry".

**Lord Ahmad of Wimbledon:** That may well be the view of that official. I do not know. I shall certainly look into that quote. Let me assure the House that the resolution of this problem requires everyone, all stakeholders—the company, the Government and the unions—to come together to resolve this issue. This has gone on for far too long. Such statements do not help in providing a solution to this long-running problem.

**Lord Swinfen (Con):** My Lords, conductors normally get out of the train to make certain it is safe to close the doors before the train goes on. Will drivers be getting out of the train to perform that task?

**Lord Ahmad of Wimbledon:** I repeat to my noble friend what I have already said: the new driver-only operated trains do not mean that there will be staff redundancies. Those conductors will now become train supervisors and will continue to have a role not only in ensuring that passengers leave and embark on the train safely but in ensuring passenger safety across the whole train.

## Single Farm Payment Scheme

*Question*

*3.15 pm*

*Asked by* ***The Earl of Shrewsbury***

To ask Her Majesty's Government what progress has been made to rectify delays in payments from the Single Farm Payment Scheme.

**The Earl of Shrewsbury (Con):** My Lords, I beg leave to ask the Question standing in my name on the Order Paper, and declare an interest as a member of the National Farmers' Union.

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con):** My Lords, I declare my farming interests as set out in the register. I acknowledge that in the first year of the new and complex CAP scheme there have been enormous challenges. I recognise that many farmers have waited longer than I would have wished for their payments. As of 17 July, 86,788 farmers—that is 99.6%—have received around £1.35 billion of payments. The Rural Payments Agency continues to focus on making top-up payments to those who have already received bridging payments.

**The Earl of Shrewsbury:** My Lords, I am grateful to my noble friend for that reply. I congratulate him on his new promotion. Is he aware that many farmers are facing severe cash-flow difficulties because of these payment delays, and indeed that some have gone out of business? Many have had to sell livestock prematurely in order to settle their own financial commitments, and many have had to dig into their savings. How does this unhappy situation concur with Her Majesty's Government's policy of ensuring prompt payments to SMEs, and is the Minister sure that the RPA administrative machine is adequately resourced?

**Lord Gardiner of Kimble:** My Lords, I thank my noble friend for his very generous comments; I am indeed hock-deep in Defra briefings. I am well aware of the situation for many farmers, as my noble friend has described, and many lessons clearly have to be learned from this first year. Indeed, we are looking to have 90% of farmers being paid their 2016 BPS claims in December. I shall be visiting the RPA as soon as I can, and I very much hope that we get into a better situation for the coming year.

**Lord Clark of Windermere (Lab):** My Lords, were these delays caused because money was not released through Europe or was it, as many farmers have told me, that the money had been transferred to Defra but Defra had not paid it out? Where was the delay?

**Lord Gardiner of Kimble:** My Lords, there are a number of reasons for this. In part, as I said in my first reply, it is because this is a new CAP with a lot of complication, which we in the UK sought to make less complicated. The noble Lord will know about disallowance, and one of the issues that comes forward is ensuring that we have a much-reduced disallowance

situation. Money was available but there were very sound reasons why we had to ensure that there was a reduction in disallowance.

**Lord Curry of Kirkharle (CB):** My Lords, the recent National Audit Office report was quite damning about the administration of the scheme. Not only are we suffering disallowance because many farmers are not receiving their payments, as the Minister has acknowledged, but some have had to submit a second year's application form before the first year has been confirmed. They are deeply concerned that they may suffer other disallowance penalties because the original form may not be complete.

**Lord Gardiner of Kimble:** My Lords, as I hope your Lordships will understand, not only am I aware of these issues but I have great sympathy and understanding of them. The remaining claims that we have to deal with concern some very complicated commons issues, cross-border issues and issues like probate, where we have the money but there is as yet no grant of probate for people to receive those funds. There are a number of reasons why we are down to about 1,200 claims, but still I am looking for progress.

**Baroness Parminter (LD):** My Lords, farmers need reliable broadband to apply for these farm payments and run their businesses. Given the criticism this week from the Select Committee of BT Openreach's quality of service, what are the Government going to do to ensure that we get decent broadband in rural areas?

**Lord Gardiner of Kimble:** My Lords, that is a top priority. It is why there has been considerable government investment in this, and we need to work with a number of stakeholders to improve it. One of the greatest difficulties is the last 5%. I am very interested in this; it is where our remote rural areas are being disadvantaged, and I am very keen that in Defra and DCMS we work on this with innovation to see how we can help.

**The Lord Bishop of St Albans:** My Lords, those of us in touch with the farming community are deeply aware of the 13,000 cases that are being reassessed at the moment, and we are grateful for what is being done to expedite that. The important question is: how will the system be reviewed and resourced so that this does not happen in future years? Can the Minister assure us that something is being done to guarantee that we have a better system? In particular, will he reconsider appointing a specific case worker for each application to try to see them through?

**Lord Gardiner of Kimble:** My Lords, there are close working relationships in some of the RPA centres, but I will take that back. I understand that of the numbers in payment reconciliation, the 13,000, 1,400 have already been completed. We want to make progress on this. One other thing I should have said before is that quite a number of people at the RPA are working on this—between 800 and 1,000—so the RPA considers itself perfectly well resourced to undertake this.

**Lord Grantchester (Lab):** My Lords, I declare my interest as a farmer receiving payments, and I also welcome the Minister to his new appointment. He will know that these payments very often make up the largest part of farmers' net income. Will the Government commit to developing a dedicated, fully funded agricultural and rural policy to replace the common agricultural policy following the Brexit vote?

**Lord Gardiner of Kimble:** My Lords, I thank the noble Lord. We both hold the dairy industry extremely dear. On that point, one of our highest priorities of all is to ensure that we are now working on the creation of a domestic agricultural policy that will support our farmers and consumers in our country at large.

**Baroness Byford (Con):** My Lords, can the Minister cast a bit more light on the reasons for some of these delays? Is he confident that the new IT system is adequate? Over the years, IT system failure has caused delays in many of the payments. I should declare that we have received our farm payment.

**Lord Gardiner of Kimble:** My Lords, I understand what my noble friend said, and yes, I have looked into this already. The main IT system has worked very well indeed, and in fact, over 80% of the claims were submitted online this year, which is the highest proportion of online claims in any one year. We need to improve on that. A lot of the work this year has been about improving the IT system. We have invested quite a lot; now we need the return.

## Brexit: UK Universities

*Question*

*3.22 pm*

*Asked by* ***Baroness Eccles of Moulton***

To ask Her Majesty's Government how they will ensure that the interests of United Kingdom universities and their students and staff from European Union member states are protected in the current period of uncertainty following the European Union referendum.

**Viscount Younger of Leckie (Con):** My Lords, there will be no immediate change to the rights of UK universities and their students and staff from EU countries. EU students who are currently eligible to receive funding from the Student Loans Company will continue to do so for courses that they are currently enrolled on or about to start this autumn. UK researchers can still apply for Horizon 2020 projects. There is no change to those currently participating in or about to start Erasmus+ exchanges and Marie Curie fellowships.

**Baroness Eccles of Moulton (Con):** My Lords, I thank the noble Viscount for his reply. He will appreciate that uncertainty is immensely unhelpful and unsettling. What have the Government actually done so far to reassure those in the university and academic research sectors, who have benefited from our current relationship with Europe?

**Viscount Younger of Leckie:** I certainly recognise that a degree of anxiety is arising from the universities and research community, which is understandable. Perhaps I can give some reassurance that since the referendum result was received, the Minister for Universities and Science, Jo Johnson, issued an initial statement as early as 29 June and has talked to many academic institutions and stakeholders about their concerns. Both the Government and the Student Loans Company took immediate steps to publish information for students and the wider higher education sector on their websites, which included information on EU nationals and student finance in England, and a focus on EU student and staff status.

**Lord Anderson of Swansea (Lab):** My Lords, at a meeting in the House yesterday, we heard from an academic from Southampton University—one of the Russell group—that a number of senior colleagues who are EU nationals had received emails inviting them to return home to their countries. Unless the uncertainty is cleared up soon, is there not a danger that we shall lose a degree of quality in our universities?

**Viscount Younger of Leckie:** That is certainly one of the concerns that has arisen, and it is why the Minister has acted quickly to attempt to reassure the sector. It is essential that we move quickly to reassure all those who are based here, because it is incredibly important for the UK economy that we have skilled staff and that we have students studying here, because they provide a lot of revenue for the UK.

**Baroness Garden of Frognal (LD):** My Lords, the EU makes substantial financial contributions to research in UK universities, amounting to around £1 billion a year. What provision are the Government making to ensure the quality of research in our universities, should that funding be withdrawn?

**Viscount Younger of Leckie:** This is certainly one issue that will be at the top of the agenda when the discussions start on the future of our relationship with the EU. I am unable to go further on that point at the moment but I reassure the noble Baroness that this is a very important matter.

**Lord Trees (CB):** My Lords, in my field of veterinary science, nearly 25% of the academic staff in veterinary schools in the UK are EU nationals, and I do not think that that figure is untypical of many university departments throughout the UK in many different fields. These staff make a crucial contribution to our teaching and research and are essential for the international exchange which maintains our academic excellence. Can the Minister reassure us that, leading up to Brexit and beyond, universities will still be able to enjoy the benefits of the contributions that our overseas colleagues can make?

**Viscount Younger of Leckie:** I can certainly reassure the noble Lord on that point. Indeed, yesterday the Home Secretary, Amber Rudd, said that she did not believe that EU citizens currently living in the UK will have their right to stay withdrawn. I reiterate that it is very important that we keep the best people who are working here, because that is very important for the economy.

**Lord Stevenson of Balmacara (Lab):** My Lords, I welcome the Minister to the Front Bench again, and I look forward to dealing with him on higher education. Currently, approximately 6% of our entire student body is made up of EU nationals and they account for nearly 12% of all students at master's level. We are talking about significant numbers and therefore also significant funds. Have the Government made any estimate of the likely reduction in the number of students from the EU coming for courses starting this September? Those courses will of course last for three or four years, when the likely horizon for Brexit is two years.

**Viscount Younger of Leckie:** We have given reassurances about this current year but we cannot give further reassurances beyond those. Again, I reiterate that this matter is at the very top of the agenda. We recognise that, for example, there are 125,000 EU students, who account for 5% of the total number—a figure that has been consistent across the last three years—and it is very important to move quickly to reassure them.

**Baroness Afshar (CB):** My Lords, is the Minister aware of the impact that these exchanges have on the students? Are students and the younger generation in the UK right in thinking that the current Government are simply not concerned about their future development?

**Viscount Younger of Leckie:** The noble Baroness makes a good point. It is very important that we generate skills among young people in this country to encourage them to stay here and develop. This country needs to develop the skills that are required to see us through future innovation and to keep up the excellent standards that we have in our universities.

**Lord Kinnock (Lab):** It is not strictly true for the Minister to say—and I am sure that he is not intending to mislead—that there is no immediate difficulty being felt in universities, when there are so many authentic reports of difficulties already being encountered, especially in the area of science where there is strongly developed, co-operative endeavour with other EU member states. Will the Minister accept that those in this House and elsewhere who have claimed that, in getting subsidy for universities and for science, we have been claiming—

**Noble Lords:** Question!

**Lord Kinnock:** I am asking a question. Will the Minister accept that those who have claimed that we have been only getting our own money back have been misleading public opinion and this House, when there has been a large return vastly in excess of our contributions to the European Union for science research, running at about £400 million a year? Can he give us any undertaking that this level of crucial support for science in our universities will definitely be maintained? If it is not, it will be an act of national sabotage.

**Viscount Younger of Leckie:** The noble Lord has made an interesting, important and, if I may put it that way, blunt point. I agree with him that the UK

gets more than 15% of EU science funding—we are the second largest beneficiary—having put 12% into the total EU budget. I can say only that it is at the top of the agenda to maintain it.

## Calais Jungle Camp: Child Refugees

*Question*

*3.31 pm*

*Asked by* ***Lord Dubs***

To ask Her Majesty's Government what is their assessment of the threatened demolition of the Calais Jungle camp and the position of child refugees.

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, the French Government have not confirmed an intention to clear the Calais camp; however, they have consistently maintained that the camps are not permanent. We will continue to work with the French to address the situation in Calais, including by providing alternative accommodation for migrants in France, improving support available for all unaccompanied children in Calais, and prioritising asylum cases for children with family links to the UK.

**Lord Dubs (Lab):** My Lords, can the Government say to the French authorities that to demolish the camp without making adequate alternative arrangements for the people living there will be an attack on very vulnerable people indeed? Furthermore, can the Government speed up the process of getting unaccompanied child refugees to Britain? We have given that undertaking; they are there in Calais; why not bring them here quickly?

**Baroness Williams of Trafford:** I thank the noble Lord for that question. We are talking to the French Government about all aspects of the migrant situation in northern France. The French Government have made it clear that anyone who does not want to live in the makeshift camps in Calais has the option of engaging with the French authorities, who will provide accommodation and support. Nearly 5,000 migrants have taken up that offer since the autumn. On the speed of delivery, since the beginning of the year, the UK has accepted more than 50 requests from France under the Dublin regulations to take care of asylum-seeking children on family unity grounds. More than 40 children have already been transferred to the UK, and more than 20 who meet the criteria under the Immigration Act 2016 have been accepted for transfer to the UK since Royal Assent in May.

**Lord Hylton (CB):** My Lords, will the Government include in their discussions with the French authorities the issue of policing encampments and trying to avoid as much as possible the use of riot police? Secondly, will they try jointly, and harder, to make the Dublin III regulation actually work for real people?

**Baroness Williams of Trafford:** That is precisely the type of thing that both Governments are collaborating on and, yes, making the Dublin framework work is of course a top priority.

**Lord Roberts of Llandudno (LD):** How many of the 20,000 refugees we pledged to receive into the UK in the term of this Parliament have been received up to now? And if I ask that question in October, what answer does the Minister forecast I will get?

**Baroness Williams of Trafford:** My Lords, I would not want to forecast anything but I am pleased to tell the noble Lord that the total number who have been resettled is 1,854 but, since the programme expanded, that number is 1,602, which is very pleasing indeed.

**Baroness Berridge (Con):** My Lords, as a result of the amendment of the noble Lord, Lord Dubs, we have a scheme that allows vulnerable Syrians to be resettled here. But I have pointed out repeatedly—and the issue has been raised in the other place with the new Immigration Minister, Robert Goodwill—that there is no scheme for vulnerable Iraqi people. For example, there is no basis for Yazidis to be resettled in the United Kingdom. Will the Minister please undertake to look in detail over the Summer Recess at the situation of vulnerable Iraqis and agree to meet with Members of this House and the other place to discuss whether an extension of the Syrian scheme by a few thousand to enable vulnerable Iraqis to come to the UK would be an appropriate response, particularly bearing in mind the responsibility that we owe post-Chilcot?

**Baroness Williams of Trafford:** My Lords, in the two days that I have been in post, I have not got any further than France. But my noble friend has already spoken to me about this and I undertake to look into her request over the summer.

**The Lord Bishop of Southwark:** My Lords, I welcome the noble Baroness to her post. Mindful of the fact that over 200 children went missing when the southern part of the camp was dismantled, will a commitment be given in the case of unaccompanied children to avoid the perils of sudden dispersal?

**Baroness Williams of Trafford:** The right reverend Prelate makes a very important point not only about safeguarding children, especially when they are unaccompanied on their journey, but about being mindful of some of the legal frameworks of the countries they have come from, so I totally concur with the right reverend Prelate's point.

**Lord Rosser (Lab):** My Lords, has the issue of financial support to local authorities for the cost of providing for unaccompanied refugee children relocated to this country been resolved to the satisfaction of local authorities? If not, what is the extent of any disagreement?

**Baroness Williams of Trafford:** My Lords, my understanding is that it has, and that they will certainly be reimbursed fully in year one, with that funding reducing over time as those families become settled in this country.

## Council of the European Union: United Kingdom Presidency

*Private Notice Question*

*3.37 pm*

*Asked by* ***Baroness Smith of Basildon***

To ask Her Majesty's Government to explain the sudden change in policy in respect of the UK's expected presidency of the European Council, despite the reassurance given to the House as recently as 19 July 2016 that the UK would remain a full member until exit negotiations were concluded.

**Baroness Smith of Basildon (Lab):** My Lords, I beg leave to ask a Question of which I have given private notice.

**The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con):** My Lords, as I said yesterday, we wanted to discuss this issue with our European colleagues. My right honourable friend the Prime Minister had a conversation with the European Council president yesterday evening in which this matter was raised. It was agreed that the UK would relinquish the presidency as the Government concluded that it would be difficult for us to hold the presidency while prioritising our negotiations to leave the EU.

*3.37 pm*

**Baroness Smith of Basildon:** My Lords, the promise to clarify the issue fairly quickly is appreciated, but I am disappointed that the Government did not seek to make a Statement to the House today. Yesterday, in response to a question from the noble Lord, Lord Cormack, the noble Lord, Lord Bridges, told us that Ministers would discuss the issue of the presidency with EU colleagues. He also said that,

"we remain a full member of the EU until negotiations are concluded, with the rights and responsibilities this entails".—[*Official Report*, 19/7/16; col. 529.]

I appreciate that holding the presidency might be uncomfortable for Ministers—it might even be a bit embarrassing at times. But, as we prepare to enter into negotiations, we want to be as strong and as influential as possible to get the best possible deal and the best benefits for the UK.

The Minister gave the reason of how busy we are, and the statement from Downing Street today for not holding the presidency was that we will be,

"very busy with negotiations to leave the EU".

Presumably, some analysis was undertaken of the costs and benefits before reaching this decision. What benefits will there be compared with what we stand to lose by not holding the EU presidency?

**Lord Bridges of Headley:** I am delighted to be back here to discuss this again in such a short time—the third time in three days. On reflection, I slightly refute the point that has been made that holding the presidency is a reflection of our full responsibilities, simply because nobody can claim that Germany or France, when they are not holding the presidency, are failing to play a full role in the EU.

**Noble Lords:** Oh!

**Lord Bridges of Headley:** My Lords, let me make the point. This point was discussed in the report of the European Union Committee which was published on 4 May. I shall cite the evidence that was given by Sir David Edward, a former judge of the European Court of Justice, who asked:

"What is the interest of the United Kingdom, particularly as President of the Council, in discussing the details of a directive that will not apply if we withdraw?".

Another witness, an emeritus professor of law at the University of Oxford, set out similar concerns and argued:

"There would be some air of unreality in the UK presiding over meetings most of the work of which would involve future action".

As a result, the committee itself concluded:

"Were the electorate to vote to withdraw from the EU, the Government should give immediate consideration to suggesting alternative arrangements for its presidency".

That is what we have done. As I say, the Government have decided that it would not be possible to chair discussions on the future of Europe in a dispassionate way when everyone around the table knows that our country is leaving the EU. To do so would not be in Europe's interests or in our own.

**Lord Forsyth of Drumlean (Con):** My Lords, can my noble friend confirm that, as a result of this decision, which I very much welcome, not only will officials be able to concentrate on Brexit but taxpayers will be saved the cost of the presidency, which would be up to €100 million?

**Lord Bridges of Headley:** My noble friend makes a very good point. I cannot verify the actual or estimated costs of the presidency, but I have been told that the estimated range of costs of recent presidencies has been between €35 million and €170 million. As an indication of the impact on time that a presidency has, we understand that over six months, the Irish presidency held 374 trilogue meetings and used 111 hours of Ministers' time just in the European Parliament.

**Baroness Ludford (LD):** My Lords, does this not go to show the importance of involving Parliament very soon in a comprehensive Brexit strategy? Are we going to be subjected to this salami slicing so that by the time the decision is made to trigger Article 50, however that decision is made—which should involve Parliament—it will all have been wrapped up without us? How many other decisions are going to be made incrementally over the next few months?

**Lord Bridges of Headley:** I am sorry that the noble Baroness feels that way. I can assure her that the Prime Minister and the Secretary of State have made it absolutely clear that they wish to involve Parliament, and indeed I intend to have conversations with my opposite numbers on other Benches as well as with the wealth of talent that rests in this House. Many of your Lordships have extensive experience of the European Union and I fully intend to draw on it.

**Lord Cormack (Con):** My Lords, does not my noble friend realise that to change policy effectively in less than 12 hours is hardly treating this House with respect? Yesterday the answers he gave—which I am sure were

given in total good faith—led us all to believe that whatever the decision, it was some little time off. If trust is to be maintained and Parliament is to play a part, we cannot have any more of this cavalier treatment by the Government of either House of Parliament.

**Noble Lords:** Hear, hear.

**Lord Bridges of Headley:** I apologise for that, but when I said in a timely manner, I meant in a timely manner. If the noble Lord feels that I am treating him in a cavalier way, given that he of all people is a Cavalier in the sense that he is a person who respects the traditions of this House as opposed to the Roundheads, I must apologise to him. But as I just said to the noble Baroness, we fully intend to involve this House and the other place in decisions as we go along.

**Lord Harris of Haringey (Lab):** My Lords, is it not the case that the person who was treated in a cavalier manner was the noble Lord himself? Can he tell us whether the decision was taken at No. 10 or in the department of which he is a Minister—and, if so, whether he was party to that decision?

**Lord Bridges of Headley:** Noble Lords on all sides of the House know full well the mantra that discussions between Ministers are kept between ourselves. All I would say is that this decision was taken yesterday afternoon in light of the conversation with the President of the Council.

**Baroness Smith of Newnham (LD):** My Lords, we have been told repeatedly by Ministers at the Dispatch Box that nothing will change until the day we leave the European Union. But so far our Commissioner has resigned, admittedly to be reappointed, and the Government have now decided that we will not take on the presidency of the European Union. What else are we likely to withdraw from between now and actually leaving the Union?

**Lord Bridges of Headley:** As I say, we will keep the House informed. I am sorry that the noble Baroness feels that way but I have nothing further to add.

**Lord Dykes (Non-Afl):** My Lords, is the Minister familiar with the phrase, "I beg your pardon. Could you say that again?"? Yesterday, clearly, in answer to the noble Lord, Lord Cunningham of Felling, he said:

> "The noble Lord speaks with great experience … I absolutely heed what he says but, as I said, that is exactly why we are taking our time to consider these matters".—[*Official Report,* 19/7/16; col. 530.]

It is a complete contradiction from yesterday to today without an adequate answer to the question put by the noble Lord, Lord Cormack. Can the Minister explain to the House exactly what happened?

**Lord Bridges of Headley:** I have to say that a number of discussions have taken place informally across Europe, culminating in the conversation that my right honourable friend the Prime Minister had last night. It was a culmination of discussions and consideration.

**Lord Marlesford (Con):** My Lords, can my noble friend explain why the noble Lord, Lord Hill, left his post as Commissioner—thereby, as I understand it, depriving us of holding a crucial financial portfolio?

**Lord Bridges of Headley:** I think that that was a decision taken by the noble Lord, Lord Hill, and I shall leave it to him to explain it. We have now replaced the noble Lord and I am looking to the future, not always to the past. We have replaced the noble Lord, Lord Hill, with an extremely experienced diplomat, Sir Julian King.

**Lord Spicer (Con):** My Lords, surely the Government are right on this, leaving aside the question of timing. We cannot on the one hand plan to come out of the European Union and at the same time claim to represent its longer-term interests. It goes far deeper than just embarrassment, as the Opposition said.

**Lord Bridges of Headley:** I agree. That is why I cited what was said to the House's European Union Committee itself, which cited exactly that point.

**Lord Richard (Lab):** My Lords, a little while ago the Minister said that the Government would make alternative arrangements for our presidency, which we have since decided not to do. What alternative arrangements do the Government have in mind?

**Lord Bridges of Headley:** If the noble Lord is referring to who will replace us, that matter is being determined by the European Union as we speak.

**Lord Lawson of Blaby (Con):** My Lords, may I commend the Government on the very sensible decision they have taken, for the reasons set out by my noble friend? I must say that I find this very curious. Normally in this House I hear noble Lords criticising the Government for not making up their mind. Now they are being criticised for having made up their mind.

**Lord Bridges of Headley:** I thank my noble friend for that point and can reassure the House that this decision was taken after due consideration.

## Liaison Committee

*Membership Motion*

*3.47 pm*

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

That Lord Williams of Elvel be appointed a member of the Committee.

*Motion agreed.*

## Nuclear Industries Security (Amendment) Regulations 2016

## Petroleum (Transfer of Functions) Regulations 2016

*Motions to Approve*

*3.47 pm*

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

That the draft Regulations laid before the House on 26 May be approved. *Considered in Grand Committee on 12 July.*

*Motions agreed.*

## Orgreave: Public Inquiry into Policing

*Statement*

*3.48 pm*

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, with the leave of the House, I shall now repeat a Statement made in another place by my right honourable friend the Home Secretary. The Statement is as follows:

"Last week, my honourable friend the Advocate-General for Scotland answered an oral Question by Lord Balfe, of Dulwich, on whether the Government had yet decided whether there will be an inquiry into police actions during the Orgreave miners clash in 1984. He explained that the previous Home Secretary had been considering the Orgreave Truth and Justice Campaign's submission, and that the Independent Police Complaints Commission is working with the Crown Prosecution Service to assess whether material related to the policing of Orgreave is relevant to the Hillsborough criminal investigations, with decisions yet to be made by them on whether any criminal proceedings will be brought as a result.

The Government take all allegations of police misconduct very seriously and the then Home Secretary considered the campaign's analysis in detail. I can tell the right honourable gentleman by that I have today written to the campaign secretary—Barbara Jackson—to say that I would be very happy to meet her and the campaign immediately after the Summer Recess. I would also be happy to meet the right honourable gentleman to discuss this case as I know this is something that he feels very strongly about. This is one of the most important issues in my in-tray as new Home Secretary, and I can assure him that I will be considering the facts very carefully over the summer. I hope to come to a decision as quickly as possible following that".

*3.49 pm*

**Lord Rosser (Lab):** I thank the Minister for repeating the Answer to the Urgent Question asked in the other place. In their response to the Oral Question on 13 July on an inquiry into police actions during the Orgreave miners clash, the Government said:

"The IPCC told Home Office officials that if it announced any action to set up an inquiry or other investigation relating to Orgreave, it would have an impact on the Hillsborough investigation. It is for that reason that the decision will be taken only once that part has been concluded".—[*Official Report*, 13/7/16; col. 216.]

The deputy chair of the IPCC has emailed me, quoting the Government's words. She goes on to say: "I would like to clarify that the IPCC has not taken or offered any position on whether there should be a public inquiry into the events at Orgreave during the miners' strike. That is a decision that is entirely for the Home Secretary". Do the Government accept that the IPCC has not taken or offered any position on whether there should be a public inquiry into Orgreave, as the deputy chair of the IPCC says? If so, why did they not make that clear in the answer given on 13 July, bearing in mind they said that, as a result of something the IPCC had said to Home Office officials, a decision could not yet be taken by the Home Secretary?

Do the Government accept there is no reason why ongoing Hillsborough investigations should delay an Orgreave inquiry, and that the delay in agreeing to the inquiry rests squarely at the Government's door and has nothing whatever to do with any stance taken by the IPCC, as the Government's answer last Wednesday rather implied—an answer the deputy chair of the IPCC felt so strongly did not represent the position of the IPCC that she felt she had no alternative but to send an email to myself and others clarifying its position on this matter?

**Baroness Williams of Trafford:** My Lords, last week we were under a different Home Secretary. My noble and learned friend answered accordingly last week. This Home Secretary, who is newly in post, has decided she will look at all the relevant material over the summer and come to her own conclusion very early after recess. She has responded to the campaign to that end today. The IPCC, as its name denotes, is an independent body. It will come to its own conclusion.

**Lord Tebbit (Con):** My Lords, would my noble friend be so kind as to ensure the Home Secretary remembers at all times that the violence at Orgreave arose because Mr Scargill's men chose to defy the law on peaceful picketing and sought to prevent other working men going to their work? That was the nub of the whole dispute at Orgreave.

**Baroness Williams of Trafford:** Like my noble friend, I remember those years, because I lived in a mining village in the north-east. As she considers all the evidence from the campaign, the Home Secretary will weigh up what it says and decide whether to pursue an inquiry. She will do that quickly.

**Lord Paddick (LD):** My Lords, I declare that I was a serving police officer at the time of the miners' strike, but I played absolutely no part whatever in its policing. Would the Minister agree that holding a public inquiry at the same time as criminal and police misconduct investigations could create legal complexities, and that the Home Secretary needs to take the views of the IPCC carefully into account, along with the views of the others involved, even if the IPCC is not making the decision about the public inquiry itself?

**Baroness Williams of Trafford:** It is important to understand the two roles—the noble Lord of course does. The Home Secretary will arrive at her conclusions based on the evidence she looks at over the next few weeks. The IPCC will take a view as an independent body.

**Lord King of Bridgwater (Con):** My Lords, having watched the Home Secretary reply to the Urgent Question in another place, I think that any reasonable person would be hugely impressed by the way in which she dealt with it. She made it clear that the matter was a very high priority for her, notwithstanding the fact that, as a new Home Secretary, she has an enormous number of problems on her plate. Her sincerity in approaching this issue is most impressive. She made

the point in passing that she is dealing with an issue that occurred 32 years ago, and that subsequent Conservative and Labour Governments have not been notable for moving forward on it. One can only admire the way in which she has approached this.

**Baroness Williams of Trafford:** I thank my noble friend for making that point. My right honourable friend was indeed very impressive. If I can be a fraction as competent as she is, I will feel that I have done a very good job. She stated not once but twice, I think, during the reply to the Urgent Question that she accords this issue top priority in her inbox over the summer.

**Lord Harris of Haringey (Lab):** My Lords, I think we understand that there is a new Home Secretary; we would be hard pressed not to notice that. We also appreciate that the noble Baroness is a new Minister on this topic. However, there is no new IPPC. The point that my noble friend Lord Rosser raised was that in essence the position of the IPPC was misrepresented. Could the Minister tell us how that happened?

**Baroness Williams of Trafford:** My Lords, I can tell noble Lords that the IPCC is working very closely with the CPS to assess whether material related to the policing of Orgreave is relevant to the Hillsborough criminal investigation. Decisions have yet to be made by the CPS on whether any criminal proceedings will be brought as a result.

**Lord Balfe (Con):** My Lords, I congratulate the Minister on her second day in office, and the new Home Secretary on dealing with this matter so expeditiously. The campaigners have told me that they also appreciate the efforts of the previous Home Secretary who dealt with this matter. This is an issue of many years' standing and deals with a police force which, frankly, does not come out of things in a particularly good light. This is the same police force that dealt with the Hillsborough issues. Therefore, I welcome the fact that the Home Secretary is looking into this matter. The only point I would mention is that I note that she offered to meet Labour Members to talk about this. However, this matter is of concern across the House. Will the Minister encourage her superior, herself or someone to meet Conservative Members who are similarly interested in this matter and, for that matter, anyone else?

**Baroness Williams of Trafford:** During my right honourable friend the Home Secretary's reply, I noted that she offered to meet a Labour MP. I will certainly put the same request to her that my noble friend makes.

**Lord Hain (Lab):** My Lords, for the noble Baroness's information, I place on record the fact that I have an email from the deputy chair of the IPCC, in which she clarifies that, "the IPCC has not taken or offered any position on whether there should be a public inquiry. That is entirely a matter for the Home Secretary". Will the noble Baroness also convey to the Home Secretary that this is not just a question of the same officers being guilty of bad practice, and malevolence in the case of Hillsborough, but also that this incident occurred against a background of the unbridled use of state power against the miners? They were stopped miles and miles away on motorways coming from areas such as London and almost extrajudicial methods were used. This serious Orgreave incident needs to be considered in that context.

**Baroness Williams of Trafford:** My Lords, I think I confirmed to the noble Lord, Lord Rosser, that I understand the IPCC has confirmed by email to a number of noble Lords that it has not made a decision. As regards conveying a message to the Home Secretary about the same officers being involved, that is precisely the sort of information that she will be looking at. She will be looking at the whole file that the campaign has taken six months to compile and give to her. She will not rush to a decision but will come swiftly to a decision after the Summer Recess.

## Bus Services Bill [HL]

*Committee (3rd Day)*

*4 pm*

*Relevant documents: 1st and 2nd Reports from the Delegated Powers Committee*

### *Clause 9: Enhanced partnership plans and schemes*

*Amendment 83A*

*Moved by* ***Baroness Brinton***

**83A:** Clause 9, page 36, line 39, at end insert—

"(3A) The policies and objectives referred to in paragraphs (3)(c) and (3)(d) must include policies and objectives which are aimed at protecting the interests of disabled passengers."

**Baroness Brinton (LD):** The noble Baroness, Lady Campbell of Surbiton, sends her apologies but following the change of date to today, she is unable to be with us. I support all the amendments in this group. My name is on the first seven and I will refer briefly to the eighth one at the end. The first six amendments all relate to Clause 9, which inserts new sections into the Transport Act 2000 to deal with enhanced partnership plans and schemes. We want local authorities and operators to take account of the needs of disabled passengers who use local bus services under these enhanced partnerships.

Clause 9 defines exactly what an EP will do: it analyses the local bus market and sets out the policies and objectives to improve the services. But disabled passengers have quite particular needs so Amendment 83A makes it clear that there must be specific policies and objectives to protect their interests under the EP. Amendment 84AA also concerns the enhanced partnership schemes and sets out in practical detail what the local transport authority and the bus operator will do to improve those services. The authority must be satisfied that the scheme will benefit all people using the services. That is why the amendment expressly requires the authority to consider the benefits for disabled people.

Amendment 89A is the key one in this group. The scheme will set out the requirements that apply to local services and new Section 138C expands on these requirements. The amendment says that there should be a requirement on operators to set up arrangements

[Baroness Brinton]
for looking after the interests of disabled people who use bus services and to help them to do so. It is intended to mirror the system of disabled people's protection policies in the rail sector, which the noble Baroness, Lady Campbell of Surbiton, spoke of at Second Reading, where it is a condition of their licence that operators set up and have to comply with such policies.

Amendment 90A requires the authority to provide particular facilities on a bus route and take particular measures. It says that the authority must have,

"special regard to the needs of disabled people",

when it provides such facilities. This and all the other amendments are needed because unless we are specific all the way through, unfortunately there will be small holes through which arrangements for disabled passengers could fall.

Amendment 90B looks at the measures that either increase the use of local services or improve the standard of those services. Here again we want a very specific requirement that an authority must pay special regard to disabled people's own experience of using a service and of the standard of that service.

Amendment 99A says that the local authority must require operators to have policies about passengers' behaviour when the bus driver or other staff are seeking to make reasonable adjustments for a disabled passenger. This is to ensure that the driver has the powers to deal with such situations and, if need be, to direct a passenger to get off the bus. This issue arose in the Paulley appeal at the Supreme Court and the amendment is intended to clarify the issue that much of the Paulley case is about.

The original conduct regulations for bus drivers from 1990 grant a few reasons for which bus drivers can eject passengers; for example, in the event of overcrowding or a passenger causing a public nuisance. Later another section was added to the regulations, dealing specifically with disabled people. However, the duties of the bus driver included allowing the wheelchair to board only if there was an unoccupied space, and if other passengers were in that space they should,

"readily and reasonably vacate it".

But that is as far as the regulations dictate. In the opinion of the court process, there was no legal justification for the driver turning passengers out if they refuse to move from that wheelchair space.

In 2014, the Department for Transport proposed amendments to the conduct regulations as part of its Red Tape Challenge and invited the public to comment on those amendments. This process occurred at the same time as the Paulley appeal was ruled on, so a number of comments were submitted suggesting that clarity be provided on these rules about wheelchair access. Disability Rights UK, for example, submitted a proposed amendment to the regulation that gives bus drivers the power to remove passengers, adding to the list those who,

"refuse to readily or reasonably vacate a wheelchair space".

The department noted that a majority of the suggestions regarding conduct towards the disabled were on this subject but unfortunately, in the end, no amendment about wheelchair access made it into the updated regulations. After we talked to the Public Bill Office, the advice for the passage of this Bill was that the best thing would be to amend the Transport Act 2000 detail instead. If the amendment were agreed by the Government then parliamentary counsel could pick that up to deal with any subsequently drafted regulations.

I turn to Amendment 122, to which my name is added. It is absolutely clear, as a disabled bus passenger, when a driver or conductor, or any other official, has or has not had training. The training is extremely patchy. It is fine to require training but if there is not a consistent standard then, frankly, it is useless. In a Question earlier today—if the Committee will give me a little leeway—there was reference to the problems of passengers' ability to get on and off trains with ramps. One train operator has decided to start calling passengers who have booked assistance if they are late. While the Minister said earlier that it is helpful if passengers book 24 hours ahead, some operators are getting quite aggressive if passengers do not turn up at the right time. I am convinced that this is a matter of individual training, which is why I am not naming the relevant train company. If there were a consistent standard of training for all staff who come into contact with disabled passengers then the experience of those passengers and those around them, who can quite easily be asked to move in a most helpful way, is absolutely transformed. I hope the Government will consider moving on this issue, which is a live one that affects passengers travelling in wheelchairs and those who have to use priority seats as well.

Finally, the focus of Amendment 126, which is at the end of this group, is on audio-visual arrangements for passengers who require them because they are either visually or audio-impaired. As I said at Second Reading, there is also an issue for those in the wheelchair space because on some buses you cannot see the visual display. If you are travelling backwards on the bus, it is almost impossible to know when you are arriving at a stop if it is the first time that you have been there. I beg to move.

**Lord Snape (Lab):** My Lords, the noble Baroness raises an important point which should not be overlooked in the course of our deliberations. There is a very human problem here: drivers will quite often explain to management the difficulties they have in seeing that the spaces provided for passengers in wheelchairs is properly occupied by those passengers. There are various documented instances of parents with buggies, for example, occupying that space. Buses these days are, by and large, operated by one person, and the driver is often called upon to intervene in disputes between someone in a wheelchair and a parent with a buggy about who will occupy that space. It is easy for us to say in the course of these debates, "Of course, it's obvious; it should be the person in the wheelchair", but in the human context of dialogue that takes place between passengers, it is not quite that simple. I would say to the noble Baroness who has raised this matter that you should never ask a question to which you do not know the answer. I cannot provide the solution, but I can illustrate that these difficulties are taking place at present. Whether the Minister can help us out in resolving them or not, I do not know.

So far as visual aids are concerned, again it is important that we are not too prescriptive. We had a debate some years ago in your Lordships' House about Gatwick Express trains, which were operated by a company for which I used to work. According to my memory, the issue was that the visual displays inside these trains were five-eighths of an inch smaller than they should have been. At that time, the Gatwick Express trains ran only between London Victoria and Gatwick Airport, so if you were going south, you were going to Gatwick Airport, while if you were going north, you were going to Victoria station in London. There were no intermediate stops. Despite that, at the time the then spokesperson for the Liberal Party opposed the derogation that had been proposed for these particular trains. I make this point in the context of these amendments, after all these years, to show that it is possible to be overprescriptive with these matters.

I heard from the noble Baroness who ably moved these amendments that it is sometimes impossible for the person in a wheelchair who occupies the position provided for them on that bus to see the visual display. Again, I am not quite sure how many visual displays would need to be provided on buses for that particular problem to be dealt with. Evidence about public transport is hugely anecdotal—we all have various experiences, some better than others. For what it is worth, I can offer one.

I took the 91 bus service recently from Trafalgar Square to Crouch End. I have to say that after about 40 minutes I found the audio announcements and visual display—there are both on those buses—somewhat wearying. At every stop there were the chimes and this rather well-polished voice, if I might put it that way, announced the particular stop, and said which route it was on and what the following stop was. I have to confess to your Lordships that after the first 50 or so times, I would willingly have ripped the whole apparatus apart and thrown it off at one particular stop. I relate that anecdote only because, again with the best of intentions, we sometimes overprovide these things.

I return for a moment to the Gatwick Express trains. Certain Members of your Lordships' House felt it preferable for the trains to remain in a siding rather than trundle between Gatwick and London Victoria with a visual display which was five-eighths of an inch or whatever it was too small. I do not want to labour the point, but it is vital that we do not overprescribe.

It would be remiss of me before I sat down not to congratulate the Minister on surviving the enormous cull that appears to have taken place in Her Majesty's Government. I am sure I speak for all of us on this side when I welcome him back, as his name is on the papers before us today. I did tell him that I would have a word with the Prime Minister on his behalf. I did not realise there were a couple of choices that I could have made there, but I welcome him back and hope we can continue the debate on this matter in the same spirit as on the previous two days.

**Baroness Brinton:** I talked about the bus conduct regulations of 1990, because they give the facility for the driver to be in control of the situation rather than for it to be an argument between a disabled passenger and another passenger, with or without a buggy. In the proposed phrase referring to drivers and passengers who,

"refuse to readily or reasonably vacate a wheelchair space",

it is the "reasonably" which is intended to solve the problem that the noble Lord alludes to where you have a mother with a very small baby who cannot move the buggy. The problem at the moment is that the row is left between the able-bodied passenger and the disabled passenger. That is completely inappropriate.

*4.15 pm*

**Lord Snape:** I well understand that; I just wonder how we can resolve it by legislation. It is easy for us in this Chamber to look at these matters dispassionately and say, "The driver is in the right" or "The passenger should know who should occupy a particular place on the bus". I respectfully think that what the noble Baroness suggests is easier said than done on a crowded rush-hour vehicle with a driver in a cab, sealed off as most of them are these days. I understand her need for clarification, but I very much doubt that it would resolve the situation. I hope that the Minister will be able to tell us; after all, that is what he is paid for.

**Lord Judd (Lab):** My Lords, these are helpful and constructive amendments but, as with all amendments of this kind, they raise new issues. I am one of those who believes that you cannot get these issues right simply by rules and regulations; you have to win the battle of public commitment. It will not be easy for the driver to be as effective as he should be with the authority at his disposal unless the majority of people on the bus have a supportive attitude to what he does. If enough people are hostile, it could make it difficult for him on his own. Similarly, the bus operators need to take seriously the information displays in the bus about what the rules are. For example, in London there are arrangements for preference for disabled, elderly and frail people, but they are of course voluntary. It often strikes me that those notices are in very small print and not obvious to everyone who is travelling, particularly when the travellers may be an international group of people with language issues and so on. When the Minister responds, it will be important that he says what part the Government intend to play in ensuring the promotion of a public culture of understanding and support for those who have the front-line responsibility of making the practical arrangements work.

**Baroness Randerson (LD):** My Lords, I support the amendments in the names of the noble Baronesses, Lady Brinton and Lady Campbell, and will speak to my own Amendment 126, which is about audio-visual display. I disagree fundamentally with the noble Lord, Lord Snape. I was on a train yesterday and, between stations, my travelling companion cast doubt on whether we were really going to the destination to which we thought we were. When you are sitting and watching the display, it cannot come round soon enough. It may seem like an overprovision at some points. I understand that having the announcement again and again might seem repetitive to people on the bus for 20 stops, but

[Baroness Randerson]
the person on the bus for one stop has only one opportunity. It is often difficult to grasp that opportunity because of the noise on a crowded bus.

As someone with severe hearing loss, my interest is in the need for the announcements to be both visual and audio. I recently took a number of buses to new destinations in London on a weekend of childminding, which made me reflect on how important the visual display is—and not just for people who cannot hear the audio announcements. It is important for everyone who sits in the front third of the bus because, in London, the visual display is about a third of the way down the bus. If you are in the front seats, you cannot see that visual display so you rely on the audio announcement. That is important for everyone.

It is also worth noting that London buses are often very full, as they are in other parts of the country, and you cannot see the display for the people standing. Therefore, the system that we praise in London has proved the need for it to be spread throughout the country. Only 19% of buses in England have audio-visual displays, and 97% of that 19% are in London. That means very few buses anywhere outside London have displays and announcements. There is absolutely no reason why they should not be spread everywhere. This is not cutting-edge technology; it is not trying to develop the best and newest way of providing, let us say, electric buses; this is tried and tested. Asking the driver or other passengers is difficult, sometimes counterproductive and can be unreliable.

There seems to be a comfortable view in the industry that only regular passengers ever travel. That is so wrong. In the modern world, people travel to new parts of the country where they do not have a clue what places they are travelling through. Research shows time and again that uncertainty about the route and where to alight is one of the major factors deterring new passengers. I return to the principle behind the Bill: we should be attracting new people to the buses in order to have a flourishing industry.

I briefly refer to another issue raised in previous debate on the Bill: driver training. My noble friend Lady Brinton talked about the importance of training drivers so that they understand the nature of the disabilities they are dealing with and are empowered by their training. The Minister suggested in the kindest terms that I might be incorrect in saying that drivers do not have to achieve specific standards. I have had clarification of that now.

The periodic training to keep drivers' qualifications up to date is the problem. All CQC periodic training providers have to register with the Joint Approvals Unit for Periodic Training, which was set up in 2007. It offers a quality mark to employers and driver training courses to maintain their licence. The advice for those running periodic training courses specifically states that you cannot have formal exams or tests within periodic training, and as a trainer you cannot issue a pass or fail for the evaluation session. Not only does government guidance not require the testing of trainees, it specifically excludes it.

As I have said before, being a bus driver is a very difficult job. I have huge admiration for bus drivers. They deal with passengers and very difficult traffic conditions and need to be empowered by the highest quality training. I urge the Minister to look again at the regulations so that we treat drivers fairly by ensuring that they are given the best quality training.

**Lord Low of Dalston (CB):** My Lords, I take the point of the noble Lord, Lord Judd, that measures to benefit disabled people will never be fully effective until there is full public commitment to them, but I put it to him—and I am sure that he would agree—that getting the law right is all-important in getting the framework in which public opinion is shaped.

**Lord Judd:** I totally agree.

**Lord Low of Dalston:** I am most grateful for that—we are in complete accord.

I put my name to Amendment 126 in the name of the noble Baroness, Lady Jones of Whitchurch, so I shall devote my remarks to that. It would amend the Public Service Vehicles Accessibility Regulations to require all new buses to have audio-visual information. These regulations already contain standards for wheelchair access, but AV is essential if the access needs of those with visual impairments and hearing loss are to be met. As someone with a visual impairment myself, I have an obvious interest in this, which I readily declare. The rail vehicle accessibility regulations require audio-visual information in respect of new trains and light rail systems. This amendment would bring the requirement for buses into line with that for trains and so create a level playing field between the two.

The need for audio-visual information does not just concern a tiny minority. An ageing population and the increasing incidence of diabetes mean that the number of people with sight loss is predicted to reach 4 million in this country by 2050. A voluntary approach to this is not working. Due to the lack of a requirement, as the noble Baroness, Lady Randerson, has told us, only 19% of buses have AV, and the majority of those are in London. According to a 2011 Department for Transport study, 97% of buses with AV are in London. But AV is increasingly affordable; the department has found that it could cost as little as £5.75 million a year to fit all new buses in the UK with audio-visual information. The Government acknowledge that the technology is increasingly affordable. In a Written Answer to Dawn Butler MP on 21 June, the Minister responsible for buses, Andrew Jones, said:

> "Previously, the systems to provide such information have been expensive to fit and maintain, but I understand that new technology may make it more affordable … We are currently considering the most appropriate next steps, but in the meantime I encourage bus operators to consider the benefits of better, more accessible information for all their customers".

Audio-visual information is useful not only to disabled people. Tourists and anyone travelling in an unfamiliar location can find it helpful. AV also brings financial benefits to bus operators. Trentbarton bus company, which has AV on its buses, found that 85% of all passengers found the announcements useful. Oxford Bus Company has estimated that, with advertising, its AV systems will pay for themselves within two years of installation and result in a profit.

The Minister said at Second Reading that the Bill will allow new accessibility standards, such as talking buses, to be set locally, in response to the needs of

local communities. The requirements that people with disabilities have to access transport do not vary from region to region; therefore, the standards that operators need to meet should be national ones to enable people to use buses with confidence wherever they are in the country.

Bus operators have largely failed to improve accessibility. The big five operators, which operate 70% of bus services in the UK, have demonstrated little willingness to make AV standard across their fleets. This Bill is an acknowledgement of the limitations of an entirely deregulated bus market. The lack of action by the larger bus operators to improve the accessibility of buses for people with sight loss makes it clear that this is also an area where regulation is required. This House's Select Committee on the Equality Act 2010 and Disability, which reported last March, recommended that no new vehicles should be put into service which do not have AV annunciators and that the Public Service Vehicle Accessibility Regulations 2000 should be amended accordingly. Amendment 126 would give effect to that recommendation, and I support it strongly.

*4.30 pm*

**Lord Berkeley (Lab):** My Lords, I support most of the speeches made in support of this amendment. I am not sure that I agree with my noble friend Lord Snape about too many announcements. It is better to have too many than too few. Coincidentally, today I got news from the *Oxford Mail* that Oxfordshire County Council is stopping all subsidies to buses. It made the decision this afternoon. The noble Lord, Lord Low, spoke about the Oxford Bus Company, which is very good, but 117 routes will be cancelled, mainly to small towns and villages. If we think about the effect on people who cannot see or who have reduced mobility, they cannot drive. The article does not say how many people will be affected by it, but it is obviously going to have a serious effect on people's lives in just one county. Of course, it is blaming government cuts, rightly or wrongly, and we can debate that. But if the council had waited a year or two until some of this legislation had gone through, the Minister might say that it could easily keep those services because they will be so much better and operators will not need a subsidy anymore because there will be so many more people, presumably under the age of 16, paying for their fares. It is a serious warning. Just one county, which is probably not the poorest county in the country, has said, "Damn the buses. We don't really care. They're old, infirm, poor and probably don't vote Tory. We'll dump them". It is a very sad coincidence that it has happened today.

**Baroness Jones of Whitchurch (Lab):** My Lords, I support the amendment tabled by the noble Baronesses, Lady Campbell and Lady Brinton. I shall speak also to Amendments 122 and 126 in my name. I am very grateful for the support of noble Lords who have spoken on them.

These amendments build on the requirements in the Equality Act 2010 for businesses to make reasonable adjustments to ensure that people with disabilities can access goods and services. Action on these issues is vital as the Department for Work and Pensions survey shows that 37% of disabled respondents found transport accessibility a significant barrier to work. We clearly have a long way to go to create a service to which all potential users have access.

Amendment 122 is, I hope, straightforward. It builds on the good practice that exists among enlightened bus operators around the country. It requires all bus operators to provide compulsory, approved equality and disability awareness training by 1 April 2019. It makes the important point that disability is not always obvious and can include mental and other hidden disabilities. We believe that all bus drivers need the skills to identify these potential disabilities, understand the legal framework that applies and have the confidence to intervene effectively when problems arise. I take the point made by my noble friend Lord Judd about the need for public awareness training, but it has to be underpinned by clear legislation and training. In my experience, the public are much more aware of and sympathetic to these issues than we give them credit for. Quite often it is members of the public who come to the rescue of people who are trying to get on to transport; they want to help but do not feel they are getting the support they need to intervene.

We contend that it is not good enough to provide this training on a voluntary or ad hoc basis. With all equality training, the experience is that those who acknowledge that they need the training the most do not really need it: it is those who have to be forced to go on the training who need it the most. It has to be a universal and regular provision.

I ask the Minister for clarification on the Brexit implications of the proposals. As I understand it, Britain currently has a five-year exemption from the EU directive requiring bus drivers and terminal staff to undergo disability awareness training. The exemption runs out in 2018, and we would have expected the requirement to have been put in UK law by then. Will the Minister clarify the status of that obligation now? Is the department on course to implement it, or is this something that can now be achieved more quickly, perhaps through the vehicle of the Bill by adopting our amendment or something similar?

Our Amendment 126 addresses the need for all buses to have audio-visual communication systems to advise passengers of the next stop, any delays and any diversions from the published timetable. The amendment has the support of over 30 charities and bus providers. It would make a vital difference to the lives of almost 2 million people with sight loss, as well as many elderly people who rely on public transport for their independence. As the noble Baroness, Lady Randerson, said, currently only 19% of buses are fitted with AV. Those of us who travel regularly by bus in London realise how liberating and reassuring the service can be, and indeed it frees the driver to concentrate on the roads. I say to my noble friend Lord Snape that I travel on London buses a lot and I have never been irritated by the voice of the AV system; I always find it soothing and reassuring.

It is not like that in the rest of the country, though; a recent Guide Dogs report showed that seven in 10 passengers with sight loss have missed a stop because the driver has forgotten to tell them where to get off.

[Baroness Jones of Whitchurch]
Understandably, this is both distressing and potentially dangerous. AV provision already applies to all new trains. It makes sense to replicate that provision for buses so that we can have a properly integrated public transport system with equal rights and facilities across the piece.

As we have heard, some bus operators have argued that the cost could be prohibitive, but we do not accept that. The latest estimates are that it could be installed for around £2,000 per bus. At the noble Lord, Lord Low, said, a recent study in Oxford showed that if the messenger system was also allowed to include adverts, it could pay for itself in two years. When we met the Minister, Andrew Jones, at the start of the process, he seemed sympathetic to the arguments that have been put on this issue. I understand that he has since said he accepts that the costs have come down, and is therefore reflecting on the next steps. I am also grateful to the Minister here for our earlier meeting on the issues that are covered in the amendments, and I know that more discussions are being planned. I hope the Minister will be able to give us some good news today, and will feel able to confirm that he is prepared to support the amendments.

**Lord Judd:** I would like to pick up something that my noble friend has said. I hope that in her concern to bring home—and I applaud this—just how concerned and helpful so many people are about the plight of the disabled, we do not play down the importance of public education. I travel on London buses a good deal as well, and it is sometimes extremely exasperating to see able-bodied people sitting firmly and almost defiantly in the seats that are supposed to be available, and not giving way. Therefore it is important that there is a culture of support within the bus. I do not advocate a sort of indoctrination programme but suggest that if we have an effective public awareness programme with the maximum possible amount of helpful information about what is expected of people on the bus itself, that will support the majority of people, who are concerned and want to help. As so often in life, a small number of people cause the problems, so you want an atmosphere in which those who are concerned about this are actively supportive of the bus driver.

**The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con):** My Lords, I thank all noble Lords who have taken part in this extremely important debate on a particularly important Bill. If one reflects just on the events of recent weeks, perhaps much can be made of the progress of the Bus Services Bill, in sometimes turbulent waters. Certainly the Bill is progressing on time—albeit that there has been a small delay because of discussions about our position on our exit from the European Union, which is understandable.

At this juncture I also thank the noble Lord, Lord Snape, in particular, for welcoming me back to the Dispatch Box. Confucius said, "We live in interesting times"—and sometimes, when reshuffles occur, in uncertain times. However, on this occasion I return to the Department for Transport as a full-time Minister. I do so as the Minister for Aviation, among other things, so I am sure that I will enjoy some interesting debates in your Lordships' House as the Minister responsible for that portfolio.

**Lord Snape:** Let me be the first to congratulate the noble Lord. Having invited him to come to see the buses in Birmingham—he has not yet been able to take up that invitation—given his new responsibilities, I will be delighted to accompany him on one of these aeroplane trips that Ministers go on.

**Lord Ahmad of Wimbledon:** I am sure there is a film about that—"Planes, Trains and Automobiles"—and I am sure we will have our own version of that. I thank the noble Lord most sincerely for his warm words. I will say one more thing before addressing the amendments. Much is sometimes said about your Lordships' House with regard to the role we play and our revising nature. Since I joined the House well over five years ago I have always maintained that it possesses much expertise. It is important, at times when we look at the scrutiny of Bills, that we look also at the expertise we possess.

Perhaps there is also a challenge for all Front-Benchers in your Lordships' House. I have already alluded to my portfolio responsibilities. Those who represent their respective parties in your Lordships' House have to speak to a much wider portfolio. The challenge—or maybe it is an opportunity we all enjoy—reflected not least in this afternoon's proceedings, is demonstrated by the fact that so far, as the Minister responsible for aviation, I have managed to answer a Question at Question Time about rail and I am now taking through the Bus Services Bill. Again, that reflects the diversity of the House of Lords.

On the amendments, I have of course had various correspondence on this important issue, including with the noble Baroness, Lady Campbell, who cannot be with us today. I thank in particular the noble Baroness, Lady Brinton, for her customary introduction of the amendments. It is always helpful to bring these amendments to life by highlighting practical examples, which she always does, so I thank her for that. I have a great deal of sympathy with the question of how we should ensure that all passengers have the confidence to travel by bus. The amendments in the names of the noble Baronesses, Lady Campbell and Lady Brinton, seek to ensure that the rights and interests of disabled passengers are fully protected when an enhanced partnership scheme is developed and subsequently operated. I assure noble Lords that I entirely agree with the sentiment of these proposals. Disabled passengers should be able to access and use bus services on the same terms as those who are not disabled.

The Equality Act 2010 includes provisions on transport infrastructure and vehicle access, and the Public Service Vehicles Accessibility Regulations 2000 set out the accessibility requirements which apply to certain buses. Buses have to be accessible to disabled people, who must be able to travel in comfort. Among other things, they must not be discriminated against in accessing transport—and this does not mean just installing ramps and widening doorways for wheelchair users. The accessibility regulations require facilities such as low-floor boarding devices, visual contrast on

step edges, handholds and handrails, priority seats and provision for passengers in wheelchairs.

From January this year, all single-deck buses designed to carry more than 22 passengers on local and scheduled routes need to be compliant with the regulations and double-deck buses will need to be compliant by January 2017. This legislation will make it unlawful for bus operators to disregard the needs of disabled people, including wheelchair users, and they will have to comply with the requirements of the accessibility regulations.

*4.45 pm*

Amendment 99A seeks to address the current issue relating to the right of disabled passengers to access wheelchair spaces on buses—which, as noble Lords will be aware, is subject to an appeal to the Supreme Court. As I have said before from the Dispatch Box, I do not believe that it is appropriate to take any decisions about related issues while the outcome of that action is unknown. I shall, of course, be monitoring the situation.

I turn to the amendments in the name of the noble Baroness, Lady Jones. For disabled passengers, encountering a driver who misunderstands or ignores their needs, or who fails to provide the assistance they require, may not only prevent them boarding the respective service but potentially stop them attempting to travel by bus in the future. The noble Baroness's amendments are intended to help prevent this, and I certainly support her aim in this regard. Bus operators should ensure that their drivers are equipped with the skills and knowledge to assist disabled customers, and I am happy to report that this already happens in the majority of cases.

There is also existing legislative provision for the situation to be improved further. In 2018, mandatory disability awareness training provisions will come into force, requiring all bus drivers to undergo disability awareness training. This obligation, as the noble Baroness acknowledged, arises from EU Regulation 2011/181. I am sure that noble Lords will appreciate that there will be means other than this Bill to address any need to ensure that these requirements continue to apply to bus operators in the UK once we leave the European Union.

The noble Baroness raised that exact point in light of the Government's intention to focus on leaving the European Union and the negotiations that have begun with other European countries on determining our position. We recognise the importance of driver disability training and are developing guidance to help implement it. I assure the noble Baroness that we are also reviewing our European obligations and will ensure that the importance of this work is reflected as we move forward in this area.

**Baroness Thomas of Winchester (LD):** My Lords, perhaps I may interrupt the noble Lord for one minute to ask whether disabled people themselves are able to have an input into that disability awareness training. That is very important.

**Lord Ahmad of Wimbledon:** I will come to that point in a moment and I thank the noble Baroness for her intervention. I agree with the noble Baroness, Lady Jones, who raised the importance of helping drivers to understand the potential needs of people with a range of impairments and to respond to them directly and positively. The Department for Transport is currently working with Mott MacDonald, representatives of disabled people and the bus industry to review examples of disability awareness training from across the transport sector. Our intention is to publish best-practice guidance well ahead of the introduction of the mandatory requirement. I hope that, by working with the industry to embed this framework, we will help to improve bus drivers' understanding of their role and that this, in turn, will enable disabled people to travel by bus with greater confidence.

I turn to Amendment 126. For many of us, missing our stop is an inconvenience—by golly, I think we have all been there, and sometimes it is our own fault—but for many visually impaired people the risk of alighting at the wrong location and of being stranded and unable to get back is enough to prevent them travelling at all. Noble Lords will know that the charity Guide Dogs has already campaigned hard on this matter, and it is one on which noble Lords have expressed clear views. The Bill already enables enhanced partnership schemes to specify requirements about providing information to passengers by placing electronic equipment within vehicles. Franchising authorities may choose to require the provision of accessible information in their local service contracts.

The noble Baroness's amendment goes a step further and proposes amending the Public Service Vehicles Accessibility Regulations—the PSVAR—to require information to be provided that is accessible to blind and partially sighted people. I am grateful to her for proposing such a pragmatic solution, particularly in specifying the information that should be provided, not the means of delivering it. I assure noble Lords that I therefore intend to consider the noble Baroness's amendment and, in doing so, I will reflect on a number of potential concerns around the proposal as it is currently drafted. For example, within the current drafting, it is not entirely clear whether the PSVAR is the right vehicle to use to introduce any such requirements, given that present provisions in those regulations relate to the physical presence of equipment on buses rather than the provision of service or the level of information.

There is also a question of timing. The PSVAR were originally made in 2000 and operators have had over a decade to prepare for the requirements becoming mandatory, including planning to deal with the resulting costs. I am sure that noble Lords will agree that, in making vehicles more accessible to disabled passengers, we would not wish to put at risk the services that many rely on. Yet I fear that smaller operators may struggle to comply with such new requirements and that the provision of some services may become untenable. This is an issue that I have discussed with the noble Baroness outside the Chamber as well. Given this, I hope that noble Lords will understand why I cannot accept the amendment as it is currently presented. However, I understand the very real concerns expressed at Second Reading, which the amendment of the noble Baroness, Lady Jones, seeks to address, and I therefore intend to give it further consideration.

[Lord Ahmad of Wimbledon]

Issues have been raised about consultation and working with the industry—and working with those who know best. Noble Lords will know that the Disabled Persons Transport Advisory Committee—DPTAC—has a statutory role in advising the Government on the transport needs of disabled people. Last month, its current chairman, Keith Richards, addressed the DfT board, where I was present. I know that the committee sees the improvement of on-board information as an important priority. I remember sitting at that board meeting and listening to the presentation. I immediately put forward to both my team and that of the Minister responsible for buses, Andrew Jones, that we need to consider their engagement and involvement. As I said during that very meeting, the Bus Services Bill is an opportunity to ensure that we can address the concerns. I intend to consider further the amendments of both the noble Baroness, Lady Jones, and the noble Baroness, Lady Campbell. In doing so, I assure noble Lords that the DPTAC will be involved fully. This Bill provides an important opportunity—as I have said throughout the passage of the Bill thus far—to ensure that the rights of disabled people are at the heart of the planning and operation of bus services. It is vital that any additional provisions address these important issues in the round.

There was an additional question by the noble Lord, Lord Berkeley, about Oxfordshire bus cuts. It is certainly our understanding that the situation in Oxford is not perhaps as stark as he suggested. My understanding is that the council has been working with local bus operators to minimise the impact of the changes, with a relatively large number of services being taken up commercially and new types of community transport also being put in place. I am sure that this is something that we can look at specifically outside the Chamber, if there are other details that the noble Lord wishes to provide.

I hope that I have underlined that the Government are serious about this issue. I welcome the engagement that we have had both within and outside this Chamber, which will continue—I can say that with a degree more certainty today than perhaps I could a week or so ago, certainly as far as I am concerned—although we should never count on these things.

On a more serious note, it is important that we continue to work to see how we can improve the Bill and address this important issue. I look forward to further discussions on this matter and trust that, with the reassurance that I have given to noble Lords at this juncture of the seriousness with which the Government intend to consider the amendments before us and proceed with these proposals, the noble Baroness will be minded to withdraw her amendment.

**Baroness Jones of Whitchurch:** My Lords, I am grateful for the response from the Minister and I am sure we would all appreciate the chance for further discussion. I am certainly not one to say that we have got the wording exactly right in our amendments. However, I want to clarify something about the disability awareness training that the Minister responded to. To paraphrase him, he said: "Don't worry because it's a mandatory requirement, or will be in 2018, arising from the EU legislation". He then went on to say, "We are already reviewing our EU obligations". That seems to be a contradiction. Will it happen? Is it mandatory, or will it be in the melting pot of a Brexit review that may do away with it as unnecessary red tape in some sort of bonfire?

**Lord Ahmad of Wimbledon:** This is important, so I will put my words into a letter for all noble Lords' consideration. However, I reassure noble Lords and the noble Baroness in particular that we were mandated and signed up to the EU provision. Certainly, the intent behind the Government's consideration of this is that whatever provisions were within that regulation are reflected in the obligations that the Government proceed with. I cannot present the noble Baroness with the exact chapter and verse about how that may be mandated, but because of the importance of the issue, I will write to her in that respect.

**Baroness Brinton:** My Lords, I thank the Minister for his considered response and for the progress that has been made since Second Reading. I am sure that the Committee will look forward to further discussions and, I hope, when we get to Report, some real progress on this group of amendments.

One reason why I was slightly concerned about the Minister's initial response was the implicit understanding that, if the enhanced partnerships are there for all passengers and the Equality Act says that everybody must make all reasonable adjustments for disabled people, there will therefore be enough safety for disabled passengers on buses. The amendments were tabled because at the moment there is not enough provision for disabled people. We want to hardwire that into the legislation and into the regulations.

I am particularly concerned about the difference between the bus sector's arrangements for disabled people's protection policies and those of the rail sector—the bus sector's are not nearly so strong. I hope that we will make progress on that area before Report.

I am also sad but understand why, with the case currently in the Supreme Court, the Minister suggests that we defer discussion on Amendment 99A. What is clear—and this picks up the point made by the noble Lords, Lord Snape and Lord Judd, about how we get people to work well—is that the whole problem of this complex issue about wheelchair space and access is down to what the bus driver is enabled to do, which is why the conduct regulations are so important. If the Supreme Court does not make its own judgment—in an earlier hearing, it said that it should be for Parliament to decide—I hope that the Government will immediately make changes to ensure that drivers have the right, reasonably, to move passengers.

**Lord Low of Dalston:** Will the Minister write to us all and not just the noble Baroness, Lady Jones, about the application in due course of the EU regulation and how that is to be effected?

**Lord Ahmad of Wimbledon:** Of course. I am pleased to give that reassurance. Implicit in most of the discussions we have had thus far is that, if a particular issue is raised by a noble Lord, I will include all noble Lords in discussions and correspondence.

**Baroness Brinton:** I also thank the Minister for his helpful letters and assistance with meetings over the past few months. On that basis, I beg leave to withdraw the amendment.

*Amendment 83A withdrawn.*

*5 pm*

*Amendment 84*

*Moved by* ***Viscount Younger of Leckie***

**84:** Clause 9, page 37, line 21, leave out "a related enhanced partnership" and insert "the"

**Viscount Younger of Leckie (Con):** My Lords, it falls to me to present myself as a change of driver at this point, and I will speak to Amendments 84, 90 and 100 to 107 to Clause 9. This is a series of amendments that correct drafting errors or clarify the intention of the Bill. I will describe briefly their effect. The detail can be found in the letter sent by my noble friend Lord Ahmad on 16 June.

Amendment 84 amends provisions on the review of an enhanced partnership scheme and corrects a drafting error. Amendments 90 and 105 replace the words "enhanced partnership area" with,

"area to which the enhanced partnership scheme relates',

as the original term was not defined. Amendments 100 and 101 correct the drafting in proposed new Section 138J to clarify that local transport authorities must provide facilities where an enhanced partnership scheme requires them to do so. Amendments 102 to 104, 106 and 107 clarify the process around variation of an enhanced partnership plan or an enhanced partnership scheme. All of these changes are minor and technical and do not constitute a change of policy. I beg to move.

*Amendment 84 agreed.*

*Amendment 84A*

*Moved by* ***Lord Berkeley***

**84A:** Clause 9, page 37, line 23, at end insert—

"(7A) An enhanced partnership scheme must state the minimum standards of service to be provided under the scheme. "

**Lord Berkeley:** My Lords, in moving Amendment 84A I shall speak also to Amendment 84B, which is also in my name. Amendment 84A is a small amendment, but it is designed to ensure that when two or more enhanced partnerships meet and work together, the minimum standards that we will be discussing elsewhere and have already discussed are provided in both or all the schemes. Amendment 84B provides—on page 38, line 37—that an enhanced partnership scheme "must" specify the,

"requirements about the frequency or timing of particular local services or local services of particular descriptions".

As a general comment on the further amendments in the group which propose changing the word "may" to "must", I would be much happier if the word "must" appeared in the text because "may" can also mean "may not". Is this going to be covered in further documentation and regulations? For something like this it would be much better to have a bit more definition. I am sure that it is the Government's intention that these enhanced partnerships should specify the frequency and timing of local services as well as the different types of service, and indeed we have talked about these issues during the course of many amendments during the previous two days in Committee. I hope that the Minister will accept that the word "must" would be a beneficial improvement to the Bill. I beg to move.

**Baroness Randerson:** My Lords, I shall address Amendments 85 and 86 tabled in my name. Once again these amendments are an attempt to firm up the Bill by ensuring that enhanced partnerships take into account the list of factors specified on page 39, which at the moment suggests that they "may specify" those factors. The list includes such fundamental things as tickets and entitlement to travel. We believe that enhanced partnerships have to take these into account. We are saying not that problems have to be solved in a particular way but that enhanced partnerships must take account of this. We are not prescribing the solutions.

Amendment 86 specifies that emission levels must be included in the factors that vehicles must meet and that disabled access arrangements must be taken into account. We have raised these issues before. Once again, this is a very basic reference to simple principles that really need to be taken into account in a Bill that will become an Act in 2016 and will probably suit the industry for the next 20 or 30 years, as the previous Act did. If we want to look ahead, we have to look at the society we are serving to ensure that the factors that are so important, such as emission levels, are considered in every circumstance, not just by the best operators and the most thoughtful local authorities.

**Lord Shipley (LD):** My Lords, I support the amendment tabled by my noble friend Lady Randerson. It may appear to be an issue of semantics on the term "may specify" in new Section 138C, to which the amendment relates. The noble Lord, Lord Berkeley, wishes to amend the words to "must specify" and my noble friend Lady Randerson prefers the words "must consider". I think the term "must consider" is better. "Must" is stronger than "may" and "consider" does not require a specification. I am not sure it is necessary to require an enhanced partnership to define or specify what a ticket looks like.

There are two issues in the long list of possible requirements in new Section 138C. Some have a national standard. They may relate to issues such as emissions, which my noble friend Lady Randerson has talked about, and they should apply across the country. Others are simply best left to the local arrangements and definitions of what seems appropriate. I hope that when we come to understand a little better what the list of requirements in new subsections (3) and (4) amounts to, we can get some closer definitions.

I understand that it is not necessary for this to be in the Bill, but the issue will arise in the context of statutory guidance. In that context, having read the list of requirements, it is helpful to consider what the appearance of a vehicle being used to provide local services should be. I do not fully understand whether the appearance refers to, say, the colour of a vehicle. In London, buses are red; in other places, buses in the same transport authority can be different colours. It is important that those matters are considered. Of course,

[LORD SHIPLEY]
appearance could relate to the number of times a bus is washed. On the appearance of a bus, if it gets dirty in winter, we prefer to have windows that people can see out of. I understand that this is a very small example, but we need to be a bit clearer about what the list of requirements actually is and, if they are requirements, whether they must or may be specified, and whether they must be considered. Having read all this very carefully, I have come to the conclusion that the words "must consider" are a better way of explaining what should be done.

I look forward to hearing the Minister's response so we can understand a little better what this means by the time we reach Report.

**Lord Kennedy of Southwark (Lab):** My Lords, as this is the first time I have spoken in Committee today I draw the Committee's attention to my being a member of a local authority and a vice-president of the Local Government Association. I am very supportive of Amendment 84A, moved by my noble friend Lord Berkeley, which seeks to put in the Bill a requirement that an enhanced partnership scheme,

"must state the minimum standards of service to be provided".

It seems sensible that we should state clearly what the expected minimum standards are for a scheme. My noble friend laid out clearly the reasons why. I hope the noble Lord, Lord Ahmad of Wimbledon, will give a positive response.

I am supportive of the other amendments in the group as well. Amendment 84B, again in the name of my noble friend Lord Berkeley, would toughen up the clause by replacing "may" with "must". All of us want to see the Bill become law and improve the bus services provided to people outside London. Where we can, being much clearer and certain on what is to be done is helpful. In this respect, removing "may" and inserting "must" is helpful. Amendments 85 and 86 in the names of the noble Baroness, Lady Randerson, and the noble Lord, Lord Bradshaw, would place a requirement on enhanced partnership schemes to consider what are the other requirements or standards to be provided.

The final amendment in this group is in my name and that of my noble friend Lady Jones of Whitchurch. It seeks to add a further provision on the collection of qualitative performance measures, specifying that these could include matters of passenger satisfaction. The service that passengers receive in all respects should be measured and taken account of. If people are unhappy about the cleanliness of their bus or other matters when they travel, that should be taken account of by the authorities. I look forward to the noble Lord's response to these amendments.

**Lord Ahmad of Wimbledon:** My Lords, I thank all noble Lords for their contributions during this short debate. When we discuss new tools the Bill provides for local authorities to improve their bus services, it is important to bear in mind how local bus services are currently planned and provided. As noble Lords know, bus companies are responsible for providing local bus services; they design and deliver these services. Local authorities do not necessarily play any part in this, but they can work with their local bus companies to influence and help shape the services provided. These services are not run under contract to the authority. Of course, local authorities can tender for socially necessary bus services to complement the commercial network. As noble Lords may be aware, only 17% of total bus mileage in England outside London is supported in this way by local authorities, with the remainder being provided on a commercial basis.

The enhanced partnership schemes are designed to cover a broader geographical area than the advanced quality partnership schemes we have already debated. Enhanced partnership schemes would enable local authorities to introduce a wide range of standards, including things such as vehicle standards, smart-ticketing requirements, types of tickets sold, and even the price of a multi-operator ticket, provided these receive majority support from local operators. Once agreed, all operators running, or wishing to run, services in the EPS area will have to comply with the specified standards.

New Sections 138C(3) and 138C(4), to be introduced by the Bill, set out the detailed requirements that may be imposed by local authorities as part of an enhanced partnership scheme. If included in a scheme, these become mandatory requirements for all services in the enhanced partnership area.

I turn to the amendments and first to Amendment 84A, moved by the noble Lord, Lord Berkeley. The Bill already stipulates in new Section 138H that any requirements imposed under the enhanced partnership scheme are to be included in the scheme. Once the scheme is made, these requirements will apply to all local bus services in the area.

*5.15 pm*

Amendment 84B would make it mandatory for a scheme to include requirements on frequency and timing of services. It is our view that it should be for individual partnerships to determine whether such requirements are necessary. If the Bill were to specify this in all cases, local transport authorities would have to impose such requirements, even in cases when they are not necessary.

Amendment 85, proposed by the noble Baroness, may have some unintended effects. For example, if an enhanced partnership scheme may consider standards of service only under new Section 138C(3), the standards listed in new subsection (4) cannot be imposed. This would remove an essential part of the proposals—namely, the power of local authorities to mandate standards of service that operators must meet under an enhanced partnership scheme. I am not sure that was the intention of the noble Baroness. I, of course—as, I am sure, she does—see merit in the local authority having to consider whether it would be appropriate to include all the standards of services listed in the Bill, and we will issue guidance in this respect.

In Amendment 86, the noble Baroness suggests that requirements may specifically include emission standards and disabled access requirements. This amendment seems to offer a helpful clarification of the range of optional requirements that may be imposed by a local authority on the vehicles that are operated in an enhanced partnership area, and I agree to consider it. The noble Lord, Lord Shipley, asked what can be specified for a vehicle under an enhanced partnership. The Bill allows the scheme to specify any requirements

concerning the vehicle. He gave some examples. They can also include emissions, livery, colour, access requirements or anything else the LTA believes is necessary to improve services to passengers.

Amendment 90AA would allow the LTA, as one of the measures that it may take under new Section 138D, to carry out performance monitoring of a scheme. I agree with the intention and that such monitoring may be a useful addition to a scheme. However, it should be for the LTA itself to determine whether to undertake such monitoring and, if so, what specific elements it covers. This may vary from scheme to scheme. For example, in some schemes, there may be no issues with driver behaviour but the cleanliness of the buses may be an issue. In others, it may be the other way around, or other issues may require monitoring. But I totally understand and appreciate the helpful point made by this amendment, and therefore I agree to consider this amendment as well. With the explanation that I have provided and the reassurance I have given on two of the amendments, I hope the noble Lord will withdraw his amendment.

**Lord Berkeley:** I am grateful to the Minister for that short answer, which was useful clarification. I shall study what he said. In the meantime, I beg leave to withdraw the amendment.

*Amendment 84A withdrawn.*

*Amendments 84AA to 86 not moved.*

*Amendment 87*

*Moved by* ***Earl Attlee***

**87:** Clause 9, page 39, line 31, at end insert—

"(6A) The requirements that may be specified under subsection (4)(b), (4)(e) and (4)(h) in relation to fares and the prices of multi-operator tickets may only be specified if all operators party to the enhanced partnership scheme are in agreement with the requirements."

**Earl Attlee (Con):** My Lords, this amendment would add an additional subsection to the list of requirements for an enhanced partnership scheme. The ability of commercial bus operators to set their own fares is a key feature of the deregulated market. Of course, fare structures are set competitively in the same way as any commercial enterprise looks at its cost base and what its competitors are charging and then structures its charges accordingly. The competition authorities have important safeguards in place to ensure that bus companies do not collude to stitch up the market and set fares at levels that disadvantage passengers, so there are already checks and balances. As an aside, I have heard people say that bus operators are charging people off their services by setting fares so high that they deter passengers. What nonsense. Why would a bus operator want to charge so much that no one uses their services?

Clause 9 inserts new Section 138C into the Transport Act 2000, setting out the requirements for an advanced partnership scheme. There are many useful things in here and I very much support the concept of enhanced partnerships where quality partnerships or even advanced quality partnerships have not been possible, for whatever reason. It would be an important addition to this new section if fare structures can be specified in an enhanced partnership only where all the bus operators in the partnership agree. Bus operators have the expertise to make these sorts of decisions and have been doing so for decades. It really should be their call, within the usual constraints of what is reasonable, on what the market will tolerate and so on. I do not think that local authorities have this expertise. Therefore, fare structures within an enhanced partnership should be for the bus operators to determine collectively. I beg to move.

**Baroness Randerson:** Before I speak to the amendments in my name, I will contribute to the debate on the amendment of the noble Earl, Lord Attlee, which puzzles me. I cannot understand how a bus operator would be about to enter into an enhanced partnership if it did not agree with something as fundamental as the fare structure. The enhanced partnership would not be taking place. This is not something that local authorities are forcing bus companies to do; it is an agreement that is entered into by both sides. Therefore, if they could not agree on the fare structure, it would not be going ahead. I find the amendment puzzling.

Amendments 96 to 99 seek to find out more about how the Government envisage the system will work for enhanced partnerships. Once again we are trying to tackle the potential power of a bus operator to block an agreement or a partnership in an unreasonable manner. New Section 138F(11) refers to what the regulations may cover. But, to be honest—and I have read this a dozen times—it is pretty meaningless without seeing the draft of the regulations. So Amendments 97 and 99 require that the regulations be approved by Parliament—they cannot be slipped through by negative resolution. The important thing is that both Houses get the chance to debate the practicality and robustness of the regulations.

I remind noble Lords of what I said the last time we debated these issues. First, the Bill is a skeleton Bill. It stands or falls on the quality of the regulations. Basically, in this part of the Bill, we are being asked to approve a blank sheet of paper because we have no concept of what the regulations will look like. I remind the Minister that there are no guarantees of success for the Bill. The fact that there is a great deal of cross-party agreement with the principles of it does not mean that it will actually work in practice, because two previous attempts failed. The 2000 and 2008 Acts have not been practical. The practicality of the Bill lies in the regulations.

Secondly, I am not confident that even the Minister and his officials have a clear view yet of how some of this will work. I say this not out of any kind of inspired thought process but because the Explanatory Memorandum actually says at one point that the policy has not yet been finalised on an issue. You think to yourself, "If the Explanatory Memorandum confesses that the Government have not got round to the policy yet, clearly the regulations have not been prepared and the practicality and difficulties of them have not been assessed".

I turn to Amendment 98. The concept is introduced elsewhere in the Bill that unreasonable objections should not be allowed. I am puzzled about why there is no

[Baroness Randerson]
mention of the concept at this point in the Bill. In this case, the provision allows objections on a purely numerical basis, rather than introducing again—consistently, I would argue—the concept that an objection might be unreasonable. This amendment attempts to introduce the concept of unreasonable objections to enhanced partnerships and address how they should be dealt with and tested. We suggest that, in the case of unreasonable objections, local authorities should have an appeal mechanism to a traffic commissioner. I hope the Minister will take on board the spirit of these amendments in an attempt to find out more details and practicalities of how this will actually work.

**Lord Kennedy of Southwark:** My Lords, the first amendment in this group was moved by the noble Earl, Lord Attlee. It is not an amendment that I can support as it is not a pro-passenger amendment. It goes against the intention of the Bill, which is to improve bus services outside London and increase the number of passengers and journeys. I agree with the noble Baroness, Lady Randerson: I find the noble Earl's amendment a bit puzzling. I was not persuaded by his remarks in moving it and if it would take potential benefits away from passengers, I cannot support it.

The remaining amendments in this group are all in the names of the noble Baroness, Lady Randerson, and the noble Lord, Lord Bradshaw. In effect, Amendments 96, 98 and 109 provide that regulations may specify what constitutes unreasonable objections to a scheme and, where authorities believe that objections are unreasonable, for an appeals mechanism to the traffic commissioner. It is very important that any proposed scheme cannot be wrecked through objections intended simply to stop the scheme coming into effect. These amendments offer some protection to avoid such situations arising. Amendments 97, 99 and 110 provide that regulations may not be made unless a draft is laid before both Houses of Parliament, which is good practice. I am always strongly in favour of allowing Parliament to consider regulations which give the Secretary of State power to take action. The amendments would also provide a useful level of protection for the Secretary of State, and the Government would be wise to take that protection. The additional level of parliamentary scrutiny is always very welcome.

**Lord Ahmad of Wimbledon:** I thank noble Lords who have spoken on this group of amendments. An enhanced partnership scheme is designed to be developed collaboratively between bus operators and their local transport authority, a point made by the noble Baroness, Lady Randerson. The scheme can, of course, be made only if the operators of local bus services in the area are generally on board with the proposal. Enhanced partnerships will be created in what remains a deregulated market. That is why bus operators affected by such a scheme will be able to voice their objections to the scheme at key points. The local authority can proceed with the proposals only if a sufficient number of operators do not object. "Sufficient number" will be defined in secondary legislation, but it is likely to be based on the number of operators and their market share. We provided further information on our thinking in the policy scoping notes which were made available to noble Lords last month.

Amendment 87 would require all bus operators eligible to object to an enhanced partnership scheme to agree to any proposals that included requirements about: purchasing tickets or paying fares; publicising bus services, fares or ticketing; and the price of multi-operator tickets. If unanimous agreement could be reached by operators in the area, there is nothing to prevent these measures being introduced currently, but such agreement often cannot be reached. That is why the Bill seeks to prevent a potentially small minority view blocking important improvements to bus services.

I turn to Amendments 96, 98 and 109. The local bus operators that cast their vote are all private commercial companies, and each must determine what the effect of the proposals would be on its business. This is important because it is those operators that will end up paying for most, if not all, of the reforms. The amendments proposed by the noble Baroness would undermine their commercial freedom by giving the traffic commissioner a say in determining, on appeal from a local authority, whether an objection is unreasonable.

*5.30 pm*

I do not believe that such a role is appropriate for two reasons. First, the traffic commissioners' primary function is to ensure that individual bus operators are meeting safety requirements. They also have a role in ensuring that local bus services are operated in accordance with the route and timetable that have been registered. Such decisions are based on questions of fact: for example, whether the buses are arriving at the stop on time. Traffic commissioners have little experience in determining a commercial matter such as whether it is reasonable for an operator to vote in a particular way. That will depend on each operator's assessment of how the proposals would affect their individual businesses going forward. Traffic commissioners are not, in our view, well placed to make judgments on that. Secondly, the commissioners would not be accountable for their decisions. A decision that a particular operator has voted unreasonably may commit that operator to a huge financial burden going forward and that could, over time, put them out of business, potentially with significant impacts for passengers.

Finally, I turn to Amendments 97, 99 and 110. New Sections 138F and 138G allow the Secretary of State to make regulations on two matters. The first is what types of local bus service qualify their operators to make an objection. For example, an open-top sightseeing bus may be registered as a local service but may not really be a part of the wider bus network and so is not appropriate to include in this mechanism. The second power allows the Secretary of State to specify the objection criteria that would apply, and specifically what level of objections would be enough to stop the next stage of a plan or scheme.

The first and second amendments tabled by the noble Baroness would require the regulations covering these two matters to be subject to the affirmative resolution procedure. This is already the case for making a scheme under the provisions amending Section 160

of the Transport Act 2000 that are included in Schedule 4 to the Bill. The noble Baroness's third amendment provides that regulations under new Section 138M concerning procedures for variations to enhanced partnership plans and schemes are also to be subject to the affirmative procedure. They are currently subject to the negative procedure, as the impact of the power will be significantly less than that of the powers under sections that deal with the making of the scheme. This is because the plan and scheme may contain bespoke objection provisions, which would apply when they are varied or revoked. It is only in circumstances where no such bespoke provisions are included that the variation mechanism in the regulations would apply. In view of these considerations, we believe that the negative procedure for these regulations will afford an appropriate level of parliamentary scrutiny.

The noble Baroness made a specific point about the Explanatory Notes. I think there are also scoping notes, which might explain some of the detail, but I will look through that and of course write to the noble Baroness and all other noble Lords who participated in the debate today.

In summary, I believe that the Bill as drafted strikes the right balance between meeting the needs of bus passengers and safeguarding the legitimate commercial concerns of individual bus operators. We do not agree with the amendments, and I hope that the explanation I have given has provided some degree of insight into the Government's thinking. Based on that, I hope the noble Earl is minded to withdraw his amendment, and other noble Lords not to press theirs.

**Earl Attlee:** My Lords, I am grateful to my noble friend for the response and to all noble Lords who have spoken to their amendments. We have had several successes from the Minister and we cannot expect all our amendments to find favour. I will consider what the Minister has said about my amendment, and subject to the usual caveats, I beg leave to withdraw it.

*Amendment 87 withdrawn.*

*Amendments 88 to 89A not moved.*

*Amendment 90*

*Moved by* ***Lord Ahmad of Wimbledon***

**90:** Clause 9, page 40, line 39, leave out "enhanced partnership area" and insert "area to which the scheme relates"

*Amendment 90 agreed.*

*Amendments 90A to 90B not moved.*

*Amendment 91*

*Moved by* ***Lord Kennedy of Southwark***

**91:** Clause 9, page 42, line 29, at end insert—

"(h) passenger groups and other stakeholder groups representing bus users in the area."

**Lord Kennedy of Southwark:** My Lords, Amendment 91 is in my name and that of my noble friend Lady Jones of Whitchurch. It seeks to put into the Bill a new paragraph stating that passenger groups and other stakeholders must be consulted. We have discussed the issue before and I am sure that we will again. I am clear that the Bill is about improving the bus services that passengers receive. The voice of passengers needs to be heard loud and clear. To ensure that, our amendment puts it into the Bill. It is not good enough to rely on new paragraph (g), which states that other persons can be consulted as thought fit. This is too important to leave to chance like that.

Amendment 95, also in my name and that of my noble friend Lady Jones of Whitchurch, seeks to ensure that any consultation should be of reasonable timescale and in a format that would allow interested parties to respond. Noble Lords might say that that is all very obvious and would happen anyway, but allowing a specific period and thinking about how the consultation should be undertaken will make it more meaningful. Of course, this is only a probing amendment, and the matter may in the end be more suited to guidance, but it is important to have some clarity; I hope that the noble Lord, Lord Ahmad, can give us that.

Amendments 108 and 111 are in the names of the noble Baroness, Lady Randerson, and the noble Lord, Lord Bradshaw. They seek to ensure that, when making a variation to an enhanced partnership scheme, notice must be given to bus users. That is important, as the risk is that they will otherwise be forgotten about. It could be done by notifying passenger representatives and groups. I beg to move.

**Baroness Randerson:** My Lords, Amendment 93, which is in my name, states:

"Once consulted, the Competition and Markets Authority may not overturn an enhanced partnership plan and scheme".

We tabled it because we are seriously concerned about the retrospective role of the CMA that we have seen operating in the rail industry, for example. A retrospective power to impose competition, red in tooth and claw, at all costs is at odds with the principles behind the Bill.

We have a deregulated bus market. Through the Bill, the Government are trying to bring in an element of regulation to improve quality and standards. We support that, but the potential role of the CMA could undermine or, at the very least, seriously disrupt the purpose of the Bill. It is important that we get the role of the CMA clear at this stage and that, once consulted, it will not be able to say retrospectively—after an agreement has been made or a partnership or franchise established—that it is not possible, and to disrupt it and prevent it going ahead.

I draw noble Lords' attention to the statement put out by the CMA on 5 July. Among other things, it states:

"We recognise that the introduction of franchising may be appropriate in specific circumstances. But we continue to believe that on-road competition should only be abandoned in favour of competition for the market where it's clear that this is the only way to secure better outcomes for the travelling public".

I emphasise the word "only". It is impossible to prove that something is the only way. You can prove the reverse, but it is often impossible to prove that something is the only way. That sets an impossible hurdle for local authorities trying to set up either enhanced partnerships or franchising.

The CMA states that local authorities should have to,

"demonstrate that any distortion to competition created by the proposed arrangements"—

[Baroness Randerson]
this applies to partnerships as well as franchises—
"would be justified by the contribution to achieving other policy aims".
That is another complex and potentially impossible step. It states that local authorities should,
"ensure that partnership schemes don't harm competition unless it's strictly necessary to achieve their objectives. We want that principle to be hardwired into every stage of the process".
It recommends that,
"LTAs should be obliged to take the following steps",
and one of them is to,
"demonstrate that any distortion to competition created by the proposed arrangements would be justified by the contribution to achieving other policy aims".
That is setting an impossible hurdle for local authorities to achieve. It is also in danger of making even partnerships so complex to achieve that local authorities simply do not bother. If that is so, the Bill will fail.

Amendments 108 and 111 both simply specify bus users as among those who must be consulted on enhanced partnerships. This is very much in line with the point that the noble Lord, Lord Kennedy, just emphasised. It is truly astonishing that the Bill, which purports to have at its heart the desire to increase the number of people using buses, specifies as people to be consulted the operators, the CMA and,
"such other persons as the authority or authorities think fit".
It is perfectly reasonable to include the operators and the CMA, but I am unsure why it is not acceptable to use the phrase "bus users" or "bus user groups". The poor old passenger is worthy of a specific mention. I know that the Minister will say, "Of course bus users will be consulted", but I think that they are worthy of a mention. There is no philosophical or legal objection to mentioning bus users, because the Bill mentions them at one point—but it does not mention them consistently.

I urge the Minister to take our points on board. The bus user point is not new, but the role of the CMA needs to be clarified if it is not to make it very difficult for the Bill to work as intended.

**Lord Berkeley:** My Lords, I would like to discuss Amendment 93. The noble Baroness has done the Committee a service by reading out a letter from the CMA. My first reaction was that the amendment was not a good idea, because it put a constraint on what the CMA would normally do. On page 42 of the Bill the CMA is listed as one of the organisations to be consulted, and that seemed all right to me. However, the CMA's letter causes me some concern. Presumably, the Government consulted the CMA before drafting this text. The idea that, having been consulted once, the CMA would go against the principles of the Bill and come back for a few more bites of the cherry is going to put off a large number of authorities that might want to take forward these changes. That is worrying, because it might put off a lot of local authorities from doing it at all.

*5.45 pm*

The noble Baroness mentioned the CMA's work in the rail sector, which I know has been subject to quite a lot of debate—quite recently in your Lordships' House. It made its decision on an open-access rail operator on the east coast main line, and I would not want to challenge it. However, the Government effectively challenged it by writing to the CMA or the regulator—I cannot remember which it was—and saying, "If you decide in favour of a particular open-access operation rather than cancelling it, we will not allow Network Rail to spend the money necessary to implement it". To me, that is interfering in the independence of the regulator and, if necessary, the CMA. I do not know what the end result will be and if it will get the money or not, but it is a serious issue when the Government interfere with an independent regulator.

We need to hear from the Minister, and it would be interesting if the noble Baroness could let us have copies of the letter, and give it to the Minister as well, if she has not done so already, because there are some serious issues here that need to be addressed before the next stage. If the CMA is going to have the right and, apparently, the ability to interfere any time it wants, unless circumstances have changed quite significantly, one wonders what the point is of the Bill. I hope that I am wrong, but I could do with hearing some comfort from the Minister.

**Lord Ahmad of Wimbledon:** I assure the noble Lord, Lord Berkeley, that I am in comforting mode, and I hope that I have reflected that in Committee.

On Amendment 91, the aim of any enhanced partnership scheme is to improve the bus offering to passengers. I therefore agree that proper consultation with groups representing passengers is very important. However, the Bill already includes such a requirement. Under new Section 138F(6)(b) of the Transport Act 2000, local authorities must consult organisations representing bus users as they think fit. The amendment would largely replicate this current provision. I am sure that noble Lords will come to this, so it is appropriate that I focus on it. The "as they think fit" element in the current provision is important, because the relevant local authority, or authorities, will be best placed to make a judgment about the right level of passenger engagement in a particular circumstance. For example, a scheme covering the whole of a city may have an already established, and possibly vocal, local bus passenger group that can provide feedback. However, smaller schemes may not have any relevant local user group or representatives. In that case, the authority may need to carry out other, bespoke arrangements, such as leaflets being handed out on the street, or notices in newspapers.

Turning to Amendment 93, in developing a partnership the local authority must strike a balance between the negative effects of potential restrictions to open competition and the wider benefits that the arrangement will bring. The Bill requires authorities to carry out an assessment of that balance when considering an enhanced partnership scheme. However, the Competition and Markets Authority retains powers to examine the authority's assessment after the scheme is introduced if, for example, it receives a complaint from an operator. I believe it is right that the CMA should retain that power as there is no guarantee that local authorities will always get the balance right. Having said that, the CMA is a statutory consultee on enhanced partnership schemes and this gives it an opportunity to provide a steer to the local authority at that development phase.

The noble Lord, Lord Berkeley, raised the issue of consulting the CMA. I assure the noble Lord that officials at the DfT had a number of meetings with the CMA and, as I have already said, the CMA has a statutory power to comment on Bills, which it cannot exercise before the Bill is published.

The noble Baroness, Lady Randerson, and the noble Lord, Lord Berkeley, talked about the CMA letter. We have received it and are considering the CMA's recommendations. We will respond to it. It is standard for a Minister to say "in due course," but to pre-empt a question I shall explain that I have received further clarification and it will be before Report. We will share that with noble Lords. There are number of ways to take on board the points that the CMA raised. In considering them, we do not intend to see any impossible hurdles for local authorities.

It is also important to be clear that this legislation does not permit the CMA to impose financial penalties on bus operators which are simply complying with a partnership scheme in good faith, so there is nothing here for operators or local authorities to fear.

In Amendment 95, the noble Baroness raises an important issue about the need for consultations to be conducted in a manner, and over a time period, that is accessible to all. I agree entirely with her aims. I would expect local authorities, under current arrangements for consultations, to think carefully about their approach to ensure that as many people as possible are able to respond fully. Proposals about local bus services are likely to have a large impact on local communities, and I will give further consideration to how best to address the helpful points that have been raised.

Turning to Amendments 108 and 111, the Bill makes provision for an enhanced partnership plan—the high-level strategy document—and at least one scheme which details the changes to bus services on the ground. Once the plan, and at least one scheme, are in place, the Bill allows them to be varied or revoked. This is a sensible provision to deal with, for example, unforeseen circumstances. One of the details of these provisions is that no later than 14 days after the date on which the variation to the plan or scheme is made, the local authority making the variation must give notice of it. This includes, in new Section138M(6)(a), giving notice appropriate for bringing the proposals to the attention of persons in the local authority's area. This wording exists for a particular purpose because the degree to which the notice must be publicised will vary depending on the size and scope of the plan and scheme. If the plan and scheme cover, say, a large city, the local authority may take the view that these persons include individual bus passengers or even all local residents. In smaller schemes, the local authority may consider it sufficient to give notice only to, say, a local bus users' group or, in the case of a very limited scheme, those living along a particular bus route affected by the change. Bus users are also likely to be more interested in changes to the scheme—the services on the ground—than they are in the high-level strategic plan.

The amendment suggested by the noble Baroness requires that the local authority should always seek to give notice to bus users. This may not be relevant to minor changes—for example, ticketing retail requirements—and it may be interpreted by local authorities or indeed the courts to mean that all bus users in the area need to be informed of all changes. There may also be some issues with the interpretation of "bus users". Are they current users, future users or potential users? The latter two categories could include just about everyone. So, while I agree with the principle being raised, on balance I feel that the Bill covers the issue appropriately.

I hope the explanations I have given will enable the noble Lord to withdraw his amendment.

**Lord Kennedy of Southwark:** My Lords, I thank all noble Lords who have spoken in this short debate. I will reflect on the Minister's comments and in particular I will read very carefully what he said about consultation appearing elsewhere in the Bill. This may be something that I will bring back on Report, but at this stage I beg leave to withdraw the amendment.

*Amendment 91 withdrawn.*

*Amendments 92 to 99B not moved.*

*Amendments 100 to 107*

*Moved by* ***Lord Ahmad of Wimbledon***

**100:** Clause 9, page 46, line 8, leave out "made by" and insert "requires"

**101:** Clause 9, page 46, line 9, leave out "requires them"

**102:** Clause 9, page 47, line 5, leave out from "authorities" to end of line 6 and insert "to whose area or combined area, or part of it, an enhanced partnership plan relates may vary the plan and any related enhanced partnership scheme."

**103:** Clause 9, page 47, line 7, after "plan" insert "or scheme"

**104:** Clause 9, page 47, line 8, after "plan" insert "or scheme"

**105:** Clause 9, page 47, line 27, leave out "enhanced partnership area" and insert "area to which the scheme relates"

**106:** Clause 9, page 47, leave out lines 30 to 32 and insert—

"(6) The references in subsections (1) and (3) to (5) and sections 138L and 138M to the local transport authority or authorities—

(a) in relation to the variation of an enhanced partnership plan, or

(b) in relation to the variation of an enhanced partnership scheme, if the scheme is proposed to be varied at the same time as the related enhanced partnership plan is proposed to be varied,

include a reference to a local transport authority to no part of whose area the plan relates but to whose area or part of it the plan would relate under a proposed variation."

**107:** Clause 9, page 48, line 34, leave out "proposed plan and scheme (or proposed scheme)" and insert "proposal"

*Amendments 100 to 107 agreed.*

*Amendments 108 to 111 not moved.*

*Clause 9, as amended, agreed.*

*Clause 10 agreed.*

***Clause 11: Registration of local services***

*Amendment 111A*

*Moved by* ***Lord Berkeley***

**111A:** Clause 11, page 60, line 10, at end insert—

"(3A) A traffic commissioner must have regard to relevant information supplied by a local transport authority when exercising functions under this section."

**Lord Berkeley:** My Lords, before I move Amendment 111A, I would like to put on record that I do not understand page 59, line 42. I think there might be a spelling mistake. I do not need an answer from the Minister, but it is useful to put it on record.

The amendments in this group concern what happens when a traffic commissioner refuses an application. In both cases, it is quite important that before refusing an application the traffic commissioner needs to have as much information on the local transport authority as possible. The Minister may say that this is not necessary and that it is obvious that he would do this, but it does not always happen that way, so I thought it would be useful to put in the new subsections proposed in Amendments 111A and 111B to say that the traffic commissioner must have regard to relevant information. It might prevent some unnecessary debates and complaints later from organisations whose applications have been refused. I beg to move.

**Lord Kennedy of Southwark:** I support my noble friend Lord Berkeley in these two amendments. I look forward to the Minister's response. It is right that the traffic commissioner should have all the relevant information in front of him. Putting that into the Bill will ensure that when decisions are made they are robust and we do not get situations where there are needless complaints because people have not taken on board what they should have done. I look forward to the Minister's response.

**Lord Ahmad of Wimbledon:** My Lords, I shall take Amendment 111A first. It would require the traffic commissioner to take account of relevant information provided by a local authority when deciding whether to accept an application to register a service in an enhanced partnership area.

First, I assure the noble Lord that local authorities have an opportunity to provide such information about every application to register or vary a local bus service, whether in an enhanced partnership or not. This is because the traffic commissioner is obliged, under existing legislation, to seek views from the relevant local authority about the proposed registrations of all local bus services.

In general, this is to ensure that important matters, such as whether the vehicles proposed to be used are suitable for the roads they will operate on, can be fully addressed. In the case of enhanced partnerships, this already affords the local authority an opportunity to determine whether the proposed registration meets any requirements imposed under an enhanced partnership scheme.

*6 pm*

I turn to Amendment 111B. The regulations under new Section 6E(8) of the Transport Act 1985, as inserted by Clause 12(3) of the Bill, are a little complicated. The section applies where there is a restriction on the number of buses that can operate along a particular bus route. That might be, for example, no more than six buses an hour each way. Where the existing operators on a route can agree among themselves to abide by this restriction, they can register their individual local services with the traffic commissioner without any further intervention. The problem arises where they cannot agree among themselves to meet this requirement. If this lack of voluntary agreement results in the local transport authority being forced to choose which operator should be allowed to register services, current European law requires that there needs to be a tendering exercise. That is because, in choosing which operator is successful, the local authority would be granting an exclusive right to run that service.

I realise that the requirements of EU law will now be considered in the light of the referendum result, but in the meantime we continue to abide by it. However, I agree with the intention behind the noble Lord's amendments. Where a traffic commissioner must decide whether to accept or reject an individual application to register a local service under this new section, it is important that the traffic commissioner takes into account all relevant evidence, including anything provided by the local transport authority. I assure the noble Lord that nothing in this section of the Bill prevents them doing so. In view of the explanation that I have given, I hope the noble Lord is minded to withdraw his amendment.

**Lord Berkeley:** I am grateful to the Minister for that explanation. It takes two to tango, and I suspect that the traffic commissioner will get the information that he needs whether or not the local authority offers it. I beg leave to withdraw the amendment.

*Amendment 111A withdrawn.*

*Clause 11 agreed.*

***Clause 12: Cancellation of registration etc***

*Amendment 111B not moved.*

*Clause 12 agreed.*

*Clause 13 agreed.*

***Clause 14: Traffic commissioner functions***

*Amendment 112*

*Moved by* ***Viscount Younger of Leckie***

**112:** Clause 14, page 63, line 21, leave out from "relates" to end of line 22 and insert "to—

(i) a particular service that only has stopping places in the area to which the scheme relates,

(ii) particular services at least one of which is such a service, or

(iii) a particular description of services which includes or is capable of including such a service."

**Viscount Younger of Leckie:** My Lords, I will speak to Amendments 112, 113, 114, 115, 116, 117, 118, 119, 120 and 127. I will also speak to Amendment 112A, tabled by the noble Lord, Lord Berkeley.

The Bill provides for bus registration powers to transfer from the traffic commissioner to the local authority where an enhanced partnership is in place. This is something that local transport authorities have been asking for to enable the local enforcement of bus standards. The registration function will be delegated for services that run wholly within the enhanced

partnership area. Cross-boundary services will have to comply with the requirements of the enhanced partnership but will be registered with the traffic commissioner.

Amendments 112, 113, 114, 115, 116 and 117 clarify the circumstances in which bus registration functions are automatically delegated from the traffic commissioner to the relevant local transport authority. The policy intention is to ensure that registration functions are automatically delegated where the scheme contains any route requirements that affect any services operating wholly within the partnership area.

I believe that may also be the intention behind Amendment 112A, tabled by the noble Lord, Lord Berkeley, and I thank him for it. No doubt he will want to speak to his own amendment, and I will listen carefully to what he says in a moment. Amendment 113 deletes the existing wording at new Section 6G(4) in Clause 14, as he suggests, and replaces it with a clearer description of the circumstances in which the registration function must be delegated.

Amendment 127 is a consequential amendment that amends Clause 18 to add local authorities to a list of bodies that can reject applications to vary or cancel services if an operator fails to comply with regulations. Amendments 118, 119 and 120 clarify which traffic commissioner functions should be delegated by placing these in the Bill rather than in regulations.

I hope that my explanation of the government amendments satisfies the noble Lord, Lord Berkeley, and that he feels able to withdraw his amendment. I beg to move.

**The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD):** My Lords, I have to inform the Committee that if Amendment 112A is agreed to, I cannot call Amendment 113 by reason of pre-emption.

**Lord Berkeley:** My Lords, I am very grateful for the Minister's explanation. This is another occasion when I am slightly concerned that the Minister has answered my amendment before I have spoken to it, but that is the way we have it here. In this case I do not complain; I shall read what he said very carefully and I suspect it will be fine. I do not propose to move my amendment.

**Viscount Younger of Leckie:** I am happy that the noble Lord is happy.

*Amendment 112 agreed.*

*Amendment 112A not moved.*

*Amendments 113 to 120*

*Moved by* ***Viscount Younger of Leckie***

**113:** Clause 14, page 63, line 28, leave out from "relates" to end of line 29 and insert "to a particular service that only has stopping places in the area to which the scheme relates, particular services at least one of which is such a service or a particular description of services which includes or is capable of including such a service—"

**114:** Clause 14, page 63, line 31, leave out "such services" and insert "services that only have stopping places in that area"

**115:** Clause 14, page 64, line 3, leave out "relevant"

**116:** Clause 14, page 64, line 4, leave out "relevant"

**117:** Clause 14, page 64, line 5, leave out "relevant"

**118:** Clause 14, page 64, line 10, leave out from "effect" to end of line 12

**119:** Clause 14, page 64, line 15, at end insert—

""the relevant registration functions", in relation to an enhanced partnership scheme, means the functions of a traffic commissioner under sections 6, 6D, 6E and 6F of this Act so far as relating to—

(a) in the case of functions relating to the variation of registration, services that would be relevant services if varied as proposed, or

(b) in the case of any other function, relevant services;

"relevant service", in relation to an enhanced partnership scheme, means a local service that only has stopping places in the area to which the scheme relates;"

**120:** Clause 14, page 65, line 4, leave out from "service"" to end of line 7 and insert "has the same meaning as in section 6G;"

*Amendments 113 to 120 agreed.*

*Amendment 121*

*Moved by* ***Baroness Jones of Whitchurch***

**121:** Clause 14, page 66, line 5, at end insert—

"(5) After section 6I (inserted by subsection (4)) insert—

"6J Community bus routes

(1) Traffic Commissioners must keep a list of bus routes in their area which are of community value.

(2) For the purpose of this section, a bus route of community value is one that has been designated by the traffic commissioner as furthering the social well-being or social interests of the local community.

(3) Bus routes may only be designated by a traffic commissioner as being of community value in response to a community nomination.

(4) A community nomination must be made by a community group which is based in, or has a strong connection with, an area through which the bus route passes, and on which community the bus route has a direct social impact.

(5) A community group may be a local or parish council, a voluntary or community body with a local connection, a bus user group, a group formed for the specific purpose of maintaining the bus route, a church or other religious group, or a parent teacher group associated with a particular school or schools.

(6) The traffic commissioner must consider the community nomination, and if—

(a) the nomination is successful, the commissioner must notify the relevant parties of this decision in writing; or

(b) the nomination is unsuccessful, the commissioner must notify the relevant parties of this decision in writing and give reasons why the decision was made.

(7) A six month moratorium must be placed on the closure of any bus route which is designated as being of community value, in order for the community to—

(a) work with relevant authorities to find an alternative operator;

(b) set up a community transport group in order to run the service; or

(c) partner with an existing not-for-profit operator to run the route.

(8) The community may apply to the Secretary of State for financial assistance, training or advice during the moratorium in order to achieve any of the aims set out in subsection (7).""

**Baroness Jones of Whitchurch:** My Lords, this amendment builds on the concept of a community asset, as identified in the Localism Act 2011. Some bus routes, particularly in isolated rural areas, are simply a lifeline for the local community. At the moment these communities feel impotent to defend or potentially take over these routes, particularly where they are provided by a private operator whose only concern is the route's profitability.

At the moment, other community provisions such as pubs and shops can be designated an asset of community value. Indeed, in some areas bus stops have been similarly designated. Our amendment takes that concept one step further, building on the process set out in the Localism Act. It would allow for a community grouping to apply to the traffic commissioner stating why a bus route should be listed as having specific community value. They would have to make the case for how it furthered the social well-being or social interests of the local community and, if successful, this would give the community some protection from the service being cut or closed without notice.

At a minimum, this would give the community six months' notice of closure. More importantly, it would allow space for alternative owners or providers to emerge. That could include a community-run provision or not-for-profit partnership. It would also provide space for additional funding to be sought from government or elsewhere, and might encourage some imaginative thinking about the kind of service that would really be valued by the community in future.

We believe that a new right for communities based on this principle would build on the essence of the Localism Act. It is a natural extension of that policy and would provide considerable reassurance to our most isolated rural communities. I hope noble Lords and the Minister see the sense in what we are proposing, and I look forward to support for this amendment.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, I support Amendment 121 in the names of the noble Lord, Lord Kennedy, and the noble Baroness, Lady Jones, to which I have added my name. I must apologise for not being able to take part in previous Committee days on this important Bill; the scheduling of children and social work in Grand Committee at the same time as the buses Bill was in Committee in the main Chamber meant that I was unable to be in two places at the same time. I also declare my interest as a vice-president of the LGA and a councillor on South Somerset District Council.

I am concerned, as are other Members of the House, about the declining bus service in rural areas and market towns. When I was a young mother I caught the bus on a Friday from the bottom of the road and went into town with my toddler and pushchair to do my shopping, run some errands and come back again. A Friday suited me, but I could have done that journey four times in the morning and three times in the afternoon, on every day of the week, including Saturdays, and at limited times on Sundays. Now that service is vastly reduced to twice every weekday, once on Saturday and nothing at all on Sunday. The service also ran once each way in the evening so that young people could get to youth activities or go to the cinema.

I will briefly comment on the plight of many young people in rural Britain. Young people should be able to access training, go to FE colleges and engage in apprenticeships. They should be able to socialise, as it is part of their development to hang out with their friends. As they move from the security of the home to taking more and more decisions for themselves, the ability to have free movement within their communities is vital to their gaining independence. They are mostly fit and can walk, but will their parents or guardians be happy for them to hike miles each way in the winter in order to go to the cinema? No buses run after 6 pm, after all.

Currently in Devon, the county council is forcing young people to prove that they need help with transport. This means that young people will be penalised, and it is mainly rural families who will be hit by this new policy. The Government require young people to stay in education or training until they are 18 but will not give any more money towards transport costs. While colleges have an allocation to help with education costs for poorer families, FE colleges are worried that the demand will be greater than the funds available and a whole new set of red tape will be needed for young people who need help getting to college.

The village I lived in was typical of hundreds of villages around the country. The GP surgery is in the next village, but will the bus times fit with the timings of appointments or will people who are already feeling unwell have to hang around waiting as the bus comes only once a day—or, worse, simply be unable to get there at all when there is an appointment?

The view of the All-Party Parliamentary Group on County Matters is:

> "Buses are a lifeline to rural communities—efficient public transport is of particular importance in county areas where large, sparse and rural geographies mean that there is an increased risk of isolation. Local bus services are a lifeline for many residents and we must ensure we find ways of making services sustainable for the future. A well designed system can support health and social care—keeping people connected to their communities and providing consistent access to public services can reduce the human and monetary costs of escalating need. This is particularly important in counties which represent the largest older populations, and face particular pressures in health and care services. The bus system is crucial to county economies—half of all commutes outside of London are by bus, and businesses say that well designed services in rural areas are crucial to supporting local economies. This is of particular importance given the substantial number of small businesses in counties".

I fully support the amendment. In my area I have supported the community right to bid, which has safeguarded many assets that the community holds dear: the local pub, village shops and post offices, and many other facilities. Local communities are capable of innovative and far-reaching plans for their assets, which will now provide facilities that have gradually been eroded over time. Everyone valued them but felt powerless to prevent their demise. Communities run community libraries in pubs, plus shops, cafes and drop-in centres, as well as serving beer. They run lunch clubs for the elderly and isolated, and there is often quite a queue forming in order to ensure that they get a seat next to their friends so they can chat happily while enjoying a cooked meal.

Bus services are also part of community assets. Those in a hurry often bemoan the fact that some rural services meander around villages, picking up people on the way. However, this "meandering around" is vital to ensuring that those on low incomes, those who are frail and can no longer walk long or even short distances, and those who have given up driving their cars, are not left lonely and isolated—prisoners in their own homes. Often those on the bus will notice that a resident who usually joins them is not there. They raise their concern and alert neighbours to this fact, ensuring that a visit is made and their welfare taken care of.

Amendment 121 is clear and speaks for itself; the noble Baroness, Lady Jones, eloquently laid out the case for it. As a country we have come to believe that profit is a good thing and must come before all other considerations. But profit must not be allowed to thwart community enterprise. Communities deserve better and all possible efforts must be made to ensure that operators are found to run bus services that do not run at a tremendous profit or are in danger of being axed. If this cannot be done, communities should be given the opportunity to see if they can find a solution. Nine times out of 10 they will manage it. We are a very innovative nation. I look forward to the Minister's response.

*6.15 pm*

**Lord Snape:** My Lords, I have every sympathy with this amendment, although I doubt its practicality. I do not know whether the noble Baroness who has just spoken saw the BBC "Countryfile" programme about four months ago. It was about rural bus services and was very interesting. Indeed, at Question Time I asked the Minister whether he had seen it—I do not know if he remembers—and he replied that he had better things to do on a Sunday evening than watch television, which I understood. However, all the answers to the questions that the noble Baroness has just read out from that pre-prepared speech were given over the course of that programme. The fact is that resources for local authorities to run bus services, particularly in rural areas, have been decimated by the Government. The Minister partially acknowledged that that was the fact at Question Time after this programme appeared.

My noble friend on the Front Bench talked about the impotence of local communities to provide these services. That impotence is the direct result of those reductions in local authority funding. The reductions have been country-wide but have particularly hit the rural areas that the Conservative Party professes to care about most. Those are the facts, and designating certain routes as community routes will not make any difference in restoring those services of concern. It is about money. Under the 1985 Act, the noble Baroness or anyone else can set up a bus service anywhere they like. However, people do not do so in rural areas because it is not thought possible to make a profit there. One could argue, as the noble Baroness did, that in life there are things other than profit, but most bus companies, small and large, depend on making a profit if they are to continue.

In moving the amendment, my noble friend on the Front Bench talked about designating community bus routes. One could argue that as all bus routes run through communities, they could all be so designated. However, I fear that if the Government accepted this amendment, operators big and small would be even more cautious about running services in the areas just graphically outlined by the noble Baroness, particularly if they have to operate for a minimum six-month period. If I were still involved in a bus company and someone suggested running such a service, telling me that although there was no guarantee of making any money it was regarded as an essential service in that area and would have to run for six months, I would be inclined to say, "Forget it". I am not sure what the thinking is behind tying a route to a six-month timescale, but it makes it less rather than more likely that such a service will be introduced. In any case, what would happen to services such as the New Forest explorer bus network, which runs for short periods—in fact, serving those communities—but for less than six months? What would happen to park-and-ride schemes that are run at holiday periods? Operators would surely think twice about introducing services such as those if they had to operate them for six months at a time.

In the debate on the last group of amendments, we made it clear that in some cases the service registration function has been taken away from traffic commissioners and given to local authorities, but the amendment proposes that traffic commissioners should be responsible for the designation mechanisms for these services. That is a bit of a contradiction in terms, and in fact I am not sure how it would operate in some areas. The brutal fact is that it is for local transport authorities to decide whether a service is of community value and, if they so decide, it is open to them to support it. Obviously, many of them do not have the money to do that but the fault for that lies with those responsible—the Department for Transport and the current Government—rather than with bus operators generally.

I close as I started: people will not run a service—community or otherwise—if it obviously does not pay and if the local authority involved does not have the function to enable it to run the service in the first place.

**Earl Attlee:** My Lords, I completely concur with everything that the noble Lord, Lord Snape, has said, apart from the fact that there is not a bottomless pit of government money. However, I take on board and admire everything else that he said.

**Lord Snape:** Of course there is not a bottomless pit of public money. It is for the Government to decide the priorities for government expenditure, and I urge the noble Baroness who spoke just before me to press the Government to see the realities of life in rural areas before they take the axe to local government funding any further. I am pleased that the noble Earl, Lord Attlee, agrees with me, although I am not sure whether that will do anything for either of our careers.

**Lord Berkeley:** My Lords, it is difficult to agree with everyone on this point. In response to my noble friend Lord Snape, nobody is going to run a community bus service if a bus service is already running. Presumably that service would be making a profit under his definition, so in theory there would not be a need for another one.

[Lord Berkeley]

Turning to the amendment, the community bus route is based on the community interest company model, which I imagine was introduced by the Labour Government 10 or 15 years ago, although I cannot remember exactly when. I found one CIC on the internet called the Dales and Bowland Community Interest Company, which runs bus services in the Dales. The point is that it is not designed to make a profit—in fact, it is not allowed to make a profit unless it reinvests it. Unless something like that operated, it is pretty clear that there would be no bus service, so I suspect that, for areas which do not have bus services at the moment or which are thought to be unsuitable for such services, this kind of model makes a really good contribution.

One benefit of the CIC model is that it is very easy to set up—I am involved in one at the moment, although not in connection with buses—and it is easier to get funding for a CIC than it sometimes is for a commercial operation. Officials in the Department for Transport have basically said, "In some circumstances we would be pleased to consider a contribution from the department or from local authorities". It might be easier to give it to a CIC which demonstrated that there was a need and that it was prepared to work towards participating in providing a service than it would be to give it to a local authority.

I have slight concerns about the text of the amendment. My noble friend Lord Snape talked about the six-month moratorium, but I think that the principle is very sound. I believe that community buses were one of the main reasons that CICs were set up in the first place. I hope that, when the Minister replies, he will look on the principle with favour and, if the text is not quite right, I hope that that can be discussed before the next stage. Integrating all the other bus services that we are talking about in the Bill with ones that would not operate without some community involvement—not to make a profit but just to provide a service for the people who need it—is a very important element.

**Lord Ahmad of Wimbledon:** I know that, as has been said, local bus services are very important to our local communities. As noble Lords have said, they act as a lifeline for many, getting people to and from work. Whether the services are required for education, health or leisure facilities, I say at the outset that I sympathise with the aims of the amendment and agree that bus routes can have a real community worth. I am also aware of the issues that many people are experiencing at the moment with bus services being reduced or cut. There is no doubt that many local authorities are facing funding issues and have difficult decisions to make about the services that they may be able to subsidise.

It may be helpful if I say a little about the community transport sector and the total transport initiative, which I think will be of interest to noble Lords and which can help achieve the outcomes that I think are intended by the amendment.

The community transport sector can offer services that address local needs and increase patronage, particularly where commercial bus services are not viable. The sector is well placed to serve more isolated communities and can provide crucial services linking individuals and communities to existing transport networks, work, education, shops and so on.

The department is extremely supportive of the sector, with our recent £25 million community minibus fund helping more than 300 local groups across England. The total transport initiative also offers a significant opportunity to make the funding available to authorities and public bodies for the provision of transport go further. This involves integrating the services that are currently commissioned by different central and local government agencies, allowing resources to be used more efficiently and resulting in services to passengers that are more effective at meeting their needs.

Although I sympathise with the aims of the amendment, I do not think that it will resolve any issues relating to the continued provision of services on routes that are deemed to be of community value. I agree that where services are to be cut or reduced significantly in frequency, commercial operators, or local authorities in the case of subsidised services, should do all they can to consult and inform local communities. However, I do not think it is reasonable to force operators to continue to operate a service, potentially to their financial detriment, for a period of six months. Operators of registered bus services are, in any event, obliged to give a traffic commissioner at least 56 days' notice of their intention to stop running a service.

That said, I agree that there is more we can do to champion the community transport sector, seeking to use public funding for transport in the most efficient ways. I will also think further on the point raised by noble Lords regarding training and advice for local community groups to help them understand the options that are open to them. I would encourage local authorities, communities and operators to work together to address issues relating to the continuity of services to passengers.

The noble Baroness, Lady Bakewell, raised the specific issue of funding for bus services to enable people to access education. I note the important points that she made and agree totally that young people need access to transport to get to a school or further education college, as well as for employment purposes. However, I believe that this is a policy matter in which my colleagues in the Department for Education and the Department for Communities and Local Government also have an interest. I will therefore speak to colleagues in both those departments and write to the noble Baroness in respect of the points that she has raised, copying other noble Lords into that correspondence.

I hope that the explanation that I have given has in part persuaded noble Lords that the Government understand the community worth of local bus services and are keen to find ways to ensure that local communities can work together with a view to addressing issues and increasing the understanding of passenger concerns. I hope that I have gone some way to assuring the noble Baroness to the extent that she feels able to withdraw the amendment.

*6.30 pm*

**Baroness Jones of Whitchurch:** My Lords, I thank the Minister for his response and those noble Lords who have supported my amendment. I have to say at

the outset that it was of course a probing amendment. I am not for one second saying that we have worked through the precise wording; we were simply trying to get the concept of a different form of community transport on the agenda.

As I said in my introduction, this is not so unusual. Under the Localism Act, similar provisions are already in place for pubs, shops, and other community assets. You could quite easily see how that read-across would work—on the same basis that the pubs and shops had previously been commercial outfits but were no longer proving to be profitable, so the community ought to have some say before the services finally close. I was grateful to my noble friend Lord Berkeley for making it clear that it is not a binary choice; it is not commercial or nothing. There are already other services that operate on a non-profit-making basis and we need to learn the lessons from those to see whether those principles can be extended.

It was never our intention that this should be a blanket provision, which is why we put in a number of steps that had to take place via the traffic commissioner and so on. I am grateful for the contributions that noble Lords have made. I would be interested in having further discussions with the Minister about, if not our model, another model to give isolated, rural communities, in particular, some sort of lifeline in terms of transport provision. But with that kind offer from the Minister, I beg leave to withdraw the amendment.

*Amendment 121 withdrawn.*

*Clause 14, as amended, agreed.*

*Clause 15 agreed.*

*Amendment 122 not moved.*

### *Schedule 4: Further amendments: enhanced partnership plans and schemes*

*Amendment 123*

*Moved by* ***Viscount Younger of Leckie***

**123:** Schedule 4, page 81, line 17, at end insert—

"(4) In subsection (1)(bzb) (inserted by Schedule 2), after "143A" insert "or 143B"."

**Viscount Younger of Leckie:** My Lords, an enhanced partnership will enable the local authority to examine bus services in its area and to propose improvements to the network. The Government believe that to do so effectively, the authority should have information about local services and passengers. Clause 10 requires operators to provide certain information about their services to a local transport authority in connection with the preparation of an enhanced partnership. This amendment ensures that there are sanctions available if an operator does not take all reasonable steps to comply with a request for information. Such sanctions would be in the gift of the traffic commissioner attaching conditions to a public service vehicle operator's licence. The amendment also ensures that there is a consistent approach in relation to franchising and enhanced partnerships. I beg to move.

*Amendment 123 agreed.*

*Schedule 4, as amended, agreed.*

*Clause 16 agreed.*

*Amendment 123A*

*Moved by* ***Lord Berkeley***

**123A:** After Clause 16, insert the following new Clause—

*"Passenger representation*

Passenger representation

(1) A local transport authority, in developing any scheme under this Act, shall be required to set out mechanisms whereby the users of services specified or affected by the scheme shall be involved in monitoring and evaluating the scheme.

(2) A local transport authority in developing any scheme under this Act shall be required to specify a body to review complaints from bus users using services specified or affected by the scheme."

**Lord Berkeley:** My Lords, Amendment 123A would insert a new clause, "Passenger representation", which tries to give bus passengers the same information—and credibility of information—that rail passengers get through Transport Focus, whose responsibility has recently been widened to include information about roads. This goes a bit wider than that, however, because local transport authorities need to set up mechanisms whereby passengers who are affected or who might use services can have credible information about proposed or actual services, as they have for rail services, and about reliability, quality and what happens when something goes wrong—as we discussed on today's first Question.

It does not really matter who provides the services, whether it is a franchise, partnership or something else, but it is important. This could be done nationally, through Transport Focus or Bus Users UK, or locally, with co-ordination by a national body. Either way, there is a need for something like this and to have a requirement for it in the Bill. I beg to move.

**Lord Whitty (Lab):** My Lords, I rise to support the principle of the amendment that my noble friend Lord Berkeley has just moved. We have had debates about inserting references to passenger representation at various points in the consultations on the Bill. My noble friend's amendment seeks to state this as a general principle so that, in effect, there would be in every area some form of passenger representation to cover the involvement of passengers in the development and continued operation of the franchise, partnership or contract. Further, passenger representation should be part of the general decision-making process as we go forward, not simply in the original consultation.

In addition, my noble friend's amendment refers to a complaints system. It is vital that there should be within this industry a system for complaints to be rapidly dealt with by the operator and, if necessary, the transport authority. To do that, there needs to be an effective passenger body. It could be a national body or a combination of a local body and Transport Focus nationally. On earlier parts of the Bill, the Minister very gratifyingly showed some encouragement to those of us who were arguing for engagement of passenger representation. I hope that in his reply the Minister can tell us, or at least give a general indication—tonight if possible but certainly before we get to

[LORD WHITTY]
Report—how the Government will bring forward amendments on Report to reflect that commitment to passenger representation and the ability of such organisations to deal with complaints with bus operators. It would be very useful if we all received a letter before Report setting out all the points at which this would be reflected in the Bill.

**Lord Kennedy of Southwark:** Amendment 123A, moved by my noble friend Lord Berkeley, is one that I am delighted to support. As I have said, the Bill is about improving bus services for passengers. Ensuring that the voice of passengers is heard is central to that aim and that is why this amendment is so important. It requires the transport authority to set out how users will be involved in monitoring and evaluating the scheme, and it sets up a complaints process with a body named to review complaints.

Only by having a mechanism for effective passenger input to deal with complaints and other issues can the transport authority have the information that it needs to plan for better services, deal with unforeseen problems and make things better for the future. I hope the noble Lord, Lord Ahmad, can give a positive response to this short debate, or we may return to the matter on Report.

**Lord Ahmad of Wimbledon:** My Lords, as has been said by those noble Lords who have contributed to this short debate, this is something that we have talked about in terms of the principle. The amendment would ensure that local transport authorities set out mechanisms through which passengers are involved in the monitoring and evaluation of any scheme that is implemented as a result of the Bill.

Turning first to the aspect of the amendment that relates to passenger representation, the noble Lord, Lord Kennedy, proposed a similar amendment which was discussed on the second day in Committee. As I said then, hearing from passengers helps authorities and operators to understand the needs of their local communities and to design schemes that can bring real benefits. I am also keen to ensure that any authority implementing either a franchising or partnership scheme thinks carefully about the outcomes it is looking to achieve, and how it will evaluate and monitor the performance of the scheme. I further agree that passengers should be involved in that process, as they will be the ones with the day-to-day experience of using the services.

I am therefore happy to consider how best to accommodate this. I will consider what the noble Lord, Lord Whitty, said about how the Government plan to outline this and whether we look to further guidance where we can better set out our wider expectations relating to how passengers should be involved throughout the process, both while schemes are being developed and once they have been implemented. I will provide, as the noble Lord requested, further clarification in advance of Report.

Turning to the second half of the amendment, which relates to complaints procedures, I agree that it is important that passengers' voices are heard and that their complaints are dealt with effectively.

It is always good to be in advance of the Box note. I have just received one that says, "I would be pleased to write to the noble Lord, Lord Whitty, in that respect". It shows that Ministers can think for themselves. That may be a startling revelation to the Box, but I am sure my officials are well versed in how I work.

There is a well-established procedure for handling complaints about bus services, whereby complaints are first made to the operator. If the passenger remains dissatisfied, they can be taken up by Bus Users UK and finally by the Bus Appeals Body. This procedure has been endorsed by Transport Focus, the statutory champion for bus passengers. I am keen to ensure that passengers who use services specified under a scheme of the kind set out in the Bill have access to a complaints procedure at least as good as the one currently in place.

I recognise that the authority may have a role to play in dealing with complaints, particularly where it has introduced franchising. I therefore agree entirely that complaints procedures should be clear to all passengers, and that any authority introducing a franchising scheme in particular should clarify its role in the process, working with Bus Users UK and others. I suggest that we have further discussions on these matters and hope that, with the reassurances I have given and the commitment to write to noble Lords in advance of Report, there is sufficient reassurance of the seriousness with which I intend to consider this proposal, and the noble Lord will be minded to withdraw his amendment.

**Lord Berkeley:** I am grateful to all noble Lords who have taken part in this short debate and the Minister for his reply. I think he has also responded to my Amendments 124A and 124B, but if he has not he can do so. It would be good to have a letter from him covering all these things because they are all interrelated. I am pleased that he has seized on the need to get the right information and then make sure that it is independent and circulated so that people know about it. That is the best way of incentivising operators to do better if they are failing. With that, I beg leave to withdraw the amendment.

*Amendment 123A withdrawn.*

### *Clause 17: Power to require provision of information about English bus services*

*Amendment 124*

*Moved by* ***Lord Kennedy of Southwark***

**124:** Clause 17, page 67, line 43, at end insert—

"(d) information about the environmental impact of bus operations and vehicles including information on the emissions of the vehicles in use."

**Lord Kennedy of Southwark:** My Lords, Amendment 124 in my name and that of my noble friend Lady Jones of Whitchurch would include in the Bill a requirement that the Secretary of State can prescribe information to be held about the environmental impact of bus operations and vehicles and the emissions of the vehicles in use. We are all aware of the danger of greenhouse gas emissions from vehicles and the damage

that they are doing to the planet. Providing clear information about environmental impact to the public generally is a welcome move. Having people travel on a bus is preferable to them all making separate car journeys, but there is still a cost to the environment. Technology is improving and greener buses are possible as fleets are renewed over time. The amendment enables this information to be prescribed, and that for me is a positive move.

Amendment 124A is similar and Amendments 124B and 124C add requirements about making public information on complaints and other matters such as statistics on punctuality and cancellations.

The last amendment in the group is Amendment 125 in the name of the noble Baroness, Lady Randerson, and the noble Lord, Lord Bradshaw. It just changes the word "may" to "must", but that is very important in this context. It must be right that information about English bus services should be made available free of charge and without restrictions. I beg to move.

*6.45 pm*

**Baroness Randerson:** My Lords, I will speak to Amendment 125 in my name, which, as the noble Lord, Lord Kennedy, has just explained, changes "may" to "must". We strongly welcome the move to open data. For far too long, we have all accepted, possibly with some grumbling, a situation where there is a plethora of information on train services but very little information—outside London—on bus services.

I note the comments of the Delegated Powers Committee on the lack of clarity about what will happen to this information. Although the Explanatory Notes tell us that the powers given to the Secretary of State in this clause would,

"enable a single repository of information to be created",

and that,

"The information … would be open to the public and could be used by software developers",

in fact none of that is clear from Clause 17. Clause 17 is in effect an orphan clause, with no apparent reason or purpose. The amendment would ensure that the regulations "must" make the purpose of all this information clear and therefore that it "must" be free to users and passengers.

I support Amendments 124 and 124A in the names of the noble Baroness, Lady Jones, and the noble Lord, Lord Berkeley. I also support Amendment 124B because it is obviously logical to extend the information so that it includes numbers of complaints and performance statistics. However, I have some sympathy with bus operators: I have some concern about information on lack of punctuality, because in the bus industry that is largely the result of traffic congestion, which is not the fault of the bus operator. I fear that, if lack of punctuality were reported baldly, general traffic situations could adversely affect judgment on the efficiency of operators. I am interested to hear the Minister's comments on the use to which the Government plan to put open data.

**Lord Snape:** I support my noble friend on Amendment 124. I asked the Minister previously to come to Birmingham to see what is being done under the partnership in that city—not that I am qualified to send these invitations, but still. I send the same invitation to my colleagues on the Front Bench because the Bus Alliance recently published a pamphlet about the work that it is doing in the West Midlands, particularly on environmental matters, which would be of interest to my noble friend who moved the amendment.

I do not know whether the West Midlands Bus Alliance pamphlet has been widely circulated—I did suggest that it should go to noble Lords on all sides of the Chamber who have been participating in the Committee stage. Under the chapter entitled "Air Quality", the alliance states:

"All buses operating in the West Midlands will be Euro V, Euro VI or better by 2020".

It lists operator investment under the Bus Alliance Partnership in the West Midlands as comprising 49 diesel electric hybrids to be delivered by Diamond, a company based in the West Midlands, and National Express West Midlands through the Government's Green Bus Fund. Further, there are 21 Travel de Courcey buses—a company based in Coventry—which have been,

"converted from Euro II and III to Euro VI",

again with help from the Clean Bus Technology Fund. In addition,

"A further successful bid to the Clean Bus Technology Fund will see National Express convert 150 buses from Euro III to Euro VI",

standards prior to 2020.

That is what can be done and it ought to be done countrywide. If anything, I suggest that the amendment could be toughened up to ensure that what is being done in the West Midlands under the Bus Alliance is done around the country if we are serious about improving air quality—particularly, but not solely, in our major towns and cities.

**Lord Ahmad of Wimbledon:** My Lords, an important element of the Bill is the availability of journey planning and information about bus services. This clause will facilitate the provision of information about timetables, fares, routes, tickets and live information about bus arrival times and enable it to be accessed openly, which should lead to better journey planning information for passengers. I should say to the noble Lord, Lord Snape, that of course I recall his kind invitation and my acceptance of it. However, when I returned to the department it was my understanding that my honourable friend Andrew Jones would take up his offer. There is no reason why both of us cannot take up his offer and I shall certainly look into exactly where we are in that respect. The focus is on the provision of information that will be helpful to passengers in making informed decisions about whether to make their journey by bus or another transport mode.

I shall turn first to the amendments of the noble Baroness, Lady Jones, and the noble Lord, Lord Berkeley, whereby the information that may be prescribed would include information about the environmental impact of bus operations and vehicles, including information on the emissions of the vehicles in use. I am sympathetic to the desire of noble Lords to ensure that operators and local authorities are aware of the impact of local bus services on the environment. However, I do not believe that this information is crucial for journey planning purposes. Local authorities would already be

[Lord Ahmad of Wimbledon]
aware of the environmental impact of buses on the local area. Other parts of the Bill will give local authorities greater powers to influence the types of vehicles used by operators when providing services.

The noble Baroness and the noble Lord have also proposed further amendments whereby the information that may be prescribed would include information about complaints made about bus services, including their number and nature, as well as performance statistics on matters such as punctuality and reliability. Again, I am sympathetic to the desire to ensure that passengers have access to complaint and performance statistics, but I am sure that noble Lords will agree that raw complaints data should be read with a degree of caution as by themselves they do not necessarily give a full picture of the performance of a service. That said, I would not seek to play down the importance of complaints. There can be instances where well-organised campaigns on a specific issue can give the impression that a service is rather worse than it actually is and could deter passengers from using the bus as a consequence. I recognise that punctuality and reliability are important factors for passengers using bus services. I therefore reassure both noble Lords that this clause has been drafted in such a way that the release of punctuality data could be included in regulations made by the Secretary of State if it was considered appropriate after consultation with stakeholders.

The amendment proposed by the noble Lord, Lord Berkeley, would extend to matters such as the,
"helpfulness of the bus driver and comfort",
of the vehicle. Matters such as these are subjective and are best covered by evidence-based customer satisfaction research of the kind conducted by Transport Focus which puts them into their correct context, in particular through the Bus Passenger Survey.

**Lord Berkeley:** When the noble Lord responded to my amendment about punctuality and so on, he said that those matters could be set out in regulations following consultation with stakeholders. To me, stakeholders are mainly the bus operators and they really will not want their punctuality to be monitored. I hope that the stakeholders will include passenger representatives and others who might have a different view.

**Lord Ahmad of Wimbledon:** Certainly the discussions that we have had to date reflect exactly what the noble Lord has articulated. Having a single stakeholder in a service which has a much wider emphasis is of concern. I note that the noble Lord rightfully wants to put representative groups for bus users at the centre of what we are seeking to do here. I understand the issue that the noble Lord has raised.

I turn next to the amendment proposed by the noble Baroness, Lady Randerson, whereby the Secretary of State would have to ensure that any regulations under these provisions always make provision for the information to be freely available and for registration information to be provided to a traffic commissioner. I sympathise with the noble Baroness in wanting to ensure that the information is freely available. We want to encourage the development and use of apps and journey planners, a point we debated at Second Reading. However, there may be circumstances where it becomes necessary to limit access, and the obvious question is where that might be. There may be cases where the design of an app is such that it imposes a strain on the technical infrastructure which supports the release of the information or a poorly designed app that makes excessive demands for frequent information updates. Those are just a couple of the examples that come to mind.

It may also be appropriate to time-limit the disclosure of certain information—for instance, about fares—which is being shared in good faith but is often commercially confidential until the day of the fare change, a point made by my noble friend Lord Attlee in the debate at Second Reading. The disclosure of commercially confidential information was also raised by the Delegated Powers and Regulatory Reform Committee. I will consider again how best to address the committee's concerns with the aim of bringing forward amendments on Report. Again, if I can provide further clarification in advance, I will certainly seek to update noble Lords.

I hope that with the explanation I have given, the noble Lord will feel minded to withdraw his amendment.

**Lord Kennedy of Southwark:** My Lords, I thank the noble Lord for his response. The debate has covered a wide variety of issues and the response has been helpful. Indeed, the noble Lord has been helpful through all the stages of the Bill and we thank him for that. I am happy to withdraw the amendment and we look forward to seeing what he brings back on Report.

*Amendment 124 withdrawn.*

*Amendments 124A to 125 not moved.*

*Clause 17 agreed.*

*Amendment 126 not moved.*

### *Clause 18: Variation or cancellation of registration: service information*

*Amendment 127*

*Moved by* ***Lord Ahmad of Wimbledon***

**127:** Clause 18, page 69, line 24, after "commissioner" insert "or a body carrying out a traffic commissioner's functions in accordance with section 6G"

*Amendment 127 agreed.*

*Clause 18, as amended, agreed.*

*Clauses 19 and 20 agreed.*

### *Clause 21: Bus companies: limitation of powers of authorities in England*

*Debate on whether Clause 21 should stand part of the Bill.*

**Lord Kennedy of Southwark:** My Lords, Clause 21 has been mentioned a few times during the passage of the Bill and it certainly was an issue in the debate at Second Reading. I am clear that the clause does not belong in this Bill. It does nothing whatever to improve bus services for people—rather, it is merely a piece of

political dogma from the Conservative Party. As has been said many times, this Bill is generally seen in a positive light, but this clause runs against all that. Local authorities have powers under the Localism Act 2011 and associated general power of competence provisions. What is wrong with allowing a company to be formed and for it to compete on the open market, win contracts if it can demonstrate better value for money and offer a better service?

*7 pm*

We have also heard that the present municipal bus companies often run some of the most competitive and best services in the United Kingdom. For example, Nottingham City Transport, a bus company that I know very well—I lived in Nottingham for many years—has one of the highest passenger journeys per head outside London. It has been praised for its innovation and service delivery, and it was awarded bus operator of the year in 2012 and 2014. Reading Buses, which won bus operator of the year in 2015, has also been praised for its combination of innovation, strong performance and marketing initiatives. UK Bus Awards has given Nottingham and Lothian gold awards in 2015 and 2013 respectively, silver awards to Nottingham in 2014 and Reading in 2012 and 2013. Reading also got an award in 2015.

This clause goes too far. As I said, it is political dogma and does not belong here. If we want to improve passenger services and passenger numbers, all options should be on the table at the very least. I hope that the Minister will agree to take away this dreadful clause and reflect on the debate this evening. I beg to move.

**Baroness Randerson:** My Lords, my name is attached to this amendment and I strongly support the purpose behind it. As the noble Lord, Lord Kennedy, has made quite clear, there are more than a dozen council-owned bus services in Britain. Many of them are at the very top of their game; they are some of the very best bus services in Britain.

This is a nasty, mean-minded little clause. It is totally at odds, as the noble Lord has just said, with the rest of the Bill, which is supposed to be devolving power to local authorities. It is supposed to be seeking the best possible arrangements for running bus services. For the last 30 years, since competition came to bus services, local authorities have been allowed to keep the power to set up bus companies. Why is it thought necessary to take that power away now, when they have had it in parallel with deregulation for all these years? In practice, in the last 30 years, local authorities have not rushed to set up bus companies—rather the reverse. Judging by past experience, we in this House are probably setting bus policy for the next 30 years, so the Bill needs to be robust and to have the imagination to cater for circumstances that might arise in decades to come.

It is true that in the current financial circumstances, local authorities could not afford to set up bus companies. But it is not beyond credibility that, in order to save rural services at some point in the future, when local authority finances are less tight, a local authority may decide that it needs to lease a small fleet of minibuses to provide a rural service. That is a perfectly credible scenario. This clause would prevent it doing so, even in partnership with a local operator.

What about the operator who is about to go out of business and could be saved by the local authority buying a stake in the business or buying it, and therefore saving the bus service that is so valuable to the community? Clause 21 is not devolution; it is reverse devolution. It is perverse and plainly a ridiculous limitation on local authority powers. It seems to me to be totally unprovoked as I can think of no example of a local authority in recent years attempting irresponsibly to set up a bus company. So I urge the Minister: please listen to the strength of feeling here today. It is not worth the trouble to keep this in the Bill. The Government should just allow local authorities the discretion they deserve to be able to provide a decent bus service.

**Lord Whitty:** My Lords, most has already been said by my colleagues on the Front Bench. This clause sticks out like a sore thumb and goes against the rest of the Bill and any commitment to localism. It undermines the rest of the Bill, which essentially gives local authorities a range of options in how to optimise the bus services in their area—urban and rural. There are many circumstances in which the provision, in partnership or directly, of a municipally owned bus fleet could play a part. If that is closed off by keeping this clause in the Bill, we will be undermining the consensus behind most of its provisions. The Minister ought to take this back to his colleagues because it will be an issue of contention in the Bill's later stages, and is already an area of extreme contention with many local authorities and bus operators around the country. It would be wise to listen to the Committee—to speakers on this side, at any rate—and withdraw the clause, preferably before Report.

**Earl Attlee:** My Lords, I very much support the inclusion of Clause 21 in the Bill, so I cannot support the noble Lord, Lord Kennedy, and the noble Baroness in seeking its removal.

Municipal bus companies—to be honest, there are only a few—served a very useful purpose prior to the deregulation of the market. Among those remaining in existence, there are indeed some great operators. Reading Buses and Nottingham City Transport, for example, consistently provide excellent services and win award after award. I hope that I am not doing others a disservice by not specifically mentioning their hard work and achievements. I agree with some of the compliments paid to these operators by the noble Baroness, Lady Randerson.

I know that the mood music surrounding this clause has caused some concerns about the future existence of the remaining local authority-owned companies. This is simply extremely unhelpful and unfortunate. I hope that my noble friend the Minister will state very firmly that those existing companies have nothing to fear and that he will be able to reassure them and the Committee that there is nothing in this Bill that threatens their existence.

The noble Lord, Lord Kennedy, asked, "What is wrong?". In the case of a local authority looking to go down the franchise route, the authority invites a bid

[Earl Attlee]
for the contract. Its own company submits a bid—it would be rather odd if it did not. Preparing bids is an expensive and time-consuming business. So who has paid for the local authority-owned company to bid? Yes, the local authority that owns it. Would the local authority award the contract to the company it owns? You bet it would. Otherwise it would put its own company out of business. To me this all smells of state aid.

So again we are back to fairness and level playing fields. Allowing a franchise authority to create its own company, which would then bid and win that franchise, almost by the back door, is simply wrong. My counsel is that Clause 21 should stand part of the Bill.

**Lord Shipley:** My Lords, I could not agree less with the noble Earl, Lord Attlee, on this matter. The grounds that he has produced seem to relate to a potential conflict of interest where the local authority is a franchising authority. Clearly, there could be—but, of course, not all contracting will relate to franchises. A whole set of partnership arrangements will be possible. The noble Earl is asking the wrong question, if I may say so.

I remind the Committee of my vice-presidency of the Local Government Association. Clause 21 is a very bad clause and I hope that the Minister understands that it will become a major issue on Report if the matter is not resolved. The clause is headed, "Bus companies: limitation of powers of authorities in England". Of course, it does not apply in Wales, where local authorities would have the right to continue to create companies if they wished to. But that right to form a company exists now and it seems to have worked. So it is not clear why the Government have decided to include this clause in the Bill, which is otherwise, as the noble Lord, Lord Whitty, pointed out, by and large very good in many respects. Many of the amendments we have been discussing are matters of detail that would enhance what is already a good Bill.

I remind the Minister that five years ago this House passed the Localism Act 2011, which granted an extension of powers to local authorities with an associated general power of competence. That is not to say that local authorities then take on that power and start creating lots of companies, but it means that they have the power to do so should there be an occasion when it seems necessary and in the public interest so to do. It is therefore wrong in principle to remove the right of local councils to do that.

So I hope the Minister will understand the strength of feeling about this issue, and I hope that he will be able to explain to the House why the Government think it is necessary to strike out a power that local government currently has, which has served local government well and would potentially improve public transport networks rather than make them worse.

**Lord Berkeley:** My Lords, my reading of this clause is that even those authorities that are running bus services now will not be able to do so in future. That is very serious. To respond to the point made by the noble Earl, Lord Attlee, if a local authority wishes to run a bus service, it does not need a franchise itself: it can just run the service. Ditto, it does not have to have an enhanced partnership with itself: it can just run the service. So it seems to me that if the local authority wanted to run the service it could just do it if this clause was not there. It does not need to have a conflict of interest.

I support all noble Lords on this side of the House who have spoken. This is a really bad clause. It has many similarities with the railway industry, which we can go into. I very much hope that we will see the end of it quite soon.

**Lord Ahmad of Wimbledon:** My Lords, it was all going so well. I am of course deeply hurt that the noble Baroness suggested that this was nasty and vindictive. I am sure the noble Baroness was referring to the—

**Baroness Randerson:** I am sure the Minister accepts that I applied those adjectives to the clause, not to him.

**Lord Ahmad of Wimbledon:** Of course—I was only teasing. I understand and appreciate that. During the course of Committee thus far—I hope and am sure that noble Lords will recognise this—it has always been my intention to listen very carefully to contributions by all noble Lords regarding all elements of the Bill.

I will briefly outline where the Government stand on Clause 21. Again, I am sure we agree that private sector innovation has achieved a great deal for the bus sector. Across the country, operators are introducing smart cards, installing wi-fi and co-ordinating timetables, and some 89% of buses now comply with accessibility standards. But, as we have said previously, there is a requirement to ensure 100% compliance. All this progress is down to operators taking decisions that benefit passengers. Again, that sentiment is shared by all noble Lords. It shows that deregulation of the industry has achieved a great deal for passengers.

I am sure that many recognise that private bus companies, with some exceptions, which I acknowledge and which the noble Lord, Lord Kennedy, pointed out, such as Reading Buses and Nottingham City Transport to name but a few existing municipal bus companies, have continued to deliver local bus services for more than 30 years. We want to see them continue to thrive.

The Bill introduces a number of new tools that will enable local authorities to take more control over the bus services that are provided in their area. I assure noble Lords that we want to get the balance right between the local authority influence and the role that the private sector bus operators can play, and ensure both are incentivised to deliver the best services for passengers.

*7.15 pm*

Our view is that authorities, with the knowledge of the local area and needs, and controls over other aspects such as local roads and parking policies, are well placed to help shape and influence services that are provided, with private sector bus operators using their operational experience to deliver services on the road. That is why we think that the commissioning and provision of bus services should be kept separate,

and it will help ensure we retain the strengths of the private sector. As the noble Lord, Lord Berkeley, acknowledged—perhaps making a different point to the one I am making—it is similar to what happens in the railway industry, where the Secretary of State is the franchising authority and, among others, is therefore prohibited from being a franchisee.

The clause, therefore, prohibits local authorities setting up new municipal bus companies. I have focused on a couple of points that the noble Baroness specifically raised, such as that the clause may prohibit authorities setting up their own companies. But it would not prevent them working in partnership, or purchasing shares in a failing company, which was another of her points. It is also important to note—my noble friend Lord Attlee raised this—that existing municipal bus companies will not be affected by the clause.

I am fully mindful of the fact that this is perhaps an area for discussion and further debate. I suggest to noble Lords that we continue that discussion and debate in advance of Report. There may be further clarification and I hope we can reach agreement on this, otherwise Report will perhaps be an occasion where we differ on the way we should progress on what is—I acknowledge the support we have achieved across the House—a Bill that seeks to put passengers at the heart of the provision of local bus services. I hope that what I have said—in part if not in whole—has reassured noble Lords that we continue to consider our position, but we remain of the opinion that the clause should continue to stand part of the Bill. On that basis I hope that, at this stage at least, noble Lords will be minded to withdraw their opposition.

**Lord Kennedy of Southwark:** I thank the noble Lord very much for his response. As I said, he has been very courteous and helpful throughout the progress of the Bill. I am grateful to him for that. Having said that, it is a nasty little clause. We do not like it very much at all. I am tempted to divide the House, but I will not do that to the noble Lord tonight. But if we do not get some movement on this, I can assure him that we will divide the House on Report. The clause does not belong here. There is no good reason for it and it should come out of the Bill—but at this stage I will not oppose it.

*Clause 21 agreed.*

*Amendment 127A*

*Moved by* ***Baroness Randerson***

**127A:** After Clause 21, insert the following new Clause—

"Authorities in England: funding and obligations

(1) The Bus Service Operators Grant shall be terminated from the end of the financial year which follows the passing of this Act, and the monies therefrom shall be directed to relevant authorities.

(2) Where there is established demand for bus services, relevant authorities must consider joint funding of services with specialist and community operators, when otherwise no bus services would be provided."

**Baroness Randerson:** Amendment 127A in my name would insert a new clause after Clause 21 that would cover essentially two things. First, it would phase out the bus service operators grant, with the money instead going to local transport authorities. Secondly, where there would otherwise be no bus service, yet there is a demand for such a service, it places an obligation on local transport authorities to work with specialist and community operators in partnership.

On the bus service operators grant, in a recent reply to me the Minister stated that this grant is worth £250 million a year to bus operators and local authorities, and that it has helped to extend the rural bus network by 13%. But that is only part of the picture. Basically, the bus service operators grant is going directly to operators. It is a poor incentive, particularly to greater energy efficiency. It represents the largest proportion of direct funding for the bus industry outside concessionary travel, which, of course, is not a subsidy. I believe that BSOG is currently paid to operators at a rate of 34.57p per litre of fuel used for running eligible bus services. Because it is directly linked to fuel consumption, a bus operator receives more subsidy if it increases its fuel consumption. It is therefore poorly linked to environmental objectives. BSOG artificially lowers the price of fuel and therefore reduces commercial incentives to bus operators to invest in more expensive low-carbon buses which deliver longer-term fuel and carbon savings.

At the moment, the grant subsidises bus journeys regardless of value or profitability of the service. Therefore, my amendment suggests that this grant should be phased out and that the money should go directly to local authorities. I suggest that it needs to be ring-fenced. These are, after all, tough times for local authorities and we need to ensure that the money is retained for the subsidy of bus services. Local authorities are well placed to decide local needs and priorities and to use the money to help them meet the objectives they set in their local transport plans; for example, the greening of their bus fleets. It is reasonable for the Government to decide what type of schemes can be covered by the grant but to leave it up to local authorities to choose local priorities. Crucially, the grant could be used to offer tenders to bus companies when otherwise local services would be withdrawn. I remind noble Lords that small operators, in particular, work to very small profit margins in some areas, particularly rural areas. Life as an operator in such areas is very tough and often on the margins. This grant could be used to assist them. We need to give local authorities the tools to encourage operators to keep running rural services.

Finally on this issue, as I understand it, the Government have already said that the bus service operators grant will be devolved to local authorities where franchising exists, so clearly there is no objection in principle to that. I urge the Minister to apply that approach everywhere.

The second part of the amendment is designed to ensure that local authorities work with other organisations which have a responsibility to provide local transport services, such as education, health and social services. In practice, this often means one local authority department being asked to co-operate with another local authority department, or it could mean co-operation with a neighbouring authority or with the Post Office or the health service. It seems to me simple common sense to require local authorities to work with others

[Baroness Randerson]
to get what is in effect best value for money. This is already done by some local authorities so there is no reason why it should not be done by many more. This amendment encourages them to do this. It does not force them to do it; it simply encourages them. I urge the Minister to give that serious consideration. I beg to move.

**Earl Attlee:** My Lords, I have always had concerns about the fuel efficiency argument that the noble Baroness so skilfully articulated. I do not oppose her vision but do not quite understand why the proposed new grant to local authorities would not get swallowed up in their general budget and not result in any additional services. If the noble Baroness would touch on that point, it would be helpful.

**Lord Ahmad of Wimbledon:** My Lords, as a Minister, one gets used to looking in front of one and not behind. I apologise to my noble friend for not realising that he wished to speak and for attempting to speak before he did. I thank the noble Baroness for her contribution. Her proposed new clause seeks to devolve the bus service operators grant, or BSOG as it is known, to local authorities, and would require authorities to consider joint funding of subsidised local bus services in partnership with specialist and community operators.

I know that the issue of funding for bus services was raised by many noble Lords during earlier debates on the Bill, and I agree that it is a key issue that we need to tackle. BSOG is a payment made to bus operators by my department to help support local bus services outside London. Since 2013-14, some £40 million a year of BSOG has been devolved to local authorities outside London, rather than paid to the bus operators. This money is for the services that local authorities subsidise themselves through the tendering system. However, the remaining BSOG funding is paid to bus operators for commercial rather than tendered services, reflecting the fact that in the current model of bus-service delivery bus operators are responsible for providing our local bus services and deciding which services to run.

I agree that where an authority takes on the financial risk associated with providing bus services through establishing a system of franchising they should have access to the BSOG funding that would have been paid to bus companies in the area. So BSOG funding will be devolved to local authorities where franchising is established. However, it is important to remember that where franchising is not established the deregulated market remains, with bus operators responsible for devising and running local bus services.

For many bus operators, BSOG can be the difference that ensures a local bus service is viable, and this can be especially true in rural areas—a concern expressed by several noble Lords. Such commercial services, which operate with no contractual relationship with local authorities, often run across local government boundaries. So decisions taken by one local authority, if BSOG funding was devolved to it, could very easily have a significant adverse impact on services in another area. Devolving BSOG to all authorities as a matter of course could therefore have significant implications. I should explain that we are already reviewing the BSOG system with the aim of ensuring that funding is targeted where it is most needed. I envisage that we will launch a consultation later this year on how the system could be reformed.

The noble Baroness made a couple of points about BSOG being a poor incentive for fuel efficiency. A number of existing top-ups to BSOG incentivise particular improvements, including environmental improvements. I agree that a fuel-based system sends unhelpful signals. That is an issue we will be looking at in our review and the consultation to which I referred.

I hope this reassures the noble Baroness that we are thinking about the BSOG system with the aim of ensuring that we get the best out of the funding available. However, I would not want to pre-empt that exercise by setting out changes on the face of the Bill. However, I agree that resources can be used more effectively where services are planned together, and where specialist and community operators are involved. This is something we are exploring through our total transport pilots as we want to ensure we make the funding available go as far as possible.

I reassure the noble Baroness that we will continue to look further at the extent to which this policy can be pursued and championed, and whether it is something that can be considered further in the Bill. Given that reassurance and explanation, I hope that she is minded to withdraw her amendment.

**Baroness Randerson:** I thank the Minister for his comments. I say to the noble Earl, Lord Attlee, that I acknowledge that the bus service operators grant would be at risk in the light of very tight financial circumstances in local authorities, which is why I suggested that it should be ring-fenced. However, it was not appropriate to include that measure in the amendment because it related to local government funding rather than the issue of transport. I agree with the noble Earl about the danger there but I do not think that is reason not to do it; you have to structure it right.

I welcome and look forward to the consultation this autumn that the Minister referred to, but the bus service operators grant is out of date. It needs to be modernised to reflect modern criteria and priorities, especially environmental issues and the particular needs of rural areas, which suffer badly despite the grant. I welcome the Minister's words on the total transport pilot. I hope it is successful. On that basis, I am happy to withdraw the amendment.

*Amendment 127A withdrawn.*

*7.30 pm*

*Amendment 128*

*Moved by* ***Lord Whitty***

**128:** Before Clause 22, insert the following new Clause—

"National strategy

The Secretary of State must, within 12 months of the day on which this Act is passed, issue a national strategy for local bus services setting out the objectives, targets and funding provisions for rural, urban and inter-urban local bus services over the next 10 years."

**Lord Whitty:** My Lords, Amendment 128 calls for a strategy for the bus sector to be part of the Bill. It is fairly short and to the point. My noble friend Lord Berkeley has tabled a couple of rather more comprehensive amendments which express the same objective.

When I first thought of this amendment, I thought of tabling it before Clause 1. I may have to reflect on that after this short debate. The Bill is quite technical and procedural, changing contractual arrangements and introducing new technology such as ticketing systems and so forth. What it fails to do is give a clear indication of the strategy for the bus sector in terms of raising usage, extending buses in much-neglected rural areas, the nature and quality of buses, and their environmental impact. We need a strategy. We need the Government to come forward with a bus strategy that makes sense of the Bill in a broader dimension.

We can come back to this on Report. Obviously, we are nearing the end of today's proceedings so I will not speak at length but it seems a missed opportunity not to require the Secretary of State to come up with an overarching strategy that would convince people that we are really serious about modernising, extending and making more environmentally attractive our bus services throughout England. I beg to move Amendment 128 here, at the obscure back end of the Bill, but the Minister may encourage me to put it right at the front of the Bill because that is really where it should go.

**Lord Berkeley:** My Lords, I support my noble friend's Amendment 128 and will speak very briefly to my two amendments. Several of us spoke about this at Second Reading. I agree with my noble friend that the bus sector needs a strategy. After all, rail passengers have a strategy. Rail freight is having one soon, I am told. There is a roads strategy. There are strategies to do with most things in transport, except buses. I really think it is time for it and I will certainly support my noble friend if he puts a nice amendment down as Clause 0.

**Lord Ahmad of Wimbledon:** My Lords, I am not sure you can have a Clause 0, can you? I bow to the wide expertise around the Committee. You can certainly get "zero" fizzy drinks or whatever but let us not open up that debate. I am grateful for the courteous manner in which the amendments were introduced. This group relates to proposals to introduce requirements to produce new national strategies for bus services, and looks to place requirements on local authorities to increase the number of passengers using bus services.

I have said before—indeed, it is a sentiment shared across the Committee—that we want to see more people using buses. Perhaps the recent influx into the Chamber is reflective of that sentiment among noble Lords. Of course, I agree with the intention behind Amendment 129 in the name of the noble Lord, Lord Berkeley. Buses help people get around and should be an integral part of any public transport system. Public transport works best where it is considered holistically, with bus services integrated with cycling infrastructure, trains and trams, or in the form of park and ride facilities. I agree that authorities considering any of the new tools in the Bill should be looking to improve their local bus services and to encourage more people to use public transport.

However, I am concerned that this amendment may bring unintended consequences; for example, a local authority may introduce a new tram system and may look to increase the overall number of journeys made using public transport but the proportion of journeys made by bus may decrease. It may be more sensible, therefore, to encourage authorities to address the issue of increasing the number of public transport journeys rather than just journeys made using bus services. I trust that this gives the noble Lord sufficient reassurance of the seriousness with which I intend to consider the aims of Amendment 129, and hope he will agree not to move it.

Amendments 128 and 130 would require the Secretary of State to develop and issue a national bus strategy and a bus services investment strategy for England. As I have said in previous Committee debates, devolution is an important theme, which has informed the development of the Bill. The Bill is all about providing authorities with new tools to enable them to improve their local services in the way that best suits their area. It is not about imposing particular models.

Central government has a valuable role to play in setting the wider agenda through policy initiatives such as the low-emission bus scheme and our total transport pilots, which I mentioned in the previous group of amendments, but I do not think that centrally determined strategies for local bus services would help authorities address particular issues relevant to them and their area. As such, it does not seem sensible for central government to set national strategies when it is local authorities and bus operators working together that will be designing services and setting standards locally.

Additionally, I have previously explained that my department helps support local bus services outside London by paying some £250 million per year of the BSOG. As I said in the previous group of amendments, we are already reviewing the BSOG system, with the aim of ensuring that funding is targeted where it is most needed. It is through that work that we should establish and set out central government's priorities and objectives for the funding provided. I trust this gives the noble Lords, Lord Whitty and Lord Berkeley, sufficient reassurance to withdraw and not move their amendments.

**Lord Whitty:** My Lords, I am a bit disappointed by the Minister's response. Yes, the Bill is about providing new options for local authorities—apart from the one that Clause 21 closes off—and allowing devolution of decisions to meet local circumstances. But local authorities and operators need to operate within a framework. The Bill gives bits of that framework but we need a clear understanding of where buses fit within the overall transport system, as the Minister is implying. Therefore, the interface between buses and other forms of public transport is very important and buses need to be seen as part of that.

It is difficult for a local authority looking at changing the way in which it deals with operators and provides services to do so without some understanding of what the overall intention of the Government is going to be. The point about funding is crucial to this. Although I broadly agreed with the noble Baroness, Lady Randerson,

[LORD WHITTY]
earlier about the complete nonsense of funding bus services through BSOG, I think we should go wider than that and look at the totality of support we give to buses and place that within an overall strategy. The Minister seems to be putting it the other way round, saying that he will be looking at the funding situation, but the funding situation needs to reflect the strategy rather than the other way round. Local authorities need to operate within that strategy and with the support that the funding would give for their decisions.

I am a bit disappointed. I suspect that my noble friend and I will have a bit of a conflab between now and Report to see how we pursue this further. I think we will pursue it further but for the moment, I withdraw the amendment.

*Amendment 128 withdrawn.*

*Amendment 129 not moved.*

*Clause 22 agreed.*

*Amendment 130 not moved.*

*Clauses 23 to 26 agreed.*

*House resumed.*

*Bill reported with amendments.*

## Civil Proceedings, First-tier Tribunal, Upper Tribunal and Employment Tribunals Fees (Amendment) Order 2016

*Motion to Approve*

*7.40 pm*

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

That the draft Order laid before the House on 26 May be approved.

**The Advocate-General for Scotland (Lord Keen of Elie) (Con):** My Lords, the purpose of this draft order is to make changes to the fees payable in proceedings within the civil courts and tribunals. Specifically, the order introduces a new consistent fee-charging approach across the property chamber of the First-tier Tribunal. The current structure that operates in the tribunal is complex and inconsistent, with a range of different fees charged for some application types and no fees charged for others.

Our changes will simplify and standardise the approach, reducing the burden on the general taxpayer by raising the overall recovery rate in the tribunal from around 4% to around 10%, and sharing that burden more equally between all those who use the tribunal. The order will also uplift a number of fees charged in the civil and magistrates' courts by 10%. This will include all those fees which are currently at full-cost recovery levels, including, for example, the fees for judicial review proceedings—but the uplift will not apply to fees in civil proceedings that are already set above cost. The uplift will also apply to judicial review proceedings heard in the immigration and asylum chamber of the Upper Tribunal to ensure that the fees in judicial review proceedings are consistent across jurisdictions. Finally, the order will change the default classification of two new appeal rights that have been created in the employment tribunals from a type B claim, which attracts the higher fee, to a type A claim, for which the fee is lower.

The normal rule is that where those who use a public service are charged a fee to access it, those fees should be set at a level designed to recover the full costs of the service. The civil and family courts have operated on that basis for a number of years. Section 180 of the Anti-social Behaviour, Crime and Policing Act 2014 provides that the Lord Chancellor may prescribe fees above cost, but requires that those fees are used to finance an efficient and effective system of courts and tribunals. This power was used for the first time in March last year to increase the fees for money claims, and again earlier this year to increase the fees for possession claims, for general applications in civil proceedings and to make an application for a divorce or a dissolution of a civil partnership. The power will be exercised again in this order to increase the fees in a range of civil proceedings by 10%, which will take those fees above cost-recovery levels. The remaining fee changes contained in this order will be made using the powers of Section 42 of the Tribunals, Courts and Enforcement Act 2007, given that, even after these changes, the fees will remain well below cost-recovery levels.

Why are the Government taking these steps and why are they necessary? The case for revisiting the fees that we charge in the courts and tribunals is based firmly on the need to ensure that Her Majesty's Courts & Tribunals Service is properly funded in order to protect the crucial principle of access to justice. A fully functioning and properly funded justice system is the foundation of our democratic society. Not only does it provide everyone with the ability to redress their problems in an efficient and effective forum, it underpins our growing economy.

*7.45 pm*

This Government have committed to an historic investment of more than £700 million to transform our courts and tribunals system. The scale of this investment and the ambition of our reform will enable us to build a justice system that is simpler, swifter and more efficient, using modern technology. There is, however, only so much that can be done through cost-efficiency measures alone. If we are to secure the sustainable funding of the courts and tribunals we must also look to those who use the system to contribute more, where they can afford to do so. It is for this reason that we have had to look again at the balance between what users pay towards the overall cost of the Courts & Tribunals Service as compared with the financial burden that falls on the taxpayer.

The measures set out in this order will, we estimate, generate around £5 million per annum in additional income, with every pound collected spent on providing our system of courts and tribunals. While I recognise that fee increases are not popular, I hope that noble

Lords will recognise that they are required to protect the vital principle that justice is protected. I therefore commend this draft order to the House and I beg to move.

*Amendment to the Motion*

*Moved by* ***Lord Beecham***

At end insert "but that this House regrets that, notwithstanding the recommendation of the House of Commons Justice Committee that access to justice should prevail over generating revenue when the Government are setting court and tribunal fees, the Government continue to increase the already enhanced fees, which exceed the full cost of the provision of court and tribunal services."

**Lord Beecham (Lab):** My Lords, I intended to begin this speech by welcoming the multitasking noble and learned Lord, Lord Keen, to his first debate as a Justice Minister. It appears, however, from the published list of departmental Ministers that he is not in fact a Justice Minister but is, in effect, assisting the department. He deserves ministerial ranking within the Ministry of Justice and the House deserves that the spokesman for such a department should be accorded that status. The noble and learned Lord follows in the train of many distinguished Scottish Peers such as the noble and learned Lords, Lord Mackay of Clashfern, Lord Irvine of Lairg, Lord Falconer and Lord Wallace of Tankerness, to name but a few of those who are still with us. I am confident that the noble and learned Lord will not emulate the notorious 18th-century Scottish judge Lord Braxfield. He replied to counsel defending a man charged with sedition who observed that Jesus Christ was, like his client, a reformer:

"Muckle He made o'that—He was hangit".

There is a biblical injunction which proclaims:

"Justice, Justice shalt thou pursue".

To this the Government add an addendum: providing that thou canst pay in advance a fee equal to or greater than what would be required to ensure that the full cost or more of court and tribunal proceedings can be recovered for the benefit of the taxpayer. Access to justice, a principle which the Government purport to embrace, is however increasingly treated differently from access to other areas of public provision such as health or education, at least for the time being. Yet access to justice is crucial to the rule of law on which this country properly prides itself. Already eroded by savage cuts in legal aid and advice under the Legal Aid, Sentencing and Punishment of Offenders Act, it is now being eroded by a further round of significant increases in fees.

What makes matters worse is the way in which the Ministry of Justice has handled the issue. The latest round of increases was announced more than a year ago, subject to consultation. One of the most controversial areas has been that of employment tribunal fees, in relation to which the Government had last year commissioned a review, including a report on the impact of their earlier imposition of substantial charges, which they said would be completed by the end of 2015.

As paragraph 56 of the Justice Select Committee report pointed out, the review's report was stated on 7 October by an official of the department to be in the hands of the Minister and that,

"it was hoped that the Minister's position would be known by the end of the year".

It was not. An FOI request for a copy of the report was declined on 29 December, with the comment:

"The review is currently underway and will report in due course".

Successive requests were made to the then Minister, Mr Vara, on 9 February and 31 March, the latter seeking publication or at least the supply of a copy in confidence to the committee, without success. Nothing transpired and now Mr Vara has expired, politically speaking. Perhaps the Minister could tell us if and when the report will be published, for this is a sensitive and highly contentious area.

There has been, in the committee's words, a "startling drop" in the number of applications as a result of the imposition of fees of the order of 70%. The committee was disinclined to accept as an explanation for this fall a greater reliance on conciliation, as to which the Senior President of Tribunals said that there was "clear behavioural material" indicating that employers were,

"avoiding engagement with conciliation processes".

The committee concluded that the existing fee system,

"has had a significant adverse impact on access to justice for meritorious claims",

not least in relation to claims by pregnant women for detriment or dismissal. What confidence, then, could one have in the range of new and increased fees imposed in this and other areas? There is to be an increase from £410 to £550 for divorce proceedings. Given that there is now no legal aid, this flat-rate charge will impact relatively more harshly on less well-off petitioners, at a time, of course, of acute emotional stress. The President of the Family Division, Sir James Munby, accused the Government of,

"battening on to the fact that there is a captive market",

and,

"putting up the fees until it becomes another poll tax on wheels".

Even more objectionable is the astonishing increase of 600% in fees to the Immigration and Asylum Tribunal—the original proposal was 100%, which is steep enough for some of the most vulnerable people here—which is likely, as the Law Society points out, to lead to more people overstaying illegally and risking criminal prosecution. Even under the present system, fees were remitted in only 5,600 cases, out of 41,000 applications. Then we have a 10% increase in the fees for civil claims, increases in fees levied in tribunals such as the general regulatory chamber, the property chamber and the tax chamber, and the particularly invidious increase in the fees for judicial review proceedings, where, after all, the Government themselves might well be the defendant. At the other end of the spectrum, the Justice Committee warned that increases in fees for money claims might well damage this country's interests as a leading provider of legal and judicial services to foreign litigants, and thereby be self-defeating.

[Lord Beecham]

It was interesting to read the speeches of two Conservative MPs when this order was debated in the Commons. In addition to the forensic exposition of the chair of the committee, Bob Neill, John Howell criticised the Government's failures to discuss changes with the judiciary and to adduce evidence for their proposals. Victoria Prentis endorsed the Justice Committee's critique and referred to the 31-page guidance booklet provided to claimants seeking fees remission as exemplifying the problem. Research by Citizens Advice has demonstrated that only 29% of employment tribunal applicants were even aware that there was a remission scheme.

This is not the only area of the Ministry of Justice's responsibilities in which such changes and increases in fees are being made. The Government are proposing substantial increases in probate fees for estates over £50,000, which will increase from a flat rate of £215 on estates over £5,000, to £20,000 on estates of £2 million or more, an increase of 9,200%. Currently the cost of running the Probate Registry is £42.5 million, and the fees produce £41.5 million. Therefore, it virtually pays for itself, and it is disingenuous to suggest that the increase in probate fees is in any way related to full cost recovery. If the Government wish to raise the £250 million they plan to receive from this fee increase, they should do so by adjusting inheritance tax by an appropriate percentage. This would avoid the ludicrous outcome of the new level of fees for an estate of £2 million being the same as for an estate of £20 million or £200 million.

In addition to the impact of the financial changes embodied in this order, we must not forget the issues raised last week when the noble and learned Lord, Lord Woolf, secured a debate on the impact on the rule of law of the cuts imposed on our justice system. One significant area of concern was the growth in the number of litigants in person, which leads to delays, adjournments and longer hearings, substantially reducing the efficiency of the system. These problems are worsened by the reductions in court staff, with full-time equivalent numbers down from 17,829 in 2013-14 to 16,286 in 2015-16, a reduction of 10%.

The Government's record over access to justice, which stretches back to the coalition period, has favoured the interests of the powerful, from employers to insurance companies and others, as the cuts to legal aid and their actions over fees testify. Moves towards fixed costs in civil claims and clinical negligence cases echo the same approach. It will be interesting to see whether the Prime Minister's claims for compassionate conservatism translate into action. The Government's justice policies will provide an early test. I beg to move.

**Lord Brown of Eaton-under-Heywood (CB):** My Lords, this is the third time the Lord Chancellor has exercised the power afforded by Section 180 of the Anti-social Behaviour, Crime and Policing Act 2014 to prescribe what we all know now as enhanced court fees—fees which exceed the cost to the Courts & Tribunals Service of doing that for which the fee is being charged. On each occasion, the draft order has attracted, as today, a regret Motion in this House, and each time I have spoken to support that regret Motion. On the last occasion, on 15 March, I was the only speaker in the debate apart from the noble Lord, Lord Beecham, who moved the regret Motion, and the noble Lord, Lord Faulks, who resisted it. Today, alas, the noble Lord, Lord Faulks, is no longer in his place, but we are of course lucky enough to have as his replacement the noble and learned Lord, Lord Keen, who is a personal friend—I hope I am allowed to say this—and indeed a neighbour.

That said, with a new Lord Chancellor now in office—one perhaps not overburdened with previous experience of issues concerning the rule of law and access to justice—I return briefly to some of the things I said about the earlier enhanced court fees orders. First, there is a real case to make for objecting even to the principle of full cost recovery. The justice system exists for the benefit of society as a whole, and one may reasonably question why courts should be any more liable to self-finance than, for example, the police service, the fire service or any other public service. But put that thought aside: enhanced fees go altogether further than mere full cost recovery, and are hugely more objectionable. By definition, they are calculated—in both senses—to make a profit. They amount, realistically, to selling justice—on the face of it, contrary, as we all know, to Magna Carta, but regrettably now sanctioned by Section 180 of the 2014 Act.

As I observed in earlier debates, that Christmas tree of an Act contains 186 sections and 11 schedules, and occupies no fewer than 232 pages of the Queen's Printer's copy of the legislation, so it was small wonder that by the time we got to Clause 180, our usually impeccable and meticulous scrutiny of legislation had perhaps become somewhat lax and careless. The Government seek to justify enhanced fees on the basis that they are needed, according to paragraph 7.2 of the Explanatory Memorandum for the previous order,

"in order that access to justice is protected".

But this rationale is, I suggest, entirely disingenuous, as it effectively turns that vital principle on its head. Of course Her Majesty's Courts & Tribunals Service must be funded properly, so that it provides access to justice. But it manifestly does not follow that any part of that funding should be achieved by profiteering from certain selected parts of the service, least of all when that profiteering will hinder access to justice by discouraging at least some of those who would otherwise use these selected services.

Lord Dyson, Master of the Rolls, who retires next week—I express the hope here today that his courtesy title will be speedily translated into a full Cross-Bench peerage—in his oral evidence to the House of Commons Justice Committee on enhanced fees, emphasised that access to justice is the critical point here, and that,

"ordinary people on modest incomes … will inevitably be deterred from litigating".

As the Justice Committee concluded in paragraph 46 of its report,

"the introduction of fees set at a level to recover or exceed the full cost of operation of the court requires particular care and strong justification. Where there is conflict between the objectives of achieving cost-recovery and preserving access to justice, the latter objective must prevail".

How right it plainly is. As for the particular enhanced fees proposed by this order, I can find no "strong justification" for them, not by reference to the particular services for which it is proposed to exact them, still less by reference to the principle of access to justice. The order is indeed to be regretted. If the House is divided, I shall certainly support the amendment.

*8 pm*

**Lord Lester of Herne Hill (LD):** My Lords, I first commiserate with the noble and learned Lord, Lord Keen of Elie, in having to lie upon another bed of nails. Through him, I also congratulate the right honourable Liz Truss MP on her appointment as Lord Chancellor, a great office of state whose origins may be traced to Anglo-Saxon times. In her study of the office, Diana Woodhouse observed that there were no qualifications for Lord Chancellor—that any man or woman could be Lord Chancellor, although in modern times it was always a senior and distinguished lawyer. As your Lordships know, that changed in 2005 when Parliament enacted the Constitutional Reform Act. Section 2 says that a person may not be appointed as Lord Chancellor unless he or she,

"appears to the Prime Minister to be qualified by experience".

Being a lawyer is not a requirement, although a non-lawyer needs to have the rule of law in his or her political DNA. That was made clear in the 2005 Act's reference to the Lord Chancellor's continuing constitutional role in relation to the rule of law.

The noble Lord, Lord Faulks, and the noble and learned Lord, Lord Falconer, among others, have criticised the new Lord Chancellor for lacking the necessary experience to uphold the rule of law; indeed it seems that the noble Lord resigned for that reason. But the new Lord Chancellor should in fairness be given time to be judged by her actions in office. She cannot be criticised for the Motion and the amendment tabled by the noble Lord, Lord Beecham, which I strongly support. The mischief of which he rightly complains derives from previous Lord Chancellors—Chris Grayling and Michael Gove. It is part of the continuing assault by successive Governments on access to justice.

Law care is as important to our well-being as healthcare, but it is no longer within the reach of most people. Law centres report people collapsing from lack of food because they are unable to contest benefits sanctions. Parents are unable to challenge their children being taken into care or put up for adoption. Unscrupulous employers sack workers knowing that they cannot afford tribunal fees.

The cost of going to courts and tribunals is exorbitant because of swingeing user fees—rightly described by previous speakers as a tax on justice—even in cases involving alleged race and sex discrimination or claims for asylum by victims of political persecution. For claims involving unfair dismissal discrimination, whistleblowing or equal pay, claimants must foot a bill of £1,200 on top of their legal fees. Asylum fees for a full First-tier Tribunal hearing are £140 and it is proposed to increase them by 472% to £800.

These are exorbitant taxes on justice. As the noble Lord, Lord Beecham, said, it is a matter for regret that under the coalition Government the Treasury sought, for the first time ever, to make a profit from people seeking to enforce their legal rights, granting the Lord Chancellor the power to prescribe fees above cost. The noble and learned Lord, Lord Keen, described that tax on justice as necessary to secure access to justice. I hope that he will not mind my saying that that is an example of irrationality in the Wednesbury sense—a defiance of accepted moral standards, among other things. When the proposals were announced, the noble and learned Lord the Lord Chief Justice of England and Wales warned that the Government had made "very sweeping" and "unduly complacent assumptions" about their likely effect on access to justice. Successive Governments have treated legal aid as the Cinderella of the welfare state, an easy target of Treasury raids. Access to justice is seen as a luxury rather than a necessity underpinning our way of life, yet it is central to the rule of law.

Without going into too many figures, I would like to add some to what has been said already. The order introduces 10% fee uplifts across civil and magistrates' courts. A contested hearing has increased from £515 in 2014 to £567 in the magistrates' court, from £280 to £308 in the county court, and from £480 to £528 in the High Court. Those are increases well above inflation, and are cumulative. The request to reconsider at a hearing a decision on judicial review permission in civil proceedings cost £180 in 2008 in comparison to £770 today.

Fees act as a deterrent to bringing a claim to court. They dissuade people with legitimate grievances from coming to court. As your Lordships have heard, last month the House of Commons Justice Committee reported how fees in employment tribunal cases had led to a "startling drop" of cases brought, by 67%. That includes a decline in claims for breaches of the working time directive, unauthorised deductions from wages, unfair dismissal, equal pay, sex discrimination—the list goes on.

Fees prevent or deter people from articulating and enforcing their rights to a minimum standard of treatment in the workplace. As the Minister may well know, employment tribunal fees are being abolished in Scotland. I wish the same would happen in England and Wales. The risk of losing their case or getting a partial costs order is one that many vulnerable and low-income claimants cannot take, no matter how egregious the wrong they have to suffer. Some claimants have to choose between stumping up the fee and paying for a lawyer. Many end up without legal assistance. Others will get payday loans to assist with their claims, and then are saddled with debt and have to pay interest to exercise their right to justice. The upshot of all that is that the justice system is too expensive for traders, small businesses and the victims of personal injuries and of unscrupulous employers. There is a risk that parties with deeper pockets will deny liability on the basis that claimants are unable to fund court fees.

I am also concerned by the increase in fees to judicial review applications in civil proceedings. The fee for permission to proceed with a judicial review will increase from £700 to £770. The Government already have sufficient safeguards against abuse of

[Lord Lester of Herne Hill]
judicial review proceedings. As has also been said, the fee uplifts in immigration and asylum cases are particularly worrying. The Law Society warns that higher fees for immigration and asylum cases may encourage individuals who cannot afford fees to risk criminal prosecution and illegal overstay.

The Government are introducing fee increases before the publication of the impact review on employment tribunal fees and before responding to the Justice Select Committee's report on the impact of fee increases, despite 93% of respondents to the Ministry of Justice's enhanced court fees consultation having disagreed with the proposal to uplift all civil fees by 10%. It is also questionable whether the increased fees will create £6 million in additional income, as the Government claim. Since fees were first introduced in 2014, judicial review applications have fallen from 15,600 in 2013 to 4,680 in 2015. I have already mentioned the 67% drop in employment tribunal applications. The 10% increase in fees will discourage more litigants.

Justice is a necessity, not a commodity. We should, as the amendment of the noble Lord, Lord Beecham, states, and his powerful speech underlined, certainly express our regret. The Government have ignored the wise counsel of the Commons Justice Committee that access to justice should prevail over generating revenue. Instead, they continue to increase the already enhanced fees and have set them above cost. That is deplorable.

**Baroness Kennedy of The Shaws (Lab):** My Lords, I start by returning to the matter of Ms Truss being made Lord Chancellor. I share the view of lawyers in this House that it is regrettable that Lord Chancellors are no longer people with substantial legal experience. I regret that it was a Labour Government who changed that practice and the way it was done. However, I object to people feeling that Ms Truss is somehow short of the substance necessary for the role. I was very disappointed to hear the noble and learned Lord, Lord Brown, suggesting that she was not overburdened with experience in court matters. Were the men of law as vociferous when Mr Grayling or Mr Gove took up their appointments and did they make the same complaints when it was a man in that role? We should look at whether we are seeing something inappropriate about a woman taking this role. I regret that we have heard a clamour of male lawyers and judges saying that this is not a suitable appointment when they made no such complaints when men were put into that role. I welcome the appointment of Ms Truss, given the current rules.

I turn to the Government's Motion. It is an assault on access to justice that they are seeking to do this yet again. Only last year, the Justice Committee examined the issue of tribunal fees and made it very clear to Parliament that the level of fees charged for bringing cases should be substantially reduced and that no fee should be charged if the amount claimed was below a certain level. It was particularly concerned about cases dealing with unpaid wages or people not getting their holiday pay, so the sums of money were not great but an injustice was taking place and employers were behaving badly. Of course, there are thresholds for fee remission, but the bar is too low; the committee made it very clear that too few people could claim fee remission.

The committee expressed special concern about how that impacted on women bringing cases. That is what I want to emphasise today. Women are having particular problems with this provision. Women alleging maternity or pregnancy discrimination, where some excuse is found for easing them out of their jobs, not letting them return after they have had children, want to bring a case, but the time limit is too tight and they are considerably put off by the cost to them, often at a time when money is sparse because they are at home with a newborn.

*8.15 pm*

The Court of Appeal has been dealing with a test case, which I know is going to the Supreme Court, but the decline in the number of claims and tribunals since the introduction of fees has been startling—that word has already been used. We should analyse the cause of it and look at how it is impacting on women getting justice in the system. We have struggled over the past 30 years to address the problems that women have in bringing such cases. I fear that we are making it more difficult for women to use the justice system fairly. There has been a decline of 72% in unfair dismissal claims, and we must ask why. I know that the Government claim that this is one way to deal with vexatious litigants, people who bring cases that are unworthy. When examined, one finds that there has not been an increase in successful cases. If you take out what are supposed to be unworthy cases, you would expect those that remain to be much more successful, but that is not the case. So it has not achieved the Government's aim. There has been a 68% decline in sex discrimination cases.

Women are particularly at the receiving end of injustice because of this shift to put the burden on to those going to court. I often tell the story of how my mother was the great influence on my deciding to become a lawyer because, when I was an adolescent, she experienced an accident. Out of the blue, a slate came off the roof of a derelict tenement in Glasgow and split her head open; she almost lost her eye. She was frightened to go to lawyers or take a case because she thought it would cost too much money and she did not know whether she had a claim or not. Despite encouragement, she was fearful.

The fear exists to this day, particularly among women, about establishing their rights. We will not secure justice for women by this increase in fees. It is an attack on justice and women's access to justice, but it goes beyond women, as others have said. I support the amendment of the noble Lord, Lord Beecham, and I hope that the Government will look at this again.

**Lord Pannick (CB):** My Lords, our new Lord Chancellor needs urgently to address the level of fees for access to courts and tribunals, for all the reasons given by the noble Lord, Lord Beecham, and in all the other speeches that the House has heard, after the speech of the noble and learned Lord, Lord Keen. Like the noble Baroness, Lady Kennedy of The Shaws,

I welcome Liz Truss to her new role as Lord Chancellor. It is an important role. She has a statutory duty to protect the rule of law.

The noble Baroness, Lady Kennedy, mentioned that Liz Truss is a woman and expressed concern that that may have provoked some of the hostility. I should point out that, contrary to reports, Liz Truss is not the first female Lord Chancellor. Lord Campbell, in his 19th century *Lives of the Lord Chancellors*, included Queen Eleanor, wife of Henry III. In 1253, in the king's absence abroad, Eleanor performed all the duties of the office, judicial as well as administrative, for the best part of a year. No doubt a 13th century Lord Falconer complained that Eleanor had not been trained as a lawyer and that she had not previously served as a senior Cabinet Minister. I am prepared to see how Liz Truss performs in her office before criticising her—or indeed criticising the Prime Minister for appointing her. The new Lord Chancellor's attitude to court fees will for me be an important test of her commitment to the rule of law.

Like my noble and learned friend Lord Brown of Eaton-under-Heywood, I have appeared in previous debates on this subject. I do not have his complete record of attendance, but I have appeared on a number of these occasions in support of the noble Lord, Lord Beecham. I have explained repeatedly my concern about the Government's policy on fees for courts and tribunals. It is a very simple matter. The high levels at which fees are set undoubtedly impede access to justice for legitimate claims. It is as simple as that; potential claimants cannot afford to vindicate their rights. The inevitable consequence is that debtors and rogue employers are encouraged not to meet their obligations because they know that they will not be taken to court or to the employment tribunal.

It is not appropriate for the Lord Chancellor of this country to stand in the doorway of the Royal Courts of Justice or of the employment tribunal and say to those who want to claim for unfair dismissal, or say to the small business person seeking to recover a debt, "You can't come in unless you pay me a sum that greatly exceeds the cost of dealing with your case". I recognise that Parliament has given the Lord Chancellor the power to do precisely that, but I do not think that it is wise for a Lord Chancellor to exercise that power. I am certainly not persuaded by the creative argument of the noble and learned Lord, Lord Keen, that the fee increases promote access to justice. That is a quite remarkable argument that your Lordships have heard this evening.

I am particularly concerned by the contents of the report published by the House of Commons Justice Committee on 14 June, entitled *Courts and Tribunals Fees*, HC 167. It is a remarkable document, and I have these questions for the Minister based on that report. First—and I echo the noble and learned Lord, Lord Brown of Eaton-under-Heywood, in this first question—does the Minister accept the principle stated by the Justice Committee in paragraph 46 of its report:

"Where there is conflict between the objectives of achieving cost-recovery and preserving access to justice, the latter objective must prevail"?

Does he accept that?

Secondly, does the noble and learned Lord accept the conclusion of the Justice Committee at paragraph 50 of its report that the senior judiciary was correct in its evidence to the Ministry of Justice that the research conducted by the ministry before formulating its policy on court and tribunal fees was inadequate to justify the ministry's proposals?

Thirdly, does the Minister accept the Justice Committee's conclusions at paragraphs 58, 59 and 79 of the report that it is "unacceptable"—its word—that the committee was "strung along"—again, the committee's words—by the Government's refusal to publish its own review findings on the impact of employment tribunal fees, and that those findings must be published now without any further delay? I have to say to the Minister that the Government's conduct in not publishing review findings that they obtained several months ago on a matter of considerable importance is quite disgraceful. Will the Minister apologise on behalf of the Ministry?

It has been traditional in these regular debates on this subject—regular debates on the injustices perpetrated by a Ministry of Justice—for noble Lords to have the pleasure, and it has been a real pleasure, to listen to the eloquence of the noble Lord, Lord Faulks, in defence of the Government's position. I am very pleased to see him, although he is not in his usual place but in his new place on the Conservative Benches. Your Lordships know that the noble Lord resigned last Thursday. All of us at the Bar have had the irregular experience of being asked to present hopeless cases. The noble Lord, Lord Faulks, did that with charm, good humour and sensitivity several times a month. We will all miss him in his role as the acceptable face of the Ministry of Justice—as Chris Grayling's and Michael Gove's representative on earth, in the real world, where small businesses seek to recover debts and unscrupulous employers evade their duty to make redundancy payments. For every unjust policy that the noble Lord had to defend in this House, I suspect that there were at least three other impossible policies that he had refused to believe in and fought off before breakfast every day.

The Government are very fortunate still to have the services of the noble and learned Lord, Lord Keen, but I suspect that even his skills of advocacy will be severely tested by the brief that he has inherited this evening. I shall listen very carefully to his defence of government policy before deciding whether to support the noble Lord, Lord Beecham, in the Lobbies should he decide to divide the House.

**Lord Keen of Elie:** My Lords, I begin by thanking the noble Lord, Lord Beecham, for his kind words. I am pleased to be here to speak on behalf of our new Lord Chancellor, and I speak with confidence. The noble Lord referred to a report or review that had been put in the hands of the Minister—and, for reasons that he elaborated on, he will appreciate that it is not in my hands. That review has—and it is a matter of considerable regret—taken longer than had been anticipated; but it will be published in due course.

One point of very real interest was the emphasis on fees in the context of the employment tribunal.

**Lord Pannick:** I am sorry to interrupt the noble and learned Lord so early, but is he going to say more about why the report is not now being published? What is holding it up? What is the delay?

**Lord Keen of Elie:** I understand that it has to be approved at a ministerial level before it can be published. The noble Lord, Lord Pannick, will appreciate that there has been something of a delay in respect of those matters. As I say, it will in due course be published.

Much has been made of the matter of employment tribunals and fees in employment tribunals and the issues that arise there. I suppose that one has to answer for the sins of one's fathers. The present order addresses fees in the employment tribunal, and does so only in one respect, and that is to reduce them—and why that should be a matter of regret rather escapes me. The one matter addressed in this order with respect to employment tribunal fees is that, in respect of certain specified appeals, they should not by default go into type B of the schedule to the relevant order, but into type A, thereby attracting a much lower level of fee. So I find it difficult to understand why that provision is such a matter of regret.

Let me put the matter of costs and fees into context. The total cost of the courts and tribunals in 2015-16 was about £1.9 billion. The income recovery was about £700 million, leaving a shortfall of about £1.2 billion, and the question is where that should fall—on the taxpayer in general or on those who use the courts in part. With regard to employment tribunals, the total cost incurred was £66 million and the fee recovery was a gross £12.8 million. Why do I say gross? It is because there is a very effective fees remission system which meant that fees to the extent of £3.9 million were remitted. The majority of those individuals who secured remittance of fees were women. So that system is working: those who are vulnerable or in financial difficulty have access to the fees remission system.

*8.30 pm*

I acknowledge that the number of applications to the employment tribunal has dropped, but one has to take into consideration that more or less at the same time the introduction of a conciliation service has resulted in more than 80,000 applications in the first year for conciliation prior to procedures within the employment tribunal. That, I suggest, has a bearing on the numbers going on to the tribunal. There has been success there.

I cannot accept the observations of the noble and learned Lord, Lord Brown of Eaton-under-Heywood, that this is a case of profiteering. It is a case of determining a matter of balance. It is a case of facing up to the necessity to finance an effective and accessible system of courts and tribunals.

The noble Lord, Lord Lester, referred to the suggestion that there had been a dramatic fall in the number of applications for judicial review as a consequence of the introduction of fees. I would suggest that there is more to that than meets the eye. In fact, the reason there was a sharp reduction in applications lodged in the civil courts in respect of judicial review is reflected in the policy change which moved the responsibility for assessing applications for the vast majority of immigration and asylum judicial reviews from the civil courts to the Upper Tribunal chamber dealing with immigration and asylum. It is interesting and, indeed, noteworthy that the figures indicate that, between 2013 and 2014, the number of applications in the civil courts dropped from about 9,377 to 1,783, while at the same time they increased in the Upper Tribunal from 7,841 to 15,179, but I add this caveat: the latter figures are based on the financial year whereas the former figures are based on the calendar year. However, there is a fairly obvious correlation to the extent of a 7,000 decrease and a 7,000 increase in the number of applications.

**Lord Lester of Herne Hill:** The noble and learned Lord said a little earlier that the question is whether the taxpayer or those who use the system should pay. Does he not understand that the problem is not those who use the system but those who cannot afford to use the system? Is he not in difficulty in making the kinds of points he has made when he says that the Government have not published the review of the system and will do so only in what he calls "due course"?

**Lord Keen of Elie:** I do not believe that that difficulty arises. I emphasise the point that I made earlier: if you look, for example, at the fees in respect of the employment tribunal, the gross figure is £12 million-plus; the sum remitted for those who could not afford the fees is £3.9 million. In other words, something of the order of 30% of employment tribunal fees came under the remittance scheme. It is working. It is effective. It is allowing access to those tribunals for those people who could not otherwise afford it.

I turn to the points made by the noble Lord, Lord Pannick, and the three questions which he posed in the context of the Justice Committee's June report. We welcome the report from the Justice Committee. We will consider it in detail. We will consider its conclusions. We will respond to it as it requested, and we anticipate responding by September this year in accordance with the Justice Committee's wishes. It would not be appropriate for me to anticipate that response at this time.

As the noble Lord, Lord Pannick, observed, there are instances in which some of our greatest advocates will take on the most hopeless of cases, and I applaud the noble Lord, Lord Pannick, for stepping forward to take into court the issue of Article 50 and its exercise in the context of our exit from the European Union. I look forward with interest to the outcome of his efforts in such hopeless endeavours.

**Baroness Kennedy of The Shaws:** Are the Government going to look at whether there are particular impacts that these changes are having on women? The Minister has not responded to that question.

**Lord Keen of Elie:** That matter is the subject of comment in the Justice Committee's report, and we will respond to it. I again emphasise that from the figures we have it is clear that a large proportion of women qualify under the fees remittance scheme and to that extent have that relief.

**Lord Beecham:** My Lords, I thank all noble Lords who have spoken in this debate, and I thank the Minister for his reply. He has given something of a hostage to fortune in his reference to employment tribunal fees. It will be surprising—although not, I suppose, impossible—if the Government do not, after having considered this matter for a year so far, come up with some proposals to increase those fees, the extent of which remains to be seen.

It is extraordinary that the Minister made no substantive defence whatever to the criticisms of the process that were made by, among other bodies, the Justice Select Committee. I quote from its report:

"It will be evident from the chronology",

regarding the time that had elapsed, which I referred to before,

"that there are some inconsistencies in the Government's account of the progress of its review into the impact of employment tribunal fees. It is difficult to see how a Minister"—

not this Minister—

"can urge his officials to progress a review which they apparently submitted to him 4 months or more previously. And even if Ministers may now be discussing how to proceed … and recognizing that Departments other than the Ministry of Justice have an input into this, there can be no compelling reason to withhold from public view the factual information about the impact of the introduction of employment tribunal fees which will have been collated by the review. There is a troubling contrast between the speed with which the Government has brought forward successive proposals for higher fees, and its tardiness in completing an assessment of the impact of the most controversial change it has made … We find it unacceptable that the Government has not reported the results of its review one year after it began and six months after the Government said it would be completed".

On that basis, and with respect to the Minister, we can have little confidence in the outcome of that aspect of the matter or in other decisions that have been made. In these circumstances, I wish to test the opinion of the House.

*8.38 pm*

*Division on Lord Beecham's amendment*

*Contents 78; Not-Contents 89.*

*Amendment disagreed.*

**Division No. 1**

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*Motion agreed.*

*House adjourned at 8.49 pm.*