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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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

Tuesday 6 September 2016

2.30 pm

Prayers—read by the Lord Archbishop of Canterbury.

Iran: Nazanin Zaghari-Ratcliffe

Question

2.37 pm

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what progress they have made in securing the release from Iran of Nazanin Zaghari-Ratcliffe and her daughter; and what assessment they have made of the detention and execution of dual nationals in Iran.

The Minister of State, Foreign and Commonwealth Office and Department for International Development (Baroness Anelay of St Johns) (Con): My Lords, we continue to raise our strong concerns about British prisoners in Iran, including Mrs Zaghari-Ratcliffe, at the highest levels in both London and Tehran. Both the Prime Minister and the Foreign Secretary did so in their introductory calls with their Iranian counterparts. We cannot assess the conditions of dual nationals detained in Iran as the Iranian Government do not grant us consular access. We oppose the use of the death penalty in all circumstances.

Lord Alton of Liverpool (CB): My Lords, I thank the Minister for that reply. In the upgrading announced yesterday of our diplomatic relations with Iran, and the decision of British Airways to provide six flights a week to Iran, what account was taken of this brutal regime's execution of 1,000 people last year, the continuing incarceration of Mrs Zaghari-Ratcliffe and the detention of her two year-old British daughter whose passport has been confiscated? Setting aside the prematurity of that decision, given that Mrs Zaghari-Ratcliffe has been in solitary confinement and suffering dangerous weight loss and loss of mobility, what can the Minister tell us about the state of her health, the plight of her daughter and whether, as part of the deal in upgrading diplomatic relations, we have secured consular rights of access to the prison?

Baroness Anelay of St Johns: My Lords, to address the main points there, we share the concerns of this family about the situation. The stresses and strains that they have been through are appalling and we have a great care for not only Nazanin Zaghari-Ratcliffe but her whole family, including Gabriella. Gabriella is not detained in Iran. We have not requested the return of her passport, as her father has decided that she should stay with her grandparents for the time being. With regard to the generality of the noble Lord's questions about BA, that is a commercial relationship but of course it is part of the development whereby we see Iran coming back into the international community, with all the responsibilities that that involves. Yesterday, when the Foreign Secretary commented on the upgrade of diplomatic relations, he specifically said that it,

"gives us the opportunity to develop our discussions on a range of issues, including our consular cases".

Lord Bruce of Bennachie (LD): My Lords, I knew Richard Ratcliffe when he was an accountant at the National Audit Office. He was seconded to the International Development Committee, which I chaired, and gave us very good work. The only reason why his wife and daughter were in Iran was to visit her family, Gabriella's grandparents. It was on their return that they were arrested. There is no evidence whatever and no charges have been brought. In the circumstances, should the Government not make it clear that it is unacceptable for Iran to expect an improvement in relations if it behaves like this? The Government have previously forbidden BA to operate, as they did during the Ebola operation in Sierra Leone. They could do so now with regard to Iran.

Baroness Anelay of St Johns: My Lords, it is a fact that we take consular cases very seriously. It is also a fact that Mrs Ratcliffe has dual nationality. We are therefore not able to have consular access; we have our contact through the family. That does not mean that we take no action, it means that we support wherever we can, including pressing for proper access to health and legal representation, and that we do. As I mentioned a moment ago, it is our assessment that by ensuring that we have an ambassador there, we are in a better position properly to press the case for consular access and for proper treatment of people who hold dual nationality. As the noble Lord will know, dual nationality is not recognised by Iran. We find that wrong.

Lord Maginnis of Drumglass (Ind UU): My Lords, I fully support the points made by the noble Lord, Lord Alton. Will the Minister attempt to put Iran's ongoing outrages in context? Is she aware of the audiotape released on 9 August this year featuring the late Hoseyn Ali Montazeri addressing the 1988 death committee, when he pleaded in vain opposing the massacre of 30,000 Iranians? Instead of some parliamentary colleagues pandering to the mullahs' regime through goodwill visits to Tehran, is it not time that our Government gave a lead by pressing at international level prosecutions of those criminals, some of whom are still in power?

Baroness Anelay of St Johns: My Lords, I understand that the noble Lord refers to the reports of a 1988 massacre of political prisoners in Iran. It is absolutely the fact that Iran's human rights record remains a serious concern—it is appalling—in particular in its use of the death penalty. However, the UK Government have little corroborated evidence of the reported massacre to which the noble Lord refers, which the Iranian Government have repeatedly denied took place. We still press the fact in our engagement with Iran that their re-engagement with the international community brings with it responsibilities on human rights.

Baroness Afshar (CB): My Lords, as an Iranian-born Member of your Lordships' House, I feel very vulnerable

[Baroness Afshar]
about ever returning home. Now that negotiations are ongoing about Iran's participation, it is essential that we ask the Government to deliver, particularly on the arrest of human rights activists, scholars and feminists in Iran. There must be negotiations and conditionality for international participation.

Baroness Anelay of St Johns: My Lords, the noble Baroness raises the important point that when human rights are abused, it undermines the way in which society and government work. Not only have our Government frequently released statements condemning the human rights situation in Iran which cover the issues that the noble Baroness mentioned, we have joined action led by the international community. We have designated more than 80 Iranians responsible for human rights violations under EU sanctions, we have helped establish a UN special rapporteur on Iranian human rights and lobbied at the UN for the adoption of a human rights resolution on Iran. We will continue to fight for the causes the noble Baroness describes.

Baroness Symons of Vernham Dean (Lab): My Lords, have Foreign Office Ministers called in the Iranian ambassador to discuss this issue and, if not, are there plans for Ministers to ask the Iranian ambassador to come into the Foreign Office to discuss it, since after all it is a really serious issue for us?

Baroness Anelay of St Johns: My Lords, as I explained earlier, the agreement to have an ambassador in Iran occurred only yesterday, so the letters of accreditation were presented then. At this stage, we are looking to pursue the implications of having representation at ambassadorial level. I hear what the noble Baroness says and feel the concern of this House, which I take into account.

Calais and Dunkirk: Refugee Children

Question

2.45 pm

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government what plans they have to speed up the reuniting of refugee children in the camps of Calais and Dunkirk with their families in the United Kingdom.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the primary responsibility for migrants in Calais lies with France, but we continue to work with the French authorities and others to improve family reunification processes for unaccompanied children. We will shortly second another UK official to the French Interior Ministry to work on this issue. Transfer requests are now generally processed within 10 days, and children transferred within weeks. More than 70 children have been accepted for transfer this year from France.

Lord Roberts of Llandudno (LD): I thank the Minister for her reply. I was happy to hear over the weekend that the Government considered that they were on track and that we will receive 20,000 refugees by 2020. Could we not start with the children? The winter is coming, and conditions are dire in northern France. Could not we have a special humanitarian effort this year? Kindertransport does not belong to yesterday alone. It could belong to today—and we could bring over some 380 children who are eligible to come to the UK in a matter of weeks. Will the Minister take that to heart?

Baroness Williams of Trafford: My Lords, I certainly sympathise with the sentiment of what the noble Lord says—nobody wants children to have to survive a winter in cold conditions. But there are several things that we have to consider. First, what is in the best interest of that child in terms of safeguarding? Secondly, there are laws that we have to abide by from various countries. For example, if the child is not in this country, we have to do those negotiations to get the child out.

Lord Dubs (Lab): My Lords, it cannot be in the best interests of any child to stay in Calais, in awful conditions with no proper safety or security apart from a few British NGOs. It is deplorable. If the Minister would come to Calais—I was there last Saturday—she would see what I am talking about.

Baroness Williams of Trafford: I thank the noble Lord for bringing that up. Perhaps I can clarify what I said about negotiating with other countries and their laws and, certainly, the welfare interests of the child. While a child is in France, it is under the jurisdiction of France. Of course we work with France—and most children are out of the camps very quickly when they have relatives in the UK. But there are all those issues to consider. Of course, nobody has to stay in the camps. Reception centres have been made available; there are 130 of them for people to go to rather than stay in the camps.

Baroness Hodgson of Abinger (Con): My Lords, I, too, visited the Jungle with my noble friends Lady Jenkin and Lady Morris in July. We saw how desperate the situation is there and met some of the children. Can I press for them to be processed as quickly as possible? They are at risk in these camps. There may be reception centres, but for a child of 10 such as we met it is very hard to get to them. They are at risk all the time. So can the extra official who is going to France please connect with the children in the camp and get those who are entitled to come to the UK here as fast as possible?

Baroness Williams of Trafford: I totally agree that no child should be in the camp and that they should be resettled as quickly as possible, but the reception centres will certainly give them some of the support that is needed for their welfare, education and resettlement. British assistance has been commendable throughout that process. We now have a £10 million refugee fund for Europe, for unaccompanied children and for children separated from their families.

Baroness Howarth of Breckland (CB): My Lords, I have not seen these children but I have worked in childcare for more years, probably, than most Members of this House. It is appalling that our country and our Government leave these children in such conditions. Every day there are media reports clearly showing the terrible conditions. We know that there are children there of 10 and under and that there are children who have the right to come and be with their families. Local authorities were often accused of bureaucracy in their childcare. Surely the Government will not have a whole lot of bureaucracy to prevent children being saved from this coming winter.

Baroness Williams of Trafford: My Lords, we all want the same thing for these children: for them to be safe and to be in an environment that is in their best interests, away from the Jungle in Calais. This Government are working tirelessly with the French Government to ensure that those processes are expedited as quickly as possible.

The Archbishop of Canterbury: My Lords, the Question has been extremely specifically put about children who have families in this country; this is not about all unaccompanied children. My own diocese of Canterbury has taken on a staff member who is working in the Jungle, in co-ordination with a staff member taken on by the Catholic diocese of Arras. We are still having continual reports of delays for really quite young children who are not being brought across. Does the Minister not agree that where children—particularly young ones—have families in this country there is no reason why they should not be brought across within the day?

Baroness Williams of Trafford: My Lords, many of the children are coming here very quickly, but if any child has to stay over in the camp for any longer than it should that is one child too many. I commend the most reverend Primate on the work that Lambeth Palace is doing in taking its first family. We are clear that refugees in Calais should first of all claim asylum in France and then come over here through the Dublin process. The good news is that 120 children have come here this year under the Dublin regulations, 70 of them from France.

Climate Change: Fracking

Question

2.52 pm

Asked by ***Baroness McIntosh of Pickering***

To ask Her Majesty's Government whether they plan to ensure that the three tests set out by the Committee on Climate Change with regard to shale gas exploitation by fracking are met before any fracking work proceeds, and if so, how.

The Minister of State, Department for Business, Energy and Industrial Strategy (Baroness Neville-Rolfe) (Con): My Lords, shale could promote the opportunity of a new, domestic source of gas which adds to our energy security. Since 2000, UK gas production has decreased and import dependency has increased. This Government have been clear that shale development must be safe and environmentally sound. As our response to the Committee on Climate Change report states, we believe that each of the three tests for shale gas development will be met.

Baroness McIntosh of Pickering (Con): I am most grateful to the Minister for that Answer. Will she explain to the House how the Government intend to meet those tests and, in particular, satisfy the Committee on Climate Change regarding greenhouse gas emissions, which would increase in intensity with the extraction of such a fossil fuel on a large, significant scale? Also, how do we intend to meet our carbon reporting targets in those circumstances?

Baroness Neville-Rolfe: We have made it clear that we will take steps to meet our carbon targets, particularly by 2050, and we agreed on the fifth carbon budget before the Summer Recess. In relation to the tests, the first test is met by our regulatory system; tests 2 and 3 will be met by the commitments we will be making in the carbon budgets.

Lord Wigley (PC): My Lords, does the Minister accept that one of the main considerations with regard to fracking is the geological stability of the land, particularly in those areas where there has been coal mining and the seepage of water can go many miles? Does she accept that, in these circumstances, any decision on fracking should be taken as locally as possible so that local opinions are taken into account?

Baroness Neville-Rolfe: I agree with the noble Lord that we need to be careful. I also agree that the permission should be dealt with by the relevant local planning authority. However, we are fortunate in having strong regulators. The Environment Agency focuses particularly on water and, of course, the Oil and Gas Authority has operated for many years and has very strong regulations in relation to seismic activity.

Baroness Featherstone (LD): My Lords, gas is a fossil fuel wherever it comes from. Given that the Government are going to miss our legally binding targets on reductions in carbon emissions, would it not be better altogether if the Government simply banned fracking and got on with delivering reductions in emissions rather than increases?

Baroness Neville-Rolfe: I cannot agree with the noble Baroness. I believe that shale has the potential to make a strong contribution to the transition from a heavily coal-fired carbon-inducing energy mix to the vision that I think we all share for 2050.

Baroness Royall of Blaisdon (Lab): My Lords, in the Forest of Dean, to my sorrow, licences have been granted despite the opposition of all members of the community. There is great concern that the complex hydrology, local subsidence and faulting issues, as well

[Baroness Royall of Blaisdon]
as the shallowness of the carboniferous shales and coal-bed which the licence holder intends to explore, will be particularly prone to ground-water contamination through fugitive methane emissions and the chemicals used in the fracking and drilling process. Given that methane is 80 times more significant as a greenhouse gas than carbon dioxide, what level of fugitive emissions —that is to say, leakage—would the Government define as an acceptable level?

Baroness Neville-Rolfe: The noble Baroness is right to draw attention to methane. That is, of course, one of the key focuses of the Environment Agency, which has control over the permitting process and environmental emissions.

Baroness Jones of Moulsecoomb (GP): My Lords, in fact there is mounting evidence that the methane leaks associated with fracking are far dirtier than those associated with energy derived from coal. Therefore, I do not see how it is possible for us to have clean energy and fulfil all our commitments if we carry on fracking. Is it not time that we followed the devolved countries of Scotland and Wales and abandoned fracking in England?

Baroness Neville-Rolfe: I think the key thing is to have a proper regulatory system of controls. We have learned from US experience in setting up our system. We are also focused on all the Kyoto basket of gases, which includes methane. I assure the noble Baroness that that is an important part of our thinking. But I return to my first point, which is that we need a mix of energy in the transition to 2050.

Lord Foulkes of Cumnock (Lab): My Lords, will the noble Baroness try again to answer the question of my noble friend Lady Royall: what amount of leakage is acceptable?

Baroness Neville-Rolfe: I think this is a matter for the experts concerned in the particular circumstances. Our regulatory system is site specific. You go to the particular site and work it out. Clearly, you want to minimise the emissions of all six of the Kyoto basket of gases. I think that would be an agreed objective.

Lord Harris of Haringey (Lab): My Lords, is that why the Government do not have a view on what is an acceptable degree of leakage, or are they perhaps consulting the experts? If so, will the Minister share with us what advice has been received on what would be an acceptable level of leakage?

Baroness Neville-Rolfe: I can certainly write to noble Lords about what advice we have received, if that would be helpful. I return to my point that we have a strong regulatory system right across the board in this area and we should look to this as an opportunity.

Baroness Farrington of Ribbleton (Lab): My Lords, I declare an interest as a Lancashire resident. Would the Minister be prepared to inform the House, in writing if necessary, how many of the controls, considerations, regulations and judgments will be made by those external to the industry concerned and how many will be made by those involved in gaining profit, however low they choose to set the safety targets? My recollection is that the Government did not want all the regulation to be external, and that they wanted the industry itself to tackle this. Some of us are concerned about that.

Baroness Neville-Rolfe: I am the new Energy Minister, but I have been struck by the variety of independent outside agencies that are involved in this site-specific process. There can also be benefit to the community, both through the community benefit package, which involves an industry contribution, as the noble Baroness is suggesting, and from the shale wealth fund, on which we are consulting, which will allow some of the tax revenues to be shared with individual members of the community.

Southern Rail

Question

3 pm

Asked by ***Baroness Randerson***

To ask Her Majesty's Government, following the granting of additional funds, what further steps they will take to ensure a better service for all customers of Southern Rail.

The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con): My Lords, Network Rail has committed £20 million for improvements to the Southern network. This fund will be focused on track and infrastructure works and additional staff to ensure that performance improves. The Secretary of State for Transport has also announced the appointment of Chris Gibb to head up a project board, whose remit is to deliver service improvements and closer working relationships between Govia Thameslink Railway and Network Rail.

Baroness Randerson (LD): My Lords, the £20 million extra funding to assist Southern, despite its 27% increase in profits announced last week, surely gives the Government a stronger hand to insist that long-suffering passengers get a better deal. Can the Minister explain to us why Southern has been allowed to reject applications for compensation for train delays, which have been made using a special app, and when will the Government introduce the entitlement to compensation for delays of 15 minutes, which was promised last year by David Cameron?

Lord Ahmad of Wimbledon: On the noble Baroness's second point, I know that my right honourable friend the Secretary of State is looking at the whole issue of compensation, including making it available for delays of 15 minutes; noble Lords will know that it is currently available for delays of 30 minutes. On the specific app, GTR has specific processes for delay and compensation,

and an online form is available. One thing it does not entertain is third-party applications. If there are specific examples of compensation applications being directly made via the online application that have then not been paid out, I would be happy if she wrote to me with the detail so that I can take it up directly.

Lord Berkeley (Lab): My Lords, can the Government confirm that the train operators concerned in this present dispute have safety cases to allow one-person operation of the trains? I recall that it happens in many parts of the country and clearly, they must have got it, but this problem has been going on for much too long. Will the Government put as much pressure as they can on Chris Gibb and his team to get everybody around a table to sort it out once and for all?

Lord Ahmad of Wimbledon: I am sure that many of those who know the rail industry also know that Chris Gibb himself also brings around 30 years' experience. His appointment will expedite the resolution of what has been, as the noble Lord rightly points out, a long-standing dispute; obviously, the people who are suffering are the customers.

Lord Dholakia (LD): My Lords, Southern is boasting about returning to service some of the trains which were cut—about 350 of them a few weeks ago. Yesterday a 12-coach train was reduced to five and this morning a 12-coach train was reduced to four. Is anybody monitoring the situation to find out what the impact has been on individual commuters and, more importantly, the tourist trade and the economy of this country?

Lord Ahmad of Wimbledon: Again, the noble Lord is right to point out the operational challenges posed to consumers and those visiting the UK. I assure him that the new Rail Minister is in constant dialogue with the operator and with Network Rail. In addition, it is important to note that while a reduced timetable has been in operation, I am pleased to say that 119 services which were originally suspended have today been reintroduced, which I hope will have a positive impact on the scheduling of services.

Lord Rosser (Lab): Unless the Government take the hardly objective view that no responsibility of any significance for the poor level of service provided by Southern Rail can be attributed to the performance, or lack of it, of the top management of the company and that industrial action is the only cause of that poor service, why is Southern Rail not in breach of the terms of its franchise contract? Why has the Government's response been not to take any action against the company for that breach but, instead, to provide additional money to improve services when Southern Rail is part of a transport organisation which we now know would have no difficulty in finding that money itself. That additional money is coming from the taxes of the very passengers having to put up with poor service and cancellations over a lengthy period—a double whammy for Southern Rail passengers if ever there was one.

Lord Ahmad of Wimbledon: As the noble Lord is fully aware, while there have been issues with GTR, there have also been problems on the tracks. Only yesterday I learned that a challenge was posed by a hole appearing near Waterloo East, and other issues apart from the industrial dispute have compounded the challenges on this line. However, the Government have taken responsibility in imploring the train operator and representatives of the different trade unions to get round the table, negotiate a settlement and move forward on this long-standing dispute. It is important that we do so in the interests of the long-suffering commuters and other users of that network.

Baroness Donaghy (Lab): The Minister will know that some railway stations on those lines are dangerously overcrowded. Passengers can be dumped without notice, including foreign visitors who have just arrived at Gatwick. The passenger levels at some stations, including East Croydon and Clapham Junction, are reaching the point where there are going to be terrible accidents one day with so many people on the platforms. What health and safety issues are being discussed, and can the Government give us an assurance that these will be dealt with?

Lord Ahmad of Wimbledon: As I said, the Government are looking at this matter, and that is why the Secretary of State has announced the new fund. To give some reassurance to the noble Baroness, £2 million of the £20 million fund will be spent on additional rapid response teams, which will be located at known hot spots to reduce the time needed to fix problems, £800,000 will be invested in additional signal supervisors, and there will be additional investment in the stations mentioned by the noble Baroness to ensure that people are well informed. However, I totally accept, as I have previously, that there are major challenges on this network that require a resolution. The Government are seeking to provide this company with support and direction through the Rail Minister to get this long-standing dispute resolved in the interests of all.

Fixed-term Parliaments (Repeal) Bill [HL]

First Reading

3.07 pm

A Bill to repeal the Fixed-term Parliaments Act 2011.

The Bill was introduced by Lord Desai, read a first time and ordered to be printed.

Recess Dates

Announcement

3.08 pm

Lord Taylor of Holbeach (Con): My Lords, it may be for the convenience of the House if I make a short statement about recess dates for the Christmas and February periods. A note of all the dates that I am about to announce are available in the Printed Paper

[Lord Taylor of Holbeach]
Office. The following dates are of course provisional and are subject to the usual caveat of the progress of business.

We will rise at the conclusion of business on Wednesday 21 December and return in the new year on Monday 9 January. We will then rise for the February half term at the conclusion of business on Thursday 9 February and return on Monday 20 February. Dates for recesses in the remainder of the Session will be announced in due course but I hope that it is helpful to noble Lords to have the notice that I have been able to provide today. Dates for the forthcoming conference and November recesses have already been announced and will be included in the information available.

Cultural Property (Armed Conflicts) Bill [HL]

Report

3.09 pm

Clause 3: Offence of serious breach of Second Protocol

Amendment 1

Moved by ***The Earl of Clancarty***

1: Clause 3, page 2, line 4, after "offence" insert "of serious violation of the Second Protocol"

The Earl of Clancarty (CB): My Lords, I thank the noble Lord, Lord Stevenson, for his support for this amendment. It has a straightforward intention, which is to ensure that the language used in the Bill is consistent and, crucially, consistent with the language used in the Second Protocol. I refer your Lordships to Articles 15 and 21 of the Second Protocol, which use the terms "serious violation" and "violation".

We have already discussed this matter in Committee in detail, so I will be brief. What is required is simply that the headings to Part 2 and Clause 3 of the Bill are amended so that, in both, "serious breach" is changed to "serious violation". I am not permitted to do that through an amendment, but I understand that the Government can make these changes if they were to look favourably on the spirit of this amendment. I beg to move.

Lord Stevenson of Balmacara (Lab): My Lords, I will be very brief indeed. I simply want to endorse what has been said by the noble Earl, Lord Clancarty, and point out that this matter can be resolved at relatively short notice when the Bill is reprinted prior to its next stage. I look forward to the Government's response on that point.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, it is a great pleasure to respond for the Government to the noble Earl's amendment, especially as I hope to give him an answer that he will approve of. I am very conscious that I have come late to this Bill and that many noble Lords did sterling work at Second Reading and in Committee, not least my noble friends Lady Neville-Rolfe and Lord Courtown, to whom I am very grateful for getting us this far. And now, before the Deputy Chief Whip intervenes to say that I am breaking the rules for Report, I shall return to the noble Earl's amendment.

I recognise that there are concerns in some quarters about the differences in terminology between the titles of this Bill, the convention and the Second Protocol, and the potential for confusion that this may cause. My noble friend Lady Neville-Rolfe explained in Committee that we have used the term "breach" in the titles of Part 2 and Clause 3 because that is the more widely recognised term in English law and the meaning in this context is the same. However, we have listened to the points made in debate by noble Lords, and I am pleased to inform your Lordships that the Government have agreed to change the word "breach" to "violation" in the titles of Part 2 and Clause 3 when the Bill is next reprinted, which, I believe, will be before it goes to the other place. Therefore, it will now say, "Offence of serious violation of Second Protocol".

I hope this will fully address the concerns that the noble Earl and the noble Lord, Lord Stevenson, have raised. In the light of this commitment from the Government to change the titles, I hope the noble Earl will withdraw his amendment.

The Earl of Clancarty: My Lords, I thank the Minister for agreeing to make the changes to the headings. This is a small amendment but one that strengthens the Bill. On the understanding that the headings of Part 2 and Clause 3 will be amended as has been promised, I beg leave to withdraw Amendment 1.

Amendment 1 withdrawn.

Clause 4: Ancillary offences

Amendment 2

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

2: Clause 4, page 3, line 15, at beginning insert "aiding, abetting, counselling, procuring or"

Lord Ashton of Hyde: My Lords, I take this opportunity to introduce an amendment to Clause 4 which has arisen as a direct result of the scrutiny and debate on the Floor of this House and to put on record the substance of the letter that I sent to noble Lords last week to explain the amendment.

As was discussed in detail in Committee, Clause 4 deals with the extraterritorial application of ancillary offences. For example, it means that if an individual abroad attempts or conspires to commit an act, that act would be an offence under this legislation.

Noble Lords may recall that in Committee, the noble Lords, Lord Touhig and Lord Stevenson, tabled an amendment to subsections (4) and (5) of Clause 4, which makes provisions for England, Wales and Northern Ireland. The essence of the amendment is to try to

understand why these provisions were drafted differently from those relating to Scotland. My predecessor, my noble friend Lady Neville-Rolfe, explained that this was due to a difference in Scottish criminal law. While subsection (6) was not the subject of the noble Lords' amendment, the debate prompted the Government to reflect on the drafting of this clause and to conclude that the original drafting would benefit from some clarification to ensure that the Bill's provisions relating to the ancillary offences had the intended effect in Scotland. The Scottish Government and the Crown Office in Scotland have been consulted regarding this amendment and have agreed the appropriate drafting.

I hope noble Lords will accept the amendment. I am grateful that the close consideration this House has given the Bill has resulted in this improvement in its drafting. I beg to move.

Baroness Bonham-Carter of Yarnbury (LD): My Lords, I welcome the noble Lord to his position and thank him for his previous acceptance of the noble Earl's amendment and for this amendment. We all agree that this is a good Bill and I am grateful for these two improvements to it.

Lord Stevenson of Balmacara: I am looking sideways because *Hansard* will not be able to record this unless I explain what has happened between me and my noble kinsman, the noble and learned Lord, Lord Hope. When this point first arose in Committee, I rather stupidly intervened ahead of the noble and learned Lord and he rose magisterially, if that is not too otiose a phrase, to explain that, even though I hail from Scotland and carry a Scottish town in my title, I was hopelessly under-read about how the law operates in Scotland and I should know better than to try to amend a Bill that he was able to assure us was in good order at that time.

Or was it? I did not know very much about it—and did not intend to say that I did—but, in the tradition of these Bills, I tabled a probing amendment. We rarely have an opportunity to see probing amendments come home to roost with such extraordinary felicity—I am still nervous that the noble and learned Lord will jump up and shout at me—but I relish that this has now happened. I also welcome the fact that we are having a good afternoon with two concessions already, so I shall not say any more.

Lord Hope of Craighead (CB): Perhaps I may follow those kind remarks by saying that I entirely approve of this amendment. The phrase originally used in that part of the clause was rather too terse. These additional words certainly have resonance in Scotland and it is wise to include them.

Amendment 2 agreed.

Clause 6: Penalties

Amendment 3

Moved by ***Lord Brown of Eaton-under-Heywood***

3: Clause 6, page 4, line 29, leave out ", or an offence ancillary to such an offence,"

Lord Brown of Eaton-under-Heywood (CB): My Lords, I will move Amendment 3 and speak to Amendment 4 in the place of my noble and learned friend Lord Woolf, who yesterday underwent a knee operation. I am happy to tell the House that it all went well and that no doubt he will be ready to respond to the call for "Strictly" whenever it comes.

I confess to having played no part in earlier debates on the Bill, but I am a keen supporter of the principles and objectives that underlie it. As will readily be appreciated, these amendments to Clause 6 are designed to separate out the primary or principal offences under Clause 3; that is, serious violations of the convention and the Second Protocol from ancillary offences, which are dealt with separately in Clause 4. As presently drafted, all are subject to a maximum term of 30 years' imprisonment. We propose in these amendments that in the case of ancillary offences—let me make clear, as does paragraph 37 of the Explanatory Notes, that we are talking not just about offences ancillary to the principal offences but to offences ancillary to ancillary offences—the maximum penalty should be reduced to 14 years. This point was first raised, and the change urged, by the Joint Committee on Human Rights, on which my noble and learned friend Lord Woolf serves. The chairman of the committee, Harriet Harman, pointed out in a letter to the department that an example of an ancillary offence is someone destroying evidence to conceal an attempt by a friend to steal property that is protected under the Hague convention.

Of course, I well recognise that a 30-year maximum sentence ultimately leaves it to the court to decide on what the appropriate punishment or sentence should be for any particular offending. In one sense, one might ask where on earth is the harm in having what is, I suggest, for ancillary offences an absurdly high maximum. But on that approach, why not have 40 years or life imprisonment? The fact is that the fixed maximum gives some indication of the relative gravity with which offending is viewed by Parliament. If, as here, it becomes wildly out of touch with reality, far from strengthening the legislation, I respectfully suggest that it actually weakens it. Better by far to keep the matter in a proper perspective.

A sentence of 14 years for an ancillary offence is itself likely to be way beyond any appropriate sentence, but at least it would highlight the true comparative gravity of a principal as opposed to an ancillary offence. I should just add that the department responded to the Joint Committee's plea to change this by saying that the policy in this legislation is to mirror the position with regard to war crimes under the International Criminal Court Act 2001. That also provides for a 30-year maximum sentence to be applied equally to ancillary offences and principal offences. It is true that the definition of a war crime includes,

"intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historical monuments … provided they are not military objectives".

I suggest that such an offence would be equivalent to one at the very upper end of offending under our convention, the Hague convention. Realistically, the 30-year limit prescribed for war crimes is rather more apt for classic war crime offences—genocide, crimes against humanity, crimes against peace and such like.

[LORD BROWN OF EATON-UNDER-HEYWOOD]
In short, war crimes provide an imperfect parallel with our legislation, particularly with regard to ancillary offences, and it is for those that we propose in these amendments to reduce the maximum to 14 years. I beg to move.

Lord Foster of Bath (LD): My Lords, my noble friend Lady Hamwee is one of the signatories to these amendments. Sadly, she cannot be in her place but she, too, is a member of the JCHR, to which the noble and learned Lord, Lord Brown, already referred, as he did to the letter to the department from the chairman of that committee. As the noble and learned Lord eloquently explained, the letter from Harriet Harman makes it very clear that we are talking about two sets of offences. One is the offence of a serious breach, the other is an ancillary offence—or, indeed, even an ancillary to an ancillary offence. These amendments clearly suggest that, in the light of the differences between them, there should be two sets of maximum penalties accorded to them. That has been very clearly laid down.

My only point is to ask a further question of the Minister that follows on from the letter that Harriet Harman sent, which says:

"Moreover, with an unusual offence of this kind, we would also ask whether the Government plans to request that the Sentencing Council issue guidelines (and if not, why not?)".

The House would be interested in the Minister's response to that query from Harriet Harman.

Lord Hope of Craighead: My Lords, I suggest the Minister might be rather cautious about the length of the sentence referred to in the amendment. I am in sympathy with the idea of separating the principal offence and the ancillary offence and looking at them separately—but, drawing on my experience as a prosecutor in Scotland and referring to the phrase "art and part" in Clause 4(6)(a), very often the difference between a person who is found guilty of being art and part in the commission of a crime and the principal actor is very thin. It is quite difficult, in the absence of hard facts, to establish precisely where the line should be drawn between the two maximum sentences.

I suggest that if the Minister is inclined to follow the suggestions made by the noble and learned Lord, Lord Brown of Eaton-under-Heywood, he might be wise to consult the Crown Office in Scotland to see whether it has a view as to whether the maximum suggested sentence of 14 years is realistic, given there can be a much closer alignment between a person found art and part and the person who is the principal actor. I would not quarrel with the idea of separating the two; I simply introduce this note of caution as to whether the right figure has been selected.

Lord Inglewood (Con): My Lords, having heard the remarks of the noble and learned Lord, Lord Brown of Eaton-under-Heywood, it seems to me that the point he makes is very pertinent. In particular, a concern I sometimes have is that parliamentary draftsmen, when bringing forward proposals, identify equivalence between different statutes which, perhaps under further closer examination, are not as equivalent as they would like you to believe. Therefore, there is an underlying and important point in that respect.

Also, now I am on my feet, I will say that in Committee I suggested some proposals on mens rea and Clause 17. I put on record that I am having a constructive and cordial dialogue with my noble friend the Minister on that, which is why there is nothing on the Marshalled List about it today.

Lord Ashton of Hyde: My Lords, I thank the noble and learned Lord, Lord Brown, for taking on this brief. I also take this opportunity to wish the noble and learned Lord, Lord Woolf, a speedy recovery from his operation.

The amendments give us the opportunity to discuss the important concerns of the Joint Committee on Human Rights in relation to the maximum penalty for ancillary offences under Part 2 of the Bill. Noble Lords referred to the fact the JCHR raised this matter in its letter of 29 June, to which my predecessor replied on 8 July.

I understand the concern that the penalty for ancillary offences should not be disproportionate in any particular case. The Government have carefully considered the amendment but we have concluded that we should retain a maximum penalty of 30 years for ancillary offences. This is primarily for reasons of consistency with existing UK legislation: namely, the International Criminal Court Act 2001 and its Scottish equivalent. That legislation provides, as has been said, for a maximum penalty of 30 years for the offence of committing a war crime, and provides expressly that the same maximum penalty applies in relation to ancillary offences. I think that that answers the noble and learned Lord's question about why it should not be 40 years or life. It is the same as the existing legislation.

3.30 pm

The noble and learned Lord also mentioned that under the International Criminal Court Act 2001, "war crimes" include certain crimes concerning cultural property. He read out the wording—I will not repeat it now—that it is a war crime to direct attacks against buildings, et cetera. Therefore, in our view there is a clear parallel and, indeed, overlap between that legislation and the Bill. The same factual circumstances could, in some cases, constitute an ancillary offence under either piece of legislation. It is therefore desirable that the potential penalty is the same. For these reasons, we think it is appropriate for the Bill to follow the precedent of the International Criminal Court Act 2001 and its Scottish equivalent.

In any event, it is important that the maximum penalty reflects the degree of seriousness with which the UK views breaches of the Second Protocol. At Second Reading, the noble Lord, Lord Foster of Bath, said that the 30-year maximum sentence shows,

"how serious we are about protecting cultural property in times of armed conflict".—[*Official Report*, 6/6/16; col. 588.]

This sentiment was supported by my noble friend Lord Renfrew and the noble Baroness, Lady Young of Hornsey, and I agree. In my view, the same principle applies equally to ancillary offences.

However, it is important to note that 30 years' imprisonment is a maximum penalty. In practice, the penalty may be a much shorter sentence or even a fine.

It will be for the courts to consider all the circumstances and determine the appropriate sentence in any particular case. For example, in the al-Mahdi case about the destruction of cultural objects in Timbuktu, which was recently before the International Criminal Court, the prosecution called for a nine-year to 14-year sentence for violations under the Rome statute.

There are many scenarios in which an offence under Clause 3 may be committed and, similarly, many scenarios in which there might be an ancillary offence. I do not think that it can be said that an ancillary offence is necessarily deserving of a lesser penalty than the principal offence. The appropriate penalty depends on the circumstances, not on whether the offence is the principal offence or an ancillary one. It is the Government's view that a maximum penalty of 30 years should be available in respect of both the principal offence and related ancillary offences, and that it should be left to the courts to determine the appropriate penalty in any particular case. We think that the courts are the best place for that difficult decision to be made.

I cannot help reflecting that on my first outing at the Dispatch Box as a Whip, during the passage of the Criminal Justice and Courts Bill, we spent what seemed like hours discussing with noble Lords and noble and learned Lords how we were restricting judicial discretion and here I am, two years later, arguing that judicial discretion is very important and should be retained in this case.

The noble Lord, Lord Foster of Bath, asked whether the Sentencing Council would be issuing guidelines. I understand that the council normally waits for sentencing practice to develop before considering guidelines, rather than issuing them on the creation of a new offence. We think that prosecutions under the Bill are likely to be rare, so I do not anticipate guidelines being developed in the foreseeable future.

I hope I have reassured the noble and learned Lord and others that the penalty for ancillary offences has been appropriately considered, and that he will feel able to withdraw his amendment.

Lord Brown of Eaton-under-Heywood: My Lords, I am grateful to all those who have taken part in this short debate and to the Minister for his reply. I do not pretend to have been persuaded by most of what he said, or to believe that there is the close analogy between war crimes—even those of destroying buildings which are for cultural purposes—and the legislation which we are now concerned with. I respectfully endorse what the noble Lord, Lord Inglewood, said about the dangers of suggesting that other legislation is necessarily closely parallel to that which is under direct and immediate consideration. All that said, I am confident that at the end of the day the judges, in their discretion, will reach sensible solutions. It is a pity that Parliament looks by this to be a little out of touch. The maximum penalties cease to have quite the same conviction if they lose perspective but I am certainly not proposing to divide the House and I accordingly seek leave to withdraw the amendment.

Amendment 3 withdrawn.

Amendment 4 not moved.

Clause 23: Search and seizure warrants

Amendment 5

Moved by ***Lord Stevenson of Balmacara***

5: Clause 23, page 11, line 2, at end insert—

"( ) For the avoidance of doubt, a warrant under this section may not be issued in respect of the Parliamentary Estate."

Lord Stevenson of Balmacara: My Lords, this matter was discussed at some length in Committee. At the time of that sitting, we were in receipt of letters from the noble Lord, Lord Lang of Monkton, on behalf of the Constitution Committee, and from the noble Baroness, Lady Neville-Rolfe, as the Minister in response. It was made clear in Committee that this was a slightly moving target. The purpose of this amendment, therefore, is to invite the Minister to bring us up to date with where things have got to and to make it clear to us whether there are any outstanding issues that he might wish to return to at later stages.

It is worth mentioning this issue because I think it will come up again in the following amendment. It is about the powers that the Bill needs to contain so that it can empower the Government to sign the convention in relation to seizure, primarily of goods in transit where they are found to have originated in a conflict area and therefore become subject to the Act or the convention. In the discussions in Committee, the noble Baroness, Lady Neville-Rolfe, made it clear that the Government are seeking to fulfil an obligation under the First Protocol to be able to return the property that I have described to its country of origin. She pointed out:

"That obligation is absolute and does not allow for any exceptions".

It therefore needs to be the case, she said,

"that the police have the power to search for and seize unlawfully exported cultural property wherever it may be in the United Kingdom"—[*Official Report*, 28/6/16; col. 1532]—

including in Parliament.

During the debate, however, it turned out that, in December 2015, the Constitution Committee had made it clear to the Leaders of both Houses that:

"When Bills contain provisions that could apply to Parliament",

in relation to legislative drafting, including the type that we are talking about,

"the authorities in each House are meant to be consulted at an early stage".

I think we picked up from the noble Baroness's response at that time that the DCMS had not been as effective in communicating its wishes to the parliamentary authorities as it might have been. So we have an issue which raises and engages with the powers of our Parliament and the way in which the powers to enter and seize property operate within the Parliament, and an issue of consultation. I invite the Minister to bring us up to date and to explain where we stand on these matters.

Lord Ashton of Hyde: My Lords, I am grateful to the noble Lord, Lord Stevenson, for the opportunity to discuss the important concerns that he and the Constitution Committee have raised about search and

[Lord Ashton of Hyde]
seizure powers, which the committee outlined in its letter of 15 June. As the noble Lord said, my noble friend Lady Neville-Rolfe replied to that letter on 27 June. My officials are also liaising with the relevant parliamentary authorities.

The purpose of the search and seizure provision is to enable the UK to fulfil our international obligations, as the noble Lord said. This is in relation to cultural property which has been unlawfully exported from occupied territory. In particular, it enables us to fulfil our obligation under paragraph 2 of the First Protocol to return such property to its country of origin. That obligation is absolute and does not allow for any exceptions. The provision also enables the UK to fulfil our obligation under Article 21 of the Second Protocol to take the necessary measures to suppress illicit export, removal or transfer of ownership of such property.

Therefore we need to ensure that the police have power to search for and seize unlawfully exported cultural property wherever it may be in the United Kingdom. I listened carefully to the noble Lord's arguments and I read the debate in Committee. We consider it right in principle that the search and seizure powers in Clause 23 apply equally to the Parliamentary Estate, and we consider that the drafting of the Bill allows for this. As we know, the Bill has been roundly welcomed and it is right that Parliament should be seen to be leading the way, rather than expecting special treatment or exemption from the Bill's requirements. It is highly unlikely that unlawful dealing in cultural property, particularly this sort of cultural property, would take place within the Palace of Westminster, but if it does, the appropriate enforcement powers should be available. This building should not be a haven from the law or our international obligations.

In her letter to the Constitution Committee my noble friend Lady Neville-Rolfe noted that we consider that this provision applies to the Palace but that any search or seizure taking place within the Palace of Westminster would, of course, need to be exercised in a way that respects the privileges of Parliament. Of course, in practice, we would expect there to be a high degree of co-operation between the police and the House authorities, both with regard to the need to obtain a warrant at all and with regard to the execution of any warrant obtained.

The noble Lord also raised the mistake that my department made about notifying the House authorities. That has been done, and it has undertaken in future to do it at an earlier stage. There have been various exchanges of correspondence with the House authorities since my officials wrote to them on 22 June. The question of the privileges of the House are a matter for the House authorities. There are differences between this House and the other place. I note that there is a protocol in the other place outlining how these things should be dealt with. There is no such protocol here, but the privileges of the House and how they are dealt with are a different issue and not for this Bill.

It is important that this House is subject to the powers. I therefore hope that the noble Lord will feel that these provisions have been appropriately considered and that he can withdraw the amendment.

Lord Stevenson of Balmacara: I thank the Minister for his response. I just reinforce the point, although I am sure that I made it clear, that drafting was never the issue. The wording of the Bill is, of course, appropriate and we support it. The question was really about the processes surrounding the necessary consultation with the House authorities, which the Minister explained was not done in the way that had been suggested by the committee. That point has been noted. He has now read into the record confirmation that the Government would expect that the appropriate processes in place in both parts of Parliament would be followed in the unlikely event of any case being raised in respect of the Bill. I am not sure that I entirely followed him on whether there was a bit of a gap emerging over the protocols that should apply in this part of Parliament. Although it is not a matter for us—I am sure it is way above my pay grade—I hope the Clerk of the Parliaments has noted the point. He is nodding, so I think he has. Perhaps there is something that the Government might wish to raise with him arising from the Bill about the need for a proper protocol to be prepared so that we are ready should this event occur. With that bit of business in place, I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

3.45 pm

Clause 28: Immunity from seizure or forfeiture

Amendment 6

Moved by ***Lord Brown of Eaton-under-Heywood***

6: Clause 28, page 13, line 12, leave out "legislation or rule of law" and insert "enactment or rule of law, unless—

(a) it is seized or forfeited under or by virtue of an order made by a court in the United Kingdom, and

(b) the court is required to make the order under, or under provision giving effect to, an EU obligation or any international treaty."

Lord Brown of Eaton-under-Heywood: My Lords, again in place of the noble and learned Lord, Lord Woolf, I move Amendment 6 on Clause 28. This amendment has been requested by not only the Joint Committee on Human Rights but also the Constitution Committee of this House. As drafted, Clause 28 prioritises compliance with Article 14 of the Hague convention over compliance with every other legal obligation that the United Kingdom may be under pursuant to EU or other international law. Under the amendment, if conflicting obligations do indeed arise under international law, it will be for the court to decide where, ultimately, the priorities should lie.

As your Lordships of course appreciate, Clause 28 deals with cultural property in the United Kingdom; it dictates that in certain circumstances, when it is protected it cannot be seized or forfeit. With this provision, there is, I respectfully suggest—contrary to the position under the matter I was discussing earlier—a useful and close analogy. As pointed out by the Joint Committee and the Constitution Committee, the analogy is with the Tribunals, Courts and Enforcement Act 2007 which, in order to facilitate loans of property to museums

and galleries in this country, provides assurances that objects which are normally kept outside the United Kingdom will not be seized or forfeit here. In other words, to encourage foreign galleries or owners to lend property for exhibition here, there is the assurance that those objects in the United Kingdom will not be seized or forfeit. But importantly—this is the crunch point—Section 135 of that Act is subject to the proviso that it has no effect where a court is required to make an order,

"under, or under a provision giving effect to, an EU obligation or any international treaty".

Essentially, it is just that same proviso which we are seeking, by Amendment 6, to introduce into this legislation.

It is true, as the department has said in the Minister's letter that it is "very unlikely in practice" that there will be any conflict between our obligations under the Hague convention and any other international treaty obligations. But what possible disadvantage is there in providing for such a conflict to give the discretion to the court in case the conflict arises? Surely it is better to provide for it than not and to leave matters prioritising it, as the Bill as drafted does.

I urge the House to consider how moderate, how measured, how sensible and how restrained our amendment is when one compares it to the altogether more radical amendment which I suspect is shortly to be spoken to and which would delete Clause 28 altogether. I beg to move.

Lord Stevenson of Balmacara: My Lords, we have an amendment in this group. It is nice to be described as the radical party—I thought we had lost that tag. To be vigorous and radical with a proposal to delete a clause is always a good thing. However, our intention was exactly the same as that of the noble and learned Lord. The issues raised by the Constitution Committee needed a further outing, and he has expressed them in such a brilliant way that I see no need to add to that. I look forward to the Minister's response.

Lord Deben (Con): I beg the House's pardon, but there is a little bit of a problem here, given that this is exactly the time that we in this country should be very careful about our international obligations. As we are busy trying to untangle ourselves from entirely sensible international obligations because of very un-sensible policies, this is the moment to make sure we do not make any other mistakes, and I hope very much that we will pass this amendment.

Lord Ashton of Hyde: My Lords, I will address the noble and learned Lord's amendment and the clause stand part amendment together, but will just start with the noble Lord, Lord Deben, who talked about not making any mistakes in our international obligations. I respectfully point out to him that this international obligation was made in 1954 and has therefore been an obligation for a very long time. We all agree that we should pass the Bill so that we can ratify our international obligations and bring this into domestic law.

The amendment tabled by the noble and learned Lord, Lord Brown, and moved by the noble and learned Lord, Lord Brown, seeks to make the protection from seizure or forfeiture explicitly subordinate to any other international or EU obligations. It would enable a court to order the seizure or forfeiture of a protected object if it was obliged to make such an order by virtue of another international or EU obligation, whereas the present Clause 28 provides contains no such caveat. I understand the noble and learned Lord's intention is to address concerns about potential conflicts with other EU or international obligations.

I also understand that, as the noble Lord, Lord Stevenson, explained, the amendment to omit Clause 28 altogether was tabled with the same intention, but in fact I think it was really tabled so that we could have a discussion of these issues, which we are doing now. For the record, if the amendment in the name of the noble Lord, Lord Stevenson, were accepted, it would in fact prevent us from fulfilling any of our obligations under Article 14 of the convention and Article 18 of the regulations.

The matter of potential conflicts with other international or EU obligations was raised, as the noble and learned Lord said, by both the Constitution Committee and the JCHR. We have replied to explain that it is, in our view, highly unlikely—as, again, has been said—that a conflict would arise between our obligations under the Hague convention and those under other international or EU laws. Clause 28 is required to implement our obligations under Article 14 of the Convention and Article 18 of the regulations for the execution of the convention. It requires us to provide immunity from seizure or forfeiture for cultural property that is being transported to another country under special protection for safekeeping in line with Article 12 of the convention. It also provides for cultural property under special protection for which the United Kingdom has agreed to act as depository in order to safeguard the cultural property during an armed conflict.

It is our view, which is supported by academic commentary, that the obligation to provide immunity from seizure contained in Article 14 of the convention is absolute. It is worth noting that no state parties, including the vast majority of other EU member states, have made any reservations in relation to the immunity from seizure obligations. We believe, therefore, that accepting the proposed amendment would be incompatible with our obligations under the convention.

It is important to note that immunity will apply only in extremely limited, prescribed circumstances, and only during an armed conflict between states. Stringent requirements must be fulfilled for cultural property to be transported under special protection. Given those extremely limited circumstances in which immunity will be provided, we think it highly unlikely that a conflict could arise in future between our obligations under the Bill and any other EU or international obligation. We note that the Convention is a specialist treaty regulating a very particular subject matter in situations of armed conflict.

In addition, if there were ever any concerns about potential conflicts, the UK could refuse to accept transport of cultural property under special protection to or through its territory. It can also refuse to act as depository.

[Lord Ashton of Hyde]

The noble and learned Lord referred to comparisons that have been made between Clause 28 and the qualified immunity provided under the Tribunals, Courts and Enforcement Act 2007 to objects on loan to museums and galleries. Under that Act, the immunity provided is expressly subject to any international or EU law obligations that would require a UK court to order the seizure or forfeiture of the otherwise protected object. We can understand the reasons for the comparison, but it is our view that to make the immunity in the Bill automatically subordinate to all other international and EU obligations is unnecessary. The 2007 Act is a purely domestic piece of legislation designed to facilitate exhibitions at museums and galleries, whereas the Bill is implementing our international obligations to protect, in very precise circumstances, the world's most important cultural heritage in times of armed conflict.

We are unaware of any existing conflicting EU or other international law obligation and can take the necessary steps to avoid any potential conflict arising. We note that the vast majority of other EU member states will also wish to avoid such a conflict arising, given that they also are bound by absolute obligation to provide immunity. If a conflict did arise with our EU obligations, my officials advise that, if necessary, the courts would interpret Clause 28 as implicitly subject to EU law. If a conflict arose with international obligations, the UK court would be bound to apply the domestic legislation, but if the other international obligation had also been incorporated into our national law, the conflict between the two pieces of primary UK legislation would have to be resolved by the court in light of the relevant treaty obligations.

I hope that the House will understand that it is not our intention to elevate our obligations under the Hague convention above all other treaty obligations, but, equally, we do not think they should automatically be relegated to the bottom of the pile. With that in mind, I should be grateful if the noble and learned Lord would feel able to withdraw his amendment and that the noble Lord, Lord Stevenson, would withdraw his objection to clause stand part.

Lord Brown of Eaton-under-Heywood: My Lords, I am most grateful to the Minister for that full explanation of how the department sees this matter. I am reassured that it, too, would like to achieve the position where if, ultimately, in the improbable event that there is a conflict in international obligations that this country owes in respect of this property, it will be for the courts to resolve. I respectfully disagree that our amendment would make the obligations under the Hague convention subordinate. I respectfully suggest that they would have left the position substantially as the Minister says that we are now left with them: for the courts to determine any such conflict. However, I find his explanation as a whole altogether more satisfactory and reassuring, if I may say so, than that on the previous amendment and I therefore respectfully ask leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendment 7 not moved.

Neighbourhood Planning (Referendums) (Amendment) Regulations 2016

Motion to Approve

3.57 pm

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

That the draft Regulations laid before the House on 29 June be approved.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, the regulations set a latest-by referendum date in the final stages of the neighbourhood planning process. I beg to move that they be approved and come into force on 1 October.

Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and to shape the development and growth of their local area. For the first time, community groups can produce plans that have real statutory weight in the planning system. So far more than 1,900 communities across England, representing nearly 10 million people, have started the process of neighbourhood planning. More than 200 plans have passed a public referendum and are now in force. These plans are now the starting point for planning decisions.

We are fully committed to strengthening neighbourhood planning. The introduction of the neighbourhood planning Bill shortly will further empower local communities to get the homes and infrastructure that local communities need delivered as quickly and effectively as possible. But we need to ensure that the neighbourhood planning process is as simple and expeditious as possible so that communities see the benefits of their plan without unnecessary delays. Neighbourhood planning can take, on average, two to three years. Slow decision-making by local planning authorities can be particularly frustrating for communities and can discourage them from taking up neighbourhood planning. That is why we introduced a number of measures in the Housing and Planning Act 2016 that could speed up neighbourhood planning by an average of 17 weeks.

Complementing the new powers in the Housing and Planning Act is a power in Schedule 4B to the Town and Country Planning Act 1990 for the Secretary of State to make regulations prescribing a date by which the referendum must be held or before which it cannot be held. Holding a referendum is a key step required to bring a neighbourhood plan or order into force once it has been through public consultation stages and an independent examination. Where the neighbourhood area has been designated as a business area, there is an additional referendum for the businesses in the area. On average, referendums have been held within eight weeks of a local planning authority's decision to submit a neighbourhood plan or order. However, while some authorities have called a referendum within six weeks, others have set a referendum date more than 17 weeks after their decision to do so, and some have been far later even than that. This is why we

consider that it would be beneficial for new regulations to set out a clear expectation regarding the time period for holding a referendum.

In February, we consulted on proposals for these regulations as part of a wider package of measures. A summary of the responses to the consultation has been prepared and is available on the department's website, along with the Government's response. The proposal received considerable support, and a small number of technical amendments were made as a result of the consultation to ensure that the regulations could be implemented effectively. The details of the regulations have been agreed with the Electoral Commission and the Association of Electoral Administrators.

The regulations, if approved, will be an important safeguard to ensure that a minority of local authorities do not cause delays to the neighbourhood planning process. The regulations would require local planning authorities to hold a referendum on a neighbourhood plan within 56 working days of their decision that a referendum should be held, or 84 working days in certain more complex cases. The cases where the 84-working-day limit would apply are where there is also a business referendum; where the neighbourhood planning area falls within more than one local planning authority area; or where the local planning authority is not the principal authority responsible for arranging the referendum, as with mayoral development corporations or national park authorities.

There are three exceptions to the 56 or 84-working-day time limit. First, they are where a neighbourhood planning referendum can take place on the same day as, or be taken together with, another poll due to be held within three months of the end of the 56 or 84-working-day period described above; where there are unresolved legal challenges to the decision to hold a referendum; or where a local planning authority and the neighbourhood group agree that the referendum need not be held by that date. Those exceptions provide necessary flexibility to allow for local circumstances to be taken into account.

Neighbourhood planning has been hugely successful in making planning more accessible to local people. It empowers significant numbers of communities to take an active role in determining the future of their areas, and it is a principle that we can all agree on. This Government are committed to speeding up and simplifying the process so that even more communities benefit. It is important that we set time limits for key local planning authority decisions in the neighbourhood planning process to speed up and simplify the system in a sensible and pragmatic way, and I believe that that is what the regulations will do. I therefore commend the draft regulations to the House.

Lord Beecham (Lab): My Lords, the proposals that the Government embody in these regulations are of course accepted. I declare my relevant local authority interests, which are referred to in the register.

There are a number of questions I would like to put to the Minister. He told us that 190 communities have started the process, that being the figure contained in the background documents which are available in the Printed Paper Office, and that 200 communities have proceeded to implement—or at least to agree—a plan under this procedure. However, that is 200 out of 1,900 in three years. Can the Minister say how many of those communities abandoned their projects or had them rejected in that time? What is the average time for concluding the process? The Minister referred to a reduction of some 17 weeks which will flow from this provision: 17 weeks compared to what as the average time so far? Moreover, the documents reveal that 89% of those who voted—presumably of these 200—voted in favour of the plan as drawn. The question is: 89% of what? What was the actual turnout relative to the potential turnout in these votes? There might well have been 89% voting in favour, but that could have been 89 people out of 100 who took the trouble to vote in a community of some thousands. It is simply not clear. I would be grateful if the noble Lord enlightened us. I do not suppose that he has the information immediately to hand, so I would be grateful if he wrote to me and placed the answers in the Library subsequently.

One of the problems for local authorities is that the planning service is under huge strain. Often, local authorities are reducing the number of planning officers because of the financial constraints on them. The Government, in paragraph 39 of their response to the consultation, indicated that they would enter into,

"updated arrangements for funding local planning authorities".

Perhaps the noble Lord can enlighten us as to what progress has been made in that respect. As I understand from the documents, the Government do not accept that this process was a new burden, although any local authority would surely have thought it was, in the sense that it is a new responsibility which has been created, however welcome it may be. What funding is to be made available and what estimate has the department made of its impact on the number of officers who would be enabled to carry out this work, which would be in addition to the current work of planning departments, which are already considerably overstrained?

If we are looking at timescales, what are the Government doing about the hundreds of thousands of planning permissions granted for development upon which no action has been taken? We have here a measure which prescribes a very limited timescale, understandably in many ways, because in the most part we are not talking about large projects. However, what is sauce for the local government goose does not appear to be on the menu for the developer gander because long-standing planning permissions are simply lying on the table. At a time when everybody acknowledges the need for hundreds of thousands of new houses to be built, it seems extraordinary that the Government are prepared to impose a pretty rigid—I concede it is not entirely rigid—timescale for the processing of these plans, but no timescale at all on the implementation of planning permissions granted, in many cases, some years ago. Will the Government look again at the question of imposing a timescale for planning permission for significant developments to be implemented, rather than simply leaving it to the developer—who is presumably hanging on to the land in the hope that ultimately prices will rise and greater profits will accrue—when there are many, many people looking for new homes to buy or rent? The principle here, which is a fair one,

[Lord Beecham]
is to make progress on community plans, but can we also see some progress on the carrying out of development in accordance with permissions already granted?

Lord Foster of Bath (LD): My Lords, I am pleased to follow the noble Lord, Lord Beecham, although it was very difficult to gauge from his remarks to your Lordships' House whether or not he supports neighbourhood planning. I make it very clear that I am a huge supporter of neighbourhood planning and neighbourhood plans, which arose from the Localism Act 2011. I was delighted that the Minister made very clear his support for them. I entirely support his and the Government's desire to speed up and simplify the process so that still more communities can benefit from the opportunities that neighbourhood planning will bring to them.

I share of course the concern of the noble Lord, Lord Beecham, that the Government are often very keen to impose tight time limits on other bodies whereas they themselves do not necessarily have to live up to similarly tight timescales. But in the area of neighbourhood planning and enthusiasm for it, while I entirely support these measures, I ask the Minister to look carefully at the departmental website and the way in which it increasingly does not show the same initial enthusiasm for neighbourhood planning that perhaps once existed. For example, the departmental website has had a series of notes on neighbourhood planning. It currently goes up to addition 17—at least, that is what is available on the department's website. In 2015, additions 14, 15, 16 and 17 were spread over roughly three-monthly periods. Yet, as far as I am aware, there has been no further note on neighbourhood planning from the department. Will the Minister identify whether they exist and, if so, whether they can be given more publicity because they contain—at least up until December—some very interesting and helpful information for local communities that want to go down the neighbourhood planning route.

While on the issue of the departmental website, will the Minister agree to take on a small exercise when he eventually gets home tonight? Will he see whether he can find on the departmental website the results of the consultation to which he referred? No fewer than five people have worked with me on trying to find it. It was only with the help of the very efficient staff in the Library that we were eventually able to find it. But I note that the details provided on the website are somewhat different from the information provided in the Explanatory Memorandum. For example, the website says that there were 362 responses to the consultation but the Explanatory Memorandum says that there were only 321.

The point is that the report, which can eventually be found if noble Lords take the time to get to it, does not provide any helpful information whatever. Clearly, any noble Lord who wishes to participate in this debate would want to know what the objections were from those councils that were not happy with the proposal. The report merely says that the vast majority were in favour and that a few came up with some suggestions for changes. I hope that the Minister will agree to publish a fuller document on the responses to question 5.6 of the consultation.

Having been somewhat niggly, for which I apologise to the Minister, I will say that I entirely share his enthusiasm for neighbourhood planning. In my brief time as a Minister in the department, I had an opportunity, along with Mr Nick Boles, to see many community groups working on them and know the real benefit that they can bring to communities.

Baroness Oppenheim-Barnes (Con): I hope that my noble friend will clarify a few points for me as I found the intervention of the noble Lord, Lord Beecham, extremely interesting. What role has the main local authority planning officer in this procedure? Can he at any time override or question—possibly for good reasons—conclusions that have been reached? Have any estimates been made of the cost of carrying out these new procedures, and who will pay for them? Finally, will ordinary planning proposals that the local authority planning people are looking at be delayed because they will have to pay close attention to this procedure?

4.15 pm

Lord Kennedy of Southwark (Lab): My Lords, first, I welcome the noble Lord, Lord Bourne, and congratulate him on his new appointment and responsibilities. I know that he has been in the job for some time but this is the first time I can formally congratulate him and wish him well in his new position. We will not agree on everything but I assure noble Lords that I will engage constructively with him on all matters in his brief that come before your Lordships' House. Where we believe that the Government have got it right I will happily say so, and when we offer alternatives from this Dispatch Box it will be because we believe that there are better solutions to the problems being considered. I also declare that I am an elected councillor in the London Borough of Lewisham and a vice-president of the Local Government Association, and in general refer the House to my declaration of interests.

I am a supporter of neighbourhood planning and allowing maximum community involvement in decisions that affect local communities. As I have told the House before, in the ward I represent on Lewisham Council, Crofton Park, we are developing a neighbourhood plan. We hope to be able to submit it to the council early next year and then proceed quickly to a referendum. It is right that a referendum is held as soon as possible and in most cases 56 days, as the order allows for, gives enough time to undertake and prepare for the vote but also means that it is still a fresh and live issue locally and is not allowed to drift. There are a few alterations to that when situations are a bit more complicated, as the noble Lord, Lord Bourne, outlined, and allowing a group and the council to agree sensible variations to enable the poll to coincide with a local event or an election that is taking place in three months in the same area is sensible and has my full support.

I agree with the points made by my noble friend Lord Beecham in his contribution to this debate, in particular on the funding proposals that will be made available. I hope that the Minister will respond to those.

That brings me to the assertion, which we heard many times from noble Lords opposite during the passage of the Housing and Planning Act, that somehow all these councils are dragging their feet and holding up all these planning applications and all this development. That assertion was made many times and I remember putting a few Questions down, which showed, as my noble friend highlighted, that literally hundreds of thousands of applications have been passed by local authorities but nothing has happened. I know of one in my own ward: an application went in to put some new shops and houses on a big site, but all that has happened is that a sign has gone up which says, "Full planning permission given". Nothing else has happened —it just sits there. So local planning authorities are not the problem; there are thousands of sites that we need to deal with and get on with. I hope that the Minister will be able to bring some solutions to the House in the future.

I could go on but I am supportive of what is in the proposals here and I am happy for them to be approved.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in this debate. I shall try to pick up the various points—there are some interesting ones—in the order in which they were made, so I will first address those made by the noble Lord, Lord Beecham. He raised questions about how many plans have been abandoned. Communities are beginning the process on a daily basis. Some 450 draft plans have been published and we are supporting communities through this process. I will give the noble Lord some indication of the financial assistance in a minute. He also asked about turnout of voters and kindly said that I probably did not have the precise figures for all areas at my fingertips, which was an accurate summary of the position. However, so far, the average turnout of voters across referendum areas has been 32%, which I think he will acknowledge is in line with local authority elections generally. Obviously there is some variation; I will get a letter to him giving a more detailed breakdown and I will put it in the Library as well, so that noble Lords have access to the information.

The noble Lord quite validly asked about the funding available, I think for neighbourhood planning in general and perhaps for the referendum process in particular. We are funding neighbourhood planning with a £22.5 million support programme from 2015 to 2018. On referendums, money is available for every planning authority—£5,000 for each of the first five neighbourhood areas they designate and £5,000 for each of the first five neighbourhood forums; that is, where there are businesses that they designate. In addition, they will receive £20,000 when they set a date for a referendum following a successful examination of a neighbourhood plan. So money is available for this process because there is a cost associated with it.

The noble Lord will correct me if I am wrong but I think he is supportive of neighbourhood planning. He is indicating that he is so, gladly, we can get that on the record. He made a more general—somewhat off-piste—point about the regulations for planning applications. I hope he will accept that that is perhaps the subject of a debate for another day. I recognise that it is an issue to look at and perhaps we can do so in a QSD or during debate on the forthcoming Bill. I acknowledge that there is an issue there but I do not think it should detract from this very specific matter, which I believe he supports. Certainly the noble Lord, Lord Kennedy, indicated support for it from the Front Bench.

I thank the noble Lord, Lord Foster of Bath, for the general support he offered. I know he has a good history on this issue in the Commons. We will be looking at the website in the light of his comments on the general position and the specifics, and we will obviously update it in the light of the new regulations—as I hope they will be at the end of this debate. However, I thank him for his general support for the concept of neighbourhood planning and for these regulations.

My noble friend Lady Oppenheim-Barnes made a point about a possible legal challenge on the costs. There are costs associated with referendums. I suppose it is rather like the cost of democracy in holding elections in general, where there will always be a cost. The planning officer cannot override neighbourhood plans or, under these regulations, hold them up unless there is a valid legal challenge, which will have to go through the courts. I readily acknowledge that hold-ups occur across local authorities under different political control—there is no partisan point here. I could name the authorities in question and am almost tempted to do so. However, the longest hold-up is 400 days, which is too long. Frankly, that is why we are bringing these regulations forward. We want to ensure that neighbourhood planning is given the boost that it needs.

Finally, I thank the noble Lord, Lord Kennedy, for his typical graciousness and generosity from the Front Bench. I also thank him very much for the constructive approach that he always brings to bear in looking at government proposals, and I look forward to our exchanges across the Dispatch Box. I am sure his contributions will be well thought-out and helpful, as they always are. I come back to the general point from the noble Lord, Lord Beecham, on planning, which he supported. Yes, let us have a look at that, although it is perhaps something to be dealt with on another day because it is a bit off-piste in relation to these regulations.

Motion agreed.

Committee on the Equality Act 2010 and Disability Report

Motion to Take Note

4.22 pm

Moved by ***Baroness Deech***

To move that this House takes note of the Report from the Committee on the Equality Act 2010 and Disability (Session 2015-16, HL Paper 117).

Baroness Deech (CB): My Lords, this Motion could not be more timely. I quote the Prime Minister, who said on her first day in office that we need to build a country that works for everyone. She said that every child should be allowed to rise as far as their talents

[Baroness Deech]
will take them and that birth should never be a barrier. The Select Committee on the Equality Act 2010 and Disability agrees. The Prime Minister has ordered an audit of the equality of treatment by public services. Our report was ahead of the game and delivers for the Government the very audit that she is seeking. It shows the inequality that was uncovered, with straightforward remedies to remove unfairness. If our recommendations are acted upon, a prime ministerial goal will be achieved.

What I learned during my chairmanship of the Select Committee, which was a privilege and an enriching experience, was that disability potentially affects nearly everyone in the country. Our report contains statistics that show that, as we all live longer, it is very likely that our last few years will be spent with a sight, hearing or mobility impediment. Indeed, the number of years spent living with disability is increasing. One has but to look around your Lordships' House to see how true this is. Therefore, our report addressed how to ensure that employment, travel, education, information and even politics are accessible to all of us, whether born disabled or affected by injury or simply old age.

First, I thank our skilled and committed clerk, Mr Collon, and his team, who went beyond the call of duty. I also thank our members, several of whom have first-hand experience of the impediments described in our report. Special thanks go to our witnesses, some of whom were severely disabled and yet conveyed to us in a moving and articulate way how they battle against the insouciance with which some employers and organisations fail in their simple duties under the Act. We were also the first Lords committee to take evidence in sign language.

Our committee was charged with post-legislative scrutiny of that portion of the Equality Act dealing with disability. Our task was to consider the adequacy of the law. Has it strengthened disability discrimination law? Are there gaps in legal protection against discrimination that impact on the ability of disabled people to play their full role in society? Are reasonable adjustments being made in relation to access to goods and services and to employment, bearing in mind that it is government policy to reduce unemployment among disabled people? Is enforcement of their rights effective and accessible? Is the Equality and Human Rights Commission doing all that it can in this regard? The answer to those questions in our report, after investigation, was a resounding no.

Having pointed out the repercussions of our longer lives, we concluded that we must plan for the inevitability of disability and mainstream adjustments in buildings, services, travel and licensing. Every organisation and every branch of government should be pro-active in planning for disability access, not wait for problems to arise and then be so slow in solving them that the disabled person loses the opportunity to enjoy the service.

We need to listen to disabled people explaining their needs. They themselves need to be made aware, as we all should be, of their rights. Sadly, as is common now throughout the legal system and its users, the law and the courts are failing as enforcement mechanisms through lack of legal aid and increased fees. Disabled people need champions at law and a champion in government so that when cuts, benefits or new laws are considered their needs do not slip through a gap. The cumulative impact of cuts and new laws must be taken into account in order that the gravity of the situation is fully revealed.

Once the evidence of our report is taken into account, it is impossible for any Government—except a nasty party—to ignore our recommendations, which have been crafted to be almost cost free. We need willingness on the part of government to take care of all our people, and we need organisations and services to be forced to adapt if the softly-softly approach does not work—and I am afraid it has not. We were disappointed with the government response in July, which in general I can sum up by calling it buck-passing and the dragging of heels.

We have all enjoyed the Olympic Games this summer and look forward to the Paralympics with enthusiasm. Yet when it comes to ensuring that sports grounds are open to all, regardless of disability, the Government are stalling; as they are in relation to ensuring audio-visual guides on all buses and alterations to common parts at the request of the tenant and at his or her expense. There is simply no need for any more consultation or pilot schemes. We show that the need is clear and the actions straightforward and cost free to the taxpayer. The Bus Services Bill passing through the House at the moment is a good opportunity to ensure audio-visual provision on all buses. The DfT calculated that this would cost only £5.75 million a year to apply to all new buses.

A recurring theme in the government response is that conversation and raising awareness achieve more than regulation and are cost free. Sadly, the evidence in our report shows that this is a faulty belief. For example, although we demonstrate that tribunal fees have almost certainly led to a fall of 68% in discrimination claims, the Government attribute this to an improving economy and alternative dispute resolution. We do not agree. We recommend that more new homes should be wheelchair accessible, but the Government want to leave that change to local authorities.

There is so much thoughtlessness. We heard from a disabled tenant who had to wait three months for an advocate to read the tenancy agreement to him because it was not anyone else's job. There are banks that phone deaf customers, who cannot hear them, while the bank refuses to speak to anyone else. There are announcements at railway stations of platform changes which are missed by those who cannot hear them. There are employers who will not accommodate those who have to take insulin. There are mothers with huge baby buggies who will not yield to wheelchair users—I wonder whether it is not time for a limit on buggy size on public transport, rather like the limits on hand luggage on planes. There is the pedestrianisation of shopping centres and shared space traffic management which removes safe places for disabled people to cross and to park.

Government activity and ongoing government reviews have, it seems, been long drawn out. There is no need for more reviews and talk. We need action. "Law-law is better than jaw-jaw", if I may adapt a phrase. Now

that we have a new Government with a new equality policy, is it too much to hope that the government response will be withdrawn and rewritten to reflect their more inclusive and more socially mobile goals?

Another theme in the government response is the failure to recognise the burdens that existing inadequate law enforcement places on disabled people, whereas, by way of contrast, the Government are only too sensitive to burdens that might fall on, for example, taxi drivers or landlords if they had to make the adjustments that the law—on the books, at least—requires. Removing red tape is all very well, but that red tape does not vanish into cyberspace: it falls as a strap, tying up the efforts of disabled people to join in the activities and employment that they want and are entitled to.

Other noble Lords will examine particular aspects of the scope of our inquiry; I can touch on only a few. The EHRC joins with us in wanting the Minister for Disabled People to be a member of the Cabinet social justice committee. It is not enough for the Government to respond that he or she should be present only when specific disability items arise. We call for him or her to be a constant member in order that issues that affect disability, which may or may not be on the surface, are not overlooked.

The EHRC agrees with us that a cumulative assessment of the effects of new laws on disabled people is feasible and practicable. We call for this impact assessment, which would do so much to ensure that the needs of disabled people are never overlooked in the government programme.

Some of what we recommend can be easily and cheaply achieved. Section 36 of the Equality Act has not been commenced, and it is shocking how many sections of that Act lie dormant, ignored and uncommenced. That section provides that disabled tenants may ask the landlord to agree to alterations to common parts of blocks of flats to facilitate access at the tenants' expense. The landlord has to agree if it is reasonable. The Government's excuse for not activating this is that they are waiting for results from the Scottish experience of this provision. However, as the Scottish regulations have not been made, there is no such experience. The Government reviewed this area of the law in 2005 and have announced another review, apparently concerned that landlords might be deterred from renting to disabled tenants. This is speculation. This is Alice in Wonderland:

"I give myself very good advice, but I very seldom follow it".

There is no need for any more reviews—just do it. Which is a way to call on the Government to implement this section forthwith.

Another example of reticence on the part of the Government in helping disabled people at no cost is the interpretation of the public sector equality duty under Section 149 of the Equality Act, which requires public authorities to have due regard—note that it is "due regard" and no more—to the elimination of discrimination and the advancement of equality of opportunity for those with protected characteristics. Witnesses before our committee urged us to recommend to the Government, as we do, that the PSED section should be amended to ensure that public authorities do not just take account of equality but actually take steps towards achieving it in the carrying out of their duties. Will the Government back an amendment to achieve this? It is no answer to say that a further review will consider it. Our witnesses gave us all the evidence that one could reasonably need to support this conclusion.

Other noble Lords will address the issue of travel—perhaps the most significant and comprehensive issue facing disabled people and all of us, and one where we were shocked to discover that provisions about taxis and disabled people have been sitting on the statute book ignored and uncommenced for 20 years. Over that period, the Government have flouted the will of Parliament in this matter and this must stop. Provisions to enable taxi drivers to claim health exemptions from helping disabled passengers have been commenced but not the substantive provisions to assure disabled passengers that they can get into a taxi and not be charged extra. Although it has been announced that by the end of this year—why so long?—the core duty set out in Section 65 of the Equality Act will commence, some other important sections about the details of accessibility remain frozen and vital regulations cannot be made. This is incomprehensible and we call on the Government to commence the entire chapter of the Act; otherwise, one can conclude only that yet again the Government are more mindful of the alleged burden on taxi drivers and local authorities than the real burden on disabled people. The Government want to see disabled people in employment and the lever is in their hands.

In general, our report has secured the backing of the EHRC, itself hamstrung by the lack of resources it has suffered and by the inclusion of disability as just one of the many characteristics it has to protect. It agrees with our report that it should be able to offer conciliation services where there is an employment dispute. We see no reason why the Government should disagree with that. Nor is it possible to understand why the Government ignored our recommendation and the will of the EHRC in relation to the Equality Advisory and Support Service helpline. The EHRC agreed that it wanted this service returned to it either in-house or as contract manager. The Government flouted that request—and the recommendation set out in our report—by themselves tendering for the service in April of this year. The EHRC will get to sit only on the project board. This is in itself incomprehensible.

To whom was the contract to run the helpline given, which is so valuable to disabled people seeking advice that they call it a lifeline? It has been given to G4S. We have all read about G4S in the news recently, because the Medway secure training centre which it runs was condemned for growing levels of violence. It was G4S which failed to provide adequate trained security staff for the 2012 Olympics. An Angolan deportee died while being restrained by G4S staff. It is reported that G4S ran a call handling service in a police control room to which hundreds of bogus calls were made to enable it to meet its target. The company is described by the *Guardian* as an,

"endlessly scandal-hit global security firm".

The internet is awash with sites questioning the exercise of the tender, and I echo them. The precious lifeline

[BARONESS DEECH]
for the disabled person who is seeking advice does not seem to be safe in G4S's hands, so it must go back to the EHRC.

All in all the Government's response has been ill-informed, and with a new Government the committee calls on them to withdraw that response and start again. The committee is fortunate in that the House of Commons has set up a Select Committee on Women and Equalities whose chair, the right honourable Maria Miller MP, is interested in picking up our work of promoting the interests of disabled people. We are fortunate to have its backing. I assure the Minister that she and the Government have not heard the end of this. That is because, taken overall, the recommendations of our Select Committee were about promoting a more inclusive and socially mobile society. If this is a genuine goal, our recommendations cannot be ignored.

In sum, we call for the restoration of the Equality Advisory and Support Service and conciliation services to the EHRC. We call for a cumulative impact assessment of the effect of cuts and financial changes on disabled persons; for amendments to the PSED, buses Bill and licensing objectives; and for technical guidance to be laid before Parliament as codes of practice. We call for the Government to take up the Accessible Sports Grounds Bill, promoted by the noble Lord, Lord Faulkner, a member of the committee; and in general we call for a fresh approach—a positive and holistic one—to every member of society who is not 100% young and fit, and that means all of us eventually. I beg to move.

4.41 pm

Lord McColl of Dulwich (Con): My Lords, first, I congratulate the noble Baroness, Lady Deech, on securing the debate. I also pay tribute to her. It was a pleasure to serve under her chairmanship of the Select Committee for this inquiry.

It will not surprise noble Lords to know that, as a member of the committee, I agree with the noble Baroness. Quite simply, more must be done. As she mentioned, legislation to prevent disability discrimination has been on the statute book for more than 20 years. In spite of that, here we are in 2016 and many disabled people continue to be excluded from public buildings, public transport and other services. This is, frankly, unacceptable.

I will centre my contribution on access to transportation. For any person, access to transportation is essential to play a full role in society: to get to work, school or university; to attend community, cultural or sporting events; to attend medical, legal and other appointments; and so on. Yet, the evidence to our committee demonstrated that this was one of the areas in which disabled people face the most challenges—challenges that have significant wider consequences. As the evidence we received from the group Transport for All makes clear:

"The difficulties disabled people face using transport is one of the major factors behind our exclusion from work; from healthcare; from education and from public life in general".

Unless we take seriously the need to make our transport systems accessible for all, we will never succeed in providing disabled people equal access to many sectors of public life.

I begin by examining the situation of access for disabled people to taxis. As was acknowledged by many who gave evidence to our committee, the door-to-door nature of the service provided by taxis and private hire vehicles makes them particularly attractive to those for whom public transport may not be suitable. The committee heard that two-thirds of wheelchair users say they have been refused a taxi. Others report having been charged extra. Back in 1995 Parliament passed provisions in the Disability Discrimination Act to prohibit both these actions, yet successive Governments have failed to bring those laws into force.

Fifteen years after passing the original laws, Parliament reiterated its commitment to the necessity of legal protections to ensure taxi services are made available for those who use wheelchairs by incorporating them into the Equality Act 2010. Yet, six years later, those provisions are still not in force. I therefore welcome wholeheartedly the Government's commitment in their response to the committee's report that they,

"will now proceed to bring the measures into force, aiming for commencement by the end of 2016".

Today I ask the Minister not only for details of when we can expect the commencement of Sections 165 and 167 of the Equality Act 2010 but for her assurances that the Government will put into place clear guidance and structures to enforce these duties.

I accept that there may have been a need for a transition period to ensure that taxi businesses are able to meet the requirements but 20 years is far too long to wait. I hope the Minister will give the House an assurance today that the commencement timetable will ensure that the duty will be applied as soon as possible. As we said in our report, we do not see that taxi drivers,

"can complain about the burden of converting their taxis to be wheelchair-accessible, since they have known for 20 years that this might happen".

For too long the interests of taxi businesses have been placed above those of disabled people. This was clearly demonstrated by the fact that the provision allowing for exemption was brought into force almost six years ago without any parallel introduction of the duty itself. This must change. I am hopeful that with the commencement of Section 165, the Government will begin to redress that approach.

Ensuring that taxis are available for wheelchair users requires more than just commencing Section 165. We need local authorities to take a lead in supporting and encouraging taxi drivers to be open and able to carry disabled passengers. Local authorities must use their licensing powers to nudge and, where necessary, require taxi businesses to make their vehicles accessible for disabled people, as well as ensure that drivers receive disability awareness training. We must make vehicle accessibility and disability awareness a part of licensing obligations. The past 20 years have shown that leaving it up to the good will of drivers, or expecting the purchasing power of disabled people to produce accessible taxis for all, simply does not work. I welcome the Government's promise in their response to our report that they will be producing guidance for local authorities, and considering how licensing regimes

should incorporate accessibility criteria. I hope the Minister can give us some good news about that process.

I shall now address some other key concerns relating to transportation which arose in the course of our inquiry. First, there is no doubt that wheelchair accessibility has improved since the first disability discrimination legislation, as evidence to the committee demonstrated. However, far too many buses, trains and stations are still not accessible by wheelchair. We heard the shocking story of Crossrail—it is scarcely believable that it was considered acceptable for a new piece of public transport infrastructure built in the 21st century to have seven stations without step-free access. Much more training, transparency and accountability are required to ensure that all future new-build public transport infrastructure has wheelchair access throughout.

Accessibility is also an issue in many bus stations around the country. That is why the committee has recommended that Network Rail, Transport for London, train operators and bus companies around the country should put more resources into making their stations and vehicles accessible for wheelchair users. There is particular need for improved services in rural areas, where public transport is already much less readily available than in larger towns and cities. Companies should not need the threat of enforcement proceedings before operators comply with existing regulations. The Public Service Vehicle Accessibility Regulations 2000 came into force for single-deck buses earlier this year and will do for all double-deck buses by 1 January 2017. It is essential that these regulations are enforced by the Driver & Vehicle Standards Agency.

The evidence we received in the inquiry also highlighted that accessibility is not simply a matter of putting rules and infrastructure in place, though those are undoubtedly necessary. Stations and trains are accessible only if that infrastructure is maintained and the necessary equipment and staff are provided. We heard one terrible story of a lady who, despite her best efforts in communicating with the guard on the train, was completely forgotten, so she missed her stop not once but twice, which resulted in her being dumped at a completely different station and having to phone her husband to come and collect her. As the Disabled Persons Transport Advisory Committee told our inquiry:

> "Although much of the basic accessibility provision is now in place through the construction requirements for rail and bus ... there is little effort going into making sure that accessibility features are consistently in place and working".

We need bus and train operators to put sufficient resources into maintaining as well as building this accessibility infrastructure.

Another form of physical infrastructure which is vitally needed is audio-visual annunciators. For passengers who are hearing or visually impaired, the making of announcements via both visual and audio media is essential for them to utilise the bus and rail network. Evidence to our committee highlighted the discrepancy between the regulations for trains, which include requirements for audio-visual information, and for buses, which do not. This lack of regulation seems to have led to a situation where very few bus companies outside London have installed audio-visual annunciators on their buses. The importance of annunciators was shown clearly by information from the organisation Guide Dogs, which showed that seven out of 10 bus passengers with sight loss have been forgotten by a bus driver who was asked to let them know when the bus reached their stop. As Guide Dogs told the committee:

> "For a sighted person, missing a stop is an irritating experience; for somebody unable to see, it is distressing, disorientating and sometimes dangerous".

It is clear that more resources should be devoted to providing annunciators. Particular attention must also be paid to the production of new buses. There are already requirements that no new trains be put into service without having audio-visual information systems and we need the same requirements for buses.

I was disappointed that the Government's response to our committee's report rejected our recommendation for the mandatory installation of annunciators in new buses via the Public Service Vehicles Accessibility Regulations 2000. The evidence is that without such regulations, the industry will be slow to respond to the needs of visually and hearing-impaired passengers. While I appreciate that the Government are concerned about placing too onerous a burden on bus companies, I do not believe that our committee's requirements are in fact onerous. We were told by Transport for All that these information systems form only 1% of the cost of a new bus—a minimal cost for such a facility. It would increase the ability and confidence not only of passengers with sight or hearing loss but of those with learning disabilities and any passengers making unfamiliar journeys. I ask the Minister to explain today the Government's reasoning for determining that a requirement for new buses to be fitted with annunciators would be too burdensome and invite her to commit to reconsidering the committee's recommendation relating to new buses specifically.

Fitting information systems to buses already in service may be more costly and our committee therefore did not recommend that such action should be mandatory, although we do urge bus companies to put more resources into fitting annunciators to all their vehicles. I also welcome the Government's support for initiatives to develop lower-cost information systems and new technologies which may make it easier and cheaper to assist disabled passengers overcome these challenges in using buses, especially on older buses which do not have audio-visual annunciators fitted.

Finally, it is essential that staff operating public transport have adequate training on disability equality. There will always be individual staff who fail to act in accordance with the training and guidance they receive, but ensuring widespread, consistent delivery of training of a sufficient standard is an important factor in reducing incidents where staff fail to respond to disabled passengers in an appropriate way. If we are to see the standards of staff behaviour improve across the board then we need to have an agreed level of training for all bus, coach and rail staff. Without it, levels of training, and thus the quality of services, will remain patchy across the country and divergent between different companies. Training for front-line rail staff is already mandatory as a condition of the licensing regime. I fail to understand why a similar requirement cannot be placed on bus operators. I welcome the MacDonald review that the Government have commissioned into

[LORD MCCOLL OF DULWICH]
delivering disability awareness training in the transport industry and hope that the Government will seriously consider the recommendations of both that review and our committee. Too often we found in the course of our inquiry that, across many sectors, a desire to remove so-called red tape and to avoid burdening business has resulted in a failure to enforce or prioritise disability equality. We must take a longer, harder look at where we set our priorities.

I conclude by again welcoming the Government's positive response to some of our committee's recommendations but also by urging a reconsideration of the others I have mentioned.

4.58 pm

Baroness Prosser (Lab): My Lords, I join other noble Lords in thanking the noble Baroness, Lady Deech, for bringing this report to the attention of House. I also thank those members of the committee who worked on producing the report. It is a thorough, excellent piece of work. I hope the Government are prepared to take seriously the recommendations in it.

The report comments on the Government's preference for progress over process. Largely, I agree with it, but it has to be understood that hindrances to the ability of any of the protected groups covered by the 2010 Act to access services which the rest of us take for granted are almost always systemic. Recommendations within the report regarding greater co-operation across departments, giving more seniority and clout to the responsible Minister and taking note and acting upon which bits of legislation are or are not working well should be music to the ears of the Government because those changes do not generally cost any money but could make a world of difference to those who need the services. Having said that, nothing much else in life is for nothing. There are two areas of concern that I want to raise, both of which come down to what I and many others see as likely damage to the service that can be provided by the Equality and Human Rights Commission resulting from a lack of sufficient funding.

First, recommendation 10 in the report requests that the Equality Advisory and Support Service, known to everybody as the helpline, be brought back into the commission's house. We know now that this will not happen because the Government Equalities Office has tendered the work out and the service will now be provided by G4S. The noble Baroness, Lady Deech, has already gone into this in great detail; she set out some of that company's activities in recent years which have come to the attention of the public and the authorities and which do not put it in a good light. Commenting that giving this work to G4S may be a bit surprising could be described as a massive understatement. It does not have a reputation for a deep and clear understanding of the needs of vulnerable people.

It is worth pointing out, however, that there are a number of areas of concern contained under the 2010 Act for which the Equality and Human Rights Commission is responsible. A variety of people with different needs may well be calling the helpline, not just those with disabilities. I question whether members of the black and minority ethnic communities will feel confident or comfortable phoning G4S, given the company's background in its treatment in many cases of people from those communities. How will the requirements of the service for a helpline be met by G4S? What training programmes have been put in place and have been required? What follow-through will G4S be expected to provide for callers with ongoing needs?

Secondly, there is the overall budget of the Equality and Human Rights Commission. The commission's duties cannot be produced out of thin air. The continuing reduction in staff numbers and in money for planned projects will obviously have a major impact on staff morale and on the staff's ability to deliver a service. It also sends a message to society at large regarding the seriousness with which the Government take this agenda. Does the Minister agree that the growing lack of public confidence in the likely success of the austerity agenda for the economy generally and for society in particular should lead to a rethink of the policy of continuing cuts to public service? I welcome the comment of the noble Lord, Lord McColl, that what is always referred to as red tape, as though it is always a blooming nuisance, is quite often the provision of work and service upon which people depend. The noble Lord's comments focused largely on transport issues, which are hugely important. He called upon the need for various kinds of investment but also changes in attitude. The Government's stingy attitude towards the funding and provision of equality services is hardly likely to enthuse others when it comes to positive thinking for this agenda.

Finally, the one recommendation in the report with which I do not agree is for a separate decision-making disability committee. That was the case when the Equality and Human Rights Commission was first established—a correct decision at that time, because dedicated work at a national level on disability was then very new. However, the commission has responsibility for issues relating to all protected groups, and it is my opinion, having been deputy chair of the commission for six years since its inception, that disability issues are likely to be much better served within the overall family structure of the commission as a whole.

5.05 pm

Baroness Thomas of Winchester (LD): My Lords, I have been about this House in one capacity or another for nearly 40 years, and it struck me at the beginning of last year that the progress disabled people have made and the noise they have had to make in order for things to change had all but ceased. I pay tribute to all the many disabled Peers who manned the barricades during that time from this position in the Chamber, which led to this area being called the mobile Bench—almost certainly the smallest but most formidable group in the House during the 1980s and 1990s.

Cut to 2010, when the Equality Act hoovered up all people with protected characteristics into a single Act, repealing the landmark Disability Discrimination Act 1995, which my noble colleague Lady Campbell of Surbiton had such a lot to do with. Was this why the voices of disabled people had stopped being heard and progress seemed to have ground to a halt? Or was it

simply assumed that the rights of disabled people were done and dusted? Whatever the reason, it was a worry, so I was very pleased that the Liaison Committee agreed to set up this committee to look afresh at the disability provisions in the Equality Act under the banner of post-legislative scrutiny. We could not have been better served by our chairman and staff, and I feel immensely proud of our report. It is so clearly written that it is a really good read, and we all hope it will inform the debate on the rights of disabled people for many years to come, especially if its recommendations are acted upon.

All through the report, the voices of disabled people who gave us their views come through loud and clear. I just wish that these same voices could be heard more of the time across all government departments. We do not just talk about dry-sounding, although important, matters such as the public sector equality duty but about the lived experiences day to day of disabled people and what happens to them when no one appears to be checking to see whether the Act is being adhered to.

There was one subject dear to my heart which we could not tackle, and that is the benefits system as it affects disabled people, because that flows from various welfare reform Acts, not the EA, and so was outside the scope of our inquiry. But there was a crossover in our recommendation 35 for a cumulative impact assessment—which has already been referred to this afternoon—to be undertaken on fiscal measures introduced by the Government which may disadvantage disabled people. This is something many organisations have been calling for, as there is now an increasing number of disabled people living in poverty. As we have heard, there is a difference of opinion between the Government and the EHRC on this. I urge the Government to listen to the EHRC and carry out the impact assessment as a matter of urgency.

There was a real problem with including disability in one Act with the other protected characteristics, because disabled people do not just want equal treatment; they want reasonable adjustments made so that they can live their lives to the best of their ability—which does, yes, in many cases mean receiving special rather than equal treatment. But the report does not call for the Equality Act to be unpicked, and nor did most of our witnesses. We certainly suggest changes to both primary and secondary legislation—we have heard about many of them already this afternoon—but many of our recommendations do not require legislation and are cost neutral.

Before leaving the question of disability being swept into the EA, it has been illuminating to note, as our chairman did, that inequalities are now top of the new Prime Minister's agenda, but she has not so far talked about disability as a subject to be addressed under that headline. I hope that that changes soon.

While on the subject of the Prime Minister's agenda, it is worth looking at where disability sits in government. Our Minister is now Penny Mordaunt MP, whom I welcome to her role, and who I am pleased to say is a Minister of State, unlike her predecessor. She is the sixth Minister for Disabled People in six years—there is no long service medal in this role—and we hope that she will really champion the rights of disabled people across government. It has been very dispiriting for those of us who try to establish a good relationship with a Minister over several months to find that we have had to start all over again with yet another Minister after such a short time.

We are now in a time of flux when there is a great deal of change in how the Government are organised. The Government Equalities Office sits at present in the Department for Education under the Secretary of State for Education and Minister for Women and Equalities, but the Office for Disability Issues, which was set up to provide coherence across Whitehall on disability matters, sits in the DWP, along with the benefits system, thus not helping with the perception that all disabled people are to be characterised as benefit claimants at best and scroungers at worst. It is important for this part of the DWP to stop emphasising what it cannot do, take a grip and start being much more proactive, particularly if the Government are serious about trying to halve the disability unemployment rate, which needs a huge step change of activity from both the Government and the EHRC if it is ever to happen. We were expecting a Green Paper about that later this year, but goodness knows where that has got to.

Thousands of disabled people are very keen to contribute to this country's economy and become active participants rather than just recipients of benefits, but they need help to make employers aware of what they need, or do not need, in the workplace by improved guidance and examples from the EHRC of reasonable adjustments and transport, including taxis, that is accessible and reliable, with disability training made mandatory.

Before leaving the whole subject of where disability sits across Whitehall, I wonder whether the very fact that it spans almost all departments of state without anyone having an overview is the reason why the government response to our report is so inadequate. It is deeply complacent, and I endorse the call of the noble Baroness, Lady Deech, for it to be withdrawn and rewritten. How can "initiating conversations" achieve more than "the blunt instrument of regulation"? When did a conversation ever equate to enforcement?

I was at one such conversation or round table held with people from the hospitality industry and the former Minister for Disabled People earlier this year. It was a perfectly amicable event, but I have still put my name to an amendment through the Policing and Crime Bill to the Licensing Act 2003 to make failure to comply with the Equality Act a ground for refusing a licence. In other words, local authorities would have power to revoke any licence of a restaurant, pub, club et cetera, in extreme circumstances when reasonable adjustments were not made to existing premises—something that local authorities cannot do at present.

Let us get rid of this ridiculous characterisation of regulation as a bad thing in itself, as the noble Baroness, Lady Prosser, said. This comes from the Red Tape Challenge, which is about ridding the business world of burdensome regulations. Often getting rid of such so-called burdens on business puts a greater burden on disabled people, as the report makes clear. Why was no one in government pointing that out? For example, the

[Baroness Thomas of Winchester]
power of tribunals to make wider recommendations was repealed, and the EHRC's conciliation powers were abolished. Why did no one in government speak up? Presumably, it was because it was not the job of any one of them.

The question of "reasonable adjustment"—an anticipatory requirement for services, although not for employment—was at the top of the page when we identified five items from the report. Should those two words be defined more clearly in statute, because they sound quite vague? A disabled employee, or a carer of a disabled person, might need their working hours adjusted to become more flexible. What about a ground-floor business premises which has no room for an accessible toilet? A local authority access officer, or one from the Access Association, might be able to advise on making an existing facility suitable for everyone to use. The little-known Access to Work scheme run by the DWP for disabled employees might help to pay the cost. An access officer might also be able to find a practical solution to making a listed building accessible. It is a myth that listed buildings are untouchable.

In the report, we recommended keeping the flexibility of the words "reasonable adjustment", but urged the EHRC to issue more guidance and examples, which is what our evidence called for. So our message to the Government is, "Please implement our recommendations without delay. There is no excuse for not doing so".

5.16 pm

Baroness Campbell of Surbiton (CB): My Lords, I, too, welcome the Prime Minister's desire to create a country that works for everyone. Last December, disabled people marked the 20th anniversary of the Disability Discrimination Act with a very big party. So it is a good time for renewed government commitment on the eve of the Paralympics. It is worth remembering the extraordinary success of the London Paralympics, seamlessly integrated into the overall planning of 2012, in deep contrast to what is happening in Rio.

It was a great privilege to be a member of the Select Committee. I have been involved in the campaign against disability discrimination from the very beginning. I lobbied and demonstrated and I even got arrested in the 13-year battle for the DDA. I served on the ministerial taskforce that set the parameters for the legislation and then on the Disability Rights Commission to enforce the law, educate the public and develop good practice. When the commissions on race, sex and disability were merged with the new protective groups into the overarching Equality and Human Rights Commission, I was again appointed as a commissioner and the first chair of the disability committee. I tell noble Lords this because I believe that I am uniquely placed to compare disability equality under two Acts and two commissions, one with a specific disability focus and the other generic.

First, I pay tribute to my noble friend Lady Deech, whose chairmanship of the committee was exceptional. She steered it with strength, commitment and great foresight, providing leadership that, frankly, inspired us all. Our collective endeavour speaks for itself, including the excellent work of the clerks and the special adviser. It was a joy to be part of. The report recommends workable, low-cost, legislative and practical changes that would greatly enhance equality for disabled people in this country. This has been echoed in another place by Maria Miller MP, chair of the Women and Equalities Committee.

Turning to the Government's response, I welcome the positive decision—albeit after 20 years—to enact Section 165 of the Equality Act, requiring taxis to carry wheelchair users at no extra cost. The timing of the announcement was quite uncanny: it was the very day that Channel 4 invited me to talk about the report. I hope that it asks me more often. Sadly, that did not set the tone for the rest of the response. I note that where the committee accepted the status quo the Government agree, but otherwise they merely report on meetings held or in the pipeline, which perhaps explains why equality for disabled people has so markedly stalled since the demise of the Disability Rights Commission.

At some point, talking has to give way to action. Our report was guided by the life experiences of disabled people, in written and oral evidence, and we also visited the inner London Centre for Independent Living, run by disabled people. So I am sure noble Lords will understand disabled people's frustration at the failure of the Government to embrace the recommendations more fully. There is a striking similarity in the Government's response to the 1980s series "Yes Minister". At that time, if the Permanent Secretary wanted to avoid action, one of his techniques was to establish an interdepartmental committee to review whatever was on the table. These committees could easily sit for years, ensuring that there was plenty of activity but absolutely no action.

The preamble emphasises the Government's distaste for regulation, reverting to the arguments of the 1980s and 1990s. Once again, I hear the exhausted cliché that regulation will not change hearts and minds, and that,

"changing hearts and minds will lead to better attitudes, better access, and better outcomes for disabled people".

The Government claim they have achieved more by initiating "conversations" with disabled people and the public and private sectors than the "blunt instrument of regulation". Our report clearly demonstrates that this approach is not working. All the evidence shows that without legislation we cannot win "hearts and minds". One of the first formidable disabled campaigners for civil rights legislation, Sir Peter Large, argued in the 1970s that:

"I do not care what people think about me. I am concerned about how people behave towards me. Laws regulate behaviour".

The Government's response suggests that cutting the employment and support allowance is helping disabled people. They also boast about Disability Confident. Sir Bert Massie, who chaired the Disability Rights Commission from its inception, reminded me, as I prepared for this debate, that it was only when we used carrot and stick that the employment gap began to narrow. We were ready to enforce the law, which captured employers' attention, but it was supplemented by codes of practice and education. Regulation is crucial in changing hearts and minds.

I turn to our specific proposals. We recommended that the Equality Advisory and Support Service is restored to the EHRC. The Government defend the

current service. They then seek to justify the decision to put the contract out to tender, claiming that the EHRC did not express an interest in taking it in-house. This is not true. The EHRC flatly refutes this, saying it strongly supports our recommendation, and made clear to the Government its concerns about EASS, and its desire to take back responsibility or at least greater control. However, EHRC's role has been restricted to a seat on the management board for the new service. This is not simply a discrepancy between two accounts; it indicates a total lack of understanding by the Government of the central role of the helpline. It was one of the DRC's prime assets, enabling it to monitor the kind of problems disabled people were experiencing. Indeed, a number of its key legal cases started with a call to the helpline. The new contract has now been awarded to G4S, which is devastating news. It beggars belief that a company with such an appalling history of abuse and mismanagement could have been appointed to provide such an important and sensitive service.

The helpline is even more critical now that access to justice through the courts is all but impossible because of tribunal fees, severely reduced legal aid and red tape procedural changes. It is deeply disturbing that the Government have rejected all the committee's proposals to remedy what is a denial of justice: for instance, changing the costs rules; restoring statutory questionnaires and tribunals' power to make wider recommendations; and allowing charities to bring class actions.

Another area of concern is the public sector equality duty—a tool to help public services ensure disabled people's inclusion in society. My noble friend Lady Deech has referred to the due regard duty but we also recommended new specific duties to bring them closer to Scotland and Wales and the previous disability equality duty. Public authorities would have to make an action plan and involve disabled people, collect and publish data and report on progress. As we know, the Government were planning to review the duty again. We suggested that our proposals should be the starting point—eminently sensible, you might think. Therefore, it is deeply dispiriting that the Government's response is merely that our concerns and recommendations will be taken into account in any review.

I refer to codes of practice. We recommended that the Government should lay the EHRC's technical guidance on the public sector equality duty, schools and further and higher education before Parliament as statutory codes. The Government's response—that the advice is already available as technical guidance and can be taken account of in the courts—completely misses the point. Technical guidance does not have the status of a statutory code of practice, which must be taken into account. That is what gives codes the authority that they have. It is also what makes them helpful to employers and service providers as it makes clear what has to be followed and what need not be. Therefore, when the Government say they need "clear evidence" that codes of practice would help compliance with the legislation, they are ignoring the evidence they have.

In contrast, all the DRC codes of practice were accepted by the Government of the day and approved by Parliament. They were welcomed by everyone who used them for the clarity and practical help they provided. Is it not time that the Government departed from their dogmatic principle that regulation is bad and flies in the face of their sacred Red Tape Challenge?

When the committee was taking evidence, I became acutely aware of how many people mourned the loss of the DRC and the positive impact it had on their lives over its seven years' existence. The EHRC has nine years under its belt. How do they compare? During our nine months of receiving evidence, I was struck by the vast number of submissions from disabled people and their organisations who complained that the broader remit was not effectively combating disability discrimination. Unlike the noble Baroness, Lady Prosser, I was disappointed that the EHRC rejected our suggestion to retain a disability committee when its statutory role comes to an end. Like the noble Baroness, Lady Prosser, I sat on the EHRC, but unlike her, I also sat on the Disability Rights Commission for its entire existence, so I am able to make that comparison. The disability committee at the very least provides a structure to focus on the barriers specific to disabled people. Eradicating inequality, as the noble Baroness, Lady Thomas, said, does not mean treating all groups in society the same. No to integration; yes to inclusion. When I was at the EHRC I felt that we were on the side of integration and not quite there on the side of inclusion.

The demise of the DRC has undoubtedly put disability equality in the slow lane because the broader remit has simply become too broad to identify the host of complex disabling barriers faced by disabled people. Can the Minister explain how the complex nature of disability will be accommodated in the Government's new "broader remit" they speak of in their response?

Much of the EHRC response to the committee's report was heartening and I welcome the new chair's recent reference to "a more muscular" approach—it desperately needs it. But I agree with my noble friend Lady Deech that the Government need to go back to the drawing board. On 27 August our new Prime Minister crystallised her determination to address the burning injustices in society by announcing an equality audit of public services, starting with a review into how ethnic minorities and white working-class people are treated by public services. Disabled people are part of the black and working-class population and face dual discrimination. It graphically illustrates why Section 14 is necessary. However, I ask the Government to ensure that disabled people are at least included in this audit if, as they say in their response, the Government do not feel that Section 14 should come into force.

In preparing for this debate I asked Sir Bert Massie, a trusted adviser to Governments over three decades, for his reaction to the Government's response to our 55 recommendations. If anyone understands how to tackle deep-rooted discrimination, he does. He said:

> "It is now ... 35 years since disabled people called for the right to be treated as equal citizens. Yet the Government still wants to ... talk and meet. It is no wonder disabled people are ... becoming increasingly angry. The Government's tepid response to the Committee's report clearly demonstrates a deep lack of understanding and concern about Britain's disabled people".

[Baroness Campbell of Surbiton]
I am afraid that this just about sums up how the committee and disabled people feel about the Government's disability agenda in 2016. Yes: it is time for the Government to go back to the drawing board.

5.34 pm

Lord Northbrook (Con): My Lords, first, I thank the noble Baroness, Lady Deech, for her excellent chairmanship of our committee. Major thanks are also due to our clerk, Michael Collon, and his assistants Andrew Woollatt and Joseph Coley. Tansy Hutchinson is also on the roll call of thanks as our policy analyst, and Catherine Casserley, our legal adviser, also deserves the committee's great gratitude for all her hard work. For me, the committee's visit to Real, the disabled people's organisation in Tower Hamlets, was moving and enlightening.

The 169-page report, with its 55 recommendations, is a major piece of work on the impact of the Equality Act 2010 on disabled people, yet the government response to it has been very disappointing. A major theme of the response to recommendations about the Equality and Human Rights Commission is to pass the buck to the EHRC to deal with the issues, although I can support the Government's responses to some of the recommendations where they produce detailed, sensible arguments.

In the time available, I shall focus on our recommendations where the EHRC is involved or has an interest. The government response to these and the further response by the EHRC refer to a few other report recommendations. Looking at our recommendations in detail, number 8 says that the EHRC should co-produce a disability plan with disabled people and disabled people's organisations. The EHRC accepted this in principle but rejected the mechanism as it wants it to be integrated into its whole work programme. To me, this seems to demote the interests of disabled people compared to the regime before the Equality Act came into being.

Our recommendation 9 states very sensibly that the EHRC should re-establish the disability committee from April 2017, closely mirroring the statutory disability committee, and ring-fence resources. The EHRC rejected this recommendation—wrongly, in my view—stating far too vaguely that,

"it is essential that … we think more broadly about how we engage all people affected by our work".

Our recommendations 10 and 11 have received very different reactions from the Government and the EHRC. This has been well covered by the noble Baroness, Lady Campbell, so I will not go over all the detail, but I should just like to reiterate that the Government contradicted the EHRC. In their response, the Government say:

"In early discussions between the GEO and the EHRC about the future of the",

EASS,

"the EHRC did not express an interest in taking it 'in-house'".

However, as the noble Baroness, Lady Campbell, said, the EHRC response directly contradicted that.

Recommendation 12 states—again, the noble Baroness, Lady Campbell, went into detail on this—that the Government should lay before Parliament technical guidance on the public sector equality duty, schools and further and higher education as codes of practice. This is strongly supported by the EHRC but the Government disagree. Their argument is that courts can already take into account this technical guidance, and they are not in favour of publishing substantial extra statutory material unless there is clear evidence that it would ensure or facilitate compliance with the legislation. However, as the noble Baroness, Lady Campbell, said, this is not a code of practice.

Moving on to the area of communication and language, our recommendation 14 requires the EHRC to work with local and national disabled people's organisations on a wider educational programme to raise awareness of disabled people's organisations' rights and dutyholders' responsibilities under the Equality Act. The government response has referred this to the EHRC. The EHRC agrees in principle. It is helping to fund a report by disabled people's organisations for the UN Convention on the Rights of Persons with Disabilities, an examination of the UK in 2017, and will shortly publish a report on disability with an analysis of evidence according to impairment. It will explore with disabled people's organisations the best way to raise awareness of rights and responsibilities.

Moving on to reasonable adjustments—RAs—the EHRC reacted less positively to our recommendation 18, which requires it to produce a specific code of practice on RAs, preferring our recommendation 19 in principle. This states that the EHRC should consult disabled people's organisations in producing industry-specific guidance on RAs, in partnership with professional and regulatory bodies where appropriate. The EHRC says that it is assessing the best way to supplement existing codes and guidance and will work with disabled people's organisations on how best to promote RAs. Also, the EHRC will put disability case law updates on its website.

Recommendation 20 states that common parts provision should be implemented without further delay, as other speakers have mentioned. The EHRC agrees. The Government acknowledge our committee's frustration and agree that landlords should seek to co-operate with reasonable requests by disabled tenants to make adjustments to hallways and foyers. The rest of their response is difficult to understand. Will the Minister explain why the consequences of the Scotland experience are unclear and what the implications are for the better care fund, which supports local authority health and social care services?

Recommendation 21, about accessible sports grounds, is welcomed by the EHRC. However, the Government feel that, at present, the EA legislation is untested and therefore does not need alteration. They will report annually to Parliament on progress on sports strategy commitments, work with football authorities to ensure that clubs make reasonable adjustments for disabled spectators, and enable the Sports Ground Safety Authority to help sports grounds reach required accessibility standards. The EHRC will be monitoring the Premier League's commitment to comply with accessible stadia guidelines by the start of next season. So I congratulate the noble Lord, Lord Faulkner, although he may not feel he has achieved all that he wished for.

I move on to the subject of carers, covered by our recommendation 23. The committee advised that the EHRC should work with carers' organisations to produce and disseminate guidance on the rights of carers under the Equality Act. The government response referred this to the EHRC, which accepted it in principle. Recommendation 24 requests that the GEO, the Office for Disability Issues, the Department for Business, Innovations and Skills, and the EHRC jointly encourage employers to respond positively to carers' flexible working requests. The EHRC accepted this fully. The Government gave a very detailed response. The most important points I picked out were as follows. First, nine local authority pilots are engaging local businesses on the benefits of supporting carers, including through flexible working. Secondly, the DWP is working with employers on the best practice to support carers in work. Guidance also will be tested soon on responding to flexible working requests for carers in a new disability-confident self-assessment accreditation scheme. The EHRC emphasised that it will be testing capacity to encourage employers to increase flexible and part-time job adverts.

Moving on to the area of transport, recommendation 25 asks for train operators and bus companies to put more resources into making stations and vehicles more easily accessible to wheelchair users. The Government's response can be summarised as follows: rail companies are doing quite well; refurbished and replacement stock will comply with accessibility standards by 2020; stations are a more gradual process; and buses are up to local authorities to sort out. The EHRC response is that there is a good opportunity in the bus Bill to improve the accessibility of buses.

Continuing with the theme of transport, recommendation 28 says that the training of rail, bus and coach staff to a proper level is essential. The Government, in principle, agree in the case of rail, but point out that it is the duty of Network Rail and the train operators to carry this out. In the case of buses, their opinion is much vaguer, talking about disabled people's "inter-reaction with drivers". The EHRC rightly takes a firmer line, agreeing with our committee that there is a lack of disability awareness training for support staff. It is supporting legal cases challenging barriers to disabled people—for instance, Paulley v FirstGroup—

"because of the importance of public transport for many disabled people".

I turn now to the subject of taxis, which was also covered by my noble friend Lord McColl of Dulwich. A considerable success of the committee has been the promise to bring Sections 165 and 167 of the Equality Act into force. This will ensure that disabled people can access taxis and private hire vehicles at no extra cost. As, bizarrely, Section 166, which has already been in force, grants an exemption from Section 165—an exemption from a non-existent part of the law—the decision is to be warmly welcomed. However, while Section 165 alone may suggest all vehicles are covered, it imposes duties on drivers designated by a local authority to assist wheelchair users. The EHRC points out that Section 167 provides for a local authority to keep a list of accessible vehicles, but this is only optional.

Our recommendation 30 asks the Department for Transport to update the 2011 local transport note to give local authorities guidance on meeting disabled people's needs in shared space schemes. The Government's response is that they would rely on the Chartered Institution of Highways & Transportation to issue new guidance on shared space. The Department for Transport would, however, have some input into the steering group. The EHRC also plans to contribute to the CIHT guidance.

I now turn to the subject of the public sector equality duty, the PSED. Report recommendation 35 asks the Government to produce a cumulative impact assessment of budgets and other major initiatives on disabled people, supported by the GEO and the ODI. The Government's response is that considering impacts is already part of the policy. However, they should draw upon the EHRC research. The EHRC says that this has already modelled the impact of tax, welfare and spending policies. Contrary to the Government, it concluded that the task is feasible.

On enforcement through the judicial process, our recommendation 38 asks the Ministry of Justice and its ongoing fees review to act on the strong evidence that tribunal fees are unfairly disrupting discrimination claims. The Government's response is to consider this as part of the review. They have argued that fees have an impact but that other likely factors, such as changes in employment law, the improving economy, alternative dispute resolution services—and particularly the success of the ACAS early conciliation service—have all helped. The Government have a point here. The EHRC will use its strategic litigation powers to challenge the lawfulness of the new tribunal fees but will only use formal enforcement as a last resort.

Two final areas are commented on by the EHRC. First, our recommendation 44 calls for the Government to restore the EHRC's power to arrange conciliation for non-employment claims. The Government responded that conciliation is not a core function of the EHRC and would need primary legislation. I tend to agree with the Government on this. The EHRC opposed the removal of this service.

Secondly, the EHRC examined our recommendation 53. The subject area of this is disabled children and children with special educational needs. We asked for the Equality Act 2010 (Disability) Regulations 2010 to be amended so that a tendency to physical abuse is no longer considered an impairment for the purposes of disability. I support the Government's response, which says that strong public policy reasons remain behind the excluded behaviours. The EHRC supports our committee's recommendation. However, I issue a note of caution: this must not be a licence for acceptance of certain types of intolerable behaviour by disabled children and children with special needs. The EHRC, in its response, supports the committee's recommendation.

I believe this is a major landmark report. A former member of the EHRC told me off the record that she felt that the EHRC had become too unfocused on disabled people and was giving priority to other matters such as LBGT issues, which of course are important, but not at the expense of disabled people.

[LORD NORTHBROOK]

We have once again brought the needs and concerns of disabled people to the Government's attention. The promise of enacting Sections 165 and 167 of the Equality Act shows that our committee has achieved results, and the EHRC's encouraging response under its new chairman gives us high hopes for the future.

5.49 pm

Lord Harrison (Lab): My Lords, several speakers have already drawn attention to the fact that the Paralympics begin tomorrow, and we look forward to that sporting event. Interestingly, the resignation of one of the United Kingdom competitors on the grounds that they were competing against someone who was better abled illustrates an important general point, which is that as we grow older we recognise our increasing disability needs, especially when we sometimes succumb to illnesses as well. My wife and I are carers to each other, something which has already been referred to. Our expert on this, my noble friend Lady Pitkeathley, has always drawn to our attention the fact that many carers are themselves disabled.

As I say, my wife and I have begun to approach the disability that comes with old age. Recently we downsized our home in Chester and we had extra handrails put on the staircase. This in turn is an advantage not only to us as we live our lives there but also to others who come in after us. They may decide to keep these useful aids that make life just a little more pleasant. I bring this up because at some point a Government will grasp the nettle of building new houses in the way that Nye Bevan and Harold Macmillan did more than 50 years ago. When that happens, let us be sure that those houses are not only prepared for energy conservation, something that most of us understand, but are also ready for the people who will live in them over time.

Just as I said that there are grades among Paralympians, we might also ask: who are the disabled? As a type 1 diabetic who takes insulin, I survive in your Lordships' House only because of the wonderful orthopaedic shoes that are made for me and which I am wearing now. They are made by NHS cobblers in Liverpool's Broadgreen Hospital. Is the Prime Minister disabled? Her choice of shoes tends towards colourful kitten heels which are not my choice, but as a recently diagnosed type 1 diabetic, she has to adopt and adapt to a new lifestyle. Every time she sits down with President Putin or President Obama, I worry whether she has taken her pre-prandial shot of insulin to make sure that she stabilises her diabetic condition. The noble Baroness, Lady Deech, has already mentioned young diabetics in schools, who are sometimes prevented from taking their insulin at the appropriate time. Perhaps we should recognise them. Someone recently approached us after the publication of our excellent report to highlight the problems faced by the disabled in FE colleges, an area that I am familiar with; that is right and proper.

Talking of building new homes and restoring old buildings, I was listening to the campaigner Tom Shakespeare speaking on "A Point of View". He expounded on the unsuitability of the Palace of Westminster and hence your Lordships' House. Any Member of this House should be able to sit anywhere they like and constrain themselves in terms of political groupings if they wish, but that is not the case. The most dangerous place for a diabetic such as me, with neuropathy of the feet, is on the Back Benches of your Lordships' House, and I have to say that my other Parliament, the European Parliament in Strasbourg and Brussels, was much better in terms of offering protection to those who wished to avail themselves of the ability to look at their papers.

I turn to the Equality Act 2010, which we studied. My noble friend Lady Prosser may be interested in this: I was taken with the idea of sharing back-office functions to service all the areas, but I have been convinced during the report that we have to make special arrangements for the disabled. I ask the Minister whether she agrees. Similarly, the noble Baroness, Lady Deech, made the point that we want more law-law and less jaw-jaw from the Government. That is not entirely true. What we offered in our report was law, but it was also non-legislative proposals. Again, I say to the Minister that many proposals could be enacted now if the Government put their mind to it with oomph and supported these matters.

I draw attention to the fact that we produced an easy-read version of the report, which has gone down extremely well. Indeed, my son, who is a local councillor in London, uses it for his work on the council to give people a better understanding of the needs of the disabled. I wonder whether the noble Baroness, Lady Williams, as a distinguished former leader of Trafford Council, will respond to those parts of our recommendations that are clearly non-legislative, but which can improve matters in the local council area.

The noble Baroness will also be drawn, with all the work with women and providing childcare, to recognise that bringing the disabled into the workforce is not only good of itself, but an advantage to the United Kingdom, especially as we now set sail in a very peculiar direction. We are told by Anna Bird of Scope that there are still innumerable barriers that should be removed in inaccessible workplaces. It is to our advantage to do that. I will say this: one of the reasons I am such a pro-European and support our membership of the European Union is that it always seemed to me that one of the best things the European Union does is to compare and contrast practice in other countries. The truth is that employment of the disabled is much better in our partner countries of the European Union. We should ask why and draw conclusions to our advantage.

I move on to the common parts of the let residential properties and commonhold properties. We made criticisms of those in the report. Too many of the disabled are prisoners in their own homes. I draw attention, as a member of the All-Party Group on fire and rescue services, to one of the reasons we press for sprinklers in new-build buildings. It is because too often older people get isolated in one room of danger. Often those older people also have some form of disability. There is every reason to plan ahead. This is the theme I take from the debate: so much could be done to improve the lives of each and every one of us, but especially of the disabled.

I will make a few other points. I am a great supporter of what the noble Lord, Lord Faulkner of Worcester, has done in terms of football stadia. If the Government can think about that, there is a win-win situation there for the clubs if something more could be done in that area. At the moment, when we are witnessing in the Premiership exorbitant sums being exchanged for footballers, is it not time for us to put by some of those funds to support the supporters of those clubs? I would like to hear from the noble Baroness, Lady Williams, with all her expertise in football—coming from Manchester—about whether something more can be done.

Finally, on transportation, the noble Lord, Lord McColl, has already alluded to the disgraceful business of Crossrail being constructed with seven of the stations inaccessible to wheelchair users. That really is a very disappointing surprise. My wife and I regularly travel down from Chester to London and, I have to say, we have had outstanding support from Virgin Trains staff. Not only do they supply us with seats—we do not have to sit in any obscure parts of the train, which is the custom of some, of course—but they are very good if you phone up and say you have a disabled person with you; they make every effort.

I will conclude, as so many others have, by celebrating our clerk, Michael Collon, and his team, including Tansy Hutchinson and Catherine Casserley. We were guided by the very best chair this distinguished House could produce in the noble Baroness, Lady Deech. Well done to her, and a testament to that would be a response from the Government that puts some effort into something which will be of benefit to all of us.

6.02 pm

Baroness Brinton (LD): My Lords, I will add to that paean of praise and start with thanks. I will start with the person who had the original germ of an idea about the subject of this Select Committee, the noble Baroness, Lady Thomas of Winchester, who, a bit over a year ago, took me to one side and asked me what I thought about it. I thought it was absolutely excellent. She put it in and, fortunately for us, was successful.

Under the brilliant chairmanship of the noble Baroness, Lady Deech, for which I should say many thanks, and with the guidance both of our officers—Michael Collon, Tansy Hutchinson, Andrew Woollatt and Joseph Coley—and of our adviser, Catherine Casserley, we had an extremely robust few months, assembling evidence that was so overwhelming that the committee was totally unified in its response. I offer my personal thanks to all the many witnesses. I think we all, even those of us who are disabled, learned an enormous amount because of course our own expertise is different from the next person's.

The breadth of evidence taken and the inevitably wide scope of our brief—apart from benefits—meant that we were left in no doubt about the difficulties that disabled people in the UK face on a daily basis and how important the work of the Select Committee has been to draw together all the different policy strands and departments. Sadly, as we have already heard from other speakers, often there is not one coherent place with authority to do that. That is why I particularly support the remarks of the noble Baroness, Lady Campbell of Surbiton, about the Disability Rights Commission and the need for a disability committee.

The EHRC was meant to draw all matters of equality together, but disability is the one area that has suffered as a result. By the way, I am not laying the blame at the door of the EHRC. It is the issue that others have already talked about—the different nature of disability as a protected characteristic. Why is that? The first two chapters of the report set out the problem in such a strong evidential base that you cannot ignore it. First, there is the perception—I say this as a wheelchair user—that all disabled people are in wheelchairs, whereas the reality is that disabled people in the UK today come in many shapes and sizes, with a whole range of problems and disabilities. Being disabled in the UK today means a shorter life expectancy, a considerably harder route to getting and maintaining a job, and to a working life.

As the TUC said to us in evidence, employers and even sometimes members of the judiciary,

"seem to struggle with the concept of treating disabled people more favourably to achieve equality in practice".

The Disability Law Service said to us:

"Many employers do not understand that they can, and should, treat disabled people more favourably than others when making adjustments",

under the Equality Act. It went on to say:

"Many of our callers tell us that their employer has specifically told them that they cannot show any 'favouritism' to them, when altering working arrangements".

This debate is timely: as others have noted, the Paralympics are about to begin in Rio this week. Part of the Government's response to the Select Committee report is to say:

"Disability rights cannot be delivered by regulation alone".

Yet in responding to recommendations, one after another, the Government will not even regulate—let alone legislate. Yes, there is a responsibility in the wider public realm and even among the general public, but the evidence coming from the 2012 Paralympics, when this country was absolutely captured by the idea of ability in disabled people, is that it has not lasted. While more than 80% of the public felt that the Paralympics are important for improving society's perception of disabled people, recent research by Scope has shown that the effect has not lasted. Disabled people have reported that there are few outstanding areas where the effect has been long-lasting.

Much of the debate so far has been throwing brickbats, particularly at the Government, but I want to note one area that has been outstanding, and that is Channel 4 television. The comedy show "The Last Leg" is now one of the most popular satirical shows on TV and its catchphrase "Is it OK?" was initiated in a wry and irreverent debate about disability in the UK today. This was probably only possible because two of the three presenters have physical disabilities. It was also notable because the disability of its presenters was only the initial point; they then went on to parody and satirise the rest of the UK. Notable might be the wrong word; I suspect that they might prefer "notorious". It is notable today as one of the best comedy shows on TV and the disability of the presenters, and the theme that comes up in every show, is almost irrelevant.

[Baroness Brinton]

Channel 4 is not just responsible for commissioning that comedy nor indeed for its Paralympics coverage, which was excellent in 2012 and will be reduced this week in Rio not through Channel 4's own choice but through the IOC and the deals negotiated there. Channel 4 has said that, according to recent research, 82% of UK adults agree that the Paralympics are important. It is worth noting that almost two-thirds of Channel 4's on-screen presenters for Rio will be disabled, including four of its daytime presenters. In addition, 15% of the production team producing the live coverage are disabled people, most of whom are brand-new talent identified and nurtured through a ground-breaking scheme. As the noble Baroness, Lady Campbell, referred to, "Channel 4 News" has been running a series of reports in the run-up, "No Go Britain", to remind people about the day-to-day problems that disabled people face in this country. It is certainly worth catching up on those, if your Lordships can.

I want to focus for a time on transport because, to be honest, that is the biggest problem I have in my day-to-day experience as a wheelchair user, and as someone who is sometimes semi-ambulant with a stick. I travel by trains a great deal around the country and in the last two or three years, the train stock has noticeably improved on some lines. I welcomed the stronger emphasis in the coalition Government on improving disabled access in the franchise bids. However, rolling stock takes a while, if not decades, to replace. I long for the day when the wheelchair space is not automatically beside the toilets, whether they are working or not. Even today, I was placed in my usual place on the London Midland train and the ordinary, able-bodied passengers were complaining about the smells. I said, rather ruefully, that I would love to have the choice not to have that smell.

Others have noted that buses should have complied with the Public Services Vehicle Accessibility Regulations by 1 January next year. It has been a requirement for close to two decades, giving companies plenty of time to amend their stock. Earlier this year, there was outrage among some bus companies that had not modernised their kit. They have now been told that they must comply. This is where the Government's response about preferring to do things by conversation just does not work if there is no enforcement, even if that enforcement is reminding companies—in this case, five years ago, three years ago and two years ago—that time is running out. The problem is that no Government of any colour was doing that to make it clear.

Bus travel in London is a joy compared to elsewhere, although perhaps my most public notable experience was having a dad with a buggy refuse to move for me. I take one issue with the speech by the noble Baroness, Lady Deech. We do not need to ban buggies because on most buses it is perfectly possible for the wheelchair to get in the space and the buggy to sit in front. What we have to do is to have training to educate bus drivers and conductors who can help guide passengers. What one does not want is a row between the disabled person and the passenger.

Recommendation 27 is about the importance of audio-visual announcements. Others have said that they are vital for people who are visually or hearing impaired. They are also important for people in wheelchairs. When you are sitting in a bus with your back to the driver, you cannot see where you are going. I sometimes have no idea where I am going. Without an audio announcement, I do not know when to get off. I have to rely on the driver remembering to tell me, particularly on a route that I do not know. That is why the most important recommendation on transport is about training. That is why I find the Government's response:

> "We remain of the view … that legislation is not the appropriate tool",

extraordinary, bizarre and, frankly, lazy. Of course good companies will and do comply, but less good ones will not. The result of that has recently been in the Supreme Court, where it was not made clear to drivers how they should encourage people with buggies to move. We await the outcome of that case with particular interest.

Part of my frustration with the Government's response is the announcement that Mott MacDonald has been appointed to review disability training. Mott MacDonald has virtually no—or, if you look at its website, absolutely no—experience in this area. The one thing that I have discovered over the years of my increasing disability is that people really do not get it unless they have full qualifications and understanding. I can tell instantly whether a bus conductor or driver or a taxi driver has had full disability training from the way they treat me and my wheelchair. It matters. It is significant. It is significant not just to me; it is also significant to the people trying to help me. People trying to pull my wheelchair will damage themselves much more than they will damage the chair, and they might even damage members of the public. Training is vital.

I now turn to taxis. At last, Sections 165 and 167 of the Equality Act will be brought in to ensure that wheelchair users are not charged more. My mother lived in Dorset—I will not tell the House exactly where for reasons that will become apparent. She lived three miles from the local railway station and the ordinary taxi fare, if you were not travelling in that rural town's rush hour, was about £4, or perhaps £6 in the busier time. I was quoted £60 because the driver had to come from 20 miles away. There was no concept of the fare starting at the point at which I was picked up. Unfortunately, because these sections of the Act had not been enforced, I had no right of retaliation to say, "You may not do that". As a result, for the last two years of my mother's life, I did not take my wheelchair to her nearest station because it was ridiculous to do so. I also had to ask the station in London to make sure that the train came in on the only platform accessible to wheelchairs. When I went to my grandmother's funeral in the New Forest, I actually had to cross the rails to exit the station. So while we talk about improved access on stations, it is happening far too slowly. It is really dangerous in some places and it certainly restricts many people in travelling.

How will the Government monitor enforcement not just of taxi charging but of training to make sure that things really change? The effect of enforcement is quite clear: London had black cabs long before it had TfL, and everyone knows that for the last 15 or 20 years a hackney in London has had to be able to

take a wheelchair. Nowadays TfL is responsible for enforcement. However, that is not true of private hire cars in London. In evidence that we took from civil servants in the Department for Transport, I was told with great glee that Uber was going to introduce a wheelchair app. That is absolutely useless to people in a wheelchair because Uber has virtually no taxis available to take wheelchairs. As a result, prices get hiked up because of their rarity value. So the practical suggestion of a specialist app is no use at all.

I should like to contrast that with my experience in York, which I visit regularly. The council has, by talking, encouraged most of the taxi firms to increase their stock of disability taxis. They are not particularly large; they have gone for small ones where you enter in the back, but it works. I never have to worry about getting a taxi in York. But evidence that we took from disabled people outside the major cities was that they could not rely on getting a wheelchair taxi, especially not at school time and in the evening. That is another barrier to disabled people getting access to work because taxis can often be the only way they can make it.

Enforcement can be more subtle, as I have said. The council in my home town of Watford did a mystery shopper survey of its taxi service. It was so horrified by the result, with over 85% of the mystery shopper journeys reporting that taxi drivers were rude and did not know what they were doing, that that council has changed its entire way of working with taxis. But there needs to be a bit more oomph—just having an initial conversation is not enough.

Another barrier that is emerging is the new fashion for shared spaces in town centres. We received very strong evidence from people with a range of disabilities that these shared spaces can become no-go areas, from concrete balls that are difficult to manoeuvre around if you are visually impaired, to raised barriers. The cycle superhighway barriers in Parliament Square mean it is no longer possible to call a taxi if you are in a wheelchair in certain parts of the square because you cannot get to the taxi. I believe that the Government are abdicating their responsibility under the Equality Act by saying that the new CIHT guidance is sufficient. It is not.

I want to say something briefly about sports stadia, given that I contributed to the Bill of the noble Lord, Lord Faulkner. I am astonished at the Government's response that we should not proceed with the principles of the Bill because it was flawed. The evidence from young sports fans, particularly from Trailblazers—young people living with muscular dystrophy—shows that access to sports stadia is a real problem for the disabled. Affordable access to justice has also been part of the problem, because disabled people have been unable to challenge buses, taxis or football stadia to get their true rights. It is easy for Government to make guidance on sports stadia compulsory using the regulation-making power on what is or is not to be regarded as a reasonable adjustment.

In conclusion, other Members of your Lordships' House have talked about the reference to the Red Tape Challenge. When taking evidence, we were astonished that the Government felt it was appropriate to say that the Red Tape Challenge was equivalent to not making a reasonable adjustment. I join colleagues on the Select Committee in hoping that the previous Government's report back to us will be discarded. I have high hopes, because the evidence in the Select Committee report is so strong and will not go away. I call for the new Government to prove that they truly believe in inclusion by going back and rewriting their response.

6.20 pm

Lord Low of Dalston (CB): My Lords, this is an excellent report, and I congratulate the noble Baroness, Lady Deech, and her colleagues on it and congratulate the noble Baroness on the forthright way in which she opened the debate this afternoon. A welcome feature of the report is the way in which it interpreted its remit broadly, to encompass not just the technicalities of equality legislation but the way in which the Equality Act underpins and supports the delivery of services, the accessibility of the environment to disabled people and how those services are delivered.

I want to talk about four of those service delivery-related issues, but first I will allude to a couple of general points. First, many of the protections for disabled people that have been introduced in recent years have depended on regulation, either in primary or secondary legislation. All too often, the Government have characterised these, rather pejoratively, as "red tape", which they have used as a pretext for getting rid of the protections, under the so-called Red Tape Challenge. A good example would be the questionnaire procedure which was formerly available to assist complainants in making claims of discrimination, and which the committee would like to see brought back. The report makes an important point when it says that these things should properly be seen as protections for disabled people rather than burdens on business, and that their removal under the Red Tape Challenge should be reversed.

The second point is the need for a cumulative assessment of the impact of the many changes which have affected the lives of disabled people in recent years. Since 2010, the Government have introduced a long list of measures that not only have a negative impact in themselves but often impact on each other so as to compound this effect, with those having the greatest needs often being hardest hit. Social security and benefits provision have been abolished, been reduced or failed to match inflation. Eligibility criteria and assessment procedures have been tightened. Social care has suffered from savage reductions in local authority funding so that often only those with the greatest needs qualify for help.

A third area concerns civil rights. In many areas, as I have said, the drive to reduce regulation and red tape has resulted in rules and provision that were helpful to disabled people being weakened or abolished. Disabled people have argued for an assessment of the cumulative impact of all these changes. This is surely ungainsayable. If we want to know the impact of a measure, it is not enough to know what its impact is in isolation: we need to know what its impact is in the context of everything else that is going on. The Government have been resistant to the idea of cumulative impact assessment. It is obviously the case that cumulative impact assessment is attended by considerable difficulty, but that is not the same as saying it cannot be done. The EHRC and

[Lord Low of Dalston]

the National Institute of Economic and Social Research think it can, and it is obviously necessary if the Government are to have a proper understanding of the effectiveness of its policies. The Government need to redouble their efforts in this regard.

I now turn to the service delivery and environment-related issues I want to highlight. I hope it will be of greatest help to the House if I highlight issues which are of particularly concern to people with a vision impairment. In doing this, I am indebted to the RNIB and Guide Dogs for their briefings, and I declare my interest as a vice-president of the RNIB. When the Equality Bill was going through Parliament, I was successful in having Section 20(6) inserted to make it clear that the duty to make reasonable adjustments included a duty to provide information in an accessible format where appropriate.

Recommendation 13 of the report states:

"All government departments, local authorities and official bodies should review their means of communication with the public".

To help achieve this, we are told, the Minister for Disabled People has convened an accessible communications round table. Although this is welcome, as the noble Baroness, Lady Deech, said, continued reviews are not enough. The provisions in the Act requiring the provision of accessible information have been in place since 1999 as part of the auxiliary aids provisions of the Disability Discrimination Act 1995. Disappointingly, after 17 years, public authorities still routinely fail to provide accessible information. The Government's response stated that the DWP's accessible communications are under review. They have been under review since 2014, but little progress has been made. Blind and partially sighted people continually report that the DWP fails to provide even the most basic information, such as appointment letters, decision letters notifying claimants of changes to their benefit and even sanction letters in an accessible format.

It is also disappointing that the Government's response failed to address what appears to be a near-universal lack of accessible information provided by local authorities. RNIB regularly receives complaints from blind and partially sighted people that their local authority has failed to communicate with them accessibly on a whole range of matters, including registering to vote, registering for council tax and requesting information on local social care provision and recycling. The Government must act now to ensure that disabled people, including blind and partially sighted people, receive information in an accessible format from government departments, local authorities and official bodies.

Recommendation 30 states:

"The Department for Transport should update its 2011 Local Transport Note to offer guidance to local authorities on how shared spaces schemes can best cater for the needs of disabled people. Local authorities should review existing schemes in the light of that guidance, make changes where necessary and practicable, and base any new schemes on that guidance".

It is concerning that the Government's response stated that they had no plans to revise the DfT's 2011 local transport note, despite the committee reporting that the guidance fails to address the difficulties that people with disabilities face in accessing shared-space schemes. The Government stated in their response that the Chartered Institution of Highways and Transportation will produce new guidance on shared space. Coming on top of existing Department for Transport guidance with minimum input from disability organisations, this risks confusing local authorities with multiple sources of advice. It also fails to address the lack of consistency in the design of shared spaces across the country identified by the RNIB, with different schemes adopting different approaches to disability access issues. The Government must urgently review and update local transport note 1/11 to ensure that local authorities fully address the disability access issues posed by shared-space schemes.

The committee received more responses relating to accessible transport than on any other issue. This accords with the pattern of complaints received by RNIB from blind and partially sighted people. Recommendation 28 states:

"Training of all rail, bus and coach staff to a level agreed in consultation and set out in law is in our view essential … Ministers … should be prepared to use these reserve powers if necessary, and to enforce the Regulations they make".

There is concern, however, that the Government's response states that legislation is not seen as an appropriate tool for delivering disability awareness training in the bus and coach sector.

The RNIB believes that disability awareness training must be made a statutory requirement and must be regulated to ensure quality and consistency across different providers. The European regulation on the rights of bus and coach passengers requires all bus and coach drivers to undergo disability awareness training. The Government used a derogation to exempt UK drivers for five years; this is due to expire in 2018. With the UK due to leave the European Union, the future of this regulation is thus unclear, so we need an assurance from the Government about their plans for disability awareness training for bus drivers.

Finally, Recommendation 27 states:

"More resources should be devoted to providing annunciators on trains and buses which do not have them. No new vehicles should be put into service which do not have audio and visual annunciators. The Public Service Vehicles Accessibility Regulations 2000 should be amended accordingly".

The RNIB was disappointed that the Government's response failed to acknowledge the problem raised with the committee that many annunciator systems fitted on trains are not switched on. It would like to see spot checks on trains such as are already carried out on buses. The Government's response acknowledged the benefits of AV information on buses but made the incorrect assumption that such systems are expensive to fit. Evidence submitted to the committee states that audio-visual annunciator systems add only 1% to the cost of a new bus.

The RNIB is very concerned that bus operators continue to procure new buses that are not fitted with AV announcement technology. For example, Leeds First bus service has announced that 37 new buses, which are expected to be used for at least 10 years, will enter service, none of them with annunciator systems fitted. The Government stated in their response to Recommendation 27 that vibrating wristbands have

recently been trialled to improve the accessibility of bus travel. However, there is reason to be sceptical about that solution, as it is still only proof of concept stage. The RNIB believes that audio-visual technology is the most effective solution; the technology is tried and tested and is proven to make bus travel accessible for disabled passengers. It is already in operation on all buses in London, as well in many other regions, and can be introduced to new buses inexpensively.

The Bus Services Bill, currently awaiting Report in your Lordships' House, is the ideal vehicle for the Government to legislate to ensure that all new buses are fitted with audio-visual technology. An amendment has been tabled to the Bill to require all bus operators to provide information to bus passengers in an accessible format. The Government are considering the matter sympathetically, and I very much hope that they accept the amendment to require operators to install AV on all new buses. It is gratifying that that recommendation has been highlighted by the noble Baroness, Lady Deech, the noble Lord, Lord McColl, and most recently by the noble Baroness, Lady Brinton. I hope very much that the Government have been listening and taking note.

6.33 pm

Lord Shinkwin (Con): My Lords, I too thank the noble Baroness, Lady Deech, and her committee for the service that they have done not just the disabled community but also government and society as a whole in producing such a comprehensive, valuable and timely report, as the noble Baronesses, Lady Campbell of Surbiton and Lady Brinton, have already pointed out, coming as it does 21 years after the then Conservative Government's Disability Discrimination Act. This begs a question, which I feel in truth has probably been hanging over this entire debate. Has that Act, at 21 years of age, truly come of age? Reading this report, and the various responses to it, I think it is fair to say that it has not. None the less, I will start on a positive note. Based on my previous work with Penny Mordaunt, I welcome with real hope the promotion of her role as Minister for Disabled People to Minister of State level. This is in line with recommendation 7 in paragraph 115 of the report.

I also welcome the Government's acceptance that it is fairly reasonable to expect that some effort be made to establish the cost of making an adjustment prior to rejecting a request on such grounds rather than relying on arbitrary and potentially inaccurate assumptions about cost. This is in line with recommendation 17 in paragraph 225. I would have liked to be able to welcome the Equality and Human Rights Commission's response to the crucial recommendation 8, in paragraph 137, that it engage with disabled people and their organisations to co-produce a disability-specific action plan, which other noble Lords have already mentioned. I regret that I cannot do so, because, as we have already heard, the commission has—mistakenly, in my view—said that it does not consider that a separate co-produced action plan would be the most effective way forward. I was a member of the National Disability Council, set up by my noble friend Lord Hague of Richmond when he was Minister for Disabled People and taking the Disability Discrimination Bill through the House of Commons. The council was only advisory, but none the less it had a disability-specific focus. So, like the noble Baroness, Lady Campbell of Surbiton, and my noble friend Lord Northbrook, I beg to differ.

I also do not understand the position taken by the commission on recommendation 9 in paragraph 144, rejecting the need to re-establish the disability committee as a decision-making body and to ring-fence specific resources for it. Surely both are essential if the commission is to enjoy the confidence of the disability community, an important consideration which I do not feel the commission has really taken into account. I therefore urge the commission to reconsider its response to both recommendations 8 and 9. I also respectfully urge the Government to encourage it to do so. The Conservative Government who brought in the DDA in 1995 were right to ensure a sharp disability focus then. Notwithstanding the amalgamation since that time of the different commissions—including, as we have already heard, the Disability Rights Commission—under the umbrella of the Equality and Human Rights Commission, this Conservative Government would be right to ask now that that sharp disability focus be maintained. This is particularly important given the Government's laudable manifesto aim of halving the disability employment gap.

I am not sure I entirely share the Government's optimism when they state in their response that,

"the concept of reasonable adjustment is now familiar to both employers and service providers".

The concept may well be familiar but, if that is the case, then the old adage that familiarity breeds contempt remains all too often sadly true in my experience. Awareness of a concept is not the same as awareness of a legal obligation. I am all for maximising incentives, for using carrots rather than sticks where possible, but I wonder whether carrots in the form of yet more guides on how to make your business accessible have been on the menu for rather a long time. To paraphrase Teddy Roosevelt, smiling sweetly—in this case at service providers—is not going to get us very far if they do not understand that there is also a damn big stick behind that smile.

Might I suggest to my noble friend the Minister that the Government pursue a slightly more robust approach by introducing a scheme of tapered incentives for reasonable adjustments to be made? For example, businesses could be told that they had a certain number of years—I take the figure five at random; it could be fewer—to make the necessary adjustments. There could be a declining tax break for the first three years, no tax break in the fourth and a tax take—a penalty—levied by government for any non-compliance in the fifth year. Obviously the Government would also need to work in partnership with the relevant trade bodies, disability organisations and providers of ramps, induction loops and other disability aids to make service providers, particularly SMEs, aware that reasonable adjustments need not cost the earth. Might I also suggest that any guide produced to publicise the scheme has as its title the simple message: "The law is the law. It pays not to break it"? This report shows that 21 years after your Lordships' House passed the Disability Discrimination Act into law we still need to join up the dots.

[Lord Shinkwin]

I welcome the Government's stated commitment in paragraph 4 of the preamble to their response to improving attitudes. I also welcome their restated commitment to take steps to implement the UN Convention on the Rights of Persons with Disabilities, and the clear acknowledgement that such a commitment means that all government departments need to consider what the convention says when developing a policy that affects disabled people, including, in the case of the UN convention, disability before birth. This is particularly important because I am concerned that one department, the Department of Health, may be in breach of at least the spirit, if not the letter, of that convention as it relates to disability before birth. If this excellent report is to have a lasting impact and if we are committed to equality, we must allow disabled babies to have a future to enjoy equality. At the moment, many of them do not. The sad, shocking fact is that a diagnosis of disability in the womb means all too often that they are lucky to make it out alive.

Disability discrimination may have been outlawed after birth 21 years ago, but for disability diagnosed before birth, discrimination remains enshrined in 2016 in the law of our land. Take Down's syndrome, for example. Some 90% of Down's syndrome diagnoses result in termination, and that figure is likely to increase if the Department of Health approves the National Screening Committee's recommendation that a test be introduced to make it even easier to identify Down's. It is one thing to eradicate disability discrimination—and this excellent report powerfully shows the way forward on that. It is an entirely different thing to eradicate disability itself through termination. For that is what is happening, and not just on grounds of severe handicap, to use the terminology of the legislation—not that severity justifies discrimination. The Department of Health's own figures for 2015 record that 11 terminations were carried out for cleft lip and cleft palate, which are easily rectifiable conditions.

I say to the Minister in good faith that, if the Government want to prove their commitment to tackling discriminatory attitudes, let them back my Private Member's Bill. Let them make the time available so that my Bill completes its passage through your Lordships' House and so that MPs, as the people's elected representatives, have a chance to debate and vote on removing disability as grounds for termination.

We all know that some reports—not, I hasten to add, from your Lordships' House—deserve to gather dust. This is not one of them. This report deserves to be a living document, to which we return on a regular basis and against which we measure progress. I look forward to doing everything I can to ensure that by eradicating disability discrimination in all areas of life both after and before birth, we do this report, Parliament and society justice in the years to come and help the Government embark on real, lasting and inclusive social reform.

6.47 pm

Lord Faulkner of Worcester (Lab): My Lords, it has been almost as great a privilege to listen to this debate as it was to serve on the Select Committee. The debate has demonstrated the extraordinary range of experience that Members of your Lordships' House bring to the subject of disability. I thank all noble Lords who have spoken and particularly those who have spoken from their own life experiences and brought that to bear on this subject.

Almost every speaker has congratulated the noble Baroness, Lady Deech, on the way in which she chaired the committee and introduced this debate today. I join them in that respect as well. It was a remarkable committee, which she chaired brilliantly. She should also be congratulated on persuading the usual channels to hold this debate in prime time, so early in the Autumn Session. I did not expect to see that happen, but that is a great achievement as well.

As the noble Baroness, Lady Thomas of Winchester, said, we produced a good read, which is a good epitaph for the committee's report. It was unanimous, hard-hitting and full of recommendations which, if they were all acted upon, would make a huge difference to the well-being and life experiences of disabled people across a wide range of activities. It was therefore a pity that the Government's response was so feeble and unambitious. When it came out on 7 July—one month and 13 days later than the Cabinet Office's guideline of two months for responses to Select Committee reports—the noble Baroness, Lady Deech, was quoted as saying that she was "dismayed, to put it mildly", and that it was "a really unfeeling bureaucratic response, totally at odds with a real will to empathise and make life more productive for disabled people". I concur totally with that view, and I support the calls made in this debate for that response to be withdrawn and rewritten by the Government—I am not sure they are a new Government but they are a new sort of Administration compared with the previous one.

Other Members have spoken about parts of the report and the Government's response where they have their own areas of expertise and knowledge. I shall concentrate briefly—because time is getting on in this debate—on recommendations 21 and 22 relating to disabled access to sports grounds, which are covered in paragraphs 245 to 249 of the report. I remind the House of my interest as a vice-president of the charity Level Playing Field.

The noble Baroness, Lady Deech, the noble Lord, Lord Northbrook, my noble friend Lord Harrison and the noble Baroness, Lady Brinton, all referred to the Accessible Sports Grounds Bill, which I took through this House in 2015. With the exception of the then Minister—not the Minister who will be replying tonight—whose approach in that debate can perhaps best be described as lukewarm, every Member who spoke in the Second Reading debate on 17 July was strongly supportive, particularly in respect of the principle that each stadium should follow accessible stadia guidelines and improve the experience for disabled people attending their matches.

While it was evident that the Bill would not make progress in the other place without government support, it produced one very positive consequence, and that was the response from the English Premier League on 10 September 2015, which stated:

"All Premier League Clubs have agreed to make their stadiums compliant with the Accessible Stadia Guide by August 2017.

Clubs also agreed to ensure the appropriate number of wheelchair bays are located in their away sections (10% of their home provision)".

If that commitment were fulfilled to the letter, it would represent a huge step forward by the best supported and most affluent clubs in British football, particularly if the lead given by the Premier League were followed by the other football leagues in England, Wales and Scotland, and sports with significant numbers of fans attending their matches.

In the report, our Select Committee quoted approvingly the comments of Justin Tomlinson MP, who was then the Minister for Disabled People. Sadly, he is no longer in that post. He told BBC Sport:

"Most football clubs in this country are behind when it comes to disability access to their grounds. It is my belief that football should be a game enjoyed by everyone, and someone with a disability should have as much of an opportunity to watch the game as someone without a disability".

The following paragraph of our report said:

"On provision for disabled people, he"—

Justin Tomlinson—

"similarly confirmed his view that: 'Frankly, some of it is disgraceful. There is not provision in some grounds. Supporters are split up or are put in with the away fans. I find that totally unacceptable. We are in the last chance saloon with those football bodies, saying, "You need to get your house in order"'".

Had my Private Member's Bill become law, clubs which failed to comply with the accessible stadia guidelines could have lost their safety certificates and their stadia would have been prevented from operating. However, without that sanction, disabled people will have to rely on the good will of the clubs to deliver what they have promised by the summer of next year. I am afraid that I am not holding my breath. I am advised that the long-awaited report from the Premier League regarding the progress of its clubs with one year to go was sent to the Minister, Penny Mordaunt MP, in early August and copied to the Sports Minister, Tracey Crouch. I am told it says very little and contains no detail about the real progress at each club.

It appears that at least seven Premier League clubs will not meet the pledge by August 2017, as had been promised. The excuses being put forward by clubs as to why they will not meet this are, frankly, unacceptable. Liverpool Football Club, for example, seems far more interested in providing general hospitality places than in installing sufficient disabled fans' seats to comply with football's own minimum standards. Those seats for disabled people would ensure that the club meets its pledge, but instead, its disabled fans are expected to wait for phase 2 of the stadium expansion—whenever that might be. Watford Football Club seems to be removing disabled fans' seats at a time when we should be seeing an increase, and Crystal Palace believes that it needs only to come up with a plan by August 2017, rather than comply with a commitment.

It further transpires that newly promoted clubs will be given a one-year extension to meet the Premiership pledge, as they had not been part of the original decision and it is felt that they should be afforded the same two-year cycle. This misses the point completely. As other noble Lords have said in this debate, it is more than 20 years since the introduction of Part 3 of the DDA: it is law that they are required to provide that accommodation, and it is disgraceful that they have not done so.

It is clear that the Premier League appears to have no intention to penalise or sanction clubs that do not meet the pledge. So what happens next? Quite recently, the noble Lord, Lord Ashton, replied to a Written Question from me in these words:

"Ministers expect all sports, and all clubs, whose grounds do not make the reasonable adjustments to accommodate disabled spectators as set out in the Equality Act 2010 to take action to fulfil this legal obligation".

Given the vast financial resources at the disposal of Premiership clubs, which noble Lords have referred to, the time has surely come for this action to be taken and in a much more drastic way.

It is so disappointing that, in response to the Select Committee's recommendation 21 that the Government should include provisions similar to those of the Accessible Sports Grounds Bill in a government Bill, the Government have said that there are no plans to introduce one as existing legislation in the form of the Equality Act remains untested on access to sports stadia for disabled people. That is a truly bizarre excuse that completely ignores paragraph 247 of the Select Committee report, which states:

"The Equality Act 2010 has not succeeded in giving disabled sports fans the access to stadia to which they are entitled, and new measures are needed. A particular problem … is the law's requirement that only individuals may bring actions against institutions which are failing in their duty to comply with the Act. The nature of the relationship between a football fan and his or her own club is often deep-rooted and passionate, and makes it hard"—

I would say impossible—

"for the fan to initiate proceedings".

This is the reason for our recommendation 42:

"The Government should consider changing the law to allow charities and other bodies which do not themselves have a legal interest to bring proceedings in the interests of classes of disabled people who are not themselves claimants"

I hope that when the Minister replies she can give a convincing reason for not allowing charities to bring class actions. I also ask her to give the Government's response to the Premier League's report on progress towards meeting its August 2017 accessibility commitment and an indication of what they plan to do if the clubs let them, and their disabled supporters, down.

6.59 pm

Lord Addington (LD): My Lords, as somebody who did not serve on the committee, I think that this debate has been an incredibly interesting look at its work. Indeed, the quality of the speeches takes away some of my irritation at not having managed to get on to the committee. However, even a committee doing this much work could not cover everything in the field of disability. I say that and make the first of my declarations of interest: I am a dyslexic and president of the British Dyslexia Association. Reading through the report, I discovered that there is more than one BDA involved in the disability field, as there is also the British Deaf Association—dyslexics are very bad with acronyms.

A series of themes come out of the report. The big theme is that you have got the law—implement it. Drive it forward. I am a veteran of the DDA. However,

[LORD ADDINGTON]

before we celebrate it too much, we should remember the pain of its birth. The noble Baroness, Lady Campbell, was outside the building and I was inside at the time of its birth, and it was a painful and prolonged labour. It was dragged out of a Government who did not want it, largely through the actions of their own Back-Benchers, and so the Conservative Party, if not that Government, can feel a degree of pride about that. The general theme was that it would destroy business—that it would be the biggest burden on us that we have ever had. When in doubt, people go back to that place and, to an extent, all parties and Governments have done so. Even in the internal structures of my own party I have at times bumped into people asking, "How do we do this?". Let us take that as a position backed by history.

The noble Lord, Lord Faulkner, described the football premiership as an organisation awash with cash which is finding excuses not to do something that is morally acceptable and has the will of Parliament behind it. If it is not doing it, should we not at least allow the capacity we have for action to take place? If the Government are not prepared to sanction such action, they should allow someone else to. They should get out there and do something.

The last but one noble Lord who spoke—I am sorry, I am dyslexic and have difficulty with the pronunciation of names—got it right: unless you drive people towards the required conclusion, either with a carrot or a stick, they are not going to go. I declare an interest as chairman of Microlink, a company which helps find solutions for businesses to get the benefit of employing disabled people. I agree with the noble Lord that the Government have to both tell people what the solutions are and drive them towards them. It is interesting that the biggest companies with the biggest names and biggest responsibilities tend to be better at doing this. Our biggest clients are Lloyds and Ernst & Young, with which we have a long-standing relationship.

Companies which employ disabled people and support them correctly get a benefit—an employee who takes less time off sick, which kicks the stereotype firmly in whatever tender part of its body you choose. It is proven. The Business Disability Forum has done work on this. The employee tends to be loyal and does not change jobs. However, you have to take the action. We are one model of how to do this. I will conclude my commercial there.

The problem is that this committee has done what virtually all committees on disability do—it has gone to what I refer to as reverse battlefield medicine; it has gone to the worst and most obvious situations first. On the battlefield you patch up those who can get out of there quickly first to get a good conclusion.

When businesses are dealing with those who are disabled, they are dealing with people with degenerative or undisclosed conditions. Unless a firm has a reason to support them, the stick, and knows that something can be done to get a good return, the carrot, it will have a problem. The person becomes unproductive and is more likely to take time off sick. They are more likely to develop mental health problems because stress leads to them. That person is being placed into an enormously stressful situation.

Perhaps the great idea in this is talking about it, but no—companies have to be told that the solutions are out there and that they should look at them. The major offenders are small and medium-sized businesses because they are under pressure in terms of resources and they do not take proactive action. Unless someone says to them, "Here it is, come and get it"—I cannot think of a better body to do this than the commission, unless we are going to set up something else, which in the current political situation is highly unlikely—we will miss the opportunity and the dissemination of good practice will slow down. It will happen when people come upon it by accident or are forced to take action through individual law suits. That is not a good way forward; rather, it is taking tiny baby steps and occasionally going backwards. Will the Government take an aggressive approach towards showing the benefits of employing disabled people by giving them the correct support?

We have a wonderful scheme called Access to Work, which has been described as one of the best-kept secrets in the entire system. It helps some 35,000 people a year. More than 5 million people of working age in this country are disabled. The waste that is intrinsic in that figure is incredible. Although we do need that stick, it is also an admission of failure. We have had legislation for more than 20 years and we still do not have a pattern of reflex behaviour that says, "Let's deal with it". It is still something that leads to periodic bouts of fear every time something comes up and people realise that no one is enforcing the changes needed. Unless we put together the two operations, we are going to have problems.

I want to emphasise the fact that many of the problems we are talking about, particularly in those with developmental difficulties and so on, are usually fairly minor and cheap to deal with. If someone has a back problem as the result of a degenerative condition through an old sports injury or simply because of wear and tear, they can be given a supportive chair. If the process is made easy and quick, the person can continue to function. If someone who is mildly dyslexic is promoted into a job where they are under stress, simply give them the assistive technology that we have been using in the Disabled Students Association for 15 years. It costs a couple of hundred pounds, including the training in how to use it because it is now so easy to use, and you can say, "There you are". Unless people are told about these solutions correctly and aggressively, nothing will happen. Holding little forums and so on will not make it happen. We have to educate in an assertive manner.

It is said that talking and persuasion are better. That does not mean just saying that there is the odd little scheme here that you will find if you look for it hard enough and giving out another pamphlet. More has to be done. We want to get more of those 5 million working-age people with disabilities into jobs but, unless we get on with these activities, it will not happen. We know also that unless there is an enforcement procedure which states that action will be taken, even if it is not used most of the time, people will not go and look for it. That is because we are all busy and have pressures put on us. We know that we are terribly busy and cannot do anything more. Who here willingly

does something that they do not have to most of the time? There will be around two virtuous souls in the place but the rest of us have to look at our shoes in shame. That is the situation we are in.

When we consider the selfish gene of our society, I want to comment on what has already been said about transport issues. The right idea is that you will enhance your service and make it run more smoothly if a bus or a train tells the passengers when it has arrived at a station and displays a sign saying that they have arrived. Anything else is utter idiocy. How often has a perfectly able-bodied person using a route for the first time or simply reading their book been saved by such an announcement? These aids help the whole system. In the same way, if transport is wheelchair accessible, it helps the person who walks with a slight limp and uses a stick. An example that goes against it can probably be found, but usually that is the case. It also helps if you are moving something, or if you have the aforementioned baby buggy or the case on wheels—the thing that tends to trip you up when you are not expecting it at any major station. All these things are helpful to you if you bring them inside. Unless the Government take an active approach of saying, "This is beneficial, we will do it and we will encourage you to do it", they will miss a trick—they will miss the stick and the carrot. We currently have a rather pathetic, weedy stick and a carrot that is hidden in a cupboard somewhere. We do not bring them together or co-ordinate. Unless we are prepared to do so, the benefits that would be available to us with very little effort at the moment will be missed.

To try to bring my comments together, the last thing I will say is that we have to look at this in the round, because when we look at this subject it expands into everything else. Indeed, the next commissioner will say, "Is it possible to remove disability matters from the rest of society?". It is not, because the two are too interlinked. We here have to start pointing out to the rest of society that it will benefit by taking this appropriate action. If we make people with disabilities more economically active and more socially included, we will save ourselves hassle and trouble. Let us encourage the selfish gene to go on here, but let us not pretend that it will happen without aggressive action.

7.12 pm

Lord Stevenson of Balmacara (Lab): My Lords, the House's committee system is an important part of our work that allows us to bring together expertise, knowledge and information in a way that is very unusual in our public life. It is a part of our processes that we should support as long as we can. We should cherish the good examples of it that we have, including the report we are discussing, which, as many people have said, has been an exemplary exercise.

The committee is a well-timed initiative, led by the noble Baroness, Lady Thomas of Winchester, but picked up quickly by those who saw the importance of a review centred on evidence that could be provided not just by those in this House, but by a wider community prepared to come in and share with us the experiences they have had of the Equality Act 2010. It is not just an ordinary review of another piece of legislation, but a real, living exercise in trying to understand the experiences people go through when they face disability, in a way many people do not. I am not one of those who has a disability that would qualify in any sense for this activity, but I have learned so much, as the noble Lord, Lord Addington, said, by listening. It has been a pleasure. I hope the report of this debate will reach a wider community and convince people of the value of the exercise we have been listening to.

I give my thanks, which have of course already been given, to the noble Baroness, Lady Deech, not only for chairing the committee, which was obviously a brilliant exercise in which everyone seems to have had a good time, which I am sure is not always the case in committees—we will pass over that—but also for her speech, which introduced the report so well and highlighted the key moments we need to focus on. Those who have spoken have largely been members of the committee, including the mobile Bench, which is a wonderful term for them, but the debate has brought in others who have also contributed. That is very good. The debate is well-timed, as has been picked up, because it is just before the beginning of the Paralympics, four years after London 2012 transformed our understanding in this country I hope for the longer term—although the evidence from the noble Baroness, Lady Brinton, is that that is not the case. It certainly did for those of us who were there. I think I shared with the House before that one of the most interesting experiences in my life was being asked to present prizes for a couple of races in the Paralympic stadium. It was an astonishing experience that I will never, ever forget.

We have had a very good debate based on a good report, which has been described as being of a very high standard and a good read. It is important to recognise that. But the key thing is that it is evidence-rich. The report is not just the views of the committee members; it is informed, transformed and transmuted by what they have heard. It is in that sense that the Government's response, which has come in for a fair amount of criticism, is such a disappointment, particularly the prologue, which reads more like an apologia, with a sense of doom and gloom surrounding it and the inevitability of disaster awaiting as you turn every page. The Greeks did it well. We should not learn from them in this respect. The Government owe more to the House and the community that the committee was serving, and should provide a response that at least engages with the issues, even if it does not necessarily always agree with them. If the Government really believe that they are going to build a country that works for everyone, in which we all benefit and there are no barriers or assumptions of exclusion, they have to do more than simply hold conversations and return to consultations which, as has been said, have already been carried out to exhaustion.

The noble Baroness, Lady Campbell, in a very powerful speech, and others pointed out that what you read in the Government's response is that discussion and consciousness-raising is the way forward, when all the evidence and all the messages received by the committee and all the information that it gathered—which really cannot be ignored—is that the Government just need to get on with implementing the will of Parliament by bringing forward outstanding sections of Bills; by funding the EHRC properly to do what it was set up to

[Lord Stevenson of Balmacara]

do and making sure that it can do that without red tape or other considerations being brought to bear on it; and by ensuring that all those who already have responsibilities under the Acts that provide the underpinning of our approach to disability are made to deliver them. The Government must challenge what the noble Baroness, Lady Deech, called the insouciance of those who will not comply or who use the reasonableness test to evade doing the right thing. They must challenge them and force them to do what is needed. That is the role of government and one that they should be proud to exercise. It will be for the benefit of all.

Before I deal with some of the recommendations, I will make two positioning points, which struck me on reading the report and the response and listening to the debate today. The first is on the numbers. I do not think it is well recognised that there are as many as 11 million disabled people in the United Kingdom. Of course, that number is complicated by the fact, which a number of people mentioned, including the noble Baronesses, Lady Deech and Lady Brinton, that not everybody who is disabled is visible in the sense of being in a wheelchair. We ignore that point at considerable risk to the policy-making process. Eleven million people is a huge constituency and we do not do ourselves justice if we ignore them. As the report says:

"Disability affects us all—as disabled people ourselves, and as the carers, family, friends, employers, colleagues, and educators of disabled people—and it is the task of all of us to remove the barriers that prevent some from participating fully, and equally, in society".

As has been pointed out, if that requires positive discrimination, so be it. We should do it.

Secondly, we still do not really know enough about the conditions under which those who are disabled have to operate and live. The point was made in the report and echoed by a number of speakers that more and better collection of data, and an evaluation of the cumulative impacts on disabled people, are desperately needed. Trying to bring that about would be the right place for the Government to start.

The report is full of recommendations but we have time for only a few of them. The ones I have selected are the ones where I think that more bangs would be achieved for the bucks that might have to be invested. The report refers to "20 years of inertia" in transport. So many people have raised that, I do not need to spend time on it. The Government have a huge opportunity with the need to move forward on taxis, even if they will not go back and look again at the implementation of the outstanding issues, with a Law Commission bill on taxis in the wings, I think, ready to be brought forward this year or next year. There really is no excuse for not dealing with all the issues to do with taxis. Significant points have been made about buses and trains. There are also questions about ships and hovercraft, which have not been picked up yet but are important. Because the regulation there has been repealed, with the possibility that the regulation that is currently there underpinning an EU directive not being effective after 2019, it is really important for the Government to think harder about how they are going to make the Equality Act apply so that there is accessibility, for instance, in bars and shops.

On providers of services and the duty to make reasonable adjustments, it was incredible to hear the story about the planning of Crossrail and that there was not to be step-free access to it. What will happen with HS2? Can the Minister remind us whether it will be a requirement on those responsible for building HS2—if it is still the Chinese, then we perhaps should know a bit more than we otherwise would—that proper access will be provided on that route?

In a powerful intervention, the noble Lord, Lord McColl, who is not in his place, went through the issues about taxis and raised the first point about disability training, which has been picked up so many times that I will not list your Lordships' names. There are obviously two sides of the same coin. Without the proper investment in disability training, so many of the issues that arise in transportation in the practical sense will be ineffective. We heard further examples which were almost too difficult to listen to. There is a very easy solution to the question of audio-visual notifications, which has been picked up in legislation currently before the House.

The noble Lord, Lord Holmes of Richmond, raised the possibility that air carriers would evade responsibility to cover the full cost of the damage that they cause to wheelchairs or mobility devices, because those can be treated as freight and not as essential parts of people's lives. The Government could easily resolve this and I hope that the Minister can confirm that she is in discussion with the noble Lord on that point.

A number of noble Lords raised football stadia. We have in this House had the experience of seeing a Bill which would resolve that issue go through with unanimous support. Indeed, I do not think that any amendments were even put down for its final stages. As the report says:

"Many of the pleasures which most of us take for granted are denied to disabled people",

simply because access is not made in the ways that it should be. The law is clear on this. Yet it is absolutely appalling to hear that, despite the Premier League's commitment and undertaking that,

"its clubs will comply with the accessible stadia guidelines by August 2017",

this is not the whole story. I think the figure given was that seven clubs may not make it and those that are promoted will not have to make it. What about those clubs in receipt of public funding? I do not want to name names but can the Minister confirm that if any football club in the Premier League is in receipt of public money, that money will be paid to it on condition that the stadium is made accessible? That should at least show the way in which power could be exercised under appropriate arrangements.

The noble Baroness, Lady Thomas of Winchester, mentioned restaurants, pubs and clubs that are difficult to access, with many not providing basic facilities such as disabled toilets. She also suggested an easy amendment to the Licensing Act, which would resolve that. Why could the Government not take that up? The designs of dwellings and common areas are processes where tenants are prepared to pay for improvements. These things could happen simply by requiring that as a condition of having that sort of common approach or

in the design and planning arrangements. The Government would not have to invest heavily in it or need to carry out reviews. The research in this area is available to them and reasonable adjustments are part of the process which we all need to support.

A very important point was made that disabled people appear to be worse off than others in getting access to justice. The figures on appeals and tribunals are very significant, because of the mixture of the introduction of fees and the reduction in legal aid. Again, the Government are currently thinking about these issues and I hope that there will be something in the Minister's response on that.

The broader issue of communication was raised, particularly by the noble Lord, Lord Low, and the need to pick up on reports from the professional bodies is worrying. At a time when we are thinking about digital issues and the Digital Economy Bill is before the House, I would have thought that the Government might look at the opportunities there and see whether they could respond to them.

In conclusion, the needs of disabled people are many and complex. Much more could be done with additional resources and, as has been made clear to us tonight, the resources needed are not significant in these areas. A lot can be achieved for very little investment. It may be that the time of austerity measures is passing and therefore there will be more consideration of investment, but the recommendations should be at the top of the list. The changes listed in the report that have been turned down by the Government are quite simple and often cost-free to the taxpayer. We need the Government behind them. The time for buck-passing and evasion has gone and, as we have heard so many times, raising awareness will not be sufficient. We need action. We need law-law not jaw-jaw, as has been said. As the noble Baroness, Lady Brinton, put it so well, the challenge to the Government is that if they wish to prove that they believe in inclusion for everybody in the country, they should reconsider their present response.

7.25 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, first, I take the opportunity to thank the noble Baroness, Lady Deech, for securing this important debate on the eve of the Paralympics, as the noble Baroness, Lady Campbell, said, and on the 21st anniversary of the Disability Discrimination Act. I also thank her for coming to see me today. I understand she will be meeting the Secretary of State later this week.

I am also grateful to other noble Lords who have spoken very thoughtfully on this subject. I am particularly grateful to the mobile Bench. I did not know the noble Baronesses were called the mobile Bench or bunch, but they are certainly a very formidable line-up.

I thank the noble Baroness, Lady Deech, and her colleagues on the now-disbanded but certainly not forgotten Select Committee on the Equality Act 2010 and Disability for their wide-ranging report which was published in March. It is timely and comprehensive and highlights the continuing challenges and obstacles which disabled people face on a daily basis. Many examples have been given today.

I hope noble Lords will be happy—or at least less unhappy—on leaving the debate than they have been in recent months about some of the things that I am to say, which I hope will bring a bit of cheer. The committee's report rightly focused on a number of important issues, such as how adequately we imbed disabled people's needs into the first steps to plan services and also when we construct premises. I take the point about Crossrail incredibly seriously. I almost could not believe it when the noble Lord raised it, but so many noble Lords repeated it that I will look into the issue and find out why such a huge construction project was built without step-free access. That theme on the construction of premises has now, as noble Lords have said, been taken up by the Women and Equalities Select Committee in the other place for its own inquiry.

The report also fairly examined whether both public and private sectors have been sufficiently proactive in meeting the needs of citizens with a disability and whether there is still a tendency simply to react to problems once they have arisen or to be forced into action when pressed. We further acknowledge the importance of two-way communication between government and disabled people and their representatives, something that the report says we can improve on, in turn improving access to justice and how services are delivered.

For the bulk of what I am going to say, I now turn to points that noble Lords have raised. The noble Baroness, Lady Deech, and the noble Lord, Lord Stevenson, spoke about court fees, and I will also talk about qualified one-way costs. The Government's post-implementation review will report in due course, and we will consult on any subsequent proposals for changes to the fees or the remissions system. Lord Justice Jackson recommended the introduction of qualified one-way costs in public injury claims, but the Government will consider the possible extension of qualified one-way costs shifting to other categories of law, including claims made under the Equality Act, in due course, once there is some experience of the regime in personal injury.

The noble Baroness, Lady Deech, also talked about legal aid. We have made sure that legal aid continues to be available to provide access to justice for people in the most serious cases. It includes, subject to statutory means and merits tests, legal aid for disputes with local authorities about community care services for disabled people and for discrimination claims relating to the contravention of the Equality Act.

The noble Baroness, Lady Deech, also talked about the PSED amendment to ensure that public authorities take steps towards equality rather than having "due regard". The due regard test is well established and the courts have recognised that difficult decisions by elected politicians should not be second-guessed by the courts where all the relevant facts have been considered. The due regard requirement helps to ensure that public bodies remain conscious of equality issues throughout the process of exercising their functions. As soon as a requirement becomes more specific—the noble Baroness and I talked about this today—or task-oriented, there is inevitably the risk that many public bodies may start to think of short cuts or ways out of fulfilling their duties. That is an important point.

[Baroness Williams of Trafford]

The noble Baroness and a couple of noble Lords talked about disabled people losing out now under the PSED. We disagree, first and foremost because two of the leading cases brought under the PSED on the spare room subsidy and the independent living fund were brought by, or on behalf of, disabled people. We feel that if public bodies were under separate duties to have regard to each of the protected characteristics in the Equality Act, we would have a more complicated and bureaucratic scheme than at present.

The noble Baronesses, Lady Deech and Lady Thomas, and other noble Lords talked about the culmination of the change of Ministers and Ministers not being in any one department. There was also a suggestion that the Minister responsible for disabled people might be of a higher rank and a full member of the Cabinet Social Justice Committee. Following the ministerial reshuffle, I requested that I remain as a Minister in the GEO, so as far as the House of Lords is concerned, there is continuity—at least for the moment. The Government have always been clear that regardless of rank, whenever Ministers, whether for faith and integration or for disabled people, speak on disability issues, they speak on behalf of the Secretary of State. Being rank-oriented is probably not entirely helpful.

Lord Stevenson of Balmacara: There is a double issue about ministerial positions. The point that the Minister has made is correct but there is a question about whether there would be a greater effect on policy activity if all the Ministers could be in one department—for instance, one in DWP implies a disability focus whereas there is a bigger concept of equality and human rights. The other issue is what would happen if there were to be a British Bill of Rights as there may well be; there has been one from the Ministry of Justice.

Baroness Williams of Trafford: I totally understand the noble Lord's point. Having been in government for a very short time, I believe that if all the Ministers are in one department the attitude can be that it is another department's responsibility. Issues on disability, race equality and women's equality should be cross-governmental; every department should take ownership of them. We could argue about that till the cows come home, but our thinking is that it should be a cross-government approach.

The noble Lord, Lord McColl, as well as the noble Baronesses, Lady Campbell, Lady Brinton and Lady Deech, talked about bringing into force all sections of the Equality Act regarding taxis. We talked earlier on outside the Chamber about the best and the worst stories about taxi drivers. I had a very good experience the other week, when we spotted a disabled man whose wheelchair had run out of batteries. The taxi driver could not have done more to assist this man, who would have been helpless in the middle of the street without him. But there are terrible stories as well, and the noble Baroness, Lady Brinton, outlined her experiences in different parts of the country.

Among the provisions in Part 12 of the Act, which concerns access to taxis and private hire vehicles for people who are disabled, those relating to the carriage of assistance dogs are now in force, while those relating to the assistance provided to wheelchair users will be commenced very soon. The noble Baroness, Lady Brinton, talked about enforcement—how do we make sure these people do this. It will be a criminal offence for drivers of designated wheelchair-accessible taxis or private hire vehicles to refuse wheelchair users assistance or to charge them extra. The fine will be up to £1,000. The noble Lord, Lord McColl, asked whether the Government will introduce guidance and training to supplement the introduction of the duty on taxis to take wheelchairs. The answer is yes: guidance will be produced by the Department for Transport to coincide with the introduction of the duty.

The noble Lord, Lord McColl, and the noble Baroness, Lady Deech, also asked about bringing into force Section 36 of the Equality Act. We are conscious that a small number of those sections of the Act that have not been commenced are of particular relevance to disabled people. Accordingly, we are currently reviewing the position on Section 36—even though the noble Baroness might sigh at that response. The duty to make reasonable adjustments to common parts, as our response to the committee makes clear, is a complex issue, but the Government hope to conclude the review by the end of this year, and I am sure I will be taken to task if that does not happen. We will of course report our decision to the Women and Equalities Committee.

The noble Lords, Lord McColl and Lord Low, and the noble Baronesses, Lady Deech and Lady Brinton, talked about the crucial role of audio-visual on all new buses. Building on the Public Service Vehicles Accessibility Regulations, which provide a step change in accessibility for many disabled people, the Bus Services Bill makes specific provision for equipment to be fitted on vehicles that will provide all audio and visual information where the majority of operators in an enhanced partnership agree, and franchising authorities will be able to make similar requirements for the operators of their services. The Bill's open data provisions will also help to ensure that all passengers have the information to make informed choices about their travelling options. We understand the frustration about the lack of progress in the provision of accessible information outside of London and are actively considering how its uptake can be encouraged.

A number of noble Lords asked about the cumulative impact assessment of cuts et cetera on disabled people. Considering the impact on people with disabilities and those with other protected characteristics is an integral part of the Government's approach to their policy work. It includes measures taken at all Budgets and other fiscal events and reflects the Government's principal commitment to fairness as well as their legal obligations.

There were a number of questions about G4S. The noble Baroness, Lady Prosser, expressed concern about the contract with G4S, as did the noble Baroness, Lady Deech. I have to say that G4S was the winner of a thorough, competitive tender process for this contract to run the Equality Advisory and Support Service. We believe that the G4S group has a good background for taking on the EASS functions. During the last three years it has successfully run Child Maintenance Options, a helpline for the Department for Work and Pensions involving many of the same factors that may be present in EASS contacts: callers who may be distressed or

emotionally vulnerable and cases that may be complex and span a number of calls or contacts, sometimes with people whose first language is not English. We believe that G4S's ability to engage positively with this type of case and type of customer provides a good basis for the delivery of the helpline. More generally, it is committed to fulfilling its responsibilities in all its companies around the world by applying the UN's 2011 *Guiding Principles on Business and Human Rights*. I hope noble Lords will be able to see beyond the immediate reaction of some NGOs and lobby groups. The Equality Advisory Support Service is an essential service that we are aiming to continue operating on a seamless basis and to the same standards as before.

The noble Baroness, Lady Prosser, talked about training for G4S staff, which clearly is essential. We agree that training for the new G4S staff will be necessary and undertaken; in fact, it has already begun.

The noble Lord, Lord Northbrook, and the noble Baroness, Lady Campbell, made the point that the Government say the EHRC did not want to run the EASS but the EHRC's response contradicts that. The EHRC did not bid to operate the helpline itself, nor did it propose operating it in discussions with the GEO. The EHRC proposed to manage the tender process but acknowledged that, because of the value of the contract and EU procurement requirements, there was insufficient time to conduct the procurement outside a preapproved framework. That was the approach that the Government used.

The noble Baroness, Lady Campbell, asked why there was a difference of view between the Government and the EHRC over the EHRC taking back the EASS. To be clear on this, the EHRC's proposal to the Government was that it wanted to reshape and retender the EASS helpline. Its proposal did not involve running the service itself. In retendering the service, the EHRC would have had to have worked within the same contractual framework as the Government, and it proposed to use the GEO resources and support to do so. That was not a cost-effective option for the Government.

The noble Baroness also talked about the EHRC's disability committee being retained, and whether the Government would hold a meeting with the EHRC and members of that committee to discuss this matter. Now that the order to dissolve the committee has been made, the EHRC's arrangements for its disability work are essentially a matter for the commission itself. I note that the EHRC rejected the relevant recommendation in the committee's report. None the less, Ministers meet the EHRC chair and the chief executive from time to time, and I know they would be happy to discuss at a forthcoming meeting their plans for ensuring that its disability work remains effective and well supported by evidence.

The noble Baroness also talked about commencing Section 14 on dual discrimination. As was said in the Government's response to the committee's report, we are considering the future of a number of uncommenced provisions in the Equality Act 2010. Unlike, say, the uncommenced reasonable adjustment provisions, we do not see dual discrimination as a particularly well-tailored measure for disabled people.

I am running out of time so I will try to move as quickly as possible. The noble Baroness, Lady Deech, asked for technical guidance from the EHRC to be laid before Parliament as codes of practice. We are yet to be persuaded that codes are the solution when technical guidance can often do an effective job, and we are certainly not aware of any concerns from those for whom the statutory code are intended—the courts, tribunals, employers and service providers—that EHRC guidance on a few areas on the Act appears in a technical non-statutory form rather than as codes. We will, however, continue to bear in mind whether codes might in some circumstances have more to offer.

I turn to sports grounds, which many noble Lords, including the noble Lord, Lord Faulkner, talked about. As has been said, the Government did not support the Accessible Sports Grounds Bill because legislation already exists in the form of provisions in the Equality Act 2010 which require providers of services such as sport stadia to the public to make a reasonable adjustment—for example, a gangway—so that disabled people are not placed at substantial disadvantage. It was felt that the blanket approach adopted by the Bill departed from the careful balance achieved in the Equality Act. We note that, to date, no disabled spectator has brought a case under the reasonable adjustments provisions in that Act.

Moving on to the Premier League's pledges for 2017, we are disappointed, as are noble Lords, by its progress and will be asking it for a far more detailed report giving a club-by-club breakdown setting out what work has been done and what is planned to meet the August 2017 deadline. The pledges were made publicly by the Premier League on behalf of clubs and we look forward to its taking action against clubs that have failed to meet their targets. If Premier League clubs fail to meet their accessibility commitments, we will expect the Premier League to take appropriate action against all non-compliance.

The noble Lord, Lord Stevenson, made an interesting point about clubs in receipt of public money and how we can hold their feet to the fire. Off the top of my head, I would imagine that clubs would be caught by state aid rules. I thought about Section 106 money being used better to enforce their obligations under the Disability Discrimination Act when work is done by clubs. Perhaps we could take that up.

I have absolutely run out of time. I should have liked to have gone through some of the things that the Government are doing. Perhaps I may put a note in the Library to outline that. There will be questions that I have not answered but, on that note, I thank all noble Lords who have taken part in this debate.

7.47 pm

Baroness Deech: My Lords, we are all deeply grateful to the Minister. I know that her heart is in the right place and she has listened very carefully and responded warmly to contributions from Members, to whom I express deep gratitude on behalf of my committee. However, I believe that our new Prime Minister has an agenda that goes beyond the concessions that the Minister has made. Obviously, we are grateful for her understanding and for the issues on which she has said

[Baroness Deech]
that there will be action, but I am convinced that the Prime Minister's new agenda goes further than that. When I see the Minister, Justine Greening, I will put it to her that there still needs to be a fresh look at this response in the light of the Government's agenda, because our report fits that new agenda so well.

Our report is not just about disability. We are all on a spectrum of disability at some stage; we will all get there. Our report is talking about making society inclusive, following the Government's agenda of getting more people back into work, making them less reliant on the state. We still need a champion at the centre of government to keep an eye on that, to make sure that everyone can participate to the best of their ability—exactly as the Prime Minister has said. So while we are very grateful for the concessions, if I may call them such, that the Minister has made, I retain—and I think I speak on behalf of the committee—concerns about not going further with PSED. Complications are not an excuse. Having due regard does not mean second-guessing—it should go beyond that; it means that throughout government and public authorities progress should be made towards the goals that we all agree on. Licensing, too, needs to take on board all the requirements of the equality legislation. So I think that we have not gone far enough.

The United Nations Committee on the Rights of Persons with Disabilities has its eye on us. The Government have said that the provision adheres to the UN convention, but it may be found to be lacking. We live in a diverse society—that is what this report is about—and we want the Government to give a green light to all these recommendations, which cost so little, or nearly nothing, to make the whole of society work properly, everyone to the best of their ability. I and the members of my committee will continue to push for this at every level of Government, because we believe that this is what we all want and this is what the Prime Minister wants.

Again, I reiterate my gratitude to my hard-working members and reiterate all of our deep thanks to those who have spoken and in particular to Mr Collon and his team, who did a wonderful job. We will continue to move forward with this in every way that we can while at the same time expressing appreciation to the Minister, who has listened carefully and given us some hope.

Motion agreed.

Finance Bill

First Reading

7.52 pm

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

House adjourned at 7.52 pm.