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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

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§ Members of the Government listed under more than one department

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THE
PARLIAMENTARY DEBATES
(HANSARD)

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

HER MAJESTY QUEEN ELIZABETH II

FIFTH SERIES

VOLUME DCCLXXVI

FOURTH VOLUME OF SESSION 2016-17

House of Lords

Monday 24 October 2016

2.30 pm

Prayers—read by the Lord Bishop of Portsmouth.

Introduction: Lord Macpherson of Earl's Court

2.37 pm

Sir Nicholas Ian Macpherson, GCB, having been created Baron Macpherson of Earl's Court, of Earl's Court in the Royal Borough of Kensington and Chelsea, was introduced and took the oath, supported by Lord Layard and Lord Stern of Brentford, and signed an undertaking to abide by the Code of Conduct.

Oaths and Affirmations

2.43 pm

Lord Hill of Oareford took the oath, and signed an undertaking to abide by the Code of Conduct.

**Brexit: EU Citizens
Question**

2.45 pm

Asked by Lord Dubs

To ask Her Majesty's Government what assurances they can give to European Union citizens living in the United Kingdom, and British citizens living in other European Union countries, regarding their position following the negotiations for the United Kingdom's withdrawal from the European Union.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Prime Minister has been clear that she wants to protect the status of EU nationals here. The only circumstances in which that would not be possible are if British citizens' rights in other EU member states were not protected in return.

Lord Dubs (Lab): My Lords, would it not show that we are still good Europeans if we gave an assurance to all EU citizens living in this country, regardless of Article 50 or whatever, that they are welcome to stay here on the same rights as they have had up to now?

Baroness Williams of Trafford: My Lords, I think that the Prime Minister has been absolutely clear about her position. Obviously, there is a negotiation to be gone through, the timing of which I cannot state to your Lordships' House because I do not know it, but that will all be determined in due course.

Lord Lexden (Con): Do the Government intend to seek specific healthcare agreements with members of the European Union? This is a matter of great importance to British citizens, particularly the older ones, living in other EU states.

Baroness Williams of Trafford: My Lords, healthcare agreements, as with any other agreements that we might seek through our negotiation with the EU, will all be determined in the fullness of time.

Baroness Smith of Newnham (LD): Could the Minister tell us whether she, or other Ministers, would feel reassured by the repeated assertions that the rights of EU nationals in this country will be protected only in so far as the rights of UK nationals in other EU member states are protected?

Baroness Williams of Trafford: My Lords, I cannot say any more than I said in response to the first Question, which is that the Prime Minister has made her position absolutely clear, and unless the rights of our citizens and other EU countries change, that position remains.

Lord Elystan-Morgan (CB): Is not the blunt reality of the situation that those people who have settled in the United Kingdom, as well as our people who have settled in the 27 other countries, did so on the unequivocal understanding that their rights would be respected

[LORD ELYSTAN-MORGAN]

in perpetuity, and that to allow dubiety to exist now is both a breach of a solemn word of honour and indeed conduct unworthy of the highest standards of international comity?

Baroness Williams of Trafford: My Lords, I apologise, but I really have nothing further to add. The same question has been asked in different ways and, while the Prime Minister has made her intentions very clear, everything is part of the renegotiation process, because things have changed.

Lord Rosser (Lab): Nearly 3,000 Britons applied for citizenship in 18 European countries over the first eight months of this year, according to reports in the media—a 250% increase on the figures for 2015. That suggests that the Government's stance is not having a helpful impact on our citizens living abroad, let alone on EU citizens living in this country. Is it really, in the light of the Government's answer just now, the Government's position that they have no idea for how long the current uncertainty, affecting millions of people, will be allowed to continue?

Baroness Williams of Trafford: My Lords, there will obviously be a huge process of negotiation with the EU as we exit it, and we cannot give exact timescales or running commentaries on negotiations.

Lord Cormack (Con): My Lords, would not my noble friend at least agree that there is sometimes merit in leading by example?

Baroness Williams of Trafford: There certainly is merit in leading by example, but there is definitely a disbenefit in showing your hand too soon.

Lord Hannay of Chiswick (CB): Could the Minister perhaps be so kind as to have a different approach to the one she has taken so far and confirm that the British Government will not themselves place on the negotiating table any removal of rights to any EU citizens who are here? I am sure that if that assurance could be given, which was implicit in what the Minister said in her original Answer, it would be very helpful.

Baroness Williams of Trafford: The answer to that is that we want to get the best deal for everyone, both our citizens living abroad and EU nationals living in this country.

Lord Judd (Lab): Would the Minister not agree that many of these people are making a serious and profound contribution to the well-being of this country? They are to be regarded with dignity. Will she make it absolutely clear that in no way do the Government as a whole endorse the concept that they are bargaining chips?

Baroness Williams of Trafford: My Lords, people are not bargaining chips, but the whole negotiating process has to be taken in the round. I absolutely

acknowledge when the noble Lord says—because I hope I might be included as one of them—that EU nationals have made a great contribution with their skills and what they have done for this country.

Baroness Ludford (LD): My Lords, is false reassurance being given to EU nationals who have been here for five years? They are told that they are fine, but my understanding is that their rights are under EU law and, presumably, would not persist beyond our exit, so they would have to translate that into domestic law through something like indefinite leave to remain. Can the Minister confirm that that is the case?

Baroness Williams of Trafford: My Lords, again I cannot comment on what will be the subject of negotiations. However, I can confirm that EU nationals who have been continuously and lawfully resident in the UK for five years automatically acquire a permanent right of residence under EU law. This will not change, as long as the UK remains in the EU.

Lord Howell of Guildford (Con): My Lords, I know that my noble friend has nothing further to add on this—and she does it very well, if I may say so—but will she at least convey to her colleagues in government the perfectly clear feeling of this House that it might be a rather smart move, in terms of reassuring British citizens abroad and EU citizens here, if we made a unilateral move in that direction, indicating that we were prepared to do what is good for the citizens of the whole of Europe by initiating action ourselves?

Baroness Williams of Trafford: My noble friend articulates that very well—far better than I could. I will certainly take those points back.

Lord Green of Deddington (CB): My Lords, perhaps I may help the Minister by asking a different question. Can she tell us which, if any, other Governments in the European Union have issued the kind of guarantee that has been mentioned this afternoon? If they have not given any such indication, why should we?

Baroness Williams of Trafford: My Lords, I cannot answer the noble Lord's question, but maybe that comes back to the previous point that we are leading by example.

Brexit: Single Market *Question*

2.53 pm

Asked by Baroness Ludford

To ask Her Majesty's Government how they intend to fulfil the pledge in the 2015 Conservative Party manifesto to "safeguard British interests in the Single Market".

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, we will seek the right deal to give UK businesses the maximum access and freedom to trade with and operate in the single market. We are analysing

the entire UK economy, looking in detail at over 50 sectors and cross-cutting regulatory issues to understand the key factors for business and the labour force.

Baroness Ludford (LD): I thank the Minister for that reply. Given the importance of trust in politics, is it not a problem that the resounding yes to the single market in the Conservative manifesto, on which this Government were elected just last year, has become, in effect, a no to the single market? Even more important, is it not a huge blow to this country's economic prospects if there is no coherent and responsible objective to keep all parts of the UK and all sectors of the economy in the single market?

Lord Bridges of Headley: I entirely agree with the noble Baroness about maintaining trust in politics. She is absolutely right about quoting page 72 of the Conservative Party manifesto, which I have in front of me. However, I draw her attention to the next paragraph, which says:

"We will hold that in-out referendum before the end of 2017 and respect the outcome".

It is important that we respect the outcome of the referendum. Regarding the deal that we are seeking, we obviously wish to get the best possible arrangement for British companies to trade in goods and services across Europe while taking control of immigration. I am not going to speculate on what that looks like at this stage—I am sorry, but that is a refrain noble Lords will hear a lot—but the UK is in a unique position and we will be seeking a bespoke agreement with the EU.

Lord Foulkes of Cumnock (Lab): My Lords, would the Minister care to speculate on how long it will take for the Government to realise that Brexit has been a colossal mistake, with banks threatening to leave the United Kingdom, the pound plummeting and, as we have heard, with EU citizens unsure of their future as well as our uncertainty over the single market? Is it not about time the Government recognised that Parliament ought to be given an opportunity to sort out this mess?

Lord Bridges of Headley: My Lords, 17.4 million people would slightly disagree with the noble Lord.

Noble Lords: Oh!

Lord Bridges of Headley: I am sorry but the noble Lord is wrong in the eyes of 17.4 million people. I also disagree with him on the point about our future. There are obviously challenges ahead but the Government are determined to build on the progress we have been making in the economy over the last five to 10 years and to ensure that we deliver a smooth and orderly transition for Brexit.

Lord Hamilton of Epsom (Con): Will my noble friend confirm that the United States has access to the single market without being a member of it?

Lord Bridges of Headley: My noble friend is absolutely correct. He makes a very good point that precision on language in the weeks and months ahead is key. We need

to differentiate between membership of, access to and special access to the single market. It is critical that that point is made.

Lord Pearson of Rannoch (UKIP): My Lords—

Lord Davies of Oldham (Lab): My Lords, is it not quite clear that when the Brexit Secretary indicated that it was not necessary for the UK to remain a member of the single market, he caused profound uncertainty in business, finance and trade? Is it not clear therefore that unless the Government begin to establish clear principles on which they are acting on Brexit, we will go through a period of enormous uncertainty to the cost of the nation?

Lord Bridges of Headley: The noble Lord makes a very fair point about the challenges and uncertainty that we face. I and my ministerial colleagues have been having a series of meetings around the country. I was in Nottingham and Derby last week meeting representatives of several large businesses. I agree that we face challenges, but we have set out as far as possible the measures that we can take as a Government to bring certainty to the process—for example, our approach to the repeal of the European Communities Act and the timings to which we intend to adhere as regards triggering Article 50. As regards our aims and overall approach, the noble Lord will know that the Government have set out that we wish to take control over our borders, our moneys and our law, at the same time ensuring that we have the best possible access to the single market. However, I have to say to noble Lords that, as the Prime Minister and I have said many times, we cannot offer a running commentary on this as we go along.

Lord Pearson of Rannoch: My Lords—

Baroness Kramer (LD): My Lords—

Lord Davies of Stamford (Lab): My Lords—

Lord Hannay of Chiswick (CB): My Lords—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, after a number of unsuccessful attempts, it is the turn of the noble Lord, Lord Pearson.

Lord Pearson of Rannoch: My Lords, I am most grateful. Do the Government agree that the single market has prevented us doing our own free trade deals and has overregulated the 90% of our economy which does not trade with it? Therefore, is not continuing free trade all that we need and are we not likely to get it because the EU needs it so much more than we do—for instance, with 2 million more jobs making and selling things to us than we have selling things to it, and any new tariffs falling much more heavily on it than they would on us, as we saw from the Civitas report today?

Lord Bridges of Headley: The noble Lord comes to this with a certain track record and position. I will not comment in detail on what he said. I have read the

[LORD BRIDGES OF HEADLEY]

Civitas paper by Mr Justin Potts. I cite from the document for noble Lords who have not read it. It says that the findings of its analysis, “highlight the importance of a trade deal for both the UK and for EU countries”.

In other words, a trade deal, not falling back on WTO rules, which I think may be where the noble Lord is coming from.

Baroness Kramer: My Lords—

Lord Hannay of Chiswick: My Lords—

Baroness Evans of Bowes Park: My Lords, it is the turn of the Cross Benches and then the Liberal Democrats.

Lord Hannay of Chiswick: My Lords, will the Minister tell us whether the word “access” he used in his original Answer was access, special access or membership of the single market? Could we in future perhaps distinguish between those and stop using the ambiguous and slippery word “access” to mean absolutely anything we want it to mean?

Lord Bridges of Headley: I think the noble Lord is accusing me of being Humpty Dumpty and saying that the word,

“means just what I choose it to mean—neither more nor less”.

However, I will not add further to what I said or breach the Prime Minister’s commandment and start issuing running commentaries.

Baroness Kramer: My Lords, the Minister will be aware that the financial services industry contributes in excess of £66 billion a year to the Treasury. If the British Bankers’ Association is correct in its recent predictions of departures and transfers out of the UK thanks to the Government’s Brexit attitude, what cuts are expected in public spending on the NHS, schools and infrastructure?

Lord Bridges of Headley: I am sorry but I disagree somewhat with the assumption behind the noble Baroness’s point. I have met many financial service companies the length and breadth of the country, and it is clear that like many parts of the UK economy they are looking at Brexit and what it means for them. The noble Baroness takes a somewhat pessimistic view of things as they stand. We are talking to the financial sector as we are talking to all sectors, to ensure, as I have said before, that the outcome to the negotiations leads to a smooth and orderly exit from the EU.

Calais: Child Refugees *Question*

3 pm

Asked by Lord Roberts of Llandudno

To ask Her Majesty’s Government what steps they are taking to fulfil the obligation under the Immigration Act 2016 to accept unaccompanied child refugees before the camps at Calais and Dunkirk are demolished on 31 October.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the camp clearance is now under way. Home Office teams have been deployed to France to support the identification, assessment and transfer of eligible children to the UK. We transferred as many children as possible who qualified under the Dublin regulation before the camp clearance began, and we began transfers of other unaccompanied refugee children under Section 67 of the Immigration Act 2016 over the weekend. Transfers of those who qualify under the Dublin regulations and those who meet the wider criteria of Section 67 of the Immigration Act are ongoing.

Lord Roberts of Llandudno (LD): We all welcome the child refugees. However, can the Minister say why it has taken more than 12 months for us to reach here? We have argued week after week, and yet until a few days before the demolition of the camps the answer was, “We can’t accept them”. Why was that? Can we have a guarantee that in the future, every single child who is in Calais or Dunkirk on the last day will be found a place here in the United Kingdom? Before I finish, I thank all those wonderful volunteers who have given so much of their time and expertise to get this act together.

Baroness Williams of Trafford: I join the noble Lord in thanking all the volunteers and everyone who has been involved, including local authorities here, in expediting the process of getting children to this country. Why has it not happened sooner? I have explained several times now at this Dispatch Box that we have been reliant on several aspects of process to get the children transferred here, not least the lists we provide to the French through the NGOs. Those have now been forthcoming and have been released to us, and the process has started, albeit quite late in the day. But the point is that the process is well under way now as the camp begins to be cleared, and many of those children are now here.

Baroness Uddin (Non-Affl): Can the Minister say what provisions are being made to ensure that child protection services are available at the points of entry? I also commend the work of all the social workers who have contributed to some of the assessments, making sure that vulnerable children who have already suffered a huge crisis in their personal lives are not prey to paedophilia.

Baroness Williams of Trafford: The noble Baroness raises an important question. These children might be subject not only to paedophilia but to other types of trafficking and abuse, not least child labour, which may become rife if they are not safe and secure. As the noble Baroness will know, child protection is absolutely the top priority for the children that are in state care in this country. While those children are in France, they are subject to the child protection laws of France, which we respect as being quite closely aligned with our laws. In addition, a significant number of our staff went there over the weekend so that those children are protected during the camp clearance process.

Baroness Farrington of Ribbleson (Lab): My Lords, will the Minister please give an assurance that the local authorities that are co-operating in meeting the Government's legal obligations will get additional resources for as long as the children are in their care? It is not a matter of making a one-off payment; it is an ongoing commitment.

Baroness Williams of Trafford: The noble Baroness is absolutely right. Local authorities need to be reimbursed and there is a scheme for reimbursing local authorities that take the children. We do not want payment to be a disincentive for them. Again, I pay tribute to the local authorities that are taking the children.

Baroness Watkins of Tavistock (CB): My Lords, will the Minister please assure us that there will be properly funded long-term mental health support for the children who are coming here? We know that in the longer term, investment in mental health support will make them much more successful citizens of this country, which is what we need the people we are bringing here to be able to achieve.

Baroness Williams of Trafford: The noble Baroness is absolutely right. These children will need access to not just mental health services but a range of protections and services that would be available to any child in local authority institutional care in this country. So I absolutely agree with her.

The Lord Bishop of Portsmouth: Can the Minister confirm that Her Majesty's Government will ensure sufficient co-operation with the French Government and sufficient assistance from our own Government for the support of unaccompanied child refugees in France? Can she also confirm that no child will at any time be left in unsafe circumstances?

Baroness Williams of Trafford: I assure the right reverend Prelate that at no time has our support to the French authorities been less than exemplary. The challenge has been that in providing that support we are reliant on French law and how the French do things. However, the support process and the co-operation, which have been two-sided, have been very good in the last few days and weeks.

Lord Tomlinson (Lab): My Lords, have the Government yet made up their mind about the fate of these children when they reach 18? When I asked that question before, the Minister was very unclear about whether any decision had yet been made.

Baroness Williams of Trafford: The noble Lord will know that each child and each circumstance is different and that the type of protection that a child needs is different in each case. When a child reaches 18, he or she then becomes an adult and, just as would be the case in this country, different assessments are made of the status of that child. Obviously, if he or she came from another country, they would then enter the asylum process, as would any other adult.

Breast Cancer: Innovative Drugs Question

3.08 pm

Asked by **Baroness Massey of Darwen**

To ask Her Majesty's Government whether the Accelerated Access Review will address the availability of innovative drugs for breast cancer.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, the report of the Accelerated Access Review, published today, makes recommendations to the Government on reforms to accelerate access for National Health Service patients to innovative medicines and medical technologies, which may include drugs for breast cancer, making our country the best place in the world to design, develop and deploy these products. I warmly welcome publication of the report. The Government will consider the recommendations in the review carefully and provide a formal response in due course.

Baroness Massey of Darwen (Lab): I thank the Minister for that Answer. I am aware that, fortuitously, the final report of the Accelerated Access Review was published this morning, and, again, it is fortuitous that Thursday of this week will be breast cancer awareness day. The Secretary of State for Health has commented that we wish to make the UK the best place in the world to develop new drugs, as the Minister said. Do the Government therefore intend to commit to full delivery of the Accelerated Access Review, and what estimates have been made of the resources that will be necessary for this, if any resources are required?

Lord Prior of Brampton: We received the report today. We warmly welcome its principles and believe that by combining the great depth of our research base in this country with the NHS, which is the largest single integrated provider of health services in the world, we can create a world-leading life sciences base in this country. The detailed response to the report and the costs attached to it will come in due course.

Baroness Walmsley (LD): My Lords, repurposed off-patent drugs often fall in the cracks between the processes of NICE and the processes of NHS England, both of which organisations take the role of approving these drugs. The Accelerated Access Review recognises this problem and recommends that the new streamlined process involve both organisations talking to each other to make quite sure that that does not happen. What will the Minister's department do to ensure that under this new streamlined process these drugs do not fall between the cracks, because many of them are very useful to patients?

Lord Prior of Brampton: My Lords, I need to consider the report in detail. I do not believe that repurposed generic drugs naturally fall within the AAR streamlined procedures, although it is very important that they do not fall between the cracks. The AAR is largely designed for new products rather than for repurposing old products.

Baroness Greengross (CB): As the Minister will know, there is an enormous delay in innovative drug production due to the regulatory bodies internationally not working very closely together or taking a very long time to work together. Will the Minister tell us whether there has been any progress on bringing those regulatory bodies together, as was initiated after the former Prime Minister did a lot of good work in this respect regarding dementia?

Lord Prior of Brampton: The noble Baroness is absolutely right. The delay in bringing a new drug to the market can very often be between 12 and 14 years, which is a huge amount of time. Part of the reason for that is indeed the regulatory process. The whole purpose of the Accelerated Access Review is to truncate that time. The report talks about reducing for some drugs the time it takes to bring them to market by up to four years, which would be very considerable progress. In terms of international regulatory bodies, if one takes the EMA in Europe and the FDA in the US, clearly they do work together at one level but probably not closely enough, and I suspect that there is too much duplication in regulation. Certainly, as we leave the European Union, we need to be very careful that we do not have a duplicatory regulatory system in this country.

Baroness Wheeler (Lab): My Lords, the Minister will know that since 2014 the Government have received nearly £1.5 billion from the branded pharmaceutical sector as part of the PPRS to hold down pharmaceutical costs. Why is not some of that sum being used to fund innovative drugs for breast cancer?

Lord Prior of Brampton: My Lords, I think it is a mistake to regard the PPRS and the savings made in that scheme as a separate pot of money. Any savings generated from the PPRS are funnelled back into the NHS. As for new innovative drugs, the cancer drugs fund has been changed substantially and one should regard it now largely as an incubator fund with the same purpose as the Accelerated Access Review, which is to bring forward new drugs more quickly.

Lord Hamilton of Epsom (Con): Can my noble friend give the House some indication of the costs of bringing new drugs on to replace old? Invariably, new drugs are far more expensive than the ones that they replace.

Lord Prior of Brampton: My noble friend makes a perceptive point. There is always going to be tension between new drugs and affordability, although there are new drugs and new medical devices that can, in the long run, actually save money. The whole purpose of the Accelerated Access Review is to try to square the circle. There are three factors that we have to consider: first, we want a strong and vibrant life sciences industry in this country; secondly, we want to bring forward new drugs as soon as possible if there are big patient benefits; and thirdly, it must be affordable.

Baroness Finlay of Llandaff (CB): Following the statement of the Academy of Medical Royal Colleges this morning urging caution over chemotherapy in

advanced cancer, does the Minister agree that it is very important that, at the time of diagnosis, patients have a serious illness conversation and are prepared for what might come so that they are not hanging on with false hopes for drugs which might not be of benefit to them but can have treatments that are appropriately targeted to the individual patient and their needs?

Lord Prior of Brampton: The noble Baroness is describing good clinical practice. One would hope that that conversation would take place between a doctor and patient. What was disturbing about the report from the Academy of Medical Royal Colleges was its overall estimate that £2 billion a year was being wasted on unnecessary tests, drugs and the like. The issue that the noble Baroness raises is where people's lives are prolonged right at the end but they are not given any quality of life at the same time.

Misuse of Drugs Act 1971 (Amendment) Order 2016

Motion to Approve

3.16 pm

Moved by Baroness Williams of Trafford

That the draft Order laid before the House on 20 July be approved. *Considered in Grand Committee on 18 October.*

Motion agreed.

Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016

Motion to Approve

Moved by Lord Bourne of Aberystwyth

That the draft Regulations laid before the House on 14 July be approved. *Considered in Grand Committee on 18 October*

Motion agreed.

Financial Services and Markets Act 2000 (Ring-fenced Bodies, Core Activities, Excluded Activities and Prohibitions) (Amendment) Order 2016

Motion to Approve

Moved by Lord Young of Cookham

That the draft Order laid before the House on 21 July be approved. *Considered in Grand Committee on 18 October.*

Motion agreed.

Bus Services Bill [HL] Report (2nd Day)

3.17 pm

Clause 4: Franchising schemes

Amendment 18

Moved by **Lord Ahmad of Wimbledon**

18: Clause 4, page 15, line 11, leave out from “scheme” to end of line 12 and insert “are excluded from the functions to which section 101(1)(b) of the Local Government Act 1972 applies, where the franchising authority is a local authority within the meaning of section 101 of the Local Government Act 1972.”

The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con): My Lords, the Government have tabled technical amendments which tidy up the Bill and correct drafting references. I will go through them briefly in turn. More information about the purpose of the amendments is provided in the letter I sent when they were first tabled.

Amendment 18 makes it clear that the Bill does not prohibit, for example, an executive from exercising franchising functions on behalf of a mayoral combined authority. It does not enable decisions that the Bill stipulates are mayoral decisions—such as the decision to move to franchising—to be taken by anyone other than the mayor.

Amendments 43 to 46 and 83 to 86 are identical amendments ensuring that certain references in the Bill are to all authorities that are part of a scheme rather than only the authorities that initially made the scheme.

Amendments 75 and 76 ensure consistency by amending the Bill so that certain enhanced partnership provisions refer to both facilities and measures. Amendments 79 and 80 ensure that regulations can be made regarding aspects of appeals that are needed in the context of a transition to an enhanced partnership scheme.

The Government have also tabled amendments correcting references and straightforward drafting errors. These are Amendments 20, 50, 52 to 56, 61, 62, 65, 74, 77, 78, 94 and 96. I beg to move.

Baroness Jones of Whitchurch (Lab): My Lords, I will not detain the House by commenting on the amendments in detail. As the Minister has said, they are largely technical and intended to tidy up the legislation. We accept that they reflect the spirit of the Bill and the terms in which we have been debating the issues so far. I will not rehearse the argument we have already had about why tidying up is still taking place because we have explored that in some detail. At this point in the Bill’s progress, I do not think that that would be helpful and we are therefore content to support the amendments.

Amendment 18 agreed.

Amendment 19

Moved by **Lord Kennedy of Southwark**

19: Clause 4, page 15, line 12, at end insert—

“(9) A local service contract must require that new vehicles delivering local services meet the specifications of the low emission bus scheme as set out by the Office for Low Emission Vehicles in its 2015 document “Low Emission Bus Scheme: Guidance for participants” if the vehicle comes into service after 1st April 2019.”

Amendment 19 agreed.

Amendment 20

Moved by **Lord Ahmad of Wimbledon**

20: Clause 4, page 15, line 30, leave out “local transport” and insert “relevant local”

Amendment 20 agreed.

Amendment 21 not moved.

Amendment 22

Moved by **Lord Whitty**

22: Clause 4, page 15, line 44, at end insert—

“() An award of any new franchise or contract shall not be made on the basis of labour costs estimated by the potential franchisee or contractor assuming labour costs for new employees at less than the labour cost of workers who are covered by TUPE protections in accordance with section 123X transferring to the new franchisee or contractor.”

Lord Whitty (Lab): My Lords, in moving Amendment 22 I shall speak also to the other amendments in this group in my name. I do not intend to speak for long, partly because my voice is giving out and partly because all these amendments reflect one particular dimension of the effect on the workforce of franchising and enhanced partnerships.

Amendment 22 deals with the awarding of franchises. It asks that awards shall not be made to a company solely on the grounds that it intends to pay its future workforce less than the current workforce. Of course, those who are TUPE-ed over when there is a new franchise or enhanced partnership will be covered by TUPE and therefore it will not be possible for them to be paid a lower wage. But it also indicates that there has been the occasional problem in London—where by and large the franchising system has worked well—of a two-tier workforce developing. If the Government are not prepared to accept the wording of these amendments, I would like them to indicate that they recognise that there would be a concern if franchising in particular led to two-tier workforces and the consequent industrial relations and management problems. Amendment 22 deals with the issue upfront by saying that a franchise shall not be judged on the basis of the intention of the potential franchisee to pay a lower rate than to those who are transferred over.

The remaining amendments in the group deal with the situation once the franchise is awarded. Amendment 47 deals with a situation where a franchise is already in place or has just been awarded and those who are TUPE-ed over from the former operator are paid at the previous rate under the TUPE provisions, which are clearly set out in the Bill—I thank the Government for that—but subsequent employees could be paid at a lower rate. That is a recipe for very poor industrial

[LORD WHITTY]

relations and probably other tensions in the way in which the franchisee would operate. Again, it would be helpful if the Government could indicate, at least in guidance, that this is not a desirable outcome of the franchise process.

Amendments 48 and 87 deal with dismissals following the award of an enhanced partnership or a franchise. They provide that there should be no dismissals solely as a result of the award of that franchise, in order to protect individuals over and above the TUPE regulations from unfair dismissal as a direct result of the franchise award. Amendments 41, 42, 81 and 82 simply delete the phrase “at the same time” because some of these consequences may not be immediate. The principle that is already enunciated in the Bill should apply whether or not it happens at exactly the same time as the award of the franchise.

This is a potentially difficult problem which might not normally be dealt with in primary legislation but would be left to the franchising process, but it would be helpful if the Government could indicate that the kind of outcome that we have occasionally seen will not arise when we extend franchising in particular to other parts of the country outside London. I hope that the Minister can say a few warm words about the Government’s intention and reflect it in any guidance that the department gives to those tendering for franchises. With that intention in mind, and underlining that this can be and has been on occasion a difficult situation to deal with post the franchising operation, I beg to move Amendment 22.

Baroness Randerson (LD): My Lords, in my various discussions with bus operators, it has become clear to me that recruiting bus drivers is a complex and localised process. A standard tariff of wages across a large area can attract people in one part of it and be inadequate in another. Certainly, the experience of Transport for London has been along those lines: it is difficult to attract drivers in central London and easier in parts of outer London. That applies also to areas such as Bristol. Therefore, how one deals with the TUPE regulations and the transfer of staff from one company to another is essential to good relations between the workforce and the employer. We on these Benches support the intention of the amendments in the name of the noble Lord, Lord Whitty.

Lord Kennedy of Southwark (Lab): My Lords, as this is my first contribution to Report today, I draw the attention of the House to my declaration of interests: I am a councillor in the London Borough of Lewisham and vice-president of the Local Government Association.

The amendments in this group, all in the name of my noble friend Lord Whitty, with the exception of Amendment 70, which is in my name and that of my noble friend Lady Jones of Whitchurch, concern TUPE protections for employees, and have our full support. They are important amendments, as they seek to provide protections for employees and to ensure that, where new employees are taken on, their terms and conditions will not be any worse than those afforded to employees covered by the TUPE protections.

Amendment 70 would add trade unions and employee groups to the list of organisations that must be consulted. We do not accept that new Section 138F(6)(g), which refers to,

“such other persons as the authority or authorities think fit”,

fits the bill. The amendments have our full support.

Lord Ahmad of Wimbledon: My Lords, the noble Lord, Lord Whitty, made some important points about protections for workers in the bus services industry. As he acknowledged, we have included the TUPE provisions in the Bill to protect those staff affected by the initial introduction of a franchising scheme or an enhanced partnership scheme in an area, recognising that the transition from the current market to a contract or a number of contracts could be difficult and uncertain for existing staff.

However, as I have said a number of times, the Bill is devolutionary. It gives considerable flexibility regarding the nature of the contracts to be awarded by those authorities taking forward franchising and, potentially, enhanced partnership schemes. As I have said in discussions with the noble Lord outside the Chamber, I agree entirely that people should be paid at a rate that reflects the hard work they are doing. I also note the noble Lord’s comments about the danger of a race to the bottom on terms and conditions and the perception of a two-tier workforce. Any authority contracting for services will need to consider a number of factors when assessing bids for contracts, and the Bill will require it to consult and engage with employee representatives at an early stage.

However, it would not be consistent with the rest of the Bill to mandate the basis on which contracts are procured by local transport authorities or the contents of those contracts, as Amendments 22 and 47 propose. Employees and their representative groups will have plenty of opportunity to raise such points during the consultation process for the respective schemes.

3.30 pm

There are also practical issues with the amendments; for example, they would require all new employees to be offered terms and conditions no less favourable than those provided to employees who are covered by TUPE. But employees who transfer under TUPE could well be on a range of different terms and conditions reflecting their different roles and length of time in employment. This could also, in practical terms, lead to feelings of unfairness and resentment among transferred employees as it would put their terms and conditions on a par with those employees who were only newly recruited. It would also place a financial burden on operators—and so local transport authorities—by requiring them to employ people at something other than the going legal rate. Any such requirement could perhaps be sufficient to prevent some authorities from pursuing franchising schemes.

Turning to the amendments regarding potential dismissals, again, I have some sympathy with the intention behind the subsections concerning redundancies that may be made before or after the introduction of a local service contract. These amendments are designed to deal with a situation where an operator may use

franchising as a cover to shed employees before contracts are transferred. Employment law already deals with unfair dismissal of employees and therefore we do not feel that it would be appropriate for the Bill to be a vehicle to address such issues. In any event, the scenario that these amendments address is a highly unlikely one. I find it hard to imagine that an employer will chose to bear the redundancy costs associated with dismissing an employee if it is able to transfer them to a new operator under TUPE instead. It is also my understanding that a provision of this nature was not included in the existing quality contract scheme legislation—which franchising will replace—debates on which the noble Lord took part.

On a similar basis, I cannot support Amendments 41, 42, 81 and 82. These amendments seek to broaden the situations that are to be treated as a “relevant transfer” for the purposes of TUPE. The amendments would broaden the Bill’s provisions so that TUPE protections would apply where a new operator begins providing local services some time after the previous service has ceased. As I have already mentioned, the TUPE provisions are designed to ensure that there is a smooth transition from one operator to another when franchising or partnerships are first introduced. The Bill therefore protects those employees who are providing services at the point of transfer. As I have said, any decisions taken in advance of the introduction of franchising or, potentially, enhanced partnership contracts are for the operator concerned, and it will need to ensure that it acts fairly and reasonably.

That said, I note the noble Lord’s suggestion and I will reflect on that to see how we might best restate the importance of TUPE protections and provisions, as he said, within the guidance that accompanies the Bill. I hope, on the basis of the explanation that I have provided and the reassurance that we will see what more we can do with guidance in respect of TUPE provisions, that the noble Lord feels minded to withdraw his amendment.

Lord Whitty: My Lords, I thank the Minister for that reply. He started very well and he finished quite well with those assurances that he would look at it further, but in between there were some arguments that did not really address the issue. These amendments are not, in any sense, stopping the Bill being devolutionary, as local authorities will make their own decisions. It is the principles on which they make those decisions that I am concerned with. At the beginning of his remarks, the Minister recognised that there would be a problem with a two-tier workforce, but went on to argue about people being brought in at the same rate as somebody who has additional skills and responsibilities. That is not the intention; if that was implied by my amendment, it was certainly not the intention and a slightly different form of words would make that clear. What I am really saying to the Government is that if they do not wish to put it in the Bill, the Minister’s recognition that there would be problems if a two-tier workforce developed after franchising and that that could be conveyed to the potential franchising authorities, then that, to a large extent, would meet my point.

The Minister referred also to the consultation that will take place with trade unions and representatives

of employees. That will help to some extent but there also needs to be some indication to those carrying out the franchising operation that they must bear this in mind, and the way in which the franchise is operated must avoid that outcome of a two-tier workforce. The Minister probably said enough for me not to press the amendments today but I hope that in his further consideration he will see whether there are ways in which his department could convey my anxieties—which I think he shares, in part—about the potential outcome of franchising decisions. In that spirit, I beg leave to withdraw the amendment.

Amendment 22 withdrawn.

Amendment 23

Moved by Lord Judd

23: Clause 4, page 16, line 7, at end insert—

“(d) a National Park authority”

Lord Judd (Lab): My Lords, I did not participate when this group was debated last week. I put forward this amendment because I wanted the opportunity to debate it properly today.

I very much welcome the amendments that the Minister made to Clauses 1, 4 and 9, that will require local transport authorities to consult neighbouring national park authorities when preparing franchising or partnership schemes. I thank him and his officials for so readily listening to the concerns and taking on board the points raised about the importance of national parks authorities being listed as statutory consultees, and putting that in the Bill.

I also very much welcome the amendment the Government tabled to Clause 7, which adds national parks authorities as statutory consultees for advanced ticketing schemes. This should ensure that there is more opportunity to include routes serving national parks in Travelcard and other joint ticketing arrangements. Providing a national parks authority with more opportunity to influence all these schemes will help ensure that the needs of both residents of and visitors to these areas are taken into account, and will contribute to ensuring that these beautiful areas are accessible to everybody and not just those with a private car. They also have the potential to contribute towards combating traffic congestion which threatens to spoil the parks and to undermine their purposes. This is particularly important in light of the Government’s aspirations, as set out in the eight-point plan for national parks, to see more people gain from the health and well-being benefits offered by these inspiring areas.

Overall, it is good to see the progress made to this part of the Bill. However, I still have this further amendment, which relates to ensuring that LTAs consider the impact on NPA policies when assessing proposed franchising schemes. We all know that NPAs are, obviously, not local transport authorities but they have played a key role in delivering bus services in recent years and their core strategies contain relevant policies relating to transport and access which should be taken into account when preparing franchising schemes. For example, the New Forest National Park Authority’s core strategy includes policy on access to promote safer access and more sustainable forms of

[LORD JUDD]

transport to, from and within the national park, and specifically refers to support for the New Forest Tour bus services.

It is essential that the impact on such policies is considered when assessing proposed franchising schemes. The amendment I propose to Clause 4 should ensure that this happens. I hope that, even at this late stage, the Minister could give this further consideration before we come back to the final stage of the Bill. I am very willing to come and see him if he would like me to do that to discuss it in more depth. I hope he will feel able to meet this point as he has so commendably and readily done on the other points raised previously. I beg to move.

Baroness Scott of Needham Market (LD): My Lords, I wish to support the noble Lord, as I did in Committee. I echo his comments about the Minister's willingness to meet the concerns that we have raised here. However, there is a big difference between consulting—which could frankly just mean writing to the national park authorities and ignoring what they say—and a genuine process of taking into account the work that they have been doing in their areas, particularly in public transport. I hope that in the spirit of the way the Minister has behaved so far, he will take this extra step.

Lord Ahmad of Wimbledon: My Lords, I thank the noble Lord for his amendment and the noble Baroness for her contribution. The amendment would make national park authorities relevant authorities as far as new Section 123B is concerned. As the noble Lord pointed out, this section deals with the business case and primarily concerns the authorities that will be making a franchising scheme with transport powers.

I would like to clarify where we stand on this point and on the question that the noble Lord raised. To be clear—I hope this gives a level of reassurance to the noble Lord—the Bill requires the franchising authority to think about the impacts of bus franchising on neighbouring local transport authorities, and this should ensure that cross-boundary services are carefully considered. Regarding his point and that of the noble Baroness on the business case, the provisions we have already made in the Bill will ensure that any authority looking to proceed down this line will pay due consideration because it is now a statutory requirement. I therefore feel that the Bill has been strengthened to reflect the noble Lord's concerns.

I am always happy to meet with the noble Lord to further understand elements that he wishes to raise. I think the guidance is playing an important part in this and while we have included national parks specifically when it comes to franchising in terms of the actual statutory consultee, we will also bring notice to appropriate authorities when they are considering the overall proposal in the first place. I hope that with this assurance—and I always welcome meeting with the noble Lord—he will at this juncture be minded to withdraw his amendment.

Lord Judd: My Lords, in view of what the Minister has already done in meeting points of this Bill that have been put to him, we cannot doubt his personal commitment to the cause. That is beyond blemish.

However, the Government took a very significant step with their eight-point plan for the national parks. I spoke earlier about its purposes and I will not repeat that. However, if they are to be able to fulfil their potential, it is crucial that they are not just one of the people to be consulted—the need to consult them should be in the Bill. This is tremendously important in fulfilling the spirit of what the Government set out in their commitment to the national parks.

I therefore take what the Minister has said today very seriously and I will go away and think about it. However, I still hope that he may on reflection feel that he can meet this point in the Bill, as he did with the other points. That really would be tremendous news, but at this stage I beg leave to withdraw the amendment.

Amendment 23 withdrawn.

Amendment 24 not moved.

The Lord Speaker (Lord Fowler): I should inform the House that if Amendment 25 is agreed, I cannot call Amendments 26 and 27 because of pre-emption.

Amendment 25

Moved by Baroness Randerson

25: Clause 4, page 16, leave out lines 9 to 18

Amendment 25 agreed.

Amendments 26 and 27 not moved.

3.45 pm

Amendment 28

Moved by Baroness Scott of Needham Market

28: Clause 4, page 16, line 26, after “an” insert “independent”

Baroness Scott of Needham Market: My Lords, Amendment 28 returns to the question of an independent audit of proposals for new franchising schemes. I thank the Minister for meeting me in September to discuss this matter and for his subsequent letter. The purpose of the amendment is to provide the House with an opportunity to look again at the question of an independent audit and for the Minister to elaborate and build on the letter that he sent me.

The issue here is protecting the public against the careless use of local taxpayers' money. I have always believed in devolution; indeed, I have long thought it was a scandal that our major cities constantly have to go cap-in-hand to government whenever they want to undertake a capital programme. But I am also a great believer in democratic accountability, and there is a real problem in mayoral models in that the very concentration of power in the hands of one individual that makes it such an attractive option to government also runs a significant risk of poor decision-making because it is untested by debates in traditional committees or through effective scrutiny.

The Public Accounts Committee published a report in July in which it said:

“There has been insufficient consideration by central government of local scrutiny arrangements, of accountability to the taxpayer and of the capacity and capability needs of local and central government as a result of devolution”.

The committee went on to talk more about its concerns about capacity issues, particularly financial and technical skills, which have been exacerbated by budget cuts. Providing a requirement for a mayor to give information that proposed new schemes, potentially worth millions of pounds, have been independently audited is an important safeguard. The auditor usually engaged by a local authority may very well have their independence compromised by their wish to hold on to the contract.

Equally importantly in terms of public confidence is that the audit should be seen to be independent. The Public Accounts Committee had this to say:

“Robust and independent scrutiny of the value for money of devolved activities is essential to safeguarding taxpayers’ money, particularly given the abolition of the Audit Commission ... Currently, local auditors focus on individual bodies’ financial statements and arrangements for securing value for money, rather than assessing value for money itself”.

In his letter to me, the Minister referred to the guidance on the matter that he had agreed to develop, and I would be grateful to hear more about that today. He referred to the availability of freedom of information as a means of achieving transparency. I wonder whether he can confirm today that such freedom of information requests will not be met with commerciality exemptions. I beg to move.

Lord Shipley (LD): My Lords, I support this amendment, to which my name is attached. My noble friend Lady Scott of Needham Market said that it related to the protection of the public, and I agree entirely with all that she said. I draw the Minister’s attention to the fact that the context is not the same as it was when we debated this matter in Committee, because an amendment was agreed on day one of Report extending franchising powers to all relevant councils and local transport authorities. I supported that in the Lobbies but I have always believed that it must be accompanied by a robust and thorough audit and full scrutiny of any proposal for franchising.

Detailed audit and scrutiny processes exist within mayoral combined authorities because this House wrote into the Cities and Local Government Devolution Act much more comprehensive arrangements for audit and scrutiny than had originally been planned. As my noble friend Lady Scott of Needham Market made clear, it is not as much as we wanted, and many feel that it is not enough—but it is, nevertheless, more than is proposed in the Bill for non-mayoral combined authorities.

I hope that the Minister will give much further consideration to the proposal that there should be full scrutiny and audit of any franchising plan proposed by a council or local transport body which is not a mayoral combined authority. My noble friend Lady Scott received a letter from the Minister dated 5 October which expresses much agreement on the need for the audit process to be credible and open to public scrutiny, and accepts that there must be robust evidence and

analysis. Indeed, on page 2 the letter accepts that the process should be independent, and one in which other people will have the right to challenge the report. Clearly the process must be seen to be transparent.

We need an auditor with appropriate professional standing who is clearly independent of the contractor and also has professional knowledge of audit, finance and, crucially, transport. I suggest to the Minister that it will be a rare person indeed who, as auditor to a council or a local transport body, has all those skills. It is my view that a specific appointment should be made.

I accept that this matter could be subject to further discussion during the passage of the Bill and then in the production of guidance—but, now that the House has extended franchising powers to non-mayoral combined authorities, having a robust and independent audit system has become increasingly important.

Lord Snape (Lab): My Lords, I support the views put forward by the two previous speakers. Under previous legislation, there were five main tests for franchising. I do not propose to go over them, but they were fairly stringent. Attempts by local authorities to introduce franchising previously failed those tests.

We are in uncharted territory with the Bill. It does not seem inherently fair that the authority that wants to set up a franchising scheme can be judge and jury for that scheme, which appears to be the current situation. We need a degree of independence in judging the merits or otherwise of such a franchising proposal. Common fairness demands some sort of independent scrutiny of the proposals.

I do not know the Minister’s intention, but I hope that he will see the common sense and fairness behind the noble Baroness’s amendment. If an independent element is not introduced, one can just imagine the number of judicial reviews that will be held—from one end of the country to the other—if bus companies feel that they have been unfairly treated by the franchising authority acting as judge and jury. So the amendment is eminently sensible and I hope that the Minister will act on it.

Lord Kennedy of Southwark: My Lords, Amendment 28 in the name of the noble Baroness, Lady Scott of Needham Market, and the noble Lord, Lord Shipley, simply inserts the word “independent”. It is, however, extremely important, as it makes clear that the auditor conducting an assessment must be independent of the authority. I very much agree with the point made by the noble Baroness when she spoke about the concentration of power, the protection of the public and the importance of independent scrutiny. One would hope that any authority seeking to make use of franchising powers would do this anyway, but adding the word is a wise move, in particular if we consider the role of the Competition and Markets Authority in complaints. The authority would surely want the most robust information available that had been independently verified to evidence that decisions taken were sound. This should not cause the Government any problems, and I hope that they will accept the amendment.

Lord Ahmad of Wimbledon: My Lords, first, I thank all noble Lords who have spoken on this amendment. The intent and the sentiment behind the Government's position and that of noble Lords is no different: we all want appropriate scrutiny and independence of the auditing function. The Bill, as I am sure noble Lords will acknowledge, introduces the role of the auditor to provide that external assurance that certain information used in a franchising assessment is of sufficient quality and that the analysis of information by that franchising authority is both accurate and robust.

I completely agree that any auditor performing the franchising auditing functions for a local authority should act independently and impartially. Indeed, the Bill requires an auditor to be someone with a recognised professional qualification as per Part 42 of the Companies Act 2006. By requiring the auditor to have the appropriate professional qualification, we are ensuring that the person appointed has professional and organisational credibility, including in relation to the independence of their advice. It would not, for example, be possible for a franchising authority to use transport modelling consultants, or other specialists, who did not hold the appropriate auditing qualifications. Additionally, the Bill provides for the auditor's report to be published. This aims to address the issue of transparency raised by the noble Baroness and the noble Lord in relation to the conclusions reached by the auditor.

Although there is no obligation in the Bill for further materials to be published, the requirements of the Freedom of Information Act 2000 will apply. These could be used, for example, to seek access to further, more detailed information produced by the auditor and held by a public authority—a point which the noble Baroness specifically raised. As to a blanket view on FoI requests, I am sure the noble Baroness will respect the fact that each FoI request is looked at on its individual merits. As I said, the FoI could apply, for example, to seek further access and information produced by the auditor and held by a public authority. Together, the provisions we have already made, and which I have highlighted once again, provide for a high level of transparency.

I also explained in Committee that we intend to publish statutory guidance once the Bill has received Royal Assent—a point which the noble Baroness also raised. This will include guidance about the terms of reference for the auditor. In my letter I mentioned those terms, so let me provide some more detail. The guidance will make it clear that any auditor will be expected to act with independence, regardless of whether they are the local authority's existing auditors, and that the auditor's report will be open to public scrutiny as part of the consultation materials.

My officials also intend to work with local transport authorities and to meet representatives from a selection of auditors as the guidance on this issue is developed to ensure that it addresses the concerns that the noble Baroness has raised at various times during the Bill's passage, and those that I have mentioned again today. She has rightly highlighted the importance of the role of the auditor and their independence in her amendment. However, I hope that with the provisions already made, to which I have referred, she is minded to withdraw her amendment.

The noble Lord, Lord Shipley, asked about non-mayoral combined authorities. I can assure him that both mayoral and non-mayoral combined authorities will have to go through an audit process of their franchising proposals in this regard, so in essence it will be the same process for both.

Lord Snape: When they go through the auditing process, will the auditor's decision be binding, or can the authorities ignore it and proceed anyway?

Lord Ahmad of Wimbledon: Again, I do not think I can give a blanket assurance. The auditor is there to see that due process has been followed, and that decision will be subject to public scrutiny. Any auditor is there to do a job and will do it to professional standards. I hope that, based on the assurances I have given, the noble Baroness is minded to withdraw her amendment.

Baroness Scott of Needham Market: I thank noble Lords who have spoken in the debate. Their response suggests that I was right to return to this question, and indeed the Minister's response would also suggest that I was right to do so. There is widespread agreement that this is a difficult issue. Of course, it is not just about a potential loss of taxpayers' money if the scheme goes forward. These schemes are extremely expensive even to start developing, so it is essential that local authorities have sound financial advice all the way through about the financial viability—and, given the relationship with the Competition and Markets Authority, about the legal liabilities—before they embark down this route.

On the question of freedom of information, although I understand that each application has to be treated separately, there are exemptions in the legislation for commercial agreements. My nervousness is simply caused by the fact that every time someone asks questions about a potential franchising scheme, they receive a blanket, "No, we can't talk about that because it is commercially sensitive". I am not sure that I would put the same reliance on freedom of information as a transparency tool in this case as the Minister does. Nevertheless, I am confident that he has taken the issue seriously and that his officials are working on the guidance and with local authorities and auditors—so I thank him and other noble Lords for that and I beg leave to withdraw the amendment.

Amendment 28 withdrawn.

Amendment 29

Moved by Lord Ahmad of Wimbledon

29: Clause 4, page 17, line 23, at end insert—

"() such persons as appear to the authority or authorities to represent employees of persons falling within paragraph (a)."

Amendment 29 agreed.

4 pm

Amendments 30 and 31 not moved.

*Amendment 32**Moved by Lord Whitty*

32: Clause 4, page 17, line 25, at end insert—

“(ca) appropriate representatives of any affected employees,”

*Amendment 32 agreed.**Amendment 33**Moved by Lord Ahmad of Wimbledon*

33: Clause 4, page 17, line 31, at end insert—

“() the Passengers’ Council”

*Amendment 33 agreed.**Amendment 34 not moved.**Amendment 35**Moved by Lord Whitty*

35: Clause 4, page 17, line 31, at end insert—

“() In subsection (4)(ca) “appropriate representatives of any affected employees” means—

- (a) representatives of a recognised trade union, if an independent trade union is recognised by existing operators in the area of the proposed franchising scheme,
- (b) in any other case, employee representatives appointed or elected by the affected employees who have authority from those employees to receive information and be consulted on their behalf.”

*Amendment 35 agreed.**Amendments 36 and 37**Moved by Lord Ahmad of Wimbledon*

36: Clause 4, page 17, line 34, at end insert—

“() a National Park authority,

() the Broads Authority,”

37: Clause 4, page 18, line 9, at end insert—

“() a description of the authority’s or authorities’ proposed plans for consulting in order to seek views on how well the scheme is working,”

*Amendments 36 and 37 agreed.**Amendment 38 not moved.**Amendment 39**Moved by Baroness Jones of Whitchurch*

39: Clause 4, page 19, line 31, at end insert—

“(7A) The scheme must specify whether consideration has been given to the wider social, economic and environmental benefits of the scheme, in accordance with the Public Services (Social Value) Act 2012.”

Baroness Jones of Whitchurch: My Lords, in moving Amendment 39, I shall speak also to Amendment 73. These amendments would require those opting for a bus service under franchise, and those developing enhanced partnership schemes, to apply the principles of the Public Services (Social Value) Act 2012 when determining the type of service to be commissioned.

As we discussed in Committee, the social value Act recognises that public services can play a transformative role in communities. Rather than simply opting for a narrow definition of value, it requires those procuring services to consider the economic, social and environmental benefits of each bid. It allows local authorities to think about public services in a more coherent way, particularly on a combined-service basis, and encourages those bidding for contracts to be more imaginative about the community benefits their service could bring.

Often this can result in better-designed services, with other benefits and efficiencies. In the case of bus services, it could include, for example, a commitment to train and employ a number of long-term unemployed people to work on a contract; or it could include a number of apprenticeships and work experience places for young people; or it could include a commitment to support an existing community bus service, perhaps with some shared facilities; or it could include an environmental plan with targets for green energy and reduced CO₂. Of course these are just examples, but the point of social value in this context would be to encourage bus operators to commit to their own added-value measures without costing any more money.

In a letter on this issue to the noble Baroness, Lady Scott, and in our discussion in Committee, the Minister expressed some sympathy with these aims but argued that it would be better covered in the guidance that accompanies the Bill. However, we were disappointed with this response, because the fact is that the social value Act is simply not being embraced in the way that was intended. We believe that it would benefit from being on the face of the Bill to underline the importance of this approach.

As we mentioned in Committee, the operation of the social value Act was reviewed last year by the noble Lord, Lord Young. He concluded that, where it was used effectively, it resulted in commissioners being much more innovative and delivering much more responsive public services. This is great news. However, the noble Lord, Lord Young, then went on to conclude that the opportunities and advantages were simply not widely enough understood and take-up of the concept was therefore low. This is our opportunity to put this matter right by embedding this approach in the provision of local bus services in the future. However, that will only happen if it sits in the core of the Bill; if it is buried away in guidance notes, as the Government are proposing, it runs the risk of being ignored and misunderstood again in future.

I hope that the Minister will reconsider his position on this and that noble Lords will feel able to support the amendment. I beg to move.

Baroness Scott of Needham Market: My Lords, I offer the support of these Benches for the amendment. It would be rather strange if we did not, because the

[BARONESS SCOTT OF NEEDHAM MARKET]

social value Act 2012 was a Private Member's Bill taken through this House by my noble friend Lord Newby. I raised the question of the use of this Act in Committee, so I am grateful to the Labour Benches for picking this up and transferring it into an amendment.

As we have heard, the social value Act allows public bodies to take a much broader range of issues into account than conventional procurement practices do, so they can think about the environment, community well-being and the local economy. It actually goes one stage further, because the Act makes people think about the considerable financial power of public procurement in an area and is a way of local authorities and local health authorities harnessing their own commissioning power for the benefit of their communities.

As we have heard, the evaluation last year by the noble Lord, Lord Young, was that, while there had been some real success stories, the social value Act was not being used enough and was not sufficiently understood. I have a lot of sympathy with an amendment which puts this on the face of the Bill because it forces commissioning authorities to really think about whether they have given sufficient consideration to this. Overall, it is a way of ensuring that compliance improves.

I was very taken with the conversations I had on this matter with HCT, formerly Hackney Community Transport, which is a social enterprise that provides bus services in a range of areas as diverse as London boroughs and Jersey. It feels very strongly—and made the point to me—that current procurement practices often freeze out smaller businesses. That is a great pity because some of the best bus operators in the country are the small, local ones. It is important to find ways to strengthen this aspect of the Bill and really help local authorities, in their various forms, to make the most of this considerable new power.

Baroness Randerson: My Lords, I am very pleased indeed that this duo of amendments has been put down. They link well with Amendment 97, which provides a mechanism for expressing and recognising community value.

I simply add to what has been said already that it is essential that the Government recognise that bus services fulfil a vital social service, especially in rural areas. The knock-on effect of social isolation is far more costly than any subsidy put into bus services. That is why concessionary fares for older people have been so effective. I know that the Government recognise that effectiveness. We should add to that social impact the huge potential contribution of bus services in reducing air pollution, particularly in urban areas. Therefore, it is important that the Minister uses every opportunity in the Bill to emphasise the importance of the social value of bus services in general.

Lord Cameron of Dillington (CB): My Lords, I am glad that the noble Baroness, Lady Randerson, mentioned the whole question of rural areas, as I support this amendment from a purely rural perspective. I apologise to the House that this is the first time I have spoken on this very important Bill. Unfortunately, on previous occasions, I have been unavoidably committed elsewhere, prior to the Bill's scheduling by the Whips. I thank

noble Lords for their support for rural areas during the passage of the Bill, which I have followed. I am also grateful to the Minister for understanding and championing the rural cause in his draft guidance and policy statement which came out earlier this month.

This amendment spells out the importance of the wider social and economic benefits to rural areas provided by public transport services. I will not make a Second Reading speech, but it is very obvious—I know this point has been made before—that if you live in the country and cannot drive for reasons of poverty, disability, youth, old age, et cetera, the lifeline supplied by a good rural bus or community transport service is crucial to your quality of life and your ability to access the services of modern life. In these austere times, all services in rural areas are being cut back across the board, such as health centres, primary schools, jobcentres, post offices, banks—to dip into the private sector—magistrates' courts and police stations. All our local rural services are disappearing one by one. This inconsiderate—as might be said—wave of closures is exacerbated by the simultaneous withdrawal and diminishing availability of public transport services. On a personal note, that includes the Wheels to Work schemes for youngsters, which are particularly dear to my heart.

The amendments we are discussing undoubtedly infer that the local transport authorities should consult with the providers of services—some of which I have just outlined—and ask them what assessments or assumptions they have made vis-à-vis public transport for the delivery of those services in rural areas. Actually, I would like to see the amendment read: "The scheme must specify whether consideration has been given now and in the future to the wider social, economic and environmental benefits of the scheme".

I shall give noble Lords one good example. I have been involved in rural proofing for some years. Some government departments are improving their rural proofing, but not all. They are not always very knowledgeable in this regard, but the situation is improving. For example, the justice department assures me that when it closes a magistrates' court, it does so following a careful assessment of local public transport and the distances involved in order fully to understand the new difficulties and costs to witnesses, police and even the accused and their families, of getting to their soon-to-be-not-so-local court. Therefore, one can only assume that these assessments and cost-benefit studies—it would be nice to think that the justice department is not the only one doing them—must be based on the existing public transport systems.

That is why LTAs need to consider the wider effects, as spelt out in these amendments, of any changes being brought about by the introduction of a franchise agreement or an enhanced partnership plan, and why I would like to see these considerations being an ongoing process. We do not want to see our rural communities totally stripped of public services because the right hand, the service deliverer, does not know what the left hand, the transport provider, is doing or proposing to do. It is important that they work together.

4.15 pm

Lord Berkeley (Lab): My Lords, we debated many of these issues in Committee and earlier. I mentioned in Committee the issue of Cornwall being allowed to do certain things, even though it does not have a mayor. I was rather shocked to hear the Secretary of State for Communities and Local Government at a conference in Exeter on Friday, which was about making the south-west flourish and grow. Somebody raised the question of what a mayoralty can do which a local authority cannot. The Secretary of State responded, “If you want any money for the regions, including for transport, you had better get an elected mayor pretty quick”, and said that Somerset, Devon and Cornwall must have an elected mayor if they want any money. We can debate long and hard whether those three counties plus the cities of Plymouth and Torbay would ever agree on an elected mayor; that is a slightly different issue. He went on to say that the agreement that has been reached between Cornwall Council and the Government was of no interest because there was no money involved. They would not get any more money unless they elected a mayor. I imagine that this applies to any other rural part of the country.

Can the Minister say in this connection—because it is all to do with money at the end of the day—whether the Government have changed their policy on regional support for transport? The regions, and certainly Cornwall and the south-west, will lose a lot of money because of the Brexit situation, so if they want any money for extra services such as bus services, whether they are community services or something else, does that mean that they will have to become a mayoralty, and we will have a mayor of the south-west and a mayor of Cornwall? This is quite radical. The Secretary of State was absolutely adamant about this in response to several questions from the audience. Maybe the Minister has not had a chance to hear about this, but it will be interesting to hear whether the Government’s policy has changed.

Lord Ahmad of Wimbledon: My Lords, I thank all noble Lords who have taken part in this debate. On that final point from the noble Lord, Lord Berkeley, I am sure he will not be surprised to hear that I will look into those comments. However, the Government’s position has been made clear during the course of the Bill. Certainly, on the franchising issue and specifically on mayoral authorities, we believe that they are the preferred model because of their governance issues. On the other issues he raised, I have not seen those comments so it would be inappropriate for me to say any more at this juncture. However, I will read his contribution and come back to him.

The amendments before us concern the Public Services (Social Value) Act 2012. As we all agree, and as I have said repeatedly, we accept the principle that it encourages those who commission public services to talk to their local providers and communities to design better services. The noble Baroness, Lady Scott, first raised this issue at Second Reading and it has been a constant theme throughout the passage of the Bill.

As I have said before, and as noble Lords have acknowledged previously, the 2012 Act already applies to certain procurements by local authorities. In addition, based on our discussions both at Second Reading and

in Committee—I hope noble Lords have seen the draft guidance that my department issued recently—we have taken on board the comments and contributions made in the debates on the Bill to ensure that that is reflected appropriately in the guidance. As I am sure noble Lords have seen, it sets out that where the provisions of the Act do not apply because the procurement value falls below relevant thresholds, there is still a need for local authorities to apply the core principles of the Act when procuring services. So not only have we listened but we have acted to strengthen the guidance beyond the original provisions of the Act.

As I said in Committee, we do not believe that we need reference in the Bill to an existing piece of legislation that applies in its own right. However, we accept the principle, and that is why we have strengthened it in the guidance that will accompany the Bill. More broadly, I think that noble Lords are keen to ensure that authorities think about the social, economic and environmental benefits and impacts of schemes. I agree entirely but point out that the Bill already requires authorities to think about these benefits through the franchising and enhanced partnership provisions.

As noble Lords will no doubt recall, as part of their assessment of their proposed franchising schemes, authorities will need to consider value for money, which will include detailed analysis of the social, economic and environmental impacts. Likewise, for enhanced partnerships, the Bill specifies that a scheme can be introduced only where it brings benefits to people using buses or where it reduces congestion, noise or air pollution. Therefore, the Government have listened and, as can be seen from the way we have strengthened the guidance accompanying the Bill, as well as the provisions of the Act relating to the procurement of services, we have specifically considered the social, economic and environmental costs of schemes, and that is well embedded in the Bill.

I hope that noble Lords will be assured by the action we have taken to strengthen and enhance the guidance accompanying the Bill. The existing legislation will be brought to the attention of local authorities and will be referenced in that guidance. We feel that using the guidance is the appropriate way to address this important topic. Again, I thank noble Lords, particularly the noble Baroness, for raising this issue at an early stage in the Bill. I feel that we have made progress and I hope she will feel minded to withdraw the amendment.

Baroness Jones of Whitchurch: My Lords, I thank noble Lords who spoke in support of our amendment. I agree very much with the noble Baroness, Lady Scott, about the creative role that smaller companies such as HCT can play. I also very much welcome the comments of the noble Lord, Lord Cameron, about the need to rural-proof and about how amendments of this kind can help that process. I assure him that the particular needs of rural communities have been a common theme throughout our debates, and indeed further amendments have been tabled picking up that theme.

I thank the Minister for recognising in the debate and in the draft guidance the validity of some of the issues that we have been raising. I think that our

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differences always related to the profile that the social value Act would get if it was buried away in the guidance notes. We still have concerns about that and would still like to look at other ways of raising the profile of the Act within the Bill. In the meantime, there is obviously scope for us to look again at the draft guidance and whether there is anything more we can do around that. However, on the basis that the Minister has gone some way to meet our expectations, I do not intend to push the amendment to a vote.

Amendment 39 withdrawn.

Amendments 40 to 42 not moved.

Amendments 43 to 46

Moved by Lord Ahmad of Wimbledon

43: Clause 4, page 29, line 37, leave out “who made” and insert “operating”

44: Clause 4, page 30, line 24, leave out “who made” and insert “operating”

45: Clause 4, page 30, line 29, leave out “who made” and insert “operating”

46: Clause 4, page 30, line 36, leave out “who made” and insert “operating”

Amendments 43 to 46 agreed.

Amendments 47 and 48 not moved.

Clause 5: Power to obtain information about local services

Amendment 49

Moved by Lord Ahmad of Wimbledon

49: Clause 5, page 32, line 46, at end insert “, and

(b) to provide the information before the end of such reasonable period as may be specified by the franchising authority.”

Lord Ahmad of Wimbledon: My Lords, in Committee, a number of noble Lords tabled amendments concerning the information that authorities can require of bus operators in association with either franchising or enhanced partnership proposals. I thank all noble Lords for their discussions on this, both inside and outside the Chamber. My noble friend Lord Attlee made some important points about the purpose for which authorities may use the information they receive. I agree that authorities should be able to use information acquired in connection with a franchising proposal only for that specific purpose and should not be able to use it, for example, to develop or negotiate an enhanced partnership. I am therefore tabling a number of amendments to ensure that any information received by an authority from a local bus operator can be used only in connection with the purpose for which it was requested.

The amendments also make it clear that an authority may disclose the information it receives from operators to any persons carrying out activities on behalf of the authority; for example, an auditor—a subject we covered earlier—or a consultant, or, in the case of enhanced partnerships, any other authority that is party to the proposals. The authority will, of course, need to ensure that any third party acting on its behalf treats the

information with due care, and I would expect that to form part of any contract that the authority enters into with a consultant. This will also be made clear in the Bill’s statutory guidance.

In Committee, the noble Lord, Lord Berkeley, made an important point about the need for operators to respond to information requests from local authorities within a reasonable time period. I agree with him and am bringing forward a number of amendments to that effect. In turn, I expect local authorities to work with their local bus operators to determine what is reasonable, and to adjust the time period based on the breadth and depth of the information request.

I know it will please the noble Lord, Lord Kennedy, and the noble Baroness, Lady Jones, when I say that there are a few technical government amendments in this group which tidy up the drafting of the Bill. Amendments 88 and 93 make it clear that a local authority can require information to determine whether to vary or revoke an enhanced partnership plan or scheme, and that a joining authority can also require such information. Amendments 91 and 92 make the drafting more precise. I beg to move.

Baroness Jones of Whitchurch: My Lords, again, we do not feel the need to make much comment on these amendments. Apart from the now-routine technical amendments, the remainder are very much in the spirit of requiring bus operators to supply the relevant information to local transport authorities within a specific timeframe. We welcome the improved wording and the explanation given by the Minister today. We are happy to support the amendments.

Amendment 49 agreed.

European Council Statement

4.28 pm

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, with the leave of the House, I will now repeat a Statement made by my right honourable friend the Prime Minister in another place. The Statement is as follows:

“With permission, Mr Speaker, I would like to make a Statement on my first European Council last week. I went to this Council with a clear message for my 27 European counterparts: the UK is leaving the EU but we are not leaving Europe and we are not turning our back on our friends and allies. For as long as we are members of the EU, we will continue to play a full and active role. After we leave, we will be a confident, outward-looking country, enthusiastic about trading freely with our European neighbours and co-operating on our shared security interests, including law enforcement and counterterrorism work. That is the right approach for Britain to take. It was in this spirit that we were able to make a significant contribution at this Council on ensuring a robust European stance in the face of Russian aggression, on addressing the root causes of mass migration and on championing free trade around the world.

Let me say a word about each. Russia’s indiscriminate bombing of civilians in Aleppo and the atrocities we have seen elsewhere in Syria are utterly horrific. It is

vital that we keep up the pressure on Russia and the Syrian regime to stop their appalling actions and to create the space for a genuine political transition in Syria.

It was the UK that put this issue on the agenda for the Council. My right honourable friend the Foreign Secretary made the case for a robust response at the Foreign Affairs Council meeting last Monday. And I spoke personally to Chancellor Merkel and President Tusk ahead of the Council this week. The Council strongly condemned the attacks, called for an immediate cessation of hostilities, and demanded that those responsible for breaches of international humanitarian law and human rights be held accountable. And we need to go further, which is why we agreed that if current atrocities continue, the EU will consider 'all available options'. We also agreed that everything should be done to bring in humanitarian aid to the civilian population. On Friday in Geneva, the UK secured an extraordinary session of the UN Human Rights Council to press for a ceasefire to enable humanitarian access to Aleppo.

There are millions of innocent civilians trapped there and in other besieged locations across Syria in desperate need of food, shelter and healthcare. The UK is already the second largest bilateral humanitarian donor to this crisis. And if we can ensure the access needed to Aleppo and other besieged areas, we stand ready to accelerate over £23 million of aid for the UN to distribute on the ground to help the most vulnerable in the hardest-to-reach parts of Syria.

Turning to the migration crisis, the Home Secretary will be giving a Statement on Calais shortly.

At the European Council, I confirmed that the UK will continue to provide practical support to our European partners, including through our naval presence in the Aegean and the Mediterranean. And as part of that effort, HMS 'Echo' will take over from HMS 'Enterprise' in the central Mediterranean early next year.

I also reiterated the case I made at the United Nations for a global approach to migration based on three fundamental principles: first, ensuring refugees claim asylum in the first safe country they reach; secondly, improving the way we distinguish between refugees and economic migrants; and thirdly, developing a better overall approach to managing economic migration which recognises that all countries have the right to control their borders and that all countries must commit to accepting the return of their own nationals when they have no right to remain elsewhere.

This new approach includes working more closely with both source and transit countries, and the Council agreed to do more to help these countries prevent illegal migration and to return migrants who have no right to stay in EU countries.

Turning to trade, I am determined that as we leave the EU, Britain will be the most passionate, the most consistent and the most convincing advocate of free trade anywhere in the world. So as we look beyond our continent, we will seize the opportunities of Brexit to forge an ambitious and optimistic new role for Britain in the world. As part of this I have been clear that the UK is already discussing our future trading relationships with third countries. As I made clear to

the other member states last week, this will not undermine the EU's trade agenda. In fact, it is not even in competition with it: and for as long as we remain a member of the EU, we will continue to back the EU's free trade negotiations. I share everyone's disappointment over the stalled talks between the EU and Canada. And we will, of course, do anything we can to try to help get these discussions back on track. But to those who suggest that these difficulties have a bearing on our own future negotiations, I would remind them that we are not seeking to replicate any existing model that any other country has in relation to its trade with the European Union. We will be developing our own British model. It will be a new relationship for the UK and the EU to be there for when we are outside the EU; a deal that is ambitious and bold for Britain.

I also updated the European Council on our position on Brexit. I have said that we will invoke Article 50 no later than the end of March next year and that as part of the withdrawal process, we will put before Parliament a great repeal Bill which will remove from the statute book, once and for all, the European Communities Act. So the legislation that gives direct effect to all EU law in Britain will no longer apply from the date upon which we formally leave the European Union and the authority of EU law in Britain will end.

The Government will also give Parliament the opportunity to discuss our approach to leaving the European Union. In addition to regular updates from my right honourable friend the Member for Haltemprice and Howden, my own Statements following Council meetings and the deliberations of the new Select Committee on Exiting the EU, the Government will make time available for a series of general debates on the UK's future relationship with the EU. These will take place both before and after the Christmas Recess, and I expect will include debate on the high-level principles that the Government will pursue in the negotiations. Members on all sides will recognise that the Government must not show their hand in detail as we enter into these negotiations, but it is important that Members have the opportunity to speak on the issues that matter to their constituents as we make our preparations to leave the EU.

While we have not yet formally started the Brexit negotiations, I made it clear at last week's European Council that my aim is to cement Britain as a close partner of the EU once we have left. I want the deal we negotiate to reflect the kind of mature, co-operative relationship that close friends and allies enjoy—a deal that will give British companies the maximum freedom to trade with and operate within the European market, and allow European businesses to do the same here; a deal that will deliver the deepest possible co-operation to ensure our national security and the security of our allies; a deal that is in Britain's interests and the interests of all our European partners. But it will also be a deal that means we are a fully independent, sovereign nation, able to do what sovereign nations do, which means, for example, that we will be free to decide for ourselves how we control immigration. It will mean that our laws are made not in Brussels but here in this Parliament, and that the judges interpreting those laws will sit not in Luxembourg but in courts right here in Britain.

[BARONESS EVANS OF BOWES PARK]

The negotiations will take time. There will be difficult moments ahead and, as I have said before, it will require patience and some give and take. But I firmly believe that if we approach this in a constructive spirit, we can ensure a smooth departure. We can build a powerful new relationship that works both for the UK and for the countries of the EU, and we can secure the deal that is right for the British people, whose instruction it is our duty to deliver. I commend this Statement to the House”.

My Lords, that concludes the Statement.

4.38 pm

Baroness Smith of Basildon (Lab): My Lords, I thank the noble Baroness for repeating the Prime Minister’s Statement. I also welcome the noble Lord, Lord Newby, to his first contribution to the House as the new leader of his party group. I am in the slightly strange position of now being the longest serving group leader in your Lordships’ House.

These EU Council meetings are undoubtedly trickier and more awkward for this Prime Minister than they have been for her predecessors. For all the hope and talk of being in until we are out, a worrying picture is emerging of a UK that is already starting to be sidelined. I suppose that it is inevitable and understandable, but it is nevertheless significant and it is of concern. I think that this is the first time that a British Prime Minister has not had important bilateral meetings with key EU leaders such as those of France and Germany. The three bilateral meetings she had were with Estonia, Romania and Greece. They were cordial and important issues were discussed, but they were not those which are central to the UK exit or our future.

When our Prime Minister spoke to the other 27 leaders about Brexit, if the accounts of that meeting or dinner are accurate, she had just five minutes in which to do so. But that may have been just long enough for the key messages she wanted to give because here we are, four months after the referendum result, and we are no closer to understanding the Government’s negotiating position. What is of more concern is that there is no confidence, either at home or in the EU, that the Government are any nearer to clarifying their negotiating position. So our Prime Minister wanders into high-level European Council meetings at a disadvantage even before they start. While such a position might have been understandable for her first or even her second meeting, it cannot continue.

I read the transcript of the Prime Minister’s statement in the press conference. There are only so many times that we can fall back on abstract and general terms about “finding the balance”, “maintaining a good relationship” or “playing a full role in the EU while we remain” before we have to start the serious work of negotiation. Before we do that, the UK has to have a position. We can sense the frustration from the EU in some of the comments made by other leaders, who are as keen as we are to understand the position of the UK Government.

Before I turn to the specific conclusions of the Council, I want to add something about the process in

our Parliament. I read reports at the weekend, as did others, that an unnamed Cabinet Minister has responded to concerns raised about Brexit by Members of your Lordships’ House by saying that the Government could do a “Lloyd George” and create another 1,000 Peers. Here we go again.

Let us be clear. There are few in this House who do not have genuine concerns about the future of the UK outside of the EU and the Government’s apparently confused and unsettled approach to negotiating our exit. We take our responsibilities seriously in assisting the Government to make the best possible arrangements for the UK. We will use the expertise and knowledge of this House fully to understand the implications of Brexit, to advise the Government and to do whatever we can to ensure that these issues are effectively addressed, both through our highly regarded EU Committees and on the Floor of your Lordships’ House. We will scrutinise; we will examine; we will not block. But nor will we be bullied into abdicating our responsibilities.

We have to be adult about this. We cannot have the most enthusiastic Brexiters crying foul every time Parliament asks for some details or seeks to scrutinise. This cannot be the only issue on which the Government are allowed a blank cheque without any accountability. It is complex, it is difficult and the Government should see this House as an asset and not try to avoid helpful scrutiny. Their mantra of “No running commentary” is becoming embarrassing and sounds like code for “We haven’t a clue”. Can I suggest that the Government abandon this and see Parliament as a resource for getting this right?

On migration, it seemed that nothing new came out of the Council meeting. The first page of the press release states:

“The European Council took stock of the latest developments ... highlighting the importance of implementation”.

It just reads as an update on actions going back, as indicated on page 2, “many years”, and a call for more action on previously agreed policies. Given the scale of the crisis, can the noble Baroness highlight anything new or any real progress that was made on this issue?

In the final paragraphs of the report on external relations and the atrocities waged on civilians in Aleppo, the language is strong, but a statement that:

“The EU is considering all available options, should the ... atrocities continue”,

does not appear to have worried President Putin very much as his military flotilla sailed through the English Channel. Can the noble Baroness say anything more about the Prime Minister’s role in these discussions and what action she urged on the EU?

On trade, there were discussions regarding the stalled EU-Canada Comprehensive Economic and Trade Agreement. The Prime Minister has repeated in her Statement today that she is not looking at any existing model for future UK trade agreements but that the UK will create something new and specific to the UK. Although we have been unable to have anything other than very informal discussions with other countries regarding future trade agreements, it is clear that EU negotiations with Canada, Japan and other trade partners, including South America, will impact on the UK and on our future discussions. Just by saying, as the Prime Minister does in her Statement, that it will not have

any impact does not make that the case. What role is the UK playing in these negotiations and what serious assessment is being undertaken of the future impact on any UK negotiations with these countries and the EU?

Although the Prime Minister did not have a formal bilateral meeting with the Spanish Prime Minister, was there an opportunity for an informal conversation, either at ministerial or official level, on Gibraltar? I know that the noble Baroness will understand the concerns of the Government and people of Gibraltar. Can she provide reassurance today that they will never be used as bargaining chips in pursuit of a wider settlement?

Lord Newby (LD): My Lords, I thank the noble Baroness the Leader of the House for repeating the Statement and the noble Baroness, Lady Smith, for her welcome.

Picture the scene: it is one o'clock in the morning—the dinner started five hours earlier. The Heads of Government are texting their chauffeurs to come and pick them up, and almost as an afterthought to the main proceedings, the British Prime Minister is asked to speak about the Government's approach to Brexit. She speaks for five minutes. The weary Prime Ministers heave a sigh of relief and stagger into the night. This is not regaining control, this is just humiliating.

On the substance of the Prime Minister's middle-of-the-night performance, can the noble Baroness the Leader of the House explain why it took her so long to deliver it? Given the almost total lack of information that she has provided to Parliament so far, she could have written her presentation on a postage stamp. Why on earth did it take five minutes?

In the discussions earlier in the day, the Prime Minister apparently played a vigorous part: on Syria, on migration and on external trade. She says that she wants to continue to play a full part in such discussions as long as we remain a member of the EU. In recent weeks, however, she and other Ministers have used language that can only harden attitudes towards the UK among the other EU politicians. Can the noble Baroness explain to the House how such rhetoric can do anything other than weaken our negotiating position not just on Brexit but on every other issue as well? Is not this weakness reflected in the fact that, instead of meeting the leaders of France and Germany, as the noble Baroness, Lady Smith, has pointed out, the Prime Minister only had summit bilaterals with the leaders of Estonia, Romania and Greece? Is it not also reflected in the fact that the Prime Minister pleaded with the other 27 member states not to be excluded from meetings, only to be told that she was living on "another planet" if she expected to be involved in discussions that affected the future of Europe after our planned departure date?

In these circumstances, what does the Prime Minister's statement that she will be a "strong and dependable partner" really mean? Have not the other Heads of Government already decided that, for their purposes, she is actually weak and irrelevant? Is it not the case that with every passing month, our influence with other member states will diminish, and that as they take decisions with long-term implications, they will

simply view the British input as increasingly irrelevant? Moreover, does this not foreshadow a longer-term problem for the UK; namely, that as discussions at EU Council meetings increasingly cover actions to be taken after our planned date of departure, our voice will be simply and increasingly ignored? Can the noble Baroness give the House some idea of how, if we are no longer members of the EU, the Government can hope to exercise as much influence as we now have with the 27 other EU member states when we are not even in the room when they discuss issues such as security, foreign policy, migration or the environment?

On the summit issues themselves, can the noble Baroness confirm whether a no-fly zone in Syria is now government policy, given recent comments by the Foreign Secretary? Am I right in thinking that the Prime Minister failed to use the opportunity of the summit to press her French counterpart about how best to protect the hundreds of children currently stuck in the Calais Jungle camp? Will she update the House, given today's events in Calais, on how many children the UK expects to take as a result of the system initiated by the noble Lord, Lord Dubs? In her discussion with the Prime Minister of Greece, did she take the opportunity to discuss how most effectively we could begin to take unaccompanied refugee children from there, in pursuance of the Dubs amendment?

I believe that the Prime Minister spoke on—and voted at the summit to prevent—the imposition of punitive duties on Chinese steel imports. Was that indeed the case, and if so, how does the Prime Minister justify her stance? Can the noble Baroness imagine that we would take a similar stance if the dumping country were any other than China, with which the Government seem desperate to retain good relations at almost any cost?

This Statement is from a Government who believe they can lecture people into being sympathetic, who are split from top to toe on what they want Brexit to look like, and who now have no admirers and virtually no friends left in Europe. This is not a recipe for a bold new future for our country, this is a recipe for disaster.

Baroness Evans of Bowes Park: I thank the noble Baroness and the noble Lord for their remarks, and I echo the welcome to the noble Lord, Lord Newby, in his new position.

As my right honourable friend the Prime Minister said, it was clear from this Council that although we are leaving the EU, we are not turning our backs on Europe. I assure both the noble Baroness and the noble Lord that in this spirit we were able to make a significant contribution in reaching important agreements. First, as noble Lords will be aware, our exit from the EU was not on the formal agenda, so there was discussion during dinner. We continue to have very good working relationships with our major partners. Indeed, my right honourable friend the Prime Minister visits our European partners on a regular basis for bilateral meetings. As part of our influence, we were the country that wanted the issue of Russian actions in Syria put on the agenda—which it was. That again shows that the UK continues to have significant influence within the EU while we remain in it.

[BARONESS EVANS OF BOWES PARK]

Of course, as the noble Lord said, it is right that the remaining 27 member states have discussions among themselves. There will need to be a process for them to consider how they will conduct negotiations once we invoke Article 50. That is a sensible and obvious course of action.

We also very much welcome the scrutiny of the House. I welcome the comments from the noble Baroness. Already, we have worked very constructively through the usual channels to ensure that we provide opportunities on Thursdays, for instance, to discuss areas of debate over Brexit. Of course, we will also have votes on the great repeal Bill. I am confident that your Lordships' House will scrutinise that piece of legislation extremely thoroughly and we shall have many discussions and debates on it. We are also very likely to have votes on any new arrangements in consequential legislation. We absolutely value and respect the expertise within this House. I am very much looking forward to being part of those discussions.

On Russia, I assure the noble Baroness that the Prime Minister, along with Chancellor Merkel and President Hollande, argued for a robust and united message calling on the Syrian regime and Russia to stop their attacks on Aleppo, and made clear that the EU will consider all options if the atrocities continue. We were very firm in that stance and that is what was agreed. We are pleased with the strong language in the conclusions. I also assure the noble Baroness of our steadfast support for the sovereignty of Gibraltar.

On the noble Lord's questions about Calais, obviously we are not repeating the Statement on that here but I will go into a little bit of detail about what was in it which might be of use to noble Lords. Since 10 October, working in partnership with the French, we transferred almost 200 children including more than 60 girls, many of them identified as at high risk of sexual exploitation. In the last seven days alone, Home Office officials interviewed 800 children in the camp claiming to have close family in the UK, working in conjunction with NGOs and charities. Every child presented in the last week has been interviewed with UK staff.

Noble Lords will probably be aware that until just a few weeks ago the French Government requested that we did not attempt to transfer children outside the Dublin regulation. Again, this was due to their concern that that might encourage more children to come to Calais. We respected this and that is why, until recently, we focused our efforts under the Dubs amendment on children in Greece and Italy, where we have 50 cases in progress. We have now come to an agreement with the French so children caught by the Dubs criteria are indeed being interviewed as part of that process. We are very much looking forward to a speedy resolution to make sure that these children, where they can, come to this country and have the welcome that we know the British public will offer them.

4.54 pm

Lord Howell of Guildford (Con): My Lords, contrary to the views of the noble Baroness, Lady Smith, that there is nothing new in this Statement and contrary to the views of the noble Lord, Lord Newby, who poured

another cold shower on the whole proceeding, does the Minister accept that some of the things she had to repeat today were extremely important and require very close examination as the future opens out increasingly clearly? For a start, does the Statement not dismiss the concept that there is a major distinction between soft and hard Brexit and suggest that in the rapidly changing conditions, both in the European Union and here, both these concepts are becoming more or less meaningless? Did I hear her also say that we are opening discussions with third parties, non-EU countries and OECD countries for free trade agreements? Are those discussions formal or informal? What about the need to ensure that existing FTA discussions between the EU and third countries are not mingled with the discussions that we are opening?

Baroness Evans of Bowes Park: I thank the noble Lord for that question. We most certainly want a deal that provides the freest possible trade with European markets and gives British companies the maximum freedom to trade with and operate in the single market. While he is right that we cannot conclude deals with EU members, there is nothing to stop us from having informal discussions and considering future options on free trade agreements. Countries like Canada, India, China, Mexico, Singapore and South Korea have already said they would welcome talks. We do not believe this is in competition with talks that are ongoing in the EU. As the Prime Minister made very clear in her Statement, we will continue to fully support EU trade agreements while we remain a member of the EU.

Lord Soley (Lab): My Lords, I echo the sentiments of my noble friend Lady Smith that we are becoming increasingly semi-detached from the European Union. In my judgment that has been happening for some years, not just since the referendum. It is related to the relationship with Russia. At the end of the Council Statement, the point is made that there was a policy debate about relationships with Russia. Since the Ukraine crisis, we have been marginalised; this is not just about Syria. I am anxious that it will just play into Mr Putin's hands if the European Union and Britain are not working in very close unity. What procedure will the Government have to make sure that we work very closely together on European Union foreign policy and UK foreign policy?

Baroness Evans of Bowes Park: As I mentioned in response to the noble Baroness, it was due to the UK that this issue was one of the main items on the agenda of this Council. I therefore assure the noble Lord that we continue to put pressure on and work with our European allies to make sure that we take a robust stance. The Prime Minister had discussions with Chancellor Merkel and President Hollande to ensure that we had a united and robust approach. We are standing with the EU in relation to sanctions placed on Russia in response to its aggression in the Ukraine. We and the EU have said that we will consider further options if the atrocities continue. We want to ensure a settlement and peace in Syria and are working very hard with our European colleagues and in the UN. On Friday, for instance, we secured an extraordinary session at the UN Human Rights Council to press for

a ceasefire to enable humanitarian access to Aleppo. We are using all the international bodies we can to make sure our voice is heard and that Russia faces up to the consequences of its actions.

Baroness Ludford (LD): My Lords, can the noble Baroness clarify a little more what the Statement means when it says that the Government will strike, “a deal that will give British companies the maximum freedom to operate in the European market ... a deal that will deliver the deepest possible cooperation to ensure our national security”? Is not the maximum possible in both those areas—economy and security—secured by being in the EU? The next best might be in the single market. Had the Government adopted a much different tone in the last four months, instead of jumping to the tune of the hard Brexiteers in their ranks, could we not be in a very different place in terms of the maximum that could be secured? However, that maximum has been sacrificed to the appeasement of extremists in the Conservative Party, which is not going to work anyway.

Baroness Evans of Bowes Park: I am afraid I do not accept the premise of the noble Baroness’s question. We are very clear that we want a constructive and strong relationship with the EU when we leave. I am not going to presuppose what the detailed negotiations are going to do, but we have been very clear that we want a bespoke new relationship. No other country has left the EU so we are in a unique position to ensure that we can work with our European partners and allies, which have the same values and approach internationally as we do, to ensure that we have a strong relationship. We are confident that we will be able to achieve that. We all want to go in a constructive way to ensure that we get the best deal for Britain but also the best deal for the EU.

Lord Kerr of Kinlochard (CB): My Lords, two questions arise from what the Prime Minister said about the Canadian agreement. First, the noble Baroness will be aware that the Wallonian objection arose from the comprehensive nature of the agreement, which goes beyond trade to services, investment and regulation, areas where the Commission and the EU do not have full competence but competence rests wholly or in part with the member states. I am assuming that the UK/EU agreement, when there is one, will be no less comprehensive than the Canadian one and will also extend beyond trade. What conclusions have the Government drawn from the Wallonian problem? There are 40 legislatures in the EU that would need to ratify any agreement if it goes beyond trade.

The second question is this. The noble Baroness will be aware that there were two other objections from Romania and Bulgaria, which were settled only when the Canadian authorities agreed on the eve of the European Council that from next year they would allow full visa-free access to Canada for citizens of every EU member state, including Romania and Bulgaria. What conclusions does the noble Baroness draw from that? What does she expect will be the nature of that discussion when our agreement is complete, given the Prime Minister’s speech in Birmingham and the rather extraordinary speech by the Home Secretary that was warmly welcomed by the National Front in France?

Baroness Evans of Bowes Park: I think that with his questions the noble Lord has identified the scale of the challenges we have ahead. The Prime Minister was very clear about that: indeed, it was in the Statement I have just read out. We know that it will be a challenge, that there will be difficult moments, and that it will require give and take. Obviously we are at only the very beginning of this process. We are looking to work constructively with countries across the world in order to come up with trade deals. We will of course learn from the experience we have had as part of the EU in terms of the negotiations we have been involved in there, but we are also striking out on our own. As I have said, there is no precedent for a country leaving the EU so read-across from other negotiations is not directly comparable. We will of course aim to get the best deal for the UK with the EU, but also with other countries around the world.

Lord Spicer (Con): My Lords, was there any discussion at the Council of the City of London? In particular, was there discussion of the restrictive measures being planned by some EU members, had we intended to stay in the EU, to bring down the City of London from its present dominant position?

Baroness Evans of Bowes Park: As I mentioned, our discussion of Brexit and the UK’s position was not a formal agenda item, so it was not discussed with all the other member states. Obviously issues like the City of London and the Irish border show that there are a lot of key issues that we need to think about. We have seen in responses that I have made here and that other Ministers have made that we want to ensure that all these issues are talked about, and that we come to the best outcome that we can.

Lord Howarth of Newport (Lab): My Lords, are we not in an unsustainable situation in which a majority of Members of the House of Commons, not to mention a majority of Members of your Lordships’ House, are in favour of remaining whereas a majority of people in this country voted in a referendum in favour of Brexit? In these circumstances, would the best course not be, following a full national debate in which the issues associated with Brexit were clarified and options defined, to have a general election early next year, following which a new Government could proceed with full democratic authority and Parliament would be free to play its part in scrutinising government strategy? Can we expect the Prime Minister to become less adamant about there being no election before 2020?

Baroness Evans of Bowes Park: The noble Lord will have to ask the Prime Minister for her personal view, but I get no sense that she is thinking about an early election. It is absolutely right that we have parliamentary scrutiny but Parliament will also be aware that we legislated for a referendum, with cross-party support, to put the decision to remain in or leave the EU in the hands of the people, which is what we have done. It is now beholden on us to ensure we get the best deal we can, and beholden on both Houses to ensure that they scrutinise it properly and aid that process.

Lord Higgins (Con): My Lords, the Statement refers to the problem of immigration and the fact that the Royal Navy will, fortunately, continue to rescue those who are in danger of drowning in the Mediterranean, but is it still the case that they are then being landed in Greece or Italy and that, as a result, more people are encouraged to risk their lives and traffickers are able to say, “Don’t worry if the boats are unseaworthy, because you will be rescued by the Royal Navy and taken to your destination anyway”? What further thought have the Government given to this problem, and should there not, in the context to which the noble Baroness referred, be some arrangement to return them to their countries of origin?

Baroness Evans of Bowes Park: The Prime Minister has been very clear about the importance of working more closely with source and transit countries—something she reiterated at the EU Council meeting—and we established the Organised Immigration Crime Taskforce to tackle that. It is working in 17 countries and has successfully disrupted organised crime groups through participating in intelligence sharing, arrests and prosecutions. We are also playing an important role in Operation Sophia, which has destroyed more than 300 smuggling boats, apprehended almost 90 suspected smugglers and successfully saved more than 26,000 lives.

Baroness Royall of Blaisdon (Lab): My Lords, given the scale of the challenge of negotiating trade agreements with the rest of the European Union and other countries, which the noble Baroness acknowledges, what transitional arrangements are envisaged once we leave the European Union? As a pro-chancellor of the University of Bath, I urge the Government, in formulating the negotiating strategy, to ensure that among the negotiators there is at least one person with in-depth knowledge of the university sector, so that we can ensure that the negotiations in no way harm our university sector but enable UK universities to take advantage of the challenges ahead.

Baroness Evans of Bowes Park: A range of issues are involved in the transitional arrangements, the Department for Exiting the EU is considering them and a lot of work is going on. Of course we want to ensure that we are using the expertise and skills of universities and trade negotiators to get the best deal.

Lord Campbell of Pittenweem (LD): My Lords, quite the most interesting feature of the Statement is the second-last sentence, which reads:

“and we can secure the deal that is right for the British people, whose instruction”—

my emphasis—

“it is our duty to deliver”.

Are we embarking on a rather novel constitutional change, in which an advisory referendum becomes an instruction to government? Is not the proper inference to be drawn from that sentence that the Government intend—whatever the circumstances, deal or no deal, even if it is patently against the interests of the people of the United Kingdom—to persist in the withdrawal of the United Kingdom from the European Union?

Baroness Evans of Bowes Park: As I said in an earlier answer, the referendum was legislated for, with cross-party support, to put the decision to remain or leave the EU in the hands of the people. That has been done and we now need to get on the job.

Lord Brooke of Alverthorpe (Lab): My Lords, I think it is generally accepted that there will be great difficulty for either the Commons or this House to scrutinise what the Government are doing. Although we all understand the Government deciding not to give a commentary on how the negotiations are going, earlier today we heard from the noble Lord, Lord Bridges, that he is running around the country attending meetings. I understand that many departments, Ministers and officials are holding meetings on Brexit around the country. The noble Baroness could state to the House that the Government are prepared to publish a running report on what meetings are taking place on Brexit, who is involved and what are their subjects.

Baroness Evans of Bowes Park: As I said, we will have many debates in this House. We will be debating the great repeal Act and having many broader debates. I am sure that if noble Lords ask Ministers questions in those debates about who has been spoken to and the work of their department, they will be delighted to answer.

Lord Hylton (CB): My Lords, there is a Russian media centre located in Edinburgh, which I understand is called RT. It has already had some problems with its commercial banking arrangements. Have the Government considered whether its level of activity is conducive to the public good, and whether some diminution might not deter Russian aggression both in Europe and elsewhere?

Baroness Evans of Bowes Park: Perhaps the noble Lord will permit me to write to him with details on that issue.

Lord Callanan (Con): My Lords, does not the failure of the EU to agree so far the trade agreement with Wallonia—which I note is being held up by the socialists in the same way as the TTIP agreement is being held up by the socialists in France—demonstrate that if the UK wants to have a free trading future, trading with all the great growing economies of the world, we need to do it from outside the EU?

Baroness Evans of Bowes Park: As I have said, we still hope that the EU will be able to sign a trade deal with Canada. We want to get a good trade deal with the EU. We have also been clear that we will not be following an existing model; we will have a bespoke arrangement. My noble friend is absolutely right that we need to be looking outwardly to countries across the world—the Commonwealth and others—with whom we can develop even stronger relationships than we have now.

Baroness Smith of Newnham (LD): My Lords, there has been a lot of talk about the great repeal Bill, which is supposed to repeal the European Communities Act 1972—all well and good. This is supposed to liberate us, perhaps, from the European Union and all

the legislation. Is it not the case that the great repeal Bill will simultaneously enshrine all existing EU law that is presently on the statute book and regulations, which currently have direct effect, will have to be enshrined into UK law as well? This is not a great repeal Bill; it is a great enshrinement of EU law, and the Bill is perhaps a great deceit.

Baroness Evans of Bowes Park: The noble Baroness is right that we believe that that is the right approach, because it provides stability and certainty, and gives us time to look in huge detail at the rules and regulations we want to keep and those that we perhaps want to repeal.

Lord Hannay of Chiswick (CB): My Lords, will the Minister accept thanks for one part of the Statement, which is the first occasion on which the Prime Minister has recognised that there will need to be serious, in-depth co-operation on security, justice and home affairs issues, which are extraordinarily important? That is very welcome, although doing it will be a great deal more difficult than talking about doing it. Can the Minister address the issue about the work that is going on in talking to third countries around the world about new trade agreements? Can she say what the International Trade Secretary says to his interlocutors when they ask him, “What will your external tariff be? Will you be in the customs union, or not? What will your relationship be with the European Union?”? If he cannot answer any of those questions, is he doing anything but adding to his air miles?

Baroness Evans of Bowes Park: The noble Lord is absolutely right about security. When we leave the EU our commitment to work with our European and global allies on these issues will be undiminished. As part of negotiations we will discuss with the EU and member states how best to continue co-operation on security, law enforcement and criminal justice because this is an incredibly important area for all of us. As I say, I will not preclude the conversations that my right honourable friends in the other place are having. Suffice it to say that a number of countries have told us that they would welcome talks on future free trade agreements, and we look forward to getting into the detail of them.

The Lord Bishop of Bristol: My Lords, I am very grateful to the noble Baroness for repeating the Prime Minister’s Statement. She has emphasised something that all noble Lords will recognise: this is a matter of huge complexity. To articulate one anxiety, the noble Baroness said that we are the first country to leave the EU—I do not know whether she regards that as a notable first—but, if it is as complex to leave the EU as your Lordships’ House believes, can she assure us that somewhere there is the expertise necessary to enter into negotiations of complexity in such a way that will really benefit the people of the United Kingdom?

Baroness Evans of Bowes Park: I thank the right reverend Prelate for his question. He is absolutely right: what we do now will impact our country’s future for many decades to come. That is why we are so serious about getting the best deal possible and why, as I mentioned in response to another question, we will

draw on all expertise—that of this House, and from experts around the country and in the devolved Administrations—to make sure that we get the best deal for the whole of the UK.

Bus Services Bill [HL] *Report (2nd Day) (Continued)*

5.15 pm

Amendments 50 and 51

Moved by Lord Ahmad of Wimbledon

50: Clause 5, page 33, line 2, leave out “provide information required” and insert “comply with a requirement imposed”

51: Clause 5, page 33, line 3, at end insert—

“(7A) A franchising authority that have obtained information under this section may—

- (a) use the information for the purposes of their functions under this Part in relation to franchising schemes, and
- (b) supply the information to a person specified in subsection (7B) for use in connection with the same franchising scheme or the same proposed franchising scheme.

(7B) The persons referred to in subsection (7A) are—

- (a) a franchising authority;
- (b) a person providing services to a franchising authority;
- (c) a person carrying out functions under section 123D.”

Amendments 50 and 51 agreed.

Schedule 2: Further amendments: franchising schemes

Amendments 52 to 56

Moved by Lord Ahmad of Wimbledon

52: Schedule 2, page 77, line 16, leave out “123J(6)” and insert “123J(3)”

53: Schedule 2, page 77, line 20, after “with” insert “a requirement imposed under”

54: Schedule 2, page 79, line 20, leave out “for any traffic area”

55: Schedule 2, page 79, line 29, leave out “for any traffic area”

56: Schedule 2, page 79, line 31, after “with” insert “a requirement imposed under”

Amendments 52 to 56 agreed.

Clause 7: Advanced ticketing schemes

Amendments 57 to 59

Moved by Lord Ahmad of Wimbledon

57: Clause 7, page 35, line 18, at end insert—

“(ba) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by the proposed scheme,”

58: Clause 7, page 35, line 18, at end insert—

“(bb) the Passengers’ Council,”

59: Clause 7, page 35, line 20, at end insert—

“() For the purpose of subsection (3)(ba) the following are relevant local authorities—

- (a) local transport authorities,
- (b) district councils in England,
- (c) National Park authorities,
- (d) the Broads Authority,
- (e) London transport authorities, and
- (f) councils in Scotland.”

Amendments 57 to 59 agreed.

Clause 9: Enhanced partnership plans and schemes

Amendments 60 to 62

Moved by Lord Ahmad of Wimbledon

60: Clause 9, page 37, line 38, at end insert—

“() An enhanced partnership plan must include a description of the authority’s or authorities’ plans for consulting such organisations appearing to the authority or authorities to be representative of users of local services as they think fit in order to seek their views on how well the plan and any related scheme are working.”

61: Clause 9, page 38, line 46, leave out “138F to 138M and 138O, and” and insert—

- “(aa) sections 138F to 138J,
- (ab) section 138K(1) and (3) to (5),
- (ac) sections 138L and 138M,
- (ad) section 138O, and”

62: Clause 9, page 39, line 4, at end insert—

“() Subsection (5) is not to be taken as affecting the area indicated by references in the provisions mentioned in that subsection to the authority’s or authorities’ area or combined area.”

Amendments 60 to 62 agreed.

Amendment 63 not moved.

Amendments 64 and 65

Moved by Lord Ahmad of Wimbledon

64: Clause 9, page 39, line 42, at end insert “, and

- (b) requirements about emissions or types of fuel or power.”

65: Clause 9, page 40, leave out lines 22 to 33

Amendments 64 and 65 agreed.

Amendment 66

Moved by Lord Kennedy of Southwark

66: Clause 9, page 40, line 33, at end insert—

“(9A) An enhanced partnership scheme must specify under section 138A(5)(b) that new vehicles delivering local services will meet the specifications of the low emission bus scheme as set out by the Office for Low Emission Vehicles in the 2015 document “Low Emission Bus Scheme: Guidance for participants” if the vehicle comes into service after 1st April 2019.”

Amendment 66 agreed.

Amendment 67

Moved by Baroness Campbell of Surbiton

67: Clause 9, page 40, line 37, at end insert—

“() The requirements that may be specified in an enhanced partnership scheme must include requirements for operators to establish and publish policies to protect the interests of disabled people using its services and to facilitate such use.”

Baroness Campbell of Surbiton (CB): My Lords, in moving Amendment 67 in my name, I add my support for all the other amendments in this group, which will enhance bus accessibility for disabled people.

Amendment 67 would require bus operators, “to establish and publish policies to protect the interests of disabled people”, and actively help them to use bus services. Companies that failed to comply would be subject to sanctions. This is intended to mirror the system of disabled people’s protection policies—DPPPs—in the rail sector, where train operators must set up and comply with such a policy as a condition of their licence. The Minister will remember that I proposed a DPPP-like system for the bus sector at Second Reading. I argued that it would aid consistency of service across local authority boundaries, thus encouraging a more coherent transport service for older and disabled people.

The Minister kindly met me recently to discuss my proposal and has since followed up with a very helpful letter, which he hoped would address my concerns. I thank him for his efforts—they were good efforts—to ensure that disability access will be covered in government guidance for local transport authorities. That is a positive step, which I welcome. But—and it is a big but—it will not be enough to ensure that accessibility is delivered by bus companies. Guidance without statutory backing or any enforcement behind it can be ignored with impunity—and, let us face it, we have plenty of experience of public services doing just that. Guidance is fine, but we know that it can be left on the shelf and ignored. People may start with good intentions but, in reality, other priorities invariably get in the way.

The Government set great store by an integrated transport system. That means integration not only across the piece so that buses connect with trains but between bus companies. Passengers should be confident of finding similar standards of service wherever they are. If this is tackled only through local transport authorities, it will leave a gap and quality standards will inevitably be patchy. The bus operators are an absolutely pivotal part of the equation. Bus drivers are the interface with the public. Their attitude makes all the difference to disabled passengers’ experience of a ride on the bus. Bus companies need to know what they have to do and, especially, what happens if they do not do it. Enforcement of the rules must be there as a disincentive to those who would flout them. That is why local transport authorities should impose requirements on bus operators under the schemes. Amendment 67 will make that happen. It will reinforce and complement the actions that local transport authorities take under government guidance. That will create a true partnership.

I understand that the Government are concerned to avoid any increased financial burden on struggling bus companies but I really do not believe that that will happen. In any event, the Government agree that bus operators should be making their services accessible and must factor accessibility into their costs. The Bill creates a raft of new enforcement powers for traffic commissioners. They will have the opportunity to promote good standards of behaviour, such as inclusive policies, and attach conditions to licences which will be enforceable. Why not include the requirement for bus operators to publish their policies for protecting disabled people? It makes sense. Why not use traffic commissioners as the licensing and enforcement body? After all, that is their job.

If these arguments still do not persuade the Minister to change his mind on this amendment, I propose an alternative solution. The Government have tabled Amendment 101 for a regulation-making power under the Equality Act 2010 to require accessible information—notably audio-visual announcements—on buses, backed by statutory guidance. That approach could equally apply to DPPP-like policies. Bus companies would have to comply with the requirements as a condition of their licence. If they failed to do so, a traffic commissioner could impose sanctions. It would also address the Minister's concerns about the structure of the bus sector being different from that of the rail sector. The regulations would provide flexibility.

Guidance is a step in the right direction, but it is not enough. I urge the Minister to reconsider Amendment 67. By accepting it, the Government will ensure that disabled people will enjoy the same right to travel as their able-bodied peers, and secure a truly inclusive bus network for all their citizens. Guidance simply will not do this. I urge the Minister to reconsider my amendment or to reflect on and contemplate the alternative solution that I have proposed. I beg to move.

Baroness Jones of Whitchurch (Lab): My Lords, I support all the amendments in this group and shall speak to our Amendments 98 and 110. Before I deal with these, I thank the Minister for his welcome comments on these issues in Committee and for the subsequent proposals he has brought forward. There is no doubt that he has made a genuine attempt to improve the provision for disabled passengers. Of course, we would have liked him to go further, but we welcome the progress that has been made so far.

We particularly endorse the amendment and speech of the noble Baroness, Lady Campbell, who has sought to underpin future partnership agreements with a policy commitment to protect the interests of disabled passengers. The Minister's response in his recent letter suggests that this policy is best set out in guidance. While we welcome this as far as it goes, we remain convinced that it would be a bolder and clearer commitment if it was in the Bill. We also have a great deal of sympathy with the amendment of the noble Baroness, Lady Brinton, on wheelchair access and hope that this issue can be resolved speedily once the current court case is resolved.

Amendment 98 covers disability training and would ensure that disability training is mandatory for all bus drivers and terminal staff from 1 April 2019. This

amendment builds on the good practice that already exists among the better bus operators around the country, but which is not universal. Our amendment would address that inconsistency. That policy has wide support. When we debated this in Committee, and in subsequent discussions with the Minister, he stressed that in 2018 mandatory disability awareness training will come into force courtesy of an EU directive to this effect. We are not convinced by this argument. As the Brexit agenda unfolds, we have even less confidence that a directive due to come into force in 2018 will be listed as an existing obligation and written into a great repeal Bill, or whatever it is eventually called. Under the Prime Minister's timetable, Article 50 will be tabled at the beginning of 2017, and therefore must be concluded by the beginning of 2019. We therefore believe that there is a real chance that this policy will fall through the crack and not be recognised as an existing obligation in the Brexit discussions. There is also a real chance that bus operators will fail to take the obligation seriously if it is rooted in EU legislation when we are due to leave a few months later. Therefore, why leave this to chance? If the Government believe that the disability training should be compulsory, the safest approach is to put it into our domestic legislation now, so that it can apply from 2019, as would have been the case if we had stayed in the EU. This is what our amendment seeks to achieve.

Our second amendment in this group, Amendment 110, would require all buses to have audio-visual communication systems so that everyone travelling on the service is informed of the route being taken, the name of the next stop and any delays or diversions. As the noble Lord knows, these proposals have the support of more than 30 charities as well as several bus operators. However, only 19% of buses nationally are fitted with AV, so, as we argued in Committee, implementing these requirements would make a vital difference to the lives of more than 2 million people with sight or hearing loss as well as many elderly people, all of whom rely disproportionately on public transport for their independence.

Since our debate in Committee, we have had fruitful discussions on this issue with the Minister. Since we tabled our amendment, the Government have issued a policy statement and their own amendments to the Equality Act to deliver the AV programme we are seeking. I am very grateful to the Minister for their understanding and support on this issue. It could genuinely be a transformative policy and make a huge difference to people's lives.

5.30 pm

The Government's amendments to the Act specify that the changes will be brought about by regulations from the Secretary of State, following a period of consultation. I do not doubt the Government's sincerity or their determination to introduce these regulations, but perhaps the Minister can give some clarification on these proposals. For example, the scoping paper suggests that the consultation would commence in spring 2017, with final regulations published in April 2018. Can the Minister confirm that that timetable is the case? Can he also confirm what date the Government have in mind for bus operators to comply with the new

[BARONESS JONES OF WHITCHURCH]

regulators and whether any vehicle exemptions would be temporary or permanent?

Clearly, a lot more work needs to be done to spell out the details of the regulations. I am sure disability groups will be pleased to work with the Government on this. I can assure the Minister that we on this side of the House will continue to do what we can to work with him and to support this initiative. On this basis, I clarify that we will not press our Amendment 110 to a vote.

Baroness Brinton (LD): My Lords, I support all the other amendments in the group but I will focus in particular in Amendment 99, which is in my name. On the train this morning I was describing why we need the amendments in this group to a young man called Chris—I see him regularly although we are not quite regular commuters together. To his utter astonishment, he learned that the provision for disabled people on buses and trains is completely different. As a user of both buses and trains, he had no idea about that and was quite shocked. That is why disability charities across the board are supportive of the amendments in this group.

Amendment 67, in the name of the noble Baroness, Lady Campbell, is particularly important because it strikes at the heart of the principle, which is what we need to establish. Many of the other amendments tackle specific regulations, and they are important too, but I hope that the Minister will take to heart the noble Baroness's speech and will be able to take this further in due course.

I echo the comments made by the noble Baroness, Lady Jones, on Amendment 98 about the synchronicity of the Statement we have just heard on the most recent Council debate about Brexit and the great repeal Bill. The Leader of the House talked about that Bill and yet here we are, facing an amendment which the Government argue will come into force in March 2018. However, Amendment 98 would strengthen the provisions introduced by EU Regulation 181/2011 by requiring new drivers and terminal staff to complete training within one month of starting work and to undertake refresher training. If noble Lords have ever had cause to require the assistance of staff on buses or trains, it is instantly obvious whether they have been trained. For example, they may try to grab electric wheelchairs if they do not know that that is more dangerous to them than it is helpful to the person in the wheelchair.

Amendment 99 is in a slightly different form to the amendment I laid down before. I am grateful for the Minister's comments that we are awaiting the result of the *FirstGroup Plc v Paulley* judgment from the Supreme Court following its hearing in June. It is worth saying that we need to amend the conduct regulations and to do so in time. Following the comments the Minister made at Second Reading, the issue is of such importance that we should not wait for the Supreme Court judgment. It is particularly important for those of us who have disabilities to live independent lives, so we hope that Parliament will take the opportunity to address the issue, regardless of the outcome of the case.

We believe, as does the Equality and Human Rights Commission, that the Government should commit to

amending the conduct regulation no later than six months after the Bus Services Bill receives Royal Assent. Of course, the Government should consult passenger groups, disability stakeholder groups and relevant authorities when considering how to clarify conduct regulations and accompanying guidance. Given the support there has been for these proposals universally and throughout the House, I accept that I cannot change the Government's mind on waiting on the court case, but I hope that we can persuade them to move swiftly as soon as we have a result. If the result is not as those of us who laid this amendment and others in the past would wish, we will be back with future ones pretty sharpish.

The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con): My Lords, I thank all noble Lords who have spoken in this important debate, and in particular I thank the noble Baroness, Lady Campbell, who I know has been through some personal difficulties—and I hope that her mother is now also on the mend. I welcomed our meeting.

It is important to underline again that, as I said on Second Reading, the Government have very much listened and worked across the House on this important issue, and that will certainly remain our stance. It is important to get this element of the legislation right to provide the level of access we all wish to see.

On Second Reading and in Committee, as several noble Lords have pointed out, powerful cases were made for using the opportunity presented by the Bill to improve the experience and access of disabled people who travel by bus. I indicated the Government's willingness to give further consideration to the proposals and have subsequently had many useful and practical discussions with a number of noble Lords whom I thank for taking the time to meet with me.

Perhaps I may begin with Amendment 98. I entirely support the principle of requiring bus drivers to undergo mandatory disability awareness training, and I know how important this training is to many disabled people. That is why we are currently finalising our disability awareness training best practice guidance and why we will support the bus industry to implement the European mandatory training requirement to the benefit of passengers.

I know that the noble Baroness, Lady Jones, was and remains concerned about the potential for the United Kingdom's exit from the European Union to result in the removal of those protections. As my right honourable friend the Prime Minister confirmed, through the great repeal Bill the body of existing EU law will be converted into UK law when we leave. Once again, I reassure noble Lords that the provisions of Article 16 of EU Regulation 181/2011, which sets out the requirement for mandatory disability awareness training for bus drivers, will be the starting point for any future consideration of this issue.

The noble Baroness, Lady Jones, was concerned that something could fall through the cracks on this. During the Leader's Statement today, a question was asked about our engagement with stakeholders. The Department for Transport has been clear on that. I cover the wider transport brief in your Lordships' House but, as the current Aviation Minister, I have also met various stakeholders—as have other Ministers

in my department—on a raft of issues. We ensure that any stakeholder can directly access Ministers as they establish their priorities for the industry across the board, and I can certainly speak from experience regarding the transport sector.

I reassure the noble Baroness that we will continue this conversation. It is right that Parliament should hold the Government to account in ensuring that the important provisions in certain directives are reflected as they are transposed into UK legislation. I assure her that a diligent approach is being taken to ensure that these factors are taken into consideration.

I have taken up the practical element of what we are discussing not just with officials in my department but with officials across government. Given that, I believe that we can look forward to the availability and quality of disability awareness training continuing to rise across the bus industry. I therefore hope—and I have put on my best smile for the noble Baroness—that, based on the reassurances I have given and the practical steps I have outlined, she will be willing not to press her amendment.

On Amendment 67, tabled by the noble Baroness, Lady Campbell, I am fully aware and agree with noble Lords that conveying information on the availability of services to assist disabled passengers can give passengers greater confidence in their ability to travel independently. I know too that this is an issue about which not just the noble Baroness but all of us across the Chamber feel very passionately.

As I said at the beginning of my response to the amendment, I am truly grateful to the noble Baroness and other noble Lords for meeting me to discuss this very important issue. As I explained to her, we support the principle of establishing and publishing policies with a view to protecting the interests of disabled persons when using transport services, as demonstrated by our continued use of the disabled people's protection policies for railway operators.

I accept the point made by the noble Baroness, Lady Brinton, about this issue vis-à-vis buses. However, the railway sector, with around 30 operators, is very different from the bus industry, which has over 700 companies providing services. As noble Lords have acknowledged, many of them are small or medium-sized enterprises and operate under a very different licensing regime. We must ensure that, in seeking to improve the accessibility of services—a commitment that we have made—we do not create a disproportionate bureaucracy or imperil the sustainability of marginal bus routes. There is a balance to be struck.

However, we intend to include in guidance the expectation that authorities will produce statements specifying the policies, services and facilities that have been put in place to ensure an inclusive approach to bus network design and management, and to provide disabled passengers with the necessary information to make informed choices about their travel arrangements. I will of course be happy to share a draft with all noble Lords when it is available. In the meantime, I will continue to consider how we might further protect the interests of disabled passengers.

In the spirit of the debate that we have had thus far, the noble Baroness offered me an option. I will certainly reflect on the option of Amendment 101 and come

back to her. If she has time for a further meeting that would help our understanding in that regard, I would certainly welcome it. Therefore, I hope that she will consider how we might move forward together on this, because the Government and, I am sure, all noble Lords are committed to the principle. With that assurance, I hope that the noble Baroness will feel able not to press her amendment.

Amendment 99 in the name of the noble Baroness, Lady Brinton, concerns an issue that has been raised constantly, and rightly so, during the debates on the Bill. It is of great importance not only to wheelchair users but to others who rely on the use of the wheelchair space in order to access bus services. As I have said on a number of occasions, I am a father of three children. One has just stopped using a pushchair but one is certainly still doing so. Access and appropriate space for all users of bus services are important.

Like other noble Lords, I continue to await with interest the Supreme Court's judgment on the case of *FirstGroup plc v Paulley*. I am sure that the noble Baroness understands that I am constrained in what I can say until that judgment has been handed down. In any case, many factors will need to be considered properly before the Government can form a view on this issue and take any action that they might deem necessary. It will also be important to understand the needs and preferences of everyone concerned, including disabled people, bus operators and other passengers. Following the judgment, the Government will need to consider whether action is required and, if so, what form it might take. As with any policy, we will consider whether new legislation is required or whether existing secondary legislation can be used to achieve the desired outcome.

I assure the noble Baroness that at all stages we will engage with our statutory advisers on transport accessibility and the Disabled Persons Transport Advisory Committee. Following her interest in this issue, when this judgment comes to the fore I shall be pleased to facilitate appropriate discussions to ensure that we proceed on the correct basis. In my view, it would currently be difficult for the Government to take any steps without being seen to prejudge the outcome of the *Paulley* case, and I firmly believe that we should await the judgment before taking further action. The noble Baroness, Lady Brinton, knows that I totally sympathise with her motives in tabling this amendment, but I hope that she and other noble Lords are assured that this issue will be given due attention by the Government once the Supreme Court has ruled.

I now turn to Amendments 101, 115, 116 and 117 standing in my name and Amendment 110 in the name of the noble Baroness, Lady Jones, which all relate to the subject of accessible information on board bus services.

In Committee I agreed to consider the noble Baroness's amendment further. I have considered this issue carefully over the summer and am pleased to propose an amendment to introduce an accessible information requirement. Ultimately, this will require operators to provide accessible information, using both audible and visible media, on board local bus services in England, Scotland and Wales.

5.45 pm

We intend that information identifying the route and direction, as well as upcoming stops and points at which a vehicle is diverted from its scheduled route, should be provided on all the services covered, and that traffic commissioners will be responsible for ensuring compliance. Further detail on our thinking is set out in the policy scoping note, which was sent to noble Lords on 6 October.

The noble Baroness proposed to amend the Public Service Vehicles Accessibility Regulations—the PSVAR—which provide physical accessibility standards for buses and coaches, and noble Lords may wonder why we have chosen not to take this approach. We believe that, by placing an information requirement on operators rather than a requirement to install specific equipment, we will ensure that the needs of passengers are met within years, not decades. I know that this will resonate with noble Lords across the Chamber. It will also mean that operators will be free to choose the method of delivery that meets the needs of passengers and suits their particular service and business. Although the industry as a whole is yet to embrace accessible information wholeheartedly, I believe that operators, not government, are best placed to select solutions that meet the requirements of their customers.

Noble Lords will appreciate that, while we are clear about the core principles that should underpin the accessible information requirement, it is important that we develop the details in full consultation with both the bus industry and disabled passengers. We therefore propose to amend the Equality Act 2010 to provide the regulation-making powers required to develop the accessible information requirement. The regulations themselves and supporting guidance will be developed in liaison with affected parties, including the Disabled Persons Transport Advisory Committee, the Passengers' Council and the devolved Administrations. I assure the House that we will work to progress these discussions as quickly as possible and bring forward regulations as soon as we are realistically able to do so.

For almost a decade Londoners have benefited from “talking buses” across the Transport for London network. The accessible information requirement will extend this on-board information revolution across the whole of Great Britain, ensuring that every passenger can board a bus with confidence and alight at their intended location. Given that commitment, I hope that the noble Baroness, Lady Jones, will be willing not to press her amendment.

This has been an important area of debate on which we have spent a great deal of time in Committee and outside the Chamber. The Government have had practical, helpful and constructive discussions with noble Lords across the board and I believe that we have moved matters forward. I have a musical accompaniment from someone's mobile phone; normally we would have a drum roll but I have the nice tinkle of a bell behind me. More seriously, as I said, this is an important issue on which I believe the Government have moved matters forward. Based on the assurances and practical steps put forward by the Government, I hope that the noble Baroness will be minded to withdraw her amendment.

Baroness Campbell of Surbiton: I thank the Minister for his response to my amendment and for his offer to meet again. I enjoy our meetings—they are indeed very constructive. I am also pleased that he will consider my alternative proposal, and I would like to discuss that further with him. But he will understand that statements and guidance, however good and well intentioned, will never deliver the result that we need—that is, full, guaranteed access for disabled people. I will not divide the House today; alternatively, I will use my influence with the Minister and in the other place to ensure that Members have all they need to continue pushing forward the intention behind my amendment as the Bill continues its legislative passage—in other words, it does not end here. Disabled people should have the right now to travel on public transport in exactly the same way as their able-bodied peers. I hope that the Government will come to see the advantages of going beyond guidance in the next stage of the Bill as it continues its journey. Until then, I beg leave to withdraw my amendment.

Amendment 67 withdrawn.

Amendment 68 not moved.

Amendment 69

Moved by Lord Ahmad of Wimbledon

69: Clause 9, page 42, line 40, at end insert—
“() the Passengers' Council,”

Amendment 69 agreed.

Amendment 70 not moved.

Amendment 71

Moved by Lord Ahmad of Wimbledon

71: Clause 9, page 42, line 46, at end insert—
“() National Park authorities,
() the Broads Authority,”

Amendment 71 agreed.

Amendments 72 and 73 not moved.

Amendments 74 to 80

Moved by Lord Ahmad of Wimbledon

74: Clause 9, page 51, line 2, leave out from first “references” to first “to” in line 3

75: Clause 9, page 51, line 16, after “facilities” insert “or measures”

76: Clause 9, page 51, line 22, at end insert “or measures”

77: Clause 9, page 51, leave out line 28 and insert—

“(a) section 138A(6) and (10),

(aa) sections 138F to 138J,

(ab) section 138K(1) and (3) to (5),

(ac) sections 138L and 138M,

(ad) section 138O, and”

78: Clause 9, page 51, line 30, at end insert—

“() Subsections (1) and (2) are not to be taken as affecting the area indicated by references in the provisions mentioned in subsection (4) to the authority's or authorities' area or combined area.”

79: Clause 9, page 55, leave out lines 1 to 6 and insert—

“(h) make provision for appeals against—

- (i) decisions to record or not to record requirements under paragraph (a);
- (ii) decisions to cancel registrations of local services under paragraph (c).”

80: Clause 9, page 55, line 6, at end insert—

“() Regulations made by virtue of subsection (4)(h) may in particular include provision about—

- (a) to whom an appeal may be made;
- (b) how an appeal may be made and dealt with;
- (c) further appeals;
- (d) who may be parties to an appeal or further appeal.”

Amendments 74 to 80 agreed.

Amendments 81 and 82 not moved.

Amendments 83 to 86

Moved by Lord Ahmad of Wimbledon

83: Clause 9, page 55, line 37, leave out “who made” and insert “operating”

84: Clause 9, page 56, line 24, leave out “who made” and insert “operating”

85: Clause 9, page 56, line 29, leave out “who made” and insert “operating”

86: Clause 9, page 56, line 36, leave out “who made” and insert “operating”

Amendments 83 to 86 agreed.

Amendment 87 not moved.

Clause 10: Information about local services

Amendments 88 to 93

Moved by Lord Ahmad of Wimbledon

88: Clause 10, page 58, leave out lines 26 to 30 and insert—

“(2) A local transport authority in England that are party to an enhanced partnership plan may, in connection with any relevant function, require an operator of a local service in their area, or in the combined area of the authority and any other local transport authority in England that are party to the plan, to supply relevant information.

(2A) If an enhanced partnership plan is proposed to be varied so as to include another local transport authority in England, that authority may, in connection with determining whether and how to vary an enhanced partnership plan or scheme, require an operator of a local service in their area, or in the combined area of that authority and any other local transport authority in England that would be party to the plan as it is proposed to be varied, to supply relevant information.”

89: Clause 10, page 58, line 33, at end insert “, and

(b) to provide the information before the end of such reasonable period as may be specified by the local transport authority.”

90: Clause 10, page 58, leave out lines 37 to 44 and insert—

“(4A) A local transport authority that have obtained information under this section in connection with a function relating to an enhanced partnership plan or scheme may—

- (a) use the information for the purposes of the function for which it was obtained, and

(b) supply the information to a person specified in subsection (4B) for use for those purposes in connection with the same plan or scheme.

(4B) The persons referred to in subsection (4A) are—

- (a) a local transport authority;
- (b) the Secretary of State;
- (c) a metropolitan district council;
- (d) a person providing services to a local transport authority, the Secretary of State or a metropolitan district council.”

91: Clause 10, page 58, line 45, leave out “local transport authority must not disclose information obtained” and insert “public authority must not disclose information supplied to the authority”

92: Clause 10, page 59, line 6, leave out “(5) or (6)” and insert “(4A)(b)”

93: Clause 10, page 59, line 24, at end insert—

“() determining whether to revoke an enhanced partnership plan or scheme;”

Amendments 88 to 93 agreed.

Clause 11: Registration of local services

Amendment 94

Moved by Lord Ahmad of Wimbledon

94: Clause 11, page 60, leave out lines 37 and 38

Amendment 94 agreed.

Clause 12: Cancellation of registration etc

Amendment 95

Moved by Lord Bradshaw

95: Clause 12, page 61, line 18, at end insert—

“() If a traffic commissioner considers that the operator of a registered service has failed to comply with a condition attached to the service permit, the traffic commissioner may cancel the registration of that service.”

Lord Bradshaw (LD): My Lords, this amendment is designed to ensure that when a franchise or an enhanced quality partnership is in place, it will not be undermined by an operator—probably operating across the borders of the franchise but maybe even within it—using vehicles that do not comply with the franchising agreement. Most of us know areas of the country where some of the buses that are in competition with the main operator fall well below the standards—the vehicles are noisy, dirty and probably do not conform to up-to-date emissions regulations. I am moving this amendment to ensure that a traffic commissioner’s powers will enable him to enforce the standards laid down by either the statutory partnership or the enhanced quality partnership. I beg to move.

Baroness Randerson (LD): My Lords, this amendment reflects the importance that we on these Benches believe lies in the role of traffic commissioners and the enforcement that they have the power to undertake. If you look at their annual report, you will see that the traffic commissioners themselves complain of being overstretched. It is important, therefore, that we give them an express requirement to enforce regulations at a time when we are likely to see bus companies with a

[BARONESS RANDERSON]

lower quality of service possibly impinging on the better bus companies that provide the very best service. I simply wanted to briefly underline the importance that we see in this simple amendment.

Lord Hunt of Chesterton (Lab): My Lords, being a traffic commissioner, I had forgotten that we had very little training. I wonder whether, as part of this process, we need to train traffic commissioners much more.

Lord Ahmad of Wimbledon: My Lords, I thank the noble Lord for tabling his amendment. On the final point raised by the noble Lord, Lord Hunt, I say that training is incumbent on every element of this Bill. Where we can improve training, that should be the focus of how we move forward in this area.

Administration of service permits are intended to be used to allow commercial services that do not operate under a franchise contract to operate in a franchised area. They are most likely to be used for cross-boundary services, but an operator can also apply for them to provide other services that a franchised network of services does not cover. Under the Bill, the franchising authority, rather than the traffic commissioner, will be responsible for dealing with applications for service permits, and new Section 123R of the Transport Act 2000 enables that franchising authority to attach conditions to service permits in certain circumstances.

I totally agree with the noble Lord's objective that there should be a sanction for operators who do not comply with such conditions. The Bill already achieves this by enabling local authorities to revoke or suspend a service permit if the holder has failed to comply with a permit condition. This can be found in the new Section 123S to the Transport Act 2000, on page 26 of the Bill.

The amendment would also add a power for the traffic commissioner to cancel the registration of a service if the operator has failed to comply with its service permit. Under new Section 123J of the Transport Act 2000, no services that operate within a franchised area are registered with the traffic commissioner, including those operated under service permits, so this addition would have no practical effect. For services of this nature in a franchised area, the permit effectively replaces the registration and the local authority has the powers that it needs to deal with the issue that the noble Lord raises.

I hope that the explanation I have given about the provisions already in the Bill reassures the noble Lord that the intent of his amendment, which I agree with, is already captured in Clause 4, and that he will be content to withdraw his amendment on that basis.

Lord Bradshaw: I am very grateful for what the noble Lord has said. It has clarified the situation: if any of these statutory partnerships come into effect, there will be means by which to make sure that people abide by the rules. I beg leave to withdraw the amendment.

Amendment 95 withdrawn.

Clause 14: Traffic commissioner functions

Amendment 96

Moved by Lord Ahmad of Wimbledon

96: Clause 14, page 65, line 8, leave out “, 6E and 6F” and insert “and 6E”

Amendment 96 agreed.

Amendment 97

Moved by Baroness Jones of Whitchurch

97: Clause 14, page 67, line 4, at end insert—

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

6J Community bus routes

- (1) Traffic Commissioners must keep a list of bus routes in their area which are of community value.
- (2) For the purpose of this section, a bus route of community value is one that has been designated by the traffic commissioner as furthering the social well-being or social interests of the local community.
- (3) Bus routes may only be designated by a traffic commissioner as being of community value in response to a community nomination.
- (4) A community nomination must be made by a community group which is based in, or has a strong connection with, an area through which the bus route passes, and on which community the bus route has a direct social impact.
- (5) A community group may be a local or parish council, a voluntary or community body with a local connection, a bus user group, a group formed for the specific purpose of maintaining the bus route, a church or other religious group, or a parent teacher group associated with a particular school or schools.
- (6) The traffic commissioner must consider the community nomination, and if—
 - (a) the nomination is successful, the commissioner must notify the relevant parties of this decision in writing; or
 - (b) the nomination is unsuccessful, the commissioner must notify the relevant parties of this decision in writing and give reasons why the decision was made.
- (7) A six month moratorium must be placed on the closure of any bus route which is designated as being of community value, in order for the community to—
 - (a) work with relevant authorities to find an alternative operator;
 - (b) set up a community transport group in order to run the service; or
 - (c) partner with an existing not-for-profit operator to run the route.
- (8) The community may apply to the Secretary of State for financial assistance, training or advice during the moratorium in order to achieve any of the aims set out in subsection (7).”

Baroness Jones of Whitchurch: My Lords, Amendment 97 designates certain bus routes as assets of community value. As we discussed in Committee, this amendment builds on the concept of a community asset as identified in the Localism Act 2011. It recognises that some

specified services should have a special status that gives communities some protection from them being withdrawn without warning. This provision has particular relevance to isolated rural areas. It recognises that there are some areas where the local bus route is a lifeline for the local community, particularly for the elderly and low-paid residents who rely on the bus to transport them to the nearest shop and workplaces.

Our amendment would allow a community group to apply to the traffic commissioner stating why a particular bus route should be listed as having specific community value. It would then have to make the case as to how the community depended on the service and what the wider social damage would be if the service was withdrawn. If successful, this would give the community some protection from the service being cut or closed without notice. At a minimum, it would give them six months' notice of closure, which would allow space for alternative owners or service providers to emerge. It would also draw the community group to the attention of the council, which may be able to intervene on their behalf.

When we discussed this in Committee, the Minister expressed some sympathy with the aims of our amendment and agreed that there was more that we could do to champion the community transport sector. He also emphasised the need for improved training for community groups so that they could better understand the options available to them.

However, he and several other noble Lords raised concerns about a six-month delay in cutting services while the community consultation takes place. We have considered this again but do not think the timescale unreasonable. It is unlikely that bus operators make snap decisions on route profitability; it is more likely a long-term investment decision. All we ask for is the community to be alerted to a potential decision with enough notice to find an alternative supplier. I hope noble Lords will be sympathetic to our proposals and that the Minister will be able to support our amendment.

6 pm

Lord Ahmad of Wimbledon: My Lords, I certainly agree with the noble Baroness that local bus services act as a lifeline to many and have a real community worth, as we have said previously.

The amendment would, in effect, require operators who are planning to cancel a service to continue to operate that service for a period of six months. As I have said previously, this is likely to be to the financial detriment of the operator or the local transport authority. It would also require a traffic commissioner, whose primary role concerns road safety, to take a decision on the value of a service to the local community. A six-month moratorium on cancelling a service would apply only where a service is stopped rather than varied. An operator who wished to avoid the moratorium could reduce a regular bus service to one that operated very infrequently. Operators of registered bus services are already obliged to give at least 56 days' notice of their intention to cancel or vary a bus service to a traffic commissioner.

Clause 18 gives the Secretary of State the power to make regulations which will enable local transport

authorities to require certain information about a service from an operator who intends to vary or cancel the service. It is designed to enable local transport authorities to obtain information which they require and which will allow them to respond more effectively to the needs of bus passengers. The information they will be able to obtain can be used, for example, to inform the procurement of a replacement service by the authority or to assist community transport operators in designing new alternative services.

It is the responsibility of a local transport authority—not a traffic commissioner—to determine what bus services a local community needs. That is why the Government cannot support the amendment.

I appreciate that many local authorities are facing funding issues and have difficult decisions to make about the services they may be able to subsidise. However, there is more than one option open to them. The community transport sector already plays a vital role, as we have all recognised previously, in the provision of local bus services, often with little or no government funding. Community transport operators will be well placed to serve more isolated communities and my department continues to be extremely supportive of that sector.

As noble Lords may be aware, we recently launched a second round of the community minibus fund to provide new vehicles for community groups. The first round of this initiative is providing new minibuses now to more than 300 local groups across England. I also remind noble Lords of the Total Transport initiative, which supports the integration of services commissioned by different agencies, allowing funding to be used more efficiently and better services to be provided to passengers.

I hope it is clear from the case I have outlined that the Government believe in and understand the importance and value of community local bus services and are keen to find ways to ensure that vital bus links continue to be provided. Given the practical examples I have illustrated and the reassurance I have provided, I hope the noble Baroness will feel able to withdraw her amendment.

Baroness Scott of Needham Market (LD): The Minister referred to the new community transport schemes and the investment in new vehicles. Can he give an assurance that they will be of a size that is legally encompassed within the concessionary fares scheme? This would avoid the problem that we have in Mid Suffolk where the new community transport scheme is using vehicles that are too small to come within the concessionary fares scheme. We have many elderly people with concessionary fares passes but no vehicles on which to use them.

Lord Ahmad of Wimbledon: If the noble Baroness will write to me about that case, with which I am not familiar, I will respond in writing to both the specifics and the general point.

Baroness Jones of Whitchurch: My Lords, I thank the noble Lord for that response. We will have to agree to disagree on this one. I accept that more work needs to be done on this concept, but our amendment differs from the tone of his response. He said that information

[BARONESS JONES OF WHITCHURCH]

should be provided to local transport authorities and that that is the onus and tone of the Bill. Our amendment is more about empowering communities and giving them further rights—a bottom-up rather than a top-down approach.

There is still more work to be done to give local communities more control over their local services and local bus routes. However, given the late hour and the need to debate other issues I shall not pursue this matter further at this stage but I hope it will be a part of an ongoing discussion. I beg leave to withdraw the amendment.

Amendment 97 withdrawn.

Amendments 98 and 99 not moved.

Schedule 4: Further amendments: enhanced partnership plans and schemes

Amendment 100

Moved by Lord Ahmad of Wimbledon

100: Schedule 4, page 83, line 8, leave out “section 143B(1) or (2)” and insert “a requirement imposed under section 143B”

Amendment 100 agreed.

Amendment 101

Moved by Lord Ahmad of Wimbledon

101: After Clause 16, insert the following new Clause—
“Information for bus passengers

(1) After section 181 of the Equality Act 2010 insert—

“CHAPTER 2A

BUS SERVICES

181A Information for bus passengers

- (1) The Secretary of State may, for the purpose of facilitating travel by disabled persons, make regulations requiring operators of local services to make available information about a local service to persons travelling on the service.
- (2) The regulations may make provision about—
 - (a) the descriptions of information that are to be made available;
 - (b) how information is to be made available.
- (3) The regulations may, in particular, require an operator of a local service to make available information of a prescribed description about—
 - (a) the name or other designation of the local service;
 - (b) the direction of travel;
 - (c) stopping places;
 - (d) diversions;
 - (e) connecting local services.
- (4) The regulations may, in particular—
 - (a) specify when information of a prescribed description is to be made available;
 - (b) specify how information of a prescribed description is to be made available, including requiring information to be both announced and displayed;
 - (c) specify standards for the provision of information, including standards based on an announcement being audible or a display being visible to a person of a prescribed description in a prescribed location;

(d) specify forms of communication that are not to be regarded as satisfying a requirement to make information available.

(5) Regulations under this section may make different provision—

- (a) as respects different descriptions of vehicle;
 - (b) as respects the same description of vehicle in different circumstances.
- (6) Before making regulations under this section, the Secretary of State must consult—
- (a) the Welsh Ministers;
 - (b) the Scottish Ministers.

181B Exemptions etc

(1) The Secretary of State may by regulations make provision for securing that the provisions of regulations under section 181A do not apply or apply subject to such modifications or exceptions as the regulations may specify to—

- (a) public service vehicles of a prescribed description;
- (b) operators of a prescribed description;
- (c) local services of a prescribed description.

(2) Regulations under subsection (1)(b) may, in particular, make provision by reference to an operator's size.

(3) Regulations under this section may also make provision for securing that the provisions of regulations under section 181A do not apply or apply subject to such modifications or exceptions as the regulations may specify to—

- (a) a prescribed public service vehicle;
- (b) public service vehicles of a prescribed operator;
- (c) a prescribed local service.

(4) Regulations under subsection (1) or (3) may make the provision subject to such restrictions and conditions as are specified in the regulations.

(5) Regulations under subsection (1) or (3) may specify the period for which provisions of those regulations are to have effect.

(6) Regulations under subsection (1) may make different provision for different areas.

(7) Section 207(2) does not require regulations under this section that apply only to—

- (a) a prescribed public service vehicle,
- (b) public service vehicles of a prescribed operator, or
- (c) a prescribed local service,

to be made by statutory instrument; but such regulations are as capable of being amended or revoked as regulations made by statutory instrument.

(8) Before making regulations under this section, the Secretary of State must consult—

- (a) the Welsh Ministers;
- (b) the Scottish Ministers.

181C Guidance

(1) The Secretary of State must issue guidance about the duties imposed on operators of local services by regulations under section 181A.

(2) The Secretary of State—

- (a) must review the guidance issued under subsection (1), at intervals not exceeding five years, and
- (b) may revise it.

(3) Before issuing the guidance or revising it in a way which would, in the opinion of the Secretary of State, result in a substantial change to it, the Secretary of State must consult—

- (a) the Welsh Ministers,
 - (b) the Scottish Ministers,
 - (c) the Passengers' Council,
 - (d) such organisations representing disabled persons, including the Disabled Persons Transport Advisory Committee and the committee established under section 72 of the Transport (Scotland) Act 2001, as the Secretary of State thinks fit,
 - (e) such organisations representing operators of local services as the Secretary of State thinks fit, and
 - (f) such other persons as the Secretary of State thinks fit.
- (4) The Secretary of State must arrange for any guidance issued or revised under this section to be published in a way the Secretary of State considers appropriate.

181D Interpretation

- (1) In this Chapter—
 - “local service” has the same meaning as in the Transport Act 1985;
 - “public service vehicle” means a vehicle that is a public service vehicle for the purposes of the Public Passenger Vehicles Act 1981;
 - “stopping place” has the same meaning as in the Transport Act 1985.
- (2) For the purposes of this Chapter, a local service (“service A”) is a connecting local service in relation to another local service (“service B”) if service A has a stopping place at, or in the vicinity of, a stopping place of service B.
- (3) References in this Chapter to the operator of a passenger transport service of any description are to be construed in accordance with section 137(7) of the Transport Act 1985.”
- (2) In section 207 of that Act (exercise of power to make orders and regulations), in subsection (5), after “174(4)” insert “, 181A(5), 181B(6)”.
- (3) In section 208 of that Act (procedure for orders and regulations), in subsection (5) (statutory instruments subject to affirmative procedure), after paragraph (f) insert—
 - “(fa) regulations under section 181A or 181B (information for bus passengers);”.
- (4) In section 26 of the Transport Act 1985 (conditions attached to PSV operators' licence), in subsection (1), after paragraph (bb) insert—
 - “(bc) the operator has failed to comply with a requirement of regulations made under section 181A of the Equality Act 2010;”.
- (5) In section 155 of the Transport Act 2000 (sanctions), after subsection (1ZD) (inserted by Schedule 4), insert—
 - “(1ZE) Where a traffic commissioner is satisfied that the operator of a local service has, without reasonable excuse, failed to comply with a requirement of regulations made under section 181A of the Equality Act 2010, the traffic commissioner may make one or more orders under subsection (1A)(a) or (d).”
- (6) In section 39 of the Transport (Scotland) Act 2001 (penalties), in subsection (1)—
 - (a) omit the “or” following paragraph (b);
 - (b) after paragraph (c) insert “; or
 - (d) failed to comply with a requirement of regulations made under section 181A of the Equality Act 2010;”.

Amendment 101 agreed.

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

Amendment 102

Moved by Lord Ahmad of Wimbledon

102: Clause 17, page 68, line 38, at end insert—

- “() The information that may be prescribed is such information within subsection (2) as appears to the Secretary of State to be required—
- (a) in order to make information about relevant local services available to users or prospective users of those services, or
- (b) in order to facilitate the exercise of functions relating to the registration of relevant local services.”

Lord Ahmad of Wimbledon: My Lords, in moving government Amendment 102, I shall speak also to government Amendments 103 and 105 to 109, and to Amendment 104, tabled by the noble Baroness, Lady Jones.

An important element of the Bill concerns the availability of journey planning information about bus services. This clause will facilitate the provision to passengers of information about timetables, fares, routes, tickets and live information about bus arrival times. The focus is on the provision of information that will be helpful to passengers in making informed decisions about their journey.

Amendments 102, 103, 106 and 108 seek to address the concerns specifically raised by the Delegated Powers and Regulatory Reform Committee. The committee recommended that the new Section 141A should be amended to specify in the Bill the following: the purpose for which the information can be used; the persons or description of persons to whom the information is to be disclosed; and a duty on the Secretary of State to consult before making regulations. Amendment 102 specifies that the information required is that which the Secretary of State sees as necessary to make information about local bus services available to users or potential users of those services, or in order to facilitate the registration of local bus services. As a consequence, Amendment 103 is necessary to accommodate the new text in this part of the clause. Amendment 106 specifies the persons or description of persons to whom the information is to be disclosed. Amendment 108 requires the Secretary of State to consult persons representing the interests of operators, users of local services and local transport authorities whose areas are in England.

Government Amendments 105, 107 and 109 seek to clarify the intention of the Bill. Amendment 105 clarifies that live information includes information about the location of the vehicle, as well as information about its expected arrival time. This is to reflect recent comments made by some stakeholders that, in some instances, making the raw data on the location of the vehicle available may be a better option than requiring expected arrival times. Amendment 107 clarifies the ability for the regulations to specify that where the information provided in connection with an application for a registration is to be disclosed to a traffic commissioner, it can include applications to vary or cancel a service and not only applications to register a service. Amendment 109 reflects the fact that the Bill provides

[LORD AHMAD OF WIMBLEDON]

for bus registration powers to be delegated from the traffic commissioner to the local authority where an enhanced partnership is in place. It clarifies that references to the traffic commissioners are to be read as including references to any local transport authority which has been delegated the registration function under the enhanced partnership provisions.

Finally, I turn to Amendment 104, proposed by the noble Baroness, Lady Jones, which would allow information that may be prescribed to include information about the environmental impact of bus operations and vehicles. I am sympathetic to her desire to ensure that operators and local authorities are aware of the impact of local bus services on the environment. Let me assure noble Lords that other parts of the Bill will give local authorities greater powers to influence the type of vehicles used by operators when providing services, and I have tabled Amendments 4, 15 and 64 to clarify that franchises and enhanced partnerships may include requirements about emissions, fuel and power plant. However, I do not believe that information on the environmental impact of bus operations and vehicles is crucial for journey planning purposes, which is what this clause is concerned with. Indeed, the type of vehicle used can vary from journey to journey, so the environmental performance of a particular journey if different modes and different vehicles are used can vary accordingly. I hope that, with this explanation, the noble Baroness will not wish to press her amendment.

Again, these amendments underline how the Government have sought during the course of the Bill to reflect some of the concerns of the House and indeed those of the Delegated Powers Committee, which have also been incorporated into the government amendments. I beg to move.

Baroness Jones of Whitchurch: My Lords, I am grateful to the noble Lord for his explanation, and I should say at the outset that we support the government amendments on this issue.

Amendment 104 in this group builds on our earlier debates on the need for buses to play their part in making towns and cities more healthy places in which to live and to work. On the first day of the Report stage, your Lordships passed an amendment requiring bus operators to deliver higher environmental standards and to meet the requirements for low-emission buses. I am grateful for the support of noble Lords around the Chamber on the issue. Our amendment is a consequence of that decision. We believe that we need to ensure that local transport authorities, bus users and communities have up-to-date information about bus emissions so that they can hold bus operators to account.

When we discussed a similar amendment tabled in Committee, the Minister expressed some sympathy with it but raised concerns about the extra burdens on bus operators. We do not accept that that is the overriding factor in these deliberations. At the moment, some transport authorities collect this information, while others do not. The fact is that we need to have a national picture of our CO₂ emissions in this area of transport policy so that we can make proper national policy decisions. As I mentioned during the earlier

Report stage debate, this is in part necessary so that we can measure our response to the Paris agreement on climate change alleviation.

However, I have listened to the comments of the noble Lord and I understand that the Government have gone some way to address the issue in their amendments and in other areas of the Bill, so at this stage I will not press Amendment 104 to a vote.

Amendment 102 agreed.

Amendment 103

Moved by Lord Ahmad of Wimbledon

103: Clause 17, page 68, line 39, leave out “that may be prescribed includes” and insert “within this subsection is”

Amendment 103 agreed.

Amendment 104 not moved.

Amendments 105 to 109

Moved by Lord Ahmad of Wimbledon

105: Clause 17, page 69, line 2, leave out “time at which vehicles operating the services” and insert “location of vehicles operating the services and the time at which they”

106: Clause 17, page 69, line 10, at end insert—

“() The provision made under subsection (4)(a) may not require the information to be provided to a person other than—

- (a) the Secretary of State;
- (b) a local transport authority whose area is in England;
- (c) a person prescribed in the regulations, being a person who provides or facilitates the provision of, or is to provide or facilitate the provision of, information about relevant local services to users or prospective users of those services.”

107: Clause 17, page 69, line 20, after “registration” insert “, or for the variation or cancellation of a registration,”

108: Clause 17, page 69, line 22, at end insert—

“() Before making regulations under this section the Secretary of State must consult—

- (a) such persons or organisations as appear to the Secretary of State to represent the interests of operators and users of relevant local services,
- (b) such persons or organisations as appear to the Secretary of State to represent the interests of local transport authorities whose areas are in England, and
- (c) such other persons or organisations as the Secretary of State considers appropriate.”

109: Clause 17, page 69, line 22, at end insert—

“() The references to traffic commissioners in subsections (1)(d) and (6)(b) are to be read as including references to any local transport authority carrying out the functions of a traffic commissioner in accordance with section 6G of the Transport Act 1985.”

Amendments 105 to 109 agreed.

Amendment 110 not moved.

6.15 pm

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

Amendment 111

Moved by Lord Kennedy of Southwark

111: Clause 21, leave out Clause 21

Lord Kennedy of Southwark (Lab): My Lords, we are back at Clause 21, which without doubt is the most contentious clause in the Bill. It is totally unnecessary; it is pure political dogma from the Government and despite the opposition expressed to it by noble Lords both at Second Reading and in Committee, it is still here. It is a clause that does not belong in this Bill. It does nothing whatever to improve bus services for people. That is a great disappointment. As I have said many times from this Dispatch Box, this is generally a very good Bill which we have been happy to support. The Minister has listened carefully to all sides of the House, to good points well made, and he has responded positively, which is much to his credit.

Then we get to Clause 21 which runs against all that. As I said earlier, it is merely a piece of political dogma. Local authorities have powers under the Localism Act 2011 and associated powers under the general power of competence provisions. What is wrong with allowing a company to be formed and for it to compete on the open market and win contracts if it can demonstrate better value for money and a better service? Perhaps the noble Lord will tell us when he responds to the debate. We have heard that the present municipal bus companies often run some of the most competitive and best bus services in the UK. Nottingham City Transport has one of the highest number of passenger journeys per head outside London. It has been praised for its innovation, praised for its service delivery, and was awarded Bus Operator of the Year in 2012 and 2014. For many years I lived in Nottingham and the company runs a really good bus service. My reaction to that is “Well done. How can we learn from you because we want to be as good as you?”. Reading Buses, which won Bus Operator of the Year in 2015, has been praised for its,

“combination of innovation, strong operational performance and award-winning marketing initiatives”.

It goes on. UK Bus Awards gave Nottingham and Lothian gold awards in 2015 and 2013 respectively, silver awards to Nottingham in 2014 and Reading in 2012 and 2013, along with Reading again getting a bronze award in 2015. So what do the Government do; what is their response? It is this: “We had better put a stop to any more springing up then; we can’t have the public sector doing a good job, being recognised as delivering some of the best services in the country, winning awards and leading the way”. I hope that when the noble Lord responds to this debate he will pay tribute to the municipal bus companies for their innovation and service delivery.

This clause goes too far and it does not belong here. I would like to meet the person who thought it up and understand their reasoning. For me it is certainly not about a sensible, improved service delivery or business case reason. If we want to improve passenger services

and increase passenger numbers, all the options should be on the table at the very least. I hope that the noble Lord will agree to accept the amendment and remove this clause tonight. If he does not, I will divide the House and hope that noble Lords do it for him. I beg to move.

Baroness Randerson: My Lords, many of the amendments to the Bill have dealt with issues of detail and degree, but not so with this amendment, which is appropriately numbered 111. It involves a fundamental principle. I am bewildered why the Government are clinging to this nasty and mean-spirited clause which is totally at odds with the purpose of the Bill as a whole. Indeed, earlier today the Minister reaffirmed to us that this is a devolutionary Bill.

We on these Benches strongly support the principles behind the Bill. They will give local authorities more control over local bus services after three decades of decline since the deregulation of bus services in the 1980s. We have been fully supportive of the Government’s attempts to strengthen the role of local authorities in setting up both partnerships and franchise agreements. We believe that the structure being created through the Bill should raise the game of bus operators and at the same time should encourage local authorities to be much more proactive in recognising and supporting the role of bus services in their communities—local authorities will thus be able to raise their game as well to ensure that they are all as proactive as the best now are. We will have more Readings and fewer Oxfordshires, for example. So it is truly amazing and counterintuitive for the Minister to cling to this clause which takes away powers from local authorities in a Bill that is designed overall to give them more powers.

I am not convinced by the Minister’s arguments so far on why the clause needs to be in the Bill. I have listened carefully to him and read *Hansard* to analyse the thinking behind the clause. As the noble Lord has just pointed out, municipal bus services actually do rather well. I say to the Minister: go with the evidence. Municipal bus services, of which there are approximately a dozen, consistently feature in among the 10 best-performing bus companies in Britain—I give him just two examples: Nottingham and Reading. There are also very good examples of municipal bus services which work in partnership with commercial operators, bestriding the divide between local authorities and commercial operators. Such municipal operators are the remnants of the system that existed prior to deregulation. I remind noble Lords that, despite still having the power to set up bus companies, local authorities have not rushed out in the past 30 years to set them up. Rarely has there been anything other than a gradual dwindling in the number of such companies. Why are the Government determined to intervene now?

We have to bear in mind that bus services might need the intervention of local authorities in the future. Local authorities might want to set up new bus companies. For example, a rural authority, faced with the collapse of its local bus company, might want to run its own limited service, integrating specialist transport for schools and social services with regular bus services.

What part of Conservative dogma does this clause serve? There is no doubt that we are legislating here

[BARONESS RANDERSON]

for decades ahead—the previous Act was 30 years ago. The Government need to be flexible and far-sighted. On these Benches, we are certainly not in favour of large-scale renationalisation of bus services, but we are a devolutionary party which believes that local authorities should have ultimate responsibility for ensuring that local bus services are provided where they are needed. For that, they need all the powers in their armoury, so I ask the Minister to let them retain them by deleting Clause 21.

Earl Attlee (Con): My Lords, despite the passion shown by the noble Lord, Lord Kennedy of Southwark, I am afraid that I am still not convinced by the renewed arguments for removing this clause. No one denies that existing locally owned bus companies are by and large a success story—I said as much in Committee. They have a great track record of securing awards and a very high satisfaction rate among their passengers. I can see nothing in this Bill that would change that and I wish those municipal bus companies every success as they continue to deliver for their customers.

The noble Lord, Lord Kennedy, asked: “What is wrong?” The only reason why a local authority would wish to set up its own bus company now would be to put it in prime position to win a franchise contract, a contract that its parent company, the local authority, was awarding. That would make something of a mockery of that franchise competition. Why would another bus operator go to all the expense, in both time and monetary terms, of submitting a bid for the franchise knowing that it was up against another company that was owned by the awarding authority? It would be a done deal from the start, so other operators in that area might as well shut up shop straightaway. I therefore disagree with the suggestion of the noble Baroness, Lady Randerson, that Clause 21 is not consistent with the objectives of the Bill. It is necessary to make the Bill work properly. Of course, a local authority company would also have to invest resources in submitting a bid, but those resources would come from the local authority, so the body awarding the franchise would have paid for its own company to bid. That does not seem right.

I have a final point which I believe is very important: there is nothing new in this clause. All it does is extend the bar on establishing a bus company to types of local authority that did not exist when the Transport Act 1985 was passed; for example, unitary authorities. The UK bus market has coped very well for the past 30 years without district councils being able to set up their own bus companies, so why the outcry now? I think that I have answered my own question: a combined authority or unitary authority, having secured the necessary powers, would want to establish its own bus company now only to gain a foothold in the franchise process and wipe out the competition. That is not an acceptable way of proceeding. I hope that my noble friend the Minister will vigorously resist the amendment and support Clause 21.

Baroness Jones of Moulsecoomb (GP): I rise to support the amendment and to rebut utterly what the noble Earl, Lord Attlee, has just said. I think he has a rather narrow view of the sort of situation that can

arise. I spoke only today to a Green Party councillor from Cannock Chase in Staffordshire who told me that several private bus companies have dropped their less profitable routes, so communities are now stranded. People who do not have cars have no option for travelling apart from begging lifts from neighbours who do.

Earl Attlee: Is it not open to local authorities to subsidise the route in question?

Baroness Jones of Moulsecoomb: Why not run them more efficiently in the first place? Public ownership can be very cost effective and much more so because it caters to the needs of the people that it represents. People are saying to councils, “This is what we want”, and private bus companies often do not give it to them.

Limiting the power of local authorities to help their communities, as the noble Earl suggests, is a very undemocratic thing to do—perhaps that is not surprising in an undemocratic House. Clause 21 spoils what is a laudable and well-intentioned Bill. I beg the Minister to ignore what he has heard from behind him and to listen to this side of the House. It is a case of representing people and giving them fuller lives, which private bus companies, because they are in it entirely for profit, just do not see. I beg the Minister to accept the amendment.

Lord Shipley (LD): My Lords, I agree with those who have spoken in support of the removal of Clause 21 from the Bill. The Bill is 83 pages long and the relevant paragraph is two lines long. It says simply, in a clause headed “Bus companies: limitation of powers of authorities in England”:

“A relevant authority may not, in exercise of any of its powers, form a company for the purpose of providing a local service”.

The Minister needs to explain to the House—I agree with my noble friend Lady Randerson that he did not do so satisfactorily in Committee—why this clause needs to be in the Bill, what its purpose is and what problem it seeks to solve or prevent. The noble Earl, Lord Attlee, gave us one reason. He forecast wholesale competition through the franchising route from local authorities; I remind the House of my vice-presidency of the Local Government Association. He was good enough to say that local authorities run bus services extremely well in the limited number of cases where that occurs.

I hope the Minister might explain what the problem actually is that the Government are trying to solve, because five years ago, the Localism Act 2011 increased the powers given to councils alongside their general power of competence, and they have a right to undertake new duties and introduce new policies that are not excluded by existing legislation. Of course, that explains why these two lines are in the Bill; otherwise, councils would have the power to form those companies to provide a local service.

6.30 pm

My concern—my reason for supporting the deletion of this clause—is that there might be circumstances in which it becomes essential for a local authority to take action. That would be as a consequence of market

failure, where a bus service should be run but nobody is able to run it. In that situation, why should a local authority be prevented by the statutory requirement in the Bill that it will never be able to form a company to provide a local service? I think that is wrong.

The Government have had a very good record on devolution over the past six years. However, to be successful, devolution means giving power away to others to make decisions on their behalf. I see this not really as an issue of competition between local authorities and bus companies but as a means of addressing market failure where it might occur. I hope, therefore, that the Minister will look very carefully at this, because we have tried, in recent stages of the Bill, to challenge the Government's thinking on this point; and that, even at this late stage, the Minister might be willing to indicate that the Government will have a change of heart.

Lord Ahmad of Wimbledon: My Lords, we have had several groups of amendments this afternoon, and I am sure that the respective Whips feel like the Grand Old Duke: you march them up to the top of the hill and you march them down again. I fear from the debate thus far that this might not be the case as far as this amendment is concerned, and I acknowledge that many noble Lords have demonstrated a strength of feeling about the effects of Clause 21.

Let me at the outset answer a question that was asked of me. I have said this before and I will say it again: there are existing municipal bus companies, such as Reading Buses and Nottingham City Transport—which the noble Baroness, Lady Randerson, mentioned—that deliver a high standard of service. They can expect to continue to do so. Their ability to do that will not be affected by this clause; nor will it prevent local authorities working in partnership with a bus company. That is an underlying thread of the Bill.

The introduction of smartcards, the installation of wi-fi, the co-ordination of timetables, and the great strides that have been made in improving accessibility have all been delivered through local authorities working with private sector investment. These innovations benefit passengers and drive up patronage. I have been asked about this several times, and I thank my noble friend Lord Attlee for his intervention in once again emphasising the reasoning behind the Government's position. As a principle, the commissioning and provision of bus services are generally kept separate, helping to ensure that we retain the strengths of the private sector in this important market. It is about striking a balance between local authority influence and the role that private sector bus companies can play. The Government's proposal will help ensure that both are incentivised to deliver the best services for passengers.

We want to see local authorities and bus operators working together to improve local bus services for the benefit of bus passengers. I know that this is a sentiment that all noble Lords share. I am sure that many noble Lords also agree—particularly those who have participated in discussions and debates on this Bill—that the Bill as a whole will improve things for passengers. However, as I have said, we have reached that part of the afternoon—or early evening—where there are clearly

points of disagreement on Clause 21, but I implore noble Lords to accept that, from the Government's perspective, it needs to remain part of the Bill.

Lord Kennedy of Southwark: My Lords, I thank all noble Lords for their contributions to this short debate. I do not accept the arguments from the noble Earl, Lord Attlee, that there is going to be a stampede of councils trying to set up municipal bus companies. I note that no one from local government—

Earl Attlee: I do not remember saying that there would be a stampede. I just suggested that there might be a problem.

Lord Kennedy of Southwark: I think the noble Earl said that a lot of councils will set up bus companies to tender for all these routes, and I do not believe that for one minute. I also note that no one from local government on the Government's own Benches came to their defence or supported their arguments. The only way a bus company would be set up is in the situation outlined by the noble Baroness, Lady Randerson, and the noble Lord, Lord Shipley. To prevent that is very regrettable. It is disappointing that the Minister is not prepared to move on this. In that case, I wish to test the opinion of the House.

6.35 pm

Division on Amendment 111

Contents 192; Not-Contents 180.

Amendment 111 agreed.

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6.47 pm

Amendment 112

Moved by Baroness Jones of Moulsecoomb

112: Before Clause 22, insert the following new Clause—
“Bus safety

- (1) An operator of a local service may not participate in any scheme, and an authority or authorities may not approve the participation of an operator as part of any scheme, unless the operator has given a written undertaking to the applicable authority or authorities that—
 - (a) it has subscribed to the Confidential Incident Reporting and Analysis System (“CIRAS”), and that it has made all possible efforts to ensure that all staff of the operator have been made aware of their right to use CIRAS as a confidential reporting channel in respect of any safety concerns,
 - (b) it will collect and monitor bus casualty data in a manner to be prescribed by the applicable authority or authorities from time to time, and
 - (c) it will make its bus casualty data available to the applicable authority or authorities by way of a report on at least a monthly basis.
- (2) The authority or authorities must publish on their own website, every quarter, the bus casualty data that they have collected from operators.”

Baroness Jones of Moulsecoomb: My Lords, this amendment is about bus safety. I would like to think that it is so sensible that it will be accepted. Statistics released by the Department for Transport show that 5,381 collisions of buses and coaches were recorded last year, of which 64 resulted in fatalities and 638 in serious injuries. This amendment would help to address this worrying safety record by requiring all bus operators to subscribe to CIRAS, the Confidential Incident Reporting and Analysis System, and for bus operators and their contracting local authorities to collect and publish casualty data for public scrutiny every quarter.

CIRAS is standard across the rail industry and began in 1996, when a team from Strathclyde University was asked to introduce a confidential reporting system for UK rail company ScotRail. It allows employees to report any health, safety, security and environmental concerns they might have. All employee information is kept confidential. Introducing CIRAS to the bus network would give employees an extra way of reporting any concerns, complementing the proven methods that are already in place for reporting and investigating incidents. Under huge pressure from one campaigner who was a victim of a bus crash, Tom Kearney, and with a little help from Green Party elected people, Transport for London adopted this policy on 31 July last year and subsequently incorporated it into its bus safety plan, published on 1 February this year. Due to the bus safety reporting practices we won in London, the Department for Transport has confirmed to us that we know the names of the bus operators involved in only 14 of those 64 fatal bus collisions; that is 22%.

According to a report published by CIRAS in July, since going live in January 2016, safety reports from TfL bus employees constituted 25% of all safety reports

during the first half of the year. Since TfL bus operators are fewer than 2% of CIRAS members nationwide, that is a key indicator of the desire for bus sector employees to be proactive in reporting their operational safety concerns. It also means that the DfT has no idea which operators were involved in well over 5,000 bus collisions and 50 deaths last year. TfL knows every single one in over 27,000.

Operators in London carry more than half the passenger journeys in England and, including their services outside London, account for more than 80% of the market. Those operators already subscribe to the CIRAS scheme and will not incur any further cost as a result of the amendment. The cost to other operators of subscribing will be negligible: between £300 and £25,000 per annum depending on turnover and representing no more than 0.03% of their turnover. The amendment would also require operators to collect bus casualty data and provide it to the applicable authority. It would require those authorities to publish quarterly casualty data on their websites.

I am sure noble Lords know this already, but a death on the roads comes to nearly £2 million when the entire cost to public services is taken into account. Money could be saved massively, not only for the NHS, but also for councils and others who have to provide social services to bereaved families. Since 2014, Transport for London has provided more transparency for the public on both the extent of the problems and the very varied safety records of different operators. There is also a slightly concerning fact that this amendment could represent the only language in the Bill that addresses the operational safety performance of the bus services covered by this landmark legislation.

As has already been proven in the air, maritime and rail industries, public reporting and scrutiny of operator safety performance and access to confidential and independent incident reporting can do much to catalyse the formation of a self-reinforcing safety culture within companies. I believe that the amendment represents a proportionate measure to improve bus safety, learning from the progress made in the rail industry and in the bus market in London. I hope that the Government will support the amendment. I beg to move.

Lord Berkeley (Lab): My Lords, I very much support this amendment. My noble friend has set out very clearly why it is necessary. It is useful to reflect on the continuing difference in the way road and rail accidents and injuries are considered. I recall a few years ago when the Government were forming Highways England—I think that is the name of it now—several of us tabling an amendment which stated that the Office of Rail and Road, as it became, should be responsible for road safety. It was soundly rejected by the Government because it would have shown up just how unsafe the roads were, are and probably will be in the future.

I think my noble friend said that were 64 fatal bus collisions; I cannot remember whether it was last year or in a year. That compares with none on the railways, or maybe one in some years. Yet nobody even seems to think the subject worth collecting statistics on. She mentioned £2 million for every fatality, which is a figure that has long been used in the transport industry,

[LORD BERKELEY]

be it in rail or road. It usually means that if the cause of the fatality can be identified and avoided from happening again for less than £2 million, you would spend the money on it, and if it was more than that you might not. If the value is the same, one's only conclusion can be that the Government think that the value of a bus passenger's life is less than the value of a rail passenger's life when they die in a bus accident. This is a very dangerous situation to get into. We are not going to have an Office of Rail and Road looking after road safety tonight, but this amendment is a very good start to a debate that will probably go on for many years. I fully support it.

Earl Attlee: My Lords, this is a new issue raised at a late stage in the process, but nevertheless it is extremely important. This is a critical point for confidential reporting. It is no good just very thoroughly investigating serious, fatal accidents but not looking at the near misses, because there are many more data to be extracted from near misses. Today's near miss is tomorrow's very serious accident. Sometimes when things go horribly wrong, there are little things leading up to it; it is not just an out-of-the-blue serious incident.

On the previous amendment, the best argument of the noble Lord, Lord Shipley, was the need for localism. While the Minister should take on the principle and the need for confidential reporting and strongly encourage it, under the principle of localism he would be better to leave local authorities to decide whether they need to put this into their franchise agreement or not.

Lord Kennedy of Southwark: My Lords, I fully support Amendment 112. Ensuring the safety of passengers and the general public must be a paramount concern and this amendment places three obligations on operators and one on the relevant authorities.

The Confidential Incident Reporting and Analysis System is an independent reporting system that helps to bring high standards to industry and allows staff to report matters of concern confidentially, with the assurance that they will not have their identity revealed. Operators will be required to sign up to the scheme and confirm that they have advised their staff of the right to use the confidential reporting facility. Secondly, the operators agree to collect and monitor the bus casualty data in a manner set out by the authority. Thirdly, they agree to make this data available to the authority. The obligation placed on the authority is to publish the data collected on a quarterly basis on their website. This will ensure that safety data from operators are in the public domain and, where there are safety issues, actions can be seen to be taken to deal with it. I hope the Government will support the amendment.

Lord Ahmad of Wimbledon: My Lords, I thank the noble Baroness for tabling this amendment and the very informative meeting we had with regards to the background to this proposal. The amendment would require bus operators to subscribe to the Confidential Incident Reporting and Analysis System, known as CIRAS. The system would enable them to collect and monitor bus casualty data and make data available to the relevant authorities for publication.

Let me make it clear at the beginning that road safety is a matter of national importance. The DVSA in particular plays an important role, with traffic commissioners, in seeking to ensure that drivers and vehicles are licensed and safe. In that regard, I would say to the noble Baroness, Lady Jones, that we have had quite a detailed discussion on the role of traffic commissioners and their importance in this particular piece of legislation. The department collects and publishes data on reported road accidents which provide detail on the type of vehicle involved and the consequent casualties. I am pleased, but far from complacent, that we have seen a fall in the number of accidents involving buses and coaches in 2015 compared to the previous year.

I turn to the amendment. An efficient reporting system captures health, safety and security concerns raised by employees and can also, I accept, help resolve any issues that have been raised. I also agree with the sentiment behind this amendment. However, the amendment as currently drafted raises a number of challenges. Bus operators may already have a well-established and efficient reporting system in place. Mandating a subscription to CIRAS, or any other independent reporting system, may therefore result in duplication and additional processes, which could be confusing for employees. Secondly, there is a further issue of naming a specific organisation such as CIRAS in primary legislation. That could raise issues of competition and procurement challenges, and might require frequent changes in future as technology changes.

7 pm

As the noble Baroness pointed out, London buses are held up as the exemplar for the use of CIRAS across the bus network. As I have said many times in the debates on this Bill, the provisions in the Bus Services Bill are essentially enabling ones. Any authority wishing to implement franchising, as my noble friend said a few moments ago, could mandate the use of operational safety monitoring and reporting policies and arrangements such as CIRAS through its contractual arrangements. Just as local authorities can take other decisions relating to road safety, they can decide on this issue, too. That is exactly what has happened in London.

Given the importance of road safety, and based on the fact that this issue has come to us at this time during the passage of the Bill, at this juncture I would be happy to consider a specific reference to confidential reporting systems in the guidance that will accompany the Bill. I assure the noble Baroness and your Lordships' House that I fully understand the importance of ensuring that bus travel is safe for all, but I do not feel the amendment as currently drafted would necessarily achieve its desired outcome. I anticipate working with the noble Baroness on this matter as the Bill progresses, perhaps in another place.

Baroness Jones of Moulsecoomb: I want to be comforted by what the Minister is saying, but I am curious about whether I could bring this back at Third Reading. I feel very strongly about this issue. We know about only 20% and it seems logical to roll this out for the other 80%. I just cannot see the problem. What about my bringing it back at Third Reading?

Lord Ahmad of Wimbledon: That is very much for the noble Baroness to consider. As I said to her during the meeting we had on the discussions around the amendment, we must ensure that we have covered all the elements and implications of what this amendment would mean. My concern would be to allow sufficient time to ensure that we had looked at every element of it. The decision whether to bring it back at Third Reading is for the noble Baroness herself.

Lord Kennedy of Southwark: To clarify that point, is the Minister saying he is happy for the noble Baroness to come back with this at Third Reading?

Lord Ahmad of Wimbledon: I am generally a very content person. I am saying that the decision is very much for the noble Baroness. I have made it quite clear where the Government stand. As I said, I accept that this is a principle we need to include. I have also said the way the amendment is currently drafted, by naming a particular organisation, has implications, and we wish to consider what the full implications of introducing such a measure would be. All the legal issues pertaining to such an amendment need to be considered carefully. The issue of whether something can be brought back at Third Reading is very much a matter for the House; it is not for me to dictate or suggest otherwise.

Lord Kennedy of Southwark: I know the Minister is trying to be very helpful here, and I am also trying to be helpful. This is indeed a matter for the House but the Minister has accepted that the noble Baroness has made a very valid point, albeit late in the day. If he was reasonably content for her to come back at Third Reading, it would help the House in deciding whether to get it back on the agenda.

Lord Ahmad of Wimbledon: I have indicated to the noble Baroness the timelines behind this. Let us not forget that the Bill is going through its first iteration, as it was introduced in the Lords. Looking at this from where I am standing, I think that it would be better to allow full consideration of this issue by allowing it to be considered in the other place. If that is so, then as we move this legislation through it may be something to consider in the other place as well. What I am trying to say is that, as this is an amendment from the noble Baroness, it is not for me to instruct or direct her as to what she wishes to do at the next stage of the Bill.

Baroness Jones of Moulsecoomb: I am grateful to the Minister for his reply and his promise not to try to direct or instruct me. That could prove difficult in any case, but I am always interested to see how people try.

I thank the noble Lords, Lord Berkeley and Lord Kennedy, for supporting the amendment. It is very logical, when this system is already in place in London and is working so well there. I congratulate the noble Earl, Lord Attlee, on his comments on near misses. Of course there is no such thing as a near miss; what it is is a near hit. Quite honestly, we are very lucky that those near hits are not real hits; many of them are a matter of pure chance. If he had talked to the campaigner Tom Kearney, who has talked to me about the impact his being in a coma for two months had on his family

and how much worse it would have been if he had died—as so many people have already died—he might feel a bit differently about it.

I would be happy to supply any more information to the Minister that he felt he needed. Personally, I feel that a lot of the bus companies in London that are using the system could use it outside London but choose not to. That is a bit of an indicator that this has to be in legislation and compulsory. If we are trying to understand companies' safety records then we have to have the data, and what is lacking in the Bill is an instruction for companies to submit safety data.

For me, this issue is about whistleblowing. It is noble and honourable for employees to alert their companies secretly to the problems that they see. It is difficult for them to do so openly but much easier when they have confidentiality. This would be a natural extension of what happened in London so, very sadly, I beg leave to withdraw the amendment.

Amendment 112 withdrawn.

Amendment 113

Moved by Lord Kennedy of Southwark

113: Before Clause 22, insert the following new Clause—
“National strategy

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

7.06 pm

Division on Amendment 113

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Amendment 113 disagreed.

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7.18 pm

Amendment 114

Moved by Lord Bradshaw

114: Before Clause 22, insert the following new Clause—
“Rural bus services: concessionary travel

(1) A local transport authority must—

(a) in making a scheme under Part 2 of the Transport Act 2000 (local services), or

(b) in carrying out any functions related to the provision of local bus services,

ensure that, in making provision for the reimbursement of operators of local services in respect of concessionary bus travel, rural areas are given greater weighting over urban areas.

(2) In this section, “rural areas” and “urban areas” are distinguished with reference to the Rural Urban Classification.”

Lord Bradshaw: I return to the subject which we have spoken about throughout the Bill: how deep rural bus services might be saved from the way they are being reduced in present circumstances—and, with the various threats to local government funding, are likely to be further reduced in future. I do not intend to press my amendment to a Division, but I would like to have the Minister's views on it.

The concessionary fare money that the Government dispense, which is a large sum of money—we are talking about hundreds of millions of pounds—is divided up among transport authorities in such a way that it generally comes down to a sum of money spent on concessionary fares in each area. This means that many busy rural routes, profitable routes, attract concessionary fare revenue; whereas deep rural routes, which are mostly used by concessionary fare holders, pass holders, receive the same sum as the authority gives to its urban routes. Of course, a lot more people use urban routes, and I suggest a small top-slicing of the concessionary fare revenue granted to urban routes, so that a little bit is instead devoted to the rural routes. Because far more people travel on urban than rural

buses, a small top-slicing of the money for urban buses would amount to a huge increase in concessionary fare revenue earned by operators of rural services.

I am mindful that there are a number of EU rules about state aid. We have to be careful that we do not leave anybody with a profit as a result, but many of the rural routes are not the sorts of routes from which anybody makes very much money. My object in moving the amendment is to ask the Minister—he and I will meet fairly soon—whether this might not be a way of supporting the rural routes in this country. The Government would not have to find more money; they would simply have to redistribute the money that they are already spending. I beg to move.

Baroness Randerson: My Lords, my noble friend has devised a very neat way of assisting bus services in rural areas. The problem that rural bus operators face is the demography of those areas, as they almost always have a very much older profile of bus passenger, which means that those routes rarely carry large numbers of fare-paying passengers. The concessionary recompense given to bus operators is cumbersome and inadequate, and that makes it very difficult for rural operators to make a profit. There is a long record of rural operators going out of business. We are suggesting a weighting towards rural areas that would hardly be felt by operators in urban areas because the actual number of rural passengers is very low as a percentage of the total. For rural operators this scheme could be the difference between survival and going out of business. I urge the Minister to respond positively to the efforts made by my noble friend Lord Bradshaw to suggest a mechanism to support bus services in rural areas.

Lord Ahmad of Wimbledon: I thank noble Lords for their brief contributions to this short debate. The noble Lord, Lord Bradshaw, has tabled an amendment on rural bus services and concessionary travel. As I have said before during the progress of this Bill, rural bus services play a vital role in helping people to get to work and school and in ensuring that they can access a wide range of services and leisure opportunities. Indeed, this issue has been raised in the House before. I believe that the noble Baroness, Lady Scott—who is not in her place at the moment—raised it on Second Reading.

I think we all accept that the loss of a local bus service, particularly in rural areas, can leave people isolated or dependent on friends and family to help them travel. However, commercial services in rural areas can be the most difficult to provide because of the need to achieve the critical mass of passengers required for a regular service. As I have said before, we are confident that the Bill provides significant opportunities for rural areas, and I again draw the noble Lord's attention to the specific guidance which the Government have now published in which those opportunities are set out.

I turn specifically to the amendment. It would perhaps be useful to remind noble Lords that reimbursement by local authorities to operators is made on a no-better, no-worse-off basis. That means that operators are already fairly compensated for the cost of providing concessionary travel in both urban and rural areas. I believe that the reimbursement

mechanism that is now in place is fit for purpose, as evidenced by the large decrease in reimbursement appeals that we have seen over the last few years since the new reimbursement guidance came into force.

If the noble Lord is seeking greater reimbursement for operators for their rural as opposed to urban services, we would be concerned that the amendment would lead to a distortion in the concessionary travel scheme because it is reimbursed on the principle of “no better, no worse off” to which I alluded a few moments ago. It is for that reason that we cannot support this amendment.

I finish by saying that the Government provide, as I indicated previously, significant funding for local bus services. We have talked before about BSOG and the £300 million to local authorities. The Department for Communities and Local Government intends to increase support for more sparsely populated rural areas by more than quadrupling the rural services delivery grant from £15.5 million to £65 million by 2019-20. That again underlines the importance of rural services—a sentiment which I know we all share. On the basis of my explanation, I hope the noble Lord will withdraw his amendment.

Lord Bradshaw: I thank the Minister for that. I am not sure that I fully accept his logic. The no-better, no-worse-off rule is a fairly crude one because it is very difficult to tell. It is based on using large numbers of figures from all over the country and ignores the plight of the rural areas, which need more money. It is not coming from local authorities; it is decreasingly coming from them. The people who have these concessionary fare passes wish to be able to use them and the whole structure of the concessionary fare scheme needs to be revisited because it is clumsy and does not take account of the great differences there are in the nature of bus services in different parts of the country.

I have stressed that these rural services will never be run by anybody who expects to get very rich. They will always be marginal services. All I am trying to do is to move them up to a better status than they now have under the concessionary fare scheme so that far more of them might survive. The Minister referred to other things that have been done to support rural services but those are only small amounts compared with what could be done if the concessionary fare scheme were revisited. I heard the Minister but I would like to talk to him about this in some detail later, because it is a very technical subject and I do not want to bore people. On the understanding that we will have a meeting, I shall add that to the agenda if I may, so that I can explore the matter further. With that, I beg leave to withdraw the amendment.

Amendment 114 withdrawn.

Clause 22: Power to make consequential provision

Amendment 114A

Moved by Lord Kennedy of Southwark

114A: Clause 22, page 73, line 20, leave out subsections (4) and (5) and insert—

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

Lord Kennedy of Southwark: My Lords, Amendments 114A and 114B in my name and that of my noble friend Lady Jones of Whitchurch seek to improve the level of parliamentary oversight in connection with the powers of the Secretary of State to make regulations under this Bill. In Clause 22 and Clause 23, they are subject to the annulment procedure alone, with the exception of those regulations that amend or appeal a provision of the Act.

The clauses give wide-ranging powers to the Secretary of State that must be subject to a higher level of parliamentary scrutiny than the Bill presently provides. I am firmly of the opinion that all the regulations referred to in the two clauses should be subject to the affirmative procedure. The amendments will require that the matters proposed by regulation in connection to the Bill will have to be debated at least in Grand Committee and the Government will have to explain clearly what the intention is and answer questions on the proposals. The annulment procedure does not provide the level of scrutiny required and I hope that the Government will be able to accept the amendments. I beg to move.

7.30 pm

Earl Attlee: My Lords, your Lordships set up the Delegated Powers and Regulatory Reform Committee to look at precisely this issue. These are transitional and consequential provisions and it is not clear to me why there should be any matter that needs to be looked at in Grand Committee. I am also not clear whether the committee recommended that we should resort to the affirmative procedure. It would be very helpful if the noble Lord, in responding to my noble friend's advice on this matter, could say whether the committee advised the affirmative procedure. Furthermore, if the party opposite won the next general election so that the noble Lord was the Minister and I was the opposition Front Bench spokesman for transport and I thought that a similar amendment was appropriate on a piece of transport legislation, would he accept my amendment to go to the affirmative procedure?

Lord Ahmad of Wimbledon: My Lords, Clauses 22 and 23 give the Secretary of State the power to make, by way of regulations, consequential, transitional, transitory and saving provisions. Clause 22 provides that the power conferred by that section includes the power to amend, repeal, revoke or otherwise modify both primary and secondary legislation. The clause also specifies that regulations must be made by way of statutory instrument and any regulations that amend or repeal primary legislation must follow the affirmative procedure. Any other regulations under this clause which, for example, amend secondary legislation are subject to the negative procedure.

The Delegated Powers and Regulatory Reform Committee referred to Clause 22 in its report about this Bill, but only in the context of the power to “otherwise modify” primary legislation by way of making regulations that are subject to the negative

procedure. As the Parliamentary Under-Secretary of State, Andrew Jones, explained in his letter of 1 July to the chair of the DPRRC, the Government's starting point is that regulations which make textual changes to Acts should be subject to affirmative procedure. However, when non-textual modifications would be made by the regulations, the Government continue to believe that the negative procedure is appropriate. The DPRRC did not raise any issues with negative procedure being used for regulations that make consequential changes to secondary legislation, or indeed for regulations made under Clause 23.

Amendments 114A and 114B, which would require all regulations under Clauses 22 and 23 to follow the affirmative process, would introduce a disproportionately burdensome mechanism for changes of the sort which would be made by the regulations to be scrutinised. The Government take the view that it would not be an appropriate use of parliamentary time to require all regulations that make consequential, transitional, transitory or saving provisions to follow the affirmative procedure.

I shall give a quick example. Clause 23 provides that regulations may, in particular, make transitional provision about ticketing schemes under Section 135 of the Transport Act 2000 which exist before the Bill comes into force. Clause 7 contains provisions that introduce advanced ticketing schemes in England. Through our discussions in Committee and Report, these provisions received rigorous parliamentary scrutiny. Any provisions made under Clause 23 would only make provision about how existing ticketing schemes in England are dealt with when the new advanced ticketing schemes provisions come into force. To resolve this issue, regulations may provide that existing schemes can be treated as advanced ticketing schemes. The intention of Amendment 114B is that such regulations would be subject to affirmative procedure. As I said already, I believe that this would be disproportionate. The Government take the view that regulations dealing with such provisions are eminently suitable to the negative procedure. The Government will continue to argue that the current level of parliamentary scrutiny set out in Clauses 22 and 23 is appropriate. I hope that with that explanation the noble Lord feels minded to withdraw his amendment.

Lord Kennedy of Southwark: I thank all noble Lords who have spoken in this debate. In answer to the noble Earl, if the tables are turned and I am standing there one day at some point in the distant future and the noble Earl is standing here, I promise him that I shall accept his amendment if he moves something similar. He can quote me on that one.

I have heard the comments from the Minister, and I beg leave to withdraw the amendment.

Amendment 114A withdrawn.

Clause 23: Power to make transitional, transitory or saving provision

Amendment 114B not moved.

Clause 24: Extent**Amendments 115 and 116***Moved by Lord Ahmad of Wimbledon*

115: Clause 24, page 74, line 2, at end insert “, subject to the following subsections.”

116: Clause 24, page 74, line 2, at end insert—

- “() Section (Information for bus passengers)(1) to (4) extend to England and Wales and Scotland.
- () Section (Information for bus passengers)(6) extends to Scotland.”

Amendments 115 and 116 agreed.

Amendment 117*Moved by Lord Ahmad of Wimbledon*

117: Clause 25, page 74, line 9, at end insert—

- “() Section (Information for bus passengers) comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.”

Amendment 118 (to Amendment 117) not moved.

Amendment 117 agreed.

Bill reported with amendments.

Contracting Out (Functions relating to the Royal Parks) Order 2016

Motion to Approve

7.36 pm

Moved by Lord Ashton of Hyde

That the draft Order laid before the House on 21 July be approved.

Relevant document: 8th Report from the Secondary Legislation Scrutiny Committee

Lord Ashton of Hyde (Con): My Lords, the Government are proposing to use the powers in the Deregulation and Contracting Out Act 1994 to contract out the direct management of the Royal Parks estate. The functions are currently performed by an executive agency, a directorate of the Department for Culture, Media and Sport, which reports directly to the Secretary of State. Under the proposals we are debating today, the ownership of the estate will not change and the Secretary of State will still be accountable for its management.

The Royal Parks are at the heart of London and it is difficult to imagine the city without them. They are integral to the identity and life of the capital and the country, are enjoyed by 77 million people each year and enjoy a satisfaction rating of 98%. You may ask: if the parks are performing so well, why change things? The paradox is that to ensure that the parks remain as they are—outstanding free amenity spaces for all to enjoy—the means of managing has to change if we are to ensure that these outstanding public assets are protected for the long term. The current operational, governance and management arrangements need to be revised to enable the parks to operate more effectively and plan better for the future.

When the Royal Parks Agency was established in 1993, almost all its funding came from the Exchequer. The situation has changed: taxpayer funding is now around just 30%. The rest is mostly self-generated, and we need to change the model to ensure that the Royal Parks are able to plan effectively for the future. As currently constituted, the agency is not able to build up a reserve, carry over income from one year to the next, or fully benefit from the opportunities offered by commercial income. Under the proposed arrangements, the new organisation will be able to plan for the longer term rather than on a year-by-year basis, and operate more efficiently, for the benefit of the parks and their visitors. A single charitable body will make a more compelling case for support to corporate sponsors, private donors and charitable trusts, as well as attracting new volunteers.

The existing charity, the Royal Parks Foundation, already fundraises for the parks. Merging the charity with the new organisation will bring an alignment of objectives. The foundation's board supports this move. The foundation board and the agency's advisory board have provided sterling support and direction over the years. The new organisation will be a government company with charitable status, whose draft charitable objects focus on protecting the intrinsic qualities of the parks, including their environmental benefits, and offering high-quality services to visitors. The objects of the new charity will be closely aligned with the statutory responsibilities of the Secretary of State.

There will be a contract between the Secretary of State and the new charity, which will set out what it must do in return for the funding provided under the contract. The contract makes it clear that the new charity must maintain its green spaces, buildings and structures to high standards. The Government will continue to monitor the charity's performance and review the contract every five years.

I also make it absolutely clear that the Royal Parks will remain free to visit. The Government will continue to provide funding. I also reassure the House that this proposal is not about the commercialisation of the Royal Parks; rather, it is to allow the parks to use their income and assets more effectively for the benefit of the estate and park visitors. The organisation will continue to be subject to planning and licensing control by local authorities. There will not be year-round rock concerts or any net loss of green space to new developments. It is appropriate, as we approach Christmas, to mention Winter Wonderland, which occupies a small parcel of Hyde Park and is immensely popular, attracting more than 3 million people each year, many from overseas, bringing income to London and money for reinvestment in the parks. This event takes place at a time when Hyde Park was traditionally rather empty of visitors. We already have Winter Wonderland; this proposal will not mean the addition of summer, autumn and spring wonderlands. Hyde Park will not be host to a 52-week-a-year funfair.

The Government expect the new charity to continue to identify ways in which assets can be used in positive, creative and, most importantly, appropriate ways. The agency has closely engaged with representative groups and the proposal has been discussed at regular meetings

[LORD ASHTON OF HYDE]

over the past 12 months, to which friends' groups, concessionaires, partner organisations, key agencies, local residents' groups, local businesses, MPs and local councillors have been invited. The proposal was discussed at a meeting of the friends' forum last week, and there was broad support for the new status, given its aim of bringing long-term financial stability to the parks and ongoing investment into the estate. "Meet the park team" events—the equivalent of town hall meetings—have been held in each park, widely advertised locally and through social media, thereby speaking individually to park visitors not represented on formal stakeholder groups.

There have been extensive meeting and consultation events with staff from both the agency and the foundation. There are no current plans for redundancies and there are roles available for all permanent staff within the new organisation. The Greater London Authority is represented on the project board and local authority leaders are represented on the Royal Parks advisory board, which supports the change. Most recognise that the proposal is seeking to bring long-term financial stability to the Royal Parks estate. The Secretary of State is in the process of appointing trustees to the board of the new organisation. Other appointments will be made by the Mayor of London and will include local authority leaders. The Royal Household will have ex officio representation.

The only area of land that is managed by the agency but is not in the ownership of either the monarch or the Government is Grosvenor Square Garden, which is owned by the Grosvenor Estate. This order would allow the Government to contract out the direct management of that square to a third party, such as Grosvenor, but only on the condition that it remains a free public amenity for the benefit of all. The parks will continue to be policed by the Metropolitan Police Service. Any changes to the park regulations will continue to require the approval of Parliament.

To conclude, the proposal is evolution rather than revolution and enables the parks' operating model to reflect the realities and opportunities of today. What the public see and experience in the parks will not change dramatically but will provide a sustainable financial future for them, and this measure helps deliver that. Subject to Parliament's agreement, it is envisaged that the new arrangements will take effect on 1 March 2017. I beg to move.

Amendment to the Motion

Moved by Lord Stevenson of Balmacara

At end insert "but this House regrets that the Government have not sought or gained public support for the draft Order, that they have failed to carry out an effective consultation with the staff affected and that they have failed to explain how the body proposed by the draft Order would meet greater financial commitments while not destroying the balance between protecting the historic environment of the parks and maintaining their security and allowing commercial activities in the parks."

Lord Stevenson of Balmacara (Lab): My Lords, I am grateful to the Minister for setting out the rather slim rationale for the proposal to contract out the management of the Royal Parks, replacing the Royal Parks Agency, by setting up a company limited by the guarantee of the Secretary of State. The 8th Report of the Secondary Legislation Scrutiny Committee, chaired by the noble Lord, Lord Trefgarne, is the proximate reason for this evening's debate, although I think we would have had some questions to ask had this gone through the normal process.

I have four main areas of concern. The first of these is the company. The DCMS proposes to contract with a new organisation which will be a company limited by guarantee of the Secretary of State, and which will apply for charitable status. All the parks are in London. Was consideration not given to whether it would be more appropriate to transfer responsibility to the Mayor of London on this occasion? If not, why not? There is very little information in the statutory instrument or the Explanatory Memorandum about the company itself, although we gathered a little bit more when the Minister was speaking. What type of company is it? Was consideration given to setting it up as a community interest company, because this would have been one area which would have avoided some of the problems it is likely to have with the Charity Commission?

There was mention of the board, but we do not have any details of its size, whether there will be a good gender balance, or diversity issues. There was talk of statutory appointments being made from local authorities and the mayor's office. This is good, but it would be interesting to know who the chair is to be and whether any other appointments have been announced. I note that it is a company limited by guarantee. In this case, there must be formal documentation and I would be grateful if the Minister could make that available, perhaps through the Library.

The Minister said that it is hoped to start the arrangements on 1 March, although the statutory instrument states that the order comes into force on the day after the day on which it is made. I note, in passing, that that is not one of the common commencement dates, which is to be regretted. More seriously, what happens if there is a delay in the establishment of the charity? After all, the company is not just applying for charitable status, albeit that can take time; it is merging with an existing charity as well, which is often rather a tricky operation, as I am sure the Minister is aware. If there is a delay, will the transfer happen on 1 March? If not, what are the standby arrangements? What are the tax implications of the change? No mention was made of this. In particular, what is the VAT position after the transfer? As a government agency, the Royal Parks Agency is not liable for VAT, but surely as an independent company it will be? Who is going to compensate the new organisation for that considerable loss?

The Minister tried to give a very full account of what has happened on consultation, but there has not been a formal consultation exercise and the Secondary Legislation Scrutiny Committee was quite scathing about that. It is true that DCMS has responded that, "engagement with key stakeholders and the wider public has shown broad support for the proposal".

This apparently involved the proposal being discussed “over many months” at a series of meetings attended by friends’ groups of the Royal Parks and other visitor representatives, concessionaires, elected representatives and the police. The DCMS also says that local authorities bordering the estate that are represented on the Royal Parks advisory board, and the Greater London Authority, “are fully supportive”. I think I heard the Minister say that local MPs had been invited to attend these meetings. Given that large numbers of London residents and visitors from elsewhere use the Royal Parks, does the Minister not agree that failure to consult properly on this rather radical proposal does not match the high standards we should expect on such matters from all government departments? The lack of a proper public consultation process also means that an opportunity to spread the word about this change has been missed, with the result that there can be no certainty that these major changes will be welcomed by many current and future users of the parks.

I turn to commercial pressures. In the Explanatory Memorandum, the DCMS says that it is not the intention to permit the Royal Parks to become “overly commercialised”. Can the Minister explain what those words mean? For instance, will Parliament see the contract, so that we can properly assess whether the new organisation will have the obligation to maintain and enhance the quality of the parks? Can he assure us that the new organisation will continue to be subject to all the existing statutory designations relating to environmental protection and management? Will the by-laws and charging regime continue to be approved through secondary legislation? If that is the case, has he considered that, given that we are losing direct control through the Secretary of State of the Royal Parks, it might be appropriate to change this from negative approval to affirmative approval in future.

In the Explanatory Memorandum, the DCMS states that the Royal Parks Agency currently generates almost 70% of its own income—most of which is from Winter Wonderland, which the Minister talked about—with the balance covered by grant-in-aid from HM Treasury. It says that, under the proposed contracting-out arrangements, the Government will provide resource funding and capital investment to the new organisation—that will be welcome—but it will also be able to raise funds, perhaps through sponsorship and commercial activities. It expects that, in the longer term, this will reduce the burden on the public purse—no surprises there. So what capital and revenue commitments have been made and over what period? What are the targets that have been set? Are we expecting these bodies to move to 100% self-funding within a reasonable time? If so, will Parliament be consulted about that?

Finally, I turn to staff. It is very good that there have been no compulsory redundancies in the transfer. I gather that all but a few staff will be transferred under the TUPE regulations and will retain their pension arrangements and pay scales. What will happen to new joiners after the transfer? It is not always the case that the existing arrangements are offered to them and that would be unfortunate. The staff work in a very high-security area. We are all aware of the incidents that have taken place in the Royal Parks. In

some cases, such as the garden of Downing Street, which is serviced by the current arrangements, there will need to be high-security clearance. How will this be arranged in future when the company is independent? Will we be given some details on that?

In introducing the order, the Minister asked what I am sure was a rhetorical question—namely, if all was going so well, why change it? In my view, he comprehensively failed to answer that question. I beg to move.

Lord Clement-Jones (LD): My Lords, I too thank the Minister for introducing the new proposals. I am pleased that we have the opportunity to debate them. We on these Benches are not opposed in principle to contracting out to a new charity formed for the purpose, rather in the way that the creation of English Heritage seems to have become a success. I think we are all pleased that Loyd Grossman, with his profile and experience, has been appointed as its first chair. That is considerable cause for pleasure. Moreover, I understand that, broadly, friends’ groups across the Royal Parks support the change and see it as bringing the following benefits—greater financial freedom and escape from government restriction, for example, on the carrying over of end-of-year surpluses, and on procurement rules, both of which can lead to higher costs. It also gives them rather more flexibility on pay rates—upwards, as it happens—in order to attract staff. The change means that it is easier to raise money, especially through local philanthropy, and the new objectives provide—they say—more focus on protection and conservation and less on government objectives for higher visitor numbers.

I understand that the new draft objectives submitted to the Charity Commission are principally to promote the use and enjoyment of the Royal Parks, to protect, conserve, maintain and care for them, to maintain and develop the biodiversity of the Royal Parks and to support the advancement of education and promote the national heritage. All those objectives have considerable importance and benefit. However, it would be good to see the entire draft constitution of the new charity. There is remarkably little information available about the new structure, especially given that it is to be merged with the Royal Parks Foundation. The noble Lord, Lord Stevenson, talked about how the board will be appointed. I understand that there will be 14 board members, half of whom will be appointed by government. It is not clear whom the other half will be appointed by. We need a much more plural form of appointment and there needs to be considerable local input into those appointments. An ability for the Government to appoint 50% of the trustees of the new charity seems well over the top. In the way that the Government retreated over the BBC, I hope that they will likewise retreat over the appointment of trustees to this charity.

I hope that these new arrangements will also mean that detailed plans are drawn up for each of the individual Royal Parks. I think we all know which Royal Parks we are referring to but it is not so well known that other open spaces such as Brompton Cemetery, Victoria Tower Gardens, just along the way, and the gardens at Nos. 10, 11 and 12 Downing Street

[LORD CLEMENT-JONES]

are all currently managed by the Royal Parks Agency. I assume that they will continue to be managed by the new charity.

I was only partially reassured by the Minister's statements about consultations that have taken place. As the noble Lord, Lord Stevenson, pointed out, they were very local consultations. The Royal Parks are an asset to not only the whole of London but also the nation. Therefore, it sounds to me as if the consultations have been extremely limited. On what basis were the consultations held? Was a draft constitution of the new charity available? Is there a new draft corporate plan? That kind of detail is very important when one is consulting on a dramatically new way of managing the Royal Parks.

Where is the draft contract? As a lawyer, I always like to see a draft contract, lots of red ink and so on, but we have not seen anything to do with the future management of the Royal Parks. That was referred to by the Minister. What are the key performance indicators in terms of the management of the parks? What specific targets are to be set for the management? On future strategy, will there be a new corporate plan? The Royal Parks Agency has carried on a very detailed way of planning for some considerable time, which includes separate management and operating plans for each Royal Park and, in addition, a sustainability strategy. In the light of the new objectives of the charity, that is extremely important.

The noble Lord, Lord Stevenson, rightly referred to finances. The parks are now expected to make nearly 70% of their own income, but more than 30% still comes from government grant. All the statements coming out of government in this regard seem rather ominous. The stated aim in the Explanatory Notes is to reduce the burden on the public purse in the longer-term. Will that level of finance continue? After all, the latest annual report of the Royal Parks Agency states:

"The new charity will be increasingly self-sustaining".

The advertisement for the new chairman states that the new body will apparently seek to,

"generate substantial annual revenue from more events, concessions and licences".

I heard what the Minister said about events, and that seems to contradict it. What does all this mean for government support and over what period? In the way that the finances for English Heritage have tapered, do the Government plan a tapering of the finance for the new charitable body? Or will they essentially oblige the new body—as the Royal Parks tried to do previously—to impose fees for use of its football pitches? I have another very large question: who will pay for the £56 million maintenance backlog detailed in the most recent annual accounts?

The Minister gave several assurances about events. I suppose we should be pleased that there is no Summertime Wonderland but it seems that even the existing events—Winter Wonderland and the British Summer Time Concerts alone, including the time for setting up and reinstating the grass—put 13% of Hyde Park out of bounds for much of the year. Therefore, frankly, I do not think there is much leeway for more events. Will there be more open-air cinema screenings?

I know that that causes problems for local wildlife in Richmond Park. What will the financial pressures be if the Government taper their support?

There are many questions and not enough transparency about these proposals. I hope that the Minister has all the answers.

The Earl of Clancarty (CB): My Lords, I thank the Minister, and the noble Lord, Lord Stevenson, for tabling his amendment. This has been quite a technical debate so far but I want to raise how this measure will affect the public, and take a longer-term view.

In March it was reported in the *Guardian* that the Royal Parks Agency said that the move to a new body followed decreased government funding that had made, "maintaining high standards increasingly challenging".

The Friends of Richmond Park note that public funding as a proportion of all income has fallen from 95% in 1961 to under 50% today. Therefore, the fundamental question I want to ask the Government—I think the Minister has already answered it—is: how is a separate body going to supply that much-needed funding, with diminishing support from the Government, other than through commercialising the parks themselves? Why is the move necessary other than to further cut ties to state funding? I therefore echo the noble Lords, Lord Stevenson and Lord Clement-Jones, who asked whether we are heading for a 100% funding cut from the Government. It certainly looks that way. This is surely what "broadening opportunities" means.

8 pm

In a sense, the evidence that this will be the case already exists, since the sad truth is that this legislation confirms a trend which has been ongoing for many public parks, including the Royal Parks themselves. For instance, we have council-run parks now charging for fitness classes and running in parks and, three years ago, after a separate body became involved specifically in the management of Hyde Park, a decision was made to charge for playing ball games there. After a public outcry, that decision was reversed.

The plain fact is that the more public funding is cut and private management comes into play, the more the public will be treated as consumers rather than the users of public space, and public spaces will become less public. I disagree, for instance, with the Royal Parks' decision to restrict the use of photography, particularly amateur photography. Of course, probably thousands of photographs are taken every day in the parks on mobile phones. Photography is a normal aspect of the use of public space. However, unless you are talking about a complicated film shoot, this costs nothing in terms of the disruption of the normal use of the parks.

In other ways the Royal Parks get things right. It is good that—currently, at least—they allow picnics and the consumption of alcohol, which I think is fine. The parks are maintained to a good standard. I have nothing against the occasional big event, which in fact goes back a long way; some noble Lords may recall being present when Mick Jagger released butterflies in Hyde Park, which would possibly not be considered a good idea for the ecology of the parks today. Today's Proms in the Park are also very popular. However, this

legislation will inevitably introduce a new level of commercialism, which will not necessarily be sensitive to the need for the parks as properly public spaces if at the same time these much-loved spaces are to be maintained, wildlife is to be protected and the historic environment is to be respected. The wider public should be consulted on this change.

Lord Berkeley of Knighton (CB): My Lords, I agree with all the speakers who have pointed out that the Royal Parks have done a good job up until now. They are quite wonderful places to visit. However, I was concerned by the report from the Secondary Legislation Scrutiny Committee on two points in particular. It says:

“Given that there has been no public consultation process, however, we question whether the changes in prospect are widely known among the large numbers of people who use the Royal Parks, including London residents and visitors from elsewhere; in the absence of such consultation, we question whether it is appropriate to assume that the proposal will be readily welcomed by many users of the parks”.

I use all the parks a great deal and have done all my life. I am ashamed to say that I did not know about this proposal until I caught it in the business of your Lordships’ House. Would it not have been an idea, for example, simply to put a sign on the noticeboards which solicited inquiries from people who might like to contribute? If that has been done, I am sorry that I missed it. Also, as somebody who lives very near the park, I did not receive any mail on this subject.

The Secondary Legislation Scrutiny Committee made another point:

“The House may wish to press for more detail of the regime that will apply to the future management of the parks, given that reference to ‘broadening opportunities’—

which many noble Lords mentioned—

“inevitably raises questions about the balance between protecting the historic environment of the parks and allowing commercial activities in them”.

I speak with some authority here as a musician; I completely endorse what the noble Lord, Lord Ashton of Hyde, said—perhaps he should be “of Hyde Park” now—about public access to large events. It is perfectly true that a lot of people can experience an artistic event; we heard reference to the Rolling Stones—I went when I was a young man—and this is a laudable thing. However, I am worried that we are close to saturation point in Hyde Park in particular. I go there virtually every day, and in the easterly part of the park North Carriage Drive has to be closed. It is not just about getting the park ready for rock concerts, Proms in the Park and Winter Wonderland but about the closing down of the event and then the reseeded of the area. This means that a huge part of the park is virtually a no-go area for park visitors for quite a large part of the year. If this were to increase in any way, the whole ethos of that open space—somewhere people can visit and be quiet—could be severely damaged.

I raise these points for the Minister mainly to be taken into consideration and perhaps to be amplified still further. I understand that what he is saying is largely financially driven and I understand the need for that. Other noble Lords who have spoken know more than me about the efficacy of going down this route. However, while I endorse wider public access

to events, I am nervous. It is hard for someone who runs parks such as these not to think, “We could make a few more bucks by having yet another rock concert”. A certain amount of detail is required to make sure that this does not happen. It is not spelled out enough.

Lord True (Con): My Lords, I declare an interest to your Lordships: first, I am a member of the existing Royal Parks board; and I am also leader of Richmond local authority, which has the privilege of containing some of the most beautiful spaces in this country in the form of the Royal Parks within my borough. Having declared the first interest—as being part of the outgoing organisation—I should make it clear that I am very mindful of the Addison rules. It is not for me to rise in this House and answer the questions that have been asked about the management and future management. Under the rules of this House, those are matters for the Minister, and I am sure that he will answer those points adequately. However, perhaps I may allow myself some general reflections.

I understand that the noble Lord opposite simply does not like the order. That is probably because it has the words “contracting out” in its title. However, some of the services that we have heard about relating to the management of buildings and grounds are already provided by organisations which are contracted out, so no great principle frontier is being crossed here; it is a question of the management.

The noble Lord, Lord Clement-Jones, was very supportive in the first 90 seconds of his speech but not quite so supportive in the remaining 10 minutes. I think that that comes from an understandable suspicion. People love these parks and do not want to see their ethos change. That has always been the guiding principle of anybody who has spent any time trying to support and sustain these parks. However, changing their status was not necessarily something that the Government were pushing for or particularly enthusiastic about in the earlier stages. As I conceive it, the idea is to try to give the parks a status that will enable them to thrive in providing the facilities that they have provided for so long.

In passing—again, without trespassing into saying inappropriate things in this House—I remind noble Lords that these are Royal Parks, and that in itself is something that the House might want to bear in mind.

On the question of the preservation of ethos, the point was made about not wanting too much in the way of entertainments. Again, without going into specifics—clearly, I recognise some of the things that have been said in relation to Winter Wonderland—the point is that local authorities will remain planning authorities. So for major functions, even if this new body—I can tell your Lordships that I have not applied to be a member of it—turned out to want to have knock-down, drag-out rock concerts every day, they simply would not get away with it because the local authority would be all over them. As far as functions in Hyde Park are concerned, I can tell the House that local authorities are all over the park, so I do not think that that fear would come to fruition. I and most of the others involved certainly would not support the change if we thought that that was the way forward.

[LORD TRUE]

It is true that the parks have moved to raise more money by means other than government funding. I think that that has been prudent, and it has been done in a way that broadly retains the ethos of the parks. I think that this is a case of damned if you do and damned if you don't. If you sit there and say, "We're not going to do anything", and, in the light of what we all know is likely to be the ongoing financial situation, you expect the good old taxpayer constantly to go on providing, you are damned for not having used the talent you have been given to try to improve things. However, if you do try to use that talent, you are damned because you are being too commercial. Before and after I was involved, the parks have tried to find a balance, and I am sure that that is what will continue to happen.

I cannot stray too far into the issue of consultation as, again, I am conscious of the Addison rules. However, I can say from my own experience that when there was a proposal to close several gates in Richmond Park, people were all over it very fast. News travels if an adverse proposal is out there. So I think that the Minister needs to answer the questions that have been legitimately asked in the committee's report and by noble Lords here. I have not become aware of a great storm of concern, but I am sure that the Minister will listen to some of the suggestions about how things might be done better.

On balance, I think that the parks will still be in a safe place under the proposals before us. I believe that the reserve powers of the Secretary of State will still be in place and that there will be careful scrutiny of the contracting arrangements. I do not think that Parliament can supervise KPIs or every detail and point of the contract. As I understand it, there are no plans to move away from the broad strategies that have been set out. Therefore, given the very careful thought that has been put into this measure and the need to reach out to more and more people around the world who love the parks, I think that the new arrangements, if they become charitable arrangements, may enable the parks to be secured.

While fully understanding the concerns that have been put forward by a number of noble Lords—concerns that I would share if I were in their position—I believe that a good way forward will be found. Brompton Cemetery is subject to a massive programme of improvement with an HLF grant, and those kinds of things will, I am sure, continue. I hope that the noble Lord opposite will withdraw his amendment and that, subject to the Minister satisfactorily answering the questions that have been put forward in the debate, the order can be approved.

Lord Ashton of Hyde: My Lords, I thank all noble Lords who contributed, especially the noble Lord, Lord Stevenson. He has raised some worthwhile points in his amendment, which certainly deserve an answer, as have other noble Lords. The best thing is for me to start by addressing the points in his amendment, and then I will come on to some of the other questions that have been asked.

The first thing to say is that the Government have no desire to change the overall experience of the

parks. We think that this proposal will encourage the parks to take a longer-term view and, as the noble Lord, Lord Clement-Jones, pointed out, some of the more long-term abilities of not being a government department on an annual budget will allow them to raise more money, which I will come to in a minute. There is absolutely no desire to commercialise the parks more than they are now. I will come on to some aspects of financing in that respect later.

8.15 pm

We want to satisfy the noble Lord, Lord Stevenson, that the proposal does have widespread support and will protect the integrity of the Royal Parks. His amendment regrets that the Government did not seek or gain public support for the proposal that the draft order will allow. In fact, the parks agency has gone out of its way to seek the opinions of as many users, residents, businesses and organisations as possible. The change in status has been discussed at regular meetings over the past 12 months, to which friends' groups, concessionaires, partner organisations, partner agencies, local residents groups and local businesses were invited. MPs and local councillors were also invited.

As I said before, there have been town hall-style meetings at each of the parks, and the noble Lord, Lord Berkeley, will be pleased to hear that those were advertised by park posters—I am sorry that he did not see them. In other words, those meetings were targeted at visitors to the parks. Posters were also sent to 29 libraries and 329 schools across seven boroughs, with information sent to 90 local media outlets. Importantly, the meetings were also advertised through social media. There are 77 million visitors to the Royal Parks, so I accept that we may not have reached all of them. However, there has been a concerted effort to try to consult as many people as possible.

There have also been extensive discussions with staff. It is fair to say that there was overall satisfaction and general consensus that the proposal—that the Royal Parks should be run by a charity on behalf of the Secretary of State, rather than by a government department—would ensure the delicate balance of operational freedoms and ongoing public accountability.

We have worked very closely with the London mayor's office and the Greater London Authority. In answer to questions about the composition of the new board of trustees, the mayor will have six nominations to ensure that a democratic and pan-London perspective is at the heart of everything it does and its decision-making.

The noble Lords, Lord Stevenson and Lord Berkeley and others, regret that there was no effective consultation with the staff affected. But staff in both organisations have been considered and consulted on the proposed changes as they developed. Staff representative bodies have been regularly briefed over the past two years. The first major staff meeting was held in January 2015. Monthly staff consultation meetings have been running since the spring of this year and there are monthly bulletins. I am pleased to say, as I said before, that roles will be available in the new organisation for all existing employees.

Finally, the noble Lord feels that the Government have failed to explain how the charity would balance the commercialisation of the parks with the protection of their historic environment. Let me be clear that there is no assumption nor ambition at the moment that the parks will continue their great work without public funds. The proposal to create a charity to manage and maintain the parks is to allow them to operate outside the restrictions of public accounting regulations, which the noble Lord, Lord Clement-Jones, mentioned. That freedom will allow improved strategic planning of the parks to ensure the better protection of this historic environment—things such as being able to hold a reserve or carry over money from one year to another, none of which they can do as an executive agency. This will allow a longer-term approach which will enable them to have more long-term partnerships with other fund-raising organisations.

The regulation by the Charity Commission ensures that any of those reserves are spent in the best interests of the charity in line with its charitable objects. It will not allow unfettered commercialisation of the parks. Allowing the charity to carry over funds from one year to the next will also allow the more effective long-term strategic planning to which I alluded previously.

There has been a lot of talk about the commercial activity in the parks, predominantly Hyde Park. As my noble friend Lord True said, this is currently regulated and controlled by the licensing authority, Westminster City Council. The Royal Parks currently work, and will continue to work, closely with Westminster and the other licensing authorities to ensure the integrity of the parks. Their prime function as free-to-visit green spaces and centres of excellence in regard to their landscaping, horticulture and public amenities will not be compromised by overcommercialisation. The 2014 self-imposed limit that the Royal Parks currently has of the number of commercial events will not change. In fact, it has not even got to its limit. Therefore, the combination of licensing laws and its own self-imposed limit will prevent them extending their commercialisation.

On Hyde Park, which in many ways is the hub of the commercial activity, major activities on the part called the parade ground—where large events have been happening for hundreds of years—take up only 13% of the park, leaving 87% of it open and accessible. The parade ground is closed to the public for the safe-build and break-down events for the equivalent of 12 weeks per year, which is not excessive. In fact, 83% of local residents support summer concerts when they are told that the proceeds support the park; and 80% of local residents support Winter Wonderland. As I have mentioned, these are all subject to local licensing requirements. I think I have now said enough on Hyde Park.

The noble Lord, Lord Stevenson, asked why the company was not set up as a community interest company. This was considered in the option appraisal but was not considered the best option. The Royal Parks is in active consultation with the Charity Commission, which is comfortable with the arrangements we have at the moment.

The noble Lord also referred to parliamentary scrutiny and changes to park regulations being made by affirmative statutory instruments. Parliament will continue to have

oversight of the park regulations. We consider that the current oversight is proportionate to the regulations in question. Another factor is that changing the power from a negative to an affirmative resolution would require primary legislation.

On the question of whether the new starters will be treated in the same way as the current staff who are moving over, it will be comparable. It will be a high-performing organisation, but it will not be exactly the same because we are not able to provide to the new group of joiners continued access to Civil Service pensions. There will be a small difference there.

The noble Lords, Lord Clement-Jones and Lord Stevenson, talked about security arrangements for key Royal Parks staff—for example, the gardeners of No. 10 and No. 11 Downing Street. Under the new arrangements exactly the same security clearance procedures will continue to apply. Gardeners who are accredited to work in the gardens at No. 10 will continue to go through exactly the same level of detailed security clearance by the police. In fact, the same people will continue to do the job and security clearance will continue in exactly the same way by the police.

Questions were raised—indeed, there was some confusion—about the trustees of the new charitable trust. Ministers will make seven of the 14 board appointments, including the chair, who will have a casting vote in the event of no majority. These appointments are regulated by the Office of the Commissioner for Public Appointments, so it will be an open and fair competition. Moreover, the Mayor of London is able to make up to six appointments, and he will include local authority leaders in those, while the Royal Household has one *ex officio* nominee. I think the noble Lord, Lord Clement-Jones, mentioned that Loyd Grossman is going to be the chairman. The rest of the board has not been announced yet, but that is to happen soon.

In respect of the governance arrangements, the Mayor of London is comfortable with this proposal. On the question of why it was thought best not to hand this arrangement over to the mayor, he provides no actual funding at all for the Royal Parks; despite that, he and his representatives have been closely involved in the changeover. He is happy with it and he will have six out of the 14 members of the board. There is no loss of VAT and it is tax neutral. I believe that there will be a change in the budget to make sure that that applies.

The noble Lord, Lord Stevenson, also asked what happens if this is delayed beyond 1 March 2017. We have been in dialogue with the Charity Commission for the past year so we do not anticipate that happening, but if Charity Commission approval is not obtained by that date, that would not necessarily prevent the transition to a publicly owned company but it would mean that some of the benefits for the new organisation would be delayed, such as being a single, focused organisation, because the current Royal Parks Foundation transfer can happen only once charitable status is achieved. We do not anticipate that happening, but if it did it would not prevent the changeover.

Turning to finance, of course it is easy to be cynical and say that this is all intended just to save money. It is certainly true that we anticipate that over the next few

[LORD ASHTON OF HYDE]

years, the amount of government funding will move from roughly 30% of the annual income to around 20%. As I have said, there is no plan at the moment to remove government funding. The Government are there to provide it if necessary; indeed, to show our commitment, we have provided an extra £10 million in capital money in 2016-17 to the Royal Parks to enable them to develop things such as the new nursery in Hyde Park, which will benefit all the Royal Parks. I reassure noble Lords that there are no plans for the parks to be fully self-financing. The Royal Parks will remain free for all. The Government will continue to provide funding and the new charity will allow the parks to spend money for the greater long-term benefit.

The agency's corporate plan is published on its website and the corporate plan for the new charity will be agreed by the new board and will also be published. Ultimately, the rationale is to make the parks more sustainable in the long term and not to dramatically commercialise them. We think that they will be able to do things better and raise more money because they will be able to plan on a more long-term basis and carry reserves. I hope that my explanation will have satisfied the noble Lord somewhat and will allow him to withdraw his amendment.

8.30 pm

Lord Stevenson of Balmacara: I thank all noble Lords for their contributions. I think that we have all had our eyes opened and learned things that perhaps we might not have done had we not put forward the amendment. I will have to go and look up the Addison rules—I am sure that I need a tutorial on that as well. They clearly curtailed much of what we could have heard from the noble Lord, Lord True. I am sorry about that, but if that is the rule, it is the rule.

If government has a function in doing something, it surely should not just will the ends and not provide the means. It should think more carefully about how such things can be run. I gather from the Minister that the reason for what is proposed is essentially that the present arrangement under which executive agencies operate cannot provide the sort of funding, support and operational freedoms that are judged to be in the best interest of the Royal Parks. That seems to be a sad reflection on government's ability to do the sort of things it wants. It is not that I am against this; I just think that it is important that we understand some of the motivations around it. I take it that that is really what is happening, because there are opportunities to work differently, to fund differently and to retain funding in a way that is simply not possible under the government system. One could perhaps take from this debate that there is a bit of a problem if government as a whole cannot do this. What could be more interesting than to discover that my rather winged shot on tax should have revealed a Budget secret so early in the season, if indeed the Budget is going to contain measures for the way in which executive bodies are dealt with in the tax system under a new set of constitutional arrangements? I suspect that local authorities and others might be interested in how that has happened

and that the smile on the face of the noble Lord, Lord True, is redolent of the fact that he is going to go off and check what is going to happen—I jest slightly. If that is what is required to achieve something which the Government think is necessary, again my point is made.

On the points that I raised and were picked up by other noble Lords, I do not think that the consultation reached the standards that we want. That the Minister was able to say that 80% of people supported Winter Wonderland and to cite other high percentages shows that some consultation is taking place on specific issues. It is a bit odd that it was not done here. Simply putting up notices for casual visitors walking their dogs is not quite what I had in mind. I am glad that the staff were consulted—indeed, I had a helpful meeting with senior staff from the agency, who persuaded me that I was wrong to assert that that was not the case, so I accept what the Minister said about that.

The issue of the Charity Commission as regulator to which the Minister referred is of course a problem for all bodies that are in receipt of public funds; it is not specific just to the Royal Parks. The public good that is done with the funds that come from government often has to be supplemented by funds raised in a commercial operation—when I was at the British Film Institute, it was an issue that we had to balance all the time. We received about £15 million in public funding then—it is about the same now—but we raised nearly £10 million through ticket sales and by selling books, magazines and videos. We always had to be careful that the commercial imperative did not drive the onus in the statutes of the body. In this case, it would be the new charity. It is not unreasonable for Parliament to be assured that this will be a transition within which such verities are retained.

I hope that I did not give the impression that I was against what is being done. What I want is brilliant public parks, fantastic public spaces and for London to be enhanced and supported by them. I do not object to the commercial activities around that—although they are not all commercial; they are fun, enjoyable and have added a new dimension. It would be wrong for that to get out of proportion. One way in which that could be prevented would be for the Minister to go through some of the points that have been made today and write to us, and perhaps put a note in the Library about some of the issues that he was not able to cover. I think that we would then feel reasonably satisfied that we had given this matter good scrutiny and that the arrangements in place were not so awful as to be resisted at this stage.

I am supported by thousands of people on my Back Benches here who want me to press for a vote on the order and to take it down, but on this occasion I have been persuaded by the arguments. I beg leave to withdraw the amendment.

Amendment withdrawn.

Motion agreed.

House adjourned at 8.34 pm.